

Planning and Development (Environmental Significance Opinion - Cotter River Pedestrian Bridge) Notice 2011 (No 1)

Notifiable instrument NI2011–776

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 (Environmental Significance Opinion – Cotter River Pedestrian Bridge) Notice 2011 (No 1)*.*

2 Commencement

This instrument commences on the day after notification.

3 Environmental Significance Opinion

An Environmental Significance Opinion has been prepared by the Conservator of Flora and Fauna.

The text of the opinion is shown at Annexure A.

4 Completion

The environmental significance opinion and the notice including the text of the opinion expire 18 months after the day the notice is notified.

David Papps
Planning and Land Authority

9 December 2011

*Name amended under Legislation Act, s 60



ACT
Government

Environment and
Sustainable Development

Mr David Papps
Chief Planning Executive
ACT Planning and Land Authority
GPO Box 158
CANBERRA ACT 2601

Dear Mr Papps

This is to advise of my decision, under s.138AB(4) of the *Planning and Development Act 2007*, on Actew Corporation Ltd's request for an environmental significance opinion for the proposed construction of a pedestrian bridge at Cotter Reserve (Blocks 34 District of Corc and Blocks 178, 283 and 284 District of Paddys River).

The proposal is not likely to have a significant adverse environmental impact on land reserved under s. 315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve.

Please find attached the Environmental Significance Opinion and a Statement of Reasons for the decision.

Yours sincerely

Penny Farnsworth
Conservator of Flora and Fauna

/s/ August 2011



ACT
Government

Environment and
Sustainable Development

ENVIRONMENTAL SIGNIFICANCE OPINION

In accordance with section 138AB(4) of the *Planning and Development Act 2007*, I provide the following environmental significance opinion for the proposed **Cotter River Pedestrian Bridge** located within the Cotter Reserve.

PROPONENT

Mr Chris Webb, Approvals Manager, ACTEW Corporation Ltd.

LOCATION

Blocks 34 District of Coree and Blocks 178, 283 and 284 District of Paddys River

DEVELOPMENT PROPOSAL

Construction of a pedestrian bridge downstream of the Enlarged Cotter Dam on land which is Public Land, Special Purpose Reserve under the *Territory Plan*.

The proponent has sought an Environmental Significance Opinion from the Conservator of Flora and Fauna. The proponent is of the view that the proposal is not likely to have a significant adverse environmental impact.

LEGISLATIVE CONTEXT

Under section 138AA of the *Planning and Development Act 2007*, a proponent may seek an environmental significance opinion that, if successful would enable a proposal to be assessed in the merit track. Schedule 4 of the *Planning and Development Act 2007* lists items that trigger the requirement for an EIS. The relevant Schedule 4 items for seeking an environmental significance opinion on this proposal are:

Part 4.3 Item 3

Proposal for development on land reserved under s.315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve, unless the Conservator of Flora and Fauna produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact.

OPINION

The site of the proposed facility is on Blocks 34 District of Coree and Blocks 178, 283 and 284 District of Paddys River which is Public Land reserved as Special Purpose Reserve within the Cotter Reserve.

From the information and the risk assessment provided in the Environmental Significance Opinion application and associated documents, it has been determined that the proposed pedestrian bridge is not likely to have a significant adverse environmental impact on land reserved under s.315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve provided that all of the mitigation measures specified in the Environmental Significance Opinion application and associated report are included in a Construction Environmental Management Plan and implemented.

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, appearing to be 'Penny Farnsworth', written over a horizontal line.

Penny Farnsworth
Conservator of Flora and Fauna

12 August 2011

STATEMENT OF REASONS FOR THE DECISION

Construction of a pedestrian bridge as a replacement to the original suspension bridge located on the Cotter River within the Cotter Reserve.

Blocks 34 District of Coree and Blocks 178, 283 and 284 District of Paddys River.

The proposed development is a proposal listed in Schedule 4 Part 4.3 of the *Planning and Development Act 2007* – Development proposals requiring an EIS – areas and processes. The proposal triggers the following Schedule 4 item:

Item 3

Proposal for development on land reserved under s.315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve, unless the Conservator of Flora and Fauna produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact.

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.

CONDITIONS FOR ASSESSMENT IN THE MERIT TRACK – ISSUES CONSIDERED BY THE CONSERVATOR

- **Item 3: Proposal for development on land reserved under s.315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve,**

The site of the proposed facility is within Blocks 34 District of Coree and Blocks 178, 283 and 284 District of Paddys River which is Public Land reserved as Special Purpose Reserve within the Cotter Reserve. The *Planning and Development Act 2007* prescribes management objectives for public land. The management objectives applicable to this proposal are:

Special Purpose Reserve

1. To provide for public and community use of the area for recreation and education.

In support of the application for an Environmental Significance Opinion (ESO) the proponent submitted preliminary drawings for the proposal and a report titled *Enlargement of Cotter Dam – Cotter River Pedestrian Bridge Environmental Significance Opinion Part Block 34 District of Coree and Part Blocks 178, 283 and 284 District of Paddys River, July 2011*.

The ESO report included a preliminary risk assessment that determined the risk rating for potential environmental impacts. These risks were determined to be between negligible and low.

