

Planning and Development (Conditional Environmental Significance Opinion – Block 4, Section 12, Tharwa and various Blocks, Paddys River – ‘Cuppa’ Subdivision and Consolidation) Notice 2022 (No 2)

Notifiable instrument NI2022–136

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 4, Section 12, Tharwa and various Blocks, Paddys River – ‘Cuppa’ Subdivision and Consolidation) Notice 2022 (No 2)*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 4 February 2022, 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 subdivision and consolidation, on Block 4, Section 12, of Tharwa, and various Blocks, 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.

George Cilliers
Delegate of the planning and land authority
22 March 2022

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

Purdon Planning, as represented by Trevor Fitzpatrick.

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 division of the existing property, which is currently held under one Crown Lease, to create three separate parcels. The proposed subdivision will result in the following properties (separate Crown Leases):

- Site A: Block 340 Paddys River Existing Woolshed and outbuildings, 42.7ha
- Site B: Block 353 Paddys River +Block 4 Section 12 Tharwa, 28.5ha
- Site C: Blocks 199 & 237, Paddys River Existing dwelling and farm sheds 335ha

as described in the submission.

LOCATION

Blocks 199, 237, 340 and 353 Paddys River and Block 4 Section 12 Tharwa

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. Sites A, B and C must be used only for the purpose of agriculture not including the agistment of horses and ancillary thereto keeping a maximum of two (2) horses for personal use and two (2) dwellings;
2. Carrying capacity for each of the three sites must not exceed 1 DSE per hectare;
3. All living mature native trees (DBH>50cm) must be retained.
4. **Block 353 Paddys River and Block 4 Section 12 Tharwa**
Building envelopes may only be permitted in the hatched area shown at Figure 1.
5. **Block 340 Paddys River**
Building envelopes may only be permitted in the hatched area shown at Figure 2.
6. **Blocks 199 & 237 Paddys River**
Location of a new hay shed may only be permitted as shown at Figure 3.
7. **Mitigating fragmentation**
Prior to the granting of any new leases, the fencing and planting for connectivity enhancement in accordance with Figure 4 must occur using the following species:
 - *Eucalyptus melliodora*
 - *Eucalyptus blakelyi*
 - *Acacia dealbata*
 - *Acacia ulicifolia*
 - *Banksia marginata*
 - *Bursaria spinosa*
 - *Callistemon pallidus*
 - *Grevillea juniperina*
 - *Hakea sericea*

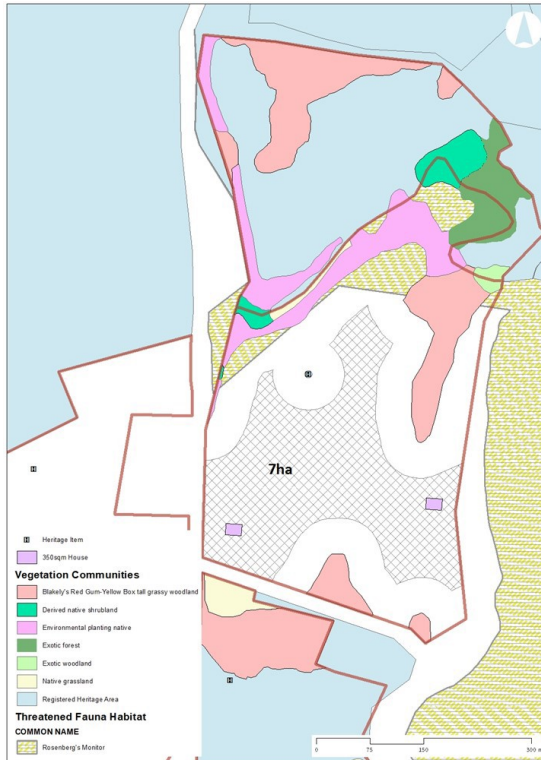


Figure 1. Site constraints and indicative building envelope at Site B (Blocks 353 & 4)

