

**Warburton Mountain Bike Destination Environmental Effects  
Statement (ESS)  
By the Victorian National Parks Association**

25th January 2022



## Table of Contents

1.	Introduction .....	4
1.1.	Overview of our submission .....	4
1.2.	Process and consultation .....	5
1.3.	EES Requirements and Scoping, and the role of the Panel and Advisory Committee.....	6
2.	Yarra Ranges National Park.....	8
2.1.	History of the Yarra Ranges National Park (77 185 ha) .....	8
2.2.	Legal status of accepted LCC/ ECC/VEAC recommendations .....	12
2.3.	Legal status and significance of the Yarra Ranges National Park .....	13
	Designation by legislation .....	13
	Objects – the legislated touchstone for National Park management.....	13
	An integrated system of control and management of the park estate – the role of Parks Victoria .....	14
2.4.	The Yarra Ranges National Park Management Plan .....	15
	Purpose and status of the Plan .....	15
	The WMBD is fundamentally inconsistent with the Yarra Ranges National Park Management Plan.....	16
	Relevant provisions of the Management Plan inadequately addressed in the EES .....	17
	Is the Yarra Ranges National Park Plan out of date? .....	18
2.5.	Section 23 works approval.....	19
2.6.	Land use planning under the Planning and Environment Act 1987 and public and tenure – protected area status prevails .....	19
	Relationship of national park status with land use planning under P&E Act .....	19
	Broader planning context – National Parks and the international system for designating protected areas.....	20
2.7.	Protected Water Catchments .....	22
3.	Impact on Warburton Bushland Reserve.....	24
4.	Large scale Mountain Bike Infrastructure does not protect or promote nature.....	25
4.1.	Trading on the National Park Brand while damaging integrity of the park.....	28
4.2.	The project is still economically viable without using or damaging the national park.....	28
5.	Biodiversity impacts.....	31
5.1.	Flora and Fauna Guarantee Act duty .....	31
	<b>4B Ministers and public authorities to give proper consideration of objectives.....</b>	<b>31</b>
5.2.	Impact on wildlife including species listed under FFG and EPBC Act .....	32
	Impact on Cool Temperate Rainforest (EVC 31) .....	32

Impact on FFG Act listed Critically Endangered Mount Donna Buang Wingless Stonefly (Riekoperla darlingtoni) .....	36
Loss of Hollow bearing trees.....	39
Leadbeaters Possum .....	40
Disruption to wildlife .....	41
5.3. Impact of spread of invasive species and pathogens .....	42
Phytophthora .....	42
Myrtle Wilt.....	43
6. Damage to fabric of cultural heritage sites.....	45
6.1. European Heritage .....	45
6.2. Indigenous Heritage.....	45

## 1. Introduction

The Victorian National Parks Association (VNPA) welcomes the opportunity to comment on the Warburton Mountain Bike Destination Environmental Effects Statement (EES).

The VNPA has been a community voice for the protection of Victoria's unique natural heritage for 70 years. VNPA is an independent, non-profit, membership-based group, which exists to protect Victoria's natural environment and biodiversity through the establishment and effective management of national parks, conservation reserves and other measures.

The chosen site of the Warburton Mountain Bike Destination (WMBD) contains many particularly sensitive areas, involving a range of threatened species and communities and significant conservation issues. The proposal also raises important issues in relation to the management and development of Victoria's national parks, and how such proposals should be assessed and managed.

The VNPA requests the opportunity to make submissions at the public hearings.

The VNPA reserves its right to raise additional matters at the public hearings, given the volume and complexity of material and issues raised by the ESS documents.

### 1.1. Overview of our submission

The VNPA has been advocating for planning of the proposed track network away from high conservation values and outside of the Yarra Ranges National Park for almost 10 years.

The VNPA wish to raise a series of points that indicate the proposed Warburton Mountain Bike Destination should remain outside of the Yarra Ranges National Park and the Northern section should be abandon due to the high risk of irreparable damage the development would do to the national park, endangered species and their habitat, endangered rainforest and values that make it an amazing place already visited by many locals and tourists.

We will be commenting on the EES as it relates to:

- The process for developing the proposal and the EES, and the EES requirements and scoping
- Impact on the Yarra Ranges National Park and consistency of the proposal with relevant legislation, policies and plans, including the National Park Act and the Yarra Ranges National Park Management Plan
- The focus of the proposal on economic benefits and the failure to protect and promote nature
- Biodiversity impacts of the proposal including:
  - Impact on Cool Temperate Rainforest (EVC 31)
  - Impact on the Critically Endangered Mount Donna Buang Wingless Stonefly (*Riekoperla darlingtoni*), listed under the Flora and Fauna Guarantee Act, 1988 (FFG Act)
  - Impact on other wildlife including species listed under the FFG Act, and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
  - Impact of the spread of invasive species and pathogens
- Cultural heritage impacts
- Impact on Warburton Bushland Reserve

National Parks such as Yarra Ranges National Park are the jewel in Victoria's crown and should be treated as such and not be put under increased risk of damage and habitat loss from damaging activities and development.

The construction and use of the bike track will have significant impact on between 15-18km of native vegetation and critical habitat for a range of threatened species, and will add new significant visitor pressure to the Yarra Ranges National Park. This will increase the potential for weed and pest invasion and increase management needs, without any additional funding. There is nothing in the proposal which helps achieve "protection or preservation" or indeed "responsible management of the land". The track is not consistent with the national parks act, and the EES provides no assessment against the object of the act and purposes of the park.

## 1.2. Process and consultation

Poor processes and lack of consultation throughout the development of the Warburton Mountain Bike Destination proposal, has resulted in a substandard and inappropriate proposal. We wish to place on record that we have attempted to raise many of the issues we have raised in this submission in earlier stages of the process only to have these concerns ignored. The project development mind-set seems to have been informed by a presumption that trails should be developed in the Yarra Ranges National Park from the outset. This mindset reflected in the "alternatives" considered by the EES, both involve trails in the Park. We address this issue and the need to consider the viable alternative of restricting the development to non-Park areas in section 4 below.

The proposal was formally funded in 2018, but a range of scoping studies had been carried out prior, including concept design, and preliminary master plan in 2016, and a draft master plan in 2018. VNPA held a number of meetings with project officers at the Yarra Ranges Council early in this period, including an apparent stakeholder reference group, which only had one meeting the VNPA was invited to, and was not invited back.

A number of meetings were also held with Parks Victoria and Department of Environment Water, Land and Planning (DELWP) staff, in addition to a series of formal submissions and comments, including:

- 23/10/2017 Response to DELWP & PV Comments Ecological Assessment Protocols and Response to Planning Requirements – Warburton Mountain Bike Trail
- 23/2/18 'Preliminary Biodiversity Impact Assessment for the Proposed Warburton Mountain Bike Trail'. *This was responded to by the Project Team Warburton Mountain Bike Destination, though the response were detailed, they largely deferred to final EES studies.*
- 19/12/2020 A submission to inform the Warburton Mountain Bike Destination Environment Effects Statement, Yarra Ranges Council. Warburton Mountain Bike Destination.  
<https://vnpa.org.au/publications/submission-warburton-mountain-bike-destination-environment-effects-statement/>

- 9/4/2021 Letter to Yarra Ranges Mayor & Councillors. Response from Acting CEO 4 May 2021
- 24/ 7 /2021 Letter to Planning Minister, CC: Environment Minister Proposed Warburton Mountain Bike Destination impact on National Park Values.

From the earliest stages VNPA has raised issue with the location and impacts on the park, the proposed assessment process and importance of the national parks tenure. While some of the scope of the ESS was expanded, the concerns have never been adequately addressed.

The VNPA is acknowledged as a stakeholder in the Warburton Mountain Bike Destination , Environment Effects Statement Consultation Plan October 2020 (page 17), however does not acknowledge the input of the VNPA on the scope of the EES in previous submissions, as listed above addressed by a number of submission outlined above.

While the project did look at alternative route in the Yarra Ranges national park, no alternative for the heroic downhill track were considered outside the park such as in state forest to the North East around Powell town or similar. This should have been done, due the impact of this proposal on sensitive park values.

### 1.3. EES Requirements and Scoping, and the role of the Panel and Advisory Committee

As outlined above, we are concerned that there has been insufficient recognition of the status and importance of the Yarra Ranges National Park in the process to date. In general the development of the project proposal and the ESS assessment process seems to have emphasised an approach to land use planning appropriate to the management of the orderly development of private land, and **not** public land management. The process has insufficiently recognised the unique characteristics and specific approaches and legislative obligations associated with the designation and management of public land generally and National Parks.

The ESS scoping requirements <sup>1</sup>acknowledge the need for approvals under the *National Parks Act 1975* (Section 2.2, page 4) and modification of the existing National Park Management Plan developed pursuant to the requirement under the National Parks Act.

---

<sup>1</sup> DEWLP Environment Effects Statement Scoping Requirements Warburton Mountain Bike Destination Environment Effects Act 1978, NOVEMBER 2020.  
[https://www.planning.vic.gov.au/\\_data/assets/pdf\\_file/0019/503083/Warburton-Final-EES-Scoping-Requirements-MBR043640.pdf](https://www.planning.vic.gov.au/_data/assets/pdf_file/0019/503083/Warburton-Final-EES-Scoping-Requirements-MBR043640.pdf)

The Scoping Requirements specifically for the Yarra Ranges National Park that consider:

- The basis for selecting the proposed project layout and design, particularly where trails and trailheads are located within areas of particularly high conservation value such as within the Yarra Ranges National Park (*section 3.4 page 7, Project Alternatives*)
- Cumulative impacts on biodiversity and habitat both within and outside Yarra Ranges National Park (*section 4.1, Biodiversity and habitats, page 9*)
- Describe the conservation areas/reserves in the vicinity of the project, including the biodiversity values of the Yarra Ranges National Park. (*section 4.1, Biodiversity and habitats, page 10*)
- Assess potential impacts on the conservation values of Yarra Ranges National Park. (*section 4.1, Biodiversity and habitats, page 11*)
- Performance measures: Describe and evaluate the approach to monitoring and the proposed contingency measures to be implemented in the event of adverse residual effects on flora, fauna and ecological community values requiring further management. (*section 4.1, Biodiversity and habitats, page 11*).

While the Scoping Requirements also require the impact on the conservation values for the Yarra Ranges National Park, there is still no assessment against the role and purpose of National Park or the tenure. This lack of explicit consideration of these matters is essentially watering down the legally accepted protection of the Park. National Parks are not solely designed to protect individual threatened species, this is the job other legislation, rather they are designed to protect comprehensive, adequate and representative selection of ecosystem, though there may threatened species protected along the way.

The Warburton Mountain Bike Destination Inquiry and Advisory Committee, Term of Reference require the Panel and Advisory Committee to:

- review and consider the environment effects statement (EES), submissions received in relation to the project, the predicted environmental effects, and the other exhibited documents;
- consider and report on the potential environmental effects of the project (including the preferred and alternative alignments), their significance and acceptability, having regard to the draft evaluation objectives in the EES scoping requirements and relevant policy and legislation;
- identify any measures it considers necessary and effective to avoid, mitigate or manage the environmental effects of the project within acceptable limits, including any necessary project modifications; and
- advise on how this relates to relevant conditions, controls and requirements that could form part of the necessary approvals and consents for the project.

The Advisory Committee TOR also highlights that the IAC members should have the following knowledge and expertise:

- a. biodiversity and national parks;
- b. land-use and socio-economic impacts;
- c. surface water; and
- d. amenity.

While the panel has a high degree of planning and broader environmental expertise, it is unclear from the panel biographies if any of the members have any direct experience or expertise with the role and management of National Parks.

We have used our submission to provide information we believe is critical to an understanding and recognition of the importance of National Parks and the nature and significance of the Yarra Ranges National Park. We hope this detail will be of assistance to the Panel and Advisory Committee, and we urge members to take all necessary steps to ensure that they are fully informed about these important matters.

## 2. Yarra Ranges National Park

### 2.1. History of the Yarra Ranges National Park (77 185 ha)

A critical feature of public land management in Victoria is Victoria's longstanding institutional framework for investigation, review and management public land in the form of the Victorian Environment Assessment Council (VEAC) (formerly the Environment Conservation Council (ECC), and before that the Land Conservation Council (LCC)).

This framework allows for a comprehensive public system of strategic planning for public land which must be the starting point for any consideration as to how public land should subsequently be managed and where appropriate developed.

We submit that this history and context is very important to the Panel and Advisory Committee's consideration of proposed development and changes in use in the Yarra Ranges National Park.

Table 1. History of Yarra Ranges National Park

Year	Details	Act	Addition (ha)	Total area (ha)
1995	established	National Parks (Yarra Ranges and Other Amendments) Act 1995	76 000	76 000
2000	addition	National Parks (Amendment) Act 2000	3	76 003
2005	area correction		-496	75 507



	addition (Melbourne Water surplus land)	National Parks (Otways and Other Amendments) Act 2005	1533	77 404
<b>2008</b>	addition	National Parks and Crown Land (Reserves) Acts Amendment Act 2008	150	77 190
<b>2013</b>	addition (area north of Warburton and part of the O'Shannassy Aqueduct and walking track) and correction	Parks and Crown Land Legislation Amendment Act 2013	0.2	77 190

Table 1. History of Yarra Ranges National Park

Further detail on this history is as follows.

### 1994/5

In 1994 the former Land Conservation Council (LCC), in its *Final Recommendations for the Melbourne Area District 2 Review*, recommended establishing an Ash Ranges National Park to protect the area's significant mature Wet Forests and Cool Temperate Rainforests. The Government subsequently accepted this recommendation with several variations, including changing the name to Yarra Ranges National Park and incorporating the Maroondah, O'Shannassy and Upper Yarra Reservoirs, and an area at Dom Dom Saddle in the Park.

