

# **Yan Yean Road (Kurrak Road to Bridge Inn Road) (Stage 2) Upgrade Project**

**Incorporated Document**

**May 2021**

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## 1. INTRODUCTION

- 1.1 This document is an incorporated document in the Nillumbik and Whittlesea Planning Schemes (planning schemes) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.
- 1.2 This incorporated document facilitates the delivery of the Yan Yean Road (Kurrak Road to Bridge Inn Road) (Stage 2) upgrade project (Project).
- 1.3 The control in this incorporated document prevails over any contrary or inconsistent provision in the planning schemes.

## 2. PURPOSE

- 2.1 The purpose of the control in this incorporated document is to permit and facilitate the use and development of land described in Clause 3 for the purposes of the Project.

## 3. LAND TO WHICH THIS INCORPORATED DOCUMENT APPLIES

- 3.1 The control in this document applies to land shown as SCO13 on the planning scheme maps forming part of the planning schemes (Project Land).

## 4. CONTROL

### Exemption from Planning Scheme Requirements

- 4.1 Despite any provision to the contrary or any inconsistent provision in the planning schemes, no planning permit is required for, and no provision in the planning schemes operates to prohibit, restrict or regulate the use and development of the Project Land for the purposes of, or relating to, constructing, maintaining or operating the Project.
- 4.2 The use and development of the Project Land for the purposes of, or related to, the Project includes, but is not limited to:
  - a. The upgrade, duplication and widening of Yan Yean Road to provide for two lanes in each direction, associated service and turning lanes.
  - b. Intersection upgrades and improvements including to provide controlled intersections at North Oatlands Road, Ironbark Road, Bannons Lane, Jorgensen Avenue, Orchard Road and relocate the Bridge Inn Road/Doctors Gully Road intersection.
  - c. Walking and cycling infrastructure and facilities including shared user and walking paths.
  - d. Utility installation and relocation and associated services.
  - e. Earthworks and related structures, kerbs, channels, water and soil transfer facilities and works, water quality facilities, retaining walls, cuttings, batters and fill associated with the Project.
  - f. Creating or altering access to roads, including roads in a Road Zone Category 1, Road Zone Category 2 or land in a Public Acquisition Overlay.
  - g. Any use, buildings and works or associated infrastructure and activities for the Project, including use of surplus land parcels and development for the purpose of informal outdoor recreation, an open sports ground or golf course.
  - h. Ancillary activities to the use and development of the Project Land for the purposes of, or related to, the Project including, but not limited to:
    - i) Developing and using lay down areas for construction purposes.

- ii) Stockpiling of excavation material.
- iii) Constructing and using temporary site workshops and storage administration and amenities buildings.
- iv) Removing, destroying and lopping trees and vegetation, including native and dead vegetation.
- v) Constructing scaffolding, working platforms and provision of pedestrian access to construction or maintenance sites.
- vi) Demolishing and removing buildings, fixtures, structures, infrastructure and works.
- vii) Constructing and carrying out works to install, upgrade, alter or relocate services and utilities.
- viii) Constructing and using temporary access roads, diversion roads and vehicle parking areas.
- ix) Constructing fences, site barriers and site security.
- x) Constructing or carrying out works to create or alter roads, car parking areas, access points, bunds, mounds, shared use and walking paths, landscaping, excavate land, salvage artefacts and alter drainage.
- xi) Earthworks including cutting and spoil removal, and formation of drainage works.
- xii) Displaying construction, directional and business identification signs.
- xiii) Subdividing and consolidating land.
- xiv) Storage and assembly of materials and equipment.
- xv) Restoration and reinstatement works.

## **Conditions**

- 4.3 The use and development permitted by this document must be undertaken in accordance with the following conditions:

### **4.4 Environmental Management Framework**

- 4.4.1 Prior to the commencement of development, an Environmental Management Framework (EMF) must be prepared, in consultation with Nillumbik Shire Council and Whittlesea City Council (the councils), to the satisfaction of the Minister for Planning. The EMF must include Environmental Performance Requirements (EPRs) addressing the following areas and any other relevant matters:

- a. Aboriginal cultural heritage;
- b. Air quality;
- c. Arboriculture;
- d. Business;
- e. Contaminated land;
- f. Ecology;
- g. Environmental Management Framework;
- h. Groundwater;
- i. Historical heritage;
- j. Land use planning;
- k. Landscape and visual;
- l. Noise and vibration;
- m. Social;
- n. Surface water;
- o. Transport; and
- p. Vegetation.

- 4.4.2 The EMF must set out the process and timing for development of the Construction Environmental Management Plan and other plans and procedures required by the EPRs, including the process and timing for consultation as required by the EPRs.
- 4.4.3 The EMF submitted to the Minister for Planning for approval under clause 4.4.1 must be accompanied by a statement explaining any difference between it, and the matters set out in the Minister's Assessment under the *Environment Effects Act 1978* dated 21 March 2021.
- 4.4.4 The EMF may be prepared and approved in stages (including separately for preparatory buildings and works, construction and operation) but the EMF for any stage must be approved before the commencement of development for that stage.
- 4.4.5 The EMF may be amended from time to time with the approval of the Minister for Planning.
- 4.4.6 The EMF must be amended to update references and requirements to be consistent with the *Environment Protection (Amendment) Act 2018*, to the satisfaction of the Minister for Planning. The amended EMF must be prepared in consultation with the Environment Protection Authority and must be submitted to the Minister for Planning for approval within 12 months of the commencement of the *Environment Protection (Amendment) Act 2018*.
- 4.4.7 The use and development of the Project must be carried out in accordance with the approved EMF.

