

# Planning and Development (Conditional Environmental Significance Opinion – Block 1, Section 125 Nicholls and Block 3, Section 157 Nicholls – Crace Odour Ventilation) Notice 2017

Notifiable Instrument NI2017–636

Made under the

**Planning and Development Act 2007 s 138AD (Requirements in relation to environmental significance opinions)**

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## 1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Block 1, Section 125 Nicholls and Block 3, Section 157 Nicholls – Crace Odour Ventilation) Notice 2017*.

## 2 Conditional Environmental Significance Opinion

(1) On 17 November 2017, the Conservator of Flora and Fauna, pursuant to section 138AB(4) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to the replacement of the foul air ventilation associated with the existing main sewer line on Block 1 Section 125 and Block 3 Section 157, Division of Nicholls, within the Percival Hill Nature Reserve.

(2) In this section:

***Conditional environmental significance opinion*** means the opinion in the schedule.

*Note 1:* 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.

Ben Ponton  
Chief Planning Executive  
04 December 2017

## **Schedule**

**See section 2(2)**

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### **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**

Icon Water, as represented by Lara Odell, Co-ordinator Approvals and Catchment Protection.

#### **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 relocation of the foul air ventilation associated with the existing main sewer line that runs alongside Ginninderra Creek from Gungahlin to Belconnen as described in the submission.

#### **LOCATION**

Block 1 Section 125 and Block 3 Section 157 Nicholls, Percival Hill Nature Reserve.

#### **MATTERS TO WHICH THIS OPINION APPLIES**

This opinion applies only the development proposal as described in the application.

#### **OPINION**

Provided the works are undertaken in the manner consistent with the following conditions, 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.

- access to the proposed vent stack on Percival Hill is to be from the suburb of Nicholls (from Schow Place or similar) due to the presence of Hoary Sunray plants on the existing track north of Percival Hill;

- the location of this access is to be to the satisfaction of the Parks and Conservation Service and agreement must be obtained in writing;
- this track is to be monitored for bogginess and not used when it is likely to cause damage to the track;
- the new access track from the top of Percival Hill to the new vent stack is to be located to ensure that no Hoary Sunray plants or Aboriginal Heritage sites are impacted;
- Revegetation of disturbed areas is to be with endemic species with weed control to be undertaken for a minimum of two years from completion of revegetation works. Revegetation of the pipeline route is to include endemic tree species, recognising that no trees will be planted within the proposed 10m easement
- all works are to be in accordance with a Construction Environment Management Plan (CEMP) approved by the Environment Protection Authority prior to commencement of works. The CEMP must address:
  - management of known heritage sites;
  - hygiene measures to ensure the containment of any weed seeds, especially Spanish Heath that is known to occur on the site;
  - access to the vent stack location and the works required to facilitate the construction access;
  - construction methodology for the vent stack and pipeline to minimise disturbance within the reserve;
- The CEMP is to clearly delineate the width of the construction corridors, using the minimum width that is required for Occupational Health and Safety reasons to reduce visual impacts and retain as much of the existing vegetation as possible;
- a suitably qualified ecologist is to be on-site during all trenching works to ensure that no fauna is trapped in the trenches; and
- the maintenance period for any trenching works is to be for 2 years or until ground is stable, all subsidence has ceased, and the trench is revegetated to the satisfaction of the Parks and Conservation Service, whichever is the longer.

Attached is a Statement of Reasons for the decision.



Dr A. Lane  
Conservator of Flora and Fauna

17 November 2017

## 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 maintenance track component of the proposed work traverses an area of potential habitat for Striped Legless Lizard (*Delmar impar*), a species listed as vulnerable under the provisions of the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC) and the ACT's *Nature Conservation Act 2014* (NCA);

*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.*

The works are within Percival 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. Some of the works are subject to Special Requirements under the National Capital Plan as they are within an area known as a 'major approach route'. This may mean that approval for parts of the works may not be subject to the provisions of the *Planning and Development Act 2007* and therefore does not trigger the requirement for an environmental assessment. However, for completeness sake, the following documentation will include an assessment of all of the works.

### **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**

Ventilation of the existing main sewer line that runs alongside Ginninderra Creek from Gungahlin to Belconnen which is required to maximise the operational life of the sewer trunk line and to minimise the occupational health and safety risks, as well as protecting the existing residential development at Crace from the impacts of foul air.

