



**NSW NATIONAL PARKS & WILDLIFE SERVICE**

# **Decision statement**

**Building the Nungatta Feral Predator Free Area**

**REF CM9 file no.    DOC22/920067**  
**Title of proposal:    Building the Nungatta Feral Predator Free Area**  
**Park name:            South East Forest National Park**  
**NPWS Area:          Sapphire Coast Area / South Coast Branch**  
**Proponent:           NPWS Sapphire Coast Area Manager**

# Determination

Based on the Review of Environmental Factors and any additional information obtained, and after having taken into account to the fullest extent possible all matters likely to affect the environment as a result of the proposed activity (in accordance with section 5.5 of the *Environmental Planning and Assessment Act 1979*), **I hereby determine that:**

1. Further information/assessment is **not required**:
  - an Environmental Impact Statement (EIS) is not required as the activity is not likely to significantly affect the environment
  - a Species Impact Statement (SIS) is not required as the activity is not proposed to occur on land that is part of an area of outstanding biodiversity value or critical habitat, and the activity is not likely to significantly affect threatened species or ecological communities, or their habitats.
2. **The activity may proceed, subject to the conditions** specified in Schedule 1 and subject to any necessary approvals (if approval required) being obtained first.
3. The activity:
  - **is unlikely to** impact significantly on **Matters of National Environmental Significance** under the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth of Australia)
  - **may** impact significantly on **local council roads**, but will not affect council water, sewer and stormwater infrastructure, **local heritage items** or **flood liable land** and that a record of all required consultation with the relevant councils has been provided
  - **will** require certification to Australian Standards in accordance with the NPWS *Construction Assessment Procedures*.

## NPWS Area Manager recommendation for determination:

Name: Andrew Wall

Signature:



Date: 18/10/22

I certify that I have reviewed and endorsed the contents of this REF document and, to the best of my knowledge, it is in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under section 170 of the EP&A Regulation, and the information it contains is neither false nor misleading.

## Determination by A/Executive Director Park Operations Coastal NPWS

Name: Deon van Rensburg

Signature:



Date: 15/11/2002

# Schedule 1: Conditions of determination

## General information about this determination

### References to the REF

All references to the REF are references to the following documents:

- Review of Environmental Factors for building the Nungatta Feral Predator Free Area and appendices, October 2022.
- GML Heritage (2022a) Aboriginal cultural heritage assessment report, prepared for the NSW Department of Planning and Environment.
- GML Heritage (2022b) Nungatta Feral Predator-Free Area, South East Forest National Park, Statement of Heritage Impact (SoHI), prepared for the NSW Department of Planning and Environment.
- Austral Research and Consulting (2022) Nungatta Feral Predator-Free Area, South East Forest National Park: Aquatic Fauna Surveys, prepared for the NSW Department of Planning and Environment, July 2022.
- Davoodian N (2022) Hypogeous fungi and Phytophthora survey, Nungatta Feral Predator-Free Area, prepared for the NSW Department of Planning and Environment.
- Far South Coast BFMC (Bush Fire Management Committee) (2022) 'Minutes of meeting held 21 July 2022', Far South Coast Bush Fire Management Committee.
- Miles J (2021) Flora Survey for the Nungatta Feral Predator-Free Area, prepared for the NSW Department of Planning and Environment, November 2021.
- Narla Environmental (2022) Flora and Fauna Assessment Report, Nungatta Feral Predator-Free Area, prepared for the NSW Department of Planning and Environment.
- NPWS (2022a) 'Impact and management of Phytophthora cinnamomi', internal National Parks and Wildlife Service document.
- Snowy Monaro BFMC (Bush Fire Management Committee) (2022) 'Minutes of meeting held 24 August 2022', Snowy Monaro Bush Fire Management Committee, Cooma.

### Responsibilities of the proponent

The proponent is responsible for the manner in which the activity detailed in the REF and this determination is performed.

### Transfer of REF determination

REF determinations are not transferable, except with the written approval of the NPWS Branch Director.

### Inspection of work covered by this REF determination

NPWS staff not involved in the proposal's implementation may be asked by the relevant NPWS Branch Director, another senior executive or Area Manager to examine work undertaken as part of the activity at any reasonable time without notice.

