

Planning and Development (Conditional Environmental Significance Opinion – Block 3 Section 45 Fyshwick – Fyshwick Fibre Optic Cable) Notice 2021

Notifiable instrument NI2021–218

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 3 Section 45 Fyshwick – Fyshwick Fibre Optic Cable) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 29 March 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 the installation of underground fibre optic cable and associated works within Block 3, Fyshwick.

- (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.

Brett Phillips
Delegate of the planning and land authority
07 April 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

AECOM Australia Pty Ltd, as represented by Ms Kimberley Wilson, Principal Environmental Scientist.

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 underground fibre optic cable and associated works within the Molonglo Special Purpose Reserve as described in the submission.

LOCATION

The proposed works are between Tennant Street, Fyshwick and Pialligo Avenue, Pialligo and span Block 3 Section 45 and Block 1 Section 80 Fyshwick, and Block 2 Section 38 and Block 4 Section 28 Pialligo.

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. A Construction Environmental Management Plan (CEMP) is to be provided to and approved by the Conservator of Flora and Fauna prior to the commencement of works.
2. The CEMP must include measures to:
 - Protect existing natural and cultural values from disturbance and fragmentation;
 - Mitigate river bank destabilisation and erosion;
 - Mitigate the mobilisation and spread of weeds (including pre and post construction African Lovegrass treatments within the construction footprint and along the access track to the south of the river);
 - Mitigate the risk of bushfire; and
 - Restore native pasture.
3. Prior to entering the reserve vehicles and machinery must be cleaned and free of any plant material or soil.
4. No works are to occur on days of Total Fire Ban, when the Fire Danger Index exceeds 30, or when the ground is wet and boggy.
5. Temporary fencing is to be erected along the southern boundary of the access track to the south of the river to protect the adjacent values from straying vehicles.
6. Excavations that are to remain open over multiple days are to have sediment fence style barriers erected around the perimeter (in addition to fauna ramps) as a physical barrier to mitigate reptiles falling into pits.
7. All work areas mapped as native pasture must be rehabilitated with an appropriate native grass mix to the satisfaction of the ACT Parks and Conservation Service (PCS). Rehabilitation works should have a minimum 18 month maintenance period to ensure native ground cover establishment and weed control are achieved.
8. The total construction footprint, including all 'work zones' and access tracks/routes is subject to remediation activities to the satisfaction of PCS.
9. No disturbance/construction impact is permitted outside of the approved construction footprint.

10. The return of Aboriginal artifacts to country must occur within an area of Native Grassland where flood erosion and existing vehicle tracks and movements are unlikely to impact the placement. If the reburial occurs during the construction period, the area must be protected with temporary fencing.

Attached is a Statement of Reasons for the decision.

A handwritten signature in dark ink, appearing to read 'Ian Walker', with a long horizontal flourish extending to the right.

Ian Walker
Conservator of Flora and Fauna
29 March 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 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 general area contains:

One community listed as endangered:

- Natural Temperate Grassland of the Southern Tablelands of NSW and the ACT;

One animal species listed as threatened under the Nature Conservation Act 2014:

- Striped Legless Lizard (*Delma impar*)

One plant species listed as threatened

- Button Wrinklewort (*Rutidosis leptorrhynchoides*)

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

The works are within the Molonglo Special Purpose 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 proposal is for the installation of underground fibre optic cable in order to increase capacity through Fyshwick. The works involve:

- Installation of approximately 600 m of two communications conduits via directional drilling;
- Installation of four new pits (up to 2x2x2 m) along the conduit route with a 30x30 m work zone footprint to facilitate a vehicle turning circle;
- Installation of fibre optic cable within the installed conduit; and
- Excavation for the Return to Country of recovered Aboriginal artifacts (approximately 0.5 m x 0.5 m).

Documentation Submitted

- Fyshwick Capital Works Project – Application for an Environmental Significance Opinion;
- Response to a Request for Further Information
- Amendment to Application for Environmental Significance Opinion, Fyshwick Capital Works Project
- Department of Defence Environmental Clearance Certification;
- Letter of Authorisation;
- Form 1M.

Natural conservation values present

The area is a mix of native and exotic grassland and exotic shrubland with some patches of Natural Temperate Grassland (NTG). The proposed route is mainly dominated by exotic pasture grasses (Phalaris and Fescue) south of the river and African Lovegrass north of the river.

The whole route is considered as potential low -moderate habitat of the Striped Legless Lizard, as the species has been recorded in similar exotic grassland in both the Pialligo and Fyshwick vicinities.

Impact on the Reserve

The alignment has been carefully revised to avoid Natural Temperate Grassland and areas which are likely to contain high densities of Striped Legless Lizard. The route crosses areas dominated by exotic species and appears to only cross a very small area of native pasture.

The use of directional drilling as opposed to open trenching (other than pits) will also ensure that disturbance is minimal and temporary.

The proponent has committed to important mitigation measures including:

- Placement of fauna ramps in open pits overnight;
- Rehabilitation of disturbed areas;
- Access is to be via existing tracks and the immediate alignment zone only; and
- Undertaking the placement and return of aboriginal artifacts within the reserve in accordance with ACT Heritage guidelines and in collaboration with local Representative Aboriginal Organisations (RAOs), ACT Heritage and PCS.

Potentially Significant Environmental Impacts

The alignment has been well chosen to avoid any more than minor clearance of mostly disturbed vegetation. The proposal includes weed and pathogen hygiene conditions.

Conditions have been included to ensure that works will result in only temporary disturbance:

1. A Construction Environmental Management Plan (CEMP) is to be provided to and approved by the Conservator of Flora and Fauna prior to the commencement of works.
2. The CEMP must include measures to:
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 - Mitigate river bank destabilisation and erosion;
 - Mitigate the mobilisation and spread of weeds (including pre and post construction African Lovegrass treatments within the construction footprint and along the access track to the south of the river);
 - Mitigate the risk of bushfire; and
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3. Prior to entering the reserve vehicles and machinery must be cleaned and free of any plant material or soil.
4. No works are to occur on days of Total Fire Ban, when the Fire Danger Index exceeds 30, or when the ground is wet and boggy.
5. Temporary fencing is to be erected along the southern boundary of the access track to the south of the river to protect the adjacent values from straying vehicles.
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8. The total construction footprint, including all 'work zones' and access tracks/routes is subject to remediation activities to the satisfaction of PCS.
9. No disturbance/construction impact is permitted outside of the approved construction footprint.
10. The return of Aboriginal artifacts to country must occur within an area of Native Grassland where flood erosion and existing vehicle tracks and movements are unlikely to impact the placement. If the reburial occurs during the construction period, the area must be protected with temporary fencing.

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.