

Planning and Development (Conditional Environmental Significance Opinion – Block 733 Gungahlin– Mulligans Flat Sanctuary Fence) Notice 2017

Notifiable Instrument NI2017–81

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 – Block 733 Gungahlin– Mulligans Flat Sanctuary Fence) Notice 2017*.

2 Conditional Environmental Significance Opinion

(1) On 14 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 stage one extension of the predator proof fence around Mulligans Flat Woodland Sanctuary.

(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

Parks and Conservation Service, Environment, Planning and Sustainable Development Directorate, as represented by Nivad Nafisi, Senior Project Officer.

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 a 1.2km extension of the Mulligans Flat predator proof fence along the south-eastern boundary of the suburb of Throsby, and for the construction of an associated fire / management trail as described in the submission.

LOCATION

Block 733 District of Gungahlin.

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 mitigation measures as stated in the documentation as submitted.

Attached is a Statement of Reasons for the decision.

A handwritten signature in cursive script, appearing to read 'Annie Lane'.

Dr Annie Lane
Conservator of Flora and Fauna

14 February 2016

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;

One community listed as endangered will be impacted by the proposed works:

- Yellow Box – Blakely’s Red Gum Grassy Woodland (Box-Gum Woodland), listed as critically endangered pursuant to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and endangered pursuant to the Nature Conservation Act 2014 (NC Act)

Two nationally listed species are found in the vicinity of the works:

- Golden Sun Moth (*Synemon plana*), listed as critically endangered pursuant to the EPBC Act and endangered pursuant to the NC Act
- Superb Parrot (*Polytelis swainsonii*), listed as vulnerable pursuant to both the EPBC Act and the NC Act, are known to breed in the trees immediately adjacent to the suburb of Throsby.

Species listed under the provisions of the NC Act (but not listed nationally) found in the vicinity of the works are:

- A pair of Little Eagles (*Hieraetus morphnoides*), listed as vulnerable, is likely to include the study area within a large territory;
- Several NC Act listed woodland birds including Scarlet Robin (*Petroica boodang*), Hooded Robin (*Melanodryas cucullata cucullata*), Varied Sitella (*Daphoenositta chrysoptera*), and White-winged Triller (*Lalage sueurii*); and
- Perunga Grasshopper (*Perunga ochracea*), listed as vulnerable.

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Part 4.3, item 2(a) the clearing of more than 0.5ha of native vegetation other than on land that is designated as a future urban area

The proposal will impact on 1.47ha of native vegetation.

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

A rural type stock fence was approved as the boundary fence between the new suburb of Throsby and the nature reserve as part of the Estate Development Plan for the suburb. Approximately 1.2km of this fence on the north eastern boundary of Throsby was upgraded to a 2.1m high predator proof fence by way of an amendment to the Estate Development Plan. This current proposal is to upgrade the remaining 1.2km of boundary fence on the south eastern border of the Throsby Estate (adjacent to Stages 2 and 3) to a non-electrified 2.1m high predator proof fence. This predator proof fence will eventually be extended resulting in the enclosure of most of the Goorooyaroo / Mulligans Flat Nature Reserves.

The approved alignment of the boundary fence is to be altered as part of this proposal in order to reduce the visual impacts of the fence upon residents of Throsby therefore requiring a new development application. The realignment will also allow for the retention of some remnant eucalypt trees whilst also keeping the fence as straight as possible to minimise weak points.

A fire / management trail will be established on the reserve side of the fence. This will be a low impact, unformed trail to be used occasionally for management purposes.

Documentation Submitted

- Mulligans Flat Predator-proof Fence Extension – Stage 1 Throsby – Ecological Impact Assessment and Environmental Significance Opinion Supporting Document (Capital Ecology 20 December 2016);
- Locality map
- Landscape Plans
- Fence Detail Plans
- Notice of Land Withdrawal from lease
- Approval Decision under the Gungahlin Strategic Assessment Biodiversity Plan (June 2013) (EPBC Act)
- Notice of Decision to Endorse the Gungahlin Strategic Assessment Biodiversity Plan (June 2013) (EPBC Act)
- Form 1M.

Natural conservation values present

The northern two thirds of Stage 1 of the predator proof fence extension is located in predominantly native vegetation that meets the criteria for ACT Yellow Box/Red Gum Grassy Woodland. Part of this area also meets the criteria for EPBC listed Box Gum

Woodland. There are some small patches within this zone that are mainly exotic species however these are too small to exclude.

