

Planning and Development (Conditional Environmental Significance Opinion – Block 15, Section 117, Conder – Stormwater Drain Upgrade) Notice 2021

Notifiable instrument NI2021–291

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 15, Section 117, Conder – Stormwater Drain Upgrade) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 3 May 2021, 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 construction, on Block 15, Section 117, of Conder, involving a stormwater swale drain upgrade and maintenance.

- (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
12 May 2021

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

Indesco, as represented by Karl Martin, Senior Engineer.

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 stormwater upgrade works in Conder as described in the submission.

LOCATION

Block 15 Section 117 Conder, partially within Tuggeranong Hill 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. Temporary fencing is to be installed to protect nearby trees prior to commencement of works;
2. Vehicle access is limited to existing tracks and machinery access is limited to the access tracks and area of development impact described in plans and supporting documents for this ESO;
3. Sediment and erosion controls are to be established prior to the commencement of work and maintained to the satisfaction of the ACT Parks and Conservation Service (PCS);
4. All equipment, machinery and vehicles (including underside, wheel arches etc.), plant, hand tools, boots, gloves, clothing, etc must be completely free of soil or mud (wet or dry) and plant propagules (including seeds) before entering the Nature Reserve;
5. A pre-works weed management program is to be undertaken with a particular emphasis on African Lovegrass. Follow-up weed monitoring and management (if required) is to be undertaken for a period of 12 months following completion of works to the satisfaction of PCS;
6. No works are to occur on days of Total Fire Ban, when the Fire Danger Index exceeds 30, or following rain events when the ground is wet and boggy;
7. Any rock removed from the area is to be placed in the adjacent area to the satisfaction of PCS; and
8. Rehabilitation of disturbed areas is to be undertaken to the satisfaction of PCS including using an approved species mix.

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

03 May 2021

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 3 proposal for development in a reserve;

Part of the works are located within Tuggeranong Hill 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 improvements and upgrades of a small section of an existing open swale drain within Tuggeranong Hill Nature Reserve. The work will include minor excavations of the existing drain to clean the drain out and improve embankments to provide better containment and flow of stormwater.

The proposed works include:

- Pre-construction weed management
- Installation of temporary fencing including tree protection fencing
- Establishment of sediment and erosion controls
- Installation of a new culvert
- Construction of a new section of concrete footpath
- Regrading shoulders of existing pathway edges
- Restoration of disturbed areas

The aim of the project is to solve an ongoing flooding issue for the area.

Documentation Submitted

- ESO Application Submission Report – Conder Stormwater Upgrades;
- Letters of Authorisation; and
- Form 1M.

Natural conservation values present

The area of proposed works is highly modified and utilised as public open space. It is subject to regular mowing and is dominated by exotic ground cover species. There are a number of mature and semi-mature Blakey's Red Gum trees (*Eucalyptus blakelyi*) present.

No threatened species or ecological communities were identified in the area of works, however several rare plants have been recorded in the vicinity, including:

- *Diuris dendrobiodes*
- *Calotis antheomoides*

Key's Matchstick Grasshopper (*Keyacris scurra*) which is listed as threatened in NSW has also been recorded in the area.

Impact on the Reserve

The project will remove less than 500m² of disturbed vegetation at the site and does not involve the removal of any trees or shrubs. There are several important recommended mitigation measures included in the application documentation including:

- Installation of tree protection fencing;
- Ensuring all machinery/vehicles entering the site are clean and free of any plant material or soil;
- Undertaking a pre-works weed management program;
- Implementation of sediment and erosion control; and
- Rehabilitation of disturbed areas.

Potentially Significant Environmental Impacts

While the presence of rare orchids can't be entirely dismissed there is a very low likelihood of the proposal impacting on rare plant species. The proposal includes weed and pathogen hygiene conditions.

Conditions have been included to ensure that impacts of the works will be minimal and will not result in an increase in the presence of weeds:

1. Temporary fencing is to be installed to protect nearby trees prior to commencement of works;
2. Vehicle access is limited to existing tracks and machinery access is limited to the access tracks and area of development impact described in plans and supporting documents for this ESO;
3. Sediment and erosion controls are to be established prior to the commencement of work and maintained to the satisfaction of the ACT Parks and Conservation Service (PCS);
4. All equipment, machinery and vehicles (including underside, wheel arches etc.), plant, hand tools, boots, gloves, clothing, etc must be completely free of soil or mud (wet or dry) and plant propagules (including seeds) before entering the Nature Reserve;
5. A pre-works weed management program is to be undertaken with a particular emphasis on African Lovegrass. Follow-up weed monitoring and management (if required) is to be undertaken for a period of 12 months following completion of works to the satisfaction of PCS;
6. No works are to occur on days of Total Fire Ban, when the Fire Danger Index exceeds 30, or following rain events when the ground is wet and boggy;
7. Any rock removed from the area is to be placed in the adjacent area to the satisfaction of PCS; and
8. Rehabilitation of disturbed areas is to be undertaken to the satisfaction of PCS including using an approved species mix.

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.