

Assessment Officer Report

Crown Allotments 2010 and 2019,
Parish of Darbalang, Falls Creek
PA2402974



Officer Assessment Report
Development Approvals & Design

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Department
of Transport
and Planning

OFFICIAL

Executive Summary



Key information	Details		
Application No:	PA2402974		
Received:	8 June 2024		
Statutory Days:	117 (as of 12 December 2024)		
Applicant:	[REDACTED]		
Planning Scheme:	Alpine Resorts		
Land Address:	Crown Allotments 2010 and 2019, Parish of Darbalang, Falls Creek Alpine Resort		
Proposal:	Buildings and works (for the bicycle trail and removable built structures/jumps) and associated vegetation removal		
Development Value:	\$200,000.00		
Why is the Minister responsible?	In accordance with the schedule to Clause 72.01 of the Planning Scheme, the Minister for Planning is the Responsible Authority for administering and enforcing the Alpine Resorts Planning Scheme (the Scheme).		
Why is a permit required?	Clause	Control	Trigger
Zone:	Clause 37.02-4	Comprehensive Development Zone Schedule 1 (CDZ2)	<i>To construct a building or construct or carry out works</i>
Overlays:	Clause 42.01-2	Environmental Significance Overlay Schedule 1 (ESO1)	<i>To construct a building or construct or carry out works To construct bicycle pathways and trails To remove, destroy or lop any vegetation</i>
	Clause 44.06-2	Bushfire Management Overlay Schedule 1 (BMO1)	<i>To construct a building or construct or carry out works associated with leisure and recreation use</i>
Particular Provisions:	Clause 52.17-1	Native vegetation	<i>To remove, destroy or lop native vegetation, including dead native vegetation</i>
Cultural Heritage:	The site is partially located within an area of cultural heritage sensitivity.		
Total Site Area:	Approximately 1.8 kms of trails		
Referral Authorities:	Alpine Resorts Victoria (s55 – recommending), Clause 5.0 of Schedule 1 to the EMO (Clause 44.01)		
	Department of Energy, Environment and Climate Action (s55 – determining), Clause 7.0 of Schedule 1 to the CDZ (Clause 37.02)		
	Department of Energy, Environment and Climate Action (s55 – determining), Clause 4.0 of Schedule 1 to the ESO (Clause 42.01)		
	Department of Energy, Environment and Climate Action (s55 – recommending), Clause 66.02-2 (Native vegetation)		
	Country Fire Authority (CFA) (s55 – determining), Clause 44.06-6		
Public Notice:	The application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Planning and		



Environment Act 1987 (the Act) pursuant to the Erosion Management Overlay (EMO) and Bushfire Management Overlay (BMO) of the Scheme.

The application **is not exempt** from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Planning and Environment Act 1987 (the Act) pursuant to Clause 37.02 (CDZ2), Clause 42.01 (ESO1) and Clause 52.17 (Native vegetation) of the Scheme.

One objection was received however was later withdrawn. No objections remain to date.

Delegation:

Confirmation to determine under officer delegation received by Manager on 20 December 2024.



Application Process

1. The key milestones in the application process were as follows:

Milestone	Date
Pre-application meeting	N/A
Application lodgement	10 June 2024
Further information requested	18 June 2024 and 1 November 2024 (following gazettal of C31alpr on 25 October 2024).
Further information received	13 August 2024 and 13 December 2024, respectively.
Decision Plans	<ul style="list-style-type: none">Summit to Gully Mountain Bike Trail: Flora and Fauna Assessment, prepared by Biosis, dated 19 July 2024 (103 pages)Arboricultural assessment report, prepared by Oldmeadow Arboriculture, dated 25 June 2019 (11 pages)Removable Structures Site Plan, prepared by Biosis, dated 11 July 2024 (2 pages)Mountain Bike Trail Management Plan, prepared by Falls Creek Resort Management, dated February 2020 (21 pages)Native vegetation removal report, generated by DELWP, report ID: BIO-2024-042, dated 29 May 2024 (15 pages)Reptile Monitoring Schedule, prepared by Biosis, dated 19 July 2024 (2 pages)Application for a Permit to take Protected Flora, signed and dated 6 June 2024Planning Application Report, prepared by Biosis, dated 24 July 2024 (40 pages)'Geotechnical Assessment and Landslide Risk Assessment' report, prepared by GHD, dated 12 December 2024 (56 pages)Site Environmental Management Plan (SEMP), prepared by Biosis and signed by Fred Weir on 4 October 2024Cultural Heritage Management Plan 19838, prepared by John Gilding and Jane Bligh, dated 10 September 2024 and Notice of Approval, dated and signed 23 September 2024 (53 pages).
Other Assessment Documents	<ul style="list-style-type: none">Planning Permit Application Form, received 8 June 2024Section 48, Notification to owner email, prepared by Biosis, dated 11 July 2024 (1 page)Crown Folio Statement for CA 2010, generated 8 July 2024Crown Folio Statement for CA 2019, generated 8 July 2024.

2. The subject of this report is the decision plans (as described above).

Proposal Summary

- The proposal is for buildings and works for the bicycle trails and removable structures and associated vegetation removal (referred to as 'the Project').
- The Project incorporates approximately 1.8km's of trail and will incorporate two removable built features. (Refer to Figure 1 for location of the built structures). One structure is referred to as a 'wall ride' and the other 'dirt jump'. (Refer to Figure 2 for pictures of the removable structures).

