

Planning and Development (Conditional Environmental Significance Opinion – Block 734, Gungahlin – Throsby North Fence) Notice 2023

Notifiable instrument NI2023–304

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 734, Gungahlin – Throsby North Fence) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 15 May 2023, the Conservator of Flora and Fauna, pursuant to section 138AB (4) (b) of the *Planning and Development Act 2007* (the *Act*), gave the Applicant a conditional environmental significance opinion in relation to the installation of fencing within the Throsby North environmental offset area in the Mulligans Flat Nature Reserve, Block 734, District of Gungahlin.

- (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.

George Cilliers
Delegate of the planning and land authority
14 June 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

ACT Parks and Conservation Service, Environment, Planning and Sustainable Development Directorate, as represented by Mr Simon Stratford, Mulligans Flat Sanctuary 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 of fencing within Mulligans Flat Nature Reserve as described in the submission.

LOCATION

Block 734, 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.

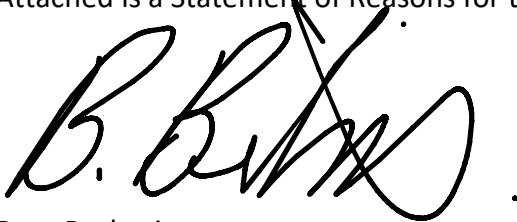
OPINION

Provided the works are undertaken in 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. All vehicles, machinery and equipment (including tools, boots, gloves and clothing) must be cleaned and free of soil and plant propagules (including seed) prior to entering the nature reserve.
2. The proponent must finalise detailed fence alignment and timing of construction (ideally Spring) in consultation with the ACT Parks and Conservation Service Offsets Monitoring Team.
3. A biomass monitoring and management plan must be developed and implemented over the life span of the fence.

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, appearing to read 'B. Burkevics', followed by a period.

Bren Burkevics
Conservator of Flora and Fauna

15 May 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;

One community listed as endangered will be impacted by the proposed works:

- Yellow Box – Blakely’s Red Gum Grassy Woodland (Box Gum Woodland)

Seven animal species listed as threatened under ACT and/or Commonwealth legislation have been recorded in the vicinity of the works:

- Golden Sun Moth (*Synemon plana*)
- Superb Parrot (*Polytelis swainsonii*)
- Brown Treecreeper (*Climacteris picumnus*)
- White-winged Triller (*Lalage tricolor*)
- Diamond Firetail (*Stagonopleura guttata*)
- Hooded Robin (*Melanodryas cucullata*)
- Scarlet Robin (*Petroica boodang*)

The area also contains at least 15 species of orchids, which are protected under the *Nature Conservation Act 2014*.

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

The proposed works are located within 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 proposed works involve installation of a 670m fence to protect sensitive orchid populations from foraging marsupials. The fence is to be a standard rabbit proof netting fence, approximately 900mm high with a modified umbrella top and approximately 200mm of skirting at the bottom of both sides of the fence. The fence will be supported by strainers and star pickets, with access via vehicle gates at each end.

Documentation Submitted

- Supporting documentation for the application for an Environmental Significance Opinion;
- Form 1M.

Natural conservation values present

The fence is to be constructed within EPBC listed Box Gum Woodland. The ecological community is dominated by Yellow Box (*Eucalyptus melliodora*), Blakely's Red Gum (*Eucalyptus blakelyi*), and Scribbly Gum (*Eucalyptus rossii*); common co-dominant trees. A significant component is the species-rich understorey of native tussock grasses, herbs and scattered shrubs. Box Gum Woodland provides important habitat for a range of flora and fauna in the ACT, including species of orchids, peas, daisies, invertebrates, reptiles and woodland birds.

Seven animal species listed as threatened under ACT and/or Commonwealth legislation have been recorded in the vicinity of the works:

- Golden Sun Moth (*Synemon plana*)
- Superb Parrot (*Polytelis swainsonii*)
- Brown Treecreeper (*Climacteris picumnus*)
- White-winged Triller (*Lalage tricolor*)
- Diamond Firetail (*Stagonopleura guttata*)
- Hooded Robin (*Melanodryas cucullata*)
- Scarlet Robin (*Petroica boodang*)

The area contains at least 15 species of orchids, which are protected under the *Nature Conservation Act 2014*. The area also contains a small population of Tiny Cudweed (*Gnaphalium indutum*) which is the only known population within the ACT.

Impact on the Reserve

The alignment of the proposed fence follows the line of an old vehicle track. Vehicle access will be highly limited and will be restricted to existing tracks only. No trees or grass tussocks are to be removed, however some minor pruning of trees and mowing of grasses may be undertaken during the construction phase.

Soils disturbance will only occur where four strainer posts are required to be installed to support the fence, while star pickets will be driven into the ground with no disturbance to the soil.

Works will be undertaken by in-house staff to reduce the likelihood of inadvertent impacts with the use of contractors unfamiliar with the reserve and its values.

Regular floristic, biomass and orchid monitoring will be conducted and biomass and weed infestations are to be managed as needed.

The construction of the fence is likely to further enhance protection on the vegetation within the area.

Potentially Significant Environmental Impacts

The proposed works will have minor and temporary impact to Box Gum Woodland, however are likely to enhance protection of sensitive and rare orchid species. Locations of rare plants are known, and are to be avoided during construction.

Long-term biomass accumulation will need to be carefully managed within the fenced area to ensure that orchid populations are not impacted.

Conditions have been included to ensure that the works do not result in an increase in weeds, and to ensure that monitoring and management continues as long as the fence remains in place:

1. All vehicles, machinery and equipment (including tools, boots, gloves and clothing) must be cleaned and free of soil and plant propagules (including seed) prior to entering the nature reserve.
2. The proponent must finalise detailed fence alignment and timing of construction (ideally Spring) in consultation with the ACT Parks and Conservation Service Offsets Monitoring Team.
3. A biomass monitoring and management plan must be developed and implemented over the life span of the fence.

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.