ENVIRONMENTAL SIGNIFICANCE OPINION - ACT Ice Sports Facility (ESO 202400045)

In accordance with section 140 (4) of the *Planning Act 2023* (the Act), I provide the following environmental significance opinion:

APPLICANT

Chief Minister, Treasury and Economic Development Directorate - Sport and Recreation, as represented by David Jeffrey, Senior Director.

APPLICATION and DEVELOPMENT PROPOSAL

The applicant has applied under section 140 (4) 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 development of an ice sports facility in Tuggeranong, as described in the submission.

LOCATION

Block 19 Section 46 Greenway.

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 s140 (4)(b) of the Act:

1. The proposed works may be subject to random compliance inspection by Conservation Officers as requested by the Conservator of Flora and Fauna.

2. A Construction Environmental Management Plan (CEMP) must be endorsed by the Conservator of Flora and Fauna prior to any works commencing on site.
3. A restoration plan to enhance ecological connectivity and mature native trees must be developed in consultation with the Conservator of Flora and Fauna, Parks and Conservation Service, ESA and RFS, and must be endorsed by the Conservator prior to commencing construction, in line with the Biodiversity Sensitive Urban Design Guide. The restoration plan must include measures specific to improving ecological context and connectivity of retained native vegetation within the site and compensatory measures outside of the site. Removed native trees and shrubs must be replaced at a replacement ratio endorsed by the Conservator.
4. At the discretion of the Conservator, removed native trees may be required to be reinstated intact as vertical habitat structures or coarse woody debris within a nature reserve or offset area.
5. Management of inner and outer asset protection zones must be contained within the boundaries of the proposal site block.

Attached is a Statement of Reasons for the decision.

Bren Burkevics
Conservator of Flora and Fauna

19 November 2024

STATEMENT OF REASONS
REASONS FOR THE DECISION

The proposed development is a proposal mentioned in Schedule 1 of the *Planning (General) Regulation 2023* – requiring environmental impact statement, being:

Part 1.2, item 16 - proposal that is likely to have a significant adverse environmental impact on 1 or more of the following:

(a) a critically endangered species;
(b) an endangered species;
(c) a vulnerable species;
(d) a conservation dependent species;
(e) a regionally threatened species;
(f) a regionally conservation dependent species;
(g) a provisionally listed threatened species;
(h) a listed migratory species;
(i) a threatened ecological community;
(j) a protected native species;
(k) a Ramsar wetland;
(l) any other protected matter

Several rare and threatened birds have potential to occur within the proposal site, including:

- Swift Parrot *Lathamus discolor*
- Regent Honeyeater *Anthochaera phrygia*
- Superb Parrot *Polytelis swainsonii*
- Gang-gang Cockatoo *Callocephalon fimbriatum*
- Scarlet Robin *Petroica boodang*
- White-winged Triller *Lalage tricolor*
- Brown Treecreeper *Climacteris picumnus victoriae*
- Diamond Firetail *Stagonopleura guttata*

Part 1.2, item 17 – proposal involving -

(a) the clearing of more than 0.5ha of native vegetation in a native vegetation area, other than on land in a future urban area; or
(b) the clearing of more than 5.0ha of native vegetation in a native vegetation area on land in a future urban area

The proposal will result in the loss of up to 1.72 ha of native vegetation.

Part 1.2, item 25 - proposal that is likely to result in a key threatening process under the Nature Conservation Act 2014

The proposal site supports 53 trees which meet the definition of mature native trees (MNTs). The number of MNTs to be removed has not yet been determined, as the design is not yet finalised. Three design options have been presented, all of which result in the loss of the majority of MNTs within the site.

The proponent is seeking an environmental significance opinion to remove the requirement for an environmental impact statement 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 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, 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 proposal is for the development of an ice sports facility, which includes 2 international standard ice sheets, rock climbing walls, carpark and associated amenities. The proposal is expected to support a capacity of 3,600 spectators. Three design options have been provided, all of which would result in a large portion of the site being utilised for development.

The proposal site is approximately 4.08 ha and is zoned ‘CZ6: Leisure and Accommodation’ under the Territory Plan. The proposal site is bordered by urban

development to the north, east and west. To the west is grassland/pasture and native tree plantings extending to the Murrumbidgee River corridor, approximately 380 m from the proposal site.

Three design options have been submitted for consideration:

- Option 1 – Development across the northern portion of the site. Building located in north-east corner and carpark along the north-west. Inner asset protection on southern portion of site.
- Option 2 – Development across the eastern portion of the site. Building located in north-east corner and carpark along the south-east. Inner asset protection on western portion of site.
- Option 3 – Development across the eastern portion of the site. Carpark located in north-east corner and building along the central to south-east. Inner asset protection on western and southern portions of site.

Documentation Submitted

- Tree Assessment Review – May 2024
- Habitat Assessment and Commonwealth Significant Impact Assessment for Woodland Birds - May 2024
- Tree Assessment Review Drawings
- Massing Studies Cover Letter
- Massing Studies Drawings
- ACT Fire and Rescue record of meeting
- Office of the Conservator of Flora and Fauna record of meeting
- Letter(s) of Authorisation
- Form 1M.