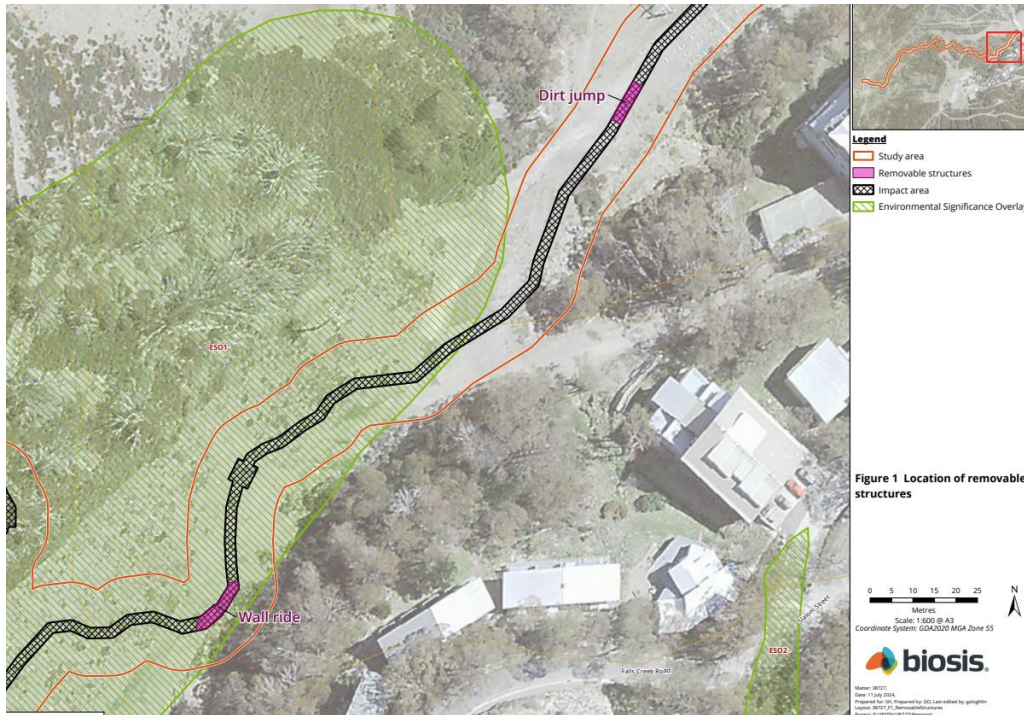


Figure 1: Location of removable structures – Source: Application



Figure 1 Removable Structure – Wall Ride



Figure 2 Removable Structure – Dirt Jump

Figure 2: Photographs of removable structures – Source: Application

- Four types of basic trail construction types will be used in the construction of the proposed trails. This includes standard benching (machine), standard benching (hand), rock armouring and elevated structures (bridges or elevated structures).

6. Construction of the trail will generally require the permanent removal and/or lopping of vegetation along a 1.0 metre trail corridor. The track will have an approximate width of 600 millimetres and construction will involve the removal of the top layer of vegetation and topsoil. The Project will require the removal of 0.375ha of native vegetation. (Refer to Figure 3 for an overview of vegetation proposed to be removed).

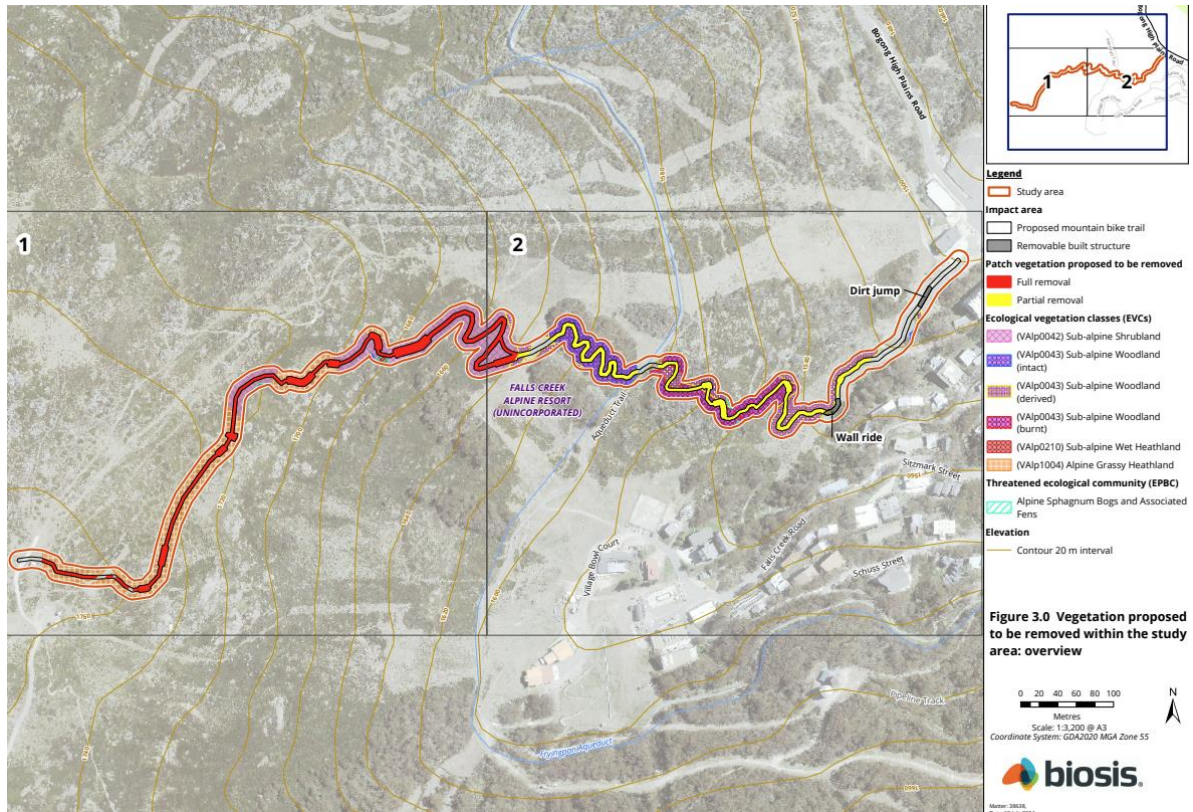


Figure 3: Vegetation proposed to be removed within the study area – Source: Application

Subject Site and Surrounds

Site Description

7. The Mountain Bike Trail Project (the Project) is located within the Falls Creek Alpine Resort. The entire site of the Project occurs within Crown Allotments 2010 and 2019 Parish of Darbalang.
8. The proposed trail is referred to and known as the 'Summit to Gully' and will consist of a downhill mountain bike trail from the Summit of Falls Creek to Gully Chairlift (bottom station). (Refer to Figures 3 and 4 for the location of the study area (context) and the study area).

