VICTORIAN NATIONAL PARKS ASSOCIATION
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Grassy Plains Network

Grassy Plains Network and VNPA submission regarding 209-247 Plumpton Road, Diggers Rest PA2023/8420/1

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1. Who we are

The Victorian National Parks Association (VNPA) is one of Victoria's leading nature conservation organisations. It is an independent, non-profit, membership-based group, which for 70 years has existed to protect Victoria's unique natural environment and biodiversity through the establishment and effective management of national parks, conservation reserves and other measures.

The Grassy Plains Network is an independent organisation representing land management professionals, academics, ecologists and community members concerned about the ongoing decline of grassy ecosystems across Victoria. We advocate for improved grassland protection and management. We are part of the VNPA.

2. Key points

2.1.1. No further works

- Council should request clarification and updated assessments before making a decision. Council should consider refusing the application unless these concerns can be adequately addressed.
- This proposal should not proceed until substantial additional information has been provided. The documentation is riddled with inconsistencies, vague statements, and factually incorrect statements. In addition, the appropriate EPBC process is being deliberately avoided. Any further works on site run the very real risk of further impacting Matters of National Environmental Significance.
- We note that the City of Melton is obliged to follow the EPBC Act, and has a duty of care under the FFG Act. We also note that the planning scheme explicitly requires the City of Melton to protect flora and fauna in a GWZ.
- We urge Council to notify the Commonwealth's National Environmental Protection Agency (NEPA) to ask whether the proposal raises issues under the EPBC Act, particularly because the restoration plan reportedly aims to avoid a Commonwealth referral. Council should consider any potential enforcement action separately from the planning decision.
- The numerous failings of process and documentation are elaborated on below.

2.1.2. Intentional avoidance of EPBC Act responsibilities

- A prominent concern is the obvious avoidance of due process on behalf of the known EPBC listed communities present (and confirmed to have been destroyed without permits), and EPBC listed species likely present at the site (and possibly destroyed without permits).
- The following are references found in the documentation of such admission of evasion:
    - "This is aimed at avoiding a referral to the Commonwealth Government under the EPBC Act."
    - "technically qualifies as an EPBC Act listed community and may be deemed a 'controlled action' by the Commonwealth Minister for the Environment."
    - "not attract the attention of the Commonwealth's environmental authorities."

- "we would appreciate you considering not repeating the public notification process."

- Of particular note is that the first admission of such avoidance listed here is in reference to the 5-year 'restoration plan'. A restoration plan's aim should be the restoration of the ecosystem, not to avoid a referral to the relevant body for the EPBC listed community that has been destroyed.

- Additionally, the last citation refers to a general avoidance of scrutiny and lack of transparency, attempting to avoid public notification. This lack of openness of process indicates the methods in which the EPBC listed critically endangered grasslands had been cleared in the past for the initial road, and all processes going forward must be transparent, notifiable and referred to the appropriate places.

2.1.3. EPBC non-compliance already done

- It is clear that EPBC non-compliance has taken place already on the property.

- "The onus is on a private landholder to ensure that any land clearing works that might impact an EPBC Act listed endangered species, or an ecological community, is first referred to the Commonwealth environmental authorities before proceeding with the works, to avoid potential penalties being imposed under the EPBC Act for that land clearing."

- The clearing proceeded prior to any referral to the Commonwealth authorities.

- Approved clearing (though this was not approved) must first secure an approved offset. "The non-compliance related to commencing clearing of stage 4 without having an approved Offset Proposal and the offset secured."

- Thus, the landholder is subject to penalties under the EPBC act imposed for land clearing without referral to the commonwealth environmental authorities, as well as failure to ensure approved offset before clearing.

- As it stands the clearing of the haul road has created an opportunity for weed invasion through the middle of the grassland, and is fragmenting the grassland.

2.1.4. Unknown fill already deposited on-site and damage already done.

- The fill material already on-site was found to have foreign items, yet imported fill is required to be 'clean' with no rock material larger than 150mL in size and no foreign matter.

- It is also required that future works have machinery and vehicle hygiene, pre-works weed control program, post-works monitoring and follow-up.

- Both the fill material screening and the work protocols were all not performed in initial road construction. There needs to be an assessment of what damage is done from this already in terms of erosion and weed presence.