The acceptance of the LCC's recommendations signalled a clear break with the multiple former uses of the area, and a new and more certain direction focussed on preservation and protection under the *National Parks Act 1975*. Significantly, for example, the designation of the Mount Donna Buang area that is the subject of the current proposal as an Alpine Resort under the *Alpine Resorts Act 1983* was reversed, signalling a clear intent to move away from early aspirations for recreational development of the site.

Subsequently, the Yarra Ranges National Park was included on Schedule Two of the *National Parks Act 1975* (Vic.) on 15 December 1995 as a result of the *National Parks (Yarra Ranges and Other Amendments) Act 1995* (Vic.).

### 2000

Four small areas in or on the boundaries of the Armstrong Creek and Upper Yarra catchments (3 ha) were added to the park on 25 January 2001.

### 2005

On 11 December 2005, 1533 ha was added to the park; former Crown land and Melbourne Water land at or near Badger Creek, Cement Creek, Dom Dom Saddle, Fernshaw and Maroondah and in the Upper Yarra catchment and parts of decommissioned O'Shannassy Aqueduct.

### 2008

Other areas were added on 23 September 2008 as a result of the *National Parks and Crown Land (Reserve) Acts Amendment Act 2008*.

2013/14

On 18 December 2014 a small area north of Warburton containing wet forest and part of the O'Shannassy Aqueduct and associated walking track was added to the park.<sup>2</sup>

Further details from the LCC, Melbourne Area district 2 Review<sup>3</sup>(Page 71), describes the basis of the recommendation to create Yarra Ranges National Park.

**A12 Yarra Ash Ranges National Park** (See Order in Council 5/9/1995)

Encompassing some 75 900 ha, this new park incorporates the catchments of the Maroondah, O'Shannassy and Upper Yarra Reservoirs that feed into Melbourne's domestic water supply system, and extends north to include Lake Mountain. The upper reaches of the Acheron River and Armstrong Creek and a section of the Cement Creek catchment provide important links between these areas and are also valuable additions to the park, as too are the upper reaches of the Taggerty River.

The three catchments and the linking areas contain arguably the best representation of mature wet forests and cool temperate rainforests in the State. As such, they provide one of the most significant opportunities for the protection and maintenance of mature wet forest habitat - which, among other values, is of major importance to those faunal species that depend on hollow-bearing trees for their survival.

The new park also contains good representations of several major land types that, although extensive, are confined to the Central Highlands. A detailed discussion of these and other values is provided below.

More than 100 years ago, the government that instituted Melbourne's water supply decided that, to protect water yield and quality as much as possible, the catchments from which it was gathered should be managed by the water supply authority and used solely for water-harvesting. It further decided that people should not be allowed to undertake activities that could affect the catchment adversely.

The LCC, Melbourne Area district 2 Review (Page 25) also notes the role of National Parks.

The concept of national parks is internationally recognised and embraces the notion that representative examples of the major land and vegetation types, together with the outstanding natural features occurring on public land, should not be subjected to commercial exploitation nor the environmental disturbance associated with such enterprises. These areas should, because of their significance, be afforded the maximum possible protection in legislation.

In national and State parks, the aims of management are to provide recreational and educational opportunities consistent with the preservation and protection of the natural environment, indigenous species and other conservation values. Development associated with the recreational use of these parks is confined to small areas to minimise disturbance.

---

<sup>2</sup> Parks Victoria, CREATION OF PARKS 1882–2014 December 2014 Version 1

<sup>3</sup> <https://www.veac.vic.gov.au/investigations-assessments/previous-investigations/investigation/melbourne-area-district-2-review>

**Yarra Ash Ranges National Park** (see Order in Council 5/9/1995)

**Recommendation**

**A12** That the area of 75 900 ha indicated on map A be used to:

- (i) supply water and protect catchments and streams
  - (ii) conserve and protect natural ecosystems
  - (iii) protect sites of cultural importance
  - (iv) consistent with (i), (ii) and (iii) above, provide opportunities for recreation and education associated with the enjoyment and understanding of natural environments
- that
- (v) the results of hydrological research that would achieve positive benefits for both water yield and protection of the natural values be incorporated in the management plan
  - (vi) the timing, location, nature and intensity of scientific, educational and recreational use be subject to joint agreement between Melbourne Water and the Department of Conservation and Natural Resources
  - (vii) harvesting of forest products not be permitted except that the Melbourne Water Corporation may take, sell or otherwise dispose of forest produce in the land shown cross-hatched on Map I

Page 82

280

**MOUNT DONNA BUANG**

Mount Donna Buang is situated on the divide between Badger Creek (part of the Maroondah water supply catchment system) and the Yarra River.

It is the closest and most accessible site to Melbourne for snow-play, although snow cover in the area is unreliable and of only 60 or fewer days duration per year.

Facilities on the summit include toilets, a shelter and gas barbecues; other facilities are located on the access roads. There is no commercial development.

The area formed part of the Yarra Valley Multi-purpose Park (A29) in the Land Conservation Council's final recommendations for the Melbourne Study Area in 1977 and was zoned for intensive recreation. The recommended zoning of the Yarra Valley Multi-purpose Park, outside the water supply catchments, was approved by the government.

Mount Donna Buang forms an important recreational component of the recommended Yarra Ash Ranges National Park (see Recommendation A12). It is therefore recommended that the Mount Donna Buang area be deleted from the Schedule to the *Alpine Resorts Act 1983* and included in the recommended Yarra Ash Ranges National Park.

**Mount Donna Buang**

**Recommendation**

**I10** That the Mount Donna Buang area be deleted from the Schedule to the *Alpine Resorts Act 1983*, and be included in the recommended Yarra Ash Ranges National Park (see Recommendation A12).

## 2.2. Legal status of accepted LCC/ ECC/VEAC recommendations

The Victorian Environmental Assessment Council's Public Land Investigation 2017, <sup>4</sup>undertook a detailed review of the public land system. The *Statewide Assessment of Public Land - Discussion Paper*,<sup>5</sup> provides an information rich resource which outlines the status and integration of the planning system, and the role of the protected area estate.

The discussion paper outlines the role and legal status of the accepted, LCC/ECC/VEAC recommendations, National Parks Act, international reporting obligations (IUCN categories), and the planning scheme. Essentially it has been a long standing principle that land tenure trumps planning controls, however, for the Warburton Mountain Bike Destination Environmental Effects Statement (EES) process, the tenure of the Yarra Ranges National Park is essentially ignored.

VEAC notes for previous LCC/ECC/VEAC recommendations, that the area-specific recommendations of the Councils identify land use categories and, for each category of public land:

- specify its purpose
- nominate the suitable uses
- list the inappropriate uses that are not permitted there
- may include policies that explain or interpret its basic purposes
- may refer to principles and/or guidelines to be put into effect in more detailed management plans or site-specific proposals
- specify the form of reservation.

Section 10(3) of the Land Conservation Act 1970 provided that, once recommendations have been accepted by the Minister, following notice to affected government departments and public authorities, an Order in Council requires departments or public authorities to use 'all diligence and dispatch to give effect to recommendation' so far as it affects any land vested in or controlled by such departments and authorities.

Government accepted LCC recommendations also require an Order in Council to be amended or revoked. Section 26 of the VEAC Act provides that, if the statement of the government response to a report specifies that the government wholly or partly accepts a recommendation, the government must ensure that appropriate actions are taken to implement the recommendation to the extent that it has been accepted.

The VEAC Act, includes provisions that deem recommendations of the ECC to be recommendations of VEAC to which the VEAC Act applies. Legal status is also conferred on recommendations of the LCC, ECC and VEAC through references in Acts such as the National Parks Act 1975, the Crown Land (Reserves) Act 1978, the Forests Act 1958, the Wildlife Act 1975 and earth resources legislation.

---

<sup>4</sup> <https://www.veac.vic.gov.au/investigations-assessments/previous-investigations/investigation/statewide-assessment-of-public-land>

<sup>5</sup> VEAC Statewide Assessment of Public Land - Discussion Paper  
<https://www.veac.vic.gov.au/investigations-assessments/previous-investigations/investigation/statewide-assessment-of-public-land>



Four primary land Acts now govern the use of Crown land in Victoria and determine the legal basis for its control and management – the Land Act 1958, the Forests Act 1958, the Crown Land (Reserves) Act 1978 and the National Parks Act 1975.

The four Acts are supplemented by several ‘overlay’ Acts which govern particular reservation types or uses or, in a narrow range of circumstances, reserve land. The current legal status of Crown land reflects the use of these Acts and their predecessors over a period of more than 150 years, broadly reflecting:

- Historic decisions to reserve land for particular purposes
- Decisions made since the 1970s to implement LCC/ ECC/VEAC recommendations through reservation processes to reflect approved land uses
- Other decisions of governments and/or parliaments which depart from LCC/ECC/VEAC recommendations

## 2.3. Legal status and significance of the Yarra Ranges National Park

### Designation by legislation

The *National Parks Act 1975* and *Parks Victoria Act 2018* form a comprehensive statutory framework for designation, protection and conservation, governance, planning and management of public land of significant natural and cultural value in Victoria.

A key feature of this system is the designation of areas as national parks (or other forms of parks provided for under the *National Parks Act*). Significantly, national parks are created by Parliament through legislative amendment the National Parks Act, typically following a strategic investigation and planning process undertaken by the Victorian Environment Assessment Council or, as here with the Yarra Ranges National Park, the predecessor to VEAC, the Land Conservation Council.

### Objects – the legislated touchstone for National Park management

The objects contained in section 4 of the National Parks Act have their origins in Victorian national parks legislation dating back to the 1950s. These objects form the legislative touchstone for the designation and protection of public land as national parks and other forms of reservation in Victoria.

Section 4(a) contains objects relating to National Parks as follows:

- For the preservation and protection of the natural environment
- For the protection and preservation of indigenous flora and fauna and of features of scenic, ecological, geological, historic or other scientific interest in those parks
- For the study of ecology, geology, botany, zoology and other sciences relating to the conservation of the natural environment in those parks

- For the responsible management of the land in those parks.

Section 4(c) contains a general provision applicable across all forms of parks and reserves under the *National Parks Act* enabling use of parks by the public:

- To make provision *in accordance with the foregoing* for the use of parks by the public for the purposes of enjoyment, recreation or education and for the encouragement and control of that use.

Importantly, as the added emphasis indicates, this object is subject to the preceding preservation and protection objectives.

#### An integrated system of control and management of the park estate – the role of Parks Victoria

A key feature of the national parks estate in Victoria is the control and management of parks by Parks Victoria, an independent public authority with management responsibilities and expertise across parks and reserves in Victoria. Parks Victoria is accountable to the Minister, subject to statutory responsibilities and empowered with functions necessary to meet the objectives set out in the National Parks Act.

Parks Victoria's responsibilities for management of parks like the Yarra Ranges National Park, go well beyond a limited engagement as a service provider, particularly following the important reforms to its role introduced by the Parks Victoria Act.. Parks Victoria's role includes enduring responsibility and accountability for ongoing management, something which stands in stark contrast to the absence for any clear ongoing management model for the proposed trails and visitor impacts put forward in the EES.

Section 17 of the National Parks Act formally vests control and management of National Parks in Parks Victoria. Section 17(2) obliges Parks Victoria to ensure that the Park is controlled and managed, *in accordance with the objects of the Act*, in a manner that will (emphasis added):

- (a)
  - (i) *Preserve and protect the park in its natural condition* for the use, enjoyment and education of the public;
  - (ii) *Preserve and protect indigenous flora and fauna in the park*;
  - (iii) Exterminate or control exotic fauna in the park;
  - (iv) Eradicate or control exotic flora in the park; and
  - (v) *Preserve and protect wilderness areas in the park and features in the park of scenic, archaeological, ecological, geological, historic or other scientific interest*;

- (c) Promote and encourage the use and enjoyment of national parks and State parks by the public and the understanding and recognition of the purpose and significance of national parks and State parks;

Importantly, section 17 obliges Parks Victoria to prepare a management plan for national parks such as the Yarra Ranges National Park.

## 2.4. The Yarra Ranges National Park Management Plan

Land designated as national park under the National Parks Act requires a management plan under which the gazetted land is to be managed. Management plans are a strategic framework that governs the development and delivery of all management programs and actions within our national parks to make sure the park is being managed in an appropriate manner as to meet the objectives of the National Parks Act.

Land designated as national park in Victoria is also managed by Parks Victoria under *the National Parks Act 1975* and *Parks Victoria Act 2018*. The proponent for the Warburton Mountain Bike Destination is the Shire of Yarra Ranges who have authority and undertake no management within national parks and other land managed by Parks Victoria.

### Purpose and status of the Plan

The Yarra Ranges National Park Management Plan represents the formal endorsed position as to how the park is to be protected and managed in a manner consistent with the objects of the National Parks Act. The function of the Management Plan and its relationship to the objects of the National Parks Act are set in in the Plan at page 5, (emphasis added):

“Sections 4 (Objects) and 17 of the Act provide the main basis for management of the park. They require the Secretary to the Department of Natural Resources and Environment to ensure that the natural condition of the park and its natural and other features (including the DWSCA) are protected and, *subject to this*, to provide for the use of the park by the public for enjoyment, recreation and education, and research.”

Parks Victoria has responsibility for the development of a management plan, which now have additional status as Land Management Plans under a revised comprehensive system of planning under the *Parks Victoria Act 2018*.

Plans and the planning process are not driven by a particular development proposal but undertaken with public consultation and informed by a broad range of matters, including natural values in the park and across the park estate, and a comprehensive and integrated approach to identify and supporting appropriate recreational opportunities that are that are consistent with conservation, and protection objectives.

Although the current Yarra Ranges National Park Management Plan pre-dated these changes to Parks Victoria legislation, finalisation of the plan followed longstanding practice consistent with this scheme, including a public process and approval of the final version by the Secretary to the Department and the Environment Minister.

The statutory framework and intent that applies the management plan, and the process for its development, reflect its formal status as the expression of the high-level direction intended to meet the statutory objectives of the National Parks Act. It is not simply a policy or a competing set of performance objectives left to be balanced and optimised at a later stage, and it should not be taken as aspirational or optional but rather a comprehensive statement as to priorities and directions for the management of the Park.