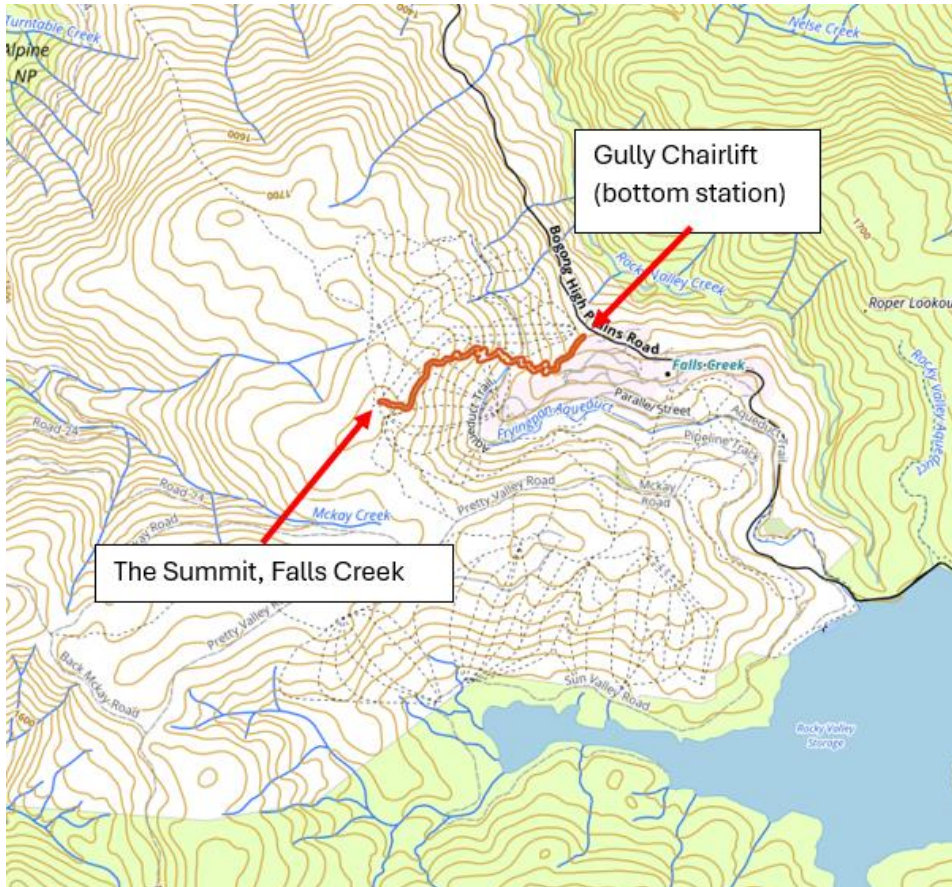


Figure 3: Location of the study area (context) – Source: Application (modified to include mark-ups)

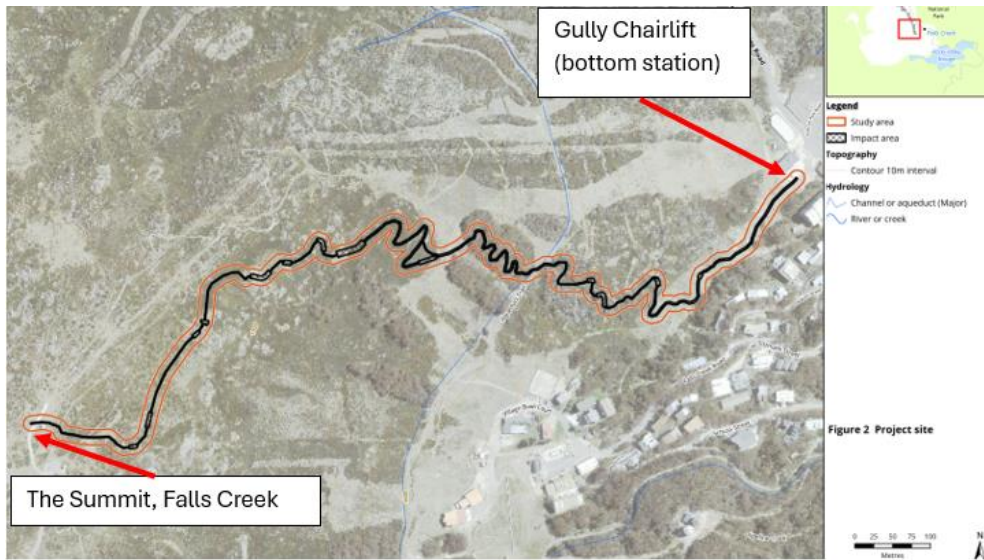


Figure 4: Project site – Source: Application (modified to include mark-ups)

9. Access to the site is from the Bogong High Plains Road, east of the Project site. Existing buildings are located outside of the site to the south-east. These buildings are part of the Falls Creek Village and include entertainment facilities and accommodation. The surrounding area consists mainly of ski fields.



Planning Policy Framework

10. The Planning Policy Framework (PPF) provides the broad policy direction within the Victoria Planning Provisions. The planning principles set out under the PPF are to be used to guide decision making on planning proposals across the state.
11. The following policies are considered relevant to this application:

Clause	Description
12.01-1S	Protection of Biodiversity
12.04-1S	Sustainable Development in Alpine Areas
12.05-2S	Landscapes
13.02-1S	Bushfire Planning
13.04-2S	Erosion and Landslip
15.03-2S	Aboriginal Cultural Heritage
17.04-1S	Facilitating Tourism

Local Planning Policy Framework

12. The Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) within Planning Schemes across Victoria outline principal characteristics of a given municipality (municipal profile) and provide specific visions, goals, objectives, strategies and implementation plans.
13. The MSS within the Alpine Resorts Planning Scheme identifies the objectives and strategies for the Falls Creek alpine resort.
14. The following policies are considered relevant to this application:

