

Planning and Development (Environmental Significance Opinion - Molonglo River Corridor Environmental Protection Works) Notice 2013 (No 1)

Notifiable Instrument NI2013–194

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 - Molonglo River Corridor Environmental Protection Works) Notice 2013 (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

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.

Dorte Ekelund
Environment and Sustainable Development Directorate
24 April 2013



ACT
Government

Environment and
Sustainable Development

Mr Ben Ponton
A/g Chief Planning Executive
ACT Planning and Land Authority
Dame Pattie Menzies Building
DICKSON ACT 2602

Dear Mr Ponton

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 on the installation of protective fencing to provide protection for the *Aprasia parapulchella* (Pink-tailed Worm-lizard) habitat within the Molonglo River Corridor; interpretative signage; a pedestrian gravel pathway; and a lookout shelter.

The proposal is not likely to have a significant adverse environmental impact on a species that is vulnerable, or on land reserved under s. 315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve, provided works are undertaken in accordance with the conditions listed in the opinion.

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

Yours sincerely

Alan Traves
A/g Conservator of Flora and Fauna

(7 April 2013



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

Ros Ransome, Senior Project Officer, Design and Development, Territory and Municipal Services Directorate.

LOCATION

Block 25 District of Molonglo Valley, within the Molonglo River Corridor adjacent to the residential suburb of Coombs.

DEVELOPMENT PROPOSAL

The works include installation of protective fencing to provide protection for the *Aprasia parapulchella* (Pink-tailed Worm-lizard) habitat within the Molonglo River Corridor; interpretative signage; a pedestrian gravel pathway; and a lookout shelter.

The proponent wants the application for the development approval assessed 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 provided that works are undertaken in accordance with the conditions listed below.

MANNER IN WHICH DEVELOPMENT PROPOSAL MUST BE UNDERTAKEN:

The works must be done in accordance with a Construction Environment Management Plan approved by the Environment Protection Authority and:

- Any machinery / vehicles used will be cleaned and be free of mud and vegetative material prior to arriving on site;
- the slashing/mowing to assist fence construction should not occur in any area where rock removal would be required;
- the slashing/mowing should not reduce grass height to less than 10 cm;

- there is no storage of construction equipment or other material within Molonglo River Park; and
- runoff from the constructed paths must not flow across or into areas mapped as pink-tailed worm lizard habitat.

A handwritten signature in black ink, appearing to read 'Alan Traves', with a long horizontal stroke extending to the left.

Alan Traves
A/g Conservator of Flora and Fauna

11 April 2013

STATEMENT OF REASONS REASONS FOR THE DECISION

Under section 138AA of the *Planning and Development Act 2007*, a proponent may seek an environmental significance opinion that, if successful, would enable a proposal to be assessed in the merit track. Schedule 4 of the *Planning and Development Act 2007* lists items that trigger the requirement for an EIS. The proponent has stated that the relevant Schedule 4 items for seeking an environmental significance opinion on this proposal are:

Part 4.3 Item 1

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

(b) a species that is vulnerable;

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, 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

This area of Molonglo River Corridor is currently classified in the Territory Plan as Special Purpose Reserve, and the works are adjacent to an area of potential habitat for *Aprasia parapulchella* (Pink-tailed Worm-lizard) (PTWL) a species listed as vulnerable under the provisions of the *Nature Conservation Act 1980*.

The proponent wants the application for the development approval assessed 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 (ESO) 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 and known values of the site.

Project description

The works are within the Molonglo River Park, and include:

- the installation of a habitat protection fence to protect the potential high and moderate quality PTWL habitat and a 20 m buffer (habitat protection zone) from pedestrian, domestic animal, vehicular access and urban edge pressures including trampling and over turning of rocks. Signage will be attached to the fence stating "Conservation Area";
- interpretative signage located outside of the habitat protection zone;
- a pedestrian gravel pathway; and
- a lookout shelter.

Fencing is to be constructed using black steel fence pipe posts at 3 metre centres with a top rail of black steel pipe at 1100 mm height from ground and three strands of plain wire placed at 800, 600 and 400 mm from ground level. The fence will include emergency services gates with 1100 mm high pipe posts.

Works for the installation of the fence will include:

- Small surface rocks to be collected and stockpiled for future restoration work;
- Grass strip 4 m wide maximum to be slashed prior to installation;
- Fence posts to be installed using a pneumatic post driver.

The pathway is to be constructed of decomposed granite 1200mm wide, with 500mm wide verges on both sides, and will be located outside of the habitat protection zone.

