

Planning and Development (Environmental Significance Opinion – Bushfire Trail Vegetation Management Works within the ACT’s Conservation Estate) Notice 2014 (No 1)

Notifiable Instrument NI2014–531

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 (Environmental Significance Opinion – Bushfire Trail Vegetation Management Works within the ACT’s Conservation Estate) Notice 2014 (No 1)*.*

2 Commencement

This instrument commences on the day after notification.

3 Environmental Significance Opinion

An Environmental Significance Opinion has been prepared by the Conservator of Flora and Fauna.

The text of the opinion is shown at Annexure A.

Note: A copy of the opinion may be obtained from the Environment and Planning Directorate website:

http://www.planning.act.gov.au/topics/design-and-build/assessment_of_dev/environmental_assessment/environmental_significance_opinions

4 Completion

The environmental significance opinion and this notice including the text of the opinion expire 18 months after the day the notice is notified.

Dorte Ekelund
Director-General
Environment and Planning Directorate
5 November 2014

*Name amended under Legislation Act, s 60



ACT
Government

Environment and Planning

Ms Dorte Ekelund *ts - 5/11/14*
Chief Planning Executive
ACT Planning and Land Authority
Dame Pattie Menzies Building
DICKSON ACT 2602

Dear Ms Ekelund

This is to advise of my decision, under s.138AB(4) of the *Planning and Development Act 2007*, on the request for an environmental significance opinion for the vegetation management on the sides of 239 kilometres of fire trail within the ACT's conservation estate that is managed by the Parks and Conservation Service. .

For the sake of completeness, the attached decision includes areas within the reserve system that are subject to the provisions of the National Capital Plan.

The proposal is not likely to have a significant adverse environmental impact:

- on a species or ecological community that is endangered;
- by the clearing of more than 0.5ha of native vegetation;
- on land reserved under s. 315 for the purpose of a wilderness area, national park, nature reserve or special purpose reserve;

provided all works are in accordance with the conditions as imposed.

Please find attached the Environmental Significance Opinion and a Statement of Reasons for the decision.

Yours sincerely

Ann Lyons Wright
Conservator of Flora and Fauna

27 October 2014

ENVIRONMENTAL SIGNIFICANCE OPINION

In accordance with section 138AB(4) of the *Planning and Development Act 2007*, I provide the following environmental significance opinion:

PROPONENT

Scott Farquhar, Manager, Fire Management Unit, Parks and City Services; Territory and Municipal Services Directorate

LOCATION

Within Namadgi National Park and surrounds;
Within Canberra Nature Park, more specifically Connor Ridge, Bruce Ridge, Black Mountain and Mt Majura;
Bullen Range;
Clear Range; and
Eucalypt plantation Block 826 Gungahlin District.

DEVELOPMENT PROPOSAL

The proposed works are for vegetation management on the sides of 239 kilometres of fire trail within the ACT's conservation estate that is managed by the Parks and Conservation Service. The areas of vegetation to be managed are within the original construction footprint of the trails and much of the vegetation is re-growth.

Vegetation that

- encroaches on the fire trail, and impedes access by fire units, or
- obstructs the line of sight on corners,

will be mulched with the use of machinery to approximately 2.0m from the edge of existing fire trails, with some areas up to 3.0m where the trails are to be used as containment lines in hazard reduction burns.

Of these the following trails are on Designated Land:

- a) 10kms on O'Connor Ridge (BOP ID AV 112)
- b) 2 kms of Oldfield's Lane on Ainslie / Majura (BOP ID AV 111a)
- c) 2 kms on Bruce Ridge (BOP ID AV 113)

The proponent wants the application for the development approval assessed for an environmental significance opinion 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.

OPINION

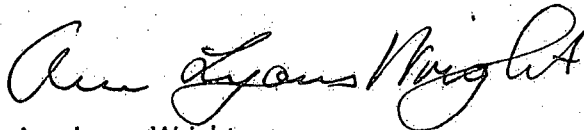
The proposal is not likely to have a significant adverse environmental impact provided that works are undertaken in accordance with the conditions listed below.

MANNER IN WHICH DEVELOPMENT PROPOSAL MUST BE UNDERTAKEN:

