

Planning and Development (Conditional Environmental Significance Opinion – Various Blocks, Cotter River/Paddys River/Tennent/Coree – Roadside Vegetation Management) Notice 2021

Notifiable instrument NI2021–442

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 – Various Blocks, Cotter River/Paddys River/Tennent/Coree – Roadside Vegetation Management) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 30 June 2021, 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 roadside vegetation management within various Blocks, Cotter River/Paddys River/Tennent/Coree.

- (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
16 July 2021

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 Neil Cooper, Senior Director – Forests, Fire and Roads.

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 management of vegetation along public roadsides and fire trails described in the submission.

LOCATION

The works will be undertaken across the PCS Conservation Estate and public roads associated with these areas:

- Block 20 Cotter River – Various roadsides including Rockpit Road, Pierces Creek Rd
- Block 21 Cotter River - Wombat Rd, Parrot Rd, Chalet Rd (south of Parrot Rd), Pipeline Rd, Bendora Rd, Bendora Tank Track
- Block 183 Tennent - Sunshine Road
- Block 331 Paddys River – unnamed Rd,
- Block 244 Paddys River - Miowera Trail
- Block 295 Paddys River - Red Rocks Fire Trail
- Block 320 Paddys River – various roads, including Dead Horse Gap Rd
- Block 322 Paddys River - Scenic Road
- Block 323 Paddys River - Vanity's Crossing Link Rd
- Block 225 Coree - section north of East West Road
- Paddys River - Tidbinbilla Road

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. Vegetation clearance will not exceed two (2) metres back from the edge of the road pavement on both sides of the fire trail unless specifically required for sight lines and safety where the limit will be five (5) metres from the edge of the road pavement.
2. Vegetation that occurs within 5 metres either side of drainage lines in riparian areas will be retained and not treated as part of trittering/vegetation management.
3. In non-riparian areas fallen logs, large branches, grasses and shrubs and other coarse organic materials will not be disturbed below the minimum treatment height of 100mm.
4. Trees with a diameter at breast height (DBH) of more than 20cm (10cm for snow gums) must not be felled. Trees with 20cm DBH (or snowgums with 10cm DBH) will only be pruned of branches that overhang trails with a hand saw, chain saw or pole saw.
5. There will be no ground disturbance within the tree protection zones (dripline plus 2 metres) of trees to be retained or around protected vegetation.
6. All sites where protected plants or threatened species overlap with the treatment area or buffer must be inspected in the field by a qualified vegetation ecologist or botanist prior to works commencing, and a treatment plan, including appropriate buffer areas, developed to the satisfaction of the relevant Area Manager in PCS and Conservation Research, EPSDD.
7. Works that occur in areas of ACT listed Box-Gum Woodland is required to be undertaken by hand crew only to protect woodland species.
8. Works on Bendora Road are required to be undertaken by hand crew only to protect the Brindabella Midge Orchid.
9. The works will be timed so that they occur outside of the critical seasons for orchids to the satisfaction of Conservation Research, EPSDD.
10. Vegetation may only be removed down to a height of not less than 100 mm above ground level. This retains the surface coverage and along with the mulched material prevents erosion.

11. The trittering machine will not de-limb branches from trees along the road/trail edge. This may only be done with chainsaws/pole-saws.
12. Movement of machinery is to be limited to existing fire trails and access roads/established turn around points.
13. No storage of equipment, parking or refuelling of equipment is to occur within any vegetation buffer area. No refuelling is to occur within any riparian zone and refuelling is to occur only on formed roads. Re-fuelling areas must be identified in a works plan and be provided to operators prior to the commencement of work.
14. All vehicles/machinery are to be washed down thoroughly to remove any seed, soil and plant material before entering the Reserves. All vehicles will be inspected by PCS prior to the commencement of works to ensure that they are free of plant materials and soil.
15. The work will only be undertaken when the fire trails are in suitable condition (not rain-affected) and the excavators will not damage the pavement. Excavators with either tracks or tyres can be used to protect the road surface.
16. Work will cease when the Fire Danger Index (FDI) >25 and recommence only when deemed suitable by PCS.
17. All operations will cease when:
 - a. Soils are saturated or 20mm of precipitation in a 24-hour period
 - b. Turbid water flowing for more than 10m
 - c. When machinery is causing rutting depth of more than 200mm below ground level and
 - d. not recommence until they are inspected and deemed suitable by PCS.

