

# Peer Review of Ecological Reports for the proposed Banyule Planning Scheme Amendment C107 for a Treetops Ropes Course Development, Ivanhoe East, Victoria

**Date:** 8 June 2021

**Author:** Shannon LeBel (Associate Ecologist)

**Our Ref:** 15104

## 1 Introduction

Ecology and Heritage Partners Pty Ltd was commissioned by the Banyule City Council (herein referred to as 'Council') to provide a peer review of the ecological reports for the proposed Banyule Planning Scheme Amendment C107 for Treetops Ropes Course Development, Ivanhoe East, Victoria (the study area).

It is understood that Banyule City Council has prepared Amendment C107 at the request of the proponent, Ecoline Pty Ltd. to facilitate the development of a Treetop Adventure Park at Yarra Flats Park in Ivanhoe East. The proposed facility will operate under lease from Parks Victoria, the public land manager for the park. The amendment would allow for a treetop climbing and adventure facility at Yarra Flats Park. The amendment was exhibited in October 2020 and received 213 submissions. Pursuant to the requirements of Section 23 of the *Planning and Environment Act 1987*, Council resolved to refer all submissions to Panel on March 1 2021.

## 2 Scope

The peer review comprises a review of the submitted documents and maps relating to ecology to identify and confirm any legislative implications under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the *Flora and Fauna Guarantee Act 1988* (FFG Act), and Clause 52.17 of the City Banyule Planning Scheme. Specifically, these documents are:

- Flora and Fauna Assessment, Native Vegetation Impact Assessment and Land Management Plan, Yarra Flats Tree Top Adventure Park prepared by Practical Ecology, December 2018
- Native Vegetation Removal Report, November 2018
- Biodiversity Impact & Offset Requirements Report, July 2016; and,
- Relevant sections of the Incorporated Document, Treetop Adventure Park, 340-680 The Boulevard, Ivanhoe East, September 2020.

The purpose of the peer review work is to:

1. Give Council confidence that, following the submissions period, it is able to continue to rely on the technical reports prepared on behalf of Ecoline, including consideration of methodology, findings and conclusions;
2. Enable Council to respond with confidence to submissions in its Part A and Part B submissions (as appropriate); and

3. Provide Council with any recommended changes to proposed amendment C107, notably the incorporated document.
4. Provide Council with a list of questions or matters it might want to raise at Panel if there are any points of dispute or that reasonably require further clarification from the proponent; and,
5. Consider any expert evidence that might be prepared and provide any high-level observations (time allowing).

No site assessment was included as part of the scope of this peer review, and as such, no on-ground assessment of the type, quality and extent of native vegetation was undertaken.

### 3 Peer Review

#### 3.1 Flora and Fauna Assessment Report, Native Vegetation Impact Assessment and Land Management Plan (Practical Ecology 2018)

##### 3.1.1 Overview

The flora and fauna assessment report (Practical Ecology 2018) is detailed, and adequately addresses most of the Detailed Assessment Pathway application requirements under Clause 52.17 of the City of Banyule Planning Scheme. An assessment of the information contained in the report against the application requirements for a permit to remove native vegetation is provided in Table 1.

**Table 1.** Application requirements for a permit to remove native vegetation (Victoria Planning Provisions Clause 52.17; DELWP 2017)

