

Planning and Development (Conditional Environmental Significance Opinion – Block 20, Cotter River – Remediation of Gully Erosion in the Lower Cotter Catchment) Notice 2023

Notifiable instrument NI2023–443

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 – Remediation of Gully Erosion in the Lower Cotter Catchment) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 2 July 2023, 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 proposed remediation of gully erosion in the Lower Cotter Catchment at Block 20, Cotter River.

- (2) In this section:

conditional environmental significance opinion means the opinion in the schedule.

Note Under the Act, s 138AD (6), 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
20 July 2023

Schedule

See section 2(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 Peter Cotsell, 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 (ESO) 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 the development proposal as described in the application.

OPINION

Provided the works are undertaken in the manner consistent with the following conditions in addition to the mitigation 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:

1. No work is permitted on site when a Total Fire Ban is declared.
2. On days of High fire danger rating (FBI 25 or greater) all hot works and works that could emit a spark must cease, and defer the activities to be undertaken under less risky conditions and what mitigations measures such as fire suppression equipment can be implemented. The daily rating and a four day outlook are available during the declared bushfire danger period at <https://esa.act.gov.au/> for the proponent to assess risks.

Hot works includes welding, cutting, grinding, or other works involving open flames or which emit a spark such as excavating hard rock, slashing and brush-cutting.

Attached is a Statement of Reasons for the decision.



Bren Burkevics
Conservator of Flora and Fauna

2 July 2023

**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 Environmental Impact Statement (EIS) Schedule 4, being:

Part 4.3, item 3 proposal for development on land reserved under s 315 for the purpose of a wilderness area, national park, nature reserve or special purpose reserve.

The proposed works are located within the Lower Cotter Catchment Reserve, which has National Park, Special Purpose Reserve and Protection of Water Supply overlays.

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 Environmental Significance Opinion (ESO).

Project description

The proposed works are located wholly within a former pine plantation area. Degradation from past intensive land-use practices in combination with increased runoff as a result of the 2003 bushfires has caused significant gully erosion. This project focuses on one of the largest and most active gullies in the Lower Cotter Catchment, from which sediment displacement affects both aquatic habitat in Pierces Creek and water quality in Cotter Dam.

An ESO for this project was previously granted in 2021 and has since expired. Stage one was completed, however due to persistent wet weather conditions during the intervening years, stage two was unable to be completed prior to the ESO expiring. The stage two remediation works will involve drainage control and revegetation which, in combination, will reduce the velocity and depth of runoff and ultimately mitigate the continued active erosion of the gully.

The works will involve the installation of rock-lined energy dissipaters at the culvert outlets of Hayes East and Hayes West gullies, each also with linking rock chutes. A series of rock and log check dams will also be installed at the Hayes West gully to reduce flow velocities and capture sediment.

Documentation Submitted

- Environmental Significance Opinion Supporting Statement - Remediation of Gully Erosion in the Lower Cotter Catchment
- Diagram of remediation location
- Letter of authorisation
- 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 14 species of mammals, 12 species or subspecies of frog, 18 species of reptiles, over 118 species of birds and many native fish species have been recorded in the Lower Cotter Catchment Nature Reserve. There are 10 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*)

- White-throated Needletail (*Hirundapus caudacutus*)
- Diamond Firetail (*Stagonopleura guttata*)
- Pilotbird (*Pycnoptilus floccosus*)
- Gang-gang Cockatoo (*Callocephalon fimbriatum*)
- Greater Glider (*Petauroides volans*)
- Smoky Mouse (*Pseudomys fumeus*)
- Northern Corroboree Frog (*Pseudophryne pengilleyi*)
- Macquarie Perch (*Macquaria australasica*)

The immediate area of the works is mapped as Rosenberg's Monitor habitat (*Varanus rosenbergi*), which is an uncommon species.

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 gullying. 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.

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 (generally in Spring) and will be limited to periods of dry weather.
- Sediment controls will be installed to minimise downstream impacts of sediment displacement during the works, noting that the remediation works are necessary because of existing erosion.
- 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.
- 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 site is already highly disturbed and there are no significant fauna records or habitat within or close to the area of proposed works. The plans and supporting report indicate that a suitable, diverse and large-scale mixture of plantings will be utilised which are likely to improve the biodiversity value of the location.

The following conditions have been included to ensure that works will not increase the danger of bushfires:

1. No work is permitted on site when a Total Fire Ban is declared.
2. On days of High fire danger rating (FBI 25 or greater) all hot works and works that could emit a spark must cease, and defer the activities to be undertaken under less risky conditions and what mitigations measures such as fire suppression equipment can be implemented. The daily rating and a four day outlook are available during the declared bushfire danger period at <https://esa.act.gov.au/> for the proponent to assess risks.

Hot works includes welding, cutting, grinding, or other works involving open flames or which emit a spark such as excavating hard rock, slashing and brush-cutting.

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.