#### The Warburton Mountain Bike is fundamentally inconsistent with the Yarra Ranges National Park Management Plan

The EES currently acknowledges a minor inconsistency between proposal and the plan and suggests that some minor changes to recognise the development of the trails proposed, however this analysis represents a selective and misleading consideration of the proposal against the Plan which fails to accord the Plan appropriate weight and status.

The EES (Chapter 5) notes: “Amendments to the Yarra Ranges National Park Management Plan may be warranted to ensure that the plan explicitly recognises the project”. However, the conflict between the plan and proposal is more fundamental than a lack of recognition of the project.

Chapter 11 assesses the alignment of the proposal with the national park Management Plan, evidently on the basis that the Management Plan is merely one of a range of sources of policy objectives to be weighed in the mix. The chapter states that the proposal is consistent with the management plan in vague terms of general accordance without any detailed consideration of the high level intent or specific details of the Plan: “The project generally accords with the general management aims outlined within the document as relevant for the Conservation and Recreation and the Recreation Development Zones in which the project sits. It does this by providing for sustainable dispersed recreation facilities without significant impact on natural processes.”

In fact, the inconsistency is far more substantial than these vague claims recognise – new cycling trails are not envisaged by the Plan, this type of activity and development is not provided for in this area and the impact on biodiversity is inconsistent with the management plan and objects of the Act.

This inconsistency is revealed by a more detailed and careful analysis than that undertaken for the EES and we submit this approach is essential to the Panel and Advisory Committee’s review of the EES. In undertaking an exercise, however, we emphasise that it is beyond the remit of Yarra Ranges Council to amend the Plan, and not the role of the Panel considering the EES to develop such recommendations, although clearly it would be appropriate to document the inconsistencies outlined above. It is up to the proposal to conform to the Management Plan, rather than the Management Plan to bend to the development aspirations of the Warburton Mountain Bike Destination proponents.

Planning for the Park is Parks Victoria’s responsibility and needs to be undertaken in a comprehensive manner considering natural values and recreational opportunities in a comprehensive and integrated manner through public and statutory processes that apply to Parks Victoria. For example, the amendment to the Churchill National Park and Lysterfield Park



Management Plan <sup>6</sup> or the major recent review of the Greater Grampians Management Plan <sup>7</sup> The scale and likely impacts associated with the Warburton Bike Track require a comprehensive reassessment of the Yarra ranges Park management Plan akin to the Grampians.

Relevant provisions of the Management Plan inadequately addressed in the EES

- Park Management Aims (page 7). Note that these need to be read subject to the prioritisation of preservation and protection under the Act (“appropriate recreation and tourism”).
- Although a small area around Mount Donna Buang is zoned Recreation and Development, this area is more confined than the EES suggests. It is also critically important to recognise that the intention of this zone is to support the management objective of concentration of high use visitor activities in designated areas.
- Most of the proposed track is within Conservation and Recreation Zone which aims to “provide for *sustainable dispersed recreation activities and small scale recreation facilities without significant impact on natural processes*”. The construction and use of the trails proposed here are inconsistent with this zoning.
- Activities permitted and encouraged included cycling but this was not envisaged to include development of new tracks for mountain biking, but rather use of existing roads and tracks (such as O’Shannasy aqueduct). The EES fails to address the fact that the development of extensive new cycling trails is simply not contemplated by the Management Plan, and suggesting that the Management Plan be amended to recognise the project fails to recognise that such development is inconsistent with the intent of the Plan.
- The plan emphasises the need for new development to be accommodated through existing sites (page 10):

*Pressures arising from increased visitation to the park will be absorbed, wherever possible, by upgrading the carrying capacity of existing visitor sites or by using previously disturbed areas, and by coordinating the provision of recreation sites and services with nearby providers, rather than by establishing new sites in undisturbed areas.*

Where the Plan elsewhere states that “Walking and cycling opportunities, particularly short circuit walks for day visitors, will be enhanced with new and upgraded trails. Longer trails in the park will link into the regional trail network” this reference to new and upgraded trails should be taken to refer to “short circuit walks for day visitors” which is the interpretation most consistent with the overall content and intention of the Plan.

---

<sup>6</sup> <https://engage.vic.gov.au/churchill-national-park-and-lysterfield-park-management-plan-amendment>

<sup>7</sup> <https://engage.vic.gov.au/gariwerd-management-plan>

- 4.3 Vegetation “Conserve native plant communities in their natural condition and maintain habitat diversity while allowing natural environmental processes to continue”. Major threats to vegetation noted as “ soil disturbance from recreation activities; disturbance arising from inappropriately planned and maintained roads; infrastructure; wildfire; pest plant invasion and disease.”
- 4.4 Fauna. Aims: “Protect native fauna species and maintain genetic diversity” and “Provide special protection for significant fauna and their habitat”.
- Management strategies for vegetation and fauna include managing FFG listed species according to approved action statements.
- 5.8 Cycling. Aim: “Provide opportunities for cycling consistent with the protection of park values”. Management strategies do not envisage construction of new tracks, but rather use of roads, tracks and ski trails as documented in the plan (tables 3, 5 and 6).

Cycling is restricted to public vehicular access roads and tracks, and certain tracks used by management vehicles that include some sections of walking tracks and, outside the snow season, certain ski trails. Cycling is not permitted on most roads and tracks in the DWSCA in accordance with the Restricted Access Policy (see glossary).

Most walking tracks are not suitable for cycling as they are generally located on erodible soils, or are steep and overgrown.

#### Is the Yarra Ranges National Park Plan out of date?

We briefly address the fact that the Park Management Plan dates to 2002 lest it be suggested that this somehow means it should be accorded less status or weight than we are submitting.

Firstly there was no statutory requirement to review plans at the time this Plan was developed, and the plans are intended to be long term (Land Management Plans under new Parks Vic Act are 15 years) and priority is to protection and conservation rather than facilitating change in use or development of the land so would not expect frequent review or amendment, plenty of planning schemes contain zones and planning provisions that date back many years so duration is not of itself unusual or problematic. The plan is the approved plan and as we have submitted above, is not the role of the Yarra Ranges Council as project proponent, or the Panel’s task to assume that a different plan is required. The proponent could have sought to initiate a process to review the plan but has not done so.

The scale and likely impacts associated with the Warburton Bike Track require a comprehensive reassessment of the Yarra Ranges Park Management Plan akin to the recent reassessment at the Grampians National Park.

## 2.5. Section 23 works approval

The proponents and the EES requirements recognise the need for an approval for works under section 23 of the *National Parks Act 1975*, although apparently the development of the proposed approval is being undertaken through an independent process.

While the intention of section 23 facilitates approval of infrastructure and works within national parks, it is subject to objects of the Act and overriding purpose of parks designation and should not be viewed as an mechanism for facilitating recreational development in Parks that are inconstant with the National Park Act objects and the approved Management Plan. To do so would be to undermine the clear hierarchy set out in the objects and reflected in Parks Victoria functions which includes the encouragement and facilitation of public use and recreation, provided to do so is consistent with the higher objectives of preservation and protection.

Use of the land is still fundamentally governed by the designation of the area as a national park.

## 2.6. Land use planning under the Planning and Environment Act 1987 and public and tenure – protected area status prevails

### Relationship of national park status with land use planning under Planning and Environment Act

As outlined above, the use and management of the National Park is determined primarily by its status as a national park, the object of the National Parks Act, the purpose and functions of Parks Victoria, and the management plan.

Land use planning provisions under the Planning and Environment Act 1987 apply concurrently but in a qualified and limited manner. This is reflected in the standard formulation land use zoning ordinances such as the PUZ and PCRZ deferring to uses and developments carried by or on behalf of the public land manager.

In respect to planning Schemes VEAC note:

*“Local government planning schemes may apply to all private and public land in Victoria...” and*

*“Public land zones are not intended to identify the legal status of the land nor indicate the existing land use. They are intended to set out appropriate statutory requirements which apply to the use and development of the land in addition to the relevant land management legislation.”<sup>8</sup>.*

The outcome of these arrangements is that State and Local Planning Policy and other planning scheme provisions are not a comprehensive land use and regulatory framework for public land management, and in particular where here the land is designated as national park then primary criterion for management will be derived from that status rather than the land use planning policies and controls familiar to those focussed on private land use and development. Typically, national park status will bring with it a higher and more stringent set of standards for environmental protection than is the case under Planning Schemes, and in this way the relevance of planning policy

---

<sup>8</sup> Statewide Assessment of Public Land - Discussion Paper, page 32 <https://www.veac.vic.gov.au/investigations-assessments/previous-investigations/investigation/statewide-assessment-of-public-land>

and controls is more as a baseline standard rather than as a set of criteria or standards which support development if satisfied. There is a clear hierarchy of provisions with public tenure as a national park at the apex.

Our key point here is that the national parks status and objectives that come with that prevail over other considerations including those provided for under the Yarra Ranges Planning Scheme – this is not an exercise in seeking to optimising competing policy objectives to achieve a “net community benefit” as occurs with land use planning under the Planning and Environment Act – the status as a National Park and the statutory objectives that come with this prevail to the extent that there is any conflict with other planning policies and objectives.

Although our focus here is on the criteria to be applied in assessing whether the Warburton Mountain Bike Trail should be permitted in the first place, these considerations are also relevant to the proposed mechanism for managing the development in the National Park should it proceed. We consider that the proposed linear Special Purpose Overlay, which it seems is assumed will not only “switch off” planning controls but also National Park regulations, is a highly inappropriate and also legally questionable approach to managing development in a National Park.

#### Broader planning context – national parks and the international system for designating protected areas

Protected areas – national parks, wilderness areas, nature conservation reserves and so on – are the cornerstone of biodiversity conservation. Effectively managed systems of protected areas have been recognised as critical instruments in achieving the objectives of the Convention on Biological Diversity and the Millennium Development Goals.

Consistency in comparing protected areas across Australia is achieved by the allocation and use of an internationally defined set of management categories, known as IUCN (International Union for Conservation of Nature) categories.

Protected areas are defined by IUCN as follows:

‘A protected area is a clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values’.

There are seven IUCN protected area categories:

- Ia Strict Nature Reserve
- Ib Wilderness Area
- II National Park
- III Natural Monument or Feature
- IV Habitat/Species Management Area
- V Protected Landscape/Seascape
- VI Protected area with sustainable use of natural resources

Under Australia's Strategy for the National Reserve System 2009-2030 all the state and territory governments and the Australian government have agreed to adopt international standards for the definition of a protected area and management categories used by the IUCN. IUCN protected area management categories classify protected areas according to their management objectives

IUCN category II National Park is defined as *"protected areas are large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible, spiritual, scientific, educational, recreational, and visitor opportunities"*<sup>9</sup>

In Victoria, the IUCN categories do not have any legal effect and individual protected areas are assigned to an IUCN category as a national or global reporting tool only, but the objective is reflected in the relevant protection Act, including in this instance the objects of the National Parks Act discussed above.

As outlined above, the purpose of National Parks including the Yarra Ranges National Park are to:

- Protect the natural environment including biodiversity.
- Protect and maintain natural, cultural, or historic places or features, and natural landscapes.
- Provide opportunities for informal recreation associated with the enjoyment of nature, or education, where consistent with the purposes above.

Recreation use is clearly in both the National Park Act and IUCN categories is a secondary concern needing to be either *"..consistent with.."* or *"..compatible"* with the key objectives of land tenure.

- Protect the natural environment including biodiversity.
- Protect and maintain natural, cultural, or historic places or features, and natural landscapes.

The Yarra Ranges National Park is assigned the International Union for the Conservation of Nature (IUCN) Category II (National Parks) of the United Nations' List of National Parks and Protected Areas. Category II areas are managed primarily for ecosystem conservation and appropriate recreation. The Yarra Ranges National Park is also recognised as a site of National and State Zoological and Botanical Significance, as it contains a high number of rare and threatened flora, fauna and vegetation types including extensive, undisturbed areas of Cool Temperate Rainforest and Wet (Mountain Ash) Forest, old growth forests, the Leadbeaters Possum and the Mount Donna Buang Wingless Stonefly.

IUCN Category II (National Parks): Large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities.<sup>10</sup>

---

<sup>9</sup> Statewide Assessment of Public Land - Discussion Paper, page 151

<https://www.veac.vic.gov.au/investigations-assessments/previous-investigations/investigation/statewide-assessment-of-public-land>

<sup>10</sup> <https://www.iucn.org/theme/protected-areas/about/protected-areas-categories/category-ii-national-park>

## 2.7. Protected Water Catchments

Of great concern is the intrusion of Track 1 into the closed catchment part of the Yarra Ranges National Park. Although the incursions are small in nature (almost half a kilometre) this sets a bad precedent to allow new tracks within a closed catchment that has been protected since the 1800s. Map 1: *Warburton Mountain Biking Destination Through The Coranderrk Water Catchment, Yarra Ranges National Park* below, shows the intrusions into the closed catchment. This would also violate the National Parks Act..