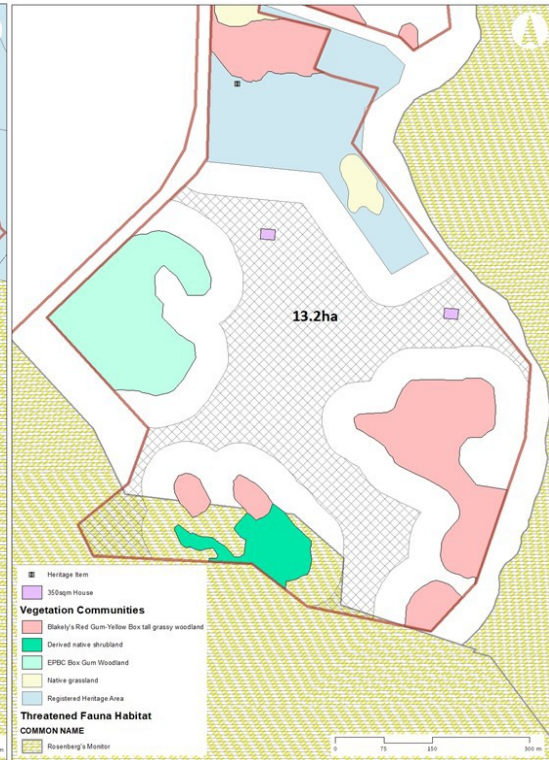


Figure 2. Site constraints and indicative building envelope at Site A (Block 340)



Figure 3. Indicative building envelope for proposed hay shed at Site C (Block 237)

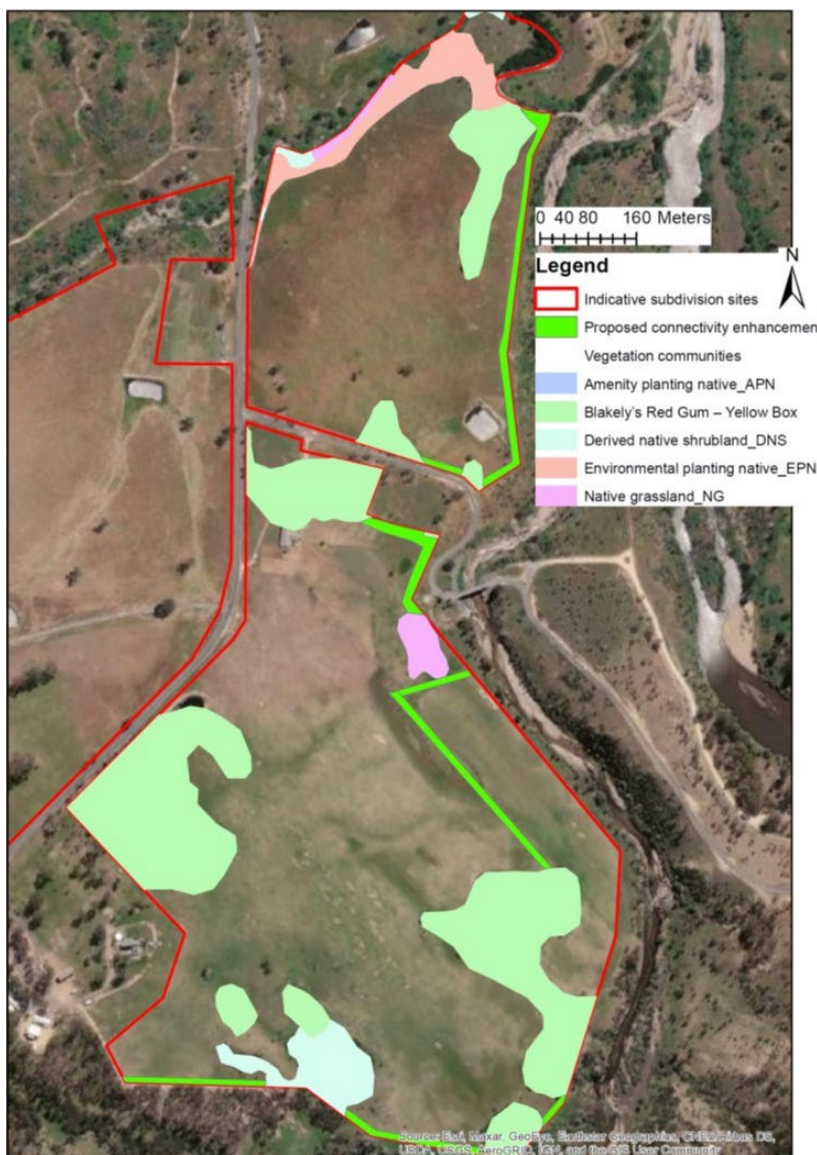


Figure 2. Proposed habitat connectivity enhancement

Attached is a Statement of Reasons for the decision.

