



## Department of Energy, Environment and Climate Action

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Bairnsdale, Victoria 3875  
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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: 04 September 2024  
Our Reference: **FAA001674**

Dear Chairperson

### **RE: NOTICE CONCERNING WORKS ON NATIVE TITLE LANDS (RIGHT TO COMMENT) PROPOSED CULVERT INSTALLATION – PAINTED LINE TRACK**

#### **The Proposal**

Department of Energy, Environment and Climate Action propose to reconstruct and realign a 202m section of Painted Line Track in East Gippsland, Victoria.

The existing earthen ford is proposed to be replaced with 1 x box culvert (2700mm W x 2100mm H x 6000mm L + headwalls). Earthworks to excavate cut batters to desired level including table drains and to fill localised low points to align with the specification requirements for the current road width. Culvert asset and disturbance created during installation is confined to the area which has been heavily disturbed previously.

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

- Cadastral plan showing Crown allotment descriptions.
- Aerial Photo
- Site Plan
- Vic Roads plan

#### **Description of The Native Title Land and Waters Affected**

Crown Parcel 2003\PP2135 (P384956), Parish of Bete Bolong South, Municipality of EAST GIPPSLAND.

This parcel is Crown land dedicated as State 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).

#### **Seeking Your Comments**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Privacy and Data Protection Act 2014*. 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 authorized by law. Enquiries about access to information about you held by the Department should be directed to [foi.unit@delwp.vic.gov.au](mailto:foi.unit@delwp.vic.gov.au) or FOI Unit, Department of Energy, Environment and Climate Action, PO Box 500, East Melbourne, Victoria 8002.



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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 Lachie Nichols at the following details.

Planning Officer – Gippsland Region  
Department of Energy, Environment and Climate Action  
574 Main Street  
Bairnsdale, Victoria, 3875

Email: [lachie.nichols@deeca.vic.gov.au](mailto:lachie.nichols@deeca.vic.gov.au)

Phone: 0429 176 433

## Legislative Basis for this Notice

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

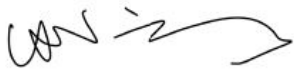
Subdivision J of the *Native Title Act 1993* (NTA) allows for acts to be carried out on reserves provided that the act is in good faith with the purpose of the reservation. Where the act involves the construction of a public work, it is necessary that formal procedural notice be given to any Body Corporate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



Lachie Nichols  
Planning Officer – Gippsland Region  
Department of Energy, Environment and Climate Action

