

Planning and Development (Conditional Environmental Significance Opinion – Block 1, Section 125 and Block 3, Section 157, Nicholls – Crace Odour Ventilation) Notice 2018

Notifiable instrument NI2018–11

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 1, Section 125 and Block 3, Section 157, Nicholls – Crace Odour Ventilation) Notice 2018*.

2 Conditional Environmental Significance Opinion

- (1) On 13 December 2017, the ACT Heritage Council, 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 environment significance opinion means the opinion in this 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.

Ben Ponton
Chief Planning Executive
3 January 2018



ACT Heritage Council

HERITAGE ADVICE
Environmental Significance Opinion

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| ACTPLA Reference: | ESO 201700036 |
| Heritage Reference: | Nicholls B1 S125 |
| Contact Officer: | Euroka Gilbert |
| Received by Council: | 30 October 2017 |
| Due date: | 11 December 2017 |

TO: ACT planning and land authority
Environment, Planning and Sustainable Development Directorate
[EPDCustomer Services@act.gov.au](mailto:EPDCustomerServices@act.gov.au)

Location: Block 1 Section 125 and Block 3 Section 157 Nicholls
Status of Place: Registered and recorded Aboriginal places
Description of Works: Replacement and relocation of existing odour ventilation system, associated pipework, electrical infrastructure and access track.
Report Details: “*Cultural Heritage Assessment and Statement of Heritage Effect Percival Hill, Nicholls Block 1 Section 125*” (Navin Officer Heritage Consultants 2017)
Council Advice provided by: Secretary / ACT Heritage Manager

Pursuant to Section 138AB of the *Planning and Development Act 2007* and Section 60 of the *Heritage Act 2004*, the ACT Heritage Council advises that:

☒ The proposal is **unlikely to have a significant adverse environmental impact**, subject to compliance with the conditions described below.

Background:

On 30 October 2017, an Environmental Significance Opinion (ESO) application was referred to the ACT Heritage Council (the Council), for proposed works within Block 1 Section 125 and Block 3 Section 157 Nicholls.

Proposed works include the removal of an existing odour ventilation system and installation of a replacement system, including an offtake structure, fan house and vent stack, 420 metres of 675 millimetres pipework, 20 metres of 1400 millimetres pipework, buried electrical conduits, and associated works corridor.

To inform the application, Navin Officer Heritage Consultants (NOHC) undertook a cultural heritage assessment (CHA) of proposed work locations, in collaboration with the Representative Aboriginal Organisations (RAOs). The key findings and recommendations of this CHA include:

- Three heritage places registered on the ACT Heritage Register occur within the study area, being two Aboriginal stone artefact scatters recorded as PH43 and PH9, and the ‘Barton Highway Road Cut’ geological site;

- Archaeological survey of the study area on 25 August 2017 did not locate any surface artefacts in the recorded PH43 or PH9 locations, which could reflect poor ground surface visibility conditions or incorrect coordinates;
- Archaeological survey did, however, record an additional five Aboriginal places, being two small artefact scatters (CPH1 and CPH3), two isolated finds (CPH4 and CPH5), and one grinding groove (CPH2). CPH2 is assessed to be of heritage significance and high scientific significance, as grinding groove sites are rare in the ACT, and as this particular grinding groove could possibly be part of a larger grinding site complex (previously recorded as PH2). All other Aboriginal places are considered to be of low scientific significance;
- Five of the seven known Aboriginal places occur within the proposed construction footprint and would be damaged by the proposed works, being PH9, CPH1, CPH3, CPH4 and CPH5. To mitigate heritage impacts, it is proposed to collect and relocate surface stone artefacts from these sites to another location within the Percival Hill Nature Reserve, following appropriate recording;
- CPH2 is located in the vicinity of the proposed construction footprint, and to avoid heritage impacts, it is recommended that the pipeline route be amended; and that a buffer zone be defined and fenced around the site prior to the commencement of works;
- PH43 is located 50 metres from the proposed construction footprint and would not be damaged by the proposed works. It is recommended that the site be reinspected and a fence installed around the site prior to the commencement of works;
- Fencing of CPH2 and PH43 should be done with a qualified archaeologist present to ensure the exact location of the site is fenced;
- Should the pipeline route be amended to avoid CPH2, the new route should be surveyed to identify any additional heritage places that may be affected by works;
- CPH2 should be registered on the ACT Heritage Register;
- An invitation should be extended to the RAOs to participate in the surface artefact collection and any additional survey;
- The Barton Highway Road Cut occurs within the study area, and to prevent heritage impacts, the place should be fenced prior to the commencement of works; and
- In the event of an unanticipated discovery of heritage places and objects, the protocols outlined in Appendix 2 should be followed.


Advice and Conditions:

The ESO application identifies that proposed development will damage Aboriginal places, and on this basis, the proposed works are subject to *Heritage Act 2004* (the Act) provisions.

From information presented in the CHA report, the Council understands that the Aboriginal places that would be affected by proposed works (PH9, CPH1, CPH3, CPH4 and CPH5) are small artefact scatters or isolated finds, which are considered to be of low research potential and conservation value. The Council also understands that measures have been recommended to ensure CPH2 and the Barton Highway Road Cut will not be damaged or detrimentally affected by proposed works.

On this basis, the Council advises that proposal is unlikely to have a significant adverse environmental impact, subject to the following conditions:

1. A 'Statement of Heritage Effect' (SHE) application is to be made under Section 61G of the Act, and approved under Section 61H of the Act, prior to the commencement of works. This SHE application should be informed by the current CHA report, and also:
 - a. Meet the application requirements set out in Section 61G of the Act;
 - b. Describe the stone artefact attributes to be recorded for all Aboriginal objects to be collected from PH9, CPH1, CPH3, CPH4 and CPH5;
 - c. Identify the precise return to Country location proposed within the Percival Hill Nature Reserve;
 - d. Describe the measures to be adopted for the long term management of the return to Country location;
 - e. Include written advice from the land owner or manager supporting the return to Country location and its long term management;
 - f. Describe RAO views on the proposed return to Country location and its long term management;
 - g. Amend the project's Unanticipated Discovery Protocols to include RAOs in all stages of Aboriginal heritage assessment and management, including the assessment of any Aboriginal places and objects encountered during works;
2. That works be undertaken in accordance with the approved SHE, including any conditions identified by the Council;
3. Fencing to be installed around CPH2 and the Barton Highway Road Cutting shall be determined by the project archaeologist and the RAOs, and that prior to the commencement of works, images of the completed fencing shall be provided to the Council; and
4. No works are to be undertaken beyond the works areas identified in the ESO application without prior advice from the Council.


Jennifer O'Connell
**Secretary (as delegate for),
ACT Heritage Council**

13 December 2017