

Planning and Development (Conditional Environmental Significance Opinion – Block 5 Section 37 Strathnairn, Block 1 Section 3 Macnamara and Block 1640 Belconnen – Ginninderry Conservation Corridor Tracks and Trails) Notice 2023

Notifiable instrument NI2023–34

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 5 Section 37 Strathnairn, Block 1 Section 3 Macnamara and Block 1640 Belconnen – Ginninderry Conservation Corridor Tracks and Trails) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 10 January 2023, the Conservator of Flora and Fauna, pursuant to section 138AB (4) (b) of the *Planning and Development Act 2007*, gave the applicant a conditional environmental significance opinion in relation to the construction, on block 5 section 37 Strathnairn, block 1 section 3 Macnamara and block 1640 Belconnen, of a network of walking tracks within the Ginninderry Conservation Corridor.

- (2) In this section:

conditional environmental significance opinion means the opinion in the schedule.

Note Under the Act, s 138AD (6), the conditional environmental significance opinion and this notice expire 18 months after the day the notice is notified.

Craig Weller
Delegate of the planning and land authority
25 January 2023

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

PLANIT Strategic, as represented by Hope Watson, Environmental and Town Planner.

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 network of walking tracks within the Ginninderry Conservation Corridor as described in the submission.

LOCATION

The proposed works are located within the following blocks:

- Block 5 Section 37, Strathnairn;
- Block 1 Section 3, Macnamara; and
- Block 1640 District of Belconnen.

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. A Construction Environmental Management Plan (CEMP) is to be endorsed by the Conservator of Flora and Fauna prior to commencement of works.
2. All works are to be undertaken in a manner consistent with the endorsed CEMP.

Attached is a Statement of Reasons for the decision.

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

Stephen Alegria
Conservator of Flora and Fauna

10 January 2023

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;

The project area contains:

- Two communities listed as endangered:
 - White Box-Yellow Box=Blakely's Red Gum Grassy Woodland and Derived Native Grassland
 - Natural Temperate Grassland of the South Eastern Highlands;
- Habitat and records of eight animal species listed as threatened under the *Nature Conservation Act 2014*:
 - Pink-tailed Worm-lizard (*Aprasia parapulchella*);
 - Superb Parrot (*Polytelis swainsonii*);
 - Gang-gang Cockatoo (*Callocephalon fimbriatum*);
 - Scarlet Robin (*Petroica boodang*);
 - Varied Sitella (*Daphoenositta chrysoptera*);
 - Little Eagle (*Hieraaetus morphnoides*);
 - White-Winged Triller (*Lalage sueurii*);
 - Perunga Grasshopper (*Perunga ochracea*); and
- One plant species listed as threatened under the *Nature Conservation Act 2014*:
 - Pale Pomaderris (*Pomaderris pallida*).

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 proposed development is estimated to have a maximum 'development footprint' of 2.33ha.

The proposed development will have residual impact on approximately 2.10 ha (20,994 m²) of native vegetation.

Part 4.3, item 3 proposal for development in a reserve;

Parts of the proposed walking trails are to be constructed on land that has a nature reserve overlay.

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 Ginninderry Conservation Corridor spans the border of the ACT and NSW along the Murrumbidgee River and Ginninderra Creek. It incorporates approximately 580 hectares (360 hectares in the ACT and 220 hectares in NSW). To the west the Corridor is bounded by the eastern bank of the Murrumbidgee River and to the north by Ginninderra Creek in NSW. In the east, the Reserve abuts the new cross-border Ginninderry urban development near the ACT suburbs of Holt and Macgregor and extends south to Stockdill Drive and Woodstock Nature Reserve in the ACT. The Conservation Corridor incorporates the northern end of the Murrumbidgee River Corridor.

The proposed works are for a network of walking tracks within the Ginninderry Conservation Corridor of a combined length of approximately 10.6 km with a standard width of 1.3m.

General construction of the tracks is expected to involve excavation of soils to a maximum depth of 30cm and a maximum width of 1.3m, however, in many areas the excavation depth would be less than this. In some areas where the topography of the area is predominately sloping terrain, some sections of the trail construction may require small bench cuts and fill retention. In these areas a maximum width of up to 2.2 m (i.e. 1.3 m trail width plus 0.45 m either side for cut and fill retention) may be required. Trail construction would be undertaken using a small excavator transported on back of light vehicle.

Works would include:

- minor excavations to construct tracks
- minor cut and fill bench works in certain locations
- construction of five lightweight modular steel or timber foot bridges in specific locations to span drainage lines and gullies; and
- other minor structures and associated works which may include interpretive, directional signs and artwork.

Documentation Submitted

- Ginninderry Trails Phase 2, Ginninderry, ACT – Ecological Impact Assessment and Defined Process Strategy – dated 16 August 2022
- Environmental Significance Opinion Report Ginninderry Conservation Corridor Belconnen – dated August 2022
- Proposed Tracks Ecological Overlay
- Overall Tracks Master Plan
- Endorsement of Site Audit Statement and Report – Ginninderry Precinct - Audit Area 2 – dated 9 February 2021
- Final Approval Decision for the Taking of Actions in Accordance with an Endorsed Program under The Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) – dated 1 September 2017
- Responses to two Requests for Further Information
- Letters of Authorisation
- Form 1M.