Clause 11	Settlement
11.01-1L	Falls Creek Village
Clause 12	Environmental and Landscape Values
12.01-1L	Protection of biodiversity in alpine resorts
12.04-1L	Sustainable development – alpine resorts
Clause 13	Environmental Risks and Amenity
13.04-2L	Erosion and landslip in alpine resorts
Clause 17	Economic Development
17.04-1L	Alpine tourism
17.04-1L	Falls Creek Tourism

15. The assessment section of this report provides an assessment of the relevant planning policies.

Zoning and Overlays

Clause 37.02 – Comprehensive Development Zone, Schedule 2 (CDZ2)

16. A planning permit is not required to use the land for an 'informal outdoor recreation' pursuant to the CDZ2.



17. A planning permit is triggered to construct a building or construct or carry out works pursuant to the CDZ2. However, the buildings and works trigger is limited to the removable built structures only because Clause 62.02 exempts buildings and works for 'bicycle pathways and trails'.
18. The purpose of the CDZ1 is:
- To identify areas associated with the development and use of an alpine resort on which passive and active recreation occur.
 - To enable the development and the use of the land which is in accordance with sound environmental management and land capability practices, and which takes into account the significance of the environmental resources.
 - To minimise impacts on significant landscapes.
 - To minimise impacts on areas of significant vegetation. To minimise impacts on habitat and habitat corridors for indigenous fauna.
19. The CDZ2 includes application requirements and decision guidelines for consideration of the site's context, including a Site Environmental Management Plan (SEMP).
20. The following sections include a discussion of how the proposal responds to these requirements.

Clause 42.01 – Environmental Significance Overlay, Schedule 1 (ESO1)

21. The ESO1 is applicable to a small eastern section of the Summit to Gully trail, specifically approximately 300m of the total 1.8km length of the trail. (Refer to Figure 5 for area affected by the ESO1).



Figure 5: Location (approx 300m) of trail affected by the ESO1 – Source: Application

22. A planning permit is triggered to construct a building or construct or carry out works pursuant to the ESO1.
23. A planning permit is triggered to 'construct bicycle pathways and trails' because it is specifically stated, therefore the 'bicycle pathways and trails' exemption pursuant to Clause 62.02 does not apply.
24. A planning permit is triggered to remove, destroy or lope any vegetation, including dead vegetation.
25. The ESO1 environmental objectives to be achieved include:
- To preserve and enhance Mountain Pygmy-possum (*Burramys parvus*) habitat and identified linkages.
 - To prevent the destruction and fragmentation of the existing Mountain Pygmy-possum (*Burramys parvus*) habitat.
 - To provide movement corridors for the Mountain Pygmy-possum *Burramys parvus*.
 - To ensure development does not have an adverse impact upon Mountain Pygmy-possum (*Burramys parvus*) habitat.
26. The ESO1 includes decision guidelines to consider the objectives of the schedule, the extent to which the proposed development or works will impact the existing habitat areas and the views of the DEECA.



27. The following sections include a discussion of how the proposal responds to these requirements.

Clause 44.01 – Environmental Management Overlay, Schedule 1 (EMO1)

28. A planning permit is triggered to construct a building or construct or carry out works pursuant to the EMO1. However, the buildings and works trigger is limited to the removable built structures only because Clause 62.02 exempts buildings and works for 'bicycle pathways and trails'.

29. A planning permit is triggered to remove, destroy or lop any vegetation pursuant to the EMO1.

30. C31alpr was gazetted on 25 October 2024 which saw changes introduced to Schedule 1 to the EMO. In summary, the key changes introduced include:

- Reduced the extent of the Erosion Management Overlay across the Victorian Alpine Resorts.
- Includes a greater scope of permit exemptions.
- Changes the referral authority status of Alpine Resorts Victoria (ARV) from a 'determining authority' to a 'recommending authority' in the schedule to Clause 66.04.
- The application requirements changed to include a Geotechnical Assessment accompanied by a Landslide Risk Assessment.
- Introduced an Incorporated Document, '*Requirements for a Geotechnical Assessment or Landslide Risk Assessment prepared in support of a planning permit application under schedule 1 to the Erosion Management Overlay, February 2023*'.
- No transitional arrangements.

31. The EMO1 objectives to be achieved include:

- *To ensure that development can be undertaken at a tolerable risk to human life and property from landslide and slope instability*

32. The EMO1 includes decision guidelines to consider that the risk to human life and property has been assessed as tolerable and to consider the comments received from the relevant referral authority (ARV).

33. The following sections include a discussion of how the proposal responds to these requirements.

Clause 44.06 – Bushfire Management Overlay, Schedule 1 (BMO1)

34. A planning permit is triggered to construct a building or construct or carry out works associated with leisure and recreation use, pursuant to the BMO1. However, the buildings and works trigger is limited to the removable built structures only because Clause 62.02 exempts buildings and works for 'bicycle pathways and trails'.

35. The BMO1 objectives to be achieved include:

- *To require tailored bushfire protection measures unique to Victoria's alpine resorts.*
- *To acknowledge the bushfire protection measures and protection of human life being achieved through emergency management arrangements unique to Victoria's alpine resorts.*

36. The BMO1 includes decision guidelines that include the view of the relevant fire authority.

37. The following sections include a discussion of how the proposal responds to these requirements.

Particular and General Provisions

Provisions that Require, Enable or Exempt a Permit

Clause 52.17 – Native vegetation

38. Clause 52.17 sets out the requirements for native vegetation. A planning permit is required for the removal of native vegetation pursuant to this provision. The purpose of Clause 52.17 is:



- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) the Guidelines:*
 1. *Avoid the removal, destruction or lopping of native vegetation.*
 2. *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
 3. *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*
- *To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*

39. The proposed vegetation removal is under the Detailed Assessment Pathway and occurs within Location 3 (high risk location).

40. The following sections include a discussion of how the proposal responds to these requirements.

Operational Provisions

Clause 65.01 – Approval of an application or plan

41. Clause 65 sets out the decision guidelines that the responsible authority must consider before deciding on an application, including the proposal's effect on the amenity of the area.

