



# Department of Planning and Community Development

DPCD REF: CMIN022182

PLANNING AND LOCAL GOVERNMENT

FILE REF: 10/005917-01

REQUESTED  VOLUNTARY   
FOR DECISION

MINISTERIAL REF:

CRITICAL DECISION DATE:

## MINISTER FOR PLANNING

**SUBJECT:** EES REFERRAL - WESTERN HIGHWAY DUPLICATION SECTION 1B,  
BURRUMBEET TO BEAUFORT


**DATE:** 7 September 2010

	Name	Position	Phone no.
<b>Prepared by</b>	Ashley Stephens	Senior Environmental Assessment Officer	(03) 9637 9621
<b>Reviewed by</b>	Geoff Ralphs	Acting Deputy Chief Environmental Assessment Officer	(03) 9637 9547
<b>Approved by</b>	John Ginivan <i>JG</i>	Acting Executive Director Planning Policy and Reform	(03) 9637 8045
<b>Endorsed by</b>	Prue Digby <i>PD</i>	Deputy Secretary Planning and Local Government	(03) 9637 8345

## RECOMMENDATIONS

That you:

- a) Sign the attached statement of decision (**Attachment 1**) under section 8B(3)(b) of the *Environment Effects Act 1978* that an Environment Effects Statement (EES) is not required for the proposed duplication of the Western Highway from Burrumbeet to Beaufort, subject to conditions, for the reasons set out in the attached Reasons for Decision (**Attachment 2**).  Approved  
 Not Approved
- b) Sign the attached letters notifying VicRoads, the Minister for Roads and Ports, Pyrenees Shire Council and the City of Ballarat advising them of your decision that an EES is not required.  Approved  
 Not Approved

 <b>JUSTIN MADDEN MLC</b> Minister for Planning <i>16.9.10</i>	
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## PURPOSE

1. To seek your decision under the *Environment Effects Act 1978* (EE Act) on whether an EES is required for Section 1B (Burrumbeet and Beaufort) of the proposed upgrade of the Western Highway.

## BACKGROUND

2. **Decision and timing:** On 8 July 2010, the referral under EE Act was received by DPCD from VicRoads. This EES referral was accepted on 13 July 2010 after some anomalies in the supporting documents were rectified. The 20 business day target for a decision in accordance with the Ministerial guidelines was 9 August 2010.
3. **Proposal:** The proposed upgrade between Burrumbeet and Beaufort forms part of a broader project for duplicating, and ultimately upgrading to freeway standard, the Western Highway between Ballarat and Stawell. Section 1A, between Ballarat and Burrumbeet, is currently being constructed. It is expected that the next two stages (Beaufort to Ararat and Ararat to Stawell) will be referred under the EE Act in August. Whilst the project involves the duplication of the highway between the major towns of Beaufort, Ararat and Stawell, it does not include the provision of bypasses around these towns.
4. For Section 1B (Burrumbeet to Beaufort) there are currently four alignment options being investigated by the VicRoads project team. The alignments extend from the Ballarat Bypass currently under construction to a common point east of Beaufort from which a town bypass could be constructed at a future date as determined by the Pyrenees Shire Council and VicRoads. VicRoads intends to select the preferred alignment for Section 1B of Western Highway duplication once all environmental investigations and community consultation are completed.

## ISSUES/COMMENTS

5. An analysis of the potential impacts of the proposed upgrade against the relevant criteria in the Ministerial guidelines is provided in **Attachment 3**. A brief summary of the key impacts is provided below, including: the clearing of native vegetation; impacts on threatened species; amenity impacts on local residents; dislocation of a small number of dwellings.
6. **Native vegetation:** The proposal would require the clearing of from 9.0 to 14.3 hectares (ha) of native vegetation depending on the final option selected. The affected vegetation has very high or high conservation significance. Under Victoria's *Native Vegetation Management Framework* (NVMF), the approval of the Minister for Conservation and Climate Change is required for the clearing of vegetation with this significance. Providing clearing is approved, it is considered that the potential effects on native vegetation can be adequately addressed and offset through the application of the NVMF, which would normally be addressed through the planning scheme amendment process.
7. **Threatened species:** To date, no flora species listed under the *Flora and Fauna Guarantee Act 1988* have been identified in field surveys by VicRoads' consultants, Ecology Partners. Ecology Partners has identified five FFG-listed species as possibly occurring in the vicinity of the project and recommended further targeted surveys to confirm the presence or absence of these species. The Department of Sustainability and Environment (DSE) has identified four other species which should be included in the targeted surveys.
8. Preliminary field surveys by Ecology Partners have recorded three threatened aquatic fauna species in Mt Emu Creek that are listed under the *Flora and Fauna Guarantee Act 1988* (Growling Grass Frog, Dwarf Galaxias and Yarra Pygmy Perch). Ecology Partners considers that three other threatened species may occur in the vicinity. It is proposed to

conduct further targeted surveys for such species. DSE has identified two other species that should be included in the targeted fauna surveys.

