

Planning and Development (Conditional Environmental Significance Opinion – Block 332, Paddy’s River and Block 164, Tennent – Namadgi Fire Affected Fences) Notice 2022

Notifiable instrument NI2022–309

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 332, Paddy’s River and Block 164, Tennent – Namadgi Fire Affected Fences) Notice 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 12 April 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 removal of vegetation to enable reconstruction of bushfire affected fencing on Block 332, Paddy’s River District and Block 164, Tennent District.

- (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.

Craig Weller
Delegate of the planning and land authority
23 May 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

ACT Parks and Conservation Service, Environment, Planning and Sustainable Development Directorate, as represented by Wade Fuller, Bushfire Recovery Project Officer.

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 vegetation management along bushfire affected fences in Namadgi National Park as described in the submission.

LOCATION

Paddy's River D, Block 332 and Tennent D, Block 164.
Namadgi National Park and surrounds

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:

- On days of elevated fire danger, when the FDI meets or exceeds 25 - all works are to cease and the personnel to make their way off the job site.
- A gate is to be installed on the fire trail where the fence crosses the trail. The gate will need to be the width as specified by the Fire Management Unit Rooding Officer.
- Plant and equipment used for vegetation clearing and all vehicles are to be washed down to remove weeds and pathogens before accessing the work site.
- ACT Parks and Conservation Service staff must approve and document the removal of hollow bearing trees, trees with nests or trees in excess of 300mm DBH.
- ACT Parks and Conservation Service staff are to submit a report detailing any such tree removal, or other notable impacts, to the Conservator within three months of the completion of the work.
- Where vegetation needs to be cleared, only one side of the fence will be cleared, with the preference being to clear any vegetation on the lease side of the fence, as opposed to the National Park side of the boundary fence. Any vegetation clearance on a single side of the fence is to be restricted to 3 metres maximum.
- The use of heavy equipment, to a maximum size of a D4 Dozer, will primarily be used to reform access roads to allow safe access for 4WDs and buggies. Where possible, vegetation clearing will be undertaken with light equipment (chainsaws etc) once safe access via road/trails has been established. Where it is not feasible to clear vegetation with light equipment, a dozer may be used.
- When clearing vegetation, the dozer must be used in a way that minimises the exposure of bare soil. The blade should be raised so that it removes shrubs but not grasses and forbs.
- For work, health and safety and ecological reasons, vegetation clearing in the Alpine Ash – Mountain Gum vegetation community is to be minimised.
- The works are to avoid all active (live) termite mounds, and rocky areas greater than 25 square metres.

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

12 April 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:

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 proponent is applying to remove and replace pre-existing boundary fences that were affected by fire. This will require the management of vegetation 3 meters on each side of the approximate 3.5km of fencing. Approximately 4ha of native vegetation will be affected.

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

The fencing is alongside the boundary of Namadgi National Park.

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, Bimberri and Scabby Ranges. The south-eastern border of Namadgi follows the ridgeline of Clear Range.

Fire events have resulted in approximately 3.5km of boundary fencing needing to be removed and replaced. To enable this to occur, vegetation management needs to be undertaken along the entirety of the 3.5km fence line, which sits on the boundary of rural lease and Namadgi National Park. This activity is part of the Namadgi Boundary Fence Project.

The works involve the dismantling of fire affected fencing, erecting new fencing along the same boundary, and the management of approximately 4ha of vegetation along the fence line. This includes the removal of dangerous trees from the fence line to ensure safe work areas.

Documentation Submitted

- Works Plan for fence line vegetation management under the Bushfire Recovery Project
- A letter of authorisation for environmental impact assessment process signed by the proponent and the lessee.
- A response to a request for further information relating to the vegetation management proposal.

Natural conservation values present

The proposed fence line traverses 6 ecological communities as shown in table 1. None of these communities are threatened and all are widespread in Namadgi.

Table 1. Vegetation communities along the proposed fence alignment and their area of distribution in the ACT.

Vegetation Community	Area of distribution (ha)
Alpine Ash – Mountain Gum ± Snow Gum wet sclerophyll open forest_u239	7,512
Apple Box – Broad-leaved Peppermint tall shrub-grass open forest primarily on granitoids_u29	11,259
Mealy Bundy – Broad-leaved Peppermint shrubby mid-high open forest on granite substrates_u18	3,576

Ribbon Gum – Robertson’s Peppermint very tall wet sclerophyll open forest_u52	16,875
Native grassland_NG	22,122
Derived native shrubland_DNS	3,788

The proposed fence alignment traverses the habitat of two threatened fauna species, Rosenberg’s Monitor (*Varanus rosenbergi*) and Smokey Mouse (*Pseudomys fumeus*).

Impact on the Reserve

The clearing will not result in a substantial decline in area of any of the vegetation communities in the ACT.

Approximately 74,244ha of Rosenberg’s Monitor habitat has been mapped in the ACT. The proposal will involve the clearing of around 0.165ha of this habitat. Rosenberg’s Monitor lays its eggs in the live mounds of the of the termite *Nasutitermes exitiosus*. It is important that the proposed works avoid damaging all termite nests.

Approximately 20,306ha of Smokey Mouse habitat has been mapped in the Act. This proposal will involve clearing around 0.1ha of this habitat. This clearing does not represent a significant impact on these species. Smokey Mouse often use rocky locations for nesting so efforts must be made to avoid disturbing rocky areas, especially those that have good shrub cover.

Potentially Significant Environmental Impacts

Conditions have been included to ensure that works are undertaken in a way that will not increase the risk of any further fires and will protect any environmentally significant values that may occur along the 3.5km boundary line:

- On days of elevated fire danger, when the FDI meets or exceeds 25 - all works are to cease and the personnel to make their way off the job site.
- A gate is to be installed on the fire trail where the fence crosses the trail. The gate will need to be the width as specified by the Fire Management Unit Rooding Officer.
- Plant and equipment used for vegetation clearing and all vehicles are to be washed down to remove weeds and pathogens before accessing the work site.
- ACT Parks and Conservation Service staff must approve and document the removal of hollow bearing trees, trees with nests or trees in excess of 300mm DBH.

- ACT Parks and Conservation Service staff are to submit a report detailing any such tree removal, or other notable impacts, to the Conservator within three months of the completion of the work.
- Where vegetation needs to be cleared, only one side of the fence will be cleared, with the preference being to clear any vegetation on the lease side of the fence, as opposed to the National Park side of the boundary fence. Any vegetation clearance on a single side of the fence is to be restricted to 3 metres maximum.
- The use of heavy equipment, to a maximum size of a D4 Dozer, will primarily be used to reform access roads to allow safe access for 4WDs and buggies. Where possible, vegetation clearing will be undertaken with light equipment (chainsaws etc) once safe access via road/trails has been established. Where it is not feasible to clear vegetation with light equipment, a dozer may be used.
- When clearing vegetation, the dozer must be used in a way that minimises the exposure of bare soil. The blade should be raised so that it removes shrubs but not grasses and forbs.
- For work, health and safety and ecological reasons, vegetation clearing in the Alpine Ash – Mountain Gum vegetation community is to be minimised.
- The works are to avoid all active (live) termite mounds, and rocky areas greater than 25 square metres.

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.