

# Planning and Development (Conditional Environmental Significance Opinion – Numerous Blocks– erosion control works) Notice 2019

Notifiable instrument NI2019–514

made under the

**Planning and Development Act 2007, s 138AD (Requirements in relation to environmental significance opinions)**

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## 1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Numerous Blocks– erosion control works) Notice 2019*.

## 2 Conditional Environmental Significance Opinion

- (1) On 5 August 2019, 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 erosion control works on numerous blocks in Horse Park North, Kinlyside Nature Reserve and Jarramlee Nature Reserve.

- (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.

George Cilliers  
Delegate of the planning and land authority  
9 August 2019

## Schedule

See section 2(2)

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### 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, Environment, Planning and Sustainable Development Directorate, as represented by Mark Sweaney, A/G Assistant Director – Urban Reserves North.

#### 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 construction of erosion control measures for the Horse Park North, Kinlyside Nature Reserve and Jarramlee Nature Reserve offset areas as described in the submission.

#### LOCATION

The proposed works are to occur in three offset areas:

1. Horse Park North
  - Block 859 District of Gungahlin
  - Block 861 District of Gungahlin
  - Block 3, Section 42 Taylor
2. Kinlyside Nature Reserve
  - Block 832 District of Gungahlin
  - Block 843 District of Gungahlin
3. Jarramlee Nature Reserve
  - Block 1620 District of Belconnen
  - Block 7, Section 149 MacGregor

#### 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 section 138AB(4) of the Act:

1. Rock and other fill used in the project will be obtained via methods and from locations that make it free of weed material;
2. Vehicles and machinery brought to the work area will be cleaned and free of any soil or plant material prior to entering the Nature Reserve and/or offset areas;
3. Access to work areas will be via existing tracks as much as possible and then by a route that seeks to avoid tree removal and minimises disturbance to native understorey;
4. The large tree within the gully at location 27 will be pruned rather than felled to allow machinery access;
5. No more than a total of five trees with a Diameter at Breast Height (DBH) of 15cm or larger will be felled across all of the work components across all sites;
6. Felled trees and smaller saplings will be utilised on site as part of soil stabilisation or rehabilitation works;
7. Machinery and heavily laden trucks will not operate under wet conditions, where soil moisture is likely to lead to rutting and/or digging up of native vegetation;
8. All disturbed areas will be rehabilitated to support native vegetation, through utilisation of a mixture of seeding, tube stock planting and assisted natural regeneration; and
9. Prior to works beginning at sites 17-20, 32, and 35-37, on site agreement on the scale and location of diversion banks is required with a Conservation Liaison Officer. In any event the scale of the banks will not exceed that described in the ESO.

Attached is a Statement of Reasons for the decision.



Ian Walker  
Conservator of Flora and Fauna

5th August 2019

## 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;*

### Horse Park North

Blocks 859 and 861 District of Gungahlin and Block 3, Section 42 Taylor contain Yellow Box Red Gum Grassy Woodland listed as endangered under the provisions of the *Nature Conservation Act 2014* (NCA) and critically endangered under the provisions of the Commonwealth's *Environment Protection and Biodiversity Act 1999* (EPBC).

### Kinlyside Nature Reserve

Blocks 832 and 843 District of Gungahlin contain:

- Yellow Box Red Gum Grassy Woodland listed as endangered under the provisions of the *Nature Conservation Act 2014* (NCA) and critically endangered under the provisions of the Commonwealth's *Environment Protection and Biodiversity Act 1999* (EPBC);
- habitat for the Golden Sun Moth (*Synemon plana*) listed as endangered under the NCA and critically endangered under the EPBC;
- Pink-tailed Worm-lizard (*Aprasia parapulchella*) listed as vulnerable under both the NCA and the EPBC; and
- migratory and other birds listed under both the NCA and EPBC.

