

Planning and Development (Conditional Environmental Significance Opinion – Lawson Residential Estate Stage 2 Urban Development) Notice 2017

Notifiable Instrument NI2017–443

Made under the

Planning and Development Act 2007, s 138AD (Requirements in relation to environmental significance opinions)

1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Lawson Residential Estate Stage 2 Urban Development) Notice 2017*.

2 Conditional Environmental Significance Opinion

- (1) On 19 July 2017, the Conservator of Flora and Fauna, pursuant to section 138AB(4) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to construction, on Block 3 Section 13; Block 1 Section 5; Blocks 1 & 2 Section 1; and Block 2 Section 5 for the urban development of Stage 2 of the Lawson Residential Estate.
- (2) In this section:
Conditional environmental significance opinion means the opinion in the schedule.

Note: Under section 138AD(6) of the Act, the conditional environmental significance opinion and this notice expire 18 months after the day this notice is notified.

Ben Ponton
Chief Planning Executive
14 August 2017

Schedule

See section 2(2)

ENVIRONMENTAL SIGNIFICANCE OPINION

In accordance with section 138AB(4) of the *Planning and Development Act 2007* (the Act), I provide the following environmental significance opinion:

APPLICANT

Canberra Town Planning, as represented by Hope Watson, Town Planner.

APPLICATION and DEVELOPMENT PROPOSAL

The applicant has applied under section 138AA of the Act to the Conservator of Flora and Fauna for an environmental significance opinion to the effect that the development proposal set out in the submission is not likely to have a significant adverse environmental impact (the application).

The development proposal is for the construction of Lawson Residential Estate Stage 2 as described in the submission.

LOCATION

Block 3 Section 13, Block 1 Section 5, Blocks 1 & 2 Section 1, and Block 2 Section 5 Lawson.

MATTERS TO WHICH THIS OPINION APPLIES

This opinion applies only the development proposal as described in the application.

OPINION

Provided the works are undertaken in the manner consistent with the following conditions, they are unlikely to cause a significant adverse environmental impact.

This opinion is granted subject to the following conditions made under s138AB(4) of the Act.

- that all works are in accordance with a Construction Environment Management Plan approved by the Environment Protection Authority that includes the protection of a 30 metre wide ecological buffer zone along the northern boundary.

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, appearing to read 'Daniel Iglesias', written over the printed name.

Daniel Iglesias
Conservator of Flora and Fauna

19 July 2017

STATEMENT OF REASONS REASONS FOR THE DECISION

The proposed development is a proposal mentioned in Schedule 4 of the *Planning and Development Act 2007* – Development proposal for an activity requiring an EIS Schedule 4, being:

Part 4.3, item 1(a) development that may impact on a species or ecological community that is endangered, a species that is vulnerable; protected; or has special protection status;

Lawson Stage 2 estate contains habitat for the Golden Sun Moth (*Synemon plana*), listed as critically endangered pursuant to the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and endangered pursuant to the *Nature Conservation Act 2014* (NC Act).

The proponent wants the application for the development approval assessed in the merit track on the grounds that the proposal is not likely to have a significant adverse environmental impact, and has applied to the Conservator of Flora and Fauna to that effect.

Meaning of *significant* adverse environmental impact

An adverse environmental impact is *significant* if—

- (a) the environmental function, system, value or entity that might be adversely impacted by a proposed development is significant; or
- (b) the cumulative or incremental effect of a proposed development might contribute to a substantial adverse impact on an environmental function, system, value or entity.

In deciding whether an adverse environmental impact is *significant*, the following matters must be taken into account:

- (a) the kind, size, frequency, intensity, scope and length of time of the impact;
- (b) the sensitivity, resilience and rarity of the environmental function, system, value or entity likely to be affected.

In deciding whether a development proposal is likely to have a significant adverse environmental impact it does not matter whether the adverse environmental impact is likely to occur on the site of the development or elsewhere.

It has been determined that the proposal is unlikely to have a significant environmental impact, based on the documentation submitted, known values of the site, and provided the works and ongoing management are carried out in accordance with the conditions attached to this ESO.

Project description

Construction of stage 2 of the Lawson residential estate. Stage 2 is located between the recently constructed Stage 1 and Lake Ginninderra, with the Belconnen Transmitter Station located to the north.