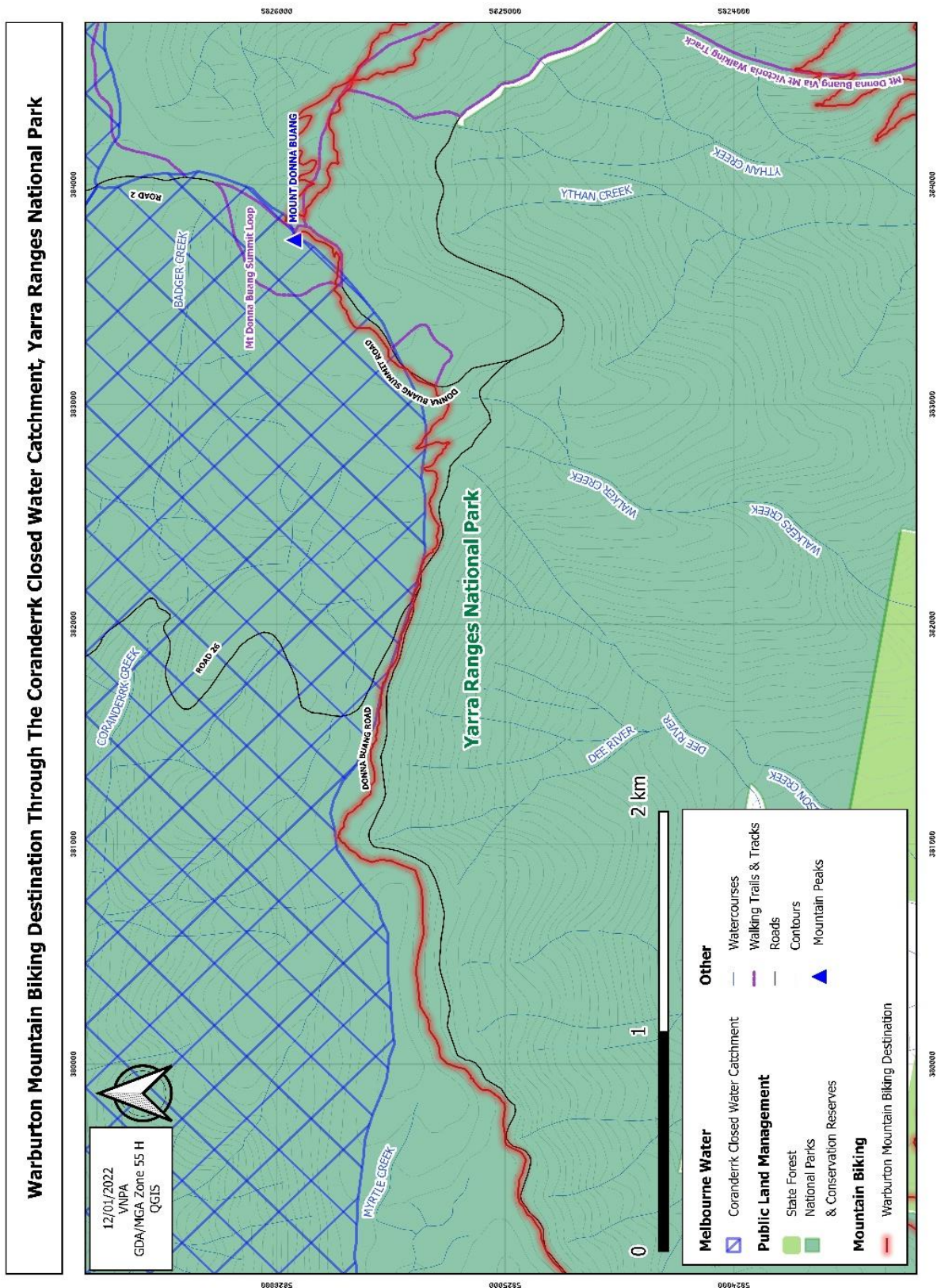
Melbourne is one of the few cities in the world with protected catchments, which help to produce high-quality water. These have been in place since the 1800's and in many ways have even a higher level of protection than national parks.<sup>11</sup> Incursion into this area is unacceptable, and rides rough shod over long standing protection provision.

---

<sup>11</sup> <https://www.melbournewater.com.au/water-data-and-education/water-facts-and-history/why-melbournes-water-tastes-great/water-catchments>



Map 1: Warburton Mountain Biking Destination Through The Coranderrk Water Catchment, Yarra Ranges National Park



### 3. Impact on the Warburton Bushland Reserve

The Warburton Bushland Reserve is a 4.1 ha reserve on the bank of the Yarra/Birrung River in Warburton, and is managed by Parks Victoria.

The tenure of the Warburton Bushland Reserve was not acknowledged nor assessed within the EES documents, or the current land manager of the site. With almost half the reserve impacted by the proposed tracks (Figure 2) this does not align with the purpose of the reserve, particularly the primary objectives of nature conservation. Large scale downhill bike track is far from passive recreation.

The reserve was assessed as part of the Land Conservation Council's Melbourne Area District 2 review, Final Recommendations (July 1994).

It was recommended that the reserve would be managed under the following principals;

#### ***Bushland areas***

#### ***Recommendations 1***

**G52-280** *That the following areas i) if bushland be used in accordance with the general i recommendations for natural features reserves above*

*and*

*(vii) to maintain the character and quality of the local landscape*

*(viii) to protect remnant areas of indigenous vegetation and areas with habitat value that*

*(ix) apiculture be permitted*

*(X) controlled grazing be permitted except where specified, and subject to*

*(a) the approval of the land manager*

*and*

*(b) an evaluation of whether grazing is appropriate in each case<sup>12</sup>*

The general recommendations for each conservation reserve category (and, in some cases, additional specific recommendations for individual conservation reserves) apply. If a Government-approved LCC/ECC recommendation applies to a reserve and is inconsistent with the existing reservation purpose, the area should be managed in accordance with the LCC/ECC recommendation.

<sup>13</sup>

Bush Land Reserve are a type of "Natural Feature Reserve" under Crown Land (Reserves) Act 1978 (Vic.) Natural Features Reserves (NFR) include a variety of reserves, such as Streamside Reserves, Geological and Geomorphological Reserves, Bushland Reserves and Wildlife Reserves that are open for hunting (Table 3), and contain natural features worthy of protection. They often provide the only suitable habitat for many common and uncommon species that either still use or were once widespread in land types that have been largely cleared. The reserves also contribute to our well-being, when used for recreation, relaxation, scenic landscape appreciation, education and protection against land degradation.<sup>14</sup>

---

<sup>12</sup> Land Conservation Council, Melbourne Area District 2 Review, Final recommendations. July 1994, Page 161

<sup>13</sup> The Conservation Reserves Management Strategy, January 2003 by Parks Victoria

<sup>14</sup> Ibid



The Objectives of Natural Features Reserves including Bushland Reserves have the following purposes, in addition to permitted and prohibited activities subject to LCC/ECC recommendations for individual reserves (as above LCC Recommendation G52- 280)

- Conserve and protect the natural features and values of the reserve, including any indigenous flora and fauna, maintain scenic features and landscapes, and preserve features of geological and geomorphological interest. (Primary objective)
- Conserve and protect any cultural and historic features and associations.
- Protect historic and Aboriginal cultural values and sites.
- Provide opportunities for appropriate enjoyment, recreation and education by the public, and research and study where this does not conflict with the primary objective

The permitted uses would include passive recreation such as picnicking, walking and, where relevant, fishing. There may be permission for more intensive recreation such as camping in individual reserves such as Education Areas where specified by LCC/ECC and for Lakes Reserves subject to manager's discretion.

The tenure of the Warburton Bushland Reserve was not acknowledged nor assessed within the EES documents, or the current land manager of the site. With almost half the reserve impacted by the proposed tracks (Figure 2) this does not align with the purpose of the reserve, particularly the primary objectives of nature conservation. Large scale downhill bike track is far from passive recreation.

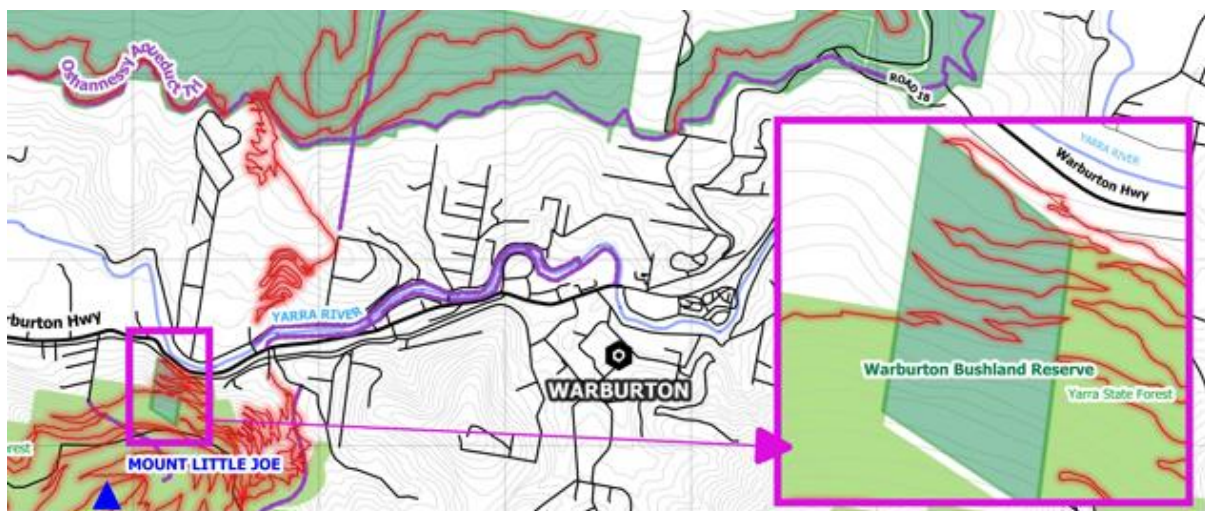


Figure 5. Proposed track network with Warburton Bushland Reserve

#### 4. Large scale Mountain Bike Infrastructure does not protect or promote nature

The assessed benefits of having the track in the national park are solely economic, rather than ecological. The project is trading on the national park brand, while on the one hand damaging the integrity of park, to create at best 'green blur' tourism (Riders can't take in beauty and views at speed) at up to 60 - 90 km per hour downhill experience for a heroic few.

A comparative analysis of Trail 1 and Trails 45, 46 and 47 is presented in Section 7.0 of the *Alternatives Assessment Report Warburton Mountain Bike Destination, Yarra Ranges Shire Council, 18-Oct-21*.

This analysis determined that inclusion of Trail 1 in the trail network would provide significantly greater economic benefits but would also have potential for more significant biodiversity impacts and would be situated within the **Coranderrk Creek catchment for 458 metres**. It also notes that:

*“..in relation to historic heritage Trail 1 has a higher potential for impact due to the known presence of a number of registered heritage sites and other unregistered artefacts. Whilst these potential impacts can be mitigated, Trails 45, 46 and 47 are slightly preferred to Trail 1 from an historic heritage perspective.”*

*“The economic analysis indicates that the project has significantly reduced economic benefit with the removal of Trail 1 due to the high attractiveness of this trail as a tourism product.”*

*“The findings of the biodiversity and habitat assessment are also critical to a decision on whether Trail 1 should be adopted as part of the overall trail network (with implementation of proposed mitigation measures to address the key ecological issues) or whether the alternative should be adopted because it would avoid potential impacts associated with Trail 1 that cannot be adequately mitigated. The findings of this assessment are presented in Chapter 8: Biodiversity and habitats and Technical Report A: Biodiversity and habitats.” (Page 37)*

The assessment articulates the trade-off of environmental and heritage values for largely solely economic outcomes. While the paper argues there are social, health and sustainability benefits for bike riding, the information cited is selective.

*Attachment A: Developing Warburton as a World Class Mountain Bike Destination, and Economic Feasibility Study TRC Tourism Pty. Ltd, August 2021.* Page 29, flag an enabling or authorising documents as the Healthy Parks Healthy People (HPHP) framework 2010. The most recent iteration of this document is The Healthy Parks Healthy People (HPHP) framework in 2020.<sup>15</sup> While connecting people with nature is well known to be good for wellbeing and human health, but the link between the need for ecologically damaging large scale mountain bike infrastructure, is tenuous at best.

Healthy Parks Healthy People: the state of the evidence 2015, is review of scientific literature which inform the 2020 HPHP framework. Neither document mention large scale infrastructure as a solution or bike tracks or mountain bike specifically. There is an emphasis on nature experiences *“..be enhanced through the promotion of the benefits of nature by park managers, researchers and policy makers...”* and *“..designing spaces in parks that are readily accessible and inclusive..”*<sup>16</sup>

---

<sup>15</sup><https://www.parks.vic.gov.au/media/f78c6831d79b43cb825554e41063fef0.pdf?la=en&hash=CB544D91556124D5401868B17AE7BC46FE9414F3>

<sup>16</sup> Healthy Parks Healthy People: the state of the evidence 2015  
<https://www.iucn.org/sites/dev/files/content/documents/hphpstate-evidence2015.pdf>

A mountain bike track targeting a small group in the community e.g around 5% of the Australian population, and even smaller proportion of thrill seeking rider's e.g 15%, is hardly readily accessible or inclusive, rather it is arguably exclusive.

<b>Protecting Victoria's Environment: Biodiversity 2037</b>	<ul style="list-style-type: none"> <li>• Goal One: 'Victorians Value Nature'</li> <li>• Increase opportunities for all Victorians to have daily connections with nature.</li> <li>• Increase opportunities for all Victorians to act to protect biodiversity.</li> </ul>
---	--

*Developing Warburton as a World Class Mountain Bike Destination, and Economic Feasibility Study*  
TRC Tourism Pty. Ltd, August 2021(Page 29)

The document also notes the *States Biodiversity Strategy, 2037*, but selectively state it goals. For example page highlights goal 1 of the strategy. Yet like the 2020 HPHF framework there is no mention of large scale infrastructure or bike tracks in the document as mechanism to deliver. Further the selective quoting misses other priorities in the States biodiversity strategy such as:

- Priority 18 Maintain and enhance a world-class system of protected areas
- Priority 17 Deliver excellence in management of all land and waters.

