



Department of Environment, Land, Water & Planning

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Native Title Committee
Gunaikurnai Land and Waters Aboriginal Corporation
27 Scriveners Road (Forestec)
Kalimna West Victoria 3909
reception@glawac.com.au

Date: 28/02/2024
Our Reference: FAA001528

Dear Chairperson

RE: NOTICE CONCERNING WORKS ON NATIVE TITLE LANDS (RIGHT TO COMMENT) PROPOSED CULVERT REPLACEMENT/ UPGRADE – BEN CRUACHAN STATE FOREST

The Proposal

Department of Energy, Environment and Climate Action propose to replace an existing twin cell concrete culvert on Ben Cruachan Road which was damaged in recent storm events.

The existing 900mm concrete culvert is proposed to be replaced with a 960mm concrete culvert to align with the specification requirements for the current road width. Culvert asset and disturbance created during installation is confined to the existing road footprint.

The location of the area subject to proposal is outlined in the following attachments:

- Cadastral plan showing Crown allotment descriptions.
- Aerial Photo

Description of The Native Title Land and Waters Affected

Crown allotment 14E, Section A in the Parish of Coongulla (P262345).

This allotment is Crown land dedicated as Reserved Forest in 1958 under the provisions of Section 42 of the *Forests Act 1958*.

The proposed works are to be carried out on land that was validly reserved prior to 23/12/96. The future act is in accordance with the purpose of the reservation (Forest Reserve).

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, 3002.



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Seeking Your Comments

The *Native Title Act 1993* (NTA) requires DEECA to consult and seek comments from the Traditional Owners of Native Title lands and incorporate appropriate conditions into consent to use and develop the land.

We understand that the proponent may also be obliged under Cultural Heritage legislation to contact the Gunaikurnai RAP body concerning this project and we will advise them of those responsibilities as a matter of standard process. However, if you would also like DEECA to raise some specific conditions on cultural heritage protection matters in the exercise of your native title right to protect cultural heritage as part of this formal commentary and approvals process, we will be happy to do so at your direction.

Further, your comments on how this proposal might affect your other native title rights and interests, and how that can be managed or addressed as part of this approvals process are also keenly sought.

These recognised rights and interests include the:

- right to have access to or enter and remain on the land and waters;
- right to use and enjoy the land and waters;
- right to take the resources of the land and waters for the purposes of satisfying personal, domestic or communal needs, but not for any commercial purposes;
- right to protect and maintain places and areas on the land and waters which are of importance according to Gunaikurnai traditional laws and customs;
- right to camp
- right to engage in cultural activities;
- right to engage in rituals and ceremonies;
- right to hold meetings and gatherings;
- right to teaching and learning about the physical, spiritual and cultural attributes of places and areas of importance.

Please note that the 'non-extinguishment' principle applies to these works and your native title rights will continue to exist over the site.

The Department intends to advise the proponent that the project can proceed after 40 days from the date of this notification have elapsed. If you would appreciate the opportunity to discuss this proposal in the meantime, please contact Jo Russell at the following details.

Jo Russell
Planning Officer – Forest and Fire Planning - Gippsland
Department of Energy, Environment and Climate Action
1 Licola Road
Heyfield, Victoria, 3858

Email: jo.russell@delwp.vic.gov.au

Phone: 0474 439 053



Legislative Basis for this Notice

The proposed activity is a valid future act pursuant to Section 24 JA of the *Native Title Act 1993*.

Subdivision J of the *Native Title Act 1993* (NTA) allows for acts to be carried out on reserves provided that the act is in good faith with the purpose of the reservation. Where the act involves the construction of a public work, it is necessary that formal procedural notice be given to any Body Corporate and to any registered Representative Body.

This notice is also prepared and issued cognisant of the agreed terms outlined in Section 7.3 of the Indigenous Land Use Agreement between the State of Victoria and the Gunaikurnai Land and Waters Aboriginal Corporation dated 22 October 2010 and registered with the National Native Title Tribunal on 8 February 2011.

