

Planning and Development (Conditional Environmental Significance Opinion – Block 851, Gungahlin – Dam Rehabilitation in Mulligans Flat Nature Reserve) Notice 2018

Notifiable instrument NI2018–693

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 851, Gungahlin – Dam Rehabilitation in Mulligans Flat Nature Reserve) Notice 2018*.

2 Conditional Environmental Significance Opinion

- (1) On 27 November 2018, 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 maintenance and rehabilitation, on Block 851, Gungahlin, of four dams within Mulligans Flat Nature Reserve to enhance ecological function.

- (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 the notice is notified.

Ben Ponton
Chief Planning Executive
10 December 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

ACT Parks and Conservation Service as represented by Joel Patterson, Offsets A/g Area 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 minor reshaping of four existing farm dams in the Throsby Offset areas, planting of aquatic and riparian vegetation, and the placement of coarse woody debris and rocks, as described in the submission to maximise the ecological function of the dams

LOCATION

Block 851 District of Gungahlin – Mulligans Flat Nature Reserve.

MATTERS TO WHICH THIS OPINION APPLIES

This opinion applies only to 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.

- The work footprint is to remain within the areas mapped as works area in figures 1 -5 in the submission;

- o The work sites are to be accessed via existing tracks;
- o All vehicles and construction equipment must be cleaned prior to entering the reserve and be free of weed and soil material;
- o No fill is to be imported to the site; and
- o Species indigenous to the Gungahlin area are to be utilised in the restoration plantings. Consideration could be given to translocating some of the more abundant "wetland" species growing in and around other dams within the Gungahlin area.

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, appearing to be 'Ian Walker', with a large, sweeping initial 'I'.

Ian Walker
Conservator of Flora and Fauna

27 November 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 *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 (*Hieraaetus 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.

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.

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

The reshaping and rehabilitation of four former farm dams within the Throsby North Offset Area to enhance the ecological and biodiversity values of the water bodies, and increase connectivity through the extended Mulligans Flat / Goorooyarroo Nature Reserves for frogs, birds, reptiles and woodland invertebrates.

The works on the dams are to create irregular edges and extend the dams' ephemeral zones providing variable depths and habitat variety. These works will be augmented by the planting of aquatic and riparian vegetation, and the placement of

course woody debris and rocks in and around the dams. The work is designed to enhance the biodiversity value of the dams in accordance with the Gungahlin Strategic Assessment and the associated Offset Management Plan for the area.

Documentation Submitted

- ESO Report
- ESO Restoration Works Plan
- Risk Assessment
- Commonwealth Approval Notice for the Gungahlin Strategic Assessment;
- Gungahlin Strategic Assessment Biodiversity Plan (June 2013)
- Golden Sun Moth Habitat Improvement Plan (March 2015)
- White Box- Yellow Box- Blakely's Red Gum Grassy Woodland and Derived Native Grassland Condition Improvement Plan (March 2015)
- Golden Sun Moth Habitat Improvement Plan (March 2015)
- Offset Management Plan (July 2015)
- Work Plan Risk Assessment
- Works Plan (27 February 2018)
- Plan showing layout of works

Natural conservation values present

The works are located in predominantly native vegetation that are mapped as either ACT Yellow Box/Red Gum Grassy Woodland or habitat for the Golden Sun Moth, a species listed as critically endangered pursuant to the EPBC Act and endangered pursuant to the NC Act. 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.

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

The works area on all four dams, including the areas to be disturbed for the extension to the existing ephemeral zones, are within areas that have been previously disturbed by construction and maintenance of the dams.

While the areas surrounding the dams are mapped as either as low quality Golden Sun Moth habitat (SMEC 2018), Golden Sun Moth Habitat Improvement Zone or Box Gum Woodland management zone, a site inspection by a Government Ecologist determined that the works areas are unlikely to presently represent, or be able to recover to, Golden Sun Moth habitat and would be marginal at best (pers. comm. M. Mulvaney: 2018).

The Superb Parrot, 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 residential area of Throsby. These works are outside any exclusion zone for the nesting sites.

A pair of Little Eagles (*Hieraaetus morphnoides*) is likely to include the area within their foraging territory. The proposed works will not impact upon this species as it will not remove any potential foraging habitat.

Impact on the Reserve

The Throsby North and Throsby East offset areas were placed in the reserve system as part of the outcomes of the Gungahlin Strategic Assessment to offset the impacts of the urban development of Gungahlin. An offsets management plan was developed, the 'Extension to the Mulligans Flat and Goorooyarroo Nature Reserves Offset Management Plan (For the Throsby North, Throsby East and Kenny Broadacre Offset Areas)' which outlines the actions required to deliver commitments under the Strategic Assessment in conjunction with specific Habitat Improvement Plans for each MNES. These actions include habitat enhancement works such as weed control, pest control, biomass management and revegetation.

The works on the dams are consistent with the Offset Management Plan which states "*Where appropriate, consideration should be given to revegetating existing dam edges*".

These works are complemented by the previous installation of water troughs fed by potable water from the adjoining suburb of Throsby. These troughs were installed to support a more strategic grazing regime to protect or enhance the habitat for the Golden Sun Moth and Box-Gum Woodland, and remove the requirement for the stock to access the dams for water.

The works are unlikely to have an adverse impact on any woodland birds or the Perunga Grasshopper, but will have a positive impact by providing connectivity through the extended Mulligans Flat / Goorooyarroo Nature Reserves for frogs, birds, reptiles and woodland invertebrates.

The rehabilitation works will result in a positive environmental benefit and will enhance the visitor experience to the reserve.

Potentially Significant Environmental Impacts

Conditions of approval have been included to ensure that hygiene measures and weed control measures are implemented to protect the reserve from weed spread, and to ensure that the revegetation utilises indigenous species.

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.