



Department of Planning and Community Development

DPCD REF:

PLANNING AND LOCAL GOVERNMENT

FILE REF: 10/024340-01

REQUESTED VOLUNTARY
FOR DECISION

MINISTERIAL REF: CMIN024294

CRITICAL DECISION DATE: **As soon as practicable**

MINISTER FOR PLANNING

**SUBJECT: REFERRAL UNDER THE ENVIRONMENT EFFECTS ACT 1978
WESTERN HIGHWAY- ARARAT TO STAWELL (STAGE 3)**


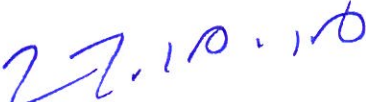
DATE: 21 October 2010

	Name	Position	Phone no.
Prepared by	Ashley Stephens	Senior Environmental Assessment Officer	9637 9621
Reviewed by	Geoff Ralphs	Deputy Chief Environmental Assessment Officer	9637 9547
Reviewed by	Trevor Blake	Chief Environmental Assessment Officer	9637 9623
Reviewed by	John Ginivan	Executive Director, Planning Policy	9637 9045
Approved by	Jeffrey Gilmore	Executive Director, Planning Policy and Reform	9637 9055
Endorsed by	Prue Digby	Deputy Secretary, Planning and Local Government	9637 8345

RECOMMENDATION/S

That you:

- a) Sign the attached statement of decision (**Attachment 1**) under section 8B(3)(a) of the *Environment Effects Act 1978* (EE Act) that an Environment Effects Statement (EES) is required for the proposed duplication of the Western Highway from Ararat to Stawell, for the reasons set out in the attached Reasons for Decision (**Attachment 2**). Approved
 Not Approved
- b) Sign the attached letters notifying the proponent (VicRoads) and the Minister for Roads and Ports under section 8B(4) of the EE Act of your decision to require an EES, including the applicable procedures and requirements in accordance with section 8B(5) of the EE Act. Approved
 Not Approved
- c) Sign the attached letters to the Pyrenees Shire Council and Ararat Rural City Council notifying them, under sections 8A and 8B(4) of the EE Act, of your decision that an EES is required, and that any relevant statutory decision with respect to the project should not be made until your Assessment of the effects of the project has been completed and considered. Approved
 Not Approved

 JUSTIN MADDEN MLC Minister for Planning	
--	---

PURPOSE

1. To recommend that an EES be required for the proposed duplication of the Western Highway between Ararat and Stawell (Stage 3).
2. To request that you sign the attached letters notifying the proponent and statutory decision-makers of your decision, and directing decision-makers not to make any relevant decisions until the EES process is completed for this project.

BACKGROUND

3. **Project Description:** VicRoads propose to duplicate the Western Highway between Ararat and Stawell as part of the larger project to duplicate this highway from Ballarat to Stawell. This larger project has been identified in the Victorian Transport Plan and received \$404 million in funding from the Commonwealth Government's Nation Building Program.
4. The referred project involves the construction of a duplicated road to freeway standard, to allow for two lanes in each direction separated by a central median. The project covers approximately 24 kilometres and will require a nominal overall width of 80 metres. The project will involve a bypass of the Great Western township, but will not involve construction of a bypass for either Stawell or Ararat. VicRoads have not proposed a preferred alignment as part of the EES Referral. Rather they have identified six alignment options for further consideration. A map showing the project area is provided in **Attachment 3**.
5. **Related Projects:** The proposed duplication of the Western Highway from Ballarat to Stawell has been proposed by VicRoads in four stages; namely Stage 1a from Ballarat to Burrumbeet, Stage 1b from Burrumbeet to Beaufort; Stage 2 Beaufort to Ararat and Stage 3 Ararat to Stawell. Stage 1a did not require referral under the EE Act and construction has already commenced. However, Stages 1b, 2 and 3 have been referred to you for a determination on whether the preparation of an EES is required. You determined on 16 September 2010 that an EES was not required for Stage 1b subject to conditions. A copy of the reasons for decision is provided in **Attachment 4**. VicRoads referred Stages 2 and 3 as separate projects on 22 September 2010. A response to Stage 2 is provided in CMIN024297.
6. **Required Approvals:** A planning scheme amendment (PSA) under the *Planning and Environment Act 1987* (P&E Act) would be required to incorporate a Public Acquisition Overlay and Road Zone to the Ararat and Northern Grampians Planning Schemes for the preferred alignment. Planning permits may also be required under the P&E Act for a range of matters including native vegetation removal. Consents may be required under the *Flora and Fauna Guarantee Act 1988* (FFG Act) and a Cultural Heritage Management Plan (CHMP) will require approval under the *Aboriginal Heritage Act 2006*.
7. A referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was lodged on 19 October 2010. Consultation with the Commonwealth Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) indicates that the project is likely to be a controlled action under the EPBC Act requiring further assessment.
8. **Referral Timing:** The referral under the EE Act was accepted on 22 September 2010. The 20 business day target for a decision as set out in the *Ministerial Guidelines for the Assessment of Environmental Effects under the Environment Effects Act 1978* for this referral was 20 October 2010.

ISSUES/COMMENTS

9. **Project Impacts:** A detailed analysis of the potential environmental effects of the project is provided in **Attachment 5**, with key matters summarised below:
10. **Options Assessment:** VicRoads have identified six alignment options for this section of road. A comparative assessment of the environmental impacts of the six alignment options has not been undertaken to date and VicRoads have not identified a preferred alignment. Further assessment of the options will be needed to inform the proponent's selection of a preferred alignment, as well as to inform the statutory approval decisions on a preferred alignment.
11. **Native Vegetation:** VicRoads have provided a preliminary ecological assessment on an indicative alignment to provide an initial assessment of the extent of impacts (i.e. in the absence of a preferred alignment). It is estimated that the project may result in the removal of between 186 to 250 hectares of native vegetation. This estimate is based on an indicative alignment with a nominal width of 250 metres. The extent of native vegetation is likely to be considerably less given a required width of 80 metres and the ability to avoid and minimise impacts via alignment selection and road design options.
12. The native vegetation present within the area covering the six alignment options includes four Ecological Vegetation Classes (EVC) across three bioregions, including Plains Grassland EVC, Grassy Woodland EVC and Creekline Grassy Woodland EVC, all of which have an endangered bioregional status.
13. The majority of the native vegetation present within the project area has a high or very high conservation significance in accordance with *Victoria's Native Vegetation Management – A Framework for Action* (NVMF).
14. The extent and quality of the native vegetation to be removed is likely to result in impacts of State and National significance. Further assessment will be needed to firstly inform the assessment and selection of options, and ultimately to document the extent of impacts for a preferred alignment. This will include identifying opportunities to avoid and minimise the extent of impacts on native vegetation.
15. Documentation of opportunities are particularly important in the context of the NVMF which states that the Minister for Environment and Climate Change (MECC) needs to endorse any clearance of native vegetation with a very high conservation significance. When making this decision the MECC must take into consideration the potential to avoid this native vegetation as well as the economic and social significance of the project.
16. **Threatened Flora, Fauna and Communities:** Limited assessment of potential impacts on threatened flora and fauna has been provided with the EES referral. The preliminary field survey and database search indicate that one flora species (Large-headed Fireweed) listed under the FFG Act is likely to occur within the project area. An additional six species considered rare or vulnerable on DSE's *Advisory List of Rare or Threatened Plants in Victoria* are present, or likely to occur, in the study area. The preliminary surveys and database search also indicate that 16 fauna species listed under the FFG Act may occur within the project area. Three of these fauna species are also listed under the EPBC Act: i.e. Southern Brown Bandicoot, Golden Sun Moth and Striped Legless Lizard.
17. The project could result in a significant impact on threatened flora and fauna given the extent of native vegetation that could be removed and the associated direct and indirect impacts on habitats, including impacts related to the disturbance of wildlife corridors. Further assessment of these potential impacts will be required to inform the decision on selecting a preferred alignment.
18. The project area also contains the FFG listed Victorian Temperate Woodland Bird Community.