#### 4.5 Native Vegetation

- 4.5.1 Before the removal, destruction and or lopping of native vegetation (excluding native vegetation removed under Clause 4.11), information about that native vegetation in accordance with Application Requirements of the *Guidelines for removal, destruction or lopping of native vegetation (DELWP, December 2017)* (Guidelines) must be provided to the satisfaction of the Secretary to the Department of Environment, Land, Water and Planning (DELWP). For the avoidance of doubt, the information provided to the Secretary to DELWP must include information about any native vegetation that has been, or is to be, removed under Clause 4.11.
- 4.5.2 Prior to removal of native vegetation (excluding native vegetation removed under Clause 4.11), the biodiversity impacts from the removal of that native vegetation must be offset in accordance with the Guidelines, and evidence that the required offset(s) has been secured must be provided to the satisfaction of the Secretary to DELWP.
- 4.5.3 In exceptional circumstances, the Secretary to DELWP may vary the timing requirement in Clause 4.5.2.
- 4.5.4 The secured offset(s) for the Project may be reconciled at the completion of the Project in accordance with the *Assessor's handbook – Applications to remove, destroy or lop native vegetation (DELWP, 2018)*.

- 4.5.5 For the purposes of this incorporated document, the term 'remove native vegetation' includes to destroy and/or lop native vegetation.

#### 4.6 Heritage

- 4.6.1 Where, but for this Incorporated Document, a planning permit would be required for buildings and works within Heritage Overlay HO191 River Red Gums (2) or HO219 St Michael's Anglican Church under the Nillumbik Planning Scheme, a Heritage Impact Statement must be prepared, in consultation with Nillumbik Shire Council, to the satisfaction of the Minister for Planning prior to the commencement of such buildings and works.

- 4.6.2 The recommendations of any Heritage Impact Statement prepared under clause 4.6.1 must be implemented to the satisfaction of the Minister for Planning.

#### 4.7 Dry Stone Walls

- 4.7.1 Where, but for this incorporated document, a planning permit would be required to demolish, remove or alter a dry stone wall within the City of Whittlesea, a Dry Stone Wall Management Plan must be prepared, in consultation with Whittlesea City Council, to the satisfaction of the Minister for Planning prior to the commencement of such demolition, removal or alteration works.

- 4.7.2 The Dry Stone Wall Management Plan prepared under clause 4.7.1 must be consistent with the relevant provisions of Clause 22.04 (Heritage Conservation Policy) of the Whittlesea Planning Scheme to the satisfaction of the Minister for Planning.

#### 4.8 Utility Installation

- 4.8.1 Where, but for this incorporated document, a planning permit would be required under the planning schemes for buildings and works associated with an above-ground utility installation, site plans and elevations must be prepared to the satisfaction of the Minister for Planning prior to the commencement of such buildings and works.

#### 4.9 Green Wedge Land

- 4.9.1 Land outside the urban growth boundary must not be subdivided into more lots or into smaller lots, unless the subdivision would not be prohibited under the planning scheme controls that would apply but for this incorporated document.

#### 4.10 Other Conditions

- 4.10.1 Unless otherwise stated, the conditions in Clause 4 may be satisfied for separate components or stages of the Project but each condition must be satisfied prior to the commencement of development for that component or stage.

- 4.10.2 The plans and documents required under Clause 4 may be amended from time to time to the satisfaction of the Minister for Planning or the relevant approving authority. In deciding whether a plan or document is satisfactory or whether to consent to an amendment to a plan or document, the Minister for Planning or the relevant approving authority,

may seek the views of Nillumbik Shire Council and Whittlesea City Council, or any other relevant approving authority.

- 4.10.3 The use and development of the Project must be undertaken generally in accordance with the plans and documents approved under Clause 4.

#### 4.11 Preparatory Buildings and Works

- 4.11.1 Preparatory buildings and works may be undertaken on the Project Land before the conditions set out in Clauses 4.5 to 4.10 are satisfied.
- 4.11.2 Preparatory works for the Project include, but are not limited to:
- a. Works, including vegetation removal, where, but for this incorporated document, a planning permit would not be required under the provisions of the planning schemes.
  - b. Investigation, testing and preparatory works to determine the suitability of land, and property condition surveys.
  - c. Construction and use of access points and working platforms.
  - d. Site establishment works including temporary site fencing and hoarding, site offices, and hardstand and laydown areas.
  - e. Construction, protection, modification, removal or relocation of utility services and associated infrastructure.
  - f. Establishment of environmental and traffic controls, including designation of “no-go” zones.
  - g. Establishment of temporary car parking.
  - h. Demolition to the minimum extent necessary to enable preparatory works.
  - i. Removal of native vegetation to the minimum extent necessary to enable preparatory buildings and works.
  - j. Salvage of aboriginal cultural heritage material and other management actions required to be undertaken in compliance with a Cultural Heritage Management Plan approved under the *Aboriginal Heritage Act 2006* or otherwise in compliance with that Act.
- 4.11.3 Prior to the removal of native vegetation under Clause 4.11, information about the native vegetation to be removed must be provided to the Secretary to DELWP. The information provided to the Secretary to DELWP must include a description of, and maps showing, the native vegetation to be removed in accordance with Application Requirements 1, 5 and 9 of Table 4 of the Guidelines.
- 4.11.4 The biodiversity impacts from the removal of native vegetation under Clause 4.11 must be included in the total biodiversity impacts when determining the offset(s) in accordance with Clause 4.5.2.

## 5. EXPIRY

- 5.1 The controls in this document expire if any of the following circumstances apply:
- The use and development allowed by the control is not started by 1 July 2024.
  - The development allowed by the control is not completed by 31 December 2029.
- 5.2 The Minister for Planning may extend these periods if a request is made in writing before the expiry date or within three months afterwards.