9. The impact on the aquatic species at Emu Creek can be minimised through an appropriate water crossing design and environmental management of the crossing's construction. This will require a permit under the *Water Act 1989* from the Glenelg Hopkins Catchment Management Authority. VicRoads has already consulted the Authority on this matter.
10. **Cultural heritage:** A culture heritage desktop survey has identified the location of two sites near the proposed upgrade (Burrumbeet Cliffs Spiritual Place and Trawalla Station). The alignment options under consideration avoid these places. There may be other sites of Aboriginal significance that have not yet been detected. The potential effects on aboriginal cultural heritage will be addressed through the preparation and approval of a Cultural Heritage Management Plan under the *Aboriginal Heritage Act 2006*.
11. **Community effects:** The proposed duplication would inevitably give rise to impacts on local residents from dust and noise during construction. There would also be traffic noise and visual amenity impacts for dwellings that are in the vicinity of the proposed new carriageway when it is operating. VicRoads will prepare a Project Environmental Protection Strategy (PEPS) to manage environmental risks during the construction stage. VicRoads will undertake a noise impact study and consider its findings in applying its own Traffic Noise Reduction Policy. These impacts can be addressed through the implementation of an environmental management plan during the construction stage.
12. The route options under consideration would require the acquisition of one to six dwellings (depending on the final alignment selected) which are close to the existing highway alignment. Based on the information provided with the referral, it appears that option 2 would have the least impact on native vegetation and houses. However, the cost of constructing this option is also likely to be the highest.

## OPTIONS

13. **Assessment options:** The main options for the environmental assessment of the proposed upgrade of the Burrumbeet to Ballarat section of the Western Highway are:
  - (a) *An EES process:* An EES process could be coordinated with a planning scheme amendment for the selected route alignment for this section of the Western Highway. The need for an EES is difficult to justify given that the potential effects are generally of local to regional significance. The potential impacts on biodiversity are not complex and can be adequately managed through a combination of: conditions incorporated into a "No EES" decision under the EE Act; the application of the Native Vegetation Management Framework by DSE; and the requirement for a permit under the *Water Act 1989* for the crossing of Mt Emu Creek.
  - (b) *Planning scheme amendment process:* Amendments to the Ballarat and Pyrenees Planning Schemes are required to incorporate Public Acquisition Overlays for the final route alignment and the reservation ultimately required for a freeway standard roadway between Burrumbeet and Beaufort. This would provide the opportunity for a panel to consider submissions on the potential effects of the proposal, which are likely to be matters of local community concern. It is expected that the relevant planning scheme amendments would provide for the alignment selected by VicRoads rather than examining the trade-offs between social and biodiversity impacts of a range of alternatives. Both Pyrenees and Ballarat Councils support VicRoads being authorised as the planning authority for the planning scheme amendments under the *Planning and Environment Act 1987*.
  - (c) *Combined Advisory Committee/Panel Process:* This process would include the appointment of the panel also an advisory committee to consider the potential impacts VicRoads preferred alignment from Burrumbeet to Beaufort, to consider other options if the project's environmental impacts can be substantially reduced and to recommend the final alignment and environmental mitigation measures. It would also provide a process that could be accredited under the bilateral assessment agreement under the

Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). (Note that the proposal has not yet been referred under the EPBC Act. It may be determined as a controlled action in the event that VicRoads has not sufficiently investigated design and mitigation measures for listed species in Mt Emu Creek at the time of referral. It may also be determined a controlled action if targeted surveys have not been completed to determine whether the area of Plains Grasslands EVC to be removed (about 5 ha) meets the criteria for the Natural Temperate Grassland of the Victorian Volcanic Plain that is listed as critically endangered under the EPBC Act.)