19. Cultural Heritage: The project may result in impacts on Aboriginal and non-Aboriginal cultural heritage. Seven scar trees and two artefact scatters have been previously recorded within 500 metres of the existing road. In addition, the 'Sisters Rocks', a women's ceremonial place with significant Aboriginal cultural heritage, is located in close proximity to the existing road. There are also a number of areas of sensitivity in the project area.
20. The township of Great Western contains several sites of non-Aboriginal cultural heritage significance. Given that a bypass is proposed for this township, it is unlikely that the project will impact on these previously identified sites.
21. It is expected that further Aboriginal and non-Aboriginal heritage sites will be located following further investigations. The process to prepare a Cultural Heritage Management Plan under the *Aboriginal Heritage Act 2006* provides the normal statutory mechanism for assessing and managing such impacts.
22. Waterways: The project will be required to cross six named waterways. These waterway environments have a moderate to high likelihood of containing suitable habitat for listed threatened fauna, including the Dwarf Galaxias and Growling Grass Frog. Further assessment of these watercourses will be required following the selection of a preferred alignment; however, detailed design and engineering solutions are likely to limit the potential for significant impacts.
23. Land Use Impacts: The project may result in land use impacts associated with land acquisition (i.e. loss of viable farming land), residential amenity impacts and access issues associated with the introduction of a second carriageway. The area also contains several wineries which may be impacted by this development. Further assessment of land use impacts will be needed, including to inform the selection a preferred alignment.
24. The project may also result in residential amenity impacts associated with noise and dust during the construction phase; however, these impacts are not likely to be significant given the low population density, short-term duration of impacts and management options available to minimise impacts.
25. **The need for an EES**: The decisions available under section 8B(3) of the EE Act, in response to this EES referral are that: (i) an EES is required, (ii) an EES is not required subject to conditions being met, or (iii) an EES is not required.
26. It is recommended that further assessment is required under the EE Act. An EES process is the most suitable process for environmental assessment of this project, as it provides for a rigorous, transparent and integrated assessment of alignment options and their effects, including the relevant environmental and socio-economic factors that need detailed examination for the selection of an appropriate alignment.
27. The use of conditions in lieu of an EES would not provide a suitable assessment alternative given the array and significance of the potential impacts of this project.
28. It is recommended that you determine an EES is required for this project, for the following reasons:
 - The project is likely to result in significant adverse effects on biodiversity, including on native vegetation, listed flora and fauna species and ecological communities.
 - The project could have significant effects on Aboriginal and non-Aboriginal cultural heritage.
 - The project could have significant effects on existing land uses, infrastructure and communities, including on amenity and landscapes.
 - The opportunity to avoid or minimise significant adverse effects through the selection of the roadway alignment and design, as well as mitigation and offsetting measures, requires further investigation.
 - An integrated assessment of environmental effects associated with alternative alignments is needed to inform decision-making.

29. The project has been referred under the EPBC Act and is likely to require assessment under that Act. The EES process is accredited under the *Commonwealth-Victorian Bilateral Agreement for Environmental Impact Assessment 2009* and therefore provides a recognised means of assessment on matters of national environmental significance. This would avoid duplication of assessment processes, assuming DSEWPC does determine that the project is a controlled action under the EPBC Act.

CONSULTATION

30. DSE and DSEWPC have been consulted during the preparation of this referral response.



John Ginivan ☎ (03) 9637 8045
Executive Director
Planning Policy

Date... 21/10/10



Jeffrey Gilmore ☎ (03) 9637 9055
Executive Director
Planning Policy and Reform

Date... 21/10/10