The proposed lookout is to be located at the river access point, outside the habitat protection zone, and will be an elevated platform supported by steel columns. The shelter will be prefabricated off-site to minimise disturbance and construction activity at the site

The work will likely be implemented in two stages, with the installation of the protective fencing and Conservation Area signage to be completed prior to commencement of construction of the adjoining residential area of Coombs. Stage 2 will include further interpretive signage, the lookout shelter and pathway with completion of this stage expected prior to the occupation of any residences.

Documentation Submitted

- Report titled Documentation to Support an Application for an Environmental Significances Opinion, Coombs Riverside Design- Aprasia Habitat, Environmental Protection Works, Molonglo River Park , April 2013;

Natural conservation values present

The report submitted with the ESO states that the broader site area includes moderate and high quality potential PTWL habitat, (ngh 2011). A 20 metre buffer zone is identified around the moderate to high quality potential PTWL habitat. There is a high level of disturbance in the area towards the urban edge, in particular the sewer line track and the areas either side of the track are heavily disturbed and have exposed soil.

A large portion of the area from the urban edge to the PTWL habitat buffer edge is within the Outer Asset Protection Zone for fire management (OAPZ). The present condition of these areas is poor, weed infested and generally highly disturbed (Hassell 2013).

The areas to be disturbed by the proposed works do not have high conservation value and all works are located in places that have been highly disturbed.

Impact of development on these values (including offsite impacts)

The works are important to ensure protection of the PTWL habitat during the construction of the adjacent urban development. This work will provide access controls to PTWL habitat areas and the interpretive signage will educate the community on the unique nature and conservation values of the area.

The works are to be installed in locations either on the perimeter of the PTWL buffer zone or outside of the identified potential PTWL habitat area and buffer zone. These areas are not identified as having high conservation value and some areas are heavily disturbed. Soil disturbance will be minimised by appropriate construction methods.

It is proposed to manage indirect impacts through the following: Temporary soil erosion measures will be installed to prevent deposition of silt down slope in the PTWL habitat. The location of the path avoids steep areas of land requiring retaining walls and minimising excavation. Design measures have been implemented to reduce the environmental impact of the works.

The 2011 study undertaken by NGH Environmental did not find uncommon, rare or endangered flora, fauna, communities, natural landscapes or phenomena in the areas where the works are to be installed.

Table 1 of the report (as below) gives a description of all works proposed and a description of the areas of disturbance.

Table 1 Proposed Works

No	Description of Works	Disturbance
1	Protective Fencing <ul style="list-style-type: none"> • May require minor clearance of woody weeds. • Mow grass cover prior to start to minimise fire hazard up to m2 • Place steel posts x 530 with a pneumatic rammer 530 x 63mm diameter = 1.9m2 • Gate posts x 10 x 300mm diameter = 0.9m2 • Soil redistributed within the River Park for use in trail maintenance. Total = 2.0m3 	Temporary mowing of grass cover to 5 m wide to allow construction activity and to minimise fire danger. Total temporarily disturbed area = 8000m2 Total permanently disturbed area = 2.8m2
	Interpretive signage	
2	Conservation Area Sign Weld to top steel rail	Total temporarily disturbed area = 0 Total permanently disturbed area = 0
3	<ul style="list-style-type: none"> • Secondary Identification Sign • Sign posts in holes and filled with concrete excavate holes- 300x300x750 = 0.13m3 • concrete mowing pad requires excavation of area 1400x500x100 = 0.14m3 • Soil redistributed within the River Park for use in trail maintenance. Total = 0.27m3 	Total temporarily disturbed area = 0 Total permanently disturbed area = 0.7m2
4	<ul style="list-style-type: none"> • Stone Wall interpretative Molonglo River Park information sign • Wall and mowing strip 7m x 2m x 0.1 = 0.14m3 • Excavation 5000x500 x 600 = 0.9m3 	Total temporarily disturbed area = 0 Total permanently disturbed area = 14m2

