

Planning and Development (Conditional Environmental Significance Opinion – Block 40, Mount Clear – Maintenance works on the access track at Namadgi National Park) Notice 2023

Notifiable instrument NI2023–259

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 40, Mount Clear – Maintenance works on the access track at Namadgi National Park) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 2 May 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 construction, on Block 40, Mount Clear of proposed maintenance work to an access track on Mount Clear, within Namadgi National Park.

- (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.

Craig Weller
Delegate of the planning and land authority
5 May 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

NSW Telco Authority, as represented by Ms Divini Tsoi, Senior Environmental Planner.

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 proposed maintenance work to an access track on Mount Clear, within Namadgi National Park as described in the submission.

LOCATION

Block 40, District of Mount Clear, located within Namadgi National Park.

MATTERS TO WHICH THIS OPINION APPLIES

This opinion applies only to the development proposal as described in the application.

OPINION

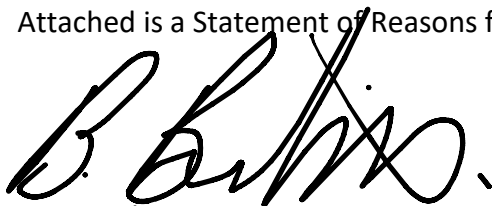
Provided the works are undertaken in a manner consistent with the following conditions in addition to the mitigation measures contained in the supporting application for an ESO, they are unlikely to cause a significant adverse environmental impact.

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

1. All works must comply with any conditions of relevant licences;

2. A Construction Environmental Management Plan (CEMP) is to be endorsed by the Conservator of Flora and Fauna prior to commencement of works. This CEMP needs to include, but not be limited to, the following details:
 - a. Detailed map or maps showing the location of the sections of damaged track where surface works will be undertaken;
 - b. Details of whether any installation or maintenance to road culverts is proposed, and if so, details of proposed works;
 - c. Source and type of ballast and any other topping or fill material to be used on the track;
 - d. Details of how stockpile areas will be identified and delineated;
 - e. Locations of any vehicle wash down areas for follow-up weed control;
 - f. Details of how vehicle and machinery parking/ turning points will be delineated;
 - g. Weed hygiene measures;
 - h. Weed control follow-up for a suitable period of time following construction, including data capture provided to the ACT Parks and Conservation Service;
 - i. Details of sediment and erosion control measures; and
 - j. Details of what mitigation measures such as fire suppression equipment will be implemented.
3. All works are to be undertaken in accordance with the endorsed CEMP;
4. No work is permitted on site when a Total Fire Ban is declared;
5. On days of High fire danger rating (FBI 25 or greater) all hot works and works that could emit a spark must cease, and defer the activities to be undertaken under less risky conditions. Hot works include welding, cutting, grinding, or other works involving open flames or which emit a spark such as excavating hard rock, slashing and brush-cutting.

Attached is a Statement of Reasons for the decision.



Bren Burkevics
Conservator of Flora and Fauna

2 May 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 proposed works are located within 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

NSW Telco Authority (NSWTA) has a compound situated within NSW. Part of the track that provides access to this compound sits within Namadgi National Park and requires maintenance. NSWTA is proposing to repair approximately 14km of existing fire trail that is used as the access track.

The proposed works include:

- Shaping, grading, installing geofabric and gravelling boggy sections of the existing access track
- Reinstating existing mitre and swale drains to improve drainage of the existing track
- Management of vegetation encroaching the existing footprint of the access track
- Layering ballast in wet areas on the access track.

The maintenance works would require the use of an excavator, bobcat machine, mulcher and tipper. The maintenance works would be carried out on sections of the track which are currently 'soft' and where there would be foreseeable access constraints following wet weather. Ballast will be used selectively in some creek crossings and wet areas of the track to ensure better drainage and vehicle accessibility.

Documentation Submitted

- Namadgi National Park – Fire Trails Maintenance Works ESO application – prepared by NSW Government
- Letter of Authorisation
- 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 vegetation community around the access track is mainly native grassland and Snow Gum-Candlebark tall grassy woodland.

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 13 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 cucullate*)
- Brown Treecreeper (*Climacteris picumnus*)
- Varied Sitella (*Daphoenositta chrysoptera*)
- Gang-gang Cockatoo (*Callocephalon fimbriatum*)
- Little Eagle (*Hieraaetus morphnoides*)

- White-winged Triller (*Lalage sueurii*)
- Smoky Mouse (*Pseudomys fumeus*)
- Spotted-tailed Quoll (*Dasyurus maculates*)

The area is also mapped as habitat for Rosenberg's Monitor (*Varanus rosenbergi*), which is listed as Vulnerable in NSW.

Impact on the Reserve

The proposed maintenance works would be carried out within the existing access track footprint and alignment. It will only impact vegetation which has encroached on the track footprint so will have very limited impact to the reserve.

Potentially Significant Environmental Impacts

The proposed maintenance works are not anticipated to significantly impact on threatened flora and fauna. The ESO application includes mitigation strategies that will ensure no fauna will be directly impacted by the proposed works. The works will all be contained within the existing footprint of the access track and are minor in nature and so only regrowth vegetation encroaching on the footprint of the existing access track, low hanging branches or fallen trees would be trimmed/removed as required.

Conditions have been included to reduce the risk of bushfire, and to ensure an appropriate Construction Environmental Management Plan is developed and endorsed prior to any works being undertaken:

1. All works must comply with any conditions of relevant licences;
2. A Construction Environmental Management Plan (CEMP) is to be endorsed by the Conservator of Flora and Fauna prior to commencement of works. This CEMP needs to include, but not be limited to, the following details:
 - a. Detailed map or maps showing the location of the sections of damaged track where surface works will be undertaken;
 - b. Details of whether any installation or maintenance to road culverts is proposed, and if so, details of proposed works;
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 - g. Weed hygiene measures

- h. Weed control follow-up for a suitable period of time following construction, including data capture provided to the ACT Parks and Conservation Service;
 - i. Details of sediment and erosion control measures; and
 - j. Details of what mitigation measures such as fire suppression equipment will be implemented.
- 3. All works are to be undertaken in accordance with the endorsed CEMP;
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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.