Even the initiatives flagged under the cited goals such priority 5 "*Increase opportunities for all Victorians to act to protect biodiversity*" conflict with the impacts associated with Warburton bike track. For example, specify initiative "*Implement and promote programs that increase engagement and employment in activities that protect biodiversity.*"<sup>17</sup> The bike track, specifically has a significant impact on key ecological values, and no evidence is provided to show that it in way protect biodiversity or even inspires people to do so. If fact it is arguable that it does the opposite. The tracks in the National parks are described various as "*..hero trail designed for all riders, and it offers an outstanding natural experience.*"<sup>18</sup>

The reports variously cites the idea that just by visiting a place this is "*Enhancing environmental awareness, improved understanding of our natural heritage and fostering stewardship*" (page 10) and "*by getting off the beaten track, riders can enjoy the solitude and connection to nature, which leads to reducing stress and fostering relaxation. The benefits of being outdoors and in fresh air also supports aids in our exposure to vitamin D, while enabling riders to appreciate, advocate and protect their natural environment.*" (Page 21)

There is no real evidence to support that visiting a track for largely personal wellbeing, fitness and thrill seeking leads to any lasting advocacy for nature or the park itself, rather it will to create at best 'green blur' tourism at up to 60 - 90 km hour downhill experience for a heroic few.

---

<sup>17</sup> Protecting Victoria's Environment – Biodiversity 2037  
<https://www.environment.vic.gov.au/biodiversity/biodiversity-plan>

<sup>18</sup> Page 8. *Developing Warburton as a World Class Mountain Bike Destination, and Economic Feasibility Study* TRC Tourism Pty. Ltd, August 2021

#### 4.1. Trading on the national park brand while damaging integrity of the park

The economic feasibility study is also clear that project is trading on the national park brand, while on the other, damaging the integrity of park. The economic feasibility study states.

*“National parks are a large component of the ‘nature based’ offer. The term ‘national park’ is an internationally recognised and valuable brand. It is estimated that protected areas globally attract around 8 billion visitors annually and are worth \$600B(US) to local economies. Having a national park in the region / destination is a great asset and can be an important influencing towards motivating a visitor’s decision to come to the area. (page 29) It also notes*

*“The trail experiences (especially the Drop a Km) in the National Park account for 15% of visitation choice for the aggregated market but this hides the real impact. The advanced and expert riders want it and the loss of it reduced demand. In contrast, Beginner riders prefer not having the Drop a KM. Intermediate riders lose some interest with the loss of Drop a Km but it’s the loss of the NP itself that most impacts.” (page 9)*

The VNPA spent almost a decade in the late 1980’s and early 1990’s advocating for the creation of the Yarra Ranges National Park to protect the important ecology. The arguments of damaging infrastructure lead to some sort of improved protection is just marketing spin. It benefits a small segment of the community, and a small segment of the ridding community e.g 15%, while damaging the park during construction. There is no clear benefit to the park we can see, only downsides, being direct impacts, increased management costs, and future cumulative impacts.

#### 4.2. The project is still economically viable without using or damaging the national park

*Attachment A: Developing Warburton as a World Class Mountain Bike Destination, and Economic Feasibility Study TRC Tourism Pty. Ltd, August 2021 assesses three cases. The three cases are:*

- Case 1 Base Case: Full Trails Network - covering the full development of the trails network
- Case 2 Reduced Trail Network, with no trails in the National Park Areas,
- Case 3 with no Drop A K trail.

The three cases have been developed by Yarra Ranges Shire Council – each with its own set of strengths for different user groups. It is the impact of the changes on each of the potential user groups that changes the assumed visitor patterns – leading to differing economic impact outcomes.

In Case 1 – the potential for a leading trail that is aimed at the intermediate market and that presents a lead in market opportunity for a hero experience ,offers the most attractive visitor proposition (and therefore user spending). This is because it will not frighten off novice riders, will pick up the bulk of the intermediate markets (which is the highest number of riders), and offers a world class natural experience that advanced rides will come to ride it.

Drop A K trail – included in the base case, presents 2 important elements to all markets – it is the hero trail designed for all riders, and it offers an outstanding natural experience.

The modelling has identified the potential number of trail users over the 10-year period of operations.

- For Case 1 Base Case, user numbers would increase from 131,217 in year 1 to 221,454 in year 10
- For Case 2: Reduced Trails Network (No Trails in National Parks), user numbers would increase from 100,739 in year 1 to 140,014 in year 10
- For Case 3: No Drop A K Trail, user numbers would increase from 110,909 in year 1 to 153,769 in year 10.

For Case 2: Reduced Trails Network (no National Park Trails), spending in the Yarra Ranges LGA by trail users would increase from \$19.1 million in year 1 (\$13.6 million overnights and \$5.5 million day visitors) to \$28.4 million in year 10 (\$21.1 million overnights and \$7.3 million day visitors).

For Case 2 Reduced Network – No National Park Trails, the operation of the trails would generate a total of 90.5 full-time equivalent jobs in year 1, increasing to 131.7 FTE jobs in year 10

On a sector basis, the jobs (FTE- direct and indirect) generated by trail users are mainly concentrated in:

- Accommodation
- Food and beverage
- Recreational services and other visitor services
- Transport (including shuttles)
- Other retail.

The benefits and costs of the operations of the trails are analysed over a 10 -year period. The benefits are measured by:

- Direct - the increase in regional income generated by trail users over a 10-year period, and
- Indirect - the estimated health benefits and the trail user value.

The costs include design and planning costs, construction costs, and asset maintenance costs. For the comparison, the present value of the benefits is calculated using 3 discount rates (4%, 7% and 10%).

A 7% discount rate is appropriate for a trail project. The Benefits cost ratios (BCRs) including all benefits are:

- Case 1: Base Case yields a positive BCR of 7.7
- Case 2: Reduced Trail Network yields a positive BCR of 4.7
- Case 3: No Drop A K Trail yields a positive BCR of 5.2

If only regional income is included the BCRs are:

- Case 1 - 4.5
- Case 2 - 3.0
- Case 3 – 3.3.

The benefits of Case 2 (no track in National Park) are still significant:

- 90.5 full-time equivalent jobs in year 1, increasing to 131.7 FTE jobs in year 10
- Spending in the Yarra Ranges LGA by trail users would increase from \$19.1 million in year 1 (\$13.6 million overnights and \$5.5 million day visitors) to \$28.4 million in year 10 (\$21.1 million overnights and \$7.3 million day visitors).

By way of comparison the multibillion dollar the Level Crossing Removal Project (LXRP) is expected to deliver a Benefit Cost Ratio (BCR) of 0.78 using a 7 per cent discount rate. Using a discount rate of 4%, the BCR is 1.34.<sup>19</sup> A costs benefit of 4.7 for case is still very viable and slightly reduced visitor numbers will mitigate the identified high risk social impacts. E.g. increased traffic impacts on local residents and a reduction affordable housing (see below)

Risk E: Socioeconomic impacts: increased traffic.	E1: Increased traffic impacts liveability for residents.	Almost certain	Moderate	High
Risk F: Socioeconomic impacts: existing housing.	F1: Reduction in affordable housing stock displaces vulnerable residents.	Likely	Major	High

Figure 1. Table 8-1: Risk level (after mitigation)<sup>20</sup>

The objects of the National Parks Act 1975 are— (a) to make provision, in respect of national parks, State parks, marine national parks and marine sanctuaries—

- (i) for the preservation and protection of the natural environment including wilderness areas and remote and natural areas in those parks;
  - (ii) (ii) for the protection and preservation of indigenous flora and fauna and of features of scenic or archaeological, ecological, geological, historic or other scientific interest in those parks; and
  - (ii) for the study of ecology, geology, botany, zoology and other sciences relating to the conservation of the natural environment in those parks; and
  - (iii) (iv) for the responsible management of the land in those parks;
- Any other activity in a National Park must align to that level of natural heritage protection. In that sense, the law states that a national park pretty much belongs to that remarkable multitude of life forms or, at least, that their occupancy and welfare must be guaranteed.

The construction and use of the bike track will have significant impact on between 15-18km of native vegetation and critical habitat for a range of threatened species, and will add new significant visitor

<sup>19</sup> [https://levelcrossings.vic.gov.au/\\_data/assets/pdf\\_file/0005/216329/LXRP-Business-Case.pdf](https://levelcrossings.vic.gov.au/_data/assets/pdf_file/0005/216329/LXRP-Business-Case.pdf)

<sup>20</sup> Warburton Mountain Bike Destination Technical Report E: Socio-Economic Final Report Yarra Ranges Council RM Consulting Group Pty Ltd Sept, 2021



pressure to the Yarra Ranges National Park, increasing the potential for weed and pest invasion and increased management needs, without any additional funding.

There is nothing in the proposal which helps achieve “protection or preservation” or indeed “responsible management of the land”. The track is not consistent with the National Parks act 1975 and the EES provides no assessment against the object of the Act and purposes of the park. The installation of these tracks in the YRNP will poses a massive gamble, with nature and wildlife bearing the greatest risk and impact.

The cumulative impacts from soil erosion, damage to water quality, spread of pathogens such as Myrtle Wilt, loss of habitat, direct mortality of wildlife to name a few things will increase as the project moves from construction to operation. This risk is too high

On these grounds rack 1, 45,46 and 47 within the Yarra Ranges National Park must be rejected entirely as the risk they pose to the national park and the values it is legislated to protect will be too great.

## 5. Biodiversity impacts

### 5.1. Flora and Fauna Guarantee Act duty

In documenting the legislative and policy requirements of the consideration of biodiversity impacts, the EES overlooks the important new public duty inserted into the FFG Act by reforms in 2029.

This new duty contained in section 4B of the FFG Act applies to public authorities, which is in this case includes the Minsters for Environment and for Planning, Parks Victoria, and Yarra Ranges Council.

Section 4B provides as follows:

#### **4B                    *Ministers and public authorities to give proper consideration of objectives***

- (1) In performing any of their functions that may reasonably be expected to impact on biodiversity in Victoria, including a function under this Act or any other Act, a Minister and a public authority must give proper consideration to the objectives of this Act, so far as is consistent with the proper exercising of their functions.*
- (2) In addition to subsection (1), a Minister and a public authority, so far as is consistent with the proper exercising of their functions, must give proper consideration to any instrument made under this Act, including—*
  - (a) the Biodiversity Strategy; and*
  - (b) action statements; and*
  - (c) critical habitat determinations; and*
  - (d) management plans.*
- (3) Without limiting subsections (1) and (2), consideration must be given to the potential impacts on biodiversity, including—*
  - (a) long and short-term impacts; and*
  - (b) beneficial and detrimental impacts; and*
  - (c) direct and indirect impacts; and*
  - (d) cumulative impacts; and*

(e) the impacts of potentially threatening processes.

This is a significant and important new obligation which ought to have been specifically addressed by the proponent in the EES, and which should be explicitly considered and discussed by the Panel and Advisory Committee in its report to the Minister.

## 5.2 Impact on wildlife including species listed under FFG and EPBC Act

### Impact on Cool Temperate Rainforest (EVC 31)

Victoria has only 15,000 ha of rainforest, which is only 0.5 of one percent of the total area of rainforest in Australia<sup>21</sup>. Pre-fire mapping suggests there were 5400 ha of Cool Temperate Rainforest, relatively evenly distributed between national park and state forest, across the broader Central Highlands, of which 2,600 ha was burnt in the 2009 Black Saturday bushfires<sup>22</sup>. Eight percent of Cool Temperate Rainforest was within the fire extent of the 2019/20 bushfires<sup>23</sup> and is likely degraded due to the impact of fire.

As stated by Arthur Rylah Institute researchers in their 2019 analysis, *Post Fire Dynamics of Cool Temperate Rainforest* “The loss of substantial areas of rainforest after the 2009 fires has increased the ecological value of all remaining stands and makes their protection even more important”<sup>24</sup>

Cool temperate Rainforest is an ecological community listed under the Flora and Fauna Guarantee Act, 1988 (the FFG Act) due to its rare nature in the landscape and susceptibility of harm from poor management. Action statement for the community was published in 2009 by the Department of Sustainability (now DELWP), which outlines the greatest threats to Cool Temperate Rainforest in Victoria, which could result in its extinction<sup>25</sup>. These include:

- Gross geographical decline
- Fire and repeated fire events
- Susceptibility to edge effect
- Road building and fragmentation
- Radiant heat from post logging fires
- Increased spread of Myrtle Wilt disease

Many of these threats would increase if the proposed bike track network were to proceed in the national park.

---

<sup>21</sup> Department of Sustainability and Environment 2003, Forest Fact Sheet; Rainforests In Victoria’s Central Highlands

<sup>22</sup> Tolsma, A., Hale, R., Sutter, G. and Kohout, M. (2019). Post-fire dynamics of Cool Temperate Rainforest in the O’Shannassy Catchment. Arthur Rylah Institute for Environmental Research Technical Report Series No. 298. Department of Environment, Land, Water and Planning, Heidelberg, Victoria.

<sup>23</sup> State of the Environment, Biodiversity Update 2021 Report. Commissioner for Environmental Sustainability, Victoria P88

<sup>24</sup> As above

<sup>25</sup> Victorian State Government, Department of Sustainability and Environment (2009) .Action Statement Flora and Fauna Guarantee Act 1988 No. 238.Cool Temperate Rainforest, Human activity which results in artificially elevated or epidemic levels of Myrtle Wilt within Nothofagus dominated Cool Temperate Rainforest. [https://www.environment.vic.gov.au/\\_\\_data/assets/pdf\\_file/0016/32452/Human-activity.pdf](https://www.environment.vic.gov.au/__data/assets/pdf_file/0016/32452/Human-activity.pdf). Accessed 18 January 2022.



It was noted within the action statement that “Almost everywhere the community occurs it is susceptible to these threats. **The only adequately protected area is in the Upper Yarra catchment, and its security depends on continued appropriate management**” which includes the rainforest on Mount Donna Buang.

*Human activity which results in artificially elevated or epidemic levels of Myrtle Wilt within Nothofagus dominated Cool Temperate Rainforest* is also listed under the FFG Act a potentially threatening process due to the high danger of Myrtle beech (*Nothofagus cunninghamii*) contracting the pathogen through wounding of the trees living tissue, and subsequent death of the damaged tree as well as surrounding trees due to pathogen infection<sup>26</sup>.