## Entry to land

The proponent is responsible for securing permission to enter land outside South East Forest National Park from the controlling body or registered owner or occupier of that/those land/s.

## Reference to NPWS officers in this determination

The NPWS Branch Director may delegate any functions ascribed to that position in the determination to another NPWS officer including, but not limited to, the relevant NPWS Area Manager.

## Explanatory notes to conditions in this determination

Explanatory notes included with this determination do not form part of the conditions.

## General conditions

### Duration and scope of determination

1. The applicant must have commenced the activity within 5 years from the date of determination<sup>1</sup>.
2. The determination applies indefinitely for the operation and maintenance of the feral predator free area. If the operation of the area ceases for any reason, the rehabilitation of the activity footprint must occur to NPWS satisfaction within 2 years of the decision to cease operations.
3. This determination applies to those parts of the activity as identified in the Review of Environmental Factors (REF) that will be undertaken within the South East Forest National Park and the council road reserve at the locations indicated in the REF, subject to the agreement with the relevant councils for the works to include the council road reserve. The proponent must determine whether any other approvals are required for any associated works that are to occur outside this area, including any works in other parts of the South East Forest National Park or outside the South East Forest National Park

*Reasons<sup>2</sup>: To ensure that the activity is commenced and is completed within an appropriate timeframe.*

*To ensure that the activity is consistent with the consideration of potential environmental impacts in the REF and in accordance with relevant statutory approvals issued for the activity as described in the REF.*

### Emergency works

4. Notwithstanding any other conditions of this determination, in the event that emergency works are required, the proponent must take all reasonable steps to ensure that these occur as expeditiously as possible. Emergency works are generally works of a temporary and reversible nature which are urgently required to arrest an imminent threat to life, safety, public liability, and/or threat to fabric, property or the environment.

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<sup>1</sup> If the activity is not substantially commenced within this time, the applicant must seek direction from the NPWS South Coast Branch Director as to whether a new REF must be submitted for determination before the activity may proceed.

<sup>2</sup> 'Reasons' are included as a mechanism to explain the rationale of a condition to an applicant. The reason does not form a part of the condition but is included for clarity.

5. In the event that emergency works are undertaken, the proponent must notify the Environment Line on 131555 as soon as practicable. Once notification has been made, the proponent must contact the South Coast Branch Director or delegate to seek direction on any further procedures to be implemented.

*Reason: To arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.*

## **Undertaking the activity**

6. The 'activity' detailed in the "REF for building the Nungatta Feral Predator Free Area" dated 27 October 2022 must be undertaken:
  - at the location identified in the REF
  - in accordance with the description of the activity and environmental safeguards or mitigation measures listed in the REF
  - as required or amended by the conditions of this determination.
7. In the event of any inconsistency between the REF and the conditions of this determination, the conditions of the determination shall prevail.
8. This determination, and the conditions of this determination, do not relieve the proponent of any obligation to obtain other statutory approvals necessary to undertake the activity, including but not limited to any approvals required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
9. The proponent must undertake the activity in accordance with the requirements of the *Work Health and Safety Act 2011*, including codes of practice adopted under the Act, and the Work Health and Safety Regulation 2011. Any contractors on the site are to have appropriate insurances, including public liability insurance.
10. The proponent must provide the following to the South Coast Branch Director or delegate prior to commencement of the activity:
  - the contact details and qualifications of a person who will be present on site to supervise the activity
  - a list of tradespersons, contractors or subcontractors who will be involved in undertaking the activity. The list must include the trade licence number and information on the expertise and experience of the tradesperson or contractor.

