
**Diamond Creek Trail Extension
(Diamond Creek to Hurstbridge)
Incorporated Document**

**As incorporated by Amendment C108 to the Nillumbik Planning
Scheme**

August 2017

1. Introduction

This document is incorporated in the Nillumbik Planning Scheme, pursuant to section 6(2)(j) of the *Planning and Environment Act 1987* and Clause 81.01 of the Nillumbik Planning Scheme, as the Diamond Creek Trail Extension (Diamond Creek to Hurstbridge) Incorporated Document (August 2017).

The Schedule to Clause 52.03 of the Nillumbik Planning Scheme provides that requirements relating to use and development of specific sites may be included in an incorporated document.

This incorporated document sets out the use and development requirements which apply under the Nillumbik Planning Scheme to the land required for the Diamond Creek Trail Extension – Diamond Creek to Hurstbridge.

The control in this document applies to land within the “Project Area” as shown by Figure 1 of this document.

2. Project

This incorporated document applies to the construction of an off-road shared use trail between Diamond Creek and Hurstbridge, following the Diamond Creek (the “Diamond Creek Trail Extension – Diamond Creek to Hurstbridge”). The Diamond Creek Trail Extension – Diamond Creek to Hurstbridge includes, but is not limited to the following works:

- Construction of an approximately 3.0m wide off-road shared use trail and separate horse trail.
- Construction of bridges and culverts over the Diamond Creek.
- Construction of access for users and service vehicles to the trail.
- Removal of vegetation within the trail corridor,
- Landscaping,
- Drainage infrastructure,
- Trail furniture (e.g. seating),
- Fencing,
- Signage,

3. Permitted use, development and related matters

Despite any provision to the contrary or any inconsistent provision in the Nillumbik Planning Scheme, a planning permit is not required for the use and development for, and in connection with, the Diamond Creek Trail Extension – Diamond Creek to Hurstbridge. This includes any vegetation removal or lopping, demolition, subdivision or other buildings and works required for, or in association with, the project.

This clause is subject to the conditions in Clause 4 of this document.

4. Conditions

- 4.1 The development or use of land, including demolition, subdivision and vegetation removal in Clause 4 of this document must be for, or associated with, the use and construction of the Diamond Creek Trail Extension – Diamond Creek to Hurstbridge.

Without limiting the scope of works for, or associated with, the use and construction of the Diamond Creek Trail Extension – Diamond Creek to Hurstbridge, this includes:

- a) The construction of a shared trail and separate horse trail, including earthworks, associated structures, culverts, kerbs, channels, cuttings, batters and fill etc.
- b) Landscaping.
- c) Drainage works.
- d) Removing, destroying, pruning and lopping of vegetation, including native vegetation.
- e) Demolition.
- f) Construction and use of temporary site workshops, storage, administration and amenities buildings and associated vehicle parking.
- g) Fencing.
- h) Constructing temporary access roads, diversion roads and vehicle parking areas.
- i) Subdivision.

The development of the land may be undertaken in stages and the following conditions will apply to the relevant stage:

Environmental Conditions

- 4.2 The following must occur before the development (including vegetation removal and lopping) starts:

- a) A response must be provided to the satisfaction of the Responsible Authority to the biodiversity assessment guidelines of Clause 52.17 of the Nillumbik Planning Scheme.
- b) An ecological assessment must be prepared and approved by the Responsible Authority. The assessment must:
 1. Undertake a flora, fauna, aquatic and habitat assessment.
 2. Identify significant flora and fauna species and ecological communities and document their location.
 3. Document the current condition of the trail corridor and adjacent riparian zone (e.g. document the presence and extent of pest animals and weeds).
 4. Document the likely and potential impacts associated with the development.
 5. Identify any ecological constraints and mitigation measures.
 6. Consider impacts to adjacent waterways and riparian land.

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7. Identify opportunities for the rehabilitation of any degraded riparian land in association with the proposed trail.
 8. Provide an accurate account of the implications under Commonwealth policy and State legislation.
- c) An Environmental Management Plan (EMP) must be prepared and approved by the Responsible Authority. The EMP must have regard for the response to Conditions 4.2 (a) and (b) above and must include:
1. Details of the location of new or replacement planting and fencing.
 2. Details of planting proposed to satisfy any requirement for native vegetation offset planting, revegetate disturbed areas and/or to provide adequate screen planting for nearby properties.
 3. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, and quantities of each.
 4. Planting intended to satisfy any requirement for a native vegetation offset.
 5. Planting to revegetate disturbed areas at the completion of trail and any bridge construction.
 6. Dates of planting.
 7. Identification of any vegetation to be removed and details of how any impacts on remnant vegetation, fauna habitats and adjacent areas of ecological and environmental significance are to be reduced.
 8. Measures to control the spread of environmental weeds.
 9. Measures for the protection of trees retained within the project area.
 10. The control of sedimentation and pollution within the project area and in the adjacent areas during development.
 11. The ongoing environmental management for the area.
 12. Details of construction management including:
 - i. An overall construction program.
 - ii. Protection measures for site features to be retained (e.g. fencing, structures, trees).
 - iii. Access points to the construction.
 - iv. Traffic management measures for access of works.

The environmental and construction management measures shown on the approved plan must be carried out and completed to the satisfaction of the Responsible Authority.

- 4.3 The removal, destruction, pruning or lopping of native vegetation must be the minimum reasonably necessary for the construction of the project.
- 4.4 In order to offset the removal of remnant vegetation and/or scattered trees a native vegetation offset is required that meets the following requirements and is in accordance with the "Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines" and the "Native Vegetation Gain Scoring Manual".

The offset must:

- a) contribute gain of the calculated general biodiversity equivalence units.

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- b) be located within the Shire of Nillumbik or the Port Phillip & Westernport Catchment Management Authority Boundary.
 - c) have a strategic biodiversity score of at least 80% of the strategic biodiversity score of the clearing site.

The offset provided must be to the satisfaction of the Responsible Authority and may be calculated for each stage of the project.

- 4.5 Prior to the removal of any vegetation, evidence that an offset has been secured for that vegetation must be provided to the satisfaction of the Responsible Authority. This offset must meet the offset requirements set out in this incorporated document and be in accordance with the requirements of the "Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines" and the "Native Vegetation Gain Scoring Manual". Offset evidence must include one of the following:
- a) a security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan.
 - b) a credit register extract from the Native Vegetation Credit Register.
- 4.6 The development and use of the Diamond Creek Trail Extension – Diamond Creek to Hurstbridge must be conducted in accordance with the requirements of the *Aboriginal Heritage Act 2006*, including any requirements pertaining to a Cultural Heritage Management Plan.

Country Fire Authority Conditions

4.7 A Fire Management Plan must be developed for the walking trail. This Plan needs to consider the following:

- a) community safety signage should be provided at each entrance to the track informing those using the track of the fire risk in the area and the actions persons should take if caught in a fire.
- b) the signage should also strongly advise persons not to use the track on days of extreme fire danger.
- c) indicative location signage should be provided along the track for users to clearly articulate their current location to emergency services.
- d) access into and along the track for emergency service vehicles. This should include access from the adjoining roadways spaced no further than 0.5km apart, be all weather construction, 4 metres wide and 4 metres high clearance factors.
- e) the track itself should be a minimum trafficable width of 3.6 metres wide with a vegetation clearance factor to 4 metres and 4 metres height clearance of all-weather construction. Passing bays every 0.5km with an increased width to 6 metres wide x 20 metres long.
- f) water supply points should be provided at each end of the designated track.

4.8 Any proposals to increase vegetation both along the designated track or adjacent land must not increase the potential fire risk exposure to the track users.

Melbourne Water Conditions

4.9 A separate application must be made to Melbourne Water's Asset Services Team for the approval of any new or modified share paths near our existing waterways.

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- 4.10 Council is required to enter into an Agreement with Melbourne Water for the use of Melbourne Water land for the purpose of the shared path.
- 4.11 Melbourne Water requires the pathway to be constructed to AustRoads Standards – AustRoads Guide to Traffic Engineering Practice Part 14 – Bicycles (1999).
- 4.12 The proposed path should be located above the 1 in 10 year ARI flood level.
- 4.13 If the above requirement cannot be achieved, Melbourne Water requires a package of safety measures to accompany the proposal e.g. flood warning signs shall be placed at sections that encroach within the floodway during certain events. Alternative routes shall be indicated during times of inundation of the pathway. Please see Melbourne Water's 'Shared Pathways Guidelines' for further details.
- 4.14 The path needs to be set into the natural surface level of the existing ground so that the hydraulics of the floodplain are not altered.
- 4.15 Any additional fill required for the pathway within the floodway shall require modification to maintain the cross sectional area to prevent an increase in flooding to surrounding properties. Detailed bulk earthwork plans indicating cut and fill sections shall be submitted to Melbourne Water for approval.
- 4.16 The path shall be designed to ensure that the surface runoff does not cause any erosion of the waterway/floodway embankments or pondage.
- 4.17 The path shall be designed to cater for Melbourne Water's maintenance machinery.
- 4.18 Following compliance with the above Melbourne Water conditions, Melbourne Water may require further conditions to be advised if they arise.


5. Expiry

This document expires if any of the following circumstances applies:

- The development is not started by 31 December 2025.
- The development allowed by the control is not completed by 31 December 2030.
- The use allowed by this control is not started by 31 December 2030.

The Minister for Planning may extend the periods referred to if a request is made in writing before the incorporated document expires, or within three months afterwards.

Figure 1 – Project Area

 = project area