Attached is a Statement of Reasons for the decision.



Ian Walker
Conservator of Flora and Fauna

30 June 2021

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 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;

Namadgi National Park contains:

Two communities listed as endangered:

- Natural Temperate Grassland of the Southern Tablelands of NSW and the ACT;
- Montane and Subalpine Bog (forming a significant component of the Commonwealth listed Alpine Sphagnum Bogs and Associated Fens).

The works will pass through most of the forest communities listed in the Namadgi National Park Plan of Management. The works will also take place in the vicinity of some lowland grasslands which are becoming overgrown with dominant shrubs including *Kunzea* and *Leptospermum* species.

The works area also include areas of Yellow Box – Blakely's Red Gum Grassy Woodland (Box-Gum Woodland), an endangered ecological community.

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

- 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 cucullata*)
- 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*)

Habitat for Rosenberg's Monitor, Spotted-tailed quoll, and Smokey Mouse occurs in the areas affected by the works. Spotted-tailed Quoll, and Rosenberg's Monitor are

not expected to be impacted as mobile species, with large den requirements including tree hollows and cavities which are excluded from the vegetation treatment. Smokey Mouse inhabits rocky outcroppings, which are not affected by the treatment.

Greater Glider (*Petauroides Volans*) listed as vulnerable under the EPBC Act, is recorded for the treatment areas between the Cotter River and Mt Franklin Rd, however as the works do not generally remove mature trees, habitat will not be affected.

Two plant species listed as threatened

- Baeuerlen's Gentian (*Gentiana baeuerlenii*); and
- Brindabella Midge Orchid (*Corunastylis ectopa*).

There are a large number of records for rare plants in the vicinity of the work sites. Records are of varying reliability and it is likely that most recorded plants will not be within the area of impact for the works.

There are eight plant species along or very near to the trails where works will be undertaken that are listed as threatened; Pale Pomaderris (Scenic Rd, Paddys River) and a number of orchid species are noted along Pipeline Rd in the Cotter River area including:

- Montane Leafy Greenhood
- Maroonhood
- Broad-sepaled Leafy
- Greenhood
- Brindabella midge orchid and
- Summer greenhood.

The orchids are all known from high quality records including accurate GPS locations, on the road sides of Bendora Road and Pipeline Road in the Cotter River catchment (see attached map). The threatened shrub, Pale Pomaderris, is known from a poor quality record from 1984. It is mapped as occurring adjacent to Scenic Rd west of Paddys River, however the description included in the record states that the observation was from the eastern side of Paddys River.

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 impact on 30.6 ha of native vegetation.

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

The subject sites and the reserve overlays are listed in Table 1 below.

Table 1 Subject sites, locations and land use zones/overlays

Block	District/Division	Description (road name)	Land Use Zone and overlay
21	Cotter River	Wombat Rd	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pa: Wilderness area)
21	Cotter River	Parrot Rd, Chalet Rd (south of Parrot Rd)	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pa: Wilderness area)
183	Tennent	Sunshine Road	NUZ 5 (No overlay)
	Paddys River	Tidbinbilla Road	NUZ 2, 3, 4 & 5
20	Cotter River	Various, Rockpit Road, Pierces Creek Rd	NUZ 5 (Pb: National Park; Pg: Protection of water supply; PUBLAN: Public Land; Pd: Special Purpose Reserve.)
21	Cotter River	Bendora	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pa: Wilderness area)
331	Paddys River	Unnamed	NUZ 5 Pb: National Park; PUBLAN: Public Land; Pd: Special Purpose Reserve
21	Cotter River	Pipeline Road	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pa: Wilderness area)
21	Cotter River	Bendora Rd, Bendora Tank Track	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pa: Wilderness area)
244	Paddys River	Miowera Trail	NUZ 3 (Pc: Nature Reserve.)
225	Coree	Various	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pc: Nature Reserve.; PUBLAN: Public Land; Pd: Special Purpose Reserve.)
295	Paddys River	Red Rocks Fire Trail	NUZ 3 (Pc: Nature Reserve.)
323	Paddys River	Vanity's Crossing Link Rd	NUZ 5 (Pg: Protection of water supply)
320	Paddys River	Various	NUZ 5 (Pb: National Park; Pg: Protection of water supply; PUBLAN: Public Land)
320	Paddys River	Various	NUZ 5 (Pb: National Park; Pg: Protection of water supply; PUBLAN: Public Land)
320	Paddys River	Dead Horse Gap Rd	NUZ 5(Pb: National Park; Pg: Protection of water supply; PUBLAN: Public Land)

