

APPENDIX C

WRITTEN CONSENT FROM DELWP ON
BEHALF OF PARKS VICTORIA

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APPLICATION FOR CONSENT PURSUANT TO CLAUSE 36.03-2 OF THE MILDURA PLANNING SCHEME AND PRE-LODGMET ADVICE. CROWN ALLOTMENT 138F, SECTION F, PARISH OF MILDURA AND CROWN ALLOTMENT 2227, PARISH OF MILDURA

Thank you for your letter dated and received on 1 December 2020 applying for consent to use the above Crown land.

The application is for a utility installation and removal of native vegetation. The subject land is zoned Public Conservation and Resource Zone Special Use Zone and is affected by the Environmental Significance, Land Subject to Inundation and Heritage Overlay/s under the Mildura Planning Scheme.

This response has been prepared on behalf of both the public land manager (Parks Victoria) and the department considering both organisations' interests in the proposed use/development.

I provide this response under delegation from:

Public Land Managers Consent and Land Owners Consent: The Minister for Energy, Environment and Climate Change.

Pre-lodgement advice: The Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*).

This letter was prepared in anticipation of it being forwarded to the responsible authority together with a planning permit application, within three months of the date of this letter. The following commentary may assist both the applicant and the responsible authority.

Comment

Requirement for a permit

Clause 62.02-1 Buildings and works not requiring a permit of the Mildura. Planning Scheme has the effect of removing the exemption for certain works on land zoned PCRZ. The clause however only applies any requirement in this scheme relating to the *construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone...* (my emphasis).

The PCRZ (at clause 36.03-1) requires a permit for any of the uses listed in clause 62.02-1 to be undertaken 'by or on behalf of the public land manager' for the exemption to apply.

Since the use is not being undertaken on behalf of the Minister for Energy, Environment and Climate Change (the minister responsible for managing the Crown land) the department considers that the exemption does not apply and that a planning permit should be obtained for the works.

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Native Title

Parks Victoria must ensure compliance with the *Native Title Act 1993 (Cwlth)* (NTA) when considering the use of Crown land. If the proposal is valid under the NTA, Parks Victoria must notify the native title claimants and seek their advice.

Prior to commencement of works you must contact PV's Regional Statutory Planning Officer, Andrew McDougall on telephone 03 8427 3335 or via email andrew.mcdougall@parks.vic.gov.au, to ensure there are no requirements under the NTA.

Aboriginal Heritage Act 2006

You must also meet all other obligations under the *Aboriginal Heritage Act 2006*. Aboriginal Heritage Act 2006. This legislation provides protection for all Aboriginal places, objects and human remains regardless of their inclusion on the Victorian Aboriginal Heritage Register or whether they are located on public or private land. It also provides clear guidance to planners and developers about when, and how, Aboriginal cultural heritage needs to be considered, and in some situations, work cannot proceed until compliance is met.

Please note that the proposed works are within a landform considered to have potential for the identification and possible disturbance of Aboriginal Cultural Heritage values. It is the responsibility of all persons or bodies proposing to undertake an activity on private or public land to determine the requirements of the Act in relation to Aboriginal cultural heritage.

Before you commence works on the Crown land you are required to provide proof that you have assessed the impacts (i.e. undertaken due diligence required by this Act). More information and a link to the tool to assist you undertake the required due diligence can be found at <https://www.aboriginalvictoria.vic.gov.au/cultural-heritage-management-plans>

You may choose to submit a Preliminary Aboriginal Heritage Test (PAHT) to First Peoples – State Relations for a determination about whether a Cultural Heritage Management Plan is required.

Parks Victoria must have an opportunity to comment on any draft CHMPs before the document is approved by First Peoples – State Relations. Copies of any draft CHMP submitted to First Peoples – State Relations/RAP, and the final approved CHMP, must also be emailed to PV (marlon.parsons@parks.vic.gov.au), before any works can commence.

For further information, please contact Marlon Parsons by phoning 03 8427 2432.

Unless addressed in an approved CHMP you are requirement to cease all works immediately if any suspected Aboriginal heritage is uncovered within the Reserve. When this occurs, the proponent must leave the heritage in place, protect it from harm or damage and immediately contact Parks Victoria, Ranger Team Leader, Rob McGlashan, on tel. 0428 315 139 for further advice. In addition, if the proponent doesn't have an approved Contingency Plan, as part of an approved CHMP for this site, there is a requirement to cease all works immediately if any suspected Aboriginal heritage is uncovered within the Reserve. When this occurs, the proponent must leave the heritage in place, protect it from harm or damage and immediately contact Parks Victoria, Ranger Team Leader Rob McGlashan, on tel. 0428 315 139 for further advice.

