

# Planning and Development (Conditional Environmental Significance Opinion – Block 15, Section 121 & Block 1, Section 125 Nicholls – Stormwater Investigation At Schow Place) Notice 2018

Notifiable instrument NI2018–558

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 15, Section 121 & Block 1, Section 125 Nicholls – Stormwater Investigation At Schow Place) Notice 2018*.

## 2 Conditional Environmental Significance Opinion

(1) On 26 September 2018, 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 construction, on Block 15, Section 121 and Block 1 Section 125 of Nicholls, of mitigation measures within Percival Hill Nature Reserve to address stormwater capacity issues to prevent flooding of a private lease on Schow Place.

(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.

Ben Ponton  
Chief Planning Executive  
5 October 2018

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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**

Calibre Consulting (ACT) Pty Ltd, as represented by Dr Anthony Motha, Senior Engineer (Water and Environment).

### **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 mitigation measures within Percival Hill Nature Reserve to address stormwater capacity issues to address flooding of a private lease on Schow Place Nicholls as described in the submission.

### **LOCATION**

Block 1 Section 125 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.

- That the contractor undertaking the works obtains a licence under the provisions of the *Nature Conservation Act 2014* for the works within the reserve;

- The work footprint is limited to a maximum of 4m width along the route of the existing drainage mound and a 10x 10m storage area;
- The storage area must be downslope (to the west) of the existing fire trail that runs parallel to the proposed work area;
- Vehicles and machinery brought to the site must be clean and free of mud and weed material;
- Vehicles should be parked on the existing fire trail and not native woodland;
- No fill will be brought to the site without approval from the Parks and Conservation Service;
- Prior to work commencing the Parks and Conservation Service will be contacted. Work will not be allowed during very wet conditions when vehicle and machinery tracks are likely to cause soil and vegetation disturbance;
- Jute matting and a native grass/herb mix utilising seed of species already occurring in the general area will be used to stabilise and revegetate areas disturbed within the Nature Reserve; and
- The crowns of trees removed during the works are to be removed off site. The trunks and heavy branches are to be retained and placed up slope in-situ as habitat.

Attached is a Statement of Reasons for the decision.



Ian Walker  
Conservator of Flora and Fauna

26 September 2018

## 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;*

Hoary Sunray (*Leucochrysum albicans* var. *tricolor*) listed as Endangered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

*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.*

Block 1 Section 125 Nicholls is a nature reserve, known as 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.

### **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**

There is currently a plantation sump and two cut-off drains behind the residences in Schow Place Nicholls to deal with excess water flows from Percival Hill Nature Reserve. It has been identified that there is a lack of capacity for the stormwater system to deal with a 1 in 100 year storm event which has caused flooding of the private residential lease located at Block 12 Section 12 Nicholls.

There is also no safe overland flowpath from the open space at the rear of the properties to the downstream stormwater drainage system.

To address the stormwater problems it has been determined that the following works needs to be undertaken:

- Increase the size of the cutoff drains to have the required 1 in 100 year storm flow capacity. The base of the cut-off drain will be lined with jute-mat or equivalent and grassed to minimise the likelihood of scouring in future storm events;
- Upgrade the plantation sump to a grated inlet structure to allow increased flows into the stormwater pipe network;
- Raise the levee downstream of the sump to increase the depth of ponding and increase the flow into the sump;
- Construct a relief spillway within the levee to enable excess flows to escape safely without impacting on private leases; and
- Construct a safe overland flow path within Block 15 Section 12 Nicholls (open space outside of the reserve) to convey the excess flows from the spillway to Schow Place and the existing piped stormwater system.

The proposed mitigation works will be undertaken within a small area of Percival Hill Nature Reserve to the rear of residences along Schow Place and Temperley Street, and all of Block 15, Section 121, Nicholls (an informal grassed walkway).

### **Documentation Submitted**

- Environmental Significance Opinion Report – Schow Place Nicholls (Calibre Consulting);
- Numerous plans;
- Form 1M.

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

The trees in the area of works were planted in the 1980's by the National Capital Development Commission (NCDC) as part of the forward tree planting for the development of Gungahlin.

There is a known population of *Leucochrysum albicans tricolor* (Hoary sunray) in the vicinity of the project, however no individuals of this species, which is detectable all year round, were detected in a field assessment by Umwelt. This was confirmed by a site visit by a Government ecologist.

Listed pest species, Chilean needlegrass (*Nassella neesiana*), St John's Wort (*Perforate St John's-wort*); Patterson's curse (*Echium plantagineum*), and Sweet Briar (*Rosa rubiginosa*) were located in the vicinity of the works.

