



Department of Environment, Land, Water & Planning

Our ref: SP460306

11 May 2017

Mr Mark Costello
Acting Regional Director
Loddon Mallee Region
Department of Environment, Land, Water and Planning
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Dear Mr Costello,

DRAFT PLANNING PERMIT APPLICATION REVIEW

PROPOSAL: DEVELOPMENT OF A MOUNTAIN BIKE PARK

ADDRESS: CROWN ALLOTMENT 2002, PARISH OF HARCOURT

Thank you for your email dated 10 May 2017 regarding the above mentioned planning permit application.

The Department of Environment, Land, Water and Planning (DELWP) would be a determining referral authority pursuant to Section 55 of the *Planning and Environment Act 1987*, and as identified in Clauses 66.03 and Clause 66.04 in the Mount Alexander Planning Scheme. The Bushfire Management Overlay (BMO) and Schedule 4 to the Environmental Significance Overlay (ESO4) are applied to the site. DELWP is the relevant fire authority for this Crown land site.

The subject land is zoned Public Conservation and Resource Zone (PCRZ) and the Heritage Overlay (HO798) is also applied to the site.

I confirm DELWP has today reviewed the application for the construction of the bicycle trails and associated infrastructure as detailed in the following documents:

1. Harcourt Mountain Bike Park – Planning Permit Application (DELWP May 2017)
2. Permit application form
3. Harcourt Mountain Bike Park – Possible impacts and mitigation measures (DELWP undated)
4. Letter to Dja Dja Wurrung Clans Aboriginal Corporation (6 December 2016) re Cultural Heritage Management Plan 14624
5. Draft CHMP conditions
6. Harcourt Mountain Bike Park – Mount Alexander Plantation and Portion of Mount Alexander Regional park – Preliminary Aboriginal Cultural Heritage Investigation – Desktop and Field Assessment (Dja Dja Wurrung Clans Aboriginal Corporation 30 November 2015)
7. Map 5 Results of the Standard Assessment (Biosis 28 November 2016)
8. Harcourt Mountain Bike – Historic Heritage Study (David Bannear, Archaeologist, Heritage Victoria November 2015)
9. Harcourt Mountain Bike Park – Land Capability Assessment (GHD February 2016)
10. Harcourt Mountain Bike Trail – Threatened Flora and Vegetation Investigation v.2 (Blue Devil Consulting November 2015)
11. Harcourt Mountain Bike Park: Habitat hectare and desktop threatened fauna assessment (Biosis 7 February 2017)

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12. Harcourt Mountain Bike Park – Bushfire Management Statement (Practical Ecology December 2015)
13. Photo overlay plan titled Harcourt Mountain Bike Trails (Dirt Art 9 May 2017)
14. Construction Environmental Management Plan (CEMP): Project – Harcourt Mountain Bike Park Construction (Dirt Art, May 2017 Ver 1B)

DELWP concurs with conclusions in the application that the proposed development is exempt from permit triggers for buildings and works in the PCRZ, and for vegetation removal in ESO4 and Clause 52.17 in the planning scheme, and has considered the application in the context of the following permit triggers:

- ESO4 – the construction of bicycle pathways and trails.
- BMO – to construct or carry out works in association with Leisure and Recreation.

This letter is prepared in the context of Section 55(1)(b) of the *Planning and Environment Act 1987*, anticipating it will be forwarded to the responsible authority together with the application, within three months of the date of this letter. The following commentary may assist both the applicant and the responsible authority.

Comments

Native Title

The subject land is located within the area of the Dja Dja Wurrung Land Use Activity Agreement (LUAA) which is an agreement between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC) that came into effect on 25 October 2013.

Harcourt Mountain Bike Park, as a land use activity, is considered a 'Negotiation B Activity' in the agreement and as such DELWP Loddon Mallee is required to notify the DDWCAC of the activity and seek agreement with DDWCAC on any conditions it may wish to include as part of consent to the proposal.

It is understood that DELWP Loddon Mallee has consulted and notified the DDWCAC about the proposed development, and that the negotiations are progressing.

Aboriginal Cultural Heritage

The layout has been informed by the many significant scatters, and some scar trees found in the initial investigation into the cultural heritage on the site. A Cultural Heritage Management Plan (CHMP) is required and is currently under development.

