



Department of Energy, Environment and Climate Action

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Traralgon, Victoria 3844
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Chairperson
Gunaikurnai Land and Waters Aboriginal Corporation
27 Scriveners Road
Kalimna West Victoria 3909

By email: notifications@glawac.com.au

Our Reference: P501152

Dear Chairperson

**RE: NOTICE CONCERNING WORKS ON NATIVE TITLE LANDS (RIGHT TO COMMENT)
PROPOSED ACCESS TRACK AND WORKS LAYDOWN AREA FOR FISHWAY –
MACALISTER RIVER, MAFFRA**

The Proposal

Southern Rural Water in partnership with West Gippsland Catchment Management Authority (is planning to build a vertical slot fishway at the Maffra Weir. The intent of the fishway is to allow safe upstream passage of various native fish species.

The fishway itself will be built on private property at the weir, but western access is only possible by traversing public land.

It is proposed that an all-weather vehicle access track will be built for construction and maintenance purposes, as shown on the attached site plan. This will traverse the old course of the Macalister River before connecting to the rail trail at Crown allotment 2082, Parish of Tinamba (P368982) over which native title is extinguished.

The proposed laydown area for construction is shown hatched yellow on attached plan. It is mostly contained to private property (Lot 1\TP513755), but due to terrain and size limitations on this allotment will also extend by 900 square metres onto the former river course.

Works are proposed to conclude in September 2026.

DEECA intends to grant the proponent a Crown land licence to formalise their occupation and use, under section 138 of the *Land Act 1958*

Native vegetation proposed to be removed is shown in red hatching on the attached plan, including two trees proposed to be removed.

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

- Cadastral plans
- Aerial Photo

Privacy Statement

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@deeca.vic.gov.au or FOI Unit, Department of Energy, Environment and Climate Action, PO Box 500, East Melbourne, Victoria 8002.



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- Site Plan
- Parish plans

Description of The Native Title Land and Waters Affected

- Crown allotment 2032, Parish of Bundalaguah (P501152)
- Crown allotment 2082, Parish of Tinamba (P506398)
- Crown Allotment 16F, Parish of Tinamba (P262391)

These allotments are former bed and frontage to the Macalister River and are Crown lands reserved for Public Purposes by notice published in the Victoria Government Gazette in 1881 on page 1389.

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. We would appreciate the opportunity to discuss this proposal however in the meantime please contact Matt Kelly at the following details.

Will Hoban
Program Officer
Public Land Services
Department of Energy, Environment and Climate Action
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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 (Public Purposes Reserve).

The proposed works are considered "a road" 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.



Will Hoban
Program Officer
Public Land Services
Department of Energy, Environment and Climate Action

Date of Notice: 24 April 2026



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