2.1.5. EPBC communities and species of concern

- There are undoubtedly EPBC communities, and likely EPBC listed species of concern, on the site both cleared and proposed to be cleared. It is however unclear what species are present because of the poor and lacking survey effort.

- Critically Endangered Natural Temperate Grassland of the Victorian Volcanic Plain:

- The Biodiversity Assessment indicated that both patches qualify for Natural Temperate Grassland of the Victorian Volcanic Plain in condition and size, with total perennial tussock cover represented by the specified native grass genera is greater than 50% AND the area is greater than 0.5ha.

- Golden Sun Moth *Synemon plana*:
    - This is an EPBC listed Critically endangered species that was identified to have a moderate to high likelihood on the site.
    - It is of particular concern, as it often persists in weedy Chilean Needle Grass which was found to be a major threat in Habitat Zone 1. Thus, adequately surveying for the moth's presence is essential to making management decisions onsite when it comes to weed management and the topsoil burial plans.
- Victorian Grassland Earless Dragon *Tympanocryptis pinguicolla*:
    - This is a recently rediscovered, critically endangered species that has a mapped likely habitat that includes the site. For sites that fall within this habitat mapping there is a designated prescription to manage impacts to the species and provides information on targeted survey requirements. As described, "the prescription applies to sites that fall within the Melbourne Strategic Assessment Program area and where a project might have an impact on the habitat of the Victorian Grassland Earless Dragon." Therefore, this project requires adequate surveying during Jan-May following the prescription guidelines, which involves but is not limited to spider tube installation and organised roof tile installation.
    - The ecological report admits this "As such targeted surveys for this species may need to be undertaken prior to any further works happening within patches of native vegetation in the study area." This is also re-active to correspondence from DEECA, rather than proper measures taken from the outset.
    - However, fauna monitoring performed during the survey was unconventional and "no formal fauna surveys" were undertaken. Instead, a random unsystematic turning over of logs, rock rolling and looking under boards was completed during each survey. This is inadequate for the earless dragon and other locally native endangered fauna, which also utilise holes, burrows and the cracks in the moving clay soils. Therefore, there is a bias in what reptiles will be found, and an inconclusive fauna reporting done for the site.
    - The surveys were also on 16 June 2023, 13 December 2023 and 8 April 2025, without consideration for optimal survey times or weather conditions for this species.
    - The report also does give enough weight to the potential for dispersal, especially with the corridor of the rail link in the east. It is known that suitable habitats for the Earless Dragon might be undisturbed rail reserves, of which there is the Diggers Rest Grassland Rail Reserve adjoining the property.
- Spiny Rice Flower *Pimelea spinescens* subsp. *spinescens*:
    - Inadequate surveying also did not consider the EPBC critically endangered Spiny Rice Flower, considered to have a moderate chance to occur on-site, and has a high number of records in the area (33 within 5km).

- The National Recovery Plan for the Spiny Rice Flower states that it can be difficult to find when it is not in flower, and is easily overlooked in general vegetation surveys. Transect surveys should be undertaken when the plant is in flower (April to August) at any location containing suitable habitat for the spiny rice-flower. Multiple surveys may be required in areas to ensure adequate survey effort, due to the low detectability of the subspecies. Failure to detect the spiny rice-flower should not be considered indicative of its absence.
- Transect surveys for this EPBC listed species were not performed (or if they were methodology was not reported) during the appropriate window nor were multiple surveys conducted.

- Large-headed Fireweed *Senecio macrocarpus*:
  - There were 63 records within 5km of this vulnerable EPBC listed species, and was indicated to be of moderate likelihood to occur on the site, with typical habitat present.

2.1.6. FFG Act communities and species of concern

- The state level equivalent of the Natural Temperate Grassland of the Victorian Volcanic Plain, known as the 'Western (Basalt) Plains Grasslands Community' that is listed for protection under the *Flora and Fauna Guarantee Act 1988* (FFG Act), is present in Habitat Zone 1, the site that has already been cleared without permission for the construction of the haul road.
- Endangered Tussock Skink *Pseudemoia pagenstecheri*
  - This FFG endangered species was only found by coincidence under a piece of rubbish beside the haul road in 2025.
  - No targeted surveying has been done since, and the distribution of this species across the site is unknown.
  - It is likely that habitat was destroyed in the initial clearing of the haul road, and there has been no indication that the requirement under the Wildlife Act, that zoologist(s) with appropriate DEECA wildlife permits should be on site during the preliminary earthworks, were present to salvage and relocate any impacted native fauna.
- Vulnerable *Austrostipa exilis* Heath spear-grass
  - A single record for Heath Spear Grass Austrostipa exilis exists in an agricultural property just south of the study site. Heath Spear Grass can be difficult to detect outside of seed set in a diverse grassy matrix and for this reason it was considered to have a moderate probability of occurring within the study site.
  - Best time to survey is when it is setting seed around Nov-Jan, and it is not clear if surveys were done for this species during this timeframe.
- Endangered Small Scurf Pea *Cullen parvum*:
  - This endangered FFG listed species was also considered to have a moderate probability of occurrence within the study site.