Natural conservation values present

The proposal site is within a peri-urban landscape, surrounded on three sides by urban development. To the west of the site is native vegetation which connects to the Murrumbidgee River Corridor, which is an important wildlife corridor for several rare and threatened species. The Murrumbidgee River and proposal site are separated by approximately 380 m of vegetation and trails, including the Bicentennial Trail.

Prior to 1750, the proposal site and broader landscape is predicted to have supported a Dry Tussock Grassland community, which would have been dominated by tussock-forming grasses and a diversity of forbs. Post-colonisation, the proposal site and broader landscape was subject to agricultural grazing and pasture improvement. In 1978, the ACT government undertook large-scale restoration plantings across the Murrumbidgee River Corridor and surrounding areas, including the proposal site. The trees currently present within the proposal site were planted as part of this restoration work and are comprised of a mix of local and non-local eucalypts and

wattles. These trees include local Brittle Gum *Eucalyptus mannifera,* Red Box *E. polyanthemos,* and Yellow Box *E. melliodora*, and non-local Mugga Ironbark *E. sideroxylon.*

Planted trees make up the entirety of NC Act listed native vegetation within the proposal site, with a total area of 1.72 ha. The proposal site contains 431 native trees, of which 53 trees meet the definition of mature native trees (MNTs), all of which provide some foraging and connectivity value for rare and threatened bird species. Given the large-scale restoration plantings across the Murrumbidgee River Corridor, the species and age classes of trees within the proposal site are well represented within the broader landscape and do not support especially high-value breeding resources such as hollows or nests. Mugga Ironbark and Yellow Box provide higher value foraging habitat for Swift Parrot and Regent Honeyeater, as they provide nectar resources during the winter period when other food sources are limited. Both species have been recorded within proximity to the proposal site. Regent Honeyeater was recorded in 2014 on the north-east corner of the proposal site and Swift Parrot in 2010 approximately 150 m east of the site. As above, Mugga Ironbark and Yellow Box are widely planted within the broader landscape.

Several other threatened woodland bird species have been recorded within proximity to the proposal site, including Superb Parrot, Gang-gang Cockatoo, Scarlet Robin, Brown Treecreeper and White-winged Triller. Superb Parrot and Gang-gang Cockatoo have been widely recorded throughout Tuggeranong and the ACT. These species are reliant on hollow-bearing trees for nesting, which are not present within the proposal site. Both species forage on a wide diversity of plant species, including those present within the proposal site. While there are records of Brown Treecreeper and Diamond Firetail within 5 km of the proposal, these species are highly sensitive to disturbance and are unlikely to occur in the heavily degraded proposal site. Other small woodland birds, including White-winged Triller and Scarlet Robin have potential to occur within the site, but given the highly degraded state of the site, the occurrence of these species within the site is likely to be transitory.

The ground storey within the site no longer aligns with the former grassland community and is now dominated by exotic species, African Lovegrass (*Eragrostis curvula*), Patterson's Curse (*Echium plantegineum*) and Fleabane (*Conyza sp.*) being the dominant species across most of the study area. Native grasses and forbs are present at low diversity and density at the margins of planted canopies.

There is a single record (from 2005) for the threatened Perunga Grasshopper *Perunga ochracea* in the southern portion of the proposal site. Based on a site inspection by the Office of the Conservator, field surveys undertaken in the preparation of the ESO supporting documents, and highly disturbed ground storey, the proposal site is not considered likely to support Perunga Grasshopper.

No ACT *Nature Conservation Act 2017* (NC Act) or Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) listed threatened flora species were recorded in the study area during the field surveys, nor have any been previously recorded in the study area. Given the grazing history and invasion by African Lovegrass, none of the threatened flora species with the potential to occur in the broader area are considered likely to occur within the proposal site.

Potentially Significant Environmental Impacts

The proposal site contains 431 native trees, which are comprised of local and non-local eucalypt species which are commonly planted within Tuggeranong and broader ACT region. Of these trees, 53 meet the definition of mature native trees (MNTs), as trees with a trunk diameter at breast height of >50 cm. The number of trees to be removed has not yet been determined, as design options are still being investigated. Three design options have been presented, all of which result in the loss of a large proportion of trees onsite, including several mature native trees. For the purposes of this impact assessment, a total loss of vegetation from the site is assumed.

The trees within the proposal site provide some habitat value for a range of rare and threatened native species. Of particular importance, Mugga Ironbark and Yellow Box provide winter foraging resources for Swift Parrot and Regent Honeyeater, both of which have been recorded within proximity to the proposal site. Swift Parrot is a migratory species which travels from breeding grounds in Tasmania to the mainland to forage during the winter months. Similarly, Regent Honeyeaters disperses widely across eastern Australia based on resource availability, generally being recorded within box-ironbark forests on creek flats, broad river valleys and lower slopes. Although associated eucalypt species are present within the proposal site, these are widely planted species which do not represent a naturally occurring plant community. There are numerous sites identified as key biodiversity areas for Swift Parrot and Regent Honeyeater, none of which are within the ACT. While tree species within the proposal site are listed as preferred foraging habitat within the Commonwealth Swift Parrot and Regent Honeyeater Recovery Plans, these individual trees are not considered to provide critical habitat given: there a relatively few sightings on these species within the site and surroundings areas; the site is a significant distance from known ecologically important areas; foraging habitat resources present within the site are widely available within the broader landscape; and the relatively young (~40 year old) trees provide limited nectar resources compared with the same species at full maturity.

