

Planning and Development (Conditional Environmental Significance Opinion – Boboyan Road and Smiths Road Upgrades) Notice 2017

Notifiable Instrument NI2017–493

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 and Smiths Road Upgrades) Notice 2017*.

2 Conditional Environmental Significance Opinion

- (1) On 4 August 2017, 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 minor road improvement works for Boboyan Road on Blocks 39 and 40, District of Mount Clear, and for Smiths Road on Blocks 118, 170, 173 and 183, District of Tennent.
- (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.

Ben Ponton
Chief Planning Executive
15 September 2017

Schedule

(see section 2(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

GHD Pty Ltd, as represented by Peter Russell, Senior 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 upgrade of 2.8 km of Boboyan Road from the NSW border into the Namadgi National Park, and approximately 1.3km of Smiths Road as described in the submission.

LOCATION

Blocks 39 and 40 District of Mt Clear within Namadgi National Park (Boboyan Road), and Blocks 173, 183, 170 and 118 District of Tennent (Smiths Road).

MATTERS TO WHICH THIS OPINION APPLIES

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

OPINION

Provided the works are undertaken in the manner consistent with the following conditions, 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.

- the proposed works will remove no more than eight hollow bearing trees.
- hollow-bearing trees are not to be removed in the bird nesting season i.e. from the beginning of September to end of December.
- a person skilled in handling wildlife (birds, possums, microbats) is to be present to inspect all hollows once trees have been felled, and relocate or rescue any wildlife present.

- Trees removed during construction are to be placed as habitat near the road in consultation with Parks and Conservation staff.
- Erosion and sediment controls are to be installed in the area of Grassy Creek prior to the commencement of construction and must remain in place until the work area is stabilised to protect the water quality in this Creek which is important damselfly habitat.
- At least one wildlife crossing sign featuring a goanna image is erected on the side of north moving traffic on Boboyan Road.
- Speed limiting signs of 50km at Boboyan and 80km at Smith's road will be placed within the upgraded sections of road
- That all works are in accordance with a Construction Environment Management Plan prepared to the satisfaction of the Parks and Conservation Service that includes but is not necessarily limited to:
 - Rehabilitation of disturbed areas (Note that rehabilitation will only be deemed to be completed once there is less than 20% bare soil within the area of rehabilitation and local native species form more than 75% of the vegetation cover of each strata present.)
 - A Weed Management Plan, including a commitment to longer term weed control in disturbed areas.
 - Machine hygiene including washing down of vehicles and machinery prior to be transported to the sites, and if moved elsewhere and brought back during construction.
 - Topsoil and fill should not be brought to the work sites, unless care has been taken to obtain weed free material.
 - The placement of trunks and large branches of felled trees in adjoining bushland or utilised as directed by Parks and Conservation Staff.
 - The locations of *Cullen tenax* (Small Scurf Pea), Lanky Buttons (*Leptorhynchus elongatus*), Leafy Flat Sedge. *Cyperus lucidus* and Notched Swainson-pea (*Swainsona monticola*) recorded as incidental observations in Appendix A, are to be identified and impact with the immediate vicinity of their occurrence avoided

Attached is a Statement of Reasons for the decision.

A handwritten signature in cursive script, appearing to read 'A. Lane', written in dark ink.

Dr A. Lane
Conservator of Flora and Fauna

04 August 2017

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 Boboyan Road works will impact on 2.98 ha of native vegetation.

Works on Smith's Road will remove 0.92 ha of vegetation of which approximately 0.43 ha is 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 Boboyan Road works are 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

Boboyan Road

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.

Boboyan Road is a public road that traverses the Park from the Naas Road near Tharwa to the NSW border to the south. The road is a dirt / gravel road from near the turnoff to Gudgenby Homestead to the border and the road does not meet contemporary safety standards.

The proposed works are to upgrade 2.8km of the most southern section of this road to improve road safety. The works include:

- widening of the carriageway to allow two cars to pass each other safely by increasing the width of the road to allow for 2 x 2.5m carriageways, with a 0.5m shoulder;
- removal and trimming of vegetation to improve line of sight distances and provide a clear zone;
- changes to the vertical alignment in some places to help improve the line of sight;
- improved warning signage;
- upgrading the roadside table drains to reduce the volume of water discharged at any one location through the inclusion of additional table drain turnouts;
- widening of roadside culverts to extend beyond the nominal carriageway width, and possibly beyond clear zone requirements, to remove the requirements for roadside barriers.