Works include:

- Removal of existing vegetation;
- Earthworks;
- Road construction;
- Stormwater servicing;
- Sewer Servicing;
- Re-routing of College Creek;
- Water supply;
- Provision of Utility services;
- Water Quality Control Measures;
- Hard landscaping;
- Soft Landscaping;

The development of the whole of the Lawson residential area was the subject of a decision by the Commonwealth in 2010 under the provisions of the EPBC Act (EPBC 2010/5549). An offset strategy was approved which included the protection of 112 hectares to the west of Macgregor as a nature reserve (Jarramlee Nature Reserve). Jarramlee protects a relatively isolated patch of golden sun moth habitat that supports one of the largest known populations of golden sun moth in the ACT.

The construction of the whole of Lawson was then the subject of an exemption for the requirement for an EIS in accordance with s.211 of the ACT's Planning and Development Act as it was deemed that the proposal had been sufficiently addressed by another study (i.e. the EPBC Act process). This exemption has now lapsed.

Documentation Submitted

- Lawson South Stage 2 Application for Environmental Significance Opinion report (Canberra Town Planning June 2017)
- Lawson South residential estate Application for s.211 exemption consideration report (September 2012);
- Lawson South Residential Development Belconnen ACT ecological report (David Hogg Pty Ltd May 2011);
- Environmental Studies Lawson Land Release (Ecological May 2008);
- Review of Ecological Information (David Hogg Pty June 2010);
- Commonwealth Referral Decision (July 2010);
- S.211 Exemption Notice (November 2012);
- Plan of proposed development area
- Form 1M.

Natural conservation values present

The vegetation within the Lawson Stage 2 area has been modified by a long history of agricultural use (Hogg and McIntosh, 2011). Most of this area was found to contain a low component of native forbs but does not provide the same diversity that the Stage 1 area contained. Weeds are common throughout the area including Serrated Tussock (*Nassella trichotoma*), St John's Wort (*Hypericum perforatum*), Saffron Thistle (*Carthamus lanatus*) and Catsear (*Hypochaeris radicata*).

No rare or threatened plant species have been recorded in the Lawson Stage 2 area or are considered likely to occur.

The main habitat feature of the site is the presence of native pasture and secondary grassland which provides habitat to support the Golden Sun Moth (GSM) (*Synemon plana*) listed as critically endangered under the EPBC Act and endangered pursuant to the *Nature Conservation Act 2014* (NC Act).

The report submitted with the application notes that the grassland environment can also provide habitat for the Striped Legless Lizard (*Delma impar*), listed as vulnerable under the EPBC Act, however this species has not been recorded in surveys undertaken within the proposed development area (Hogg and McIntosh, 2011). The regeneration of native grasses in the area south and south-east of the electricity substation may have resulted in an increase in potential habitat for the striped legless lizard since the initial studies were undertaken. This habitat, however, is much lower quality than the natural temperate grassland within the Belconnen Naval Transmitter Station that is known to support the striped legless lizard.

There is a population of approximately 120 Eastern Grey Kangaroos located within Lawson, outside the fenced Belconnen Naval Transmission Station. This population could be impacted by the development of Stage 2 of the estate by the reduction of available feed. However, there is a 30m buffer along the boundary of the estate, outside the Transmission Station fence that allows for the movement of kangaroos around the estate, and it is hoped that the population gradually moves along the open space adjoining Baldwin Drive and into the open space along Ginninderra Creek (where there is ample feed).

Potentially Significant Environmental Impacts

The EPBC Decision in 2010 approved the Lawson South Residential estate, with conditions to mitigate and offset impacts to the Golden Sun Moth. The offset area, Jarramlee Nature Reserve, has been established in accordance with the approval and is being actively managed as an offset site.

The area of Golden Sun Moth habitat within Stage 2 (4.3 ha) is a small percentage of the habitat, located on the edge of the approximately 125 ha of habitat remaining at Lawson within Reservoir Hill and the adjacent Transmission Station.

During 2007 only one moth was recorded within the Stage 2 area, and in 2009 only four moths were observed flying within the area compared to 1053 moths observed over the wider Lawson and the Transmission Station.

Measures to mitigate impacts on the Golden Sun Moth within the development of the Lawson South have been incorporated into the estate and include the establishment of a 30 metre wide ecological buffer zone along the northern boundary of area site to preserve some potential and known golden sun moth habitat. The estate plans show the appropriate placement and use of native species in the landscaping.

Some of the 4.3ha of habitat (about 1.2 ha) will remain within the road reserve and around the electricity substation, and moths have remained viable in areas of a smaller size than this (such as part of the Limestone Avenue median strip) for at least 50 years, thus the loss of habitat may actually be less than 4.3ha.

The proposed Stage 2 development will not result in the likely extinction of the moth at Lawson and its impact on the long term viability of the moth at Lawson is negligible.

It has been determined that if the works are undertaken in a manner consistent with the documentation submitted, they are unlikely to cause a significant adverse environmental impact.