



### 3.5 REFINE PLANNING CONTROLS

The Maribyrnong River Valley is governed by a range of planning controls, summarised below:

#### Skyline controls

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Design and Development Overlays apply to skyline areas in:

- > Maribyrnong DDO1 – skyline areas
- > Moonee Valley DDO1 – skyline areas
- > Brimbank DDO1 – skyline areas.

The design objectives for each of these overlays are similar but not identical.

The design objectives of the Maribyrnong and Brimbank DDOs are to:

- > protect areas along the Maribyrnong River from visual intrusion caused by inappropriate siting or appearance of buildings and works
- > encourage development in keeping with the character and appearance of the area
- > protect and enhance the skyline when viewed from the river and its banks
- > encourage development consistent with the objectives of the *Lower Maribyrnong River Concept Plan 1986*
- > protect and enhance remnant vegetation and sites of biological significance.

A permit is generally not required for buildings or works less than six metres in height in a residential zone.

The Moonee Valley Planning Scheme contains the Maribyrnong River Corridor Policy (Clause 22.11) to provide greater clarity over appropriate development where permits are required under the overlay.

#### Lower Maribyrnong River Concept Plan

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Maribyrnong and Moonee Valley Planning Schemes apply an Incorporated Plan Overlay to a 30 metre strip of land next to the river. The overlay introduces a range of considerations for permits and in particular, consideration of the *Lower Maribyrnong River Concept Plan 1986*.

Maribyrnong Planning Scheme has a policy (Clause 22.10) that applies to all park areas within the Maribyrnong Regional Parklands (defined as the area between Maribyrnong Road and Ballarat Road) and serves a similar function.

### Vegetation protection

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Moonee Valley Planning Scheme has two Environmental Significance Overlays to protect specific areas of vegetation:

- > ES03: Upper Maribyrnong River – riparian strip with river red gums and silver wattle
- > ES04: Maribyrnong River Escarpment – area of significant indigenous vegetation.

### Management of development

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Additional controls and policies apply in some areas to manage specific issues:

- > Brimbank Development Plan Overlay (Schedule 3) applies to the River Valley Estate (RVE). Lots within the River Valley Estate are also subject to covenants requiring compliance with RVE Design Guidelines.
- > Maribyrnong Footscray Riverside Precinct Policy (Clause 22.04-2) sets out objectives and policy for the Footscray Wharf area. The policy provides guidance on the type and range of uses that are encouraged.

### Floodplain management

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A Land Subject to Inundation Overlay has been applied in all planning schemes to identify the extent of the 1 in 100 year floodplain. Further analysis needs to be undertaken to better identify high hazard areas which have the greatest risk and frequency of being affected by flooding.

Melbourne Water is the floodplain management authority for the Melbourne metropolitan region, and is the nominated referral authority for planning permit applications made under the provisions of the Land Subject to Inundation Overlay. All developments referred to Melbourne Water are assessed to ensure that new development does not increase the risk to public safety, or increase the risk of damage to property resulting from a flood.

### Heritage controls

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There are a range of significant heritage sites along the river and many (but not all) are covered by a Heritage Overlay in planning schemes. A number of reviews of heritage assets have been completed by Victorian Government, agencies and councils. These studies should be reviewed in an integrated way along the valley, with gaps identified particularly north of Afton Street, and planning schemes updated, where needed.

#### **The need to specify clear outcomes**

A review of the existing planning controls for the Maribyrnong River revealed they were often complex, inconsistent and out of date.

The issue was not the lack of controls along the river but rather the way they were structured and the associated lack of clarity in terms of guidance about what development was acceptable.

Recent planning decisions along Melbourne's waterways have highlighted the need for clear, specific provisions to guide development decisions, especially in areas where residential or commercial development (and associated loss of vegetation) could potentially have a major impact on the more secluded parks and natural areas of open space. For this reason, specific design guidelines have been developed (section 4 of this report).

Development pressures along the Maribyrnong are expected to increase as the valley becomes a desirable place for people to live. Areas that require particular attention in terms of guidance are locations where large-scale redevelopment is anticipated or already underway – the Defence Site Maribyrnong, the remaining stages of River Valley Estate plus areas further north undergoing land use change in the City of Brimbank.



### **Deciding on appropriate planning tools**

Giving effect to the priority actions and design guidelines recommended in the *Maribyrnong River Valley Design Guidelines* will require specifically drafted overlay provisions in local planning schemes.

There are a number of possible overlays that could be used, however in the case of these Guidelines, the Environmental Significance Overlay (ESO) provides the necessary permit triggers, while other possible overlays do not. The ESO has the ability to provide control over buildings, earthworks, removal of vegetation, landscaping (or works) and subdivision.