The proposed works are to be carried out over land that was validly reserved prior to 23/12/96. The future act is in accordance with the purpose of the reservation (Forest Reserve).

The proposed works are considered “a building or other structure that is a fixture (including memorials)” which constitutes the establishment of public works under Part 15, Division 4, Section 253 of the *Native Title Act 1993*.

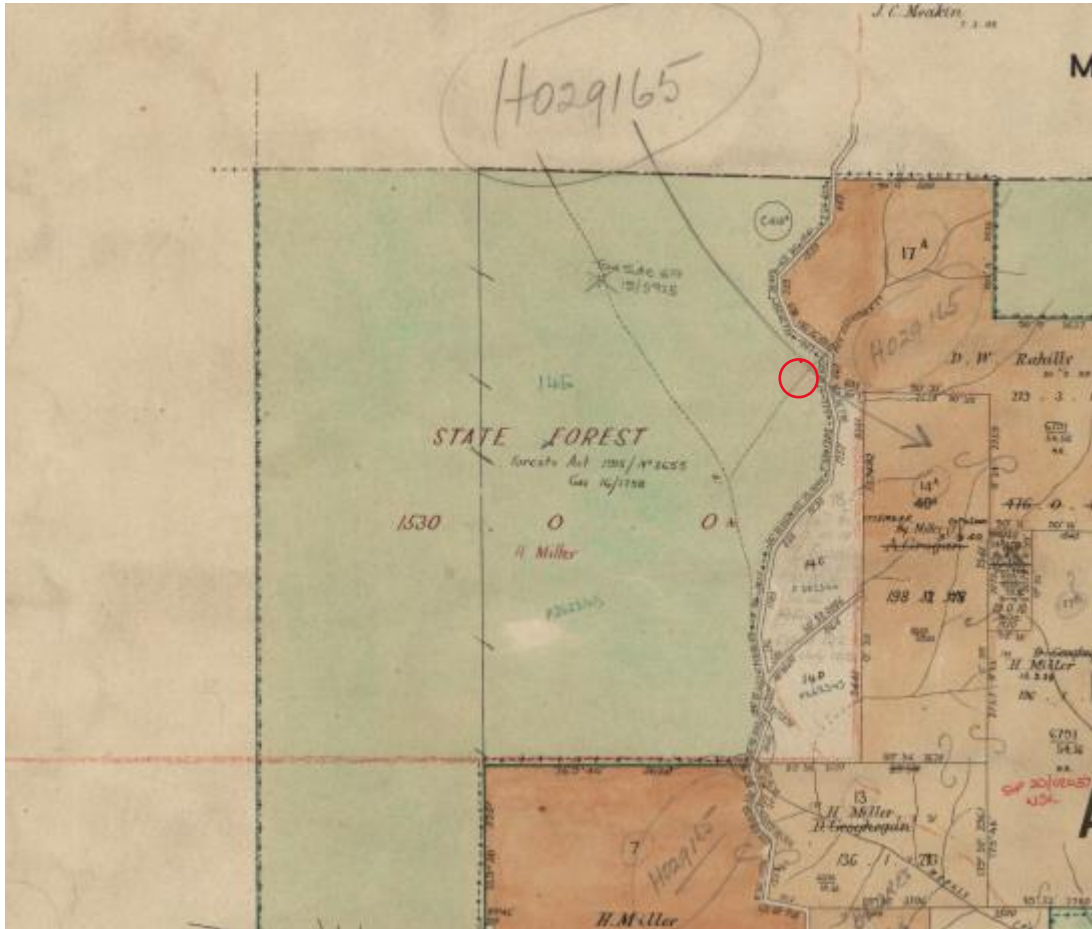
The non-extinguishment principle applies.



Jo Russell
Planning Officer – Forest and Fire Planning - Gippsland
Department of Energy, Environment and Climate Action

Date of Notice: 28 February 2024

Cadastral Plan



Aerial Plan