The southern third of the proposed fence line is located within an area that is predominantly exotic vegetation with low diversity.

Wallaby Grasses are a co-dominant grass throughout all of the native vegetation within the study area and as such should be considered as potential habitat for the Golden Sun Moth.

The Superb Parrot (*Polytelis swainsonii*), listed as vulnerable under both the EPBC Act and NC Act, is known to breed in hollows in the large mature trees (particularly Blakely's Red Gum and Scribbly Gum) immediately east of the proposed fence. No known nest trees occur within 100 m of the proposed alignment, however it is noted that the trees closer to the fence may be utilised for nesting in the future.

A pair of Little Eagles (*Hieraaetus morphnoides*) is likely to include the area within their foraging territory. The proposed development is unlikely to significantly impact upon this species as it will remove only a very small portion of potential foraging habitat. The species is not known to nest near the proposed fence line and no nests were recorded during the field survey by Capital Ecology.

Throsby and the adjoining area that is now included in reserve was previously leased for grazing purposes and the area heavily grazed. Capital Ecology thoroughly surveyed the native vegetation in October 2016 and no threatened or rare flora species were recorded or are considered likely to occur within the fence alignment.

Impact on the Reserve

The construction of the fence will have a negative visual impact on the reserve from adjoining areas (particularly Throsby). The alignment of the fence has been adjusted to reduce this impact where possible.

Once the whole predator proof fence is completed a pest animal program will be undertaken with the intention of removing all pest species including rabbits, hares, cats and foxes. The removal of all feral animals will have a positive impact on the reserve.

Potentially Significant Environmental Impacts

The report notes numerous avoidance / minimisations / mitigation measures that will be used to reduce any potential impacts. These are:

- Works for the PPF and associated infrastructure will occur outside of the September to mid-January breeding season of the Superb Parrot;

- No driving on the fire trail for non-urgent maintenance/access will occur within the September to mid-January breeding season of the Superb Parrot;
- Three pedestrian gates will be established in this section of the predator proof fence. The northernmost gate will be exit only, and the other two gates will be exit only during the Superb Parrot breeding season (September to mid-January) and entry/exit for the remainder of the year. As shown in Figure 4, the three gates will be located to minimise entry to the reserve near known Superb Parrot breeding trees. This will allow for public access (for bushwalking, bird-watching, and other low-impact activities) however it will discourage access to the area of the reserve of greatest significance for Superb Parrots during the breeding season when they are more likely to be negatively affected by human activity;
- To the fullest extent practicable, access for the construction of the predator proof fence will occur from the Throsby side. However, as restrictions related to the current construction occurring within Throsby will necessitate some access from the reserve side of the proposed predator proof fence, a seven metre wide access corridor will be established. It will be stipulated in the Construction Environmental Management Plan (CEMP) that this corridor is to be disturbed as little as possible, and that no driving or impacts are to occur on the reserve side outside of this corridor. No regular storage of materials or regular parking of plant or vehicles is to occur within this corridor. If some material storage is required, it is to occur within the corridor outside of the Box-Gum Woodland and Golden Sun Moth potential habitat. The CEMP will stipulate measures (i.e. toolbox talks etc.) to ensure that these requirements are followed;
- Best practice weed management will be implemented during all works to ensure that weeds (notably African Love Grass, Serrated Tussock, St John's Wort, and Chilean Needle Grass) are not introduced or spread. This will include: - appropriate vehicle hygiene – all vehicles and machinery for fence installation will be cleaned of all weed seed or propagules prior to entry to the work site;
- no top-soil or other potentially weed seed laden organic material will be imported;
- only sterile materials such as hessian/jute or rice straw will be used for soil stabilisation or similar purposes; and

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- for 12 to 18 months following conclusion of the works, significant weeds will be controlled within and adjacent to the site by a qualified and experienced weed control contractor.

As disturbance for the construction of the fence will be minimal and no remnant eucalypts are to be removed, and with the implementation of the above mitigation measures, then it is unlikely that there will be any significant environmental impacts from the proposed works.

It has been determined that provided the works are undertaken in a manner consistent with the above mitigation measures contained in the application for an ESO, they are unlikely to cause a significant adverse environmental impact.