2.1.7. Lack of surveying

- It is irresponsible for the Biodiversity Assessment Report to conclude “No FFG Act or EPBC Act listed threatened flora species were recorded within the study area at the time of the assessments.” There was insufficient surveying for the EPBC Act and/or FFG Act listed 23 threatened flora species and 34 threatened vertebrate fauna species modelled and/or recorded within the 5km of the site.
- The ecologist performed “Occasional log-turning, rock rolling and looking under debris.” Sporadic lifting of rocks is not the required process for projects planned on EPBC listed communities where EPBC listed species may be present, or in the case of the Critically Endangered Natural Temperate Grassland of the Victorian Volcanic Plain (Natural Temperate Grassland of the Victorian Volcanic Plain), were present during destruction and is fated for further removal.
- The Land Capability Assessment states that indigenous grasses are scattered across most of the site. Burying native grass under fill is destruction. It is unclear from the documentation if the paddock vegetation has been assessed. If the paddock vegetation has not been assessed then it needs to be.
- Lack of fauna survey means EPBC-listed fauna may have been smothered under fill, or bulldozed in the construction of the haul road.

2.1.8. False idea of lack of ecological damage due to adherence to fenceline

- The plan indicates that adhering to the fenceline prevents ecological damage, however inadequate surveying has been done to determine distribution of species across the site. Therefore the position of the track does not “avoid” successfully, because it is not known what is where across the site enough to avoid. The position of the track along the northern boundary does not guarantee protection of listed species and communities, and is overly relied upon.

2.1.9. Incorrect statements about habitat connectivity

- The report incorrectly diminishes the connectivity of the site for proximate grasslands. They describe that “the area has however lost its connectivity to, areas of higher-quality grassy habitat within the broader area, as a result of recent residential developments”.
- The site’s eastern edge connects to the Diggers Rest Rail Reserve Grassland, in the northeast corner of Habitat Zone 2. This is listed as significant native vegetation, so much that sections are not open to the public for conservation purposes and it has an environmental significance overlay. It is also an indication that weeds are often present in high-quality grasslands, being described as a high-quality reserve, yet with 22 weed species to 44 native plants. Thus, the weed presence at 209-247 Plumpton road does not justify downgrading the importance of the little remaining grasslands on the site, and it is somewhat connected to valuable grasslands on the eastern edge.
- The Tame Street Drain, a tributary of Jackson’s Creek, also runs through the property, with Jackson’s Creek within 5km away. Jacksons Creek has significant biodiversity values and needs to be protected.
- From aerial data, it appears the grassland is contiguous with grassland on the adjacent property. The new proposed haul road will further fragment the grassland in the broader context.

- There is a high likelihood that much important biodiversity s present close to the site but has yet to be recorded because there has been no need for survey.

2.1.10. False claim of support from DEECA

- There is a false attribution to support of the project from DEECA "The proposal has in principle support from the Department of Energy, Environment and Climate Action (DEECA)."
- This plan has not gone through due process for EPBC listed community, DEECA had actually written with critiques of the plan with consideration for potential of Earless Dragon presence and unknown hydrology impacts.