In addition, Guidelines included in an ESO would not be mandatory, allowing local circumstances to be taken into account in planning decisions. The purposes of ESOs in the Victoria Planning Provisions are:

- > to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- > to identify areas where the development of land may be affected by environmental constraints
- > to ensure development is compatible with identified environmental values.

ESOs would be applied by drafting a schedule to the overlay for each municipality along the Maribyrnong River. The schedule must contain a) a statement of environmental significance and b) the environmental objectives to be achieved.

The design guidelines outlined in section 4 of this report form the basis of the schedule to the overlays and the environmental objectives of each. The statement of environmental significance will need to address:

- > vegetation protection and landscape
- > recreation
- > landform, site layout and building interface
- > building visibility and design
- > infrastructure design.

### Determining the land area to be covered

The first priority for application of these new ESOs is where there are existing overlay controls (e.g. DDOs) in the planning scheme. These are areas that have been identified as requiring control but where the existing controls provide insufficient guidance.

The design guidelines outlined in section 4 form the basis of all ESOs but locations will be specified clearly on ESO planning scheme maps. Ultimately ESOs should be applied to:

- > areas of biological significance – this includes sites of national, state, regional and local significance as well as sites required for habitat links
- > sites of faunal and habitat significance
- > the river itself and abutting private and public land
- > land adjacent to public land along the river
- > areas where development could impact on the landscape quality of the river.

As a result implementing these changes, existing overlays (Skyline DDOs and IPOs) and other local policies would be removed from the planning scheme. However, the Port length of the river is unlikely to be subject to new ESOs.

In the short term, ESOs may not be appropriate in areas where comprehensive master planning has recently taken place or is about to occur such as the River Valley Estate or the Defence Site Maribyrnong. In these areas, detailed guidelines associated with approved structure plans consistent with this report would be incorporated as part of the planning scheme during the development phase. Following completion of residential development, special overlays such as DPOs would be lifted and replaced with ESOs, as the most appropriate tool to manage subsequent small-scale redevelopment.

On public land, the desired outcomes are achieved through works carried out by relevant government authorities rather than through planning scheme provisions. However, the *Maribyrnong River Valley Design Guidelines* may be used to help guide park master and management planning.

### Analysing if planning scheme / policy changes are needed

#### Flood protection controls

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The entire 1 in 100 year floodplain of the Maribyrnong River study area is covered by a Land Subject to Inundation Overlay (LSIO) with the exception of the Defence Site Maribyrnong.

Some areas of the Maribyrnong Township which were previously reserved for Public Open Space, were included within an Urban Floodway Zone when the new format Maribyrnong Planning Scheme was prepared in the 1990s. Refer to Appendix A (map 12) to see the Land Subject to Inundation Overlay in the planning scheme.

Given the depth of flooding over much of the floodplain, it may be appropriate to replace parts of the LSIO with a Floodway Overlay (FO). The purpose of an FO is to identify high hazard areas with the greatest risk and frequency of flooding.

Further work may need to be undertaken to identify high hazard areas along the Maribyrnong River on the basis of flooding depth, frequency and velocity.



### Changes to Municipal Strategic Statements

As part of introducing new overlay controls for the Maribyrnong River there is a need to revise the Municipal Strategic Statements of relevant local councils to:

- > identify land at a subregional level for stormwater treatment, wetlands and retarding basins
- > undertake cooperative planning and works with other councils to improve open space along waterway corridors by establishing contiguous open space along both sides of the municipal boundary
- > discourage noisy, potentially smelly or visually detrimental uses and developments from locating close to the river
- > make provision for a shared path in areas where a path does not currently exist or along the upper edge of the valley
- > provide a safe shared path with a variety of entry points at regular intervals along one side of the waterway for its complete length except along the Port length.

### Permit conditions

A number of issues covered in the design guidelines in section 4 are best dealt with by planning permit conditions. Appendix D identifies possible conditions.

### Public acquisition of land

Any commitments to acquire land for public open space would need to be reflected in Public Acquisition Overlays (PAOs).

### Green wedge planning

The *Maribyrnong River Valley Design Guidelines* should be considered in developing the *Green Wedge Management Plans* and in the review of the Parks Victoria regional open space strategy, *Linking People and Spaces*.

## Refine planning controls

Action	Responsibility	Priority
25. Review and document heritage assets along the river valley, including Indigenous and post-European settlement, prior to considering the need for planning scheme amendments.	Maribyrnong, Melbourne, Brimbank, Moonee Valley City Councils, Parks Victoria, Heritage Victoria, Aboriginal Affairs Victoria	Long term
26. Prepare coordinated planning scheme amendments according to listed priorities.	Maribyrnong, Melbourne, Brimbank, Moonee Valley City Councils, Melbourne Water, DPCD	Immediate

### Summary of planning scheme amendment priorities

#### Priority 1:

- > Rationalise and revise ESOs and DDