

Planning and Development (Conditional Environmental Significance Opinion – Block 23 Section 20, Greenway – Lake Tuggeranong Floating Wetlands) Notice 2021

Notifiable instrument NI2021–29

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 23 Section 20, Greenway – Lake Tuggeranong Floating Wetlands) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 17 December 2020, 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, on Block 23 Section 20 Greenway, of a floating wetland at Lake Tuggeranong.

- (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.

Brett Phillips
Delegate of the Planning and Land Authority
15 January 2021

Schedule

See section 3(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

Environment, Planning and Sustainable Development Directorate, Healthy Waterways Project, as represented by Ralph Ogden, Program 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 installation and maintaining of a network of floating treatment wetlands within Lake Tuggeranong that will treat stormwater entering the lake, as described in the submission.

LOCATION

Block 23 Section 20, Greenway, within Lake Tuggeranong.

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 a manner consistent with the following conditions in addition to the mitigation measures contained in the supporting application for an ESO, 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. An annual statement of performance will be submitted to the Conservator of Flora and Fauna that describes the effectiveness and progress of the proposal for 5 years following the granting of this opinion.

The report will include the following:

- a. Growth rates of vegetation and biomass over time. This includes vegetation above water, and roots below water
 - b. Seasonal patterns in growth and senescence
 - c. Maintenance regime and maintenance costs
 - d. Local impacts on wildlife (e.g., waterbird usage)
 - e. Interactions with the community (e.g., vandalism, trespass)
2. A formal evaluation is required to be submitted to the Conservator of Flora and Fauna (between 3-5 years) to determine if the asset is worth retaining.

This evaluation is required to consider:

- a. ACT Government willingness to maintain the asset;
 - b. Perceived environmental benefits; and
 - c. Interactions and acceptance from the community

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

17 December 2020

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;

Lake Tuggeranong contains two species listed as protected:

- Murray Cod - *Maccullochella peelii*; and
- Silver Perch - *Bidyanus bidyanus*

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 project involves installing and maintaining a network of floating treatment wetlands within the northern section of Lake Tuggeranong. The wetlands will be installed as a linear chain, in three separate configuration and would cover a surface area of approximately 497m². The wetlands will treat stormwater entering the lake.

The wetlands will be inspected and maintained monthly.

Documentation Submitted

- Form 1M and
- Attachment 1 – ESO Application Supporting info

Natural conservation values present

Site 2 may support the Murray Cod (*Maccullochella peelii*) which is nationally listed as a threatened species under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and is fished for recreation in the ACT.

According to the ACT Government's Native Species Conservation Plan – Murray Cod (2017), between 2011-13 the Murray Cod was present in all Canberra lakes where they were stocked and large specimens (over 60 cm) were found except in Lake Tuggeranong.

The plan mentions that reduced levels of dissolved oxygen, higher concentrations of nutrients and contaminants can affect the Murray Cod through fish kills which have occurred in the past at Lake Tuggeranong however a Murray Cod population still exists in the lake.

Lake Tuggeranong includes a small population of Silver Perch (*Bidyanus bidyanus*) which is a listed vulnerable species in the ACT and therefore protected under the Nature Conservation Act 2014.

According to ACT Government Ecologists, presence of the of the Silver Perch in the lake is either due to unintended fish stocking or illegal stocking. It is noted that Silver Perch is mainly herbivorous once it reaches a length of 250 mm and therefore may benefit from the plantings associated with the FTWs

The key concern expressed by ACT Government Ecologists about the proposed project was that there would be an increased likelihood of dissolved oxygen at night which might cause a fish kill. This is noted however that any increase in dissolved oxygen in the waters of the inlet are likely to be mitigated by inflows from the creek, and the relatively small area means that fish would likely move out of the area rather than stay and die.

Potentially Significant Environmental Impacts

The development has been designed in a way that will explore options to improve water quality in Lake Tuggeranong. The risk of impact to protected fish species is low and an ongoing monitoring and maintenance program will assist in ensuring the program effectiveness.

Conditions have been included to ensure that works, and ongoing management of the wetlands will not increase the likelihood of fish kills, or other adverse impacts.

Ongoing monitoring and maintenance will allow the ACT Government to measure the effectiveness of the program and adjust it accordingly.

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