### Jarramlee Nature Reserve

Block 1620 District of Belconnen and Block 7, Section 149 MacGregor contain:

- Patches of Natural Temperate Grassland listed as endangered under the provisions of the *Nature Conservation Act 2014* (NCA) ) and critically endangered under the provisions of the Commonwealth's *Environment Protection and Biodiversity Act 1999* (EPBC);
- habitat for the Golden Sun Moth (*Synemon plana*) listed as endangered under the NCA and critically endangered under the EPBC; and
- migratory and other birds listed under both the NCA and EPBC.

*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 an area of 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**

An independent assessment undertaken by NSW Local Land Services in 2018 identified erosion sites requiring attention and defined remediation works to arrest their expansion and repair existing degradation. Rehabilitation works also aim to enhance existing areas of Yellow Box Red Gum Grassy Woodland and Natural Temperate Grassland and protect populations and habitat of the Golden Sun Moth.

#### Horse Park North

The identified works areas have varying degrees of erosion within drainage lines and along contour banks, likely as a result of historical agricultural activities. Evidence of historical activities to repair scalds and erosion are evident, which are in need of repair in some areas.

Although no management plan exists for Horse Park North, management activities are focused on Yellow Box Red Gum Grassy Woodland community enhancement such as erosion remediation, weed control, biomass management and coarse woody debris placement.

Specific works include:

1. Construction of 7 rock ramps using 513 tonnes of rock at six different locations;
2. Construction of a concrete flume/rock ramp across a gully head;
3. Filling of depressions and gullies using soil and 30 tonnes of rock;
4. 20 m extension to existing diversion bank and construction of 80 m diversion bank;
5. Maintenance of dams and bank structures; and
6. Fencing, planting and seeding of some areas.

#### Kinlyside Nature Reserve

Priority work along the heavily eroded upper catchment of Halls Creek (one of the most active areas of erosion in the ACT) was undertaken over 2016/17. Work included remediation, fencing and revegetation to stabilise the soils. Further works are proposed to halt erosion along gullies and drainage lines.

Specific works include:

1. Use of rock/concrete flumes and inlet pipes at four locations to stop further head cutting of gullies;
2. Construction of 55 m, 40 m and 70 m diversion banks;
3. Construction of 6 rock ramps within gullies utilising 275 tonnes of rock;
4. 5 gabion weirs across two locations;
5. A 20 m rock chute;
6. Fencing of gully areas; and
7. In some cases seeding and/or planting of tube stock in vicinity of works.

#### Jarramlee Nature Reserve

Gooromon Ponds Creek and Ginninderra Creek converge within Jarramlee Nature Reserve. Erosion along the creek has been gradually worsening. The erosion is thought to be partly caused by the combination of past management including: cattle grazing; removal of hundreds of Willows upstream; the straightening of Gooromon Ponds Creek as part of the remediation of sewage; and changes to hydrology caused by the development of surrounding and upstream suburbs.

A previous report identified several options for the remediation of the creek, including engineered works and the installation of infrastructure to enable the removal of cattle. The infrastructure has been installed to allow for tactical grazing along the riparian. The recent assessment identified further sites up and down stream requiring attention.

Specific works include:

##### *Ginninderra Creek*

1. Use of up to 550 tonnes of rock to build groynes, a weir and for bank armouring;
2. Placement of about 70 m of geofabric along bank; and
3. Removal of Willows.

### *Junction of Ginninderra Creek and Gooromon Ponds Creek*

1. Use of 230 tonnes of rock to construct groynes and underline log weir; and
2. Construction of a log weir.

### **Documentation Submitted**

- Appendix 2 – ACT Parks and Conservation Erosion Assessments Report (Local Land Services South East);
- Section 8 Gungahlin approval notice;
- Section 8 Gungahlin endorsement notice;
- Section 9 Erosion Control;
- Section 9 Appendix 4 – Box Gum Woodland Condition Improvement Plan;
- Section 9 Appendix 5 – Gungahlin Biodiversity Plan ;
- Risk Assessment – Erosion Control;
- Letter of Authorisation for Block 861 District of Gungahlin;
- Letter of Authorisation for Block 1620 District of Belconnen and Block 7, Section 149 MacGregor; and
- Form 1M.

