

Planning and Development (Conditional Environmental Significance Opinion – Smiths Road upgrades – Blocks 174 and 181, Tennent) Notice 2020

Notifiable instrument NI2020–723

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 – Smiths Road upgrades – Blocks 174 and 181, Tennent) Notice 2020*

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 12 November 2020, 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 the upgrade of Smiths Road, beginning approximately 800m south of the Gudgenby River bridge, on Blocks 174 and 181, District of Tennent.

- (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
17 November 2020

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

WSP Australia Pty Ltd, as represented by Alex Garrett, Environmental Scientist.

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 upgrade of Smiths Road as described in the submission.

LOCATION

The proposed works are located on Smith Road, beginning approximately 800 m south of the Gudgenby River bridge. Blocks affected are Blocks 174 and 181, District of Tennent and the Smiths Road 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:

1. No further vegetation clearance is to be undertaken
2. A Construction Environmental Management Plan (CEMP) is to be endorsed by the Conservator of Flora and Fauna prior to commencement of works
3. Weed management responsibilities are to also apply to those areas outside the road works corridor that were disturbed and damaged as a result of project works.

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

12 November 2020

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 1(a) development that may impact on a species or ecological community that is endangered, a species that is vulnerable; protected; or has special protection status;

The area of the proposed works contains:

One community listed as endangered:

- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (Box Gum Woodland).

Six animal species listed as threatened under the Nature Conservation Act 2014:

- Hooded Robin (*Melanodryas cucullata*)
- Scarlet Robin (*Petroica boodang*)
- Brown Treecreeper (*Climacteris picumnus*)
- Varied Sitella (*Daphoenositta chrysoptera*)
- Little Eagle (*Hieraaetus morphnoides*)
- White-Winged Triller (*Lalage sueurii*)

Habitat for two plant species listed as threatened

- Hoary Sunray (*Leucochrysum albicans* var. *tricolor*)
- Small Purple Pea (*Swainsona recta*)

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 proposal is located on land which has Pc-nature reserve and Pd-special purpose reserve overlays, being part of Gigerline Nature Reserve and Namagi Special Purpose Reserve.

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

Smiths Road is a dirt road within Gigerline Nature Reserve and Namadgi Special Purpose Reserve in the district of Tennent. The predominantly dirt road links the community of Tharwa with Angle Crossing and rural properties in NSW to the south. The proposed works are to upgrade the 1.1 km section of dirt road from where the existing tarmac terminates at the northern end of Smiths Road. The works aim to improve sight lines and safety for road users.

Part of the works have already been undertaken, including:

- Clearing of vegetation
- Felling of approximately 54 trees, including 11 with a diameter at breast height of greater than 50 cm
- Stockpiling of cleared vegetation
- Earthworks consistent with the proposed road design
- Realignment of fencing
- Widening of the road surface
- Drainage features

Works still to be undertaken include:

- Rehabilitation of the existing sealed road (patching works)

- Sealing over 1 km of existing gravel road including widening to be a total of 8 m wide (currently averages around 5 m wide)
- Installation of gabion baskets (approximately 120 m) and associated landscape works.

Documentation Submitted

- Smiths Road Upgrade – Application for an Environmental Significance Opinion;
- Letters of Authorisation;
- Form 1M.

Natural conservation values present

The project area is a 1.1 km stretch of road which has been degraded by disturbance associated with the existing road (e.g. weed invasion and soil disturbance to roadside areas). However, the area is part of a significant wildlife corridor and contains habitat for small threatened birds.

The vegetation type within the project area is primarily exotic grassland with patches of native vegetation. All of the native vegetation in the project area should be regarded as being part of the Yellow Box – Blakely's Red Gum threatened ecological community (Box Gum Woodland). This is because within 10m of the road edge around 60% of the trees present are Yellow Box or Blakely's Red Gum and of the 56 native species observed within the area of damage, 51 are on the Commonwealth's list of species that are indicative of endangered Box Gum Woodland. There were 34 non-grass understorey species of which the Commonwealth considers that 13 are important species of the community.

Tree ring dating of Yellow Box trees by the Australian National University found that in the Canberra area trees of 50 cm diameter at breast height are about 120 years old and trees of 80 cm are around 190 years old.¹ Thus the area contained several trees which were at least 100 years old.

The area provides habitat for several threatened birds, including:

- Hooded Robin (*Melanodryas cucullata*)
- Scarlet Robin (*Petroica boodang*)
- Brown Treecreeper (*Climacteris picumnus*)
- Varied Sitella (*Daphoenositta chrysoptera*)
- Little Eagle (*Hieraaetus morphnoides*)
- White-Winged Triller (*Lalage sueurii*)

¹ Banks, J.C.G. 1997. Tree ages and ageing in yellow box. In Dargavel, J.(ed). *Australia's ever-changing forests III*. Canberra, Centre for Resource and Environmental Studies, Australian National University, pp. 35-47.

Two species considered rare in the ACT and listed as Vulnerable in the NSW which have been recorded or have the potential to occur in the area include:

- Gang-gang Cockatoo (*Callocephalon fimbriatum*)
- Rosenberg's Monitor (*Varanus rosenbergi*)

No threatened plants have been recorded in the project area, however there is the potential for two listed species to occur:

- Hoary Sunray (*Leucochrysum albicans* var. *tricolor*)
- Small Purple Pea (*Swainsona recta*)

Other threatened and rare plants recorded in the general locality but considered unlikely to occur in the project area include:

- Pale Pomaderris (*Pomaderris pallida*)
- Austral Toadflax (*Thesium australis*)
- Drooping Sheoak (*Allocasuarina verticillate*)
- Black Cypress Pine (*Callitris endlicheri*)
- Silky Swainson-pea (*Swainsona sericea*)

Impact on the Reserve

The project area is an existing road and its degraded roadside areas. The works involve clearance of 0.45 ha of Box Gum Woodland and approximately 54 trees. The widening of the road will result in a slight increase in the fragmentation of habitat along the linear alignment, however, is unlikely to impact upon rare plant species.

The proposal includes weed mitigation measures and a commitment to inclusion of weed management, revegetation and rehabilitation, and erosion and sediment control plans within a CEMP, which should reduce the risk of impacts to the broader landscape.

The proposal will result in increased safety of Smiths Road for road users.

Potentially Significant Environmental Impacts

Conditions have been included to ensure that works will not impact the broader landscape:

1. No further vegetation clearance is to be undertaken
2. A Construction Environmental Management Plan (CEMP) is to be endorsed by the Conservator of Flora and Fauna prior to commencement of works

3. Weed management responsibilities are to also apply to those areas outside the road works corridor that were disturbed and damaged as a result of 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.