On page 17 of the action statement, it lists among the ‘Conservation Objectives and Intended Management Actions’:

**18. Manage plant pathogens.**

**Action:** Carefully plan, implement and monitor further development of recreation and tourism facilities in parks and reserves and in State forest where Myrtle Wilt is present or where there is a high risk of future infection.

**Target:** No increase in wounding of myrtle beech as a result new recreation and tourism development activities.

**Responsible:** Parks Victoria, DSE [now DELWP]

**19. Manage plant pathogens.**

**Action:** Review existing recreation and tourism facilities in parks and reserves and in State forest where Myrtle Wilt is present or where there is a high risk of future infection with a view to reducing the incidence of wounding of Myrtle Beech trees.

**Target:** Existing recreation and tourism facilities in parks and reserves and in State forest assessed for Myrtle Wilt risk. Remedial action taken where necessary.

**Responsible:** Parks Victoria, DSE [now DELWP]

Between 3 to 6.4 km of Cool Temperate Rainforest will be intersected by the proposed tracks 1, 45, 46 and 47 within the YRNP, this would lead to a net loss of 1.5ha of Cool Temperate Rainforest.

As shown in the map below *Warburton Mountain Biking Destination Through The Yarra Ranges National Park: Threatened Species, Ecological Communities & Prescribed Protections in Victoria’s State Forests*, shows the impact of the proposed track network on the cool temperate rainforest on Mt Donna Buang.

The rainforest community impacted by the track network is listed under the **Rainforest Sites of State Significance**; Donna Buang.

---

<sup>26</sup> Victorian State Government, Department of Sustainability and Environment (2009) .Action Statement Flora and Fauna Guarantee Act 1988 No. 238.Cool Temperate Rainforest, Human activity which results in artificially elevated or epidemic levels of Myrtle Wilt within Nothofagus dominated Cool Temperate Rainforest. [https://www.environment.vic.gov.au/\\_\\_data/assets/pdf\\_file/0016/32452/Human-activity.pdf](https://www.environment.vic.gov.au/__data/assets/pdf_file/0016/32452/Human-activity.pdf). Accessed 18 January 2022.

The proposed mitigation strategies in the EES *Chapter 16-Environmental management framework (Pages 9-10)*, for track work within and beside Cool temperate Rainforest are inadequate. It fails to understand the biology of Myrtle Wilt and its spread, and poses a high to inevitable risk to the rainforest. The strategies of micro siting, digging tracks by hand, and elevated boardwalks will not reduce the risk of damage to the trees and future damage through operation of the tracks.

It is also unclear if areas of Myrtle Wilt are detected in the work area, if works would cease due to the enhanced risk to the rainforest and spread of the disease.

The strategies also don't investigate the ongoing impacts from the operation and management of the track and how impact on Myrtle Beech trees will be avoided in the future from management and operational impacts such as pruning, removal of hazardous trees and Collision with riders causing damage to trees. .

The high risk is acknowledged within the EES documents presented by the proponent (*Chapter 8 and Biosis Risk assessment Risk: Very High, Likelihood: Almost Certain Consequence: Major, Residual risk: Very High p.287*). This risk rating is with the proposed mitigation measures of constructing the track by hand to avoid damage to Myrtle Beech trees, micro siting of tracks and not importing materials for track construction. This shows the danger any types of track work can have on Cool Temperate Rainforest and how sensitive the vegetation community is to disturbance and damage. The EES documents did not raise any strategies to reduce the impact on Cool Temperate Rainforest during the operation of the track network, which poses a great and cumulative threat to the vegetation community.

Prevention of the spread of pathogens is better than cure, as there isn't one. This is why "*Human activity which results in artificially elevated or epidemic levels of Myrtle Wilt within Nothofagus dominated Cool Temperate Rainforest*" is listed under the FFG Act as a Threatening Process.

Once the pathogen gets in, it is not treatable, and once a tree is wounded and infected the tree will die within 3 years, as well neighbouring trees around the damaged tree via root contact with infected trees. Myrtle Wilt is known to occur in the Central Highlands and the Yarra Ranges National Park, and is common in areas of disturbance such as by logging or roading activity<sup>27</sup>. It is well known among land managers that tracks and roading should be planned away from Cool Temperate Rainforest and stands of Myrtle Beech trees to help minimise the impacts of the spread of Myrtle Wilt<sup>28</sup>

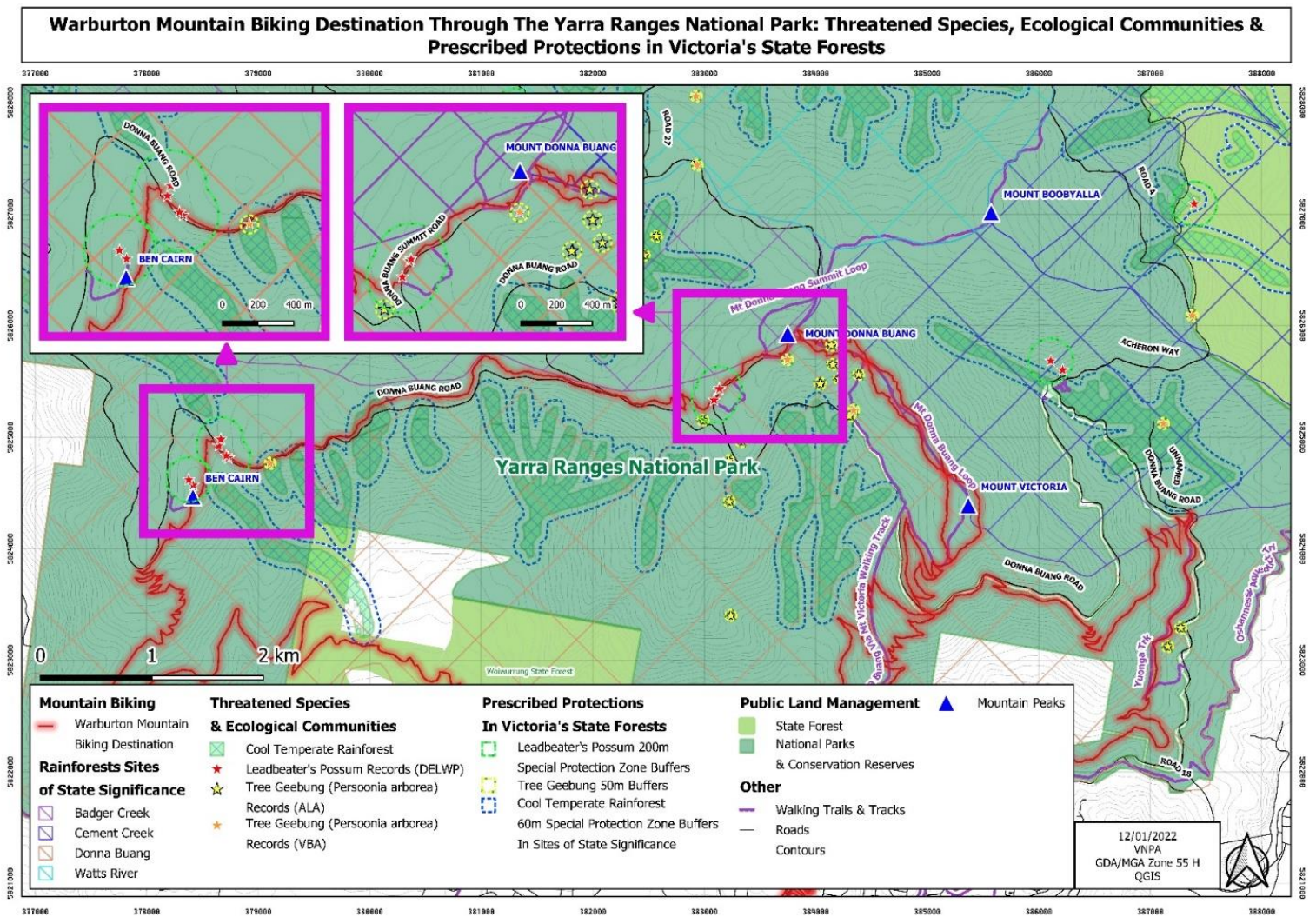
Any suggestion by the proponent that installation of tracks and lopping of branches of Myrtle Beech trees can be mitigated by spraying "Anti-fungal agents" on wounds caused by track installation, maintenance and ongoing use holds no basis in fact, good management or arboriculture knowledge<sup>29</sup>.

---

<sup>27</sup> Cameron D. G. & Turner L. A. (1996) Survey and Monitoring of Myrtle Wilt Within Cool Temperate Rainforest in Victoria. Flora and Fauna Technical Report No. 145. Department of Natural Resources and Environment, Melbourne.

<sup>28</sup> Tolsma, A., Hale, R., Sutter, G. and Kohout, M. (2019). Post-fire dynamics of Cool Temperate Rainforest in the O'Shannassy Catchment. Arthur Rylah Institute for Environmental Research Technical Report Series No. 298. Department of Environment, Land, Water and Planning, Heidelberg, Victoria.

<sup>29</sup> The Myth of Wound Dressings: "Apply wound dressing after pruning to insure against insect or fungal invasion" Linda Chalker-Scott, Ph.D, Washington State University



Once the wound is made, be it through construction of a track, lopping of a branch or a rider crashing into a tree damaging the living tissue the damage is done, there is no reversing the damage and future implication of Myrtle Wilt infection and will lead to tree death and possible spread of Myrtle Wilt. The risk to Cool Temperate Rainforest during the construction, maintenance and operation of the proposed mountain bike tracks within the Yarra Ranges National Park is unacceptable and goes against the listing of the community under the FFG Act, threatens plants and animal species dependent on rainforest (Including FFG Listed species<sup>30</sup>) and does not align with the provisions of the National Parks Act 1975 or the Yarra Ranges National Park Management Plan under which the land is managed under.

<sup>30</sup> Action Statement Flora and Fauna Guarantee Act 1988 No. 238, Cool Temperate Rainforest & Human activity which results in artificially elevated or epidemic levels of Myrtle Wilt within Nothofagus dominated Cool Temperate Rainforest. Department of Sustainability and Environment (2009)

Impact on FFG Act listed Critically Endangered Mount Donna Buang Wingless Stonefly (*Riekoperla darlingtoni*)

The Mount Donna Buang Wingless Stonefly (*Riekoperla darlingtoni*) is a long lived, valuable and iconic alpine insect<sup>31</sup>. One of three types of wingless stonefly in Australia, it is only found in a three-four square kilometre home range on the summit of Mt Donna Buang, within the Yarra Ranges National Park. The species can withstand periods of dry and live in rolled up in bits of tree bark.

The species is currently listed as Critically Endangered under the Flora and Fauna Guarantee Act due to being;

- Significantly prone to future threats which are likely to result in extinction, and
- Very rare in terms of abundance or distribution to its limited home range, sensitivity of its habitat requirements and observed decline in population<sup>32</sup>

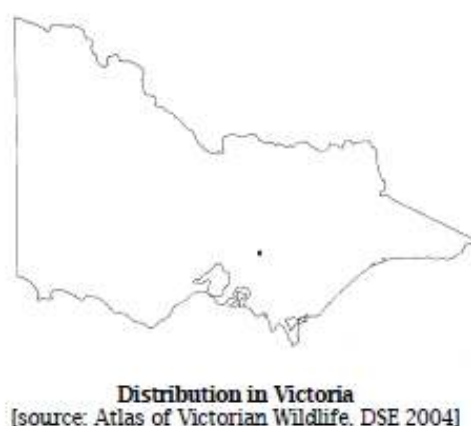


Figure 2. Mount Donna Buang Wingless Stonefly distribution (DSE 2003)

Both Victoria's Flora and Fauna Guarantee (FFG) Act listing for this species, and the Commonwealth's Environment Protection and Biodiversity Conservation Act (EPBC Act) decision not to add the nomination of the Stonefly for listing under that Act to the 2021 priority assessment list make the point that track construction should be avoided within *R. darlingtoni* habitat. (The nomination of the Stonefly under the EPBC Act is still before the Minister under the EPBC Act, and will ultimately fall to be assessed using the same criteria that as those that have led it to be listed as Critically Endangered under the FFG Act).

Mount Donna Buang Wingless Stonefly Habitat was also nominated for listing under the Register of the National Estate under Commonwealth law due to its significance and rarity. , which is significant because...

---

<sup>31</sup> Tsyrlin, Edward, et al. "Climate warming threatens critically endangered wingless stonefly *Riekoperla darlingtoni* (Illies, 1968)(Plecoptera: Gripopterygidae)." *Journal of Insect Conservation* (2021): 1-10

<sup>32</sup> Action Statement Flora and Fauna Guarantee Act 1988 No. 125, Mount Donna Buang Wingless Stonefly *Riekoperla darlingtoni*. The State of Victoria, Department of Sustainability and Environment, 2003

Communication with Parks Victoria<sup>33</sup> confirmed the extensive active management being undertaken to protect *R. darlingtoni* within the Yarra Ranges National Park. The following paragraph outlines Parks Victoria's management activities; *"in 2013 the Cement Creek Walking Track on Mount Donna Buang was closed to protect the stonefly. Specifically at that time the track and associated infrastructure required renewal and the proposed works to upgrade the track were deemed likely to have an unacceptable impact on stonefly habitat. Subsequently the track was closed as the works were required to make it safe for visitors."*

*In terms of carparks, we closed and rehabilitated the old second overflow carpark. We have also in the past few years amended drainage from the other carparks, placed boulders to keep vehicles out of sensitive areas and conducted some plantings to rehabilitate areas damaged by vehicles and prevent contaminants flowing into stonefly habitat. We also initially placed hay bales in line with the carparks to reduce runoffs while awaiting for the plantings to take hold".*

Importantly, in the case of the EPBC Act, the 'active management addressing recreational pressure' by Parks Victoria was given as a reason to consider the stonefly to be ineligible for federal listing. It was considered safe because there would be no recreational development in the region of its habitat in the national park.