2.1.11. Restoration plan for vegetation destroyed in unapproved clearing

- No restoration plan appears among the submitted documents. There is a vague reference to the "regrowing" of the unapproved EPBC critically endangered grasslands, the report providing a picture (Image 4) as evidence.
- There is little detail as to what was lost without prior surveying, but it is highly likely that endangered species were affected, so an image of "regrowth" is insufficient evidence of restoration.
- A 5-year plan without any detail as to the funding, obligations, goals or responsibilities is completely insufficient. Five years is also likely too short a time-frame, with optimal grasslands restoration involving ongoing weed management (for offset projects it is a minimum of 10 years, whereas other projects demonstrate longer).
- It is likely that the haul road construction involved removal of vegetation, compaction, and addition of material. These details are needed in order to understand what kind of revegetation work is necessary.
- The plan includes to "Complete the fencing around the former 'haul road' to prevent stock access". It is unclear if this is preventing stock access to just the former haul road, and how this protects the grasslands of habitat 1? Will this fragment them further? Does the property owner intend to continually graze the habitat zones with goats? What is the edge effect on the small strip of recovering grassland fenced off from this stock?
- It is essential that the cleared grassland be restored properly, not just left to regrow. This should follow best practice and use a species-rich seed-based scrape and sow or cap and sow approach. Technical advice needs to be sought from experienced restorationists regarding the details of this process.
- The site is currently grazed by goats, which are likely doing great damage to the grassland. We suggest that a survey be undertaken to accurately assess the extent of grassland and the entire grassland area be fenced to exclude goats.
- A covenant should be placed on the property to ensure long-term health of the grassland.
- The proponent should be required to remove all weeds of significance.
- DEECA's proposed conditions require a buffer and a plan showing native vegetation. The civil plans show neither. Fill stops right at the edge of the unfilled patches, which appears to match Habitat Zone 1.

- Substantial damage is likely to occur to roadside vegetation along Plumpton Road from the volume of truck traffic. Has any assessment been made of that vegetation?

2.1.12. Trade-off: improving pasture v. ecological destruction

- The plan argues that "the proposal will result in improved pasture and capacity for agricultural use" and hopes to add to the "Approximately 6000 cubic meters of clean fill and topsoil have been stockpiled on site" with "63,200 cubic meters of additional clean fill is required to blanket two paddocks."
- There is little evidence that 600mm spreading of fill with a source unknown will benefit agricultural use at a benefit equivalent of native vegetation destruction. Thus, the cited "Pasture improvement purposes" is unsupported. An unregulated tip site is not compatible with the parcel's current use of a flock of goats with full access to the site twice a year.
- It is unclear what the benefit of the dumping of fill is on the site to justify the ecological damage.
- DELWP outlines 5 scenarios to assess the risk against when creating a CEMP. 4 out of 5 of these scenarios are relevant to the site (Works encroaching beyond approved construction footprint, deposition of sediments, introduction of weeds, harm of wildlife). There has not been an adequate assessment of these risks against the financial and social benefit of stockpiling and distributing topsoil in this location of EPBC significance.

2.1.13. Hydrology and erosion

- There is concern for the effects of stockpiling fill and eventually spreading them across the site. Legislation requires "Stockpiles of fill that will not be active for 5 days or longer shall be covered with plastic, geomembrane or other method of preventing windblown dust or waterborne sediment". The CEMP plans show no protection of dust depositing from stockpiled sediment onto nearby grasslands, with potentials to alter soil composition, smother germinating plants or filling the cracks inhabited by native fauna. "Keep stockpiles for the shortest time possible" is indicated in the plan, with no clear indication as to how long to be kept for.
- The hydrology assessment also found that 600mm fill "will alter the current contour height levels". The patch of remnant native vegetation on the eastern side may well be impacted by the change in soil level, which would have flow on effects down to the Tame Street drain in the eastern side of the property.

2.1.14. Buffers between fill and native vegetation

- The plan outlines a buffer between the fill and native vegetation, however this is not adequately detailed in the plan. They mention in the CEMP "These measures must include the provision of a suitable buffer between the location of the fill and the retained native vegetation, appropriate management measures to mitigate the incursion of weeds, and appropriate measures to ensure that the hydrological conditions are not conducive to contributing to any reduction in the condition of the retained vegetation".
- The buffer between the fill and native vegetation is not found in the Site Water and Sediment Management section, only that "it is worth considering that a sediment barrier be placed along the eastern edge of the central paddock to prevent sediment movement to the lower slopes until the pasture grasses have become established." This plan is vague,

not enforceable, and does not adequately protect the abutting grassland from sediment runoff. An introduction of 63,200 cubic meters of fill is likely to have unmitigated effects.