1. Movement of machinery is to be limited to existing fire trails and access roads;
2. No habitat trees or trees with a trunk diameter of 20cm (10cm for snow gum) or greater are to be removed, especially those trees with hollows or standing dead trees;
3. All proposed treatment areas and an appropriate buffer be intersected with spatial data for known locations of protected plants and threatened fauna records to establish possible impacts sites. A buffer of 100m recommended due to accuracy and age of some location recorded;
4. Spatial data to support the intersect analysis must be provided by Conservation Research (EPD) to ensure most up to date data are used;
5. All sites where a protected or threatened species overlaps with the treatment area or buffer must be inspected in the field by a trained botanist. Site inspection should extend along the road at least 100 metres either side of the indicated GPS co-ordinates and a minimum 5 metres in from the road edge;
6. If the species / habitat of concern occurs within 5 metres of the edge of the fire trail pavement, and therefore within the working zone and potential impact zone of the slash buster the contracted botanist will determine its distribution at the site and the boundary will be buffered by 50 metres;
7. In the event that no protected species are located at inspection sites at the time of inspection, a 50 metre buffer is to be established at the GPS co-ordinates in any case as the timing of the survey may not be ideal for location/identification of target species;
8. Within this identified buffer area Conservation Research will advise whether vegetation control is possible (and if necessary determine restrictions) or should be excluded;
9. No storage of equipment, parking or refuelling of equipment is to occur within any buffer area;
10. All works must be in accordance with the "Protocol for cultural heritage assessment of vegetation management activities along PCS tracks and trails";
11. All buffers will be marked in the field and the slash buster operator shown each location;
12. Parks and Conservation must ensure that information on registered heritage places along the fire trails is current – ie, if the search of ACT Heritage mapping is less than three months old, the search should be updated;

13. In the event that currently unrecorded heritage items are observed during fire trail works, existing Parks and Conservation protocols for unexpected finds should be implemented

Attached is a Statement of Reasons for the decision.



Ann Lyons Wright
Conservator of Flora and Fauna

27 October 2014

**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. The development proposal is mentioned in Schedule 4, part 4.3:

Part 4.3 Item 1

proposal that is likely to have a significant adverse environmental impact on 1 or more of the following, unless the conservator of flora and fauna produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact:

- (a) a species or ecological community that is endangered;
- (b) a species that is vulnerable;
- (c) a species that is protected;

Part 4.3 Item 2

the clearing of more than 0.5ha of native vegetation other than on land that is designated as a future urban area under the Territory Plan unless the Conservator of Flora and Fauna produces an environmental significance opinion that the clearing is not likely to have a significant adverse environmental impact;

Part 4.3, item 3,

being development on land reserved under s. 315 for the purpose of a wilderness area, national park, nature reserve or 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 for an environmental significance opinion (ESO) to that effect.

Some of the works are within Designated Land and therefore subject to the provisions of the National Capital Plan, not the *Planning and Development Act 2007*. As the Planning and Development Act does not apply to the reserve, the impact on these reserves does not trigger the requirement for environment assessment. However, for completeness sake, the following documentation will include an assessment of all of the works.

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 and known values of the site.

Project description

Vegetation management on the sides of 239 kilometres of fire trail on the Parks and Conservation Service estate within the ACT. The works are within:

- Namadgi National Park and surrounds;
- Canberra Nature Park, more specifically Connor Ridge, Bruce Ridge, Black Mountain and Mt Majura;
- Bullen Range;
- Rob Roy Nature Reserve; and
- the eucalypt plantation, Block 826 Gungahlin District

The works within designated land that are not covered by the provisions of the *Planning and Development Act 2007* are the works within Canberra Nature Park, more specifically:

- a) 10 kms on O'Connor Ridge;
b) 2 kms of Oldfield's Lane on Ainslie / Majura;
c) 2 kms on Bruce Ridge.

Vegetation regrowth up to 2.0m from the edge of existing fire trails will be managed to a height of no more than 10cm by the use of 'slash busters'. The 'slash busters' are 17 tonne, rubber-tyred Komatsu excavators with a mulching attachment on the end of a boom. The excavator remains stationary on the road / trails and the operator moves the mulching head to the side of the trail and over the top of the vegetation to be cleared until it reaches the stipulated minimum height.

Trees less than 20cm diameter at breast height (or less than 10cm for snow gum *Eucalyptus pauciflora*) may be felled. Those of bigger girth will be pruned where necessary to facilitate passage of fire vehicles of a type designated to the fire trail.

A subset of the trails identified for vegetation management work will be used as containment lines for prescribed burns in the 2014-15 Bushfire Operations Plan (BOP) program. In order to improve crew safety and ensure the integrity of the containment lines, the clearance zone for these trails will be extended from two to three metres on the treatment (burn) side of the fire trail where possible and where it is still within the construction footprint of the trails.

This work is consistent with the commitments made in the Strategic Bushfire Management Plan.

Documentation Submitted

Documents titled:

- ESO Application Form 1M;
- Block Section and TP zoning for fire trails;
- Slashbuster Works Quick Reference Guide;
- Slashbuster Maps
- Mechanical Roadside Veg Removal Works Plan
- Protocol for cultural heritage assessment of vegetation management activities along PCS tracks and trails
- Protocol for environmental assessment of vegetation management activities along PCS tracks and trails

The Environmental Significance Report was incomplete but it was determined that sufficient information was contained in the Ecological Assessment to determine the impacts of the proposed works.