In other words, a reversal of that management objective (eg the construction of tracks in the vicinity of the Donna Buang summit) would warrant an urgent reconsideration of its Commonwealth status. *R. darlingtoni* has recently had its status changed as part of a Victorian Government reassessment of threatened species lists.

*R. darlingtoni* is now Critically Endangered in the updated FFG list<sup>34</sup> which has been enforced since July 2021. The Mount Donna Buang Wingless Stonefly's small home range makes it highly susceptible to changes in its habitat. It is already facing the growing pressures of increased fire, disease and climate change.<sup>35</sup>

**Declines of over 90% of *R. darlingtoni*** were observed between 2005 and 2006, with a downward trend generally observed across the population, most likely caused by rising temperatures, decline in rainfall and increased climate variability<sup>36</sup> as well as management of its restricted habitat.

---

<sup>33</sup> Pers com, Parks Vic, Jan 2021.

<sup>34</sup> Flora and Fauna Guarantee Act 1988 - Threatened List. October 2021. State of Victoria Department of Environment, Land, Water and Planning 2021

<sup>35</sup> Tsyrlin, Edward, et al. "Climate warming threatens critically endangered wingless stonefly *Riekoperla darlingtoni* (Illies, 1968)(Plecoptera: Gripopterygidae)." *Journal of Insect Conservation* (2021): 1-10.

<sup>36</sup> Tsyrlin, Edward, et al. "Climate warming threatens critically endangered wingless stonefly *Riekoperla darlingtoni* (Illies, 1968)(Plecoptera: Gripopterygidae)." *Journal of Insect Conservation* (2021): 1-10.

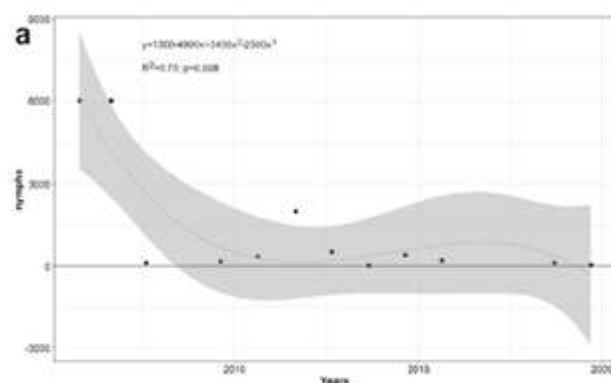


Figure 3. Estimated abundance of nymphs at Site 1 from 2005 to 2019. The grey area represents the line of the best fit and 95% confidence interval of estimation. P values indicate the probability of no significant change of the abundance. a Nymphs, b adults (Tsyrlin, Edward, et al, 2021)

The recommendations in the report commissioned by the Shire of Yarra Ranges Survey of the *Wingless Donna Buang Stonefly, Riekoperla darlingtoni*, in relation to the proposed Warburton mountain bike trail<sup>37</sup> indicate the sensitive nature of *R. darlingtoni* habitat requirements and need for protection of the very particular habitat requirements of the species from any disturbance to protect the species.

There is high risk of cumulative impacts from construction and operational impacts to Mount Donna Buang Wingless habitat and its existence. The projects Risk Assessment (8. Risk Assessment Biosis P283>.), found that construction activities reduce the extent of Cool Temperate Rainforest including the infection of Myrtle Beech with Myrtle Wilt to be a **Very High** initial and residual risk with its likelihood **Almost Certain** (P287 Risk Assessment).

Any damage to Myrtle trees via direct removal and spread of Myrtle Wilt within *R. darlingtoni* habitat will impact the species. As stated in the species FFG Act action statement and numerous scientific papers; areas with a Myrtle Beech understorey are favoured by *R. darlingtoni*<sup>38</sup>. Any reduction in or damage to this habitat will impact the species and the ecosystems functions which the species relies on.

Just one adverse event could see significant damage done to this small and specialised population. This event could include someone coming off a bike and needing to be recovered causing damage to habitat structure and soil erosion, people accessing water points along the track creating new tracks, compacting soil and disturbing habitat, or track users relieving themselves in areas along the track causing pollution events. These events will become frequent if the tracks are installed, and will be unenforceable due to the scale of the network and unpredictability of people's actions and activities.

<sup>37</sup>Survey of the Wingless Donna Buang Stonefly *Riekoperla darlingtoni* in relation to the proposed Warburton mountain bike trail. By Eddie Tsyrlin, 2019

<sup>38</sup> Action Statement Flora and Fauna Guarantee Act 1988 No. 125, Mount Donna Buang Wingless Stonefly *Riekoperla darlingtoni*. The State of Victoria, Department of Sustainability and Environment, 2003

The proposed mitigation strategies during construction and operation of the tracks through *R.darlingtoni* habitat do little to reduce the cumulative impacts of damage to natural hydrological flows, loss and damage of Myrtle Beech trees and the species sensitive habitat requirements.

This is acknowledged in the risk assessment and report which states “installing elevated structures in headwater habitats **will minimise but not eliminate the potential residual risks** to this species (8. Risk Assessment p309)

**Trail 1 and the alternative tracks 45, 46 and 47 between Mount Donna Buang summit and the Mount Victoria area, pose a very significant risk to *R.darlingtoni*, and work against the current management and conservation of its habitat and undermine past actions, such as removal of tracks and car parks by the land manager Parks Victoria that were impacting on the quality of the species habitat.**

*R.darlingtoni* rely on small ephemeral streams and weak trickles along natural stream courses, usually with a dense understorey of Myrtle Beech. These habitat requirements will be disturbed and damaged by any track work and installation in the Donna Buang area.

The cumulative impacts of the proposed mountain bike tracks from the construction phase to the operational phase, poses a direct threat to *R.darlingtoni* and are unacceptable within the habitat of such a sensitive species and a national park which is legislated to protect all wildlife within its tenure.

The track cannot be consistently managed or constructed in such a way that it will avoid negative impacts and endanger *R.darlingtoni* during the construction and future use of the track. Installation of these tracks will undermine past conservation actions taken by the land manager to safeguard the species from extinction, as required by the FFG Act.

In no way is the installation of further tracks, be they for mountain bike or walking tracks, appropriate in the habitat of this unique and threatened species.

#### Loss of Hollow bearing trees

We hold significant concerns about impact of the proposed track network on habitat values and quality that may decline due to the cumulative impacts of the creation and operation of the track network, particularly within the Yarra Ranges National Park.

The loss of old trees, hollow bearing trees and the impacts on hollow dependent species due to declined tree health and habitat structure are of concern for species such as Leadbeaters Possum and the Greater Glider (listed under the FFG and EPBC Acts) and the Powerful Owl (listed under the FFG Act).

The creation of hollows in hardwood eucalyptus trees generally takes over 100 years, and well over 150 years for bigger hollows suitable for large species such as the Greater Glider and Powerful Owl. With living hollow-bearing trees (HBTs) remaining standing for longer than dead HBTs the retention of living HBTs should be given the greatest protection.

Tree species common in the area, including Mountain Ash (*Eucalyptus regnans*), Alpine Ash (*E. delegatensis*) and Shining Gum (*E. nitens*), are highly susceptible to soil compaction, damage to their roots and changes in hydrology. The spread of the tree killing pathogen Cinnamon Fungus (*Phytophthora cinnamomi*) is also highly concerning, and not adequately addressed by the proposal or protocols.



We also hold concerns about the loss of large old trees during the operation of the track network through the removal of hazardous trees once the tracks are installed. Much of the time trees assessed as hazardous trees hold high conservation values such as hollows dead limbs. Once the tracks is installed, trees that had no risk will suddenly become risks to bike riders and other track users.

This concern is raised by the following statement “There may be the occasional need to undertake one off works, such as hazardous tree treatment, outside of this operational corridor and these activities will be done in consultation with the relevant land manager”

The loss of large old and hollow bearing trees is recognised in the FFG Act as a key threatening process in native forests and woodlands, and in many action statements of threatened and endangered species.

There is no quantification of how many so called ‘hazardous trees’ will be removed during on-going management. There are no current, clear assessment guidelines for hazardous tree removal, leaving potential impacts unknown.

#### Leadbeaters Possum

We also hold concerns about the impact of the track on the State and Commonwealth listed Leadbeaters Possum (*Gymnobelideus leadbeateri*) due to the impact on hollow bearing trees and fragmentation of habitat caused by the proposed mountain bike tracks. Leadbeaters Possums rely heavily on mid-story connectivity of vegetation to move through the landscape, escape predators and disperse to breed.

With a majority of Leadbeaters Possum within State Forests open to logging and the impacts of logging, populations within protected areas are highly significant and should be as undisturbed as possible to secure the future of the species. It is the prime rationale behind national parks. The Leadbeaters Possum is currently listed as ‘Critically Endangered’ under the Commonwealth’s EPBC Act and ‘Critically Endangered’ under Victoria’s FFG Act. However, under the change of status process currently underway for all FFG listings, the Leadbeaters Possum has recently been re-assessed as Critically Endangered, matching the Federal listing.

The impact of “Edge effect” from the proposed track is also of great concern and is raised as an issue in the species recovery plan published by the Commonwealth of Australia. The document lays out a set of actions to avoid further endangerment of the species and to reverse its decline. The action is:

#### ***Action 8: Habitat Management and Planning outside State Forest***

*8.1 Assessment of all areas within the known range of Leadbeater's Possum need to be carried out as part of any development proposals which could affect the species, including roading, recreation facilities, fire management<sup>39</sup>.*

Although the tracks have been rerouted around the thicket habitat needed for the species, the edge effect of the nearby track is also of concern. There are also concerns about the further intrusion of predators into critical habitat of the species as raised in our submission in section X **Impact of spread**

---

<sup>39</sup> Leadbeater's Possum (*Gymnobelideus leadbeateri*) Recovery Plan (1997) Department of Natural Resources and Environment Victoria Malcolm Macfarlane, Jill Smith & Kim Lowe Flora and Fauna Program

**of invasive species and pathogens.** The new track may cause the animals to come to ground to move around the landscape, making them susceptible to predation by feral predators.

#### Disruption to wildlife and ecosystems

As highlighted within the EES documents as a cumulative effect as “*increased disturbance and mortality to wildlife (e.g. noise and vehicle collisions)*” P.336, Biodiversity, Full Report.

Under the National Parks Act all wildlife must be protected, which includes all wildlife within the Yarra Ranges National Park. Wildlife such as the Superb Lyrebird (*Menura novaehollandiae*), which will be disturbed during the tracks construction and operation.

Yet, there were no protocols or assessments of nesting sites and structures in the EES documents or any actions to delay works outside of nesting and fledging periods for species such this species.. The lack of survey work and plans for how the track would operate around these animals is concerning and most likely contravenes the Wildlife Act 1975.

Furthermore, the mountain ash forest ecosystem of the Central Highlands has been assessed as Critically Endangered by the International Union for the Conservation of Nature’s (IUCN) Red List of Ecosystems due to the impact of bushfire and native forest logging<sup>40</sup>

Disturbance and proximity to disturbance (edge effect) has increased significantly over a 20-year period in Ash forest in the Central Highlands. By 2019, approximately 70% of the mountain ash forest estate and 65% of alpine ash forest estate, was either disturbed or within 200 m of a disturbed area. This has a significant impact on the vegetation community and fauna such as the threatened Leadbeater’s Possum<sup>41</sup>

Significantly, Mount Donna Buang was assessed in as one of the least fragmented or intact Ash forests left in the Central Highlands<sup>42</sup>, this is highlighted in Figure 4 below and reiterates the importance of Mount Donna Buang as a biodiversity hotspot.

We note that the EES documents state that ‘*No comprehensive fauna surveys have been completed within the project area to inform the existing conditions assessment*’ (Warburton Mountain Bike Destination Technical Report: Biodiversity assessment for the Environment Effects Statement FINAL REPORT p57).

---

<sup>40</sup> Ecosystem assessment of mountain ash forest in the Central Highlands of Victoria, south-eastern Australia Emma L. Burns, et al. Austral Ecology. 25 September 2014

<sup>41</sup> Taylor, C. & Lindenmayer, D. 2020. Temporal fragmentation of a Critically Endangered forest ecosystem. Austral Ecology. doi:10.1111/aec.12863

<sup>42</sup> As above

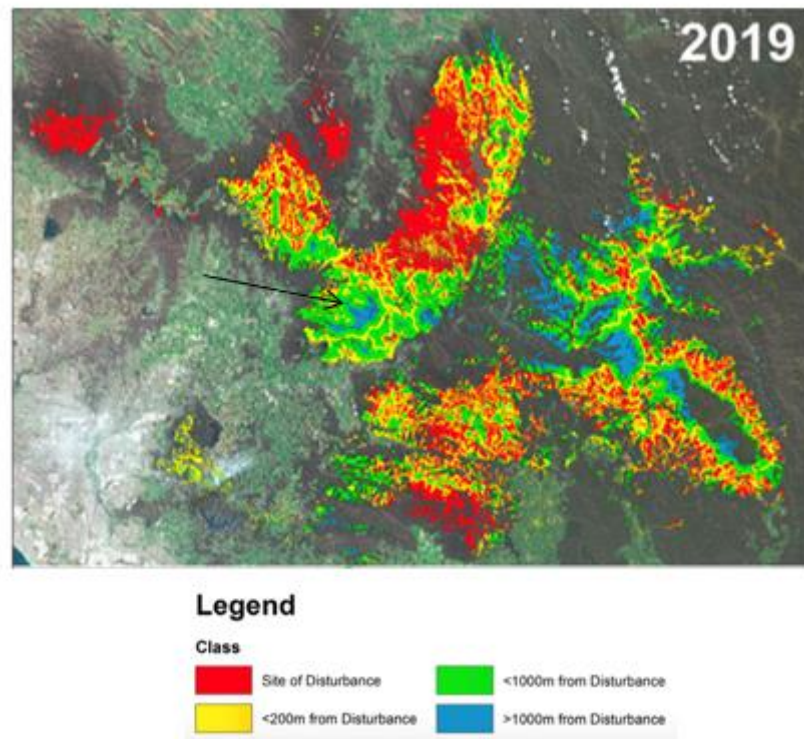


Figure 4. Arrow pointing to Mt Donna Buang showing low levels of disturbance, Ecosystem assessment of mountain ash forest in the Central Highlands of Victoria, south-eastern Australia  
Emma L. Burns, et al. Austral Ecology. 25 September 2014

## 5.2 Impact of spread of invasive species and pathogens

### Phytophthora

Mountain bikes have the potential to contribute to the distribution of *Phytophthora cinnamomi*<sup>43</sup> as well as vectors for the spread of weed seeds and other pathogens. Spores of *Phytophthora* sp. have been detected on mountain bike wheels, with the pathogen remaining alive longer and thus able to move further through the landscape if it remains moist<sup>44</sup>, allowing it to move into areas that it is currently absent from.