*Reason: To ensure that the activity is undertaken in accordance with the REF as amended by the conditions of approval and that the activity is carried out by appropriately qualified individuals.*

## **Prior to commencement of activity conditions**

### **Approvals and compliance**

11. Prior to the commencement of the activity, the proponent must obtain the following:
  - Aboriginal Heritage Impact Permit issued under section 90 of the National Parks and Wildlife Act 1974
  - Permit under section 219 of the Fisheries Management Act 1994 before restricting fish passage
  - Permit under section 116 of the Roads Act 1993 before restricting public access along East Laings Road.
12. Prior to the commencement of the activity, the proponent must enter into an agreement with Bega Valley Shire Council and Snowy Monaro Regional Council under section 146(3) National Parks and Wildlife Act to carry out works on the council road reserve between White Rock River and Junction East Laings Road and Nungatta Creek Road.

13. Prior to the commencement of the activity, the proponent must comply with any other relevant requirements of this determination, including submission and approval of:

- a communications plan (Condition 18)
- an environmental management plan (Condition 19)
- an incident management plan (Condition 21)
- an erosion and sediment control plan (Condition 23)
- a vegetation management plan (Condition 25).

14. Prior to the commencement of the activity the proponent (including any employees, contractors, subcontractors and agents involved in undertaking the activity) must hold an on-site meeting with the Sapphire Coast Area Manager (or their delegate).

*Reason: To ensure confirmation of any site-specific arrangements for the undertaking of the activity.*

### **Aboriginal participation**

15. At least 21 days prior to the activity commencing the proponent must invite, by phone call, or in writing, representatives from the Far South Coast Aboriginal community to monitor works associated with the undertaking of the activity, for the duration of the activity or as specified in the approved Aboriginal Heritage Impact Permit

*Reason: To provide the Aboriginal community with an opportunity to monitor works in areas of cultural heritage significance.*

### **Certification of building and infrastructure works prior to commencement**

16. Prior to the commencement of building or infrastructure works, the proponent must ensure that proposed works are certified to comply with the Building Code of Australia (BCA) or relevant Australian Standards, if required by the OEH *Construction Assessment Procedure*. Evidence of compliance with the BCA, Disability (Access to Premises – Buildings) Standard, or Australian Standards must be submitted to the satisfaction of the South Coast Branch Director.

17. For those proposed building and infrastructure works that do not require certification under the OEH *Construction Assessment Procedure*, the proponent must ensure that the activity is undertaken in accordance with any relevant requirements of the BCA, Disability (Access to Premises – Buildings) Standards or Australian Standards, and is safe and fit for the intended purpose.

*Reason: To ensure that proposed building and infrastructure works comply with all necessary OEH policy and statutory requirements.*

*Explanatory notes:*

- i. *Building works mean an activity that comprises:*
  - *erection of a building, including a temporary building*
  - *demolition of a building or work*
  - *the doing of anything that is incidental to the erection of a building or the demolition of a building or work*
  - *a change of building use where there is a resulting change in the BCA classification applicable to the building.*
- ii. *Infrastructure works means any physical activity involved in the erection or alteration of on-park public or private assets and utility services, including demolition. Examples include bridges, carparks, culverts, roads, tracks, viewing platforms, landscaping, fencing, environment protection works and public utilities.*
- iii. *The process for obtaining certification (if required) is specified in the OEH Construction Assessment Procedure.*

## Communications Plan

18. A Communications Plan must be prepared by the proponent and submitted to the South Coast Branch Director or delegate for approval at least 14 days prior to the commencement of the activity. The proponent must comply with all measures identified in the approved plan. The plan must detail:

- how the closure of the Nungatta Feral Predator Free Area will be communicated to the public prior to the commencement of the activity (including but not limited to on-park signage consistent with clause 6 of the National Parks and Wildlife Regulation)
- the broader notification of this closure and imminent commencement of work to stakeholders, the general public, NPWS staff and contractors
- when and how the activity's progress will be communicated to stakeholders, the general public and NPWS staff.