	<ul style="list-style-type: none"> Soil redistributed within the River Park for use in trail maintenance. Total =2.3m3 	
5	<ul style="list-style-type: none"> Stone wall interpretative PTWL information sign Soil redistributed within the River Park for use in trail maintenance. Total =2.3m3 	Total temporarily disturbed area =0 Total permanently disturbed area = 14m2
6	Lookout shelter <ul style="list-style-type: none"> Requires excavation of six holes for shelter posts. 400 x 400x 1.8m = 1.7m3 Soil redistributed within the River Park for use in trail maintenance. Total 1.7m3 Rock picking and stockpiling for use in PTWL restoration. May require minor clearance of woody weeds. Mow grass cover prior to start to minimise fire hazard up to 100m2 Re-seeding of batter following completion with suitable local species and a sterile Rye grass cover crop. 	Total temporarily disturbed area = 100m2 Total permanently disturbed area = Post holes 1.7 m3 Approx. 25% of raised deck surface area =10m2
7	Pathway <ul style="list-style-type: none"> Requires stripping of grass cover to delineate path. May require minor clearance of woody weeds. Grass trimmings to be distributed adjacent to the path. Excavate depth of 0.2x 320 x 1.2 =76.8m3 Re-seeding of batter following completion with suitable local species and a sterile Rye grass cover crop. The path will be mirco-aligned to avoid significant vegetation. 	Temporary disturbance of soil layer to a maximum of 4.2.m width. Length 320m Total temporarily disturbed area = 1344m2 Cut and fill batter will be re-seeded following completion with suitable local species and a sterile rye grass cover crop. Total permanently disturbed area = 384m2
		Grand total temporarily disturbed area = 9444m2 Grand total permanently disturbed area = 1385.5m2 Grand Total excavated material redistributed in River Park for maintenance of trails and other projects requiring fill= 85m3

The works are not considered to have a significant impact because:

- although they are located in Molonglo River Park, a significant conservation area, the works have been located to avoid significant fauna habitat, including

- that of pink-tailed worm lizard, high or moderate quality native vegetation and any regionally significant or threatened plant species; and
2. indirect impacts on features of significance will be minimal (provided works are in accordance with the conditions as applied), while the fencing, track and interpretation works will help protect important habitat and features.

It is noted that that the proposed fence design does not meet the requirements of the approval under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* which states:

*Erect permanent fencing to enclose all moderate and high quality *Aprasia parapulchella* habitat at Annexure 1. Fencing will be designed to minimise unregulated public access, rock collection, access by domestic animals and unregulated stock grazing.*

The proposed fence design does not appear to minimise access by domestic animals. The acceptability of the proposed fencing will need to be checked with Commonwealth officials. Given the difficulty and large scale construction that would be required to exclude cats, that all Molonglo suburbs will be cat containment suburbs, and that dogs are unlikely to have a significant impact on the lizard and will only be allowed within the reserve on leads, it is not considered that the erection of domestic animal proof fences is a major issue. The proposed design can be supported as it is considered that it is important that any fencing should allow for kangaroo and other native wildlife movement.

Mitigation Measures

The documentation submitted notes all elements of the work are to be installed outside the 20m buffer zone that surrounds the potential moderate and high quality PTWL habitat and will not cause any disturbance to the habitat protection zone. A surveyor has pegged out the proposed fence alignment; this alignment has been checked and adjusted accordingly by specialist ecologist, Dr Will Osborne.

Work will be undertaken by skilled contractors and supervised by a Parks and Conservation Service Ranger to ensure minimal impact on the surrounding areas.

The documentation notes that the following measures will be taken to ensure there will no impact to the habitat protection zone and to minimise impact to the area of works:

- All vehicles and machinery will remain outside of the habitat protection zones
- All work will be undertaken outside of the habitat protection zones
- The contractors will be briefed on access restrictions to these areas

- The contractors will be required to undertake work according to the Construction Environmental Management Plan (CEMP)
- The contractors will be asked to submit a proposal as per the CEMP that includes practices which will minimise impact to the area
- The Molonglo Ranger will supervise the construction to ensure work is undertaken as per the CEMP

The contractor will be required to demonstrate how impacts will be minimised during the construction process. In addition, the following will be required of the contractor:

- All concrete footings for the work to be dug out using either an auger or hand dug to minimise the large machinery required on site;
- Unused soil will be removed from site;
- Prefabricated elements for the signage and the lookout structure will be used to ensure minimal on-site construction work and reduce machinery required to be used on site;
- Small machinery will be used to reduce impact to surrounding area.

Any disturbance to the ground area outside of the footprint of the work will be rehabilitated.

Potentially Significant Environmental Impacts

The potential for a significant environmental impact is low provided works are in accordance with a Construction Environment Management Plan approved by the Environment Protection Authority and:

- Any machinery / vehicles used will be cleaned and be free of mud and vegetative material prior to arriving on site;
- the slashing/mowing to assist fence construction should not occur in any area where rock removal would be required;
- the slashing/mowing should not reduce grass height to less than 10 cm;
- there is no storage of construction equipment or other material within Molonglo River Park; and
- runoff from the constructed paths must not flow across or into areas mapped as pink-tailed worm lizard habitat.