

Planning and Development (Conditional Environmental Significance Opinion – Numerous blocks, Gungahlin – Predator Proof Fence) Notice 2018

Notifiable instrument NI2018–37

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 – Numerous blocks, Gungahlin – Predator Proof Fence) Notice 2018*.

2 Conditional Environmental Significance Opinion

(1) On 15 January 2018, the Conservator of Flora and Fauna, pursuant to section 138AB(4)(b) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to the predator proof fence on numerous blocks in Gungahlin.

(2) In this section:

Conditional environmental significance opinion means the opinion in this 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
29 January 2018

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

Projects, ACT Parks and Conservation Service, as represented by Craig Egle, Senior Project Architect.

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 extension of the predator proof fence around Mulligans Flat and Goorooyarro Nature Reserves as described in the submission.

LOCATION

Blocks 741, 742, 784 and 851 District of Gungahlin - Mulligans Flat Nature Reserve and Goorooyarro Nature Reserve.

MATTERS TO WHICH THIS OPINION APPLIES

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

OPINION

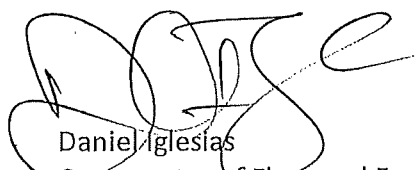
Provided the works are undertaken in the manner consistent with the following conditions, they are unlikely to cause a significant adverse environmental impact.

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

1. Disturbance as a result of fence construction is not to exceed a width of 5.0m except where required for the installation of a culvert;

2. No mature trees are to be removed without the prior approval of the Conservator of Flora and Fauna. Minor deviations of the fence will occur to avoid the clearing of any large trees;
3. Tree trimming to provide the required clearance for the fence (maximum 10m either side of the fence) must be undertaken by a qualified arborist and in accordance with AS 4373;
4. Vehicles and machinery to be cleaned of weeds, soil and mud prior to entering the reserve;
5. Vehicle parking or storage of materials is to be within the 5.0m area of disturbance, except as directed by Parks and Conservation staff;
6. Movement of vehicles and machinery is to be limited to existing tracks or the 5.0m wide construction corridor;
7. For all protected plants identified, exclusion zones will be established by the project officer in conjunction with Parks and Conservation staff prior to works commencing within 200.0m of the known location of any protected plant.
8. "Turtle" patrols will continue and be expanded to cover the new fence when constructed in order to rescue trapped wildlife and identify key hot spot areas;
9. Work will not occur on days of Total Fire Ban;
10. Areas of disturbance will be rehabilitated with a native grass mix of *Austrodanthonia*, *Austrostipa*, *Microlaena*, *Themeda* or other endemic native grass species, and, if required, a sterile cover grass; and
11. No permanent track is to be built to run along-side the fence without a full environmental impact assessment (EIS) being undertaken.

Attached is a Statement of Reasons for the decision.



Daniel Iglesias
Conservator of Flora and Fauna

15 January 2018

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’s *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and endangered pursuant to the Nature Conservation Act 2014 (NC Act)

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

- Hoary Sunray (*Leucochrysum albicans* var. *tricolor*), has been recorded nearby. This species is listed as ‘endangered’ under the EPBC Act;
- A small patch of mapped habitat for the Striped Legless Lizard (*Delma impar*) is located in the southern extent of Block 742 Gungahlin. This species is listed as vulnerable pursuant to the EPBC Act and the NC Act.
- 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 area within a larger territory;
- Several NC Act listed woodland birds including Brown Tree Creeper (*Climacteris picumnus victoriae*), Speckled Warbler (*Chthonicola sagittate*), 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.

Migratory species, such as the Regent Honeyeater (*Anthochaera Phrygi*), listed as critically endangered pursuant to the EPBC Act and endangered pursuant to the NCA Act, and Swift Parrot (*Lathamus discolor*) listed as critically endangered pursuant to the EPBC Act and vulnerable pursuant to the NCA Act, may visit the area on an intermittent basis to forage during movements through the region.