No.	Application Requirement	Response
<i>Application requirements under the <b>Detailed</b> Assessment Pathway</i>		
1	Information about the native vegetation to be removed, including: <ul style="list-style-type: none"> <li>• The assessment pathway and reason for the assessment pathway;</li> <li>• A description of the native vegetation to be removed;</li> <li>• Maps showing the native vegetation and property in context; and</li> <li>• The offset requirement that will apply if the native vegetation is approved to be removed.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 3.1;</li> <li>• Section 6; and,</li> <li>• Appendix 6 (Map 2).</li> </ul>
2	Topographic and land information relating to the native vegetation to be removed, showing ridges, crests and hilltops, wetlands and waterways, slopes of more than 20 percent, drainage lines, low lying areas, saline discharge areas, and areas of existing erosion, as appropriate.	<ul style="list-style-type: none"> <li>• Section 1.4; and,</li> <li>• Appendix 6 (Map 1).</li> </ul>
3	Recent dated photographs of the native vegetation to be removed.	<ul style="list-style-type: none"> <li>• Section 3.1.1.</li> </ul>
4	Details of any other native vegetation that was permitted to be removed on the same property with the same ownership as the native vegetation to be removed, where the removal occurred in the five year period before the application to remove native vegetation is lodged.	<ul style="list-style-type: none"> <li>• Section 6.3 (Table 12)</li> </ul>
5	An avoid and minimise statement. The statement describes any efforts to avoid the removal of and minimise the impacts on the biodiversity and other values of native vegetation, and how these efforts focussed on areas of native vegetation that have the most value.	<ul style="list-style-type: none"> <li>• Section 6.2.</li> <li>• Section 4 (Development Proposal)</li> </ul>

No.	Application Requirement	Response
6	A copy of any Property Vegetation Plan contained within an agreement made pursuant to section 69 of the <i>Conservation, Forests and Lands Act 1987</i> that applies to the native vegetation to be removed.	Not applicable
7	Where the removal of native vegetation is to create defensible space, a written statement explaining why the removal of native vegetation is necessary. This statement must have regard to other available bushfire risk mitigation measures. This statement is not required when the creation of defensible space is in conjunction with an application under the Bushfire Management Overlay.	<ul style="list-style-type: none"> <li>Section 5.7 and 5.8</li> </ul>
8	If the application is under Clause 52.16, a statement that explains how the proposal responds to the Native Vegetation Precinct Plan considerations at decision guideline 8.	Not applicable
9	An offset statement providing evidence that an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.	<p><u>Partially Addressed:</u></p> <ul style="list-style-type: none"> <li>Section 6.4; and,</li> <li>Appendix 9 (Offset Quote)</li> </ul>
10	A site assessment report of the native vegetation to be removed, including: <ul style="list-style-type: none"> <li>A habitat hectare assessment of any patches of native vegetation, including the condition, extent (in hectares), Ecological Vegetation Class and bioregional conservation status.</li> <li>The location, number, circumference (in centimetres measured at 1.3 metres above ground level) and species of any large trees within patches.</li> <li>The location, number, circumference (in centimetres measured at 1.3 metres above ground level) and species of any scattered trees, and whether each tree is small or large.</li> </ul>	<ul style="list-style-type: none"> <li>Section 3.1.2 (Table 3)</li> <li>Tree information provided in Appendix 6 (Tree Census).</li> </ul>
11	Information about impacts on rare or threatened species habitat, including the relevant section of the Habitat importance map for each rare or threatened species requiring a species offset.	<ul style="list-style-type: none"> <li>Sections 3.2.1 and 3.3.2;</li> <li>Appendix 2 and 3</li> </ul>

### 3.1.2 Application Requirements – The Guidelines (DELWP 2017)

#### 3.1.2.1 Application Requirement #9 – Offset Statement

As part of this application requirement, the applicant must provide evidence that an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.

Appendix 9 of Practical Ecology (2018) includes an offset quote to secure a portion of the offset obligation generated by the proposal (0.184 Grey-headed Flying Fox SUs). However, the full offset obligation also includes 0.204 SUs of habitat for Pink Mountain Correa.

Practical Ecology have provided information indicating that the modelled distribution of habitat for Mountain Correa in this location is an error (See Maps 5-8 and Appendix 8), and that the study area does not support habitat characteristics that are consistent with the habitat requirement of Pink Mountain Correa (Section 6.3 of Practical Ecology [2018]). However, as per Section 11.1 of the Guidelines (DELWP 2017), written approval is required from the Secretary to DELWP in order to formally seek a variation to the existing offset obligations. If written approval from the Secretary to DELWP is not granted, then the full offset obligation will be required.