### **Impact on the Reserve**

Percival Hill is a prominent hill reserve located at the corner of Barton Highway and Gungahlin Drive above Ginninderra Creek. The reserve is approximately 79 hectares and the topography has grades in excess of 10%, with mature trees and native grass vegetation. Large areas of the reserve contain forward tree plantings planted by the NCDC.

There is an unsealed fire trail through the Nature Reserve near the rear of the residences. No works will impact the fire trail.

There will be a short term local visual impact from the works.

### **Potentially Significant Environmental Impacts**

The works will require the removal of four low quality trees and one medium quality tree. All of these trees were planted in the 1980's and none are classified as mature trees and none contain hollows.

To reduce the impacts on the reserve the following are conditions of approval:

- That the contractor undertaking the works obtains a licence under the provisions of the *Nature Conservation Act 2014* for the works within the reserve;
- The work footprint is limited to a maximum of 4m width along the route of the existing drainage mound and a 10x 10m storage area;
- The storage area must be downslope (to the west) of the existing fire trail that runs parallel to the proposed work area;

- Vehicles and machinery brought to the site must be clean and free of mud and weed material;
- Vehicles are to be parked on the existing fire trail;
- No fill will be brought to the site without approval from the Parks and Conservation Service;
- Prior to work commencing the Parks and Conservation Service will be contacted. Work will not be allowed during very wet conditions when vehicle and machinery tracks are likely to cause soil and vegetation disturbance;
- Works are to be in accordance with the Fire Season Conditions for the Use of Plant and Equipment on the Parks and Conservation Estate (copy attached);
- Jute matting and a native grass/herb mix utilising seed of species already occurring in the general area will be used to stabilise and revegetate areas disturbed within the Nature Reserve;
- The crowns of trees removed during the works are to be removed off site and the trunks and heavy branches are to be retained and placed up slope in-situ as habitat.

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

## PARKS & CITY SERVICES (PACS)

### PACS SAFETY ALERT 15/2013

Issued 09/04/2013

**FOR ACTION BY: PACS Managers and Depot Supervisors**  
**FOR ADVICE TO: All PACS Workers**

## WORKING IN EXTREME WEATHER CONDITIONS

### (1) HOT WEATHER AND STORMS

#### ISSUE:

Working in extreme environment conditions such as (hot, cold, radiant temperature, humidity, wind & hail) without adequate control measures can create a number of adverse health effects ranging from discomfort to serious illness or death. Under the *Work Health and Safety Act 2011* PACS has a responsibility to provide a safe workplace for its workers.

#### SAFETY CONSIDERATIONS (Hot Weather and Storm Conditions):

Essential work may be carried out in accordance with the ACTPS Territory and Municipal Services Enterprise Bargaining Agreement 2011-2013 (section N2), essential work being garbage collection, safety responses (eg. storm/flood/fire damage) and/or issues involving public safety. Management must ensure work health and safety requirements are met by monitoring workers condition, throughout periods of extreme conditions and providing appropriate protective clothing and equipment to workers. When working in these situations workers should;

- Follow current work procedures and if none exist, risk assess the task, plan the day appropriately and where practicable, develop safe work procedures.
- Workers should try to avoid heavy work and defer non-essential work during the hottest part of the day, in accordance with directions from their managers / supervisors;
- Managers / supervisors should increase the number of rest breaks and wherever possible rotate staff throughout the day to work in shaded or temperature controlled environments;
- Ensure regular drink breaks are taken (for hydration) - individuals should drink 250 ml of water every twenty to thirty minutes and not rely on thirst as an indicator;
- Outdoor workers must use protective clothing, particularly covering the head. Head coverings should be wide brimmed hats, long sleeved shirts must be worn, wear sun glasses (UV protective safety glasses) for eye protection, use SPF 30+ sunblock on exposed parts of the body;

*Note: A worker may cease, or refuse to carry out, work if the worker has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard (Work Health & Safety Act 2011).*

*Workers should advise their manager / supervisor if they have a medical condition that would be exacerbated by exposure to excessive heat or cold. Suitable arrangements to meet the needs of the individual should be facilitated.*

#### ACTIONS REQUIRED:

- Managers / Supervisors are to ensure they have identified, in advance, alternative jobs/tasks for workers when environmental conditions are extreme.
- Managers / Supervisors are to ensure all workers (this includes contractors), are made aware of this safety alert and sign the acknowledgement form.
- This Alert should be prominently posted on PACS Safety Notice Boards and be discussed at the next staff meeting
- Persons in control of a workplace are required to maintain a register, recording name and signature of staff reading and acknowledging the content and directions. On completion, a copy of the register should be posted to the PACS Safety and Support Officer, Level 4 Macarthur House.

