

Planning and Development (Conditional Environmental Significance Opinion – Block 843, Gungahlin – Kinlyside Nature Reserve) Notice 2024*

Notifiable instrument NI2024–49

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 843, Gungahlin - Kinlyside Nature Reserve) Notice 2024*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 3 January 2024, the Conservator of Flora and Fauna, pursuant to section 138AB (4) (b) of the *Planning and Development Act 2007* (repealed), gave the Applicant a conditional environmental significance opinion in relation to the construction of a boundary fence on Block 843, Gungahlin to define the Kinlyside Nature Reserve. The works consist of construction of approximately 400m of new fence on the southern boundary of Kinlyside Nature Reserve.

- (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 territory planning authority
29 January 2024

*Name amended under Legislation Act, s 60

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 as represented by Iain Campbell-Smith,
Project Officer.

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 boundary fence to define the Kinlyside Nature Reserve as described in the submission.

LOCATION

Block 843, District of Gungahlin within Kinlyside 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. Works are not to commence until threatened Golden Sun Moth have finished flying (late January or February).
2. Coarse woody debris removed from the alignment must be placed nearby after the fence installation or placed within the woodland to the east of the new fence.
3. Works crews must keep to the west of the new fence alignment as much as possible during construction, and only on foot in the area east of the new fence alignment wherever possible.
4. Care must be taken to keep to the existing tracks for vehicles and storage of materials.
5. On completion of works, the new fence alignment as a spatial layer must be provided by email to PCS Offsets GIS staff to enable map layers to be updated.
6. Any C3 tussocks taken out by strainer post locations are to be transplanted to locations as indicated by the PCS Offsets team and/or Operations team.
Rytiosperma sp (Wallaby Grass) a C3 is the larval food plant of Golden Sun Moth.
7. 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.
8. No work is permitted on site when a Total Fire Ban is declared.
9. On days of High fire danger rating (FBI 25 or greater) all hot works and works that could emit a spark must cease. Hot works activities must be deferred to be undertaken under less risky conditions and consideration given to what mitigations measures such as fire suppression equipment can be implemented. The daily rating and a four day outlook are available during the declared bushfire danger period at <https://esa.act.gov.au/> for the proponent to assess risks.

Hot works includes; welding, cutting, grinding, or other works involving open flames or which emit a spark such as excavating hard rock, slashing and brush-cutting

Attached is a Statement of Reasons for the decision.



Bren Burkevics
Conservator of Flora and Fauna

3 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 area proposed for works contains one ecological community listed as threatened:

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

Five threatened species have been recorded within a 500m radius of the works:

- Golden Sun Moth (*Synemon plana*)
- Scarlet Robin (*Petroica boodang*)
- White Winged Triller (*Lalage tricolor*)
- Varied Sittella (*Daphoenositta chrysoptera*)
- Diamond Firetail (*Stagonopleura guttata*)

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

The proposed works are within Kinlyside 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

Approximately 400m of stock proof fence will be constructed adjacent to the current access track. The new fencing will provide increased security to the reserve, improve management and public access, and provide privacy to the adjoining neighbours. A defined boundary will enable the ACT Parks and Conservation Service (PCS) to protect significant ecological values and undertake restoration commitments as identified in the Kinlyside Offset Management Plan.

The fence will be comprised of five plain wires with hinge joint to exclude sheep and cattle and will include five new strainer posts and two gates in accordance with PCS fencing and gate specifications and fauna-friendly designs.

Alignment of the fence is within the disturbance footprint of the existing vehicle access track to minimise disturbance to vegetation and the Yellow Box Red Gum community. Mature trees will not be impacted, and construction will occur outside of the dripline of these mature trees to prevent indirect impacts. A small number of saplings will be removed.

Documentation Submitted

- Supporting Statement for the application for an Environmental Significance Opinion;
- Letters of Authorisation
- Form 1M.

Natural conservation values present

Kinlyside Nature Reserve is of high conservation significance, supporting critically endangered Box Gum Woodland and the vulnerable Golden Sun Moth and Pink-tailed Worm-lizard.

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 recorded in the local area include:

- White-winged Triller (*Lalage tricolor*)
- Varied Sittella (*Daphoenositta chrysoptera*)
- Scarlet Robin (*Petroica boodang*)
- Little Eagle (*Hieraaetus morphnoides*)
- Diamond Firetail (*Stagonopleura guttata*)
- Key's Matchstick Grasshopper (*Keyacris scurra*)

Impact on the Reserve

The works as proposed will have only minimal, short-term impacts on the reserve. The alignment of the new fence line falls within low diversity Box Gum Woodland, however, the area shows evidence of recent heavy stock grazing and the access track has had maintenance work undertaken in the last six months. The fence alignment has been proposed as close to the existing track as practicable and the total clearance area for works will be less than 30m².

Where the fence deviates off the track alignment due to site attributes, the dripline of any medium and large trees with high habitat value has also been avoided. Works will be carried out by PCS staff with particular care taken in areas that contain drainage lines to minimise debris build up against the fence and facilitate longevity of the established fence boundary.

Impacts to Golden Sun Moth habitat have been mitigated with any C4 tussocks requiring removal for strainer post installation to be retained and transplanted to retain any pupae that may be present in the root system. All disturbed areas will be restored by hand seeding with a mixture of local native grasses and forbs that have been proven to colonise and grow quickly. Disturbed areas will be monitored by PCS staff to assess germination and growth results and implement weed control if necessary.

Potentially Significant Environmental Impacts

The works as proposed are unlikely to significantly impact the reserve and will ultimately provide increased protection for ecological values.

Conditions have been included to further minimise impacts to Golden Sun Moth and reduce the spread of weeds and bushfire risk to the reserve.

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.