

# Planning and Development (Conditional Environmental Significance Opinion – Block 11, Cotter River District, Yellow Rabbit Road – Dam Decommissioning) Notice 2019

Notifiable instrument NI2019–631

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 11, Cotter River District, Yellow Rabbit Road – Dam Decommissioning) Notice 2019*.

## 2 Conditional Environmental Significance Opinion

- (1) On 28 August 2019, 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 the decommissioning of a dam, on Block 11, Cotter River District, Yellow Rabbit Road.

- (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  
11 September 2019

## Schedule

See section 2(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

Biosecurity and Rural Services, Environment, Planning and Sustainable Development Directorate, as represented by Mr Warren Schofield.

#### 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 decommissioning of a dam on Yellow Rabbit Road as described in the submission.

#### LOCATION

Block 11 Cotter River District, Yellow Rabbit Road.

#### 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:

1. Works will be undertaken during dry weather to minimise the impacts of vehicle movements.
2. Machinery will be cleaned prior to entering the reserve to ensure weeds and pathogens are not introduced to the site.
3. Movement of machinery will be limited to the dam site and existing access trails and roads.
4. Erosion control will be considered, noting that the dam will remain as a smaller non-perennial sediment pond.
5. Follow up remediation will be undertaken on any disturbed areas.
6. Follow up weed control will be undertaken on any disturbed areas.

7. The works plan will include protocols for dealing with any wildlife stranded in the dam basin.
8. All works will be in accordance with the "protocol for cultural heritage assessment of vegetation management activities along PCS tracks and trails.
9. Following release of water an inspection of the exposed or shallow dam floor for Quillwort (*Isoetes muelleri*) should occur and if present consideration should be given to translocation of plant material to nearby suitable habitat.
10. the drawdown of the water will be done in such a way that avoids creating channelling in the downstream creek line.

The following heritage management advice is provided and is required to be complied with:

11. Should Aboriginal places or objects be encountered during works, works at the heritage location/s are to cease to allow for heritage assessment and management (in accordance with Section 75 of the Heritage Act 2004) and the discovery is to be reported to ACT Heritage within five working days (in accordance with Section 51 of the Heritage Act 2004).

Attached is a Statement of Reasons for the decision.



Ian Walker  
Conservator of Flora and Fauna

28th August 2019

## 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 Section 4.3, Item 3 – proposal for development in a reserve (Land reserved under s 315 for the purpose of a wilderness area, national park, nature reserve or special purpose reserve)

The location of the dam being decommissioned is within Namadgi National Park.

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**

A dam on Yellow Rabbit Road, within the Cotter River District of Namadgi National park, has been identified as a biosecurity risk. The proposal is to decommission the dam by removing the top of the dam and lowering the spill way to prevent the dam from maintaining a perennial water supply.

### **Documentation Submitted**

- Supporting documentation for the application for an Environmental Significance Opinion;
- Form 1M.

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

The Cotter Catchment region of the Namadgi National park conserves a wide variety of ecosystems including:

- low open woodland covering much of the park with Snow Gum woodland in the high mountain areas;
- tall wet forests with Alpine Ash and fern gullies in sheltered locations,
- wetlands including sedge fens in the valleys and sphagnum moss bogs on the peaks that are important for water catchment and as habitat for the endangered Northern Corroboree Frog *Pseudophryne pengilleyi*, and
- sub-alpine peaks and alpine communities.

At least 35 species of mammals, 14 species or subspecies of frog, over 41 species of reptiles, four native fish species and over 130 species of birds have been recorded in Namadgi National Park. There are 12 animal species listed as threatened under the *Nature Conservation Act 2014*:

- Northern Corroboree Frog (*Pseudophryne pengilleyi*);
- Two-Spined Blackfish (*Gadopsis bispinosus*);
- Trout Cod (*Maccullochella macquariensis*);
- Macquarie Perch (*Macquaria australasica*);
- Murray River Crayfish (*Euastacus armatus*);
- Hooded Robin (*Melanodryas cucullate*);
- Brown Treecreeper (*Climacteris picumnus*);
- Varied Sitella (*Daphoenositta chrysoptera*);
- Little Eagle (*Hieraaetus morphnoides*);
- White-Winged Triller (*Lalage sueurii*);
- Smoky Mouse (*Pseudomys fumeus*); and
- Spotted-Tailed Quoll (*Dasyurus maculates*)

