

# Planning and Development (Conditional Environmental Significance Opinion – Blocks 118, 150, 170, 174 and 181, Tennent – Smiths Road Upgrade 2) Notice 2021

Notifiable instrument NI2021–310

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 – Blocks 118, 150, 170, 174 and 181, Tennent – Smiths Road Upgrade 2) Notice 2021*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

- (1) On 7 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 the second stage of upgrades of Smiths Road, on Blocks 118, 150, 170, 174 and 181, 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.

George Cilliers  
Delegate of the planning and land authority  
25 May 2021

## Schedule

See section 3(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

P L A N I T Strategic, as represented by Hope Watson, Environmental and Town Planner.

#### 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 the second stage of upgrades to Smiths Road as described in the submission.

#### LOCATION

The majority of works will occur within the Smiths Road reserve, however some works may partially extend into rural blocks 118, 150, 170, 174, and 181 District of Tennent.

#### 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. A Construction Environmental Management Plan (CEMP) is to be submitted to and endorsed by the Conservator of Flora and Fauna prior to recommencement of works. The CEMP must include:
  - a. A Weed Management Plan which includes pre-works weed control, particularly of African Lovegrass
  - b. A Revegetation Plan which includes use of Kangaroo Grass to suppress African Lovegrass
  - c. A Sediment and Erosion Control Plan
2. Tree protection fencing is to be established around mapped hollow bearing trees prior to commencement of works
3. Any rock uncovered during the works is to be collected and placed in the adjacent reserve to the satisfaction of the ACT Parks and Conservation Service (PCS)
4. Access, parking of vehicles and machinery, and the storage of materials is to be contained to existing tracks and disturbed areas to the satisfaction of PCS
5. Rehabilitation and weed management requirements are to apply to all areas disturbed by the works included in this ESO
6. No works are to occur on days of Total Fire Ban, when the Fire Danger Index exceeds 30, or after rain events when the ground is wet and boggy.

Attached is a Statement of Reasons for the decision.



Ian Walker  
Conservator of Flora and Fauna

07 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 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 contains:

One community listed as endangered:

- Yellow Box Red Gum Grassy Woodland.

Habitat suitable for four animal species listed as threatened under the Nature Conservation Act 2014:

- Hooded Robin (*Melanodryas cucullate*)
- Scarlet Robin (*Petroica multicolour*)
- White-Winged Triller (*Lalage sueurii*)
- Varied Sitella (*Daphoenositta chrysoptera*)

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

The works are within Gigerline Nature Reserve and Namadgi 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 an unsealed road within Gigerline Nature Reserve and Namadgi Special Purpose Reserve. The predominantly dirt road links the community of Tharwa with Angle Crossing and rural properties in NSW to the south.

Upgrade works have already been undertaken to part of the road, and this second stage involves upgrade of approximately 1km of dirt road from where Stage 1 works end. The proposed upgrades will include the widening and minor realignment of the road reserve, resurfacing to a bitumen road, installation of guard rails and upgrading of road drainage infrastructure.

The proposed works include:

- Clearing of existing vegetation including trees
- Earthworks
- Widening of the road surface to a total of 8m wide (currently average of 5m wide)
- Rehabilitation of the existing sealed road
- Sealing over 1km of existing gravel road
- Installation of barrier fencing
- Realignment of fencing
- Installation/improvement of drainage features
- Installation of gabion baskets and associated landscape works.

The works aim to improve sight lines and safety for all road users.

### **Documentation Submitted**

- ESO Application Submission Report – Smith’s Road Upgrade, Tharwa;
- Smiths Road Stage 2 – Draft Preliminary Sketch Plans;

- Letters of Authorisation;
- Form 1M.

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

The study site can be broadly characterised as supporting a relatively intact canopy of native tree species with a moderately intact shrubby understorey and a highly modified groundcover. The majority of the vegetation at the site is consistent with the Apple Box – Broad-leaved Peppermint tall shrub – grass open forest primarily on granitoids (u29), with some patches potentially meeting the Nature Conservation Act threshold for Yellow Box Red Gum Grassy Woodland endangered ecological community (Box Gum Woodland). No records of threatened flora or fauna species exist within the immediate area, however there is habitat suitable for small woodland birds, including several threatened species:

- Hooded Robin (*Melanodryas cucullate*)
- Scarlet Robin (*Petroica multicolour*)
- White-Winged Triller (*Lalage sueurii*)
- Varied Sitella (*Daphoenositta chrysoptera*)

At a broader scale, the site is contiguous with Namadgi National Park which supports a wide variety of ecosystems and contributes to regional ecological connectivity through its links to reserves within NSW.

### **Impact on the Reserve**

The project area is an existing road and its degraded roadside areas. The works involve the clearance of up to 0.5 ha of vegetation and up to 51 trees, however no mapped areas of Box Gum Woodland or hollow bearing trees are to be impacted. 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 application report recommends several important mitigation measures, including:

- Establishment of weed management measures
- Establishment of tree protection fencing around the four mapped hollow bearing trees
- Retention of any rock uncovered and replacement into the adjacent reserve
- Containment of parking and storage of equipment to existing tracks to the greatest extent possible
- Rehabilitation of any disturbed areas off the existing tracks.

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. A Construction Environmental Management Plan (CEMP) is to be submitted to and endorsed by the Conservator of Flora and Fauna prior to recommencement of works. The CEMP must include:
  - a. A Weed Management Plan which includes pre-works weed control, particularly of African Lovegrass
  - b. A Revegetation Plan which includes use of Kangaroo Grass to suppress African Lovegrass
  - c. A Sediment and Erosion Control Plan
2. Tree protection fencing is to be established around mapped hollow bearing trees prior to commencement of works
3. Any rock uncovered during the works is to be collected and placed in the adjacent reserve to the satisfaction of the ACT Parks and Conservation Service (PCS)
4. Access, parking of vehicles and machinery, and the storage of materials is to be contained to existing tracks and disturbed areas to the satisfaction of PCS
5. Rehabilitation and weed management requirements are to apply to all areas disturbed by the works included in this ESO
6. No works are to occur on days of Total Fire Ban, when the Fire Danger Index exceeds 30, or after rain events when the ground is wet and boggy.

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.