



# Department of Planning and Community Development

DPCD REF:

**PLANNING AND LOCAL GOVERNMENT**

FILE REF: 10/024334-01

REQUESTED  VOLUNTARY   
FOR DECISION

MINISTERIAL REF: CMIN024197

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

## MINISTER FOR PLANNING

**SUBJECT: REFERRAL UNDER THE ENVIRONMENT EFFECTS ACT 1978  
WESTERN HIGHWAY – BEAUFORT TO ARARAT (STAGE 2)**

**DATE:** 21 October 2010

	Name	Position	Phone no.
<b>Prepared by</b>	Anthony Wansink	Senior Environmental Assessment Officer	9412 4567
	Geoff Ralphs	Deputy Chief Environmental Assessment Officer	9637 9547
<b>Reviewed by</b>	Trevor Blake	Chief Environmental Assessment Officer	9637 9623
<b>Reviewed by</b>	John Ginivan	Executive Director, Planning Policy	9637 9045
<b>Approved by</b>	Jeffrey Gilmore	Executive Director, Planning Policy and Reform	9637 9055
<b>Endorsed by</b>	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 Beaufort to Ararat, 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 both under section 8B(4) of the EE Act of your decision to require an EES and of 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

27 OCT 2010

## PURPOSE

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

## BACKGROUND

3. **Project Description:** VicRoads propose to duplicate the Western Highway between Beaufort and Ararat (i.e. Stage 2) 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. Stage 2 comprises design and construction of 40 kilometres (km) of a two lane, dual carriageway freeway containing one rail crossing, five creek crossings and potentially the bypass of the town Buangor. The duplicated highway would require a nominal overall width of 80 metres. However, if the carriageway of the existing highway is realigned, upto an additional 50 metres would be needed to achieve the appropriate design requirements. There are a number of options under consideration for each of four zones within the current project study area. **Attachment 3** is a map showing the four zones of the project area.
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 3 is provided in CMIN024294.
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 local Planning Schemes for the preferred alignment. Planning permits may also be required under the P&E Act for a range of matters including removal of native vegetation. Consents may also be required under the *Flora and Fauna Guarantee Act 1988* (FFG Act) and *Water Act 1989*, as well as an approved Cultural Heritage Management Plan (CHMP) 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 environmental assessment of impacts on matters of national environmental significance.
8. **Referral Timing:** The referral under the EE Act was accepted on 22 September 2010. The 20 business day target, as outlined 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:** A number of route alignment options and sub-options are under consideration by VicRoads. The array of options would give rise to various potential environmental effects and risks. A transparent comparative assessment of the environmental impacts of the feasible alignment options has not been undertaken to date and therefore VicRoads has not identified a preferred alignment. Further detailed assessment of the options and their respective environmental effects will be needed to inform both the sound selection of a preferred alignment, and the subsequent statutory approval decisions.
11. **Native Vegetation and Ecological Communities:** VicRoads provided a preliminary ecological assessment with their referral, which involved only two days of “rapid landscape field investigation” from a car across the entire study area. It identifies the potential for up to 45 hectares (ha) of native vegetation to be cleared, although at this stage no preferred routes are clearly identified, so the likely amount to be cleared for a preferred alignment is quite uncertain.
12. The native vegetation to be potentially cleared and/or affected is largely within Central Victorian Uplands (CVU) and Victorian Volcanic Plains (VVP) bioregions. This vegetation comprises at least 10 different Ecological Vegetation Classes (EVC), most of which are endangered. The vast majority of this vegetation is also likely to be of high or very high conservation significance under *Victoria’s Native Vegetation Management – A Framework for Action* (NVMF), although the necessary field assessments of the potentially affected patches has not yet occurred.
13. The native vegetation potentially affected by the proposal also includes two communities listed under the EPBC Act: the critically endangered ‘Natural Temperate Grasslands of the Victorian Volcanic Plain’ and the endangered ‘Buloke Woodlands of the Riverina and Murray-Darling Depression Bioregions’
14. The extent and quality of the native vegetation (and associated ecological communities) likely to be removed would result in extensive impacts on vegetation of State and National significance. Although, the required maximum width for the duplication is 80 metres, it is likely that some potentially affected vegetation will be able to be avoided and/or minimised during the assessment of road alignment and design options.
15. Clear justification of how impacts on native vegetation have been avoided and minimised are particularly important in the context of the NVMF, which requires the Minister for Environment and Climate Change (MECC) to approve any clearance of native vegetation with a very high conservation significance (VHCS). When making this decision the MECC must take into consideration the potential to avoid the VHCS native vegetation, the availability of appropriate offsets, as well as both the economic and social significance of the project.
16. **Threatened Flora and Fauna:** A preliminary assessment of potential impacts on threatened flora and fauna was been provided with the referral. Thirteen species of state significance listed under the FFG Act have previously been recorded in the project (study) area. This includes seven rare species and five vulnerable species. The extent of potential impact on these FFG listed species is unclear and requires further investigation.
17. The preliminary assessment also indicates that five species listed under the EPBC Act have previously been recorded within the project (study) area, and a further ten have habitat in the area. Included within the species previously recorded in the project area are the critically endangered Spiny Rice Flower and endangered Tawny Spider-orchid and Button Wrinklewort. It is highly likely that these three species, together with the vulnerable Large-headed Fireweed, will be located in the areas to be cleared and/or impacted by the project. However, the exact extent to which these species will be impacted is unclear and also requires further targeted investigations.