#### SAFETY ALERT RELEASE INFORMATION:

- Released with the authority of Ross Burden Business Manager - Parks & City Services

 09/04/2013

- Additional information may be obtained from the Manager Divisional Support Group - Ext 54898.
- This Alert will remain current unless it is withdrawn by Executive Director PACS or superseded by a PACS Policy.

## Fire season conditions for the use of plant and equipment on the parks and conservation estate

### Principles:

1. Plant and equipment must be equipped and maintained in order to minimise the risk of igniting a fire, and have the capacity to extinguish a fire either on or caused by the machine.
2. Agencies must audit plant and equipment condition and compliance with these conditions.
3. Operations must be appropriately restricted during periods of extreme fire weather to minimise the risk of ignitions while not unnecessarily impeding productivity in accordance with the following conditions.

### During the declared fire season:

1. All internal and contract plant (including but not limited to dozers, graders, backhoes, mulchers, slashers, front end loaders, chippers) and equipment (chainsaws, jackhammers, post-hole borers) must be:
  - Maintained and operated in a way that it will minimise the risk of a fire starting, or catch fire itself
  - Fitted with a securely fixed, spark free exhaust in good, serviceable condition
  - Free of excessive build-up of either surplus oils, dust impregnated with oil, and/or vegetative matter.
2. Every plant item must carry either a pressure operated water fire extinguisher to AS 1841 Pt 2, minimum capacity 16 litres, or a knapsack spray, minimum capacity 16 litres to extinguish fires started by the plant, unless it is supported by a chaser vehicle with either this equipment or a spray/slip on unit.
3. Every plant item must carry a serviceable powder type fire extinguisher to AS 1841, Pt 5, minimum capacity 0.9kg to extinguish fires on the plant. *Note that local experience indicates that the capacity of this extinguisher has not been sufficient to stop a fire on a machine that is burning hydraulic hoses and oil, and operators are advised to carry larger capacity extinguishers to protect their plant.*
4. Fuel must be stored consistent with AS 1940.
5. Refuelling must occur where the ground is clear of flammable material for a distance of not less than 1.5m from the edge of the machine.
6. Fuel and oils spills must be cleaned up, recovered or covered with not less than 5cm of non-flammable material.
7. If an incident occurs that requires the use of a fire extinguisher, the plant involved cannot continue operating until it has been inspected and deemed safe by the relevant agency supervisor and the extinguisher has been replaced/refilled.
8. The responsible Agency must inspect and record compliance with these conditions at the commencement of the fire season and on a regular basis within the fire season. The attached sheet may be used for this purpose.

## **Plant and equipment use during forecast and actual very high and above fire danger index and tobans**

1. Where grass curing exceeds 70% and severe (or above) conditions are forecast, no mowing / slashing is to occur (the only exception is in irrigated areas)
2. Plant and equipment use that may cause accidental ignitions must be suspended when the local area FDI exceeds 25, except as permitted under conditions 5 to 9 below. The local area FDI may be based on weather data from nearby fire towers, weather stations or local observations. Fire towers will broadcast FDI on an hourly basis.
3. Supervisors are responsible for monitoring FDI and notifying internal and contract operators working on their estate when the FDI exceeds 25. This responsibility may be delegated to the contractor.
4. The Bureau of Meteorology Fire Weather Forecasts indicate the hours during which the FDI is expected to exceed 25. Machinery may operate from early morning until the time where the FDI is forecast to exceed 25.
5. Where machinery has operated for part of a day and subsequently been closed down by the FDI exceeding 25, a machine operator must remain on site for a period of not less than 30 minutes after the close down of the machine to ensure no fires ignite from their operations.
6. On days of TOBAN, graders, asphalt pavers, dozers, front-end loaders, rollers, brooms and backhoes may continue to work on ACT roads in urban areas only (within the built up areas of Canberra, and not in rural areas).
7. On days of TOBAN, bitumen spraying can continue in urban areas only (within the built up areas of Canberra, and not in rural areas) on ACT roads.
8. Field-based plant maintenance involving welding and oxyacetylene cutting may only be carried out where a tanker is on site and has watered the site down first.
9. No contractor will use a naked flame, this includes linemarking, asphalt laying and bitumen sealing works during TOBANS.