Natural conservation values present

Although this work is being undertaken within areas previously disturbed by the construction of the trails, it still has the potential to impact on cultural sites and rare and threatened fauna and flora. Maps and tables have been submitted showing the location and details of all known occurrences within a prescribed distance of the fire trails. The tables were produced using GIS data held by the Parks and Conservation Service and Environment and Planning Directorate.

There are 197 sites of significance; of these 83 are cultural heritage sites and 114 flora and fauna sites.

It is noted that the data for the location of these sites was not recorded to an accuracy of 2 metres when it was collected. Therefore a buffer of 10 metres was used for cultural heritage sites and 100 metres for fauna and flora sites. Until these sites have been inspected in the field it cannot be determined whether they actually occur within the zone of impact of the slash busters and protocols have been developed to ensure that the likelihood of any impact on these sites is reduced.

Impacts on the Reserves

Maintenance of fire trails is required to be undertaken in accordance with the Government commitments made under the Strategic Bushfire Management Plan. Maintenance of fire trails to an agreed standard will assist in the protection of life and property, help minimise the impacts of hazard reduction and fire suppression activities, and aid in the protection of natural and cultural resources from the impacts from wildfire.

There will be a short term local visual impacts due to the vegetation clearance but the works will give a substantial advantage in controlling fire and will help protect the conservation estate from the impacts of wildfire. In the event that a fire does break out, the intensity is likely to be much lower in these cleared areas allowing fire suppression activities to be more effective.

The removal of the vegetation will allow for emergency vehicle access for general operational and fire suppression activities and use the existing trail network to create strategic containment lines in case of wildfire. It will also reduce the threat of vehicle entrapment from burnover due to radiant heat from vegetation encroaching on the trail, and increase crew safety by creating better driver line of sight at road corners, turns and intersections. The treated trails will also be used to prepare and 'sure up' containment lines for the hazard reduction burn program.

Impact of development on these values (including offsite impacts)

It should be noted that with older data there are concerns about the spatial accuracy of the information. However, protocols have been developed to assess, and if necessary, manage the impact on these sites. All identified significant cultural and environmental sites will be assessed in the field, and if required, an exclusion zone marked out.

The management of the vegetation using the slash buster means that there is no ground disturbance and that the operator can selectively clear vegetation and therefore work to specific directions. These directions will include not disturbing areas of cultural and environmental significance and a suitable buffer.

No habitat trees or trees with a trunk diameter of 20cm (10cm for snow gum) or greater are to be removed, especially those trees with hollows or standing dead trees.

Potentially Significant Environmental Impacts

Provided all works are in accordance with the agreed protocols, then the potential for significant environmental impacts is reduced.

The Agreed Protocols are:

Ecological significant sites

1. All proposed treatment areas and an appropriate buffer be intersected with spatial data for known locations of protected plants and threatened fauna records to establish possible impacts sites. A buffer of 100m recommended due to accuracy and age of some location recorded.
2. Spatial data to support the intersect analysis must be provided by Conservation Research (EPD) to ensure most up to date data are used.
3. All sites where a protected or threatened species overlaps with the treatment area or buffer must be inspected in the field by a trained botanist. Site inspection should extend along the road at least 100 metres either side of the indicated GPS co-ordinates and a minimum 5 metres in from the road edge.
4. If the species / habitat of concern occurs within 5 metres of the edge of the fire trail pavement, and therefore within the working zone and potential impact zone of the slash buster the contracted botanist will determine its distribution at the site and the boundary will be buffered by 50 metres.
5. It is suggested that in the event that no protected species are located at inspection sites at the time of inspection a 50 metre buffer be established at the GPS co-ordinates in any case. The timing of surveys may not be ideal for location/identification of target species.
6. Within this identified buffer area CP will advise whether vegetation control is possible (and if necessary determine restrictions) or should be excluded.
7. All buffers will be marked in the field and the slash buster operator shown each location.

Cultural heritage sites:

a) will be located by Fire Management Unit staff supervising the slash buster using a GPS and the co-ordinates generated by the output from the GIS;

b) border markers and hut ruins will be buffered by 20 metres and no vegetation control will be undertaken within the buffer;

c) the precautionary principle will be adopted for Aboriginal sites. It will be assumed the site is present even if physical evidence cannot be found.

d) Aboriginal sites will be buffered by 50 metres. Within this buffer vegetation will be reduced to a minimum height of 300mm to avoid ground disturbance.

e) All buffers will be marked in the field and the slash buster operator shown each site

It is recommended that in addition to detailed site inspections of known protected species, the entire length of the treatment areas be inspected in high conservation value areas to look for species and habitat of concern. Existing records are known to be incomplete and of variable coverage, especially in more remote parts of the PCS estate.

It has been determined that the potential for a significant environmental impact is low provided works are in accordance with the conditions as imposed.