

# Planning and Development (Conditional Environmental Significance Opinion – Block 2 Section 39, Whitlam – Lower Deep Creek Pond Geotechnical Works) Notice 2021 (No 1)

Notifiable instrument NI2021–248

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 2 Section 39, Whitlam – Lower Deep Creek Pond Geotechnical Works) Notice 2021 (No 1)*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

- (1) On 14 April 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 2 Section 39, Whitlam, involving preliminary geotechnical works to inform the design of the Deep Creek Corridor Regional Water Quality Pond.

- (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  
27 April 2021

## **Schedule**

**See section 3(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**

GHD Pty Ltd, as represented by Lucy Bourne, Senior 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 geotechnical site investigation works as described in the submission.

#### **LOCATION**

Block 2 Section 39 Whitlam within the Molonglo River Nature Reserve and Namarag Special Purpose Reserves.

#### **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. An updated Construction Environment Management Plan (CEMP) is to be provided to the Conservator of Flora and Fauna for endorsement prior to commencement of works within the Reserves.
2. Site compound is not to be situated in the Molonglo River Reserve.
3. Active streambank erosion is occurring within Deep Creek, downstream of the Molonglo Valley Interceptor Sewer (MVIS). For safety reasons and to assess the potential for significant environmental damage, the proponent must assess MVIS\_1, MVIS\_2, MVIS\_3, MVIS\_4 and Borehole BH6 with a Conservation Officer before access is granted. Any works in proximity to Deep Creek must mitigate the risk of exacerbating streambank erosion.
4. Any ground excavation within the Reserves that will remain open over multiple days must have fauna ramps installed, in addition to sediment fence style barriers erected around the perimeter of each pit. Any excavation >1m deep that will remain open over multiple days must also be fenced to prevent public access.
5. In the event of heavy rain, inclement weather, a total fire ban, or operational requirements, the Reserves or specific reserve management tracks can be closed at short notice. Works may be postponed if Conservation Officers determine that the proposed works may cause significant environmental damage. Examples include:
  - If in the 5 days (excluding the 24 hours prior to the works) preceding the works, rainfall is over 15mm.
  - If in the 24 hours preceding the works, rainfall is between (or is forecast) 5-10 mm or over.
  - If a strong wind warning is posted by the Bureau of Meteorology.
  - During Scrivener Dam Flood Operations.
  - Total Fire Ban Days.
  - During PCS operational programs that require restrictions to access.
6. All equipment (including vehicles (the underside, wheel arches, interior and exterior), machinery, plant equipment, tools, boots, gloves, clothing) must be completely cleaned of soil or mud (wet or dry) and plant propagules (including seeds) before entering the Reserves.
7. All work areas and access routes are subject to remediation activities to the satisfaction of the ACT Parks and Conservation Service (PCS). Any damage to management tracks, vegetation, ground cover or Reserve infrastructure must be restored to the satisfaction of PCS. This includes reseeding with a native grass and forb mix at a rate of 5g per m<sup>2</sup>. Rehabilitation must have a minimum

18-month maintenance period to ensure native ground cover establishment and weed control are achieved.

Attached is a Statement of Reasons for the decision.

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

Ian Walker  
Conservator of Flora and Fauna

14 April 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;*

The works are proposed within the Molonglo River Nature Reserve and Namarag Special Purpose Reserves.

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**

Preliminary geotechnical works are being proposed to inform design of the Depp Creek Corridor Regional Water Quality Pond (DCCRWQP). The DCCRWQP is an essential component of the suburb of Whitlam.

The proposed works involve:

- Excavation of up to six test pits to a depth of 3 m
- Drilling of one borehole
- Reinstatement of disturbed areas

#### **Documentation Submitted**

- DCC Pond Embankment Concept Design – Environmental Significance Opinion Application (including Appendix A – CEMP);
- Letter of Authorisation;
- Form 1M.

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

The area is comprised mainly of open grassy paddocks and rocky outcrops. Exotic pasture grasses, blackberry and other introduced species are present. There are also several patches of Pink-tailed Worm-lizard (*Aprasia parapulchella*) habitat present to the north and west of the proposed works.

#### **Impact on the Reserve**

The proposed works have been carefully sited to avoid impacts to Pink-tailed Worm-lizard habitat and will involve only minor temporary clearing.

The application documents contain important commitments to mitigation measures including:

- restoration of disturbed areas;
- presence of an on-site ecologist to ensure impacts to Pink-tailed Worm-lizard are avoided or minimised and to relocate any individuals found; and
- weed hygiene measures.

#### **Potentially Significant Environmental Impacts**

Conditions have been included to ensure that works will not exacerbate existing erosion and weed concerns or interfere with ACT Parks and Conservation Service management of the reserves:

8. An updated Construction Environment Management Plan (CEMP) is to be provided to the Conservator of Flora and Fauna for endorsement prior to commencement of works within the Reserves.
9. Site compound is not to be situated in the Molonglo River Reserve.
10. Active streambank erosion is occurring within Deep Creek, downstream of the Molonglo Valley Interceptor Sewer (MVIS). For safety reasons and to assess the potential for significant environmental damage, the proponent must assess MVIS\_1, MVIS\_2, MVIS\_3, MVIS\_4 and Borehole BH6 with a

Conservation Offer before access is granted. Any works in proximity to Deep Creek must mitigate the risk of exacerbating streambank erosion.

11. Any ground excavation within the Reserves that will remain open over multiple days must have fauna ramps installed, in addition to sediment fence style barriers erected around the perimeter of each pit. Any excavation >1m deep that will remain open over multiple days must also be fenced to prevent public access.
12. In the event of heavy rain, inclement weather, a total fire ban, or operational requirements, the Reserves or specific reserve management tracks can be closed at short notice. Works may be postponed if Conservation Officers determine that the proposed works may cause significant environmental damage. Examples include:
  - If in the 5 days (excluding the 24 hours prior to the works) preceding the works, rainfall is over 15mm.
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  - If a strong wind warning is posted by the Bureau of Meteorology.
  - During Scrivener Dam Flood Operations.
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  - During PCS operational programs that require restrictions to access.
13. All equipment (including vehicles (the underside, wheelarches, interior and exterior), machinery, plant equipment, tools, boots, gloves, clothing) must be completely cleaned of soil or mud (wet or dry) and plant propagules (including seeds) before entering the Reserves.
14. All work areas and access routes are subject to remediation activities to the satisfaction of the ACT Parks and Conservation Service (PCS). Any damage to management tracks, vegetation, ground cover or Reserve infrastructure must be restored to the satisfaction of PCS. This includes reseeded with a native grass and forb mix at a rate of 5g per m<sup>2</sup>. Rehabilitation must have a minimum 18-month maintenance period to ensure native ground cover establishment and weed control are achieved.

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.