<sup>43</sup> Daniel, R., Wilson, B.A. & Cahill, D.M. *Phytophthora cinnamomi* in native vegetation communities of southern Victoria — morphological variation and parageny among isolates. *Australasian Plant Pathology* 32, 403–409 (2003). <https://doi.org/10.1071/AP03041>

<sup>44</sup> Davidson, J. M., and Shaw, C. G. 2003. Pathways of movement for *Phytophthora ramorum*, the causal agent of Sudden Oak Death. Sudden Oak Death Online Symposium. [www.apsnet.org/online/SOD](http://www.apsnet.org/online/SOD) (website of The American Phytopathological Society). doi:10.1094/SOD-2003-TS

The spread of *Phytophthora* is listed as a Key Threatening Process under the EPBC Act. “*Dieback caused by the root-rot fungus (Phytophthora cinnamomi)*”<sup>45</sup> was not acknowledged in the EES documents.

The proposed tracks in the Yarra Ranges National Park will provide the perfect environment for the spread of pathogens due to the wet and damp nature of the vegetation communities the tracks are planned for (Wet Forest, Damp forest, Cool Temperate Rainforest), and the extensive track network across the landscape. Mountain bikers are capable of travelling much further per trip than hikers. Therefore they may have higher spatial capacity for spread of pest plants and pathogens, increasing their relative impact when compared to hikers<sup>46</sup>

The proposed mitigation strategy of installing bike wash-down stations at the top of trail heads (P.33 Chapter 16. Environmental Management Framework) relies on individuals using them during operation of the track. One event of someone not using these facilities is very likely and would result in the spread of pathogens such as *Phytophthora*.

### Myrtle Wilt

As highlighted in the section above *Impact on Cool Temperate Rainforest (EVC 31)* the spread of Myrtle Wilt from human activities including track creation is listed as a Threatening Process under the FFG Act as well as the ecological community itself being listed as a threatened community; Cool Temperate Rainforest<sup>47</sup>.

Myrtle Wilt exists in the environment naturally, but spreads at epidemic levels when rainforests are disturbed and damaged. The trees susceptible to Myrtle wilt when they have been damaged, allowing the pathogen to enter the trees living tissue.

This damage is expected to occur as part of the proposed track network with the Yarra Ranges National Park through the lopping living branches, damage to trunk and roots through construction phase and damage to branches and trunk from Collision with bike riders when track is in use.

The cumulative impact of the spread of Myrtle Wilt by installation and use of tracks along 30+Km of rainforest will be potentially devastating and cause the decline of one of the most glorious stands of Cool Temperate Rainforest in Victoria. The projects proponents have not put forward adequate mitigation measures to stop the spread of Myrtle Wilt and have played down the impact of the spread of the tree killing pathogen.

### Pest animals

Roads and other linear infrastructure have strong effects on predator activity within intact landscapes<sup>48</sup>. It is well known that tracks into natural areas facilitate predators such as feral cat (*Felis*

---

<sup>45</sup> Threat abatement plan for disease in natural ecosystems caused by *Phytophthora cinnamomi*, 2018, Commonwealth of Australia

<sup>46</sup> Mountain bike activity in natural areas: impacts, assessment and implications for management; A case study from John Forrest National Park, Western Australia. Claire Davies and David Newsome. 2009

<sup>47</sup> Action Statement Flora and Fauna Guarantee Act 1988 No. 238, Cool Temperate Rainforest & Human activity which results in artificially elevated or epidemic levels of Myrtle Wilt within *Nothofagus* dominated Cool Temperate Rainforest. Department of Sustainability and Environment (2009)

<sup>48</sup> Raiter, K.G., Hobbs, R., Possingham Hugh, P., Valentine, L.E., Prober, S.M., 2018. Vehicle tracks are predator highways in intact landscapes. Biological Conservation.

*catus*) (to a less degree) and the red fox (*Vulpes vulpes*) entering further into natural areas, giving more direct access to areas where predators do not usually hunt. This allows predators to penetrate further into the range of species that may be more sensitive to predation than prey species in the predator's regular habitat<sup>49</sup>.

This was poorly addressed in the EES documents and does not adequately address the real impact posed to species such as the Leadbeaters Possum and other fauna such as the Southern Brown Bandicoot and Smoky Mouse (all listed under the FFG & EPBC Acts).

The EES documents do not raise the issue of increased predation due to easy access to wildlife by invasive species, with the only proposed mitigation is to "support existing pest animal programs" (P 32, Chapter 16. Environmental Management Framework). This does not acknowledge that the problem will increase due to tracks going into areas currently without tracks or roads of any type.

The almost certain spread of pathogens, weeds and invasive predator species during the construction, maintenance and operation of the proposed mountain bike tracks within the Yarra Ranges National Park is unacceptable and does not align with the provisions of the National Parks Act under which the land is managed, or the Flora and Fauna Guarantee Act action statements under which listed ecological community and threatening process are supposed to be protected under..

Tracks into areas that have not previously been disturbed and currently have no tracks will increase the risk of the spread of pathogens such as Phytophthora, Myrtle Wilt and the frog killing Chytrid Fungus. This was acknowledged in the Biosis Risk Assessment (*Warburton Mountain Bike Destination Technical Report: Biodiversity assessment for the Environment Effects Statement Final Report*), and does not give adequate measures to stop the spread of these pathogens and down plays their future impact on the ecosystem and local wildlife.

New tracks into currently undisturbed areas will facilitate pest weed species into currently weed free areas or areas with low abundance of weeds. It has been demonstrated that mountain bikes are effective at collecting weed seed and dispersing them at landscape scales<sup>50</sup>, even during dry periods<sup>51</sup>.

These cumulative effects of the project on ecosystem and wildlife health (Including listed threatened species) are unacceptable in a national park and are not in line with the management of the area under the National Park Act or Yarra Ranges National Park Management Plan.

---

<sup>49</sup> James ARC. 1999. Effects of industrial development on the predator-prey relationship between wolves and caribou in Northeastern Alberta. Department of Biological Sciences. University of Alberta, Alberta

<sup>50</sup> Fabio Weiss, Tyler J. Brummer, Gesine Pufal, Mountain bikes as seed dispersers and their potential socio-ecological consequences, *Journal of Environmental Management*, Volume 181, 2016, Pages 326-332

<sup>51</sup> Catherine Pickering, Michael Ansong, Erin Wallace, Experimental assessment of weed seed attaching to a mountain bike and horse under dry conditions, *Journal of Outdoor Recreation and Tourism*, Volume 15, 2016, Pages 66-70,

## 6. Damage to fabric of cultural heritage sites

### 6.1. European Heritage

The proposed track network would have an impact on five listed historic heritage sites and 12 areas of archaeological potential (6 within the National Park), as well as requiring an amendment to the Planning Scheme<sup>52</sup>

Track 1, also known as Drop A K, will impact on potential Archaeological sites within the Yarra Ranges National Park as well as 6 listed historic sites within the National park and Woi Wurrung State Forest.

Heritage Site within National Park	Place Type	Impacting Track
Mount Donna Buang hut sites	3 hut sites including Melbourne Walking Club (MWC), Ski Club of Victoria (SCV) and University Ski Club (USC) huts	Trail 1 (MWC Hut), Trail 1, 45, 46 (SCV Hut), Trail 56 and 46 (USC Hut)
Old Donna Buang Road	Old Donna Buang Road in the final section was completely realigned, with some sections of the old route forming car parks	Trail 1
Henry (1907) and Slocumb & Walker (1907-12) mill and tramway site, Dee Road	1900s timber mill and tramway site	Trail 1
Melbourne and Metropolitan Board of Works (MMBW) site and O'Shannassy aqueduct, Dee Road	O'Shannassy aqueduct, a number of levelled benches and large concrete foundations remaining from former buildings and the Henry and Walker tramway can be discerned running across the site around Dee Road.	Trail 2
Richards tramway, Mt Bride tramway and McKechnie's Mill)	McKechnie's Mill site	Trail 1 and 3

Table 2. Heritage Site within Yarra Ranges National Park

### 6.2. Indigenous Heritage

There is also concern that the EES documents have been published for comment without a report on the impact on intangible Aboriginal cultural heritage, but states that “*No intangible Aboriginal*

<sup>52</sup> Biosis 2021. Warburton Mountain Bike Trail Environmental Effects Statement Technical Report. Report for AECOM., Carpenter. D., Tepper. L., Vines. G., and Dowdell. M, Biosis Pty Ltd. Melbourne, VIC. Project 34179

*cultural heritage relating to the Project Area (identified through consultation with Aboriginal stakeholders) has been identified at present, however a Cultural Values Recording is underway with the Registered Aboriginal Party (RAP) for the region, Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC)".*

It is unclear why the proponent has submitted its EES documents without this report and is pushing ahead without it. The existing Cultural Heritage Management Plan (CHMP) can't plan around or mitigate impact on important cultural sites if they don't know where they are, nor can we as stakeholders and the public make comment without this information.

The findings and voice of Traditional Owners are important and should be a part of this process. Leaving these views out at this stage of the EES is dumbfounding. The construction of tracks through and beside the heritage sites will see the cultural fabric of these areas degraded and the sites damaged.

The comparative analysis of Trail 1 and Trails 45, 46 and 47 presented in Section 7.0 of the *Alternatives Assessment Report Warburton Mountain Bike Destination, Yarra Ranges Shire Council, 18-Oct-21* noted that; *"..in relation to historic heritage Trail 1 has a higher potential for impact due to the known presence of a number of registered heritage sites and other unregistered artefacts. Whilst these potential impacts can be mitigated, Trails 45, 46 and 47 are slightly preferred to Trail 1 from an historic heritage perspective."*

Lastly, the EES documents do not acknowledge or use the National Parks Act in relation to the impact on the listed heritage sites within the park.

Objective 2 (ii) of the National Parks Act 1975 states *(ii) for the protection and preservation of indigenous flora and fauna and of features of scenic or archaeological, ecological, geological, historic or other scientific interest in those parks;*<sup>53</sup>

The proposed track network within the Yarra Ranges National Park would impact the fabric of the heritage sites impacted and does not align with the legislation under which the land is gazetted and managed the National Parks Act 1975.

---

<sup>53</sup> National Parks Act 1975, Parliament of Victoria



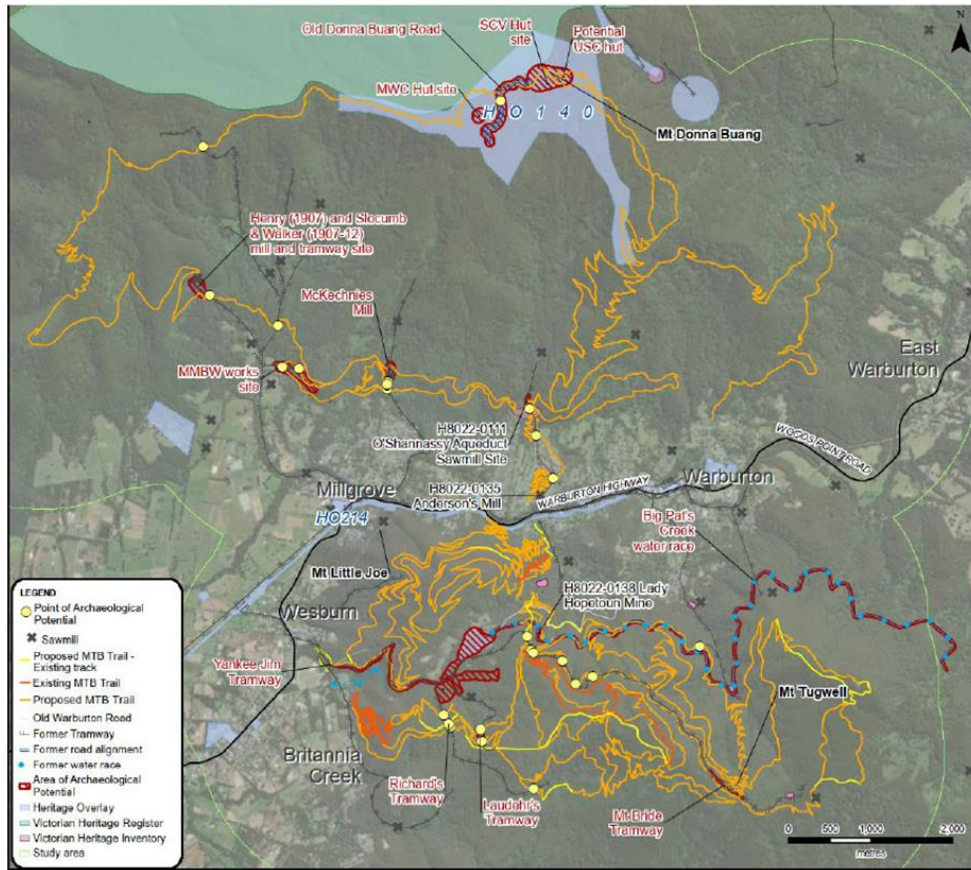


Figure 5. Map of listed heritage places and areas of archaeological potential intersected by trails (Page. 11 Chapter 10 Cultural Heritage report)