Natural conservation values present

The Ginninderry Conservation Corridor is recognised as being a location that is important in its possession of uncommon, rare or endangered flora, fauna, communities, natural landscapes or phenomena.

At least nine species of mammals, two species of frog, over 18 species of reptiles and over 80 species of birds have been recorded within the Corridor. Significant ecological values identified in or adjacent to the Ginninderry Conservation Corridor include:

- White Box – Yellow Box – Blakely's Red Gum Grassy Woodland

- Natural Temperate Grassland of the South Eastern Highlands
- Pink-tailed Worm-lizard habitat
- Habitat for threatened birds, specifically:
 - Gang-gang Cockatoo
 - Varied Sittella
 - Little Eagle
 - White-winged Triller
 - Rainbow Bee-eater (*Merops ornate*)
 - Scarlet Robin
 - Superb Parrot
 - Rufous Fantail (*Rhipidura rufifrons*); and
 - Australian Painted Snipe (*Rostratula australis*).

Important habitat for these species is largely restricted to the more intact vegetation in the Ginninderry Conservation Corridor.
- Habitat for threatened invertebrates, specifically Perunga grasshopper.
- Threatened flora, specifically Pale Pomaderris and several other species considered significant by the ACT Government (Small Crowea *Crowea exalata subs. exalata*, Currawong *Acacia doratoxylon*, Varnish Wattle *Acacia verniciflua*, and Black Cypress Pine *Callitris endlicheri*).
- Habitat for threatened fish and arthropods in the Murrumbidgee River and Ginninderra Creek, including Murray Cod *Maccullochella peelii peelii*, Macquarie Perch *Macquaria australasica*, Trout Cod *Maccullochella macquariensis*, and Murray River Crayfish *Euastacus armatus*.

In addition, while they have not been recorded, several other threatened or 'rare and uncommon' flora and fauna species have been assessed as having the potential to occur in the Ginninderry Conservation Corridor, including:

- Murrumbidgee Bossiaea (*Bossiaea grayi*), Hoary Sunray (*Leucochrysum albicans var. tricolor*), and Austral Toadflax (*Thesium australe*).
- Regent Honeyeater (*Anthochaera Phrygia*), Brown Treecreeper (*Climacteris picumnus victoriae*), Painted Honeyeater (*Grantiella picta*), and Hooded Robin (*Melanodryas cucullate*).
- Spotted-tailed Quoll (*Dasyurus maculatus*) and Grey-headed Flying-fox (*Pteropus poliocephalus*).
- Rosenberg's Monitor (*Varanus rosenbergi*).

Impact on the Reserve

The proposed works will have the following unavoidable residual impacts to Matters of National Environmental Significance and threatened matters listed under the *Nature Conservation Act 2014*:

- 2.10 ha of native vegetation, which is also likely to contain habitat for other listed species, and includes:
 - 0.39 ha of EPBC listed Box-Gum Woodland.

- 0.30 ha of Natural Temperate Grassland.
- 0.99 ha of Pink-tailed Worm-lizard habitat.

The development and trails have been designed to avoid patches of significant habitat and ecological systems and any remnant trees. Trails have also been designed to enable habitat connectivity is maintained. A range of strategies have been included in the application to mitigate and minimise significant environmental impacts, including:

- No compounds, storage areas or access trails are to be located within the Ginninderry Conservation Corridor;
- Apart from ground storey disturbance, only a small amount of vegetation clearing is expected to occur (e.g. removal of shrubs in certain sections). No substantial trees will be impacted by the proposed development. Tracks are to be micro-sited during works to avoid trees and habitat features and to target areas of lower quality Pink-tailed Worm-lizard habitat;
- Pre-clearing site surveys for threatened flora and threatened fauna that have the potential to occur in the development footprint will be conducted during the appropriate season for each species and before construction begins; and
- Appropriate Pink-tailed Worm-lizard habitat rocks impacted by the proposed development are to be collected and relocated to an adjacent area devoid of appropriate habitat rocks in order to expand available habitat.

Potentially Significant Environmental Impacts

Impacts to matters of national environmental significance have been previously considered via an EIS Exemption granted in October 2018. Although 2.10 ha of native vegetation is to be impacted by the proposed works, this represents an impact to 0.5% of the 455.39 ha of native vegetation within the Corridor.

The trails have the potential to protect the significant environmental values present by ensuring visitors and walkers remain on the created tracks and reducing the creation of desire lines.

Conditions have been included to ensure that appropriate weed hygiene and other controls are applied during construction:

1. A Construction Environmental Management Plan (CEMP) is to be endorsed by the Conservator of Flora and Fauna prior to commencement of works.
2. All works are to be undertaken in a manner consistent with the endorsed CEMP.

It has been determined that if the works are undertaken in a manner consistent with the above 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.