European Cultural Heritage

Although two trails are proposed to cross the western and eastern edges of the mapped area of Heritage Overlay (HO798), disturbance to the European heritage values on site, known as 'the Oaks', has been minimised by excluding the area containing the original Oak plantation and associated picnic area from the proposed development. It is also noted that there are areas of Oak saplings present within the vicinity that may be affected. Saplings with a diameter of 10cm or less only will be removed if required.

Native Vegetation

It is expected that some disturbance to and removal of non-threatened native understorey will occur during construction. This is to be minimised through micro-siting of trails. Revegetation works will be undertaken as part of the construction, and an Operational Environmental and Emergency Management Plan (OEEMP) will be developed that includes ongoing revegetation works.

Protected Flora and Fauna

The application is informed by desktop threatened flora and fauna assessments, and a targeted survey for Golden Sun Moth. DELWP is satisfied that no implications arise under the *Flora and Fauna Guarantee Act 1988*, and notes that the Commonwealth Department of Energy and Environment has advised no referral is required in relation to species listed under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth).

Bushfire Risk Management

The application is supported by a Bushfire Management Statement prepared for an earlier concept layout. The final layout was informed by consultations with DELWP's fire program, Parks Victoria and the Country Fire Authority, generally consistent with the approach outlined in DELWP's "*BMO Framework Part B Assessment Handbook – Assessment of planning permit applications on Crown land under the Bushfire Management Overlay*" (DELWP May 2015). Key outcomes of this process include:

- Construction works will be undertaken in a manner that minimises risk of wildfire (such as; works will be conducted on days declared as a day of total fire ban) and
- Bushfire safety for users will be managed in an emergency management planning context, with a major measure being site closure on days determined as Code Red.

DELWP recommends that these principles are formalised into a Construction Environment Management Plan and an Operational Environment and Emergency Management Plan, as indicated in recommended conditions.

Site Management

DELWP understands that a Committee of Management will be appointed under the *Crown Land (Reserves) Act 1978* to manage the Mountain Bike Park. DELWP will provide support at least initially to the Committee in establishing management structures and procedures for the Park. It is anticipated that the Committee would be responsible for preparation of the Operational Environmental and Emergency Management Plan referenced in recommended conditions.

Referral authority statement

As a determining referral authority, the Department of Environment, Land, Water and Planning does not object to the permit being granted, provided that the following conditions are included on the permit:

Notification of permit conditions

- 1) Prior to the commencement of works, contractors and works crews and particularly plant operators must be properly briefed on all conditions and environmental requirements of the planning permit. A copy of the permit is to be made available to all employees working on the project.

Environment and Fire Management

- 2) The development must be conducted in accordance with the 'Construction Environmental Management Plan (CEMP): Project – Harcourt Mountain Bike Park Construction (Dirt Art, May 2017 Ver 1B)' and all recommendations and actions specified in the plans must be implemented to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning.

- 3) Prior to commencement of use of the Mountain Bike Park, an Operational Environment and Emergency Management Plan (OEEMP) must be prepared to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning. The OEEMP must address, but not be limited to soil and water, pest plants and animals, revegetation, access controls waste management and bushfire and user safety during the operational life of the Mountain Bike Park.
- 4) Once approved, the OEEMP will be endorsed and will form part of this permit.
- 5) All events scheduled to occur between 1 November and 31 March annually must be conducted in accordance with the 'Harcourt Mountain Bike Park- Event guidelines for bushfire safety'; endorsed as part of this permit.

Works Near Waterways

- 6) To protect the nearby waterways, no temporary facilities including works office, toilet or service facility is to be established within 100 metres of any creek, channel or drainage line. Oils, greases, used grease cartridges, used oil filters, air filters and other construction works refuse, including old fencing wire and fence posts removed to undertake the works, will be properly disposed of away from the waterway according to EPA requirements.

In accordance with Section 66 of the *Planning and Environment Act 1987*, would you please provide a copy of the permit, if one is granted, or any notice to grant or refusal to grant a permit to the above address.

If you have any questions regarding this matter, please contact me on telephone (03) 5226 4693.

Yours sincerely



Geoff Brooks

Program Manager Regional Planning & Approvals
Barwon South West Region