Three vegetation communities in Namadgi have been identified as requiring special protection and management. These are:

- *Natural Temperate Grassland of the Southern Tablelands of NSW and the ACT*;
- Montane and Subalpine Bog (forming a significant component of the Commonwealth listed *Alpine Sphagnum Bogs and Associated Fens*); and
- Black Cypress Pine Tableland Open Forest.

Several rare and unusual species occur in Namadgi, but only two plant species are formally recognised as threatened: *Gentiana baeuerlenii* (a sub-alpine herb) and *Corunastylis ectopa* (Brindabella Midge Orchid). Both are declared threatened under ACT and Commonwealth legislation.

The Ginini Flats Wetlands is included on the *List of Wetlands of International Importance* (Ramsar) in recognition of its significant ecological characteristics and is the only Ramsar Wetland in the ACT.

There are significant ecological values that require special protection in the location of the dam that has been identified for decommissioning. Three aquatic or semi-aquatic species which are poorly known in the ACT and possibly regionally rare have been recorded within a few kilometres of the Dam site:

1. Glossos (*Glossostigma elatnoides*) prefers damp rather than standing water habitat. As such, the proposal may provide suitable habitat for this species where none currently exists.
2. Leaf flat Sedge (*Cyperus lucidus*) grows on the water edge, but the design of the current dam is such that it does not support a fringing edge of sedges so this species is unlikely to be present. In addition, recent sightings of this species elsewhere in the ACT and reported on Canberra Nature Map mean that the species is being considered for removal from the regionally rare plant list.
3. Quillwort (*Isoetes muelleri*) grows underwater in water up to 1m deep in muds therefore parts of the dam are possible, though unlikely, habitat. It is able to withstand periods of exposure to the air.

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

The removal of this dam is not considered to impact on the reserve as it was constructed after the 2003 bushfires to control erosion in the Cotter Catchment. The dam offers a water source for animals, however other perennial water sources are available nearby.

The dam is located in "derived native woodland". The immediate surrounds are made up of invasive plants and some vegetation regrowth and does not offer or exhibit unusual richness of diversity of flora, fauna or landscapes.

The decommissioning works are not expected to impact on Rosenberg's Monitor habitat and the site or dam are not considered "important for information contributing to a wider understanding of the ACT's natural history".

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

Conditions have been included to ensure that works will not increase the likelihood of alien fish species, or the EHN virus, are introduced into the catchment. Further, the following conditions are required to ensure the protection of the Cotter catchment area:

1. Works will be undertaken during dry weather to minimise the impacts of vehicle movements
2. Machinery will be cleaned prior to entering the reserve to ensure weeds and pathogens are not introduced to the site
3. Movement of machinery will be limited to the dam site and existing access trails and roads

4. Erosion control will be considered, noting that the dam will remain as a smaller non-perennial sediment pond
5. Follow up remediation will be undertaken on any disturbed areas
6. Follow up weed control will be undertaken on any disturbed areas
7. The works plan will include protocols for dealing with any wildlife stranded in the dam basin
8. All works will be in accordance with the "protocol for cultural heritage assessment of vegetation management activities along PCS tracks and trails
9. Following release of water an inspection of the exposed or shallow dam floor for Quillwort (*Isoetes muelleri*) should occur and if present consideration should be given to translocation of plant material to nearby suitable habitat.
10. the drawdown of the water will be done in such a way that avoids creating channelling in the downstream creek line.

The following heritage management advice is provided and is required to be complied with:

11. Should Aboriginal places or objects be encountered during works, works at the heritage location/s are to cease to allow for heritage assessment and management (in accordance with Section 75 of the Heritage Act 2004) and the discovery is to be reported to ACT Heritage within five working days (in accordance with Section 51 of the Heritage Act 2004).

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.