Before earthworks commence, topsoil will be stripped to a depth of 100 millimetres and stockpiled. The road subgrade will then be shaped and compacted and seal applied where required.

The stockpile site is to be located immediately over the border in NSW within privately owned property.

Smith's Road

Smith's Road is a largely dirt / gravel road rural road that traverses from Tharwa south to the NSW border not far from the Murrumbidgee River. The road primarily services rural residential houses in NSW and is progressively being upgraded to a sealed road as funding permits. It is proposed to upgrade a 1.3km section of this road near its intersection with Angle Crossing Road to meet contemporary safety standards.

It is proposed to widen the existing roadway to an average width of 13.2m and bitumen seal the road. Drainage improvements will also be constructed as part of the works.

The stockpile site for these works is to be located on Block 118 Tennent, within an area of former pine plantation.

Documentation Submitted

- Report titles Boboyan and Smith Roads Upgrades Environmental Significance Opinion Application (GHD July 2017);
- Form 1M.

Natural conservation values present

Boboyan Road

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

The area of the proposed works is part of the Subalpine Montane Woodland complex. The report notes that three main vegetation types will be impacted:

- Snowgum – Candlebark tall grassy woodland
- Black Sallee grass-herb woodland
- River Tussock – Kangaroo Grass – Rush wet tussock grassland
- Native grasslands.

The Boboyan Road vegetation corridor changes with altitude and features Snow Gum (*Eucalyptus pauciflora*) and Alpine Ash (*E. delegatensis*) forest at higher elevations. The lower lying areas are open grassy valleys and plateaus. Other vegetation consists of Candlebark (*E. rubida*), Broad-leaved Peppermint (*E. dives*) and Mountain Gum (*E. dalrympleana*) open woodlands with Kangaroo Grass (*Themeda triandra*) understorey. Extensive grasslands of Snowgrass (*Poa sieberiana*), Speargrass (*Austrostipa* spp.) and Wallaby Grass (*Rytidosperma* spp.), with clumps of Snow Gum amongst rocky outcrops occur at some lower elevations and drainage locations.

Namadgi's biodiversity is extensive with more than 700 species of plants and 222 species of vertebrate animals including 35 species of mammals, 14 species of frog,

over 41 species of reptiles, four native fish species and over 130 species of birds. There are 13 threatened animal species including; the Smoky Mouse (*Pseudomys fumeus*), Hooded Robin (*Melanodryas cucullata*), Northern Corroboree Frog (*Pseudophryne pengilleyi*) and Spotted-tailed Quoll (*Dasyurus maculatus*) (Australian Alps National Parks 2016)

Twenty-five native bird species were identified during field surveys. Commonly occurring species included the Australian Raven (*Corvus coronoides*), Sulphur Crested cockatoo (*Cacatua galerita*), Crimson Rosella (*Platycercus elegans*) and Yellow-rumped Thornbill (*Acanthiza chrysorrhoa*).

Red-necked Wallaby (*Macropus rufogriseus*) were observed during the field surveys. No threatened mammal species were recorded.

The spotted Grass Frog was heard calling around the area of Grassy Creek during the field surveys. Although no threatened species were recorded the Southern Bell Frog and Green and Golden Bell Frog could potentially occur within the Grassy Creek habitat.

One amphibian species the Spotted Marsh Frog (*Limnodynastes tasmaniensis*) was recorded in wetland habitat downstream of Grassy Creek. One reptile species the Woodland Tussock Skink (*Pseudemoia entrecasteauxii*) was observed at various locations within the study area. No threatened reptile or amphibian species were recorded during field surveys.

No communities or species listed under the NC Act or EPBC Act are within the area of works.

The proposal will remove 96 trees in total of which eight are hollow bearing,

Smiths Road

The area of works is within a former pine plantation that was destroyed in the 2003 fires and not replanted. There is scattered Radiata Pine wildings and evidence of previous forestry operations including piles of timber in windrows. Revegetating native trees are scattered throughout the Radiata Pine.

The report notes that the revegetating trees are largely restricted to the western side of the road with the most commonly occurring canopy species being Inland Scribbly Gum (*Eucalyptus rossii*), Candlebark (*E. rubida*) and Apple Box (*E. bridgesiana*). There are some scattered individual trees of Yellow Box (*E. melliodora*) and Long-leaved Box (*E. goniocalyx*).

Shrubs are limited to only a few scattered shrubs of Urn Heath (*Melichrus urceolatus*) and Cough Bush (*Cassinia uncata*). Weeds such as Blackberry (*Rubus* species) occur

extensively in the area. Other weeds such as Viper's Bugloss, Saffron Thistle, St John's Wort and African Lovegrass are also found within the local area.

