

# Planning and Development (Environmental Significance Opinion – Pialligo Avenue Kinetic Sculpture - block 47 section 2 Pialligo) Notice 2012 (No 1)

Notifiable instrument NI2012–249

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 (Environmental Significance Opinion– Pialligo Avenue Kinetic Sculpture - block 47 section 2 Pialligo) Notice 2012 (No 1)*.

## 2 Commencement

This instrument commences on the day after notification.

## 3 Environmental Significance Opinion

An Environmental Significance Opinion has been prepared by the Conservator of Flora and Fauna.

The text of the opinion is shown at Annexure A.

A copy of the opinion may be obtained from ACTPLA's website:

[http://www.actpla.act.gov.au/topics/design\\_build/da\\_assessment/environmental\\_significance\\_opinions](http://www.actpla.act.gov.au/topics/design_build/da_assessment/environmental_significance_opinions)

## 4 Completion

The environmental significance opinion and the notice including the text of the opinion expire 18 months after the day the notice is notified.

David Papps  
Planning and Land Authority

11 May 2012



**ACT**  
Government

Environment and  
Sustainable Development

Mr David Papps  
Chief Planning Executive  
ACT Planning and Land Authority  
Dame Pattie Menzies Building  
DICKSON ACT 2602

~~Dear Mr Papps~~

David

This is to advise of my decision, under s.138AB(4) of the *Planning and Development Act 2007*, on the request for an environmental significance opinion for the proposed installation of a public art sculpture on Block 47 Sec 2 Pialligo, an area of special purpose reserve.

The proposal is not likely to have a significant adverse environmental impact on land reserved under s. 315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve.

Please find attached the Environmental Significance Opinion and a Statement of Reasons for the decision.

Yours sincerely

Penny Farnsworth  
Conservator of Flora and Fauna

30  
January 2012



**ACT**  
Government

Environment and  
Sustainable Development

## **ENVIRONMENTAL SIGNIFICANCE OPINION**

In accordance with section 138AB(4) of the *Planning and Development Act 2007*, I provide the following environmental significance opinion:

### **PROPONENT**

Ms Penny Stott, Program Officer, Arts ACT, Community Services Directorate

### **LOCATION**

Block 47 Section 2 Pialligo.

### **DEVELOPMENT PROPOSAL**

The erection of two sculptures, in the stream' and 'breezing in Canberra', as part of the public art program commissioned by artsACT. 'In the stream' is located on Block 47 Section 2 Pialligo and 'breezing in Canberra' is located on or adjacent to Block 25 Section 2 Pialligo which is not public land and not the subject of this application.

Block 47 Section 2 Pialligo is an area reserved as public land, special purpose reserve. The development proposal is mentioned in Schedule 4, part 4.3, item 3, being development on land reserved under s. 315 for the purpose of a wilderness area, national park, nature reserve or special purpose reserve.

The sculpture is to be 11.9m high with wing sections with a total span of 14.0m that are designed to rotate 360 degrees around the top of the post and each arm is made of 3 sections which can also rotate in a circle. The movement can be quite erratic depending on the strength of the wind and direction. The wings are designed to move in slight breezes but will take up a 'safety' pose and feather in very strong winds.

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 for an environmental significance opinion to that effect.

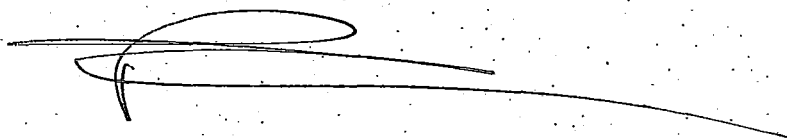
**OPINION**

The proposal is not likely to have a significant adverse environmental impact.

**MANNER IN WHICH DEVELOPMENT PROPOSAL MUST BE UNDERTAKEN:**

That the illumination of the structure is such that birds or micro-bats are not likely to be victims of strike if attracted to the lights by insects. It is recommended that the lights are located on or at ground level or at a sufficient distance away from the moving parts that strike is unlikely.

Attached is a Statement of Reasons for the decision.



Penny Farnsworth  
Conservator of Flora and Fauna

30 January 2012

**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 (a) schedule 4,

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, unless the Conservator of Flora and Fauna produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact.

The proposed works are located within an area of special purpose reserve adjacent to the Molonglo River.

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 for an environmental significance opinion 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.

### **Project description**

Installation of artwork on an area of special purpose reserve between Pialligo Ave and the Molonglo River, adjacent to the bike path.

Artwork Name	in the stream
Artist	Kozo Nishino
Materials	steel post, titanium alloy wings
Dimensions	11.9m post, wings 14m wide – can rise to 19m high

The sculpture does not make any noise when it moves – it is designed to rotate 360 degrees around the top of the post and each arm is made of 3 sections which can also rotate in a circle. The movement can be quite erratic depending on the strength of the wind and direction. The wings are designed to move in slight breezes and will take up a 'safety' pose and feather in very strong winds. Due to the size of the wings it does not move at fast speeds but rather moves in graceful arcs.

The sculpture is to be illuminated at night with sufficient power to enable a person travelling by car on Pialligo Avenue to see the arms. The lights are proposed to be located in the ground and on adjacent light poles.

### **Documentation Submitted**

Information to Support Application.

Aerial photograph and photos showing the location and type of works.

Technical Information about the sculpture.

Plans of the site.

Video demonstrating how the artwork performs in various wind conditions.

### ***Natural conservation values present***

The area has been heavily disturbed by the previous construction of roads and a cycle path. There are birds and micro-bat populations in the area.

### ***Impact of development on these values (including offsite impacts)***

Due to its location close to the Molonglo River and upstream of the Jerrabomberra Wetlands, there is the possibility of bird or micro-bat strike as the arms of the sculpture move in the wind. However, based on the design of the wind sculpture and videos of the movement of the arms under light and strong winds, micro-bats and day-flying birds should easily be able to see (or echo-locate) the moving arms and avoid them. Therefore, this structure is unlikely to pose a significant risk to micro-bat

or bird populations in the area. It should be noted that 'unlikely to pose a significant risk' in this context does not mean that a collision with the structure by a bird or a bat will never happen; it means that the risk of a collision is low and any collisions that do occur are unlikely to have a significant impact on the population size of birds or bats in the area.

However, because the arms are constructed of unclad steel framework (such that it is possible to see through the arms), night-flying birds (waterbirds) or non echo-locating bats (flying foxes) may have difficulty seeing the arms at night, particularly if they are moving. The location of the structure at Pialligo means that these birds and bats will frequently be present in the vicinity of the structure.

#### **Recommendations**

It is recommended that the arms of the structure be illuminated at night using spotlights. Illumination from three sides should make the arms visible from all angles. It is suggested that the spotlights need only have sufficient power (lumens) to enable a person to see the moving arms at night (it is likely that night-flying birds and flying foxes have better night-vision than humans), though stronger spotlights may be used if desired. The lights should be located on, or close to, the ground rather than near the rotating arms as insects may be attracted to the lights and encourage birds to the area.

#### ***Has the proponent demonstrated that all reasonable measures have been taken to avoid, minimise and as a last resort offset impact?***

Yes. All works are to be within existing disturbed areas where ever possible..

#### **Potentially Significant Environmental Impacts**

Nil.