Clause 71.02-3 – Integrated decision making

42. Clause 71.02-3 outlines that planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.



Referrals

43. The application was referred to the following groups:

Provision / Clause	Organisation	Response and date received
Section 55 Referral – Recommending (Clause 5.0 of Schedule 1 to EMO (44.01) for ‘all applications’.	Alpine Resorts Victoria, (ARV)	No objection subject to conditions. Received 2 August 2024 and modified on 13 December 2024 following re-referral as a ‘recommending’ authority since the introduction of C31alpr and changes to the EMO1.
Section 55 Referral – Determining (Clause 44.06-6 of Schedule 1 to BMO for ‘an application under the overlay other than an application to construct a building or carry out works associated with a dwelling or an application to subdivide land’.	Country Fire Authority (CFA)	No objection subject to a note. Received 21 June 2024.
Section 55 Referral – Determining (Clause 7.0 of Schedule 2 to CDZ (37.02) for ‘any use or development that involves alteration to the topography’.	Department of Energy, Environment and Climate Action (DEECA)	No objection subject to conditions. Received 3 October 2024.
Section 55 Referral – Determining (Clause 4.0 of Schedule 1 to ESO (42.01) for ‘all applications’.	Department of Energy, Environment and Climate Action (DEECA)	No objection subject to conditions. Received 3 October 2024.
Section 55 Referral – Recommending (Clause 66.02-2) to ‘remove native vegetation in the detailed assessment pathway as defined in the Guidelines.’	Department of Energy, Environment and Climate Action (DEECA)	No objection subject to conditions. Received 3 October 2024.

Notice

44. The application is not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Planning and Environment Act 1987 pursuant to the following provisions:

- Clause 37.02 of the CDZ
- Clause 42.01 of the ESO
- Clause 52.12 of Native vegetation.

45. Clause 8.0 of Schedule 2 to CDZ (Clause 37.02) requires notice be given to the ‘relevant Resort Management Board and relevant adjoining Municipal Council’ for any use or development.

46. Notice was provided to the ARV on 18 June 2024 and on 2 August 2024 the ARV responded advising no objection subject to inclusion of conditions.

47. Notice was provided to the Alpine Shire Council on 16 August 2024 however no response has been received to date.



48. The application was advertised by giving notice to the leaseholders of adjoining and nearby properties, notice to Falls Creek Ski Lifts and the display of a copy of the notice at the Falls Creek Alpine Resort office.
49. One objection was received by Falls Creek Ski Lifts. However, the objection was unconditionally withdrawn on 16 December 2024. A discussion regarding the concerns raised and a response is included in the Assessment section of this report.



Consistency with State and Local Planning Policies

50. Broadly, the planning policies relevant to this proposal encourage the sustainable use and development of the Alpine areas for year round use and activity, encourage tourism development, seek to protect areas prone to erosion and landslip and environmentally sensitive areas, and ensure that development respects the Alpine character.
51. The specific policies relevant to Falls Creek that apply, and a response to them, is provided as follows:
- To develop Falls Creek Village as an attractive and safe place for permanent and visitor populations (Clause 11.01-1L)
 - To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation (Clause 12.01-1S)
 - To preserve and enhance the habitat of threatened species and communities within the alpine resorts (Clause 12.01-1L)
 - To facilitate sustainable use and development of Alpine areas for year-round use and activity (Clause 12.04-1S)
 - Ensure passive and active recreational activities are in balance with the conservation and protection of the natural environment within and adjacent to the resorts (Clause 12.04-1L)
 - To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life (Clause 13.02-1S)
 - To protect areas prone to erosion, landslip or other land degradation processes (Clause 13.04-2S)
 - To ensure that geotechnical hazards are managed throughout the resorts so as to minimise risk to property and persons (Clause 13.04-2L)
 - To ensure the protection and conservation of places of Aboriginal cultural heritage significance (Clause 15.03-2S)
 - To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination (Clause 17.04-1S)
 - To provide for year-round recreation, having regard to environmental, social, ecological, economic, aesthetic and safety considerations (Clause 17.04-1L)
 - To develop a range of year-round tourism, commercial and recreation facilities in multipurpose venues compatible with the alpine environment of Falls Creek (Clause 17.04-1L).
52. The Project is consistent with the relevant policies. The Project will contribute to the sustainable development of Falls Creek by creating an activity that will promote tourism outside of the snow season. Along with the earlier stages of the Falls Creek Mountain Bike Trail, this Project will assist in promoting an integrated and connected bike trail that will link the resort to the mountainous landscape of Falls Creek.
53. Achieving a balance between the development of the proposed bike trail and protection of the environmental values has been appropriately achieved. Impacts on biodiversity values has been minimised by designing the trail in consultation with ecology experts and reducing the Project footprint to the minimum extent possible. A detailed Geotechnical and Landslip Risk Assessment has been submitted and the recommendations will be adopted to ensure the geological risks associated with the Project will remain at a low level and be tolerable. Furthermore, the loss of vegetation will ensure appropriate offsets are secured.
54. The proposal will also be developed in accordance with the submitted Site Environmental Management Plan (SEMP).
55. The following section of this report will detail the key issues in this matter considering relevant planning policy and controls.