Several other rare and threatened woodland bird species are likely to periodically occur within, or in proximity to, the proposal site, including Superb Parrot, Gang-gang Cockatoo, and Scarlet Robin. The site provides connectivity value and some foraging habitat value for these species in the form of nectar and fruits from local and non-

local trees, native and exotic grass seeds, and invertebrate prey both within the grassland and treed areas. No breeding habitat, including hollow-bearing trees or nests, has been identified within the site. Given the peri-urban location and the extensive area of higher-quality habitat to the west of the site, it is likely the highly modified vegetation zones in the proposal site provide only marginal habitat value. The loss of planted trees from within the proposal site is therefore unlikely to significantly impact these species.

While the MNTs onsite provide some foraging and connectivity habitat value, they are well represented in the broader landscape and do not support unique or especially high-value resources, such as hollows or nests. No remnant trees are present within the proposal site and the species planted are not likely to have naturally occurred in the proposal site, as this area is predicted to have supported a naturally treeless Dry Tussock Grassland pre-colonisation. The adjoining Murrumbidgee River Corridor, which includes the Murrumbidgee River and a varying-width strip of land on either side, comprises a vegetated area of 9,800 ha and supports a similar mix of species and age classes as the proposal site. The loss of 1.72 ha of planted trees therefore represents a loss of approximately 0.01 of the broader contiguous area of vegetation. The loss of MNTs from the proposal site is therefore not likely to significantly contribute to the loss of MNTs key threatening process, nor is the loss of native vegetation generally likely to significant impact landscape values, provided adequate compensatory measures are undertaken to ensure no net loss of these habitat resources within the broader landscape.

Any future changes to the proposed design should prioritise retention of the high-quality trees, such as those in the north-east of the site. Where possible, the proposed drainage easement should be designed and managed as an open naturalised channel, allowing overland water flow and hydration of soils through a suitably designed riparian corridor. This corridor should promote use of this area as habitat by frogs and other riparian species and provide additional climate refugia for other species. The naturalised drainage line should also enable purification of stormwater run-off from the carpark prior to it entering other waterbodies in the landscape, which would assist in achieving the objectives of water sensitive urban design in this proposal. Any unavoidable impacts to the riparian values of this channel should be compensated for through remediation of nearby habitat.

As a connected component of the broader Murrumbidgee River vegetated corridor, the planted woody vegetation within the proposal site provides connectivity value for numerous native species. Clearing of vegetation within the proposal site has potential to reduce the width of north-south connectivity but is unlikely to meaningfully degrade its functionality, given the vegetated corridor to the west of the site is >300 m and the predicted width for functional connectivity in woodland and riparian corridors is 40 m, as per the Biodiversity Sensitive Urban Design guide.

The approximately 60 m wide area of woodland proposed to be retained in option 2 and 3 also meet the minimum width required width requirements for functional woodland and riparian corridors, so should be prioritised for retention and enhancement.

The impacts to woodland and riparian corridor functionality can be further mitigated through the restoration of areas adjoining the proposal site. Noting the highly disturbed understorey within and surrounding the site, restoration activities should aim to improve habitat condition at all strata layers using plants appropriate to enhancing habitat for threatened species with potential to occur. This planting should include winter-flowering eucalypts and shrubs. The details of these measures should be provided in the restoration plan and detailed in the Biodiversity Sensitive Urban Design guide response, which must be submitted with the Development Application.

Conditions have been included to ensure environmental impacts are minimised during works:

1. The proposed works may be subject to random compliance inspection by Conservation Officers as requested by the Conservator of Flora and Fauna.
2. A Construction Environmental Management Plan (CEMP) must be endorsed by the Conservator of Flora and Fauna prior to any works commencing on site.
3. A restoration plan to enhance ecological connectivity and mature native trees must be developed in consultation with the Conservator of Flora and Fauna, Parks and Conservation Service, ESA and RFS, and must be endorsed by the Conservator prior to commencing construction, in line with the Biodiversity Sensitive Urban Design Guide. The restoration plan must include measures specific to improving ecological context and connectivity of retained native vegetation within the site and compensatory measures outside of the site. Removed native trees and shrubs must be replaced at a replacement ratio endorsed by the Conservator.
4. At the discretion of the Conservator, removed native trees may be required to be reinstated intact as vertical habitat structures or coarse woody debris within a nature reserve or offset area.
5. Management of inner and outer asset protection zones must be contained within the boundaries of the proposal site block.

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.