

Planning and Development Conditional Environmental Significance Opinion – Block 20, Cotter River – Lower Cotter Catchment Gully Erosion Control) Notice 2021

Notifiable instrument NI2021–382

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 20, Cotter River – Lower Cotter Catchment Gully Erosion Control) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 28 May 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 works, on Block 20 of Cotter River, involving gully erosion remediation within the Lower Cotter Catchment Reserve.

- (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
24 June 2021

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

ACT Parks and Conservation Service, Environment, Planning and Sustainable Development Directorate, as represented by Nicholas Daines, Area Manager – Murrumbidgee River Corridor and Lower Cotter Catchment.

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 gully erosion remediation as described in the submission.

LOCATION

Block 20, District of Cotter River within the Lower Cotter Catchment Reserve.

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:

- Remediation works will be undertaken during the period of least erosive rainfall events (Autumn) and will be limited to periods of dry weather.
- Sediment controls in the form of brush-mat bunds and coir logs will be installed to minimise downstream impacts of sediment displacement during the works, noting that the remediation works are necessary because of existing erosion.

- Access to the sites will be via Pierces Creek Road and Hayes Road – no formal access track works are required.
- All native vegetation removed will be stockpiled and reused on the site as brush-matting, including that used as sediment controls during the construction phase.
- All machinery and vehicles entering the project areas to be free of weeds and soil and will be decontaminated to minimise the spread of pathogens.
- Earthworks will be progressively staged to minimise the extent and duration of soil disturbance.
- All graded areas will be extensively revegetated, with biodegradable weed mats acting as a complete soil cover.
- All imported rock and structural soil ameliorants will be certified virgin excavated.
- Compost used in planting will be Australian Standard (AS4454) certified.
- The 'Protocol for cultural heritage assessment of vegetation management activities along PCS tracks and trails' will be applied to the project area for the entirety of the works.
- The Works Plan will include a detailed risk assessment and include protocols for unforeseen events that delay works.
- Maintenance of revegetation works and for the control of weeds will be regularly undertaken after the conclusion of the project works.

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

28 May 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;

This project is within the Lower Cotter Catchment, a designated reserve in the Territory Plan, triggering the works to be assessed under Schedule 4, Part 4.3, Item 3 of the *Planning and Development Act 2007* (proposal for development in a reserve).

The project location is wholly within an area of former pine plantation, which was extensively burnt in the 2003 fires, and is presently a mixture of juvenile native vegetation, treated blackberry and bare-ground. The total area of remediation works covers 3000 square metres.

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

The proposal is for the staged remediation of two adjacent erosion gullies in the Pierces Creek sub-catchment of the Lower Cotter Catchment Reserve. The remediation works will involve drainage control, soil amelioration, and extensive revegetation which, in combination, will reduce the velocity and depth of runoff and ultimately mitigate the continued active erosion of the gullies.

Both gullies – henceforth titled Hayes East and Hayes West – are hydrologically connected to Pierces Creek, the primary waterway draining the eastern side of the Cotter Dam catchment. Sediment displacement from these gullies subsequently affects both aquatic habitat in Pierces Creek and water quality in the Cotter Dam.

This project aims to progressively remediate both gullies by minimising erosion potential from concentrated flows. Further, by employing a combination of traditional and contemporary restoration techniques, the project will considerably improve both landscape function and resilience to future disturbance

Documentation Submitted

- Diagram on remediation locations
- Supporting Statement documentation for the application for an Environmental Significance Opinion;
- Form 1M.

Natural conservation values present

The Lower Cotter Catchment reserve provides an important wildlife movement corridor linking the northern part of Namadgi National Park with the Murrumbidgee River. The reserve contains the lowest elevation bog and fen wetlands in the region. Several rare and threatened plants occur in the area, and the Cotter river and reservoir support populations of threatened aquatic fauna. Extensive areas of the reserve were burnt in the 2003 bushfires and are slowly recovering. The reserve is also important for its supply of high quality water to Canberra.

At least 9 species of mammals, 11 species or subspecies of frog, 12 species of reptiles, over 110 species of birds and many native fish species have been recorded in Namadgi National park. There are 12 animal species listed as threatened under the *Nature Conservation Act 2014* or under the *EPBC Act 1999*:

- Hooded Robin (*Melanodryas cucullate*)
- Scarlet Robin (*Petroica boodang*)
- Greater Glider (*Petauroides volans*)

- Northern Corroboree Frog (*Pseudophryne pengilleyi*)
- Smoky Mouse (*Pseudomys fumeus*)

The immediate area of the works is mapped as Rosenberg's Monitor habitat (*Varanus rosenbergi*) an uncommon species. There is also a relatively large population of Grey Grass-tree (*Xanthorrhoea glauca subsp. angustifolia*) located to the east of the work site which is a locally rare species threatened by Phytophthora. This population is showing signs of Phytophthora damage and soil testing has confirmed the presence of the pathogen.