Works will include the decommissioning of an existing vent stack adjacent to Ginninderra Creek and the construction of a new vent stack at a higher location, approximately 200m to the north. Works also include:

- demolition of exiting assets;
- upgrade of the existing unsealed maintenance track that runs parallel to the Barton Highway to address occupational health and safety risks and provide all weather access;
- construction of a new permanent access track to the vent stack;
- a new fan house adjacent to the existing;
- formalised turnaround area associated with the fan house; and
- approximately 420m of new 675mm diameter pipe from the sewer line to the proposed vent stack. The installation of the pipe will require a temporary construction corridor approximately 30m wide.

### **Documentation Submitted**

- Crace Odour Control Works ESO Application Report (Icon Water 30 Sept 2017);
- Crace Species List (Ecological Australia 6 March 2016);
- Scope of Works: Vegetation Rehabilitation (Icon Water);
- Scope of Works: Site Drainage and Landscape Stability (Icon Water);
- Cultural Heritage Report (Navin Officer Sept 2017);
- Various plans and elevations;
- Form 1M.

### ***Natural conservation values present***

The western side of Percival Hill where the works are to occur is dominated by planted Eucalypt species of the same age class. These are *Eucalyptus Mannifera* (Brittle Gum), *Eucalyptus bridgesiana* (Apple Box), *Eucalyptus polyanthemos* (Red Box), *Eucalyptus rossi* (Scribbly Gum) and *Eucalyptus viminalis* (White Gum) which were planted in the 1980's by the NDC as part of the forward tree planting for the development of Gungahlin. Other planted tree species include *Acacia dealbata* (Silver Wattle) and *Callitris endlicheri* (Black Cypress Pine). There are some areas of natural regeneration occurring.

The trees are not of a size or age to provide nesting hollows but are of value to woodland birds.

The report notes that while the canopy is planted, the site continues to support a relatively diverse range of native flora species with 107 flora species within the proposed alignment of which 35 are exotic.

The survey recorded the presence of two individuals of Hoary Sunray (*Leucochrysum albicans* var. *tricolor*) within proximity of the alignment of the pipe to the vent stack. The Hoary Sunray is listed as Endangered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and there is a large population within other areas of Percival Hill Nature Reserve that won't be impacted by the works.

### **Maintenance Track**

The existing unsealed maintenance track sits within the broader floodplain of Ginninderra Creek and skirts the toe of Percival Hill. The entrance to the site is via a constructed concrete stormwater channel. The stormwater channel currently provides access for approximately 140m prior to entering the reserve. Once in the reserve the track is a dirt track that at times is heavily overgrown by seasonally tall grasses and can be subject to flooding and bogging.

There is a dense stand of poplar saplings and native shrub layer at the proposed new entrance from Barton Highway that will be removed as part of these works to enable maintenance vehicles to access the fan house without having to drive within the concrete stormwater channel.

There are two groups of large native trees along the track that are mostly Apple Box, Brittle Gum, and Red Box. These trees have a diameter at breast height greater than 400mm and heights up to over 15 metres. The groundcover is predominantly a mix of grassy weeds and native tussock.

There is known habitat for the Striped Legless Lizard (*Delma impar*) located approximately 200 m to the east of the site and on the opposite (southern) side of the creek. An ecological assessment previously undertaken noted an absence of

suitable habitat within the proposed works area for the pipeline and fan house although it is noted that the species could be located closer to the site and may move past the site including traversing the access track. The Ginninderra Creek floodplain provides a narrow band of potential habitat which may be utilised by the species to move between the northern side of Ginninderra Creek and the base of Percival Hill.

### **Impact on the Reserve**

Weed control is particularly important as the development area impinges on an infestation of Spanish Heath (*Erica lusitanica*). This shrub is a major weed in other parts of south-eastern Australia and is currently only known from two infestation sites in the ACT. The plant is targeted for eradication from the ACT, and control measures have been undertaken on Percival Hill. Particular care will need to be taken to ensure that:

1. The works do not cause a proliferation of Spanish Heath on Percival Hill; and
2. Vehicles and machinery working on the project do not carry seed from Percival Hill to other parts of the ACT.

Strict and effective vehicle/machinery hygiene measures must be established and adhered to. Boots and other materials must be cleaned of any mud on site prior to leaving the site. This requirement must be included in the site induction course.

Due to the steepness of the slope from the fan house to the vent stack, a construction corridor of 30m is required to safely install the pipe. This will require the removal of approximately 85 planted Eucalypt and Acacia species and result in the removal of a noticeable portion of the existing tree canopy as viewed from the Barton Highway. This will create a visual impact until such time as new trees planted as part of the revegetation of the site can grow to a size that will provide a visual screen.

It is noted that maintenance of the pipeline route will require the management of vegetation to ensure no trees establish within a 10m wide pipe easement, meaning that there will be some visual impact for some years.