18. Ten FFG Listed fauna species have also been recorded in the project (study) area, including the Eastern Great Egret, Squirrel Glider, Hardhead, Australasian Shoveler, Elegant Parrot, Square-tailed Kite, Musk Duck, Brush-tailed Phascogale, Powerful Owl and Brolga. The extent of potential impact on these FFG listed species is unclear and requires further targeted surveys.
19. The referral also indicated that 10 fauna species listed under the EPBC Act may occur within the project area (having been previously recorded within the broader area). The three nationally significant species that have been previously recorded in the actual project area are the: Southern Brown Bandicoot, Plains Wanderer, and Growling Grass Frog. Other EPBC Act listed species could also utilise the habitat potentially impacted by the project.
20. The Department of Sustainability and Environment (DSE) has advised the Department that detailed investigations of particular impacts on the following species are needed: Golden Sun Moth, Powerful Owl and Barking Owl, Growling Grass Frog, Dwarf Galaxias, Mountain Galaxias.
21. In light of the native vegetation that could be removed and the associated direct and indirect impacts on habitats, the project could result in a significant impact on threatened flora and fauna. This includes impacts related to the disturbance of wildlife corridors and areas of native vegetation currently contiguous with the Langi-Ghiran State Park – which is directly adjacent to the existing highway west of Buangor. Further assessment of these potential ecological impacts will be required to inform the sound selection of a preferred alignment.
22. Landscape and Visual: The proposal may have some indirect impacts on the Langi-Ghiran State Park, which is directly adjacent to the existing highway. Whilst no vegetation in the Park itself is proposed to be cleared, some riparian vegetation and forested areas in locations contiguous with the State Park are likely to be impacted. In addition, the augmented road infrastructure will be visible from some locations within the Park. No preliminary assessment of these potential indirect impacts has been undertaken to date.
23. Cultural Heritage: The proposal may impact on some Aboriginal cultural heritage, although only a preliminary desktop assessment has occurred to date. Areas of potential significance occur within the project area and two sites of significance are in close proximity. Further investigation is needed to establish the actual presence of any unknown sites and/or values that could be impacted by the project.
24. One site of non-Aboriginal significance listed on the Victorian Heritage Register and Register of the National Estate (The Cobb and Co Staging Stable at Buangor) would be impacted by some alignment options that bisect Buangor.
25. Amenity and Severance Impacts: There would be direct and indirect impacts on local residents from dust during construction, visual intrusion, traffic noise and the acquisition of properties. The proposal is also likely to cause severance of some properties (although the number is unclear at this stage), as well as eight or more residences being removed/acquired.
26. Waterways: The proposal will need to cross five watercourses: Fiery Creek, Middle Creek, Charliecombe Creek, Billy Billy Creek and the Hopkins River. Potential impacts on the water quality and beneficial uses of these water environments has not been assessed to date, although detailed design and engineering solutions are likely to limit the potential for significant impacts
27. **The need for an EES**: The referral decisions available under section 8B(3) of the EE Act, 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.
28. An EES process is the most suitable process for environmental assessment of this project, particularly as it provides for a rigorous, transparent and integrated assessment of the array of alignment options and their effects, in order to inform statutory decisions. This would involve a sufficiently detailed examination of the relevant environmental and socio-economic factors that should influence the selection (and ultimately the approval) of an appropriate alignment.

29. The use of conditions in lieu of an EES would not provide a suitable assessment alternative for this project, given the array and significance of the potential impacts of this project, as well as the noteworthy uncertainties that require detailed investigation.
30. 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 native vegetation, listed flora and fauna species and listed 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 by impacting 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 detailed investigation.
  - An integrated assessment of environmental effects associated with alternative alignments is needed to inform decision-making.
31. 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 that the project does become a controlled action under the EPBC Act.

#### CONSULTATION

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



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Executive Director  
Planning Policy

Date... 21/10/10 .....



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Date... 21/10/10 .....