Zoning


56. The zoning provisions have been considered in the application.
57. It should be noted that only the removable structures trigger a planning permit pursuant to the CDZ2 as the bicycle pathways and trails are exempt pursuant to Clause 62.02. It is considered that the two removable structures cannot be included into the Clause 62.02 exemption as the structures go beyond what is normally considered as being a bicycle pathway or trail.
58. The proposal meets the purpose of the CDZ2 which include (as relevant):
 - *To identify areas associated with the development and use of an alpine resort on which passive and active recreation occur.*
 - *To enable the development and the use of the land which is in accordance with sound environmental management and land capability practices, and which takes into account the significance of the environmental resources.*
 - *To minimise impacts on significant landscapes.*
 - *To minimise impacts on areas of significant vegetation.*
 - *To minimise impacts on habitat and habitat corridors for indigenous fauna.*
59. The proposed mountain bike trail will add to the active recreational facilities available for users at Falls Creek and it will promote 'all season' visitation.
60. Steps have been taken to avoid, minimise and offset in accordance with the Guidelines. More detail on how this has been achieved will be detailed later in this report.
61. A Site Environmental Management Plan (SEMP) has been provided, generally consistent with the requirements of Clause 4.3-3 of Schedule 2 to the CDZ. The SEMP describes the construction techniques and associated environmental risks and specifies the measures that will be undertaken to mitigate those risks. This includes the use of strict sediment controls to prevent sediment entering surrounding sensitive waterways, and the use of no-go zones and exclusion fencing to separate construction activities from sensitive native vegetation in the surrounding area. A Construction Management Plan (CMP) map has been incorporated into the SEMP document. The proposed trail developments will therefore have minimal impact on significant landscapes, significant vegetation, or indigenous fauna habitat.
62. DEECA reviewed the SEMP and advised that it is satisfactory. As such, the SEMP will be endorsed to form part of any permit issued and a condition of permit will require all buildings and works be undertaken in accordance with the endorsed SEMP.

Overlays

Environmental Considerations

Native vegetation & ecological value

63. The overlay provisions have been considered in the application.
64. It should be noted that only the removable structures trigger a planning permit pursuant to the EMO1 and the BMO1 as the bicycle pathways and trails are exempt pursuant to Clause 62.02. It is considered that the two removable structures cannot be included into the Clause 62.02 exemption as the structures go beyond what is normally considered as being a bicycle pathway or trail.
65. A planning permit is triggered for all buildings and works, bicycle trails and pathways and vegetation removal pursuant to the ESO1 because the Clause 62.02 exemption for bicycle trails cannot be applied because the ESO specifically requires a permit for bicycle trails and pathways.
66. A planning permit is triggered for native vegetation removal pursuant to Clause 52.17 of the Scheme.
67. The permanent native vegetation loss has been calculated and assessed on a 1 metre wide final footprint of the new trail.

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68. A Flora and Fauna Assessment (FFA) report was prepared by Biosis. The report indicates that the total area of native vegetation removal is 0.375 hectares and has a biodiversity value score of 0.930 – 0.996.
69. This vegetation is classed as 'remnant patch' and no vegetation was defined as 'scattered trees'. No large tree is proposed for removal. The vegetation removal is included in a location category 3 therefore the vegetation removal must meet the requirements of, and be assessed in, the detailed assessment pathway.
70. The FFA report identified the following potential impacts to biodiversity values as a result of the Project:
- The permanent removal of 0.375 hectares of vegetation.
 - Impacts on recorded threatened flora species
 - Impacts on threatened fauna species and their habitat.
 - Soil disturbance that can lead to weed invasion into undisturbed areas or weed spread in existing disturbed areas.
 - New trails may facilitate the further spread and predation success of introduced predators such as cats and foxes, which may result in increased levels of predation along the constructed trail alignments.
 - Loss of, or alterations to, riparian and in-stream habitat within and in the vicinity of the trails where waterway crossing occurs via: direct removal, notable hydrological changes, deterioration in water quality (including pollution event) and, sedimentation.
 - Small scale fragmentation of habitat connectivity for vertebrate and invertebrate fauna species.
71. To minimise ecological impacts during the design and construction phase, the FFA report contains a number of recommendations. Some of these include:
- Identify and implement appropriate offsets for vegetation losses.
 - Utilise sensitive trail construction methods throughout the trail, measures such as placement of cut material and soil sods along trail edges in suitable locations to reduce erosion and encourage natural regeneration.
 - A pre-construction 'micro siting' survey be undertaken to ensure threatened flora species and key habitats are avoided.
 - Use elevated structures and rock armouring over areas of sensitivity.
 - All waterway crossings to be elevated and strict sediment controls to be implemented during construction and operation of the trails.
 - Implement trail management plan and Hawkweed buffers and work standard for the entire Falls Creek Trail Network or incorporate the proposed trail network into existing FCRM Weed Management Strategies.
 - Incorporate the proposed trail into existing Pest Animal Programs.
 - Design trail and construction methods to minimise removal of drainage line vegetation and avoid instream works via the use of clear span elevated structures.
 - Utilise the most sensitive short term (i.e. during construction) and long term sediment control methods available for all works located in within and in the vicinity of all flowing and all mapped waterways (including ephemeral first order tributaries).
 - Design the trails to direct runoff through a buffer of vegetation (preferably > 30m in width) rather than directly into waterways defined above.
 - Design all waterway crossings in accordance with relevant guidelines from the North East CMA and in accordance with guidelines for fish friendly waterway crossings.
72. The SEMP includes detailed construction techniques prepared for the Project which identifies four construction methods including:
- a) Standard benching – machine. This is used when the trail traverses a cross slope and is the standard technique for constructing new trails in 90% of circumstances.