Date of Notice: 4 September 2024

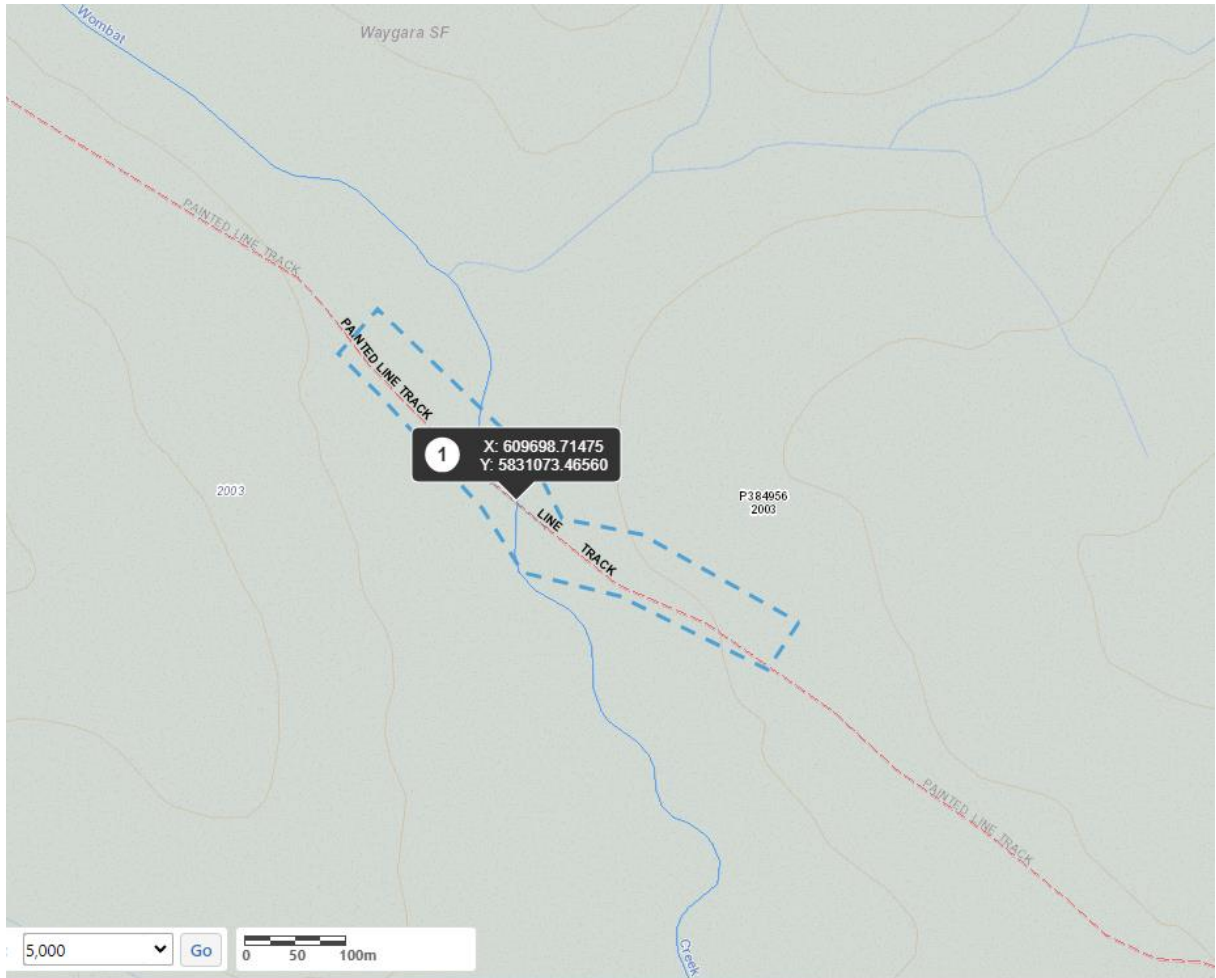


Figure 1, Cadastral Map



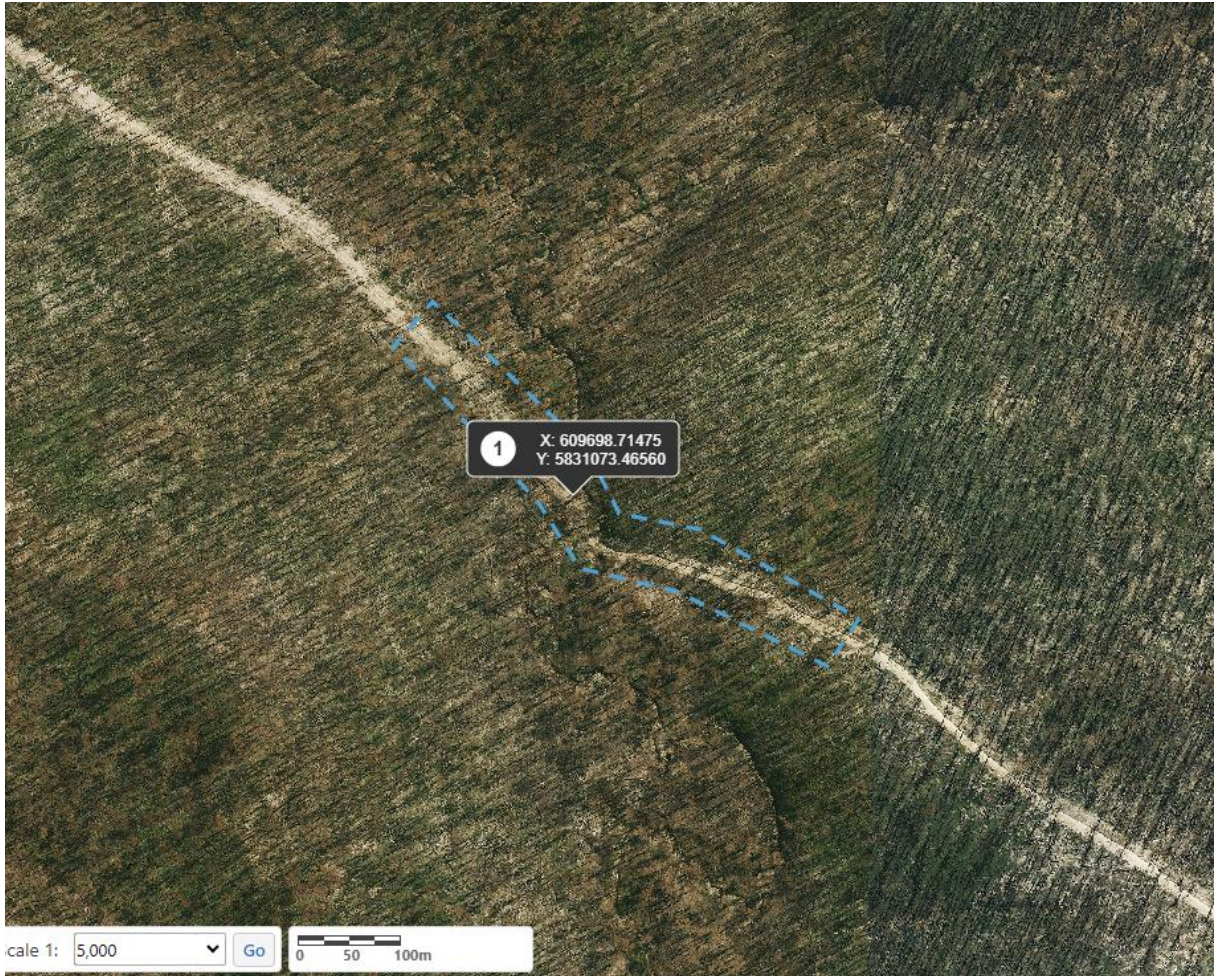