Ian Walker
 Conservator of Flora and Fauna
 4th February 2022

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:

- 4.3, Item 1
- 4.3, Item 3
- 4.3, Item 6

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 application area contains:

One vegetation communities listed as endangered:

- Yellow Box-Blakey's Red Gum Grassy Woodland (NC Act forming a significant component of the Commonwealth listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland).

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

- Rosenberg's Monitor (*Varanus rosenbergi*)

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

The whole of Block 4 Section 12 Tharwa (approximately 10.5 ha) and a portion of Block 353 Paddys River (approximately 4.5 ha) are within Gigerline Nature 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

This proposal is to separate three blocks and consolidate two others which are presently under a single crown lease.

All five blocks are registered as separate parcels of land with separate cadastral descriptions; however, they are all listed on a single Crown Lease. It is proposed to 'subdivide' the property to separate the lease to create 3 individual Crown Leases:

- Site A: being Block 340
- Site B: being the combined area of Block 353 and Block 4 Section 12 and
- Site C: being the combined area of Blocks 199 and 237.

No changes to the existing block sizes and configurations are proposed as part of this lease separation.

Documentation Submitted

- Request for Environmental Significance Opinion Blocks 199, 237, 340 and 353 Paddys River and Block 4 Section 12 Tharwa
- Letter of Authorisation

Natural conservation values present

Site A (Block 340) contains approximately 4 hectares of vegetation that meets the criteria for listing as White Box-Yellow Box-Blakely's Red Gum Grassy Woodland endangered ecological community under the Commonwealth *Environment Protection and Biodiversity Conservation Act (1999)*. This vegetation also meets the definition as Yellow Box-Blakely's Red Gum Grassy Woodland under the *Nature Conservation Act (2014)*. Additional areas may meet the definition as Yellow Box-Blakely's Red Gum Grassy Woodland under the *Nature Conservation Act (2014)*. This block also contains

Rosenberg's Monitor habitat and habitat for small woodland birds such as Scarlet Robin and Hooded Robin.

Site B (Block 353 and Block 4 Section 12) contain woodlands that may meet the definition as Yellow Box-Blakely's Red Gum Grassy Woodland under the *Nature Conservation Act (2014)*. These blocks also contain Rosenberg's Monitor habitat and habitat for small woodland birds such as Scarlet Robin and Hooded Robin.

Site C (Blocks 199 and 237) contains approximately 19 hectares of vegetation that meets the criteria for listing as White Box-Yellow Box-Blakely's Red Gum Grassy Woodland endangered ecological community under the Commonwealth *Environment Protection and Biodiversity Conservation Act (1999)*. This vegetation also meets the definition as Yellow Box-Blakely's Red Gum Grassy Woodland under the *Nature Conservation Act (2014)*. Additional areas may meet the definition as Yellow Box-Blakely's Red Gum Grassy Woodland under the *Nature Conservation Act (2014)*. This block also contains Rosenberg's Monitor habitat and habitat for small woodland birds such as Scarlet Robin and Hooded Robin.

Impact on the Reserve

Approximately 18.5 hectares of Site B (Block 353 and Block 4 Section 12) is within Gigerline Nature Reserve. The proposal may result increased environmental impact on the Nature Reserve through changed or intensified agricultural practises.

The proposal seeks to mitigate these impacts by reducing the number of horses that may be kept on each property. Each property must be used only for the purpose of agriculture not including the agistment of horses and ancillary thereto keeping a maximum of two (2) horses for personal use and two (2) dwellings. This will ensure that there is no change in the agricultural impacts that are permitted within the reserve.