- b) Standard benching – hand. This is similar to the ‘machine’ except that it is used in situations where it may not be possible or desirable to use a mini-excavator. Hand construction replaces the role of the mini-excavator, resulting in narrower and generally tighter and more curved trails.
 - c) Rock armouring. This is generally used on steep gradients where soil would be displaced by water leading to erosion, and when crossing small streams or boggy sections.
 - d) Elevated structures. This method will use clear span elevated structures to allow riders to cross over a waterway or sensitive area with minimal disturbance. Where footings are required in wet areas low impact footing installation techniques (e.g. pneumatic drilling) will be used. Several berm structures are proposed at sharper corners along the proposed trail, and two removable jumps are proposed towards the southern margin of the trail.
73. The above construction methods have been individually identified throughout the trail to ensure the most appropriate method of construction is implemented to ensure vegetation removal is kept to the absolute minimum.
74. Furthermore, the Mountain Bike Trail Management Plan, prepared by Falls Creek Alpine Resort Management Board, details ongoing practices that will be implemented to manage weeds and batters as well as sedimentation. This will seek to ensure that weed species are not introduced. As such, a condition of permit will require the requirements for ongoing management of the bike trails as described in the SEMP and the Mountain Bike Trail Management Plan to be, at all times, to the satisfaction of the Responsible Authority. This condition will further ensure the trail is appropriately managed.
75. DEECA considered the application in terms of whether the application satisfies the requirements of the CDZ and Clause 52.17 and advised in their referral response that the application satisfies the requirements of the CDZ. Furthermore, DEECA advised that the Clause 52.17 requirements of the Scheme is satisfied as it describes the native vegetation to be removed and the offset requirements and complies with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017). DEECA have included numerous conditions to be included in any permit issued. This includes conditions relating to implementation of the Construction Management Plan, protection of retained vegetation, the provision of specific offsets being secured and evidence that the offsets have been secured. All of these conditions are reasonable and will be included in any permit issued.
76. DEECA considered the application in terms of whether it satisfies the requirements of the ESO1, which is about ensuring development does not have an adverse impact upon Mountain Pygmy-possum (*Burramys parvus*) habitat and other habitat. DEECA advised that the proposed trail alignment will traverse confirmed habitat for Broad-toothed Rat (*Mastacomys fuscus mordicus*) potential habitat for Endangered Alpine Skinks and areas of identified Mountain Pygmy possum (*Burramys parvus*) habitat.
77. DEECA stated that the Mountain Pygmy-Possum was not recorded in the study area during pre-planning monitoring. Despite being largely confined to core habitat areas, individuals are likely to disperse more broadly between these areas. Therefore, it is plausible that the study area may be utilised by the species for dispersal between areas of core habitat.
78. DEECA further commented that the proposed works within ESO1 areas occur within an area of Falls Creek that has been subject to significant infrastructure development, with the works intersecting modified ski run areas. While the proposed works will create gaps between core habitat areas, it is unlikely that the proposed trail will hinder the movement of the species between these areas.
79. It should be noted that an earlier DEECA referral response had requested conditions be included in any permit issued to require the SEMP to be modified to include:
- a) Methods for micro-siting and mapping the final alignment of the trail in pre-construction planning including procedures for avoiding and minimising impacts on Alpine bogs, rocky outcrops, sedgy/grassy habitat and providing connectivity under elevated structures for ground-dwelling mammals and reptiles.
 - b) Micro-siting must be conducted with the assistance of a suitably qualified fauna expert (Mountain Pygmy-possum, Guthega Skink and Broad Toothed Rat biologist) from Alpine Resorts Victoria to ensure the avoidance of high value threatened species habitat



- c) A reptile activity and mortality schedule of monitoring for during the first season of trail use, including mortality thresholds and actions for potential curtailment of trail use in the event that thresholds are exceeded.
 - d) Recommendations for protection of native vegetation as identified in Arboricultural Assessment, Mountain Bike trail Falls Creek - Prepared by Oldmeadow Arboriculture - 25 June 2019.
80. The applicant revised the SEMP to include the requests by DEECA and as such DEECA's final referral response has deleted the conditions initially requesting to modify the SEMP to include micro-siting details as the latest SEMP satisfactorily addresses this.
81. The method to avoid established trees, along with the ability to further modify the alignment during construction to further avoid native vegetation and threatened species habitat impact through micro-siting processes, combined with the requirement for offsets, will contribute to a gain in Victoria's biodiversity overall.

Arboricultural Assessment

82. An arboricultural report was prepared for the Project. The report was prepared in 2019 for a masterplan of trails within the Falls Creek alpine resort. The recommendations are general rather than specific. The report concluded that the Project can potentially impact trees in the following ways:
- Excavation impact – damage to the root plate during construction.
 - Use impact – compaction from use and damage from erosion due to poor construction and water shedding capability.
83. The report stated that tree protection must come from sensitive construction methodology and include protocols should tree roots be encountered during construction. The arboricultural report includes recommendations and if followed, then no vegetation (beyond those marked as lost in the construction corridor) should be adversely impacted to such a degree that their useful life expectancy would be considered compromised. As such, the arboricultural report will be endorsed to form part of the permit and furthermore a condition of permit will require that the recommendations outlined in the report be adhered to during construction.

Geotechnical

84. The site is within an area identified as prone to erosion and landslip. A preliminary geotechnical report was provided with the application.
85. On 25 October 2024, Amendment C31alpr was gazetted and incorporated into the Alpine Resorts Planning Scheme, with no transitional arrangements. In summary, the amendment makes the following changes to Schedule 1 of the Erosion Management Overlay (EMO):
- Reduces the extent of the Erosion Management Overlay across the Victorian Alpine Resorts.
 - Includes a greater scope of exemptions.
 - Changes the referral authority type status of Alpine Resorts Victoria from a determining authority to a recommending authority at the schedule to Clause 66.04.
 - Introduces an Incorporated Document '*Requirements for a Geotechnical Assessment or Landslide Risk Assessment prepared in support of a planning permit application under schedule 1 to the Erosion Management Overlay, February 2023*', to assist geotechnical engineering practitioners to prepare supporting information that meets information requirements for applications that trigger a planning permit within the Erosion Management Overlay.
86. While the mapping area has changed, the subject site is still affected by the revised mapping and therefore the new requirements outlined in the EMO1 needed to be prepared and submitted to the Responsible Authority for consideration.
87. On 13 December 2024, the applicant submitted a revised Geotechnical report and Landslide Risk Assessment, in accordance with the requirements of the EMO1. The report identified that based on the results of the qualitative risk (to property) and quantitative risk (to person(s)) assessments, the proposed development should be approved. However, the report stated that it would be considered good practice to reduce, manage and maintain the assessed



risk ratings of the proposed works by implementing the risk control measures provide in the report. As such, a condition of permit will require the recommendations of the geotechnical report be adhered to.