Figure 2, Aerial Map

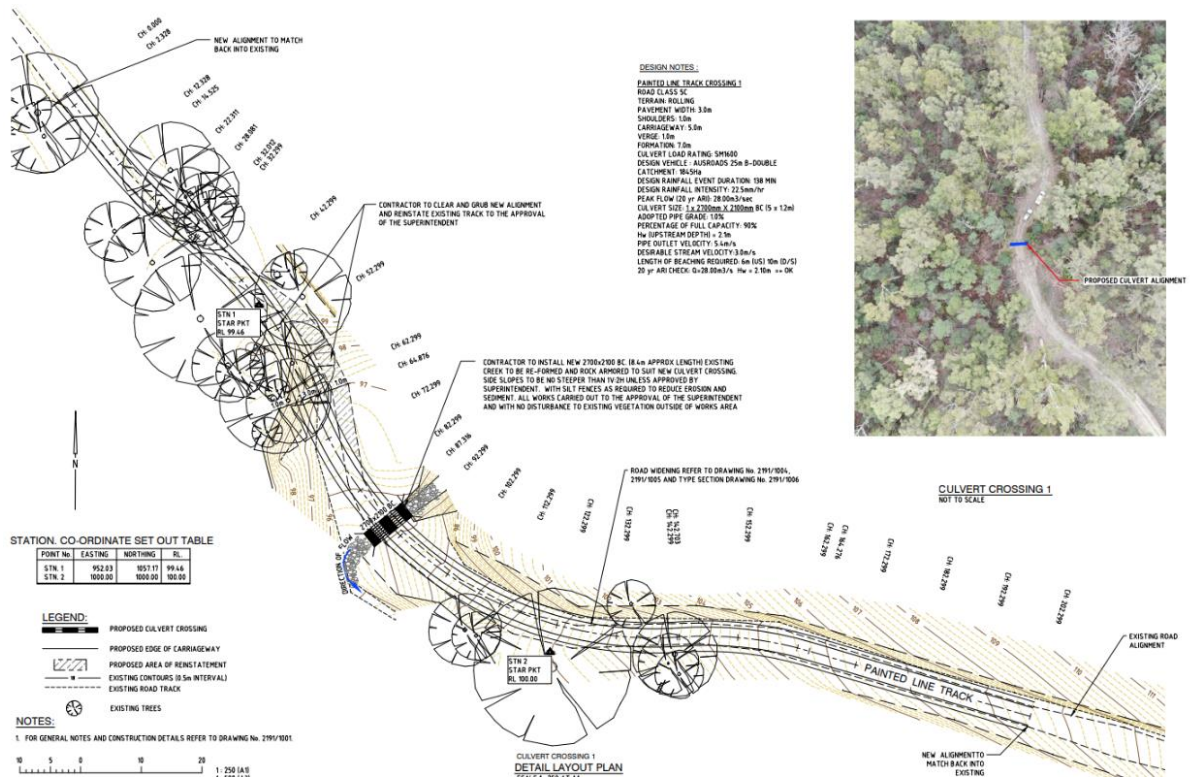


Figure 3, location of works and plan drawing