Alternatively, the proponent could seek to avoid impacting native vegetation within the southern portion of the study area that is modelled to support suitable habitat for Pink Mountain Correa (Map 5 of Practical Ecology [2018]). Avoidance of impacts to this area (or a reduction in impact to less than 0.005% of modelled habitat) would result in no SUs for Pink Mountain Correa being generated by the proposal.

### 3.1.3 *Other comments*

#### 3.1.3.1 **Significant Species**

We broadly agree with the results of the significance assessment provided in Sections 3.2.1 and 3.3.2 (as well as Appendix 2 and 3) based on the desktop assessment and site assessment contained within the report.

Specifically, we agree that although Powerful Owl and Grey-headed Flying Fox may utilise the study area for foraging purposes, neither species are likely to be significantly impacted by the proposal given that no trees (i.e. foraging resources) are proposed to be removed.

However, we note that it appears that the interrogation of the VBA data to inform the desktop assessment was undertaken in 2015 (Section 2.5.1 and 2.6.1), and not in 2018 when the updated report was prepared (although this is variously cited as DELWP 2014, DELWP 2015 or DELWP 2018 on occasion in the report). The VBA has been updated several times since 2015, including in 2018 and 2021. It is recommended that an up-to-date interrogation of the VBA is undertaken to ensure that all previous records of significant flora and fauna have been considered, and that any newly listed species are included in the assessment.

If the report is updated, then discussion pertaining to the *Flora and Fauna Guarantee Amendment Act 2019* should be included, addressing the potential changes in listing status that may apply to some significant species.

#### 3.1.3.2 **Field Assessment**

- The desktop and field methods are appropriate for the proposal;
- Timing of the habitat hectare assessment (most recently from 2018) is appropriate, and can still be relied upon;
- It would have been prudent to assess a larger area as part of the habitat hectare assessment, as this would have allowed additional rigour in the avoid and minimise statement;
- The limitations in Section 2.5.4 state that “...the survey was considered an adequate representation of site condition and sufficient to determine potential impacts associated with the development...”. However, the following paragraph states “... it is considered that the quality of the survey results were at least partially compromised”. Further clarity should be sought from Practical Ecology regarding these conflicting comments, and whether, if the survey results are compromised, can the results contained within the report can be appropriately relied on.

#### 3.1.3.3 **Removal of Native Vegetation**

- Partial removal has been calculated correctly;

- The extent of impacts appears to be correct, assuming no buffer is required to be allowed for as part of any construction works;

#### 3.1.3.4 Legislation and Policy

- The implications relating to the relevant legislations appear sound;
- Implications relating to the relevant planning overlays appear to be sound;
- The report (or subsequent expert evidence / Panel material should note the implications associated with the *Flora and Fauna Guarantee Amendment Act 2019*, including potential changes to the listing status of significant flora and fauna.

#### 3.1.3.5 Land Management Plan

- The number of plants to be planted for revegetation within the Modified Conservation Reserves appears to be excessive, and may not be a realistic target;
- The provision of nest boxes within the Modified Conservation Zone, Bushland Conservation Reserve and surrounding riparian corridor should be considered as a measure to ensure habitat suitability for locally occurring birds and small mammals is not reduced; and,
- Additional provisions should be included in the Plan (or a new Fauna Management Plan prepared) to ensure ongoing monitoring for the presence of significant fauna (i.e. Powerful Owl, Grey-headed Flying Fox) is regularly undertaken, and associated mitigation measures are included to ensure that significant fauna are not impacted by the ongoing use of the site.

#### 3.1.3.6 General

- Section 3.2 states that 13 indigenous flora species were present, while Table 5 indicates 12 indigenous species;
- Table 10 should be updated to better reflect the location of the relevant application requirements in the report (as per Table 1 of this peer review letter);
- Grey Falcon is now a nationally significant species.

### 3.2 Native Vegetation Removal Report

The Native Vegetation Removal (NVR) report aligns with the impact assessment included in Section 6 and Map 4 of Practical Ecology (2018).