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

#### Horse Park North

The Horse Park North offset area is 76 ha in size and supports approximately 34 ha of critically endangered Yellow Box Red Gum Grassy Woodland.

The proposed works are along Ginninderra Creek which is an important wildlife corridor for migratory birds and also provides habitat for aquatic and amphibian species. The groundcovers in the vicinity of eroded areas contain a high proportion of native grasses, dominated by Kangaroo Grass (*Themeda triandra*) and Red-leg Grass (*Bothriochloa macra*), but are currently subject to sheep grazing and cropped low.

#### Kinlyside Nature Reserve

The proposed works area is along Halls Creek north-east of the Village of Hall within Kinlyside Nature Reserve. Kinlyside Nature Reserve is of high conservation significance, supporting the critically endangered Yellow Box Red Gum Grassy Woodland, the critically endangered Golden Sun Moth (*Synemon plana*); and the vulnerable Pink-tailed Worm-lizard (*Aprasia parapulchella*).

Kinlyside supports approximately 160 hectares of predominantly moderate to high quality EPBC listed Box Gum Woodland, which is important breeding habitat for threatened and declining woodland birds. It also supports approximately 53 hectares of Golden Sun Moth habitat and a small patch (approximately 4.7 hectares) of Pink-tailed Worm-lizard habitat in the eastern section of the nature reserve.

Other threatened fauna, including the White-winged Triller (*Lalage sueurii*), Varied Sittella (*Daphoenositta chrysoptera*), Painted Honeyeater (*Grantiella picta*) and Scarlet Robin (*Petroica boodang*) have been recorded in the local area.

The reserve also supports plants that are considered rare in the ACT. This includes Pale Flax Lily (*Dianella longifolia*), Yam Daisy (*Micosseris lanceolata*) and a significant population of the Forest Sun Orchid (*Thelymitra arenaria*), which is known from only six locations in the ACT. The Goldenstar (*Hypoxis hygrometrica*) has been also been recorded, however it is unclear whether it is the rare variety (*var. villosisepala*) or not.

The rockier steeper sections of the reserve support the Red Stringybark *Eucalyptus macrorhyncha* – Scribbly Gum *Eucalyptus rossii* Tableland Shrub Forest community.

#### Jarramlee Nature Reserve

The proposed work areas within Jarramlee Nature Reserve are along Ginninderra Creek and its junction with Gooromon Ponds Creek. Jarramlee Nature Reserve (112 ha in area) is of high conservation significance, supporting a large population of the critically endangered Golden Sun Moth and patches of the endangered Natural Temperate Grassland ecological community. Golden Sun Moth habitat is present over the majority of Jarramlee and supports one of the largest known populations of Golden Sun Moth in the ACT.

Gooromon Ponds Creek and Ginninderra Creek converge within the reserve. Ginninderra Creek continues to flow west to the confluence with the Murrumbidgee River approximately 4.2 kilometres from the reserve. These waterways are part of an important wildlife corridor providing important habitat for migratory birds such as the Rainbow Bee-Eater (*Merops ornatus*) and the Sacred Kingfisher (*Todiramphus sanctus*).

Both creeks also provide important habitat for other local fauna including the Striped Marsh Frog (*Limnodynastes peronii*) and Spotted Grass Frog (*Limnodynastes tasmaniensis*).

Even-aged stands of *Eucalyptus* sp. have been planted throughout the site. These trees provide important nesting and foraging habitat for locally threatened bird species such as the Diamond Firetail (*Stagonopleura guttata*) and Hooded Robin (*Melanodryas cucullata*), and contribute to landscape habitat connectivity. Other woodland and grassland birds utilising the site include the vulnerable White-Winged Triller, Brown Songlark (*Cinclorhamphus cruralis*), Dusky Woodswallow (*Artamus cyanopterus*) and White-Browed Woodswallow (*Artamus superciliosus*).

Jarramlee provides important habitat for the vulnerable Little Eagle (*Hieraaetus morphnoides*). A deserted nest is present in the western paddock indicating that this species has nested in Jarramlee in recent years.