14. On balance, it is considered that the potential effects of the proposal are generally of local to regional significance and would not warrant an EES. However, it is appropriate that the following conditions be included in a “no EES” decision:
  - VicRoads must prepare an assessment report on alignment options for the Western Highway between Burrumbeet and Beaufort. This report must address the environmental and socioeconomic effects of each of the option, as well as any other relevant matters. The report should also document the criteria for the selection of a preferred alignment.
  - Once completed to the satisfaction of the Department, the assessment report must be submitted to the Minister for Planning, who may appoint an Advisory Committee to provide independent advice on the proposal’s environmental effects, the VicRoads screening process and the suitability of the preferred alignment.
  - VicRoads must prepare and implement a plan for the protection of native vegetation and for species listed under the *Flora and Fauna Guarantee Act 1988* to the satisfaction of the Secretary Department of Sustainability and Environment.
  - VicRoads must prepare and implement a design for the crossing of Mount Emu Creek to the satisfaction of the Secretary Department of Sustainability and Environment and the Glenelg Hopkins Catchment Management Authority.
15. It is considered that option (c) may be the most suitable option because it would provide for an independent and transparent assessment of alignment options from a biodiversity and community perspective and it would avoid duplication of Commonwealth/Victorian assessment processes in the event that the project is determined as a controlled action under the EPBC Act. Decision-making and planning approval should be informed by VicRoads’ preparation and submission of a comprehensive document that assesses the options, their environmental effects and details the screening process, including potential cost implications. The merits of further examination via an Advisory Committee could then be determined if there are significant trade-offs in costs and impacts of the various options that require independent analysis.
16. **Need for an EES:** Having regard to the potential for significant effects, it is concluded that an EES is not warranted, subject to conditions, for the following reasons:
  - With the exception of potential effects on listed fauna species, the environmental effects of the project are unlikely to be of high complexity and more than of regional significance and therefore are likely to be adequately addressed by relevant existing statutory processes, including under the *Planning and Environment Act 1987* and *Aboriginal Heritage Act 2006*.
  - Providing the relevant conditions specified in the Notice of Decision are met, the potential effects on listed fauna species and native vegetation can be adequately investigated and assessed to inform decisions on the project.



**CONSULTATION**

17. DPCD Ballarat Office and DSE biodiversity officers.



**John Ginivan** ☎ 9637 8045  
Acting Executive Director  
Planning Policy and Reform



## Minister for Planning

16 SEP 2010

Our Ref: CMIN022182  
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8 Nicholson Street  
PO Box 500  
East Melbourne Victoria 3002  
Telephone: (03) 9637 8097  
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ABN 90 719 052 204  
DX 210098

Mr Ewen Nevett  
Project Director Western Highway  
VicRoads  
PO Box 148  
WENDOUREE VIC 3355

Dear Mr Nevett

### **EES REFERRAL - WESTERN HIGHWAY PROJECT (BURRUMBEET TO BEAUFORT)**

I refer to your letter of 29 June 2010 and the accompanying referral of the proposed upgrade of the Burrumbeet – Ballarat section of the Western Highway under the *Environment Effects Act 1978*.

I enclose a copy of my decision that an Environment Effects Statement is not required subject to conditions relating to the protection of listed flora and fauna, particularly near the crossing of Mt Emu Creek.

Yours sincerely

**JUSTIN MADDEN MLC**  
Minister for Planning

Enc

#### Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Information Privacy Act 2000*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Planning and Community Development, PO Box 500, East Melbourne, 3002.



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PO Box 500  
East Melbourne Victoria 3002  
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ABN 90 719 052 204  
DX 210098

Cr Judy Verlin  
Mayor  
City of Ballarat  
PO Box 655  
BALLARAT VIC 3353

Dear Cr Verlin

### EES REFERRAL – WESTERN HIGHWAY PROJECT (BURRUMBEET TO BEAUFORT)

On 29 June 2010, VicRoads referred the proposed upgrade of the Burrumbeet to Beaufort section of the Western Highway under the *Environment Effects Act 1978*.

I enclose for your information a copy of my decision that an Environment Effects Statement is not required, subject to conditions for the protection of significant flora and fauna.

Yours sincerely

**JUSTIN MADDEN MLC**  
Minister for Planning

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Cr David Clark  
Mayor  
Pyrenees Shire Council  
5 Lawrence Street  
BEAUFORT VIC 3373

Dear Cr Clark

### **EES REFERRAL – WESTERN HIGHWAY PROJECT (BURRUMBEET TO BEAUFORT)**

On 29 June 2010, VicRoads referred the proposed upgrade of the Burrumbeet – Beaufort section of the Western Highway under the *Environment Effects Act 1978*.

I enclose for your information a copy of my decision that an Environment Effects Statement is not required, subject to conditions for the protection of significant flora and fauna.