Bushfire


88. As outlined earlier, only the two removable structures trigger a planning permit pursuant to the BMO1.
89. The Country Fire Authority (CFA), as the statutory fire authority for the application, advised in their referral response that they support the waiving of the BMO application requirements of Clause 44.06-3 in this instance and did not require any conditions be included in any permit to be issued. However, the CFA did provide a comment stating that the proposed development be incorporated and managed in accordance with the Alpine Resorts Bushfire Emergency Plans. This will be included as a note on any permit issued.
90. The CFA also commented that the Falls Creek Resorts Fire Management and Emergency Management Plans require reviewing and amending to reflect the Australian Fire Danger Rating System (AFDRS), as they are out of date. This note will be included in the applicant cover letter as the ARV is responsible for updating these plans.

Notice of the Application

91. The application was advertised by giving notice to the leaseholders of adjoining and nearby properties, notice to Falls Creek Ski Lifts and the display of a copy of the notice at the Falls Creek Alpine Resort office.

Objection by Falls Creek Ski Lifts

92. Falls Creek Ski Lifts (FCSL) operate the ski fields and lifting infrastructure at Falls Creek, including being responsible for summer maintenance of ski run infrastructure. The proposed works being located within the ski area can have an impact on the ongoing operation of the resort and its related infrastructure. FCSL objected to the proposal, raising concerns relating to the impact the bicycle trail may have on the ski run infrastructure, such as the following:
 - a) Ensuring the location of the bicycle trail does not pass through the Apre Vous (which is an area where the land is slashed as part of FCSL summer slope maintenance program and groomed in winter).
 - b) Drainage discharge from the bicycle trail should not be on designated ski runs.
 - c) Ensuring the bicycle trail does not restrict FCSL vehicle access.
 - d) Due to the close proximity of the trail to Tower 4 of the Gully Chairlift, Tower 4 should be padded for safety reasons by the permit holder and be maintained ongoingly.
93. The applicant did provide a response to the concerns raised by FCSL which has been summarised by DTP as follows:
 - a) The bicycle trail does not pass through or enter the Apre Vous area.
 - b) The drainage will not be discharged on the designated ski runs. Construction activities are in line with the detailed construction methodology contained in the SEMP.
 - c) The trail only crosses a vehicle track at the bottom section of the trail in the Gully chairlift area. The trail will not impede vehicle access on this track.
 - d) The tower will be padded and maintained by Falls Creek Alpine Resort.
94. DTP's response to the above points includes the following:
 - a) DTP accept what was stated by the applicant in that the bicycle trail does not pass through the Apre Vous area therefore this is not an issue.
 - b) The SEMP includes details on drainage and the SEMP will be endorsed to form part of any permit issued.
 - c) DTP consider that it is reasonable to include a condition on any permit issued that requires the permit holder to ensure that vehicle access by FCSL is not restricted at any time.
 - d) DTP considers that it is reasonable to include a condition on any permit issued that prior to the official opening of the trail, Tower 4 of the Gully Chairlift must be padded by the permit holder and be maintained ongoingly.

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95. While the objection by FCSL was withdrawn unconditionally on 16 December 2024, the above conditions will be included as they will ensure the ski fields and infrastructure of the resort will not be unreasonably impacted by the trail.

Cultural Heritage

96. The Project is a high impact activity and in an area of Aboriginal cultural heritage sensitivity under the *Aboriginal Heritage Regulations 2007*. A Cultural Heritage Management Plan (Management Plan) is required for a high impact activity in an area of Aboriginal cultural heritage sensitivity.
97. A Management Plan (No. 19838) was prepared by John Gilding and Jane Bligh (Bligh Gilding Consulting Pty Ltd) for this project and approved. The Management Plan will be endorsed to form part of the permit and a note on the permit will state that the Management Plan will apply to the Project.

Referral Authority Conditions

98. The ARV, as a determining referral authority pursuant to the CDZ2, have recommended the standard condition be included regarding all buildings and works be undertaken in accordance with the endorsed SEMP. A note, regarding the project manager comply with all relevant resort policies and procedures, will also be included.
99. The ARV as a recommending referral authority pursuant to the EMO1 have requested the standard condition be included regarding all buildings and works be carried out in accordance with the recommendation of the revised geotechnical report recently submitted.
100. As outlined earlier, the CFA did not require any conditions be included however a note will be included in any permit issued and a further note will be included in the applicants (ARV's) cover letter.
101. DEECA, as a recommending referral authority pursuant to Clause 52.17 (Native vegetation), have requested conditions in relation to offsets being secured and the protection of retained vegetation. As a determining referral authority and pursuant to the CDZ2 and ESO1, DEECA requested that all buildings and works be undertaken in accordance with the endorsed SEMP.
102. All the conditions and notes are considered acceptable and should be included on any permit that issues.



103. The proposed development and vegetation removal is generally consistent with the relevant planning policies of the Alpine Resorts Planning Scheme and will provide a recreational activity that can be used outside of the snow season.
104. The proposal is generally supported by all referral authorities, subject to conditions.
105. **It is recommended that** a Permit be issued for Application No. PA2402974 being for Buildings and works (for the bicycle trail and removable built structures/jumps) and associated vegetation removal at the land Crown Allotments 2010 and 2019, Parish of Darbalang, Falls Creek Alpine Resort, subject to conditions.



Prepared & approved by:

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

- No Conflict**
- Conflict and have therefore undertaken the following actions:
 - Completed the **Statutory Planning Services declaration of Conflict/Interest form.**
 - Attached the Statutory Planning Services declaration of Conflict/Interest form on to the hardcopy file.
 - Attached the Statutory Planning Services declaration of Conflict/Interest form into the relevant electronic workspace.

Name:	[Redacted]	Signed:	[Redacted]
Title:	[Redacted]		
Phone:	[Redacted]	Dated:	17 December 2024

Reviewed by:

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

- No Conflict**
- Conflict and have therefore undertaken the following actions:
 - Completed the **Statutory Planning Services declaration of Conflict/Interest form.**
 - Attached the Statutory Planning Services declaration of Conflict/Interest form on to the hardcopy file.
 - Attached the Statutory Planning Services declaration of Conflict/Interest form into the relevant electronic workspace.

Name:	[Redacted]	Signed:	[Redacted]
Title:	[Redacted]		
Phone:	[Redacted]	Dated:	20 December 2024