2.1.15. Fill and soil

- The “proposed fill” was tested with a single sample in December 2023. Material is to come from many subdivisions, and the lab tests were agronomic only, with no contaminant testing.
- The fill is more extreme than the natural soil on several measures: pH 8.8 vs 6.8, SAR 20.1 vs 9.26 and electrical conductivity 0.54 vs 0.207 dS/m. Sodicity is similar because the actual soil is sodic too.
- The Land Capability Assessment rates pH, sodicity, and texture as “major” constraints yet it concluded “no detrimental effects, a contradiction.
- PH is given as 4.8 in one table, against 5.6 and 6.8 in the lab results.
- Rock fragments are “<10%” in one table and “10-20%” in another.
- The Land Capability Assessment recommends chemical additives and regular fertiliser. Nutrients and amendments will likely impact threatened grassland and the nearby waterway.
- The Land Capability Assessment indicates that there are sodic soils on the property. Earthworks, and construction of a new road, could have significant consequences because of the presence of sodic soils.
- The documents provide inconsistent estimates of the fill volume. The Planning Report refers to approximately 63,200 m^3, while the fill depths and traffic estimates suggest that the actual amount could be significantly higher.

2.1.16. Plan, easement and parties

- The fill shading on sheet S3 appears to extend toward the north-east corner where HO48 and the flood area are mapped. The 3-4 m setback the Land Capability Assessment recommends isn’t shown, and the fill appears to cross the 10.1 m easement.
- The planning report and plans name Antech Industries. The Land Capability Assessment and traffic report name Marc Antonacci and ACON Project Group. We understand there is some concern about possible liquidation. Council should confirm who owns, applies and operates.

2.1.17. Traffic

- Plumpton Road is an 80 kmh collector rod with no turn lane or sealed shoulder. Mitigation relies on a temporary 70 kmh limit and signs for 12-18 months. This is not suitable and will cause considerable frustration to local traffic.
- Stage 2 hours start at 7.30 am inside the 7.30 to 8.30 peak hour the report itself surveyed. The risk table nonetheless says to avoid the AM peak.
- Substantial damage is likely to occur from pavement wear and mud tracking., as well as to the shoulder of the road.

2.1.18. Offsetting

- Retrospectively applying an offset to the already cleared land does not adequately follow avoid and minimise principles. DEECA outlines guidelines to determine areas that have high value, and thus should be priorised for “avoid” and “minimise” before offsetting. With a habitat score of .51 and presence of endangered grassland communities, the area qualifies as an area of native vegetation that has high value, thus offsetting should not be the first approach to rectify the damage that has been done.
- The offsetting calculations assume a 7m wide road and a 1m buffer along the proposed haul road. This will only be sufficient if the edge of the road is fenced, otherwise trucks will move into the grassland and cause further damage.
- The offsetting calculations allow for 4m from the fenceline to be excluded. This is a Victorian law, and were the matter to be referred to NEPA the amount of grassland to be offset would be greater. We suggest the proponent should accept this greater figure if they are to avoid a referral to NEPA.

2.1.19. False descriptions of the benefits of pasture grass

- The report attempts to justify the dumping of fill as beneficial for the environment, claiming “It is likely that a coverage of pasture grass may provide suitable habitat for a range of common fauna species that are preferred by the Black Flacon and/or Little Eagle (e.g. birds, reptiles, small mammals such as mice and insects)”. This indicates a lack of ecological understanding of endangered nature of grasslands, as while it may be true that birds of prey utilise pasture grasses for locating prey, there is ample pasture and exotic grasses in the surrounding landscape already, while the grasslands are critically endangered.

2.1.20. Incorrect reporting in the CEMA

- There is also incorrect reporting in the CEMP that “no Commonwealth or State threatened fauna species were recorded within the Site boundary in the EIA”. Tussock skink was found and is endangered under the Victorian FFG Act.

2.1.21. Permit conditions

- If the proposal is approved, conditions should include:
    - Strict limits on fill volume and depth.
    - Appropriate testing of all imported fill.
    - Protected areas and buffers around threatened grassland.
    - Updated drainage and traffic management plans.
    - Independent environmental monitoring.
    - A funded best-practice restoration plan with measurable targets.
    - Strict weed control across the site.
    - Stock exclusion.
    - Measurable targets and long-term adaptive management.

- A financial bond to help ensure that restoration and remediation can be completed if the applicant fails to do so.

2.1.22. Best solution

- Ultimately, the best outcome is to prevent further damage, investigate any existing breaches, and secure the remaining grassland through long-term protection and funded management.