The Scarlet Robin (*Petroica boodang*), listed as vulnerable under the NC Act, was observed on multiple occasions on the western side of Smiths Road. The woodland trees in the wider area provide potential foraging, roosting and nesting resources for threatened species likely to occur, with shrubs and woody debris (including hollow-bearing trees) providing moderate structural diversity in habitat.

Impact on the Reserve

Only the Boboyan Road works are within a reserve.

The report notes that the Boboyan Road works will remove a total of 2.98ha of native vegetation, but also notes that this is the 'worst case scenario' and it is expected that the actual loss will be less than this. The vegetation types impacted by the works are:

- Snowgum – Candlebark tall grassy woodland
- Black Sallee grass-herb woodland in drainage depressions and moist valleyflats
- Derived native grassland
- River Tussock – Kangaroo Grass – Rush wet tussock grassland

Only two records exist for listed uncommon flora species within the study area for Boboyan Road. These species are Australian trefoil (*Lotus australis*) and Rough Groundsel (*Senecio hispidulus*). Neither of these species were observed during the survey, despite the survey being conducted during the flowering period.

There is potential to impact the habitat of four bird species that are listed under the NC Act and EPBC Act and known to occur in the area (Brown Treecreeper, Hooded Robin, Scarlet Robin and the Varied Sittella).

It is noted that 96 trees are to be removed for the Boboyan Road. Most trees to be removed are juvenile trees with a diameter at breast height of less than 10cm, though 8 are hollow bearing trees.

Trees removed during construction are to be placed as habitat near the road in consultation with Parks and Conservation staff.

Erosion and sediment controls measures are being retained on site after construction has finished minimising erosion until natural revegetation occurs.

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 a driver more time to identify, and avoid, collisions

with animals such as Red Necked Wallabies, Rosenberg's Monitors, Brush-tailed Rock Wallaby, and Spotted-tailed Quoll; improved access for fire vehicles; and improved fire suppression capability.

Long term water quality should be improved with the implementation of improved roadside drainage channels, reducing the amount of fine sediment entering Grassy Creek.

The works on Smiths Road will remove a total of 32 trees but no trees containing hollows will be removed.

Potentially Significant Environmental Impacts

There is potential for the works to introduce and spread weeds if the mitigation measures aren't 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 alignment of Boboyan Road has been designed to avoid mature hollow bearing trees where possible and to reduce the amount of native vegetation being removed for widening.

Smiths Road is within an area that has been substantially modified. The works are unlikely to have a significant impact on the Scarlet Robin as the woodland trees in the wider area, along with the existing shrubs and woody debris, provides adequate foraging, roosting and nesting resources. The small amount of vegetation that is being removed will not cause a significant adverse environmental impact on this species.

The works can be supported provided:

- the proposed works will remove no more than eight hollow bearing trees.
- hollow-bearing trees are not to be removed in the bird nesting season i.e. from the beginning of September to end of December.
- a person skilled in handling wildlife (birds, possums, microbats) is to be present to inspect all hollows once trees have been felled, and relocate or rescue any wildlife present.
- Trees removed during construction are to be placed as habitat near the road in consultation with Parks and Conservation staff.
- Erosion and sediment controls are to be installed in the area of Grassy Creek prior to the commencement of construction and must remain in place until

the work area is stabilised to protect the water quality in this Creek which is important damselfly habitat.

- At least one wildlife crossing sign featuring a goanna image is erected on the side of north moving traffic on Boboyan Road.
- Speed limiting signs of 50km at Boboyan and 80km at Smith's road will be placed within the upgraded sections of road
- That all works are in accordance with a Construction Environment Management Plan prepared to the satisfaction of the Parks and Conservation Service that includes but is not necessarily limited to:
 - Rehabilitation of disturbed areas (Note that rehabilitation will only be deemed to be completed once there is less than 20% bare soil within the area of rehabilitation and local native species form more than 75% of the vegetation cover of each strata present.)
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 - The locations of *Cullen tenax* (Small Scurf Pea), Lanky Buttons (*Leptorhynchus elongatus*), Leafy Flat Sedge. *Cyperus lucidus* and Notched Swainson-pea (*Swainsona monticola*) recorded as incidental observations in Appendix A, are to be identified and impact with the immediate vicinity of their occurrence avoided

It has been determined that if the works are undertaken in a manner consistent with the above conditions attached to the ESO, they are unlikely to cause a significant adverse environmental impact.