322	Paddys River	Scenic Road	NUZ 5 Pc: Nature Reserve.; Pd: Special Purpose Reserve.
225	Coree	Section north of East West Road	NUZ 5 (Pb: National Park; Pg: Protection of water supply; Pc: Nature Reserve.; PUBLAN: Public Land; Pd: 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 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 proposal is for vegetation trimming along existing fire trails within the conservation estate and some rural roads in the ACT. The works will take place in Namadgi National Park, The Lower Cotter Catchment, Paddys River, Oakey Creek, Tidbinbilla, Bullen Range and Wood's Reserves.

The objective of the works is to maintain roads to appropriate standards ensuring access for land management purposes, and to clear vehicle sight lines along fire trails

which are currently being impeded by regrowth of woody shrubs and juvenile eucalypts.

In the Case of Paddys River Road/Tidbinbilla Road, this public road is being treated to ensure ongoing vehicle and cyclist safety and to potentially reduce animal collisions.

Vegetation management will occur where the current vegetation conditions create significant hazards to vehicles, as drivers have severely limited view around bends to identify other vehicles and hazards. Generally vegetation will be trimmed to a depth of 2m from the road shoulder or the outside of road drainage structures, within the zone of disturbance from the original construction of the fire trails, and up to 4m in depth at sharp bends and switchbacks to further improve sight lines at these conflict points. On public roads the depth of clearing may be more significant to provide better sight lines in higher speed environments.

The works will be undertaken with a mulching head mounted on an excavator. The mulching head can be carefully manoeuvred to selectively trim vegetation and cannot trim below a height of 100mm.

Documentation Submitted

- 20-21 ESO Overview Map
- Area/Location Maps – Sunshine Road, Moonlight Hollow, Corin Forest, Pipeline Road, Bondora Arboretum, Miowera-Red Rocks_Tid Rd, Oakey Creek, Pierces-Paddys, Sherwood-Cotter Dam, Pipeline Orchids, Redrocks Firetrail Woodlands, Tid Rd at Paddys River Woodlands
- ESO Application – Vegetation Management of Fire Trails and Rural Roads (2020-2021)
- ESO Workbook (spreadsheet)
- Request for Information Response
- 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 ecosystems include:

- low open woodland covering much of the park with Snow Gum woodland in the high mountain areas;
- open grasslands and frost hollows on the eastern side of the park in the Orroral and Boboyan valleys;
- tall wet forests with Alpine Ash and fern gullies in sheltered locations, especially on the western side of the park;

- wetlands including sedge fens in the valleys and sphagnum moss bogs on the peaks that are important for water catchment and as habitat for the endangered Northern Corroboree Frog (*Pseudophryne pengilleyi*), and
- sub-alpine peaks and alpine communities above 1600m.

The works area also include areas of Yellow Box – Blakely's Red Gum Grassy Woodland, an endangered ecological community.

The works will take place within the Namadgi National Park and Nature Reserves. These reserved areas include core values of; nature conservation, responsible recreation, providing opportunity for wilderness experience, protection of water quality, protection of cultural material and heritage, and aesthetical qualities as natural areas.

All of the works are located in the burnt area from the 2003 bushfires. None are in the area impacted by the 2020 Orroral Fire. Vegetation in these areas is regrowing and has a higher proportion of juvenile eucalypts and mid-storey shrubs and fallen timber. These vegetation compositions result in significant impediment to vision around bends in fire trails.

Impact on the Reserve

The works applied for are located in Namadgi National Park, other Reserves and in public areas. The works will result in the trimming of vegetation along approximately 76.6 km (~14 km is public roads) of existing roads to a depth of 2m each side for a total treated area of approximately 30.6 ha.

