

Planning and Development (Conditional Environmental Significance Opinion – Block 7, Section 149, Macgregor and Block 1620, Belconnen – Jarramlee Subsidence Remediation) Notice 2021 (No 2)

Notifiable instrument NI2021–450

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 7, Section 149, Macgregor and Block 1620, Belconnen – Jarramlee Subsidence Remediation) Notice 2021 (No 2)**

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 21 June 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 remediation of land subsidence, on Block 7, Section 149, Macgregor and Block 1620, Belconnen.

- (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
23 July 2021

*Name amended under Legislation Act, s 60

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

WSP Australia Pty Limited as represented by Alex Garret, 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 remediation of buried former sewerage assets to prevent further subsidence that is occurring at Jarramlee Nature Reserve as described in the submission.

LOCATION

Block 7 Section 149 Macgregor, Rural Block 1620, Belconnen- and the road reserve of Hilda Kincaid Crescent

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. Revise the offset management plan (OMP) to the satisfaction of the Commonwealth Department of Agriculture, Water and Environment (DAWE). The OMP will need to be revised to include, but not limited to a description of the:
 - a. Proposed works and purpose;
 - b. Rehabilitation;
 - c. Monitoring; and
 - d. Adaptative management.
2. Prepare a rehabilitation plan for the impact area using only native species of local provenance from natural temperate grassland communities, with a large proportion of Golden Sun Moth feed species (C3 grasses including *Rytidosperma* spp.) to the satisfaction of the ACT Parks and Conservation Service. No trees or mid-storey shrubs are to be planted.
3. No vegetation will be removed in the months of October, November or December.
4. A pre-construction fauna survey is required to be undertaken by a suitably qualified ecologist with protocols in place (such as licences required under the Nature Conservation Act 2014) to manage fauna that may occur within the development area.
5. A Construction Environmental Management Plan (CEMP) is to be prepared to the satisfaction of the ACT Parks and Conservation Service and Conservator of Flora and Fauna, that includes:
 - a. a clearly defined development boundary that describes how works will be contained within the impacted area described in the application for this ESO;
 - b. an erosion and sediment control plan to be developed and implemented for the Project;
 - c. details on how impacts on Ginninderra Creek are going to be avoided or sufficiently minimised; and
 - d. the process for dealing with injured fauna that may be encountered on site and measures to minimise fauna entrapment during works.
6. A weed management plan (as part of the CEMP required under Condition 5) outlining measures to be implemented before, during and after construction to prevent the establishment and/or spread of weeds within and beyond the impact area, including:
 - a. specifications for all imported soil, plants or materials entering the site to be certified free of weeds and pathogens;
 - b. declared noxious weeds to be controlled prior to any works commencing, particularly Serrated Tussock;

- c. methods to control and minimise spreading of Chilean Needle-grass, such as commencing work in more native parts of the impact area, and wash/brush down following work in weedy areas;
- d. vehicle, machinery and personnel wash/brush down procedures.
- e. minimisation of soil disturbance; and
- f. weed monitoring methods during and post construction. Weed monitoring and management should occur for a minimum of two years post-works. This should include follow up control of Serrated Tussock, Chilean Needle Grass, Phalaris, Paspalum, St John's Wort and Blackberry.

7. Prior to the commencement of construction:

- a. an on-site meeting will be held with the ACT Parks and Conservation Service and the construction contractor;
- b. inductions will be held for all staff prior to commencing work on site. Inductions to include the environmental values of the impact area and surrounding reserve, limits and locations of vegetation clearing, importance of weed management procedures, waste management, speed limits and any other environmental considerations and obligations for the site;
- c. limits of works to be clearly marked with flagging or fencing to avoid any impacts outside of the impact area. This includes driving, parking, storage of fill, machinery etc. Vehicle, machinery and equipment are to remain inside the impact area.

8. During construction:

- a. pits, excavations and trenches should be well-covered or filled in each day if possible to prevent reptiles, mammals and frogs being trapped. If left overnight, trenches should be checked in the morning prior to the start of works to identify trapped animals. Trapped animals should be removed before works commence through the placement of a ramp to allow animals to escape by themselves, or removed by a qualified wildlife ecologist;
- b. minimise the on-site movement of machinery and equipment to limit compaction of Golden Sun Moth habitat;
- c. set down areas for construction materials and vehicle parking will be limited. These sites will be clearly demarcated and will be contained within the impact area;
- d. waste facilities for food and packaging to be provided on site for staff, which is to be removed off site at the end of each day and disposed of correctly; and
- e. no refuelling of vehicles or machinery on site.

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

23 June 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 impact area is known to support one threatened species, the Golden Sun Moth, *Synemon plana*, which is listed as Critically Endangered under the EPBC Act and Endangered under the NC Act. This species has also been recorded across large areas of Jarramlee Nature Reserve. Records from monitoring conducted in the reserve indicate that the impact area supports a low-moderate density of the species. Habitat mapping indicates the presence of approximately 1.94 ha of habitat for the species in the impact area, most of this being low quality. The impact area is highly unlikely to be critical habitat for the species, given the extent of habitat across the remaining reserve of approximately 52 ha.

The impact area includes 0.39 ha of native pasture which, based on the proponent's desktop assessment indicating high cover of Kangaroo Grass, is likely to be consistent with Natural Temperate Grassland listed as Critically Endangered under the Environment Protection and Biodiversity Conservation (EPBC) Act and Endangered under the NC Act.