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 3.14ha (maximum) 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 the Mulligans Flat Nature Reserve and Goorooyarroo 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.

Some of the works are within Designated Land and therefore subject to the provisions of the National Capital Plan, not the Territory Plan. As a result, the approval authority for part of the works is the National Capital Authority. However, for a proper assessment of the full environmental impacts, the following documentation includes an assessment of the whole alignment.

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

It is proposed to enclose the Throsby North and Throsby East offset areas and much of the existing Goorooyaroo Nature Reserve, with a predator proof fence 6.275 km in length. This will increase the area protected by a predator proof fence by 820ha (from 484ha to 1304 ha).

The first package of these works is to construct the base of the fence being a 1.8m high fence with six strands of tensioned wire and mesh fencing. There will also be 600mm of mesh lying along the ground either side of the fence that will be pinned and covered with a light layer of gravel. Steel pickets will be placed at a maximum of 4.0m apart. The 'floppy top' and electric wires will be added at a later date.

The works will require a temporary disturbance up to 5.0m wide either side of the fence to facilitate construction.

Documentation Submitted

- Mulligans Flat Woodland Sanctuary – Goorooyaroo Extension of Predator-proof Fence – Ecological Impact Assessment and Environmental Significance Opinion Supporting Document (Capital Ecology 18 October 2017);
- Concept Construction Environmental Management Plan (December 2017);
- Landscape and Design Plans;
- Form 1M.

Impact on the Reserve

Mulligans Flat Nature Reserve was established in 1994 and Goorooyaroo Nature Reserve in 2004. Both these reserves were extended in November 2014 as a result of areas being set aside as offsets under the Gungahlin Strategic Assessment.

The Mulligans Flat Woodland Sanctuary is an area of 484ha that was enclosed by a predator proof fence in 2008. The removal of feral animals (e.g. cats, foxes, rabbits and hares) has been successful as has the re-introduction of locally extinct native species such as the Eastern Bettong (*Bettongia gaimardi*), Eastern Quoll (*Dasyurus viverrinus*), and Brown Treecreeper. Other management interventions include the placement of coarse woody debris to provide habitat.

Commencing in 2004, the Mulligans Flat Goorooyaroo Woodland Experiment is a long-term research project established in partnership between the ACT Government, the Australian National University, CSIRO, and associated collaborators. The research aims to provide a whole-of-ecosystem understanding of Box-Gum Woodlands, particularly in relation to restoring the structure and function of the Box-Gum woodlands and increasing biodiversity. Learnings from the research are applied in other reserves across the ACT and region and support evidence-based management by the ACT Parks and Conservation Service.

Mulligans Flat and Goorooyaroo Nature Reserves are also popular for recreational walkers, bird watchers, and cyclists. The Centenary Trail traverses both the reserves.

The installation of the extended predator-proof fence will allow for the removal of feral animals and the future re-introduction of native species into this new enclosed space. The construction of the fence will still allow for pedestrian and cyclist movements along existing trails and recreational users will not be unduly impacted by the works. No fire trails will be impacted by the fence with gates being installed where the fence intercepts a trail.

The Mulligans Flat – Goorooyaroo Nature Reserves are of national significance in relation to the woodland patch size they protect, its diversity, presence of threatened species and connectivity as well as being an internationally important research site. It is therefore impossible to build a 8.5km predator proof fence without having some negative impacts. However it is noted that the Conservator of Flora and Fauna has had much involvement in the development of this proposal and through careful route selection and construction conditions, considers that the proposed fence construction will not result in an overall significant impact.

The installation of a predator proof fence, and the subsequent removal of predators over time will have a positive impact on the reserves.

Natural conservation values present

As noted in the report submitted with the application, a June 2016 site inspection by Capital Ecology ecologists found that the study area traverses the following two ACT Plant Communities (PCTs) ('climax communities'):

1. PCT-ACT16 – *Eucalyptus melliodora* - *E. blakelyi* Tableland Grassy Woodland.

Occurring on gently undulating mid-elevation areas of the ACT, PCT-ACT16 is the dominant PCT along the Stage 2 alignment. This community occurs on soils of moderate to high fertility and generally moderate depth. In its climax form this community would have been characterised by an open canopy, sparse or absent mid and shrubstorey, together with a defined grassy groundstorey supporting a high diversity of native forbs.

