

Planning and Development (Conditional Environmental Significance Opinion – Block 366, Paddys River – Tidbinbilla Road Gully Rehabilitation) Notice 2021

Notifiable instrument NI2021–771

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 366, Paddys River – Tidbinbilla Road Gully Rehabilitation) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 24 November 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 gully rehabilitation works on Block 366, of Paddys River.
- (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.

Craig Weller
Delegate of the planning and land authority
15 December 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

Franklin Consulting Australia Pty Limited as represented by Mr John Franklin, Director.

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 rehabilitation of a minor tributary of Castle Hill Creek as described in the submission.

LOCATION

Block 336 Paddys River on Tidbinbilla Road.

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:

- Temporary sediment and erosion control measures will be installed in the base of the gully to be rehabilitated.

- A rock flume will be constructed to convey diverted runoff flows safely from the paddock level to the stable base of Castle Hill Creek.
- Earth diversion banks will be constructed to pick up and divert all flows from the culverts under Tidbinbilla Road away from the gully to be rehabilitated and towards the rock flume.
- The eroded gully will be progressively filled with imported material [Virgin Excavated Natural Material (VENM)], moving in an upstream to downstream direction and raising the gully floor gradually to ensure compaction of fill material to close to field compaction levels.
- Gully filling with VENM will raise the gully floor to within 150mm of surrounding paddock levels, with the last 150mm to be built up with quality loam topsoil material. Topsoils will be tested to ensure they are suitable to support revegetation efforts. Soil ameliorants will be added as required.
- The entire disturbed area (topsoiled area) will be sown with sterile groundcover species to minimise erosion risk and under-sown with native groundcover species. The topsoiled area will be lightly mulched to create an immediate groundcover to reduce erosion risk, and to promote revegetation.
- Natural regeneration of native tree and shrub species will be promoted through fencing the entire riparian area and managing stock to allow regenerating species to establish. This will ensure native species are locally endemic species and ideally suited to the site.
- Gully filling and topsoiling activities will avoid any damage to existing mature native trees by strategically backfilling material in and around exposed root balls of trees along the gully line to stabilise and retain these important seed stock individuals.
- The existing farm dam will be utilised for dust suppression activities during works.
- Any stockpiled material will be located outside of flow lines and flow areas below culverts in areas of improved pasture and will include temporary sediment and erosion measures (silt fence) on the downslope side.

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

24th November 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 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 proposal will impact on 0.55ha of native vegetation.

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

Part of Block 336 has a Pc Overlay and forms part of the Murrumbidgee River Corridor. The development is located over 1 km from the River Corridor.

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 to rehabilitate a minor tributary flowing into Castle Hill Creek. The tributary is deeply incised and actively eroding upstream towards Tidbinbilla Road.

The eroded gully to be rehabilitated is a minor non-permanent drainage depression. Pipe culverts under Tidbinbilla Road have altered natural drainage patterns resulting in the majority of run-off being directed to Castle Hill Creek (through southern pipe culvert structure) or discharging into the area between the two incised drainage depressions (through the northern pipe culvert). Discharge from the northern culverts spreads out in the area between the drainage depressions then flows downslope before dropping over the edge of the incised drainage depressions with the majority of flows re-entering Castle Hill Creek.

The rehabilitation works proposed involve:

- Temporary sediment and erosion control measures will be installed in the base of the gully to be rehabilitated.
- A rock flume will be constructed to convey diverted runoff flows safely from the paddock level to the stable base of Castle Hill Creek.
- Earth diversion banks will be constructed to pick up and divert all flows from the culverts under Tidbinbilla Road away from the gully to be rehabilitated and towards the rock flume.
- The eroded gully will be progressively filled with imported material [Virgin Excavated Natural Material (VENM)], moving in an upstream to downstream direction and raising the gully floor gradually to ensure compaction of fill material to close to field compaction levels.
- Gully filling with VENM will raise the gully floor to within 150mm of surrounding paddock levels, with the last 150mm to be built up with quality loam topsoil material. Topsoils will be tested to ensure they are suitable to support revegetation efforts. Soil ameliorants will be added as required.
- The entire disturbed area (topsoiled area) will be sown with sterile groundcover species to minimise erosion risk and under-sown with native groundcover species. The topsoiled area will be lightly mulched to create an immediate groundcover to reduce erosion risk, and to promote revegetation.
- Natural regeneration of native tree and shrub species will be promoted through fencing the entire riparian area and managing stock to allow regenerating species to establish. This will ensure native species are locally endemic species and ideally suited to the site.
- Gully filling and topsoiling activities will avoid any damage to existing mature native trees by strategically backfilling material in and around exposed root balls of trees along the gully line to stabilise and retain these important seed stock individuals.
- The existing farm dam will be utilised for dust suppression activities during works.