Two individuals of the endangered Hoary Sunray were observed near the pipeline route during the 2016 survey though not found in a subsequent survey in September 2017. While there is potential for further individual specimens to have colonised the pipeline route since the 2016, the loss of any individuals in this route will not have a significant impact on the species as there is a larger population located in other areas of the Reserve. This species is also known to respond to disturbance and the construction of the pipeline may lead to the establishment more specimens following rehabilitation.

Construction of the maintenance track will include the installation of three grassed underpasses (similar to a cattle grid) for use by fauna including Striped Legless Lizard. The vegetation in the area of disturbance for this work has a high coverage of introduced species and is not a native grassland community. A portion of this route (approximately 140m) includes electrical cabling and pipework to connect the fan house with the interception pipe to the vent stack. Other utility infrastructure (gas and fibre optic) lies within the broader envelope of this track. The works will require removal of approximately 15 established trees (Apple Box, Red Box and Silver Wattle). Most of these trees have a diameter girth of over 300mm but no nesting hollows.

Meetings have been held with Icon Water regarding the installation of the pipeline to discuss how the disturbed areas could be successfully rehabilitated due to the steepness of the slope. Concern was raised that overland flow from rain events may cause erosion until site stability has been achieved. Icon Water has provided a detailed proposal to address these concerns consisting of:

- A scope of works to permanently address site drainage and landscape stability. This includes discrete rock armoured contour drains to intercept overland flow over the pipeline areas along with the widespread use of subterranean geotextiles (such as *TerraMat* or *Enkammat*) to stabilise the area.
- A scope of works detailing the rehabilitation of the disturbed areas, including a two-year maintenance period in addition to the standard 13 week consolidation period.

The ACT Government also requested evidence from Icon Water of similar sites that had been successfully rehabilitated. In addition to the case studies presented at one of the meetings, Icon Water has successfully rehabilitated a DN375 rising main constructed in moderately steep terrain at Bonner.

Revegetation of the pipeline will be focussed on native grasses, forbs and shrubs to provide an effective vegetation layer over the pipeline.

It is noted that topsoil will be required to be imported but due to extended maintenance period the increased risk of importation of weeds is reduced to an acceptable level.

### **Potentially Significant Environmental Impacts**

The proposed works mitigate the potential for the maintenance track at the base of Percival Hill to create a barrier for ground fauna movement through the inclusion of fauna crossings.

The visual impact of tree removal for the pipeline will be noticeable from the Barton Highway and the land opposite (currently CSIRO land) but as the route deviates from



a straight line the impacts should be softened. While revegetation works will occur immediately following construction works it is recognised that the area will not return to the current tree canopy density and therefore there will be some ongoing visual impacts.

The project will not have a significant impact on the population of Hoary Sunray within Percival Hill Nature Reserve.

It has been determined that if the works are undertaken in a manner consistent with the following conditions, they are unlikely to cause a significant adverse environmental impact.

- access to the proposed vent stack on Percival Hill is to be from the suburb of Nicholls (from Schow Place or similar) due to the presence of Hoary Sunray plants on the existing track north of Percival Hill;
- the location of this access is to be to the satisfaction of the Parks and Conservation Service and agreement must be obtained in writing;
- this track is to be monitored for bogginess and not used when it is likely to cause damage to the track;
- the new access track from the top of Percival Hill to the new vent stack is to be located to ensure that no Hoary Sunray plants or Aboriginal Heritage sites are impacted;
- Revegetation of disturbed areas is to be with endemic species with weed control to be undertaken for a minimum of two years from completion of revegetation works. Revegetation of the pipeline route is to include endemic tree species, recognising that no trees will be planted within the proposed 10m easement
- all works are to be in accordance with a Construction Environment Management Plan (CEMP) approved by the Environment Protection Authority prior to commencement of works. The CEMP must address:
  - management of known heritage sites;
  - hygiene measures to ensure the containment of any weed seeds, especially Spanish Heath that is known to occur on the site;
  - access to the vent stack location and the works required to facilitate the construction access;
  - construction methodology for the vent stack and pipeline to minimise disturbance within the reserve;
- The CEMP is to clearly delineate the width of the construction corridors, using the minimum width that is required for Occupational Health and Safety reasons to reduce visual impacts and retain as much of the existing vegetation as possible;
- a suitably qualified ecologist is to be on-site during all trenching works to ensure that no fauna is trapped in the trenches; and

- the maintenance period for any trenching works is to be for 2 years or until ground is stable, all subsidence has ceased, and the trench is revegetated to the satisfaction of the Parks and Conservation Service, whichever is the longer.