



Department of Energy, Environment and Climate Action

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

By email: notifications@glawac.com.au

Date: 2 September 2026
Our Reference: 1601493 and P321076

Dear Chairperson

**RE: NOTICE CONCERNING WORKS ON NATIVE TITLE LANDS (RIGHT TO
COMMENTS/SUBMISSIONS)
PROPOSED WATER MAIN REALIGNMENT AT BOGGY CREEK – NOWA NOWA**

The Proposal

East Gippsland Water propose to realign the water main pipeline at Boggy Creek in Nowa Nowa which requires removing the existing pipeline and realigning it with a new pipeline.

The existing pipeline is coated with asbestos lagging and has ongoing safety, operational, environmental and asset management risks. The proposed replacement pipeline will provide a more resilient and consistent water supply with more suitable materials.

Construction will be via open trench excavation within the former railway reserve corridor, and all disturbed areas will be reinstated post completion. The footprint of the proposed works will have minimal environmental impact including native vegetation disturbance.

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

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

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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Description of The Native Title Land and Waters Affected

Subdivision J – Crown allotments reserved prior to 23/12/1996 or has a valid Land Conservation Council Recommendation

Crown allotment 2012, Parish of Tildesley West (P393350)

Crown allotment 2009, Parish of Ninnie (P393347)

These allotments are Crown lands are permanently reserved for Public Purposes by Order in Council on 23 May 1881, published in the Victorian Government Gazette on 27 May 1881, page 1389.

Crown allotment 46C, Section C, Parish of Tildesley West (P321076)

This Crown Allotment is temporarily Reserved Crown land for Public Purposes by Order in Council on 22 March 2005, published in the Victorian Government Gazette on 24 March 2005, on page 585. This Crown allotment is subject to a recommendation from the Land Conservation Council that the land be utilised as railway under the East Gippsland Review (1986) – Q9 – Services and Utilities.

Subdivision K– Crown allotments reserved after 23/12/1996

Crown allotment 2013, Parish of Tildesley West (P393351)

Crown allotment 2008, Parish of Ninnie (P3933346)

These allotments are Crown lands temporarily reserved for Public Purposes by Order in Council on 6 November 2013, published in the Victorian Government Gazette 7 November 2013, on page 2731.

Seeking Your Comments/submissions

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 Maddy Arbuthnot at the following details.

Maddy Arbuthnot
Program Support Officer
DEECA Regional Office
Level 3
8-12 Seymour Street
Traralgon, Victoria, 3844
Telephone:
e-mail: maddy.arbuthnot@deeca.vic.gov.au.

Legislative Basis for this Notice

The proposed activities are valid under Sections 24JA and 24KA of the *Native Title Act 1993*.

Subdivision J

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 future act is in accordance with the purpose of the reservation (Public Purposes).

The non-extinguishment principle applies.

Subdivision K

Subdivision K of the *Native Title Act 1993* (NTA) allows for acts to be carried out that constitute the establishment of a facility for service to the public as listed in Section 24KA(2) of the NTA.

In this case the work, being the construction of a pipeline, are listed in Section 24KA(2)(a).

The *Native Title Act 1993* (NTA) requires DEECA to consult and seek submissions from the native title holders and incorporate appropriate conditions into consent to use and develop the land and if required, facilitate a six-month period of 'good faith' negotiations between the parties to reach a mutual agreement. Further detail on the Submissions process is attached to this notice.

The non-extinguishment principle applies.



Maddy Arbuthnot
Public Land Services Program Support Officer, Gippsland,
Department of Energy, Environment and Climate Action

Date of Notice: 2 September 2026