

Planning and Development (Conditional Environmental Significance Opinion – Blocks 832 and 843 Gungahlin– Kinlyside Nature Reserve) Notice 2017

Notifiable Instrument NI2017–80

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 – Blocks 832 and 843 Gungahlin– Kinlyside Nature Reserve) Notice 2017*.

2 Conditional Environmental Significance Opinion

(1) On 8 February 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 the construction of water diversion banks, re-piping of the off flow pipes and construction of flumes within the upper reaches of Halls Creek on Blocks 832 and 843 Gungahlin– Kinlyside Nature Reserve.

(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.

Dorte Ekelund
Chief Planning Executive
17 February 2017

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

ACT Parks and Conservation Service, Environment and Sustainable Development Directorate, as represented by Simon Tozer, Environmental Offsets Implementation Manager.

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 erosion control measures for the upper reaches of Halls Creek within Kinlyside Nature Reserve. The works will include the construction of diversion banks, ground control structures, fencing and revegetation works.

LOCATION

Blocks 832 and 843 District of Gungahlin, Kinlyside Nature Reserve

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 the documentation as submitted.

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, appearing to read 'A. Lane', written in a cursive style.

Dr A. Lane
Conservator of Flora and Fauna

08 February 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;

Blocks 832 and 843 District of Gungahlin (Kinlyside Nature Reserve) contain:

- Yellow Box Red Gum Grassy Woodland listed as endangered under the provisions of the *Nature Conservation Act 2014* (NCA) and critically endangered under the provisions of the Commonwealth's *Environment Protection and Biodiversity Act 1999* (EPBC);
- habitat for the Golden Sun Moth (*Synemon plana*) listed as endangered under the NCA and critically endangered under the EPBC;
- Pink-tailed worm-lizard listed as vulnerable under both the NCA and the EPBC; and
- migratory and other birds listed under both the NCA and EPBC.

Part 4.3, item 3 proposal for development on land reserved under s 315 for the purpose of a wilderness area, national park, nature reserve or special purpose reserve.

The works are within an area of nature reserve.

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

Two major drainage lines within Kinlyside nature reserve have severe erosion issues requiring remedial structural works. Works include the construction of water diversion banks, re-piping of the overflow pipes, and construction of flumes within the upper reaches of Halls Creek. (A flume is a man-made channel for water in the form of an open declined gravity chute whose walls are raised above the surrounding terrain to safely convey runoff into the drainage line at sites of active gully head erosion).

The works will include revegetation with native species and associated fencing to reduce stock impact on the erosion works; assist with the revegetation; and better manage the Golden Sun Moth habitat. Existing topsoil (where available) will be replaced on all disturbed areas and revegetated.

To be more specific the works include:

(Site numbers are as provided in the report submitted with the application.)

Northern drainage line

- Site HCTN1 - construction of two flume and two diversion banks, re-piping of overflow pipes fencing and revegetation.
- Site HCTN3 - construction of two flumes and two diversion banks. fencing and revegetation
- Above site HCTN2 construction of a diversion bank.

Southern drainage line

- At unnamed site at head of creek below farm dam - construction of a flume and three small diversion banks, fencing and revegetation
- Site HCTS3 - construction of control structure and a small diversion bank above the site, fencing and revegetation
- Bed control works downstream of site HCTS4 revegetation

Documentation Submitted

- ESO Report for Kinlyside Erosion ;

- Parks and Conservation Service Works Plan;
- Approval Decision Gungahlin Strategic Assessment (EPBC Act);
- Works Plan Risk Assessment;
- Kinlyside Offset Area Erosion Management (GrassRoots Environmental Consulting May 2016);
- Quotation for Services (Local Land Services South East);
- Design Specifications (Local Land Services South East);
- Comments from Prescribed Entities
- Form 1M.

Natural conservation values present

The proposed works area is along Halls Creek north-east of the Village of Hall within Kinlyside Nature Reserve. Kinlyside Nature Reserve is of high conservation significance, supporting the critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community (Box Gum Woodland), the critically endangered Golden Sun Moth (*Synemon plana*); and the vulnerable Pink-tailed Worm-lizard (*Aprasia parapulchella*).

Kinlyside supports approximately 160 hectares of predominantly moderate to high quality EPBC listed Box Gum Woodland, which is important breeding habitat for threatened and declining woodland birds. It also supports approximately 53 hectares of Golden Sun Moth habitat and a small patch (approximately 4.7 hectares) of Pink-tailed Worm-lizard habitat in the eastern section of the nature reserve.

Other threatened fauna, including the White-winged Triller (*Lalage sueurii*), Varied Sittella (*Daphoenositta chrysoptera*), Painted Honeyeater (*Grantiella picta*), Scarlet Robin (*Petroica boodang*), have been recorded in the local area.

The reserve also supports plants that are considered rare in the ACT. This includes Pale Flax Lily (*Dianella longifolia*), Yam Daisy (*Micoseris lanceolata*) and a significant population of the Forest Sun Orchid (*Thelymitra arenaria*), which is known from only six locations in the ACT. The Goldenstar (*Hypoxis hygrometrica*) has been also been recorded, however it is unclear whether it is the rare variety (*var. villosisepala*) or not (Ecological Australia 2011a, G. Baines 2012 site inspection).

The rockier steeper sections of the reserve support the Red Stringybark *Eucalyptus macrorhyncha* – Scribbly Gum *Eucalyptus rossii* Tableland Shrub Forest community (Eco Logical Australia 2011a).

Impact on the Reserve

All of the major erosion remediation work, while being close to the Golden Sun Moth habitat management zone, will not impact on the habitat. The only work required in Golden Sun Moth habitat is some fencing replacement which incurs minimal ground disturbance, and a small diversion bank (Map 1: Point 201, circled in yellow on the Map *Kinlyside Erosion Works Plan MNES Management Zones and GSM Monitoring*).

This diversion bank is approx 40m long and 5m wide. Work will entail moving the top soil to the side, pushing up the subsurface clay into a bank and then replacing the topsoil. Undertaking the works in this manner means that the topsoil clods and tussock clumps that may hold GSM larvae will be retained and placed back on site. If further revegetation is required a seed mix of the surrounding species will be used. The area impacted is a small proportion of the GSM habitat and the impacts will be short term with works expected to be completed within one day. In addition there were no moth sightings in the area of the bank in recent surveys and all works will be undertaken outside of when Golden Sun Moths are flying.

Revegetation will include trees and shrubs along Halls Creek. These will be planted in clumps at least every 150m to assist in the movement of the Superb Parrots and other woodland birds and will be located where they will not shade Golden Sun Moth habitat.

Overall the impacts of the proposed works are positive with the stabilising of the creek ensuring no further damage to the area, particularly to the Golden Sun Moth habitat. The revegetation with native species will have a long term positive benefit.

Potentially Significant Environmental Impacts

The gully erosion at Kinlyside is both long term and covers a wide extent. It is important that the erosion is fixed and / or stabilised. It is considered that the proposed works have been well designed to minimise both short and long term impacts associated with the works, which in themselves will have a positive environmental benefit. In particular the erosion control works will have a minimal, insignificant impact on the two matters of National Environmental Significance that occur in the general area of the works, that is the Yellow Box Red Gum woodland and Golden Sun Moth.

The proposed revegetation works will have a positive impact on not only the soil conditions but will also benefit woodland birds in the area. No threatened or rare fauna will be impacted.

The ESO report has incorporated comprehensive and appropriate conditions, and it has been determined that if the works are undertaken in a manner consistent with the conditions contained within the ESO application, the works are unlikely to cause a significant adverse environmental impact.