Several active burrows of the Canberra Raspy Cricket (*Cooraboorama canberrae*) have been observed within the north-western part of Jarramlee.

A significant portion of Golden Sun Moth habitat in the reserve is currently dominated by Chilean Needle Grass (*Nassella neesiana*). Woody weeds such as Blackberry (*Rubus fruticosus* agg. spp.), Hawthorn (*Crataegus monogyna*) and Firethorn (*Pyracantha* sp.) are also common throughout Jarramlee and provide important habitat for woodland birds.

The site was previously extensively grazed for agricultural purposes.

### **Impact on the Reserve**

Erosion control works may disturb Golden Sun Moth habitat at Jarramlee and Kinlyside by disturbing soil. At Kinlyside, only erosion sites 43 and 44 (as per submitted documentation) are within identified Golden Sun Moth habitat.

There is also the potential for temporary disturbance to adjacent groundcover (<10m) as a result of plant operations. However, given that this disturbance would be minor and short-term (i.e. no vegetation or soil removal) no net loss of native ground cover vegetation is likely. It is estimated that the total area affected is <0.03 ha.

Selective removal of Red Stringybark (*Eucalyptus macrorhyncha*) and Yellow Box (*Eucalyptus melliodora*) will be needed at Kinlyside to enable erosion work at sites 27, 35-37 (treated as one site) and 40. The majority of trees to be removed are relatively small (10-15 cm diameter at breast height).

The proposed works are consistent with plans of management for the reserves, the National Recovery Plan for *White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland*, *Action Plan 27 – ACT Lowland Woodland Conservation Strategy*, *Action Plan 28 – ACT Lowland Native Grassland Conservation Strategy* and *Action Plan 29 – ACT Aquatic Species and Riparian Zone Conservation Strategy*.

Overall the impacts of the proposed works should be positive with the stabilising of creeks ensuring no further damage to the area, particularly to the Golden Sun Moth habitat. Sites will be rehabilitated and revegetated with native species which will have a long term positive benefit.

### **Potentially Significant Environmental Impacts**

The erosion occurring at all three offset sites is likely to result in the loss over time of both Yellow Box Red Gum Grassy Woodland and Golden Sun Moth habitat if not fixed and/or stabilised. It is considered that the proposed works have been well designed to minimise both short and long term impacts associated with the works, which in themselves will have a positive environmental benefit. In particular the erosion control works will have a minimal, insignificant impact on the two matters of National

Environmental Significance that occur in the general area of the works, that is the Yellow Box Red Gum woodland and Golden Sun Moth.

The proposed revegetation works will have a positive impact on not only the soil conditions but will also benefit woodland birds in the area. No threatened or rare fauna will be impacted.

To reduce the potential for impact on the offset sites, works are to be undertaken in accordance with the mitigation measures contained in the supporting application for an ESO and the following conditions:

1. Rock and other fill used in the project will be obtained via methods and from locations that make it free of weed material;
2. Vehicles and machinery brought to the work area will be cleaned and free of any soil or plant material prior to entering the Nature Reserve and/or offset areas;
3. Access to work areas will be via existing tracks as much as possible and then by a route that seeks to avoid tree removal and minimises disturbance to native understorey;
4. The large tree within the gully at location 27 will be pruned rather than felled to allow machinery access;
5. No more than a total of five trees with a Diameter at Breast Height (DBH) of 15cm or larger will be felled across all of the work components across all sites;
6. Felled trees and smaller saplings will be utilised on site as part of soil stabilisation or rehabilitation works;
7. Machinery and heavily laden trucks will not operate under wet conditions, where soil moisture is likely to lead to rutting and/or digging up of native vegetation;
8. All disturbed areas will be rehabilitated to support native vegetation, through utilisation of a mixture of seeding, tube stock planting and assisted natural regeneration; and
9. Prior to works beginning at sites 17-20, 32, and 35-37, on site agreement on the scale and location of diversion banks is required with a Conservation Liaison Officer. In any event the scale of the banks will not exceed that described in the ESO.

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.