Two dwellings would be permitted on Site B. To ensure that this does not impact on the Nature Reserve It is intended that they be constrained to the building envelopes shown as grey hatching in Figure 1 to ensure that any future buildings are located well away from any areas of environmental sensitivity.

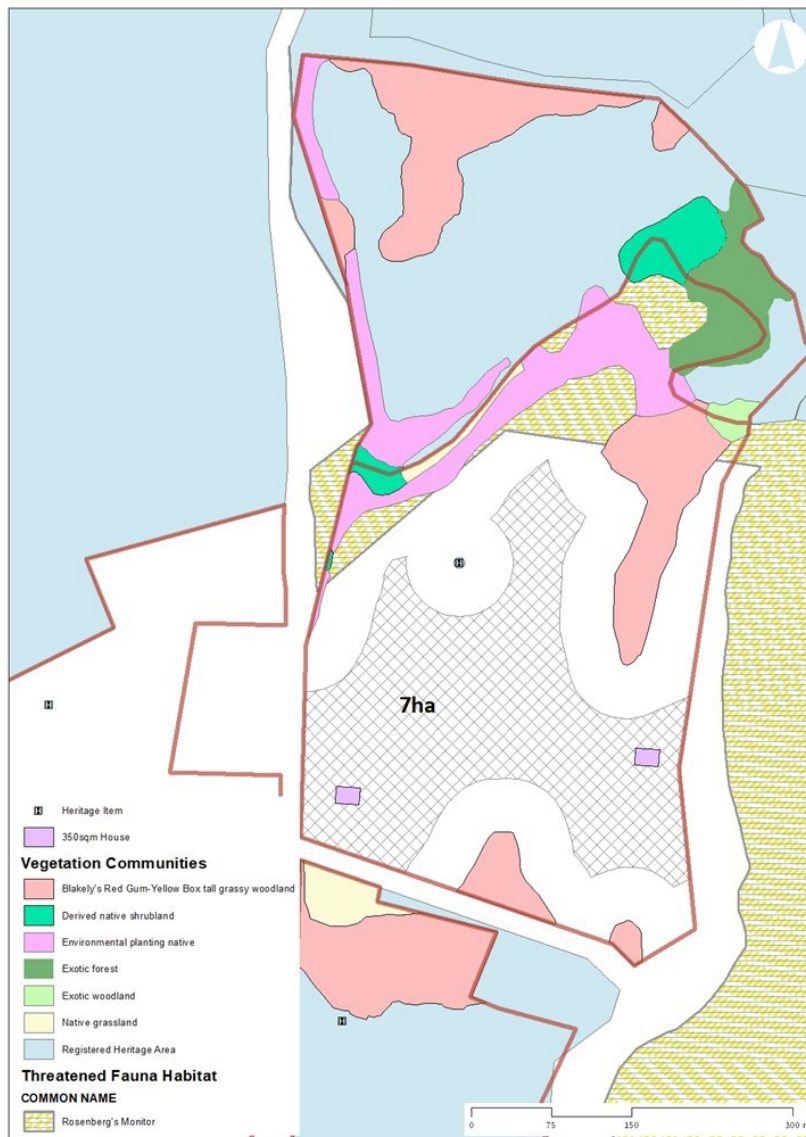


Figure 1. Site constraints and indicative building envelope at Site B (Blocks 353 & 4)

Potentially Significant Environmental Impacts

The ESO application identified intrusion into the Nature Reserve and fragmentation of habitat as the highest risks posed by the proposal.

The impacts and mitigation measures relevant to the reserve have been discussed above. Additional mitigation measures include:

- Defining the building envelopes for Site A (Block 340) as shown in Figure 2;
- Defining the building envelope for a proposed new hay shed for Site C (Block 237) within a previously disturbed area, as shown in Figure 3, and ensuring no trees are removed as part of this construction;

- Carrying capacity for each of the three sites must not exceed 1 DSE per hectare; and
- Retention of living mature native trees (DBH>50cm).