Additional Approvals

Parks Victoria must provide an interim approval under the *Parks Victoria Act 1998* to authorise the proposal within the Parks Victoria estate, before the proposed activity can commence. This approval will be in the form of a 'Minor Works Agreement'.

This authority will only be issued via the Parks Victoria, Area Chief Ranger, following confirmation that all necessary conditions have been met for all relevant approvals.

For further information contact the Ranger Team Leader, Rob McGlashan on tel. 0428 315 139 .

This approval will be superseded by a consent issued under Section 27 the *National Parks Act 1975*, subject to standard conditions and fees, after the proposed activity has commenced.

This authority will also be issued via the Area Chief Ranger.

Heritage Act 2017

The proponent may require a permit or need to meet other obligations under the *Heritage Act 2017*.

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The proponent must contact the Heritage Victoria (HV), to confirm whether any such obligations need to be met.

A copy of HV's response and evidence that all relevant conditions have been met, must be forwarded to Parks Victoria, Regional Planner (Land Use & Statutory) Andrew McDougall via (03) 8427 3335 I M: 0427 867 141 I E: andrew.mcdougall@parks.vic.gov.au, before the proposed activity can commence.

Land Owner's Consent

For the purposes of Section 48 of the *Planning and Environment Act 1987*, this letter also acknowledges that the applicant has notified the landowner (Parks Victoria representing the Minister for Energy, Environment and Climate Change) about the proposed development.

Consent to the use and development of the land is given subject to compliance with the conditions at Attachment 1 to this letter.

Public Land Manager's Consent to Making Application

Parks Victoria, as Public Land Manager for Crown land described as Crown allotment 138F, Section F, Parish of Mildura and Crown allotment 2227, Parish of Mildura hereby consents to a planning permit application being made for a utility installation and removal of native vegetation subject to following conditions being included on any permit granted:

1. Prior to the commencement of works an Environmental Management Plan must be submitted for approval by Parks Victoria, via the Department of Environment, Land, Water and Planning.

The plan must include:

- a. A construction schedule.
- b. A construction management plan including:
 - Details of site establishment and storage
 - Site induction
 - Construction zone and vehicle access
 - Threatened species considerations
 - Existing service locations
 - Site/works marking
 - Construction techniques
 - Construction monitoring and reporting
 - Environmental risks considerations and mitigation plan
 - Historic and cultural heritage impacts and contingency plans
 - Site rehabilitation and maintenance
 - Location of signage
 - Site access and maintenance
 - Track maintenance.

2. Prior to the commencement of works a Rehabilitation Plan must be submitted for approval by Parks Victoria, via the Department of Environment, Land, Water and Planning.

The plan must include:

- a. Statutory requirements and consultation.
- b. End use objectives and final concept plan including timelines for completion.
- c. Landscaping.
- d. Soil respreading.
- e. Revegetation.
- f. Runoff and erosion control.
- g. Removal of plant and equipment.
- h. Ongoing monitoring to ensure the successful establishment of the revegetated rehabilitated areas. Ongoing monitoring should occur for 2 years from the date of the works occurring and any diseased or dying vegetation should be replaced and ongoing weed control during the monitoring program; and
- i. Any special circumstances of the land and surrounding environment.

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3. Prior to the commencement of works an Asset Maintenance Plan must be submitted for approval by Parks Victoria, via the Department of Environment, Land, Water and Planning. The Plan must outline how and when site maintenance will occur, types of maintenance activities and equipment to be used.
4. The existing powerline alignment, to be decommissioned following the commissioning of the new towers, is to be rehabilitated to its original Ecological Vegetation Class. Decommissioning work is to be undertaken in accordance with the approved rehabilitation plan and as per *VEAC River Red Gum Recommendations 2008*, B Regional Parks.
5. At the completion of works the access track is to be freshly graded. It should be topped with limestone to a depth suitable to meet the future maintenance needs of TransGrid and meet the standards of the *DELWP-PV-Road Management Plan 2019* Class 5C Minor Public Road Standard to the satisfaction of Parks Victoria.