As discussed above in Section 3.1.2.1, unless written approval from the Secretary to DELWP is received, the full offset obligations detailed in the NVR report will be required to be secured should approval be granted for the project.

### 3.3 Biodiversity Impact and Offset Requirements Report

The Biodiversity Impact and Offset Requirements (BIOR) Report is relevant to the former native vegetation policy in Victoria, which was superseded by the Guidelines (DELWP 2017) in December 2017 and is not considered relevant to the current application or Planning Panels hearing.

It is assumed that the difference in area between the BIOR and NVR reports is due to all areas internal to the external boundary of the development footprint being assumed to be (partially) impacted within the BIOR report.

### 3.4 Council Meeting Report

- We broadly agree with the Council Officer's responses to the submissions raised regarding habitat/wildlife (Item 2 in Attachment 1 of the Council Meeting Report). Specifically:
  - We support the use of nest boxes to mitigate against species displacement, but also as a mechanism to enhance habitat value along the broader riparian corridor.
- We broadly agree with the Council Officer's responses to the submissions raised regarding Retain Parkland (Item 3 in Attachment 1 of the Council Meeting Report);
- We broadly agree with the Council Officer's responses to the submissions raised regarding Vegetation/Environment (Item 4 in Attachment 1 of the Council Meeting Report);

### 3.5 Treetop Adventure Park: Incorporated Document

- In consideration of the comment made regarding the revegetation targets in the Land Management Plan (Section 3.1.3.5 above), Point 6.3 of the Incorporated Document should be reviewed;
- Consider the inclusion of a provision to prepare a Fauna Management Plan (FMP), which includes the requirement for ongoing monitoring of the site by both significant and locally occurring fauna, as well as measures to mitigate impacts to individuals/populations should these species occur (i.e. salvage and relocation/ nest boxes etc);

## 4 Conclusion

On review of the relevant documentation relating to ecological implications associated with the Ecoline Yarra Flats Tree Top Adventure Park Development, it is recommended that the below matters be considered further:

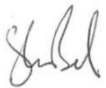
- Application Requirement #9: Confirm with Practical Ecology whether written approval from the Secretary to DELWP has been sought in order to formally seek a variation to the existing offset obligations. If written approval from the Secretary to DELWP is not granted, then the full offset obligation will be required;
- The report, or subsequent expert evidence / Panel material should include an updated interrogation of the VBA. The VBA has been updated several times since 2015, including in 2018 and 2021. This will ensure that any recent and/or additional records of significant flora and fauna have been considered, and that any newly listed species are included in the significance assessment;

- The report, or subsequent expert evidence / Panel material should note the implications associated with the *Flora and Fauna Guarantee Amendment Act 2019*, including potential changes to the listing status of significant flora and fauna; and,
- The Incorporated Document should consider the inclusion of a requirement to prepare a Fauna Management Plan (FMP), which includes provisions for ongoing monitoring of the site by both significant and locally occurring fauna, as well as measures to mitigate impacts to individuals/populations should these species occur (i.e. salvage and relocation/ nest boxes etc).

Based on the peer review, it is considered that with the inclusion of additional information as per the relevant matters summarised above, the ecological information provided to date will provide Council with a high level of confidence to adequately respond to all relevant ecological matters raised during the Panel hearing.

I trust the foregoing is of assistance. Please do not hesitate to contact me if you have any questions or would like to discuss in further detail.

Kind Regards



**Shannon LeBel**

**Associate Ecologist -Ecology and Heritage Partners Pty Ltd**

## References

- Practical Ecology 2018. Flora and Fauna Assessment, Native Vegetation Impact Assessment and Land Management Plan, Yarra Flats Tree Top Adventure Park. November 2018.
- DELWP 2017. Guidelines for the removal, destruction or lopping of native vegetation. The State of Victoria Department of Environment, Land, Water and Planning. Melbourne, December 2017.