Impact on the Reserve

The proposed remediation works are to occur in an area which has been historically disturbed and is currently highly disturbed by active gullyng. Much of the work area was a former log dump and has a high level of weed cover, while the recovering dry forest/woodland native vegetation is of a widespread and common vegetation type.

Given the nature of the active gullyng within the proposed work area and the proximity to affected Grey Grass-trees, it must be assumed that Phytophthora is likely to be present in the work area, and could be accidentally spread to other locations.

The mitigation measures listed within the supplementary material are comprehensive and highly important to avoid and mitigate any potential impacts. Measures which are particularly important include:

- Remediation works will be undertaken during the period of least erosive rainfall events (Autumn) and will be limited to periods of dry weather.
- Sediment controls in the form of brush-mat bunds and coir logs will be installed to minimise downstream impacts of sediment displacement during the works, noting that the remediation works are necessary because of existing erosion.
- Access to the sites will be via Pierces Creek Road and Hayes Road – no formal access track works are required.
- All native vegetation removed will be stockpiled and reused on the site as brush-matting, including that used as sediment controls during the construction phase.
- All machinery and vehicles entering the project areas to be free of weeds and soil and will be decontaminated to minimise the spread of pathogens.
- Earthworks will be progressively staged to minimise the extent and duration of soil disturbance.
- All graded areas will be extensively revegetated, with biodegradable weed mats acting as a complete soil cover.
- All imported rock and structural soil ameliorants will be certified virgin excavated.

- Compost used in planting will be Australian Standard (AS4454) certified.
- The 'Protocol for cultural heritage assessment of vegetation management activities along PCS tracks and trails' will be applied to the project area for the entirety of the works.
- The Works Plan will include a detailed risk assessment and include protocols for unforeseen events that delay works.
- Maintenance of revegetation works and for the control of weeds will be regularly undertaken after the conclusion of the project works.

The Lower Cotter Catchment Reserve management strategy aims to promote regeneration and ecosystem function while securing water quality outcomes. The statutory Implementation Plan of the Lower Cotter Catchment Reserve Management Plan 2018 specifies gully erosion remediation, bare-ground restoration, and targeted hillslope revegetation as high priority actions. All three of these actions are executed as part of this project and it is therefore consistent with this objective.

The remediation works are likely to result in a long-term positive outcome for the area.

Potentially Significant Environmental Impacts

The area of works is in a historically highly disturbed part of the Lower Cotter Catchment that does not exhibit any critical conservation value. As the gullies are erosional features rather than natural waterways, there is no aquatic habitat that will be impacted by these works. The installation of the low-gradient channel as part of the diversion bank at Hayes East, which will be densely planted with sedges, effectively creates a small constructed wetland, thereby improving aquatic habitat values. A similar effect is created at each of the check dams to be installed at Hayes West, where the ephemeral ponding allows sedges and other aquatic flora and fauna species to colonise these locations.

The vegetation is classified as 'derived native shrubland', given it is regenerating following the cessation of plantation forestry in the mid-2000's. Some native vegetation (not more than 0.5ha) will be removed as part of the works, with the majority occurring at Hayes East. The significant revegetation component of this project will ameliorate this vegetation removal.

Although the broader Lower Cotter Catchment Reserve area is host to the Rosenberg's monitor (*Varanus rosenbergi*), the proposed works are not expected to affect Rosenberg's monitor habitat. While abovementioned temporary fence will exclude grazing and browsing animals from the revegetation area, it will not be large enough to negatively restrict the movement of native animals in the localised area. Conditions have been included to ensure that works including construction, maintenance and ongoing land management, will not increase the likelihood of the

spread of weeds or pathogens, and will provide for the effective remediation of the site. The conditions are:

- Remediation works will be undertaken during the period of least erosive rainfall events (Autumn) and will be limited to periods of dry weather.
- Sediment controls in the form of brush-mat bunds and coir logs will be installed to minimise downstream impacts of sediment displacement during the works, noting that the remediation works are necessary because of existing erosion.
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- The Works Plan will include a detailed risk assessment and include protocols for unforeseen events that delay works.
- Maintenance of revegetation works and for the control of weeds will be regularly undertaken after the conclusion of the project works.

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.