## Environmental Management Plan

19. An Environmental Management Plan (EMP) identifying the potential risks of the activity and how these will be managed must be prepared by the proponent and submitted to the South Coast Branch Director or delegate for approval at least 14 days prior to the commencement of the activity. The proponent must comply with all measures identified in the approved EMP. The plan must detail the environmental management procedures to be applied during and after the completion of the activity including, but not limited to, the following components:

- location of active work and storage areas
- measures to protect areas of environmental sensitivity including reporting and communication pathways
- measures to protect Aboriginal Cultural Heritage including reporting and communication pathways
- environmental safeguards, including water pollution controls, waste management, soil and machinery hygiene protocols, and management of hazardous substances
- site rehabilitation including management of contaminated materials and soils
- vehicle and pedestrian access arrangements, including parking
- public safety, including location, design and timeframes of information signage and public relations media releases by the proponent
- contact protocols outlining procedures and any notifications to be given before works commence, together with contact details for the project manager and the NPWS Sapphire Coast Area Manager and Ranger
- site induction and training arrangements
- site monitoring and reporting
- protocols for incidents and emergencies and contingency planning, including reporting pathways.

20. Specifications in the environmental management plan for the movement of machinery, vehicles, boots and other construction equipment by the proponent will recommend hygiene requirements that comply with the NSW Government's *Hygiene guidelines for wildlife: Protocols to protect priority biodiversity areas in NSW from Phytophthora cinnamomi, myrtle rust, amphibian chytrid fungus and invasive plants* (DPE 2020).

*Reason: To provide detailed site-specific guidance to minimise environmental risk from the activity.*

## **Incident and emergency preparedness and management**

21. An Incident Management Plan must be prepared and kept on site by the proponent. The Plan must be submitted for approval of the South Coast Branch Director or delegate at least 14 days prior to the commencement of the activity. The proponent must implement the approved plan. The content of the plan must be developed in consultation with the Sapphire Coast Area Manager and must detail procedures to be followed in the event of an emergency or similar event including bushfires. These procedures must include, but are not limited to, the following:

- measures to ensure all workers are made aware of the plan and its provisions and be trained in the use of emergency equipment and procedures for evacuation and seeking refuge
- equipment to be tested in accordance with manufacturer's recommendations during training of employees
- the plan is to be displayed in a prominent location and should clearly highlight recommended actions and 24-hour contacts
- the plan must be reviewed/updated at least every 6 months.

*Reason: To ensure appropriate management of emergency situations including fire incidents.*

## **Signage and barriers to close the worksite**

22. At least a day before the activity commences, the proponent must erect signs at the park entrance and signage and appropriate barriers in the immediate vicinity of the activity site to secure the closure of the worksite. Signs must be consistent with the Communications Plan visible and clearly identify the proponent and list:

- a description of the activity, reasons for undertaking the activity and duration of the activity
- the hours of operation
- a contact telephone number for public inquiries.

*Reason: To support the safe undertaking of the activity and provide appropriate information to the public.*

## **Stormwater, erosion and sediment controls**

23. Prior to the commencement of the activity, the proponent must submit an erosion and sediment control plan for the approval of the Sapphire Coast Area Manager. The plan must be prepared using the guidelines *Managing Urban Stormwater: Soils and Construction* (Landcom 2004)) and other relevant guidelines<sup>3</sup>. The proponent must comply with the approved plan.

*Reason: To ensure appropriate management of stormwater and to minimise the risk of environmental harm associated with erosion and sedimentation.*

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<sup>3</sup> for example, the Field Guide for erosion and sediment control on unsealed roads, [www.environment.nsw.gov.au/research-and-publications/publications-search/erosion-and-sediment-control-on-unsealed-roads](http://www.environment.nsw.gov.au/research-and-publications/publications-search/erosion-and-sediment-control-on-unsealed-roads)



## Topsoil and mulch

24. The proponent must ensure that during any excavation associated with the activity, contaminated soil and mulch will be managed as specified in the Environmental Management Plan. Uncontaminated topsoil and mulch will be removed and stockpiled in an area identified and agreed to in writing by the Sapphire Coast Area Manager, and later re-spread across the disturbed area with the consent of the Sapphire Coast Area Manager if the soil and mulch is deemed safe to re-use.