The works will pass through native forests and there is expected to be minimal permanent impact on these communities outside of areas previously disturbed during road construction. The works will intersect with numerous records of uncommon plants. Eight threatened plants are known from records which are mostly from modern sources and could be expected to occur in the nominated locations. These rare and threatened plants are almost all orchids and are unlikely to be active outside of a short flowering window.

The works will not impact on the natural or conservation values of the Namadgi National Park. The works will be within the previously disturbed areas and will not increase the visual impacts of existing fire trails. Significant vegetation and cultural heritage sites will be protected by measures (identified below) to be implemented throughout the works. All vegetation management works will also be within the area that has previously been disturbed by the roads construction and maintenance.

Potentially Significant Environmental Impacts

The sites have been well chosen to avoid any more than minor clearance of road/track side vegetation. The total disturbance footprint is low at 30.6ha across the entire program. At several of the locations rare plants have been recorded within a few hundred metres of the proposal. While the presence of rare orchids can't be entirely dismissed there is a very low likelihood of the proposal impacting on rare plant species.

Conditions have been included to ensure that works will not impact on protected matters, rare or threatened plants, riparian areas and catchments and will not extend into vegetated areas of the conservation estate that would not provide an obvious fire management advantage:

1. Vegetation clearance will not exceed two (2) metres back from the edge of the road pavement on both sides of the fire trail unless specifically required for sight lines and safety where the limit will be five (5) metres from the edge of the road pavement.
2. Vegetation that occurs within 5 metres either side of drainage lines in riparian areas will be retained and not treated as part of trittering/vegetation management.
3. In non-riparian areas fallen logs, large branches, grasses and shrubs and other coarse organic materials will not be disturbed below the minimum treatment height of 100mm.
4. Trees with a diameter at breast height (DBH) of more than 20cm (10cm for snow gums) must not be felled. Trees with 20cm DBH (or snowgums with 10cm DBH) will only be pruned of branches that overhang trails with a hand saw, chain saw or pole saw.
5. There will be no ground disturbance within the tree protection zones (dripline plus 2 metres) of trees to be retained or around protected vegetation.
6. All sites where protected plants or threatened species overlap with the treatment area or buffer must be inspected in the field by a qualified vegetation ecologist or botanist prior to works commencing, and a treatment plan, including appropriate buffer areas, developed to the satisfaction of the relevant Area Manager in PCS and Conservation Research, EPSDD.
7. Works that occur in areas of ACT listed Box-Gum Woodland is required to be undertaken by hand crew only to protect woodland species.
8. Works on Bendora Road are required to be undertaken by hand crew only to protect the Brindabella Midge Orchid.
9. The works will be timed so that they occur outside of the critical seasons for orchids to the satisfaction of Conservation Research, EPSDD.
10. Vegetation may only be removed down to a height of not less than 100 mm above ground level. This retains the surface coverage and along with the mulched material prevents erosion.

11. The trittering machine will not de-limb branches from trees along the road/trail edge. This may only be done with chainsaws/pole-saws.
12. Movement of machinery is to be limited to existing fire trails and access roads/established turn around points.
13. No storage of equipment, parking or refuelling of equipment is to occur within any vegetation buffer area. No refuelling is to occur within any riparian zone and refuelling is to occur only on formed roads. Re-fuelling areas must be identified in a works plan and be provided to operators prior to the commencement of work.
14. All vehicles/machinery are to be washed down thoroughly to remove any seed, soil and plant material before entering the Reserves. All vehicles will be inspected by PCS prior to the commencement of works to ensure that they are free of plant materials and soil.
15. The work will only be undertaken when the fire trails are in suitable condition (not rain-affected) and the excavators will not damage the pavement. Excavators with either tracks or tyres can be used to protect the road surface.
16. Work will cease when the Fire Danger Index (FDI) >25 and recommence only when deemed suitable by PCS.
17. All operations will cease when:
 - a. Soils are saturated or 20mm of precipitation in a 24-hour period
 - b. Turbid water flowing for more than 10m
 - c. When machinery is causing rutting depth of more than 200mm below ground level and
 - d. not recommence until they are inspected and deemed suitable by PCS.

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.