Referral Authority Advice

The Department has reviewed the application and determined that additional information is required in order for an assessment of the application to be fully undertaken, the Department of Environment, Land, Water and Planning provides the following comments as a recommending referral authority under Clause 66.02-2:

- The planning permit application must address in full the information requirements of Clause 52.17 *Native Vegetation* of the Mildura Planning Scheme and the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017). In particular (*Guidelines* page 12) “An application to remove native vegetation must include an offset strategy that includes evidence that an offset that meets the offset requirements for the proposed native vegetation removal is available, and explains how the offset will be secured if a permit is granted.” The department advises that the offset strategy must be agreed prior to the department being able to recommend that a planning permit be issued. This includes, where appropriate:
 - written approval from the Secretary to DELWP confirming that a rare or threatened species habitat can be removed from consideration in the assessment of the application;
 - written approval confirming that any alternative offset arrangements are to the satisfaction of the Secretary to DELWP; and
 - suitable evidence to support an offset statement, including for a proposed new third party site (see page 14 of the *Assessor’s Handbook* for guidance).

The department recommends the applicant commence discussions regarding the offset strategy as soon as possible via Nativevegetation.support@delwp.vic.gov.au

- The department has not yet been provided with a final flora and fauna assessment which provides detailed assessment against referral triggers under the *EPBC Act* and *EE Act*. The department recommends the applicant also provide evidence that they have consulted with DAVE (*EPBC Act*) and DELWP Impact Assessment Unit (*EE Act*) regarding the stated decision not to refer the project.
- WSP has provided “EnergyConnect – Victorian section biodiversity offset strategy approach”. The department notes that box 2 suggests that once offsets are allocated to a project there is “no opportunity to reassign any unused credits if the impacts are later minimised”. This is incorrect. Appendix 8C of the *Assessor’s Handbook* outlines the process whereby excess credits can be unallocated and banked or sold on. This is an important process to ensure incentives remain for on-site minimisation efforts after a permit is issued.

Notes:

1. You should also note that Parks Victoria will not be responsible for any future tree lopping, destruction or removal required on the adjoining public land. Such works will be at the applicant’s expense and subject to prior approval from Parks Victoria.

A copy of this letter will be forwarded to DELWP renewable energy planning unit

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If you have any questions regarding this matter, please contact Rachael Blandthorn on telephone 0419 854 694.

Yours sincerely



Tim Norden
Program Manager
Planning and Approvals

21/06/2021

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**Landowner Conditions for works
Woomera Avenue RED CLIFFS 3496 - Allot. 2227 MILDURA and Psyche Bend
Road IRYMPLE 3498
WSP Australia Pty Ltd**

Notification of Conditions

1. Before the development starts, all persons undertaking the works on site must be advised of all relevant conditions of this consent.

Pre Commencement Condition Sign Off

2. Prior to commencement of work a Safe Method Work Statement (Job Safety Analysis) must be provided to Parks Victoria, Ranger Team Leader.
3. The Ranger Team Leader will provide written confirmation to the proponent when all pre-commencement conditions have been satisfactorily met.

Work Zones and Access

4. Parks Victoria Ranger Team Leader, Rob McGlashan must be contacted on mobile 0428 315 139 to arrange a site meeting and Contractor Induction, at least seven days before the commencement of any works.
5. Prior to any construction equipment entering the site, all designated zones Work Zones/ Parking & Storage Zones/Work Exclusion Zones must be correctly and clearly marked to the satisfaction of Parks Victoria, Ranger Team Leader as requested at the site meeting before the proposed activity commences.
6. Storage and set down areas need to be negotiated, kept to the existing cleared easement, and approved by the Ranger Team Leader.
7. Access must be via existing tracks.
8. The site is currently used primarily for access through the park. Most traffic traveling from Red Cliffs to Psyche Pumps uses the easement as part of the main thoroughfare and as such the applicant will need to develop and implement a Traffic Management Plan in conjunction with the Ranger Team Leader that allows for safe passage by park visitors where possible.