The patches of Box-Gum Woodland potentially provide habitat woodland birds. The existing patches of woodland already reflect an extent of fragmented habitat. Further clearing of any or all of the patches would be a moderate consequence to the ecological values of the locality. The retention of the discreet woodland patches together with enhancement of the corridor through fencing and additional plantings will ensure retention of habitat for such species. Canberra Ornithologists Group and the consulting ecologist identified the following principles to improve woodland connectivity:

- retain mature eucalypts, stepping stones for connectivity in the landscape;
- provide for eucalypt re-generation, the next generation of large trees (e.g. fence off some mature eucalypt/s to exclude grazing and encourage natural re-generation);
- retain and enhance patches of native vegetation (e.g. wattles, other shrubs, eucalypt re-growth, saplings);
- retain dead and fallen timber (where possible);
- improve connectivity linkages within the site, to other remnant vegetation, river reserve etc (e.g. strategic plantings).

The proposed mitigation measures are to fence corridors within the proposed subdivision sites (mainly along selected boundaries which adjoin the Murrumbidgee River corridor and to connect or intersect with the large timbered (Box-Gum Woodland) areas. The fenced corridors would be 'cluster planted' particularly with the smaller spiky *Bursaria spinosa*. Additional plantings of other species such as *Grevillea*, *Banksia marginate* and *Callistemon subulatus*, *Acacia dealbata* (silver wattle), *Acacia mearnsii* (green wattle) and *Acacia cultriformis* (knife-leaf wattle) are proposed to supplement the understorey.

It is considered that the creation of a continuous fenced corridor along the river corridor connecting existing areas of Box-Gum Woodland will not only mitigate potential impacts associated with fragmentation of habitat, but would enhance the habitat values by enlarging the corridor and providing continuous habitat for woodland bird species. Figure 4 outlines the location of the proposed connectivity corridors.

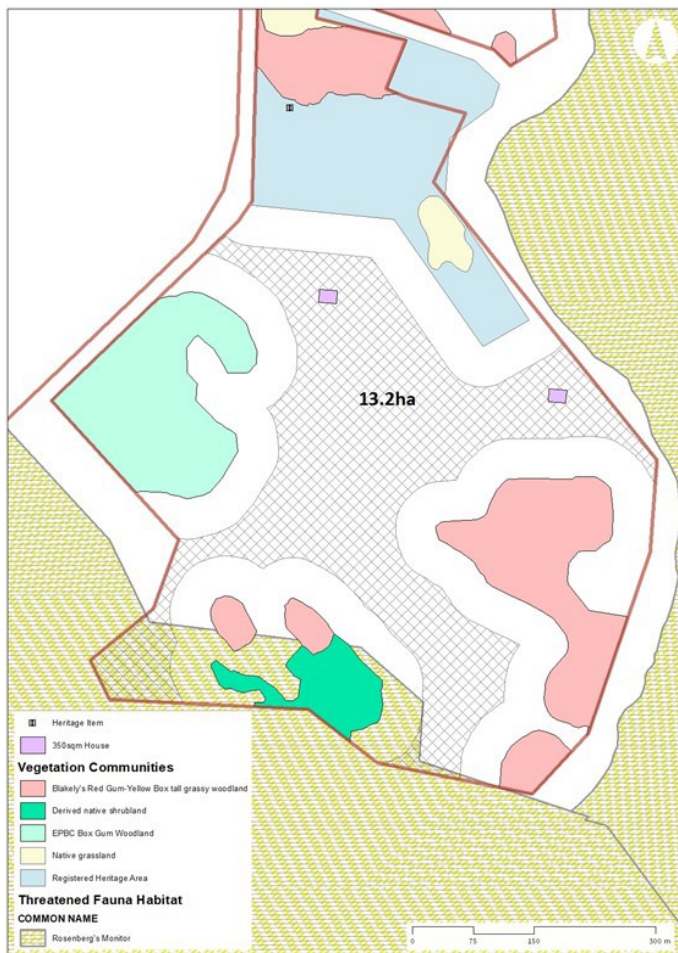


Figure 2. Site constraints and indicative building envelope at Site A (Block 340)



Figure 3. Indicative building envelope for proposed hay shed at Site C (Block 237)

