
ENVIRONMENTAL SIGNIFICANCE OPINION - Lower Deep Creek Pond, MVIS Bridge pier 7 (ESO202400047)

In accordance with section 140 (4) of the *Planning Act 2023* (the Act), I provide the following environmental significance opinion:

APPLICANT

ACT Suburban Land Agency, as represented by Mr Peter Lewis, Development Director.

APPLICATION and DEVELOPMENT PROPOSAL

The applicant has applied under section 140 (4) 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 erosion protection works at the Molonglo Valley Interceptor Sewer (MVIS) bridge pier 7 downstream of Lower Deep Creek Pond. The erosion protection works would involve excavation of erodible materials and placement of erosion protection measures such as geotextile and rock beaching at the footing of the MVIS pipe bridge pier 7 as described in the submission.

LOCATION

Works are located in Blocks 6 and 11, Section 39, Whitlam.

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 s140 (4)(b) of the Act:

1. Conditions of approval including mitigation measures as stated in the submission.
2. The proponent must provide a Construction Environmental Management Plan for Conservator endorsement prior to commencement of works, with all required management subplans listed under the related approved EIS201900045, particularly the Pink-tailed Worm-lizard management plan.
3. Mitigation of erosion and sedimentation risks are to be addressed in a Soil and Water Management Plan (or equivalent) and incorporated into the Construction Environmental Management Plan.
4. The Flora and Fauna management subplan must include the following commitments to manage burrowing animals (e.g. wombats, echidnas):
 - A site inspection by a suitably qualified ecologist is to be undertaken to identify any burrows/shelter sites within the development footprint. Large logs and debris piles will be included in the inspections and wherever possible dismantled by hand in consideration of sheltering animals (predominantly Echidnas).
 - Identified burrows or shelter sites will then be mapped with an appropriate digital mapping tool such as Avenza maps or Collector.
 - If any burrows identified will be affected by the development a Nature Conservation (NC) license will be obtained prior to any disturbance or decommissioning in order to avoid offences under the *Nature Conservation Act 2014*.
 - Camera monitoring will be required to confirm they are unoccupied prior to their destruction.
5. The proponent is required to coordinate with PCS on bushfire related activities, who may require access at short notice, including fire fuel reduction.
6. The proposed works may be subject to random compliance inspection by Conservation Officers as requested by the Conservator of Flora and Fauna.

Attached is a Statement of Reasons for the decision.



Bren Burkevics
Conservator of Flora and Fauna

2 December 2024

STATEMENT OF REASONS REASONS FOR THE DECISION

The proposed development is a proposal mentioned in Schedule 1 of the *Planning (General) Regulation 2023* – requiring environmental impact statement, being:

Part 1.2, item 16 - proposal that is likely to have a significant adverse environmental impact on 1 or more of the following:

- (a) a critically endangered species;*
- (b) an endangered species;*
- (c) a vulnerable species;*
- (d) a conservation dependent species;*
- (e) a regionally threatened species;*
- (f) a regionally conservation dependent species;*
- (g) a provisionally listed threatened species;*
- (h) a listed migratory species;*
- (i) a threatened ecological community;*
- (j) a protected native species;*
- (k) a Ramsar wetland;*
- (l) any other protected matter*

The proposed works will impact on a small area of Pink-tailed Worm-lizard (PTWL) habitat, a listed species under the *Environment Protection and Biodiversity Conservation Act 1999* and the *Nature Conservation Act 2014*.

Part 1.2, item 18 - proposal for development in a reserve, unless the proposal is for minor public works to be carried out by or for the Territory in accordance with a minor public works code approved by the conservator of flora and fauna under the Nature Conservation Act 2014, section 318A;

The proposed works are within Molonglo River Reserve.

The proponent is seeking an environmental significance opinion to remove the requirement for an environmental impact statement 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 for an opinion 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

This development proposal is to provide additional erosion protection around the Molonglo Valley Interceptor Sewer (MVIS) bridge. Works will involve shallow excavation and placement of erosion protection measures such as geotextile and rock beaching at the footing of the MVIS bridge pier 7, as well as construction of a temporary access track. The footprint of permanent works around pier 7 will be approximately 85m² and the total construction footprint will be approximately 530m².

The proposed erosion protection works are in addition to other works associated with the MVIS project as part of an Environmental Impact Statement (EIS201900045) that was approved in 2023. A Construction Environmental Management Plan (CEMP) will be developed with management subplans to address matters described in the EIS, as well as proposed erosion works to ensure a consistent and appropriate level of environmental management.