Part 4.3, item 2(a) the clearing of more than 0.5ha of native vegetation other than on land that is designated as a future urban area

The impact area includes 0.39 ha of native pasture which has been discussed under Part 4.3, item 1 (a) above.

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

Jarramlee Nature Reserve, which was set up as a Commonwealth offset site for impacts on Golden Sun Moth and Natural Temperate Grassland resulting from the approved development of Lawson South ACT.

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

Remediation of buried former sewerage treatment assets to prevent further land subsidence. Remediating the site will enable ACT Parks and Conservation service to safely manage the site as an environmental offset. Works will involve the removal of buried assets, creation of a formalised stormwater swale with natural materials and native plantings.

Documentation Submitted

- Jarramlee Remediation, Application for an Environmental Significance Opinion, WSP, May 2021
- Form 1M.

Natural conservation values present

The proposed project impact area is a 3.45 ha part of the 112 ha Jarramlee Grasslands Nature Reserve in the north west of the ACT. The nature reserve is managed as an environmental offset under the Commonwealth EPBC Act due to the presence of ecological values of national significance, including Natural Temperate Grassland of the Southern Tablelands and ACT, and habitat for the endangered Golden Sun Moth.

Other NC Act listed species may also occur, periodically or as residents, including Perunga Grasshopper, Little Eagle, and Scarlet Robin. The impact area is unlikely to be habitat of importance for these species. Aside from the Natural Temperate Grasslands endangered ecological community, no other rare or endangered flora have been recorded at the impact area or are considered likely to occur.

Part of the impact area occurs just south of the nature reserve boundary, to encompass a bioretention pond and a gravel track just north of Hilda Kincaid Crescent, Macgregor.

Impact on the Reserve

The impact area supports a low diversity of native flora and fauna species, relative to much of Jarramlee Nature Reserve which supports areas of natural temperate grassland corresponding to EPBC Act and NC Act listed threatened ecological communities.

0.39 ha is known to support Natural Temperate Grasslands. The vegetation and habitat at the impact area is not known to support a high diversity of native fauna. It is not expected that the works will have a significant adverse impact on the reserve and will result in improvements to management outcomes and improved vegetation due to remediation.

Potentially Significant Environmental Impacts

The sites have been chosen to focus works on recently disturbed vegetation. The total disturbance footprint is small and rehabilitation is a key component of the proposal. The proposal includes weed and pathogen hygiene conditions.

Conditions have been included to ensure that works will not cause a significant adverse environmental impact on protected matters or on the values of the Reserve.

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 - a. Proposed works and purpose;
 - b. Rehabilitation;
 - c. Monitoring; and
 - d. Adaptative management.
2. Prepare a rehabilitation plan for the impact area using only native species of local provenance from natural temperate grassland communities, with a large proportion of Golden Sun Moth feed species (C3 grasses including

Rytidosperma spp.) to the satisfaction of the ACT Parks and Conservation Service. No trees or mid-storey shrubs are to be planted.

3. No vegetation will be removed in the months of October, November or December.
4. A pre-construction fauna survey is required to be undertaken by a suitably qualified ecologist with protocols in place (such as licences required under the Nature Conservation Act 2014) to manage fauna that may occur within the development area.
5. A Construction Environmental Management Plan (CEMP) is to be prepared to the satisfaction of the ACT Parks and Conservation Service and Conservator of Flora and Fauna, that includes:
 - a. a clearly defined development boundary that describes how works will be contained within the impacted area described in the application for this ESO;
 - b. an erosion and sediment control plan to be developed and implemented for the Project;
 - c. details on how impacts on Ginninderra Creek are going to be avoided or sufficiently minimised; and
 - d. the process for dealing with injured fauna that may be encountered on site and measures to minimise fauna entrapment during works.
6. A weed management plan (as part of the CEMP required under Condition 5) outlining measures to be implemented before, during and after construction to prevent the establishment and/or spread of weeds within and beyond the impact area, including:
 - a. specifications for all imported soil, plants or materials entering the site to be certified free of weeds and pathogens;
 - b. declared noxious weeds to be controlled prior to any works commencing, particularly Serrated Tussock;
 - c. methods to control and minimise spreading of Chilean Needle-grass, such as commencing work in more native parts of the impact area, and wash/brush down following work in weedy areas;
 - d. vehicle, machinery and personnel wash/brush down procedures.
 - e. minimisation of soil disturbance; and
 - f. weed monitoring methods during and post construction. Weed monitoring and management should occur for a minimum of two years post-works. This should include follow up control of Serrated Tussock, Chilean Needle Grass, Phalaris, Paspalum, St John's Wort and Blackberry.
7. Prior to the commencement of construction:

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 - c. limits of works to be clearly marked with flagging or fencing to avoid any impacts outside of the impact area. This includes driving, parking, storage of fill, machinery etc. Vehicle, machinery and equipment are to remain inside the impact area.
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 - b. minimise the on-site movement of machinery and equipment to limit compaction of Golden Sun Moth habitat;
 - c. set down areas for construction materials and vehicle parking will be limited. These sites will be clearly demarcated and will be contained within the impact area;
 - d. waste facilities for food and packaging to be provided on site for staff, which is to be removed off site at the end of each day and disposed of correctly; and
 - e. no refuelling of vehicles or machinery on site.

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.