- Any stockpiled material will be located outside of flow lines and flow areas below culverts in areas of improved pasture and will include temporary sediment and erosion measures (silt fence) on the downslope side.

Documentation Submitted

- Environmental Significance Opinion Supporting Documentation – East Booromba Gully Rehabilitation
- Form 1M.

Natural conservation values present

The area has historically been used for grazing and the surrounding paddocks have a groundcover dominated by improved pasture species. The area around the eroded gully tributary and the main Castle Hill Creek, has a degraded groundcover with mix of native species along with weeds and other non-native pasture species.

The biodiversity value of groundcover species improves to the north-east (downstream) of the area to be rehabilitated with an increasing range of native species and reduced number on non-native species including weeds (pers comm Greg Baines during site inspection).

The areas within the eroded gullies have been significantly degraded due to erosion and have limited groundcover vegetation.

The trees in the area are dominated by mature native species which will all be retained as part of the rehabilitation process as an important seed source for the natural regeneration that will be facilitated through fencing and management of stock.

The existing degraded state of the site means it is not a key place of importance for natural systems of the ACT. The rehabilitation works and subsequent revegetation will increase the value of the site as a natural system.

There are no significant fauna or habitat issues that will be adversely impacted by the proposed rehabilitation works. All remnant native trees will be retained, and natural regeneration combined with stock management fencing will result in extensive revegetation of the riparian zone with locally endemic native species. Therefore, the areas of Box Gum Woodland in degraded condition will be improved through stock management and natural regeneration.

The minor tributary to be rehabilitated has no aquatic habitat value as flows are minor and non-permanent. There is no aquatic vegetation in the base of the drainage feature nor any standing bodies of water which may serve as aquatic refugia. The

actively eroding gully head with vertical two metre drop, presents a physical and terminal upstream barrier to fish passage.

The potential to impact unrecorded Aboriginal Heritage Sites is considered low as the post-European incision of the drainage features (creeks) would have already disturbed any such sites and the proposed footprint of rehabilitation works will not significantly extend beyond the existing incised drainage lines. Commensurate with the low risk, the inclusion of an unexpected finds protocol for unrecorded Aboriginal Heritage Sites in the overall rehabilitation plan should be adequate to manage this issue.

The site does not exhibit an unusual richness of diversity of flora, fauna or landscapes and has been degraded through erosion and historical grazing and related farming practices.

The location does not include important areas of uncommon, rare or endangered flora, fauna, communities, natural landscapes or phenomena. The potential Box Gum Woodland community is in degraded state which will not be adversely impacted by the proposal and should be improved in condition through natural regeneration and stabilisation of the site.

The location is not important in demonstrating the principal characteristics of the range of landscapes, environments or ecosystems, the attributes of which identify them as being characteristic of their class.

The site does not represent one of the best examples of a type of landform, vegetation community or other natural feature.

The site is not important for information contributing to a wider understanding of the ACT's natural history, by virtue of its use as a research site, teaching site, type locality, reference or benchmark site.

Impact on the Reserve

There are no anticipated impacts on the Reserve. The works will occur over 1km from the boundary of the River Corridor.

Potentially Significant Environmental Impacts

The site works will avoid any more than minor clearance of highly eroded and disturbed vegetation. The total disturbance footprint has been minimised to cover only necessary works. The proposal includes weed and pathogen hygiene conditions.

Conditions have been included in the application to ensure that works will not have a significant impact:

- All run-off upslope of the site will be diverted through permanent soil and water management works including diversion banks and rock flume, around the gully to be rehabilitated prior to commencement of works to minimise sediment and erosion risk.
- Temporary sediment and erosion control measures, including the installation of hay bales weir across the base of the gully downstream of the extent of works, will be installed prior to the commencement of works and removed following successful revegetation of the site.
- Any stockpiles of materials will be located in areas of improved pastures outside drainage areas downslope of culverts, and will include installation of sediment control measures (downslope silt fence).
- The rehabilitation of the gully will be confined to the footprint of the existing eroded gully which has minimal native groundcover.
- The rehabilitation of the gully will not damage or destroy any existing mature native trees which will be retained as an important seed source for subsequent natural regeneration.
- The topsoiled rehabilitated gully will be seeded with sterile groundcover species which are undersown with native groundcover species.
- The topsoiled rehabilitated gully will be mulched with sterile cereal straw or similar.
- The entire riparian area including the rehabilitated gully and the main Castle Hill Creek will be fenced and stock access will be restricted to promote natural regeneration.
- Weeds will be managed in as revegetation establishes and a sustainable majority native groundcover is achieved.
- The extent of the works area will be clearly marked with no-go areas established in order to protect areas of natural value.
- All contractors working on the site will be inducted by the site manager who will ensure operations do not have adverse impacts on the natural values of the site and are completed in accordance with the proposal described.

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.