

For Public Notice via Internet**REASONS FOR DECISION UNDER *ENVIRONMENT EFFECTS ACT 1978*****Title of Proposal:** Nyah Floodplain Restoration Project**Proponent:** Victorian Murray Floodplain Restoration Project**Description of Project:**

The proposed Nyah Floodplain Restoration Project aims to restore a more natural inundation regime across approximately 488 hectares (ha) of regionally and internationally significant floodplain by developing structures that contain inflows from the Murray River and conducting additional pumping when required. The proposed inundation area is in the northern part of Nyah-Vinifera Regional Park.

The project involves the construction of five regulators, a series of containment banks/structures, block banks, spillways and hardstand to facilitate managed inundation of the Nyah floodplain. Track and road construction and upgrades will also be required. As part of the works, two redundant structures (pipe and regulator) and a block bank are to be removed or decommissioned in Parnee Malloo Creek.

Decision:

The Minister for Planning has decided that an Environment Effects Statement (EES) is **not** required for the Nyah Floodplain Restoration Project, as described in the referral accepted on 9 April 2020, **subject to the following conditions:**

- a) An environment report for the project must be prepared in consultation with DELWP and completed to the satisfaction of the Minister for Planning. The report needs to examine and document for both the construction and proposed inundation areas:
 - i. the expected benefits and ecological objectives of the project, with measurable indicators for monitoring and thresholds for action;
 - ii. assessment of project design alternatives to avoid and minimise adverse environmental effects, including options for the project layout and timing of inundation events;
 - iii. assessment of predicted impacts (direct and indirect) on biodiversity values particularly associated with
 - listed species of flora and fauna (under the *Flora and Fauna Guarantee Act 1988* and *Environment Protection and Biodiversity Conservation Act 1999*)
 - listed communities (under the *Flora and Fauna Guarantee Act 1988* and *Environment Protection and Biodiversity Conservation Act 1999*), including the FFG Act-listed Victorian Temperate Woodland Bird Community
 - native vegetation, in particular large old trees and endangered ecological vegetation classes (including the endangered Riverine Chenopod Woodland)
 - threatening processes (under the *Flora and Fauna Guarantee Act 1988* and *Environment Protection and Biodiversity Conservation Act 1999*);
 - iv. effects on groundwater hydrogeology and water quality;
 - v. potential for impacts on Aboriginal cultural heritage;
 - vi. potential cumulative impacts and benefits of the project in relation to other VMFRP projects (and other existing or planned projects in the area), particularly in relation to vegetation loss and impacts on downstream aquatic environments and beneficial water uses;
 - vii. proposed native vegetation offset strategy which takes into account the findings of items i to vi; and

- viii. mapping that clearly articulates full extent of works/ infrastructure and inundation areas, as well as key environmental assets/values to be avoided (e.g. no-go zones).
- b) The environment report (required under condition (a)) will inform the final project design and subsequent planning and approval processes, particularly under the *Planning and Environment Act 1987*.
- c) Prior to any works and the removal of any native vegetation, a flora and fauna management plan, informed by the final environment report, must be prepared for the project by qualified consultants to the satisfaction of the Secretary of DELWP. This must include detailed measures and procedures intended to avoid, minimise and mitigate potential impacts on flora, fauna and native vegetation within the project site and inundation area during construction and operation.
- d) An environmental management framework (EMF), informed by the findings and conclusions of the environment report, must be completed by the proponent to the satisfaction of the Secretary of DELWP prior to the commencement of works. The EMF needs to be prepared in consultation with DELWP and include a statement of all environmental commitments for the project, including details of the required content and review process for additional management and monitoring plans to be developed.
- e) A construction environmental management plan (CEMP), informed by the findings and conclusions of the environment report, must be completed by the proponent to the satisfaction of the Secretary of DELWP prior to the commencement of works. The CEMP must be prepared in consultation with DELWP and other relevant agencies including Parks Victoria, Heritage Victoria, Aboriginal Victoria, the Environmental Protection Authority, and the Mallee Catchment Management Authority. The CEMP will document all avoidance and mitigation measures to be implemented for the project during construction, and responsibilities for implementation.
- f) An operating plan, informed by the findings and conclusions of the environment report, must be completed by the proponent to the satisfaction of the Secretary of DELWP prior to the commencement of works. The operating plan must be prepared in consultation with DELWP and other relevant agencies including Parks Victoria, Heritage Victoria, Aboriginal Victoria, the Environmental Protection Authority, and the Mallee Catchment Management Authority. The operating plan will document all avoidance and mitigation measures to be implemented for the project during operations (including the planned timing of inundation events), as well as responsibilities for implementation.

Reasons for Decision:

There is uncertainty regarding the balance between intended ecological benefits of the project and the potentially significant adverse effects of the project. Assessment of the potentially significant effects is necessary to ensure their extent, related uncertainty and acceptability are sufficiently investigated. Key uncertainties remaining include:

- the extent of potential environmental effects and benefits for native vegetation and biodiversity values, as well as the feasibility and effectiveness of avoidance, mitigation and offsetting measures;
- the potential for impacts on hydrogeology and water quality;
- the potential for impacts on Aboriginal cultural heritage; and
- the potential for cumulative impacts in conjunction with other projects proposed such as the nearby Vinifera Floodplain Restoration Project.

The conditions set out through this decision provide the most appropriate means for examining these potentially significant effects and related uncertainties, including the development of adequate measures to avoid and mitigate impacts in the context of relevant policy and regulatory requirements.

Other residual potential effects should be readily addressed through respective statutory requirements, under the *Planning and Environment Act 1987*, *Water Act 1989*, *Heritage Act 2017* and *Environment Protection Act 1970* (to be superseded by the Environment Protection Amendment Act 2018 from 1 July 2021).

Date of Decision: 11 / 06 / 2020