*Reason: To ensure topsoil and is managed appropriately and spread of plant pathogens is minimised .*

## Vegetation management

25. A Vegetation Management Plan must be prepared and submitted for approval of the South Coast Branch Director or delegate prior to the commencement of the activity. The Plan must identify the precise extent, location and type of vegetation to be cleared, protocols to minimise impacts on fauna and their habitat during those clearing operations and any temporary storage areas to be revegetated or regenerated at the conclusion of the construction phase of the activity.
26. The proponent must only clear areas as identified in the approved Vegetation Management Plan.
27. Prior to commencing clearing, the proponent must clearly mark the areas not approved for clearing via flicker tape or other suitable markers as identified in the Vegetation Management Plan.

*Reason: To provide detailed site-specific guidance to minimise impacts on vegetation and on fauna during clearing operations.*

## Waterway protection

28. Except as may be expressly provided in any other condition of this determination, the proponent must comply with section 120 of the *Protection of the Environment Operations Act 1997*.

*Explanatory note: Section 120 states that a person who pollutes any water is guilty of an offence. Sections 121 and 122 provide that a person is not guilty of an offence if they are acting in accordance with a regulation or licence applicable to the activity.*

## Operational conditions

### Availability of REF determination and conditions

29. A copy of the REF, this determination and attached schedule of conditions must be published on the Environment and Heritage website and kept at the site to which the REF applies.
30. The REF, this determination and attached schedule of conditions must be produced to any authorised officer of NPWS who asks to see it.
31. The REF, this determination and attached schedule of conditions must be available for inspection by any employee or agent of the proponent working at the site.

*Reason: To ensure that the activity is undertaken in accordance with the REF and in accordance with relevant statutory approvals.*

## Discovery of unknown Aboriginal and historic heritage values

32. If, during the course of the activity:

- any Aboriginal objects, as defined under the National Parks and Wildlife Act, are uncovered or discovered, and/or
- any relics, as defined under the *Heritage Act 1977*, are uncovered or discovered the proponent must cease work immediately and notify the Environment Line on 131555 **unless the objects and/or relics are subject to the Aboriginal Heritage Impact Permit** or a valid Heritage Permit. Work must not recommence until written advice to do so has been provided by Heritage NSW.

33. Unless explicitly covered by the REF, this determination does not authorise the disturbance or movement of any human skeletal remains. If, during the course of the activity, any human skeletal remains are located the proponent must:

- immediately cease the activity in that location and not further harm these remains
- secure the location so as to avoid further harm to the remains
- notify the local police and Environment Line on 131555 as soon as practicable and at that time provide any available details about the nature and location of the remains
- notify the South Coast Branch Director or delegate, and
- recommence the activity at that location only after receiving confirmation in writing from the local police or Heritage NSW that it is appropriate to do so.

*Reason: To protect cultural heritage values or coronial evidence*

## Discovery of unknown biodiversity values

34. If, during the course of undertaking the activity, the proponent becomes aware of the presence of threatened species or threatened ecological communities, or their habitats, that were not identified and assessed in the REF and which are likely to be affected by the activity, the proponent must:

- immediately cease all work likely to affect that threatened species or ecological community, or its habitat
- inform the South Coast Branch Director or delegate and/or the local NSW DPI Fisheries office (for threatened fish) as relevant. Notification must be made as soon as practicable by phone, electronically or in writing, and
- not recommence work likely to affect the threatened species or endangered ecological communities, or their habitats until receiving written advice from NPWS and/or DPI Fisheries to do so.

*Reason: To minimise biodiversity impacts.*

## Notification of environmental harm

35. The proponent or its employees (including any contractors) must notify the Environment Line on 131555 of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident.

36. Once notification has been made the proponent must also contact the South Coast Branch Director or delegate to seek direction on any further procedures to be implemented.

37. The proponent must provide written details of the notification to the South Coast Branch Director within 7 days of the date on which the incident occurred.

## Equipment and materials storage

38. The proponent must store any machinery, equipment or materials required for the activity in existing cleared areas or areas determined to be cleared in accordance with the REF.
39. The proponent must ensure that all machinery, vehicles, boots and other construction equipment are cleaned (e.g. washed down) as specified in environmental management plan in accordance with the hygiene protocols specified in the environmental management plan.
40. At all times that the activity is not being undertaken, machinery, vehicles and equipment must be stored in a secure location with authorised access only.

*Reasons: To reduce the risk of Phytophthora cinnamomi & weed invasion  
To ensure that equipment is stored and secured in suitable locations.*

## Fire prevention and control

41. The proponent must ensure that firefighting equipment, including a bulldozer with a dedicated operator wearing approved personal protective equipment (PPE), is provided on site during periods of declared high fire danger or above. The dozer must comply with provisions of the NSW Rural Fire Service heavy plant register and be on that register.
42. The proponent must ensure that at least 5000 litres of freshwater are provided on site at all times. Dedicated pumps must be positioned next to each water supply to service fire appliances or extinguish small fires that may start at the site. Each pump must have Storz fittings of 25mm and 38mm. Hoses of 25mm diameter with 30m length should be used for firefighting and hoses 38mm diameter and 10m in length should be used for filling of fire appliances. Workers at the sites must be able to operate these pumps to extinguish fires or transfer water into firefighting appliances.
43. Firefighting foams or gels are not to be used in firefighting operations within 50 metres of the edge of a creek, swamp or freshwater lake.
44. Machinery which may result in sparking or ignition must not be operated during a Park Fire Ban for South East Forest National Park or a declared Total Fire Ban for the zone which includes South East Forest National Park.
45. The proponent must store fuel and other similar flammable materials, such as gas cylinders and paint, in appropriate fire-resistant storage containers.

*Reasons: To establish adequate controls to manage the risk of the activity accidentally starting a fire.  
To ensure that fire response is undertaken quickly and in such a way as to minimise environmental and cultural heritage impacts.*

## Demolition

46. The proponent must carry out all demolition work in accordance with the provisions of relevant Australian Standards, including AS2601-2001 *Demolition of structures*. Any demolition works involving asbestos materials must also comply with the *Protection of the Environment Operations (Waste) Regulation 2014* with regard to handling and movement of asbestos material.

*Explanatory notes:*

- i. *Refer to the EPA website for more information on management of asbestos material*
- ii. *Certification of demolition work may be required under the OEH Construction Assessment Procedures*

*Reason: To ensure that demolition works are carried out in accordance with relevant requirements.*

## Operational hours and site access

47. Work must only be conducted between the following hours: 7am to 6pm-
48. The proponent will ensure that the part of South East Forest National Park where the activity will occur will remain closed to entry by unauthorised personnel, and that signage and barriers are maintained at all mapped access points during the construction and operational phase of the activity.
49. The proponent is to encourage staff and contractors involved in the activity to carpool to the site in light vehicles during the proposed activity.

*Reason: To minimise impacts on visitors to the park and park neighbours, and to support the safe undertaking of the activity.*

## Waste management

50. Waste generated at the site from works undertaken as part of the activity must be managed in accordance with the *Protection of the Environment (Waste) Regulation 2014*.
51. Removal of any asbestos-containing material must be undertaken in accordance with *Working with Asbestos: Guide 2008* published by the WorkCover Authority.

*Reason: To ensure the appropriate management of waste material.*

*Explanatory note: For further information on managing waste see the EPA website*

## Post activity conditions

### Certification on completion of works

52. Upon completion of infrastructure works, and prior to infrastructure works being made operational, the proponent must ensure that the completed works are certified to comply with the relevant Australian Standards if required by the OEH *Construction Assessment Procedures*. Evidence of compliance with the Australian Standards must be submitted to the satisfaction of the South Coast Branch Director.

*Reason: To ensure that completed building and infrastructure works are certified to comply with all necessary NPWS policy and relevant statutory requirements.*

*Explanatory notes:*

- i. *Building works are as defined above, and include a change of use*
- ii. *Infrastructure works are as defined above.*
- iii. *The process for obtaining certification is specified in the OEH Construction Assessment Procedures.*

### Site rehabilitation

53. the proponent must repair and rehabilitate any area damaged by vehicular or other access to the site, as soon as site conditions allow and to the satisfaction of the South Coast Branch Director or delegate.
54. The proponent must only use locally sourced indigenous plant species for site restoration works, unless otherwise agreed in writing by the Sapphire Coast Area Manager.

*Reason: To ensure that works sites are suitably rehabilitated following the completion of the activity.*