The report also noted that the location of the proposed pedestrian bridge is within an area covered by the Enlarged Cotter Dam EIS which considered the conservation values of the proposed bridge location and that potential impacts of the construction of the pedestrian bridge will be confined to the existing impact area of the dam construction and will not result in any additional impacts to those already considered in the EIS.

Further analysis was provided in the proponent's report in relation to potential impacts on the landscape character.

Further information was sought from the proponent under section 138AB of the *Planning and Development Act 2007* in regards to the aquatic ecology of the area as there are known threatened aquatic species within the Cotter River. A revised report was submitted in July 2011 as well as a copy of the Enlarged Cotter Dam Fish Management Plan and a copy of the report on the assessment of ecological responses to water quality prepared for the Murrumbidgee to Cotter pumping augmentation project.

Ecological Impacts

In making this determination, the Conservator of Flora and Fauna (the Conservator) considers that the threatened aquatic species listed under the *Nature Conservation Act 1980* that are relevant to this proposal include Macquarie perch (Endangered) and Murray River crayfish (Vulnerable). Both these species have been recorded in the vicinity of the proposed development (ACT Government unpublished data and ACT Government 2008, 2010, 2011 in prep). Other species of note in the reach include Murray cod, listed as a vulnerable species under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC) and historically, the two-spined blackfish, listed as Vulnerable under the *ACT Nature Conservation Act 1980*.

The proponent's amended ESO application (Supp-200100219 dated 26 July 2011) refers to, and provides a number of studies relevant to this reach including those associated with the EIS for the Enlarged Cotter Dam, ACT Government survey reports, Enlarged Cotter Dam Fish Management Plans and studies relating to the ACTEW Murrumbidgee to Cotter recirculation project. These studies are considered to provide sufficient information to make a determination on the values of the site.

Mitigation Measures

The proponent's ESO application report proposes mitigation measures to limit any potential impacts on flora and fauna. These include:

- Avoid the introduction and transportation of weeds. Measures that can be implemented to minimise the transportation of weeds include cleaning of tyres, wheel guards and bases of machinery and vehicles before entry into areas of bushland, and the use of appropriate weed free or sterile Rye Corn seed mixes to top dress any soil areas left exposed by construction.
- Erosion, storm water and runoff controls, will be put in place to prevent sedimentation in major waterways and adverse impacts on water quality. This will be achieved by installation of sediment fences and channelling of water through rock swales.
- Materials stockpiles will be stabilised or protected to minimise wind-blown dust.
- Disturbed land will be progressively rehabilitated.
- Where material is being brought to site, loads will be covered.
- Entry points to construction areas will be maintained in a manner to avoid tracking mud, dirt and other materials onto public roads.
- Dust will be visually monitored and where necessary additional mitigation measures will be implemented.
- Dust deposition gauges will be installed at sensitive locations to track performance of the dust suppression.
- Fuel-burning machinery will be maintained in good condition and operated in an efficient manner to minimise particulate exhaust emissions.
- There will be no burning of waste.

The proponent has stated that these mitigation measures will be addressed in a Construction Environmental Management Plan (CEMP) that will be in place prior to commencement of construction. The mitigation measures in the CEMP for this project are to be undertaken in conjunction with the existing Enlarged Cotter Dam CEMP.

Conservator's opinion regarding development on land reserved under s.315 for the purpose of wilderness area, national park, nature reserve or special purpose reserve

The proponent has provided sufficient information to accurately describe the values of the site and adequately assess the risks and potential impacts of the proposal. The proponent has demonstrated that avoidance and mitigation strategies have been addressed, including those relevant to protecting the aquatic values. The proponent has stated that the mitigation strategies will be addressed in a CEMP for the construction of the bridge.

It is the Conservator's opinion that the proposal to construct a pedestrian bridge over the Cotter River will not have a significant adverse environmental impact on the natural values and management objectives of the land zoned as Special Purpose Reserve provided that all the mitigation measures in the CEMP are implemented and undertaken in conjunction with the CEMP for the Enlarged Cotter Dam.

References

ACT Government 2008: Interim report on the first year of the Baseline monitoring the effects of water recirculation from the Murrumbidgee River to below Cotter Dam on fish populations. Brief report to ACTEW

ACT Government 2010: Results of the fish rescue from the Cotter Dam stilling basin and Cotter River below Cotter Dam December 2009. Brief report to Bulk Water Alliance

ACT Government 2011: Draft Baseline monitoring the effects of water recirculation from the Murrumbidgee River to below Cotter Dam on fish populations, Report to ACTEW AGL in prep.

Barlow, A., Norris, R., Wilkinson, L., Osborne, W., Lawrence, I. and Lowery, D. 2005: Report on the existing aquatic ecology that may be affected by each of the proposed future water supply options. Report prepared by University of Canberra, Future Water Centre for ACTEW Corp.

Nagy, L., Brunner, L., Elliott K. and Lintermans M. 2009: Enlarged Cotter Dam Fish Management Plan (Version 1) Report prepared by *INFRASTRUCTURE DEVELOPMENT BRANCH* for ACTEW Corp.