The plan must include:

- a. Measures to ensure the safe passage of park visitors and construction works / workers and
 - b. Traffic management signage plan
9. The Easement Track is approx. 1.75km long from the park entrance to the end of the work area. The track will require significant upgrades ranging from minor at the entrance to quite major under the easement in various locations and additional maintenance at the end of construction.
Vehicle safety barriers i.e. crash barriers and or bollards are to be installed adjacent to any tower footings and or structures adjacent to the Easement Track to prevent vehicles from impacting such structures while transiting along the Easement Track.
 10. The flood runner immediately south of Tower 2 has been used previously by the Mallee CMA to deliver environmental water to wetlands in Kings Billabong Park. Any road improvement works through the flood runner must not to impede flows and will require a Works on Waterway Permit.
 11. The site is not to be accessed with vehicles or plant during or after periods of heavy rainfall or flooding to avoid significant track damage and works cannot recommence until agreed by Parks Victoria.
 12. Any damage to existing tracks must be repaired as soon as possible at the proponent's expense, to the satisfaction of Parks Victoria.

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Protection of native vegetation to be retained

13. Before works start, a native vegetation protection fence must be erected around all native vegetation to be retained within 15 metres of the works area. This fence must be erected at:
 - a) A radius of 12 times the diameter of the tree trunk at a height of 1.4 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree; and
 - b) To protect patch(es) of native vegetation at a minimum distance of 2 metres from retained native vegetation.

The fence must be constructed of star pickets and paraweb or similar, to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning. The protection fence must remain in place until all works are completed to the satisfaction of the department.

14. Except with the written consent of the department, within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:
 - a) vehicular or pedestrian access;
 - b) trenching or soil excavation;
 - c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;
 - d) construction of entry and exit pits for underground services; or
 - e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Avoiding Environmental Disturbance

15. No refuelling or maintenance of vehicles or machinery is to be undertaken on Parks Victoria managed land.
16. Works must not occur on days of Total Fire Ban or Code Red to avoid significant bushfire risks.
17. There is to be no stockpiling of material or storage of machinery/equipment on vegetated sections of Crown land, except where authorised at the site meeting.
18. To reduce impacts on ground fauna, all excavated trenches are to be backfilled as soon as possible. No trenches are to be left open overnight.
19. To reduce the spread of weeds and pathogens, all earthmoving equipment must be free of soil and seed by pressure washing, and then sprayed with Phytoclean, before being taken to the work site and again on completion of the project.

Special Requirement

20. The installation and use of on-site offices, ablution blocks, toilets or accommodation will require prior approval from the Parks Victoria Ranger Team Leader, and may be subject to Municipal Council regulations.
21. The proponent must erect public notices at all access points to the Kings Billabong Park impacted by this project to inform members of the public of the planned works, project timelines and any impact to park access. This must be to the satisfaction of Parks Victoria.
22. Any bollards removed during works will need reinstatement by the applicant.
23. Depending on the size and location of set down and work areas there may need to be additional bollards installed to restrict vehicles from accessing new areas or tracks.
24. Tower 4 is located within a fenced area to promote revegetation and to prevent off-road vehicle access. Removed fencing will need to be replaced following completion of works.
25. In the north-eastern corner of the work zone the main track leaves the cleared easement. Vegetation removal is planned in this area to widen the track and depending on the width required this may result in the removal of numerous Black Box and understorey species. Impacts on native vegetation are required to be minimal and approved by the Ranger Team Leader.

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26. A good stand of Silver Needlewood (*Hakea leucoptera*) is present near Tower 2 and should be protected from damage as much as practicable.
27. The Ranger Team Leader will confirm if a site or road(s) closure is required for the proposed activity and assist to implement as necessary.
28. As a minimum requirement all works areas are to be taped off within high visibility plastic webbing, whilst works are in progress.

Completion of Works

29. The site must be rehabilitated to the satisfaction of Parks Victoria in alignment with the endorsed Rehabilitation Plan. Where possible, rehabilitation must be progressively implemented whilst the proposed activity is being undertaken.
30. The concrete pads for the existing towers and all associated assets are to be removed and rehabilitated during decommissioning unless approved by the Ranger Team Leader.
31. Whilst trenching, either topsoil or track gravel (100mm deep) is to be stockpiled separately from sub soil, so that topsoil/track gravel can be reinstated on top of sub soil after backfilling. Fill is to be compacted in layers to reduce the risk of erosion.
32. Materials imported to the site for infill or bedding must be classified as clean fill according to the EPA *Industrial Waste Guidelines*. Any unused fill brought onto the site must be removed at the completion of the works.
33. Within seven days of completing works, all surplus infrastructure and materials must be all removed from Crown land and the site left in a clean and tidy condition.
34. The Ranger Team Leader will provide written advice to the proponent when satisfactory rehabilitation has been achieved.

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