The proposal site is zoned '*NUZ4: RIVER CORRIDOR; PRZ1: URBAN OPEN SPACE; NUZ3: HILLS, RIDGES AND BUFFER AREAS; RZ1: SUBURBAN*' with a '*Pc: Nature Reserve.; Pe: Urban Open Space.; PUBLAN: Public Land; FUA: Future Urban Areas; Pd: Special Purpose Reserve.*' overlay under the Territory Plan. The site is within the Molonglo River Reserve and also adjacent to Namarag Special Purpose Reserve. It is bordered by the suburb of Whitlam to the north and east, with the Molonglo River running south and west.

Documentation Submitted

- Explanatory note regarding supporting documentation for the application for an Environmental Significance Opinion;
- Letter(s) of Authorisation
- Form 1M.

Natural conservation values present

The proposal site is on undeveloped land, sloping down (approximately 30m) to Lower Deep Creek which flows into the Molonglo River Reserve (approximately 100m). The Molonglo is a significant riparian corridor that provides habitat to over 300 species of flora and fauna, some of these are nationally threatened species or form nationally threatened vegetation communities.

Over 100 animal species, with at least 8 species listed as threatened under the *Nature Conservation Act 2014* has been recorded within a 500m radius / known to occur in proximity of the development site:

- Pink-tailed Worm-lizard (*Aprasia parapulchella*)
- Murray River Crayfish (*Euastacus armatus*)
- Macquarie Perch (*Macquaria australiasica*)
- Murray Cod (*Maccullochella peelii*)
- Trout Cod (*Maccullochella macquariensis*)
- White-winged Triller (*Lalage tricolor*)
- Scarlet Robin (*Petroica boodang*)
- Painted Honeyeater (*Grantiella picta*)

Vegetation on-site is a grassland community with a high cover of exotic species resulting from past agricultural practices, interspersed with areas of native pastures in conjunction with rocky outcrops. Patches of a critically endangered ecological community listed under the Federal *Environment Protection and Biodiversity Conservation Act 1999*, Natural Temperate Grassland, occur in the area.

The Molonglo Valley is known to contain a significant population of PTWL. The lizard inhabits ant burrows in soil beneath rocks, and is largely confined to areas with surface rock scattered in the landscape. Surveys indicate the immediate area around

pier 7 contains moderate quality PTWL habitat, with mapped PTWL habitat approximately 20m upslope from the proposed works.

Potentially Significant Environmental Impacts

The main potential significant environmental impacts from this proposal are disturbance to PTWL habitat, and erosion and sedimentation risk to fish and other aquatic species and habitat in the Molonglo River Reserve. Management of both impacts will be included in a CEMP as required by the proponent's related approved EIS201900045, and will be reviewed by the Conservator and endorsed prior to works commencing.

Proposed works to pier 7 will avoid and not directly impact any mapped PTWL habitat. The proponent will prepare a PTWL management subplan as part of their CEMP, which will include rehabilitation of the surrounding areas to restore PTWL habitat connectivity.

The proposed works are not located within the main waterway Molonglo River (about 100 m away) and is not inundated during peak floods. The proposed works around pier 7 would not impact permanent or ephemeral aquatic habitat and is not expected to impact any fish or aquatic species in the Molonglo River corridor.

No Natural Temperate Grassland occurs within the site and would not be impacted by works. The proposal will not impact on a threatened ecological community and will not remove more than 0.5ha of native vegetation.

Conditions have been included to ensure that works will not increase impacts on PTWL habitat or the likelihood of increasing sediment and erosion risk into the Molonglo River Reserve, as well as adding requirements for managing burrowing animals.

1. Conditions of approval including mitigation measures as stated in the submission.
2. The proponent must provide a Construction Environmental Management Plan for Conservator endorsement prior to commencement of works, with all required management subplans listed under the related approved EIS201900045, particularly the Pink-tailed Worm-lizard management plan.
3. Mitigation of erosion and sedimentation risks are to be addressed in a Soil and Water Management Plan (or equivalent) and incorporated into the Construction Environmental Management Plan.
4. The Flora and Fauna management subplan must include the following commitments to manage burrowing animals (e.g. wombats, echidnas):

- A site inspection by a suitably qualified ecologist is to be undertaken to identify any burrows/shelter sites within the development footprint. Large logs and debris piles will be included in the inspections and wherever possible dismantled by hand in consideration of sheltering animals (predominantly Echidnas).
 - Identified burrows or shelter sites will then be mapped with an appropriate digital mapping tool such as Avenza maps or Collector.
 - If any burrows identified will be affected by the development a Nature Conservation (NC) license will be obtained prior to any disturbance or decommissioning in order to avoid offences under the *Nature Conservation Act 2014*.
 - Camera monitoring will be required to confirm they are unoccupied prior to their destruction.
5. The proponent is required to coordinate with PCS on bushfire related activities, who may require access at short notice, including fire fuel reduction.
 6. The proposed works may be subject to random compliance inspection by Conservation Officers as requested by the Conservator of Flora and Fauna.

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.