

Planning and Development (Conditional Environmental Significance Opinion – Boboyan Road Upgrade) Notice 2020

Notifiable instrument NI2020–695

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 – Boboyan Road Upgrade) Notice 2020*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 15 October 2020, the Conservator of Flora and Fauna, pursuant to section 138AB(4) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to the upgrade of Boboyan Road, on Block 12 Section 0, District of Rendezvous Creek, Block 17 Section 0, District of Booth and the Boboyan Road road reserve.

- (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
26 October 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 approximately 900m of Boboyan Road as described in the submission.

LOCATION

The proposed works are located within Block 12 District of Rendezvous Creek, Block 17 District of Booth, and within the Boboyan Rd 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. The width of disturbance does not exceed 20m at any point and this 20m includes the existing road surface;
2. No more than eighty (80) trees, including one (1) hollow bearing tree will be felled as part of the works;
3. Reasonable efforts will be made to retain the hollow bearing tree and the Office of the Conservator of Flora and Fauna will be notified, in advance, if the hollow bearing tree is required to be removed;
4. The road will retain a pale surface colour; and
5. The Construction Environment Management Plan (CEMP) and Rehabilitation Plan will be subject to the approval of the Conservator of Flora and Fauna

Attached is a Statement of Reasons for the decision.

A handwritten signature in dark ink, appearing to read 'Ian Walker', with a long horizontal flourish extending to the right.

Ian Walker
Conservator of Flora and Fauna

15 October 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 2(a) the clearing of more than 0.5ha of native vegetation other than on land that is designated as a future urban area

The proposal will involve the clearing of up to 1.39ha of native vegetation.

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 within Namadgi National Park which has a Pb: National Park 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

Namadgi National Park is located in the south and west of the ACT and covers 106,095 hectares or approximately 46% of the ACT. The western boundary of the park is the ridgeline of the Brindabella, Bimberi and Scabby Ranges. The south-eastern border of Namadgi follows the ridgeline of Clear Range.

Boboyan Road is a public road that traverses the Park from the Naas Road near Tharwa to the NSW border to the south. Part of the road is unsealed and has been identified for development as it does not meet contemporary safety standards.

The proposed works are to upgrade approximately 980m of Boboyan Road, including corridor widening, surface stabilisation and improved surface drainage. The proposed works involve:

- Vegetation clearing and pruning;
- Stabilisation of existing pavement;
- Excavation of existing pavement and formation of new pavement;
- Formation of V Drains and tail outs; and
- Installation of road furniture including signs and guideposts.

Documentation Submitted

- Roads to Recovery – Boboyan Road Upgrade, Application for an Environmental Significance Opinion (WSP July 2020);
- Letters of Authorisation; and
- Form 1M.

Natural conservation values present

Namadgi National Park conserves a wide variety of ecosystems and contributes to regional ecological connectivity through its links to reserves within NSW.

The plant community in the area of the proposed works is classified as Broad-leaved peppermint-Candlebark tall dry sclerophyll open forest of quartz-rich ranges of the upper South East Highlands and lower Australian Alps bioregion (u21).

The area has been affected by the January 2020 fires, particularly on the western side of Boboyan Road which consists mainly of charred tree trunks with little canopy and bare ground. Regrowth of understorey vegetation and re-sprouting of larger eucalyptus trees is occurring across the project area.

At least 35 species of mammals, 14 species or subspecies of frog, over 41 species of reptiles, four native fish species and over 130 species of birds have been recorded in

Namadgi National park. There are at least 13 animal species listed as threatened under the *Nature Conservation Act 2014*, five of which are considered to have a moderate likelihood of occurrence within the study area (emboldened):

- Northern Corroboree Frog (*Pseudophryne pengilleyi*)
- Two-Spined Blackfish (*Gadopsis bispinosus*)
- Trout Cod (*Maccullochella macquariensis*)
- Macquarie Perch (*Macquaria australasica*)
- Murray River Crayfish (*Euastacus armatus*)
- **Hooded Robin (*Melanodryas cucullate*)**
- **Scarlet Robin (*Petroica boodang*)**
- **Brown Treecreeper (*Climacteris picumnus*)**
- **Varied Sitella (*Daphoenositta chrysoptera*)**
- **Little Eagle (*Hieraaetus morphnoides*)**
- White-Winged Triller (*Lalage sueurii*)
- Smoky Mouse (*Pseudomys fumeus*)
- Spotted-Tailed Quoll (*Dasyurus maculates*)

Rosenberg's Monitor (*Varanus rosenbergi*) is known to occur in the locality of the proposed works, however, is unlikely to use the study area for shelter or breeding due to the absence of such resources for the species.

No threatened ecological community or flora species were identified within the project area. Only one habitat tree containing two small spouts was identified adjacent to the proposed project. No other hollow-bearing trees were recorded within the study area.

Impact on the Reserve

The proposed works will remove up to 1.39ha of native vegetation along the roadside. Tree removal is constrained to a maximum of eighty trees which includes few large trees and only one hollow bearing tree which may be impacted.

The roadside vegetation is considered potential marginal habitat for five threatened bird species, however given the availability of habitat in the area this loss is not considered to be significant.

Felled trees with a DBH greater than 10cm are to be retained on site in adjacent vegetation in consultation with Parks and Conservation Service staff.

Retention of the pale surface colour of the road may reduce its attractiveness to sunbaking reptiles, thereby avoiding a potential increase in roadkill.

Preparation and implementation of an erosion and sediment control plan and follow up weed monitoring and management combined with a revegetation and

rehabilitation plan should mitigate indirect impacts of the works if undertaken correctly.

Positive impacts on the reserve are improved road safety by providing space for vehicles to safely pass each other; improved line of sight, not only improving traffic safety but also possibly giving drivers more time to identify and avoid collisions with animals; improved access for fire vehicles; and improved fire suppression capability.

Potentially Significant Environmental Impacts

There is potential for the works to introduce and spread weeds if the mitigation measures are not properly implemented. There is also the potential for increased water turbidity if erosion and sediment controls are not implemented correctly or left in place until vegetation has re-established.

The area of works contains few large trees and only one hollow bearing tree. The road alignment has been designed to minimise vegetation clearing and is unlikely to cause a significant adverse environmental impact. The proposal includes weed and pathogen hygiene conditions.

Conditions have been included to ensure that direct and indirect impacts to vegetation and wildlife are minimised:

1. The width of disturbance does not exceed 20m at any point and this 20m includes the existing road surface;
2. No more than eighty (80) trees, including one (1) hollow bearing tree will be felled as part of the works;
3. Reasonable efforts will be made to retain the hollow bearing tree and the Office of the Conservator of Flora and Fauna will be notified, in advance, if the hollow bearing tree is required to be removed;
4. The road will retain a pale surface colour; and
5. The Construction Environment Management Plan (CEMP) and Rehabilitation Plan will be subject to the approval of the Conservator of Flora and Fauna

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.