

Planning and Development (Conditional Environmental Significance Opinion – Blocks 1658 and 1665, District of Tuggeranong – Wombat Gully Remediation) Notice 2023

Notifiable instrument NI2023–648

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 – Blocks 1658 and 1665, District of Tuggeranong – Wombat Gully Remediation) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 1 October 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 the remediation of gully erosion caused by wombat burrows, on blocks 1658 and 1665, District of Tuggeranong.

- (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.

George Cilliers
Delegate of the planning and land authority
20 October 2023

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

Mr Andrew Geikie, Jeggaline RMB 15, Tharwa Drive, Lanyon.

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 remediation of gully erosion caused by wombat burrows as described in the submission.

LOCATION

Blocks 1658 & 1665, District of Tuggeranong, otherwise known as Jeggaline.

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.

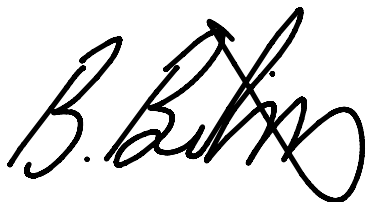
This opinion is granted subject to the following conditions made under s138AB(4) of the Act:

Specific conditions

1. A Nature Conservation license is required prior to the decommissioning of any burrows.
2. Burrow monitoring is to be conducted for a minimum of 5 days as per the following directions:
 - Locate every burrow entrance within 30 metres of the intended work site.
 - Inspect the 30-metre-radius area around every burrow entrance found, to identify any additional entrances to that burrow.
 - At every potential entrance to a burrow intended to be destroyed:
 - install a wildlife motion-sensor camera near the entrance, aimed at the entrance; or
 - place sticks across the entrance in such a way that use by any animal is still possible but any such use will be obvious upon later inspection (sticks disturbed); or
 - if the entrance floor is sandy, brush it flat (making a so-called “sand trap”) so that use by any animal will be obvious upon later inspection (tracks left).
 - Monitor burrow use by checking each entrance and any camera records daily.
 - Any sticks moved must be replaced daily, and any tracked sand brushed flat daily, during the monitoring period.
 - When monitoring evidence shows that all potential entrances to a burrow have been unused by any animal for a minimum of 5 consecutive days the burrow must be:
 - destroyed immediately; or
 - closed for destruction later.
 - 5 consecutive days means checking burrow entrances in daylight on day 1 after monitoring has been set up the day before or previously, and checking them again on days 2, 3, 4, and 5. Most wombat activity will be nocturnal or crepuscular (around dusk/dawn).
 - In these conditions, closing a burrow means completely blocking every potential entrance to the burrow, such as by using a large rock at each such entrance, or corrugated iron securely staked in place. wombats are strong animals and any method of burrow closure must take this into account.
 - A burrow must not be closed or destroyed when animals are, or may be, inside the burrow, as informed by monitoring evidence and any pre-destruction checking required to be carried out.
 - If closing a burrow, every potential entrance to the burrow must be closed on the same day.
 - If a burrow has been closed, immediately before the burrow is subsequently destroyed, every potential entrance to that burrow must be checked for evidence of re-use by any animal since the burrow’s closure (“pre-destruction checking”).
 - Any destruction of a burrow that has been closed must occur within 2 weeks of the burrow’s closure. If this timeframe cannot be met the burrow must be re-opened at the end of the 2 weeks.

- Any burrow closed must remain closed until the time of its destruction or until the time of its re-opening if the 2-week period above cannot be met.
- You must make and retain records of (1) the methods of monitoring used, (2) the date monitoring commenced at each burrow, (3) dates when wombats or other animals are recorded using burrows, (4) dates when monitoring is completed, (5) dates when any burrow is closed and (6) dates when any burrow is destroyed.
- A copy of the records required to be made above must be submitted to EPSDD Licensing & Compliance upon completion of works.

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, appearing to read 'B. Burkevics', with a stylized flourish at the end.

Bren Burkevics
Conservator of Flora and Fauna

| October 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 EIS Schedule 4, being:

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

The block being proposed for the works has a Pd: Special Purpose Reserve overlay.

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 proposed work is to remediate gully erosion issues in the dam wall of Rural Block 1665, Tuggeranong.

The erosion site is an actively eroding gully head within the outlet of the dam. The erosion has progressed from the drainage depression downstream of the dam and has resulted in a lowering of the top water level of approximately 1.5 meters. The site contains several wombat burrows which are currently contributing to the worsening erosion issues.

Remediation works will involve the construction of a new rock armoured dam spillway through the dam wall in conjunction with reinstating the dam wall and filling the eroded dam outlet area with suitable clay material, capped with topsoil, and revegetated.

Documentation Submitted

- Inspection Report
- Erosion Control assessment report April 2021
- Form 1M.

Natural conservation values present

The vegetation of the works area is dominated by a sparse cover of Yellow Box and Red Box trees with no native diversity. The ground layer is predominantly covered by African Love Grass with no native diversity and does not support any endangered ecological communities. Pink-tailed Worm-lizard habitat is considered present on the site based on the occurrence of rocky outcrops however, this habitat will not be impacted by the proposed works. The sparse tree cover provides marginal habitat for small woodland birds.

Potentially Significant Environmental Impacts

These works are required to correct major gully erosion currently depositing significant sediment into the Murrumbidgee River. The works as proposed will not impact on any threatened species or ecological communities and the only impact expected by these works is to wombat burrows located in the area requiring remediation. Inspection of the area showed ample burrows located within the river corridor suitable for resident wombats to relocate to. The impact to the resident wombats is considered minimal.

The proponent has sought advice and assessment of the area and works will be undertaken in accordance with advice outlined in the erosion assessment report. Works include revegetation of the riparian zone to minimise risk of future erosion and will likely improve connectivity to Pink-tailed Worm-lizard habitat by reinstating grass cover across the repaired gullies and improving habitat connectivity.

Conditions have been included to ensure that wombat burrows and their decommissioning is managed appropriately and minimises impacts to the resident wombats. It is noted the destruction of burrows will require a Nature Conservation license prior to their decommission.

Specific conditions

- Locate every burrow entrance within 30 metres of the intended work site.
- Inspect the 30-metre-radius area around every burrow entrance found, to identify any additional entrances to that burrow.

At every potential entrance to a burrow intended to be destroyed:

- install a wildlife motion-sensor camera near the entrance, aimed at the entrance;
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 - A copy of the records required to be made above must be submitted to EPSDD Licensing & Compliance upon completion of 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.