The Stage 2 alignment traverses PCT-ACT16 in varying condition, with some relatively intact sections, and other sections highly modified by past tree clearing and long-term stock grazing now existing as simplified native pasture with or without scattered remnant trees.

2. PCT-ACT25 – *Eucalyptus macrorhyncha* Tableland Grass / Shrub Forest.

PCT-ACT25 occurs on exposed dry low hills in the ACT, usually on well-drained skeletal soils. PCT-ACT25 usually occurs upslope of PCT-ACT16 and intergrades with this community along what is often a broad ecotone.

The Stage 2 alignment traverses a number of patches of PCT-ACT25, the majority of which are in moderate to good condition. Portions of the vegetation in Goorooyarroo mapped as EPBC Act Box-Gum Woodland (PCT-ACT16) on ACTMAPi are actually PCT-ACT25.

The land has a history of grazing by stock and while the impacts are still evident, the area is recovering under the current management regime.

Potentially Significant Environmental Impacts

It is considered that the proposed construction of the predator proof fence will not result in an overall significant impact as:

- The route selected skirts around the known Striped Legless Lizard habitat and avoids known or potential habitat of the Golden Sun Moth;
- The width of disturbance is a maximum of 5.0m, and much of this will be temporary in nature;

- The route avoids any areas of high quality endangered woodland with diverse understorey and avoids impacting any species considered rare in the ACT, such as the nationally restricted Horned Midge Orchid (*Corunastylis cornuta*) or nationally listed Hoary Sunray (*Leucochrysum albicans* var. *tricolor*);
- Works will occur outside of breeding season of the Superb Parrot and will be located more than 100m from the nearest known nest tree;
- Where possible the fence follows existing tracks or other disturbed areas;
- The fence design allows for wildlife movement across the northern part of the reserve and neighbouring land in NSW and does not cut an existing corridor, though it is noted that the width of this corridor for many species will be reduced;
- The fence design allows species that can glide or fly between trees such as Sugar Gliders or species of beetles to continue do so by minimising the gap between trees growing on either side of the fence; and
- While certain species such as Long-necked Turtle, Bearded Dragons and Shingleback Lizards may find the fence a barrier to movement, the growth in population that will occur in these species through the provision of a predator proof fence and the fence patrols (and resulting assisted movement) outweigh any negative impacts.

This opinion is given subject to the following conditions:

12. Disturbance as a result of fence construction is not to exceed a width of 5.0m except where required for the installation of a culvert;
13. No mature trees are to be removed without the prior approval of the Conservator of Flora and Fauna. Minor deviations of the fence will occur to avoid the clearing of any large trees;
14. Tree trimming to provide the required clearance for the fence (maximum 10m either side of the fence) must be undertaken by a qualified arborist and in accordance with AS 4373;
15. Vehicles and machinery to be cleaned of weeds, soil and mud prior to entering the reserve;
16. Vehicle parking or storage of materials is to be within the 5.0m area of disturbance, except as directed by Parks and Conservation staff;
17. Movement of vehicles and machinery is to be limited to existing tracks or the 5.0m wide construction corridor;
18. For all protected plants identified, exclusion zones will be established by the project officer in conjunction with Parks and Conservation staff prior to works commencing within 200.0m of the known location of any protected plant.
19. "Turtle" patrols will continue and be expanded to cover the new fence when constructed in order to rescue trapped wildlife and identify key hot spot areas;
20. Work will not occur on days of Total Fire Ban;

21. Areas of disturbance will be rehabilitated with a native grass mix of *Austrodanthonia*, *Austrostipa*, *Microlaena*, *Themeda* or other endemic native grass species, and, if required, a sterile cover grass; and
22. No permanent track is to be built to run along-side the fence without a full environmental impact assessment (EIS) being undertaken.

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