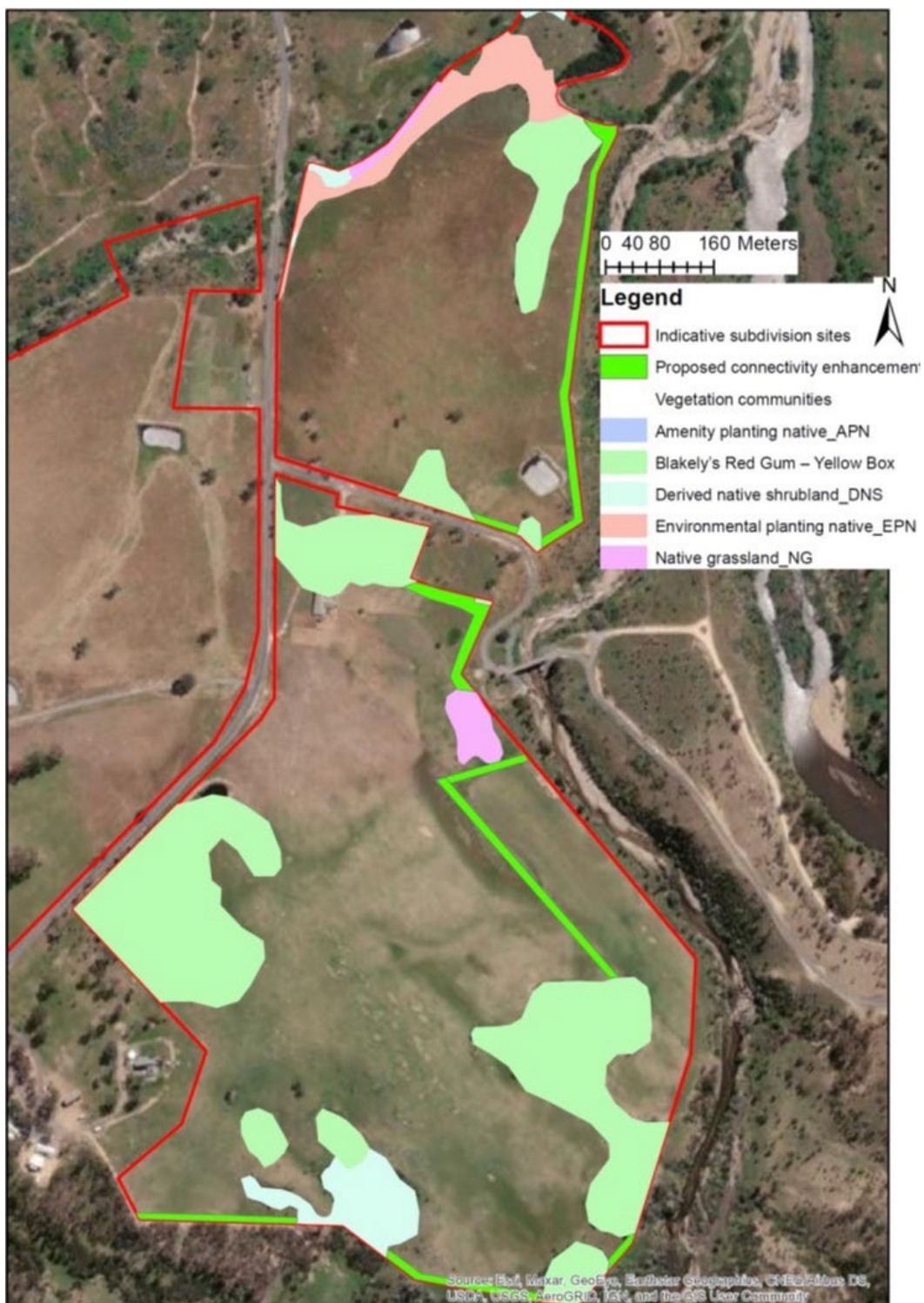


Figure 4. Proposed habitat connectivity enhancement

It is concluded that the nature of the development and the proposed mitigation measures combine to minimise or offset a number of environmental impacts identified as part of the risk assessment in the study and will not result in any significant impacts to the relevant items under Schedule 4 of the *Planning and Development Act 2007*.

Conditions have been included to ensure that the proposal does not have an impact on Gigerline Nature Reserve or Box-Gum Grassy Woodland through increased agricultural activity or the construction of new buildings.

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.