Yours sincerely

**JUSTIN MADDEN MLC**  
Minister for Planning

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Mr Tim Pallas MP  
Minister for Roads and Ports  
80 Collins Street  
MELBOURNE VIC 3000

Dear Minister

### EES REFERRAL – WESTERN HIGHWAY PROJECT (BURRUMBEET TO BEAUFORT)

On 29 June 2010, VicRoads referred the proposed upgrade of the Burrumbeet – Ballarat section of the Western Highway under the *Environment Effects Act 1978*.

I enclose for your information a copy of my decision that an Environment Effects Statement is not required for this proposal, subject to conditions for the protection of significant flora and fauna.

Yours sincerely

**JUSTIN MADDEN MLC**  
Minister for Planning

Enc

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Attachment 1

**DECISION ON PROJECT: Western Highway Duplication- Section 1b (Burrumbeet to Beaufort)**

1. In accordance with section 8B3 of the *Environment Effects Act 1978*, assessment through an Environment Effects Statement (EES) under the *Environment Effects Act 1978* **is not required subject to specified conditions**, for the reasons set out in the attached Notice of Reasons for Decision.
2. The decision that an EES is not required is subject to the following conditions:
  - VicRoads must prepare an assessment report on alignment options for the Western Highway between Burrumbeet and Beaufort. This report must address the environmental and socioeconomic effects of each of the option, as well as any other relevant matters. The report should also document the criteria for the selection of a preferred alignment.
  - Once completed to the satisfaction of the Department, the assessment report must be submitted to the Minister for Planning, who may appoint an Advisory Committee to provide independent advice on the proposal's environmental effects, the VicRoads screening process and the suitability of the preferred alignment.
  - VicRoads must prepare and implement a plan for the protection of native vegetation and for species listed under the *Flora and Fauna Guarantee Act 1988* to the satisfaction of the Secretary Department of Sustainability and Environment.
  - VicRoads must prepare and implement a design for the crossing of Mount Emu Creek to the satisfaction of the Secretary Department of Sustainability and Environment and the Glenelg Hopkins Catchment Management Authority.
3. The following parties (proponent and relevant decision-makers) are to be notified of this decision:
  - VicRoads
  - Minister for Roads and Ports
  - Pyrenees Shire Council
  - City of Ballarat.



**JUSTIN MADDEN MLC**  
**Minister for Planning**

Date: 16 SEP 2010

Attachment 2

**For Public Notice via Internet**

**REASONS FOR DECISION UNDER *ENVIRONMENT EFFECTS ACT 1978***

**Title of Proposal:** Western Highway Duplication- Section 1b (Burrumbeet to Beaufort)

**Proponent:** VicRoads

**Description of Project:**

Duplication of the Western Highway between Burrumbeet and Beaufort and provision of reservation for future freeway standard road. This is stage 1b of a comprehensive proposal to upgrade the Western Highway between Ballarat and Stawell.

**Decision:**

The Minister for Planning has decided that an Environment Effects Statement (EES) is not required for the Western Highway Duplication- Section 1b (Burrumbeet to Beaufort) as described in the referral accepted on 13 July 2010, subject to the following conditions:

- VicRoads must prepare an assessment report on alignment options for the Western Highway between Burrumbeet and Beaufort. This report must address the environmental and socioeconomic effects of each of the option, as well as any other relevant matters. The report should also document the criteria for the selection of a preferred alignment.
- Once completed to the satisfaction of the Department, the assessment report must be submitted to the Minister for Planning, who may appoint an Advisory Committee to provide independent advice on the proposal's environmental effects, the VicRoads screening process and the suitability of the preferred alignment.
- VicRoads must prepare and implement a plan for the protection of native vegetation and for species listed under the *Flora and Fauna Guarantee Act 1988* to the satisfaction of the Secretary Department of Sustainability and Environment.
- VicRoads must prepare and implement a design for the crossing of Mount Emu Creek to the satisfaction of the Secretary Department of Sustainability and Environment and the Glenelg Hopkins Catchment Management Authority.

**Reasons for Decision:**

- With the exception of potential effects on listed fauna species, the environmental effects of the project are unlikely to be of high complexity and of more than regional significance and therefore are likely to be adequately addressed by normal existing statutory processes, including under the *Planning and Environment Act 1987* and *Aboriginal Heritage Act 2006*.
- Providing the relevant conditions specified in the Notice of Decision are met, the potential effects on listed fauna species and native vegetation can be adequately investigated and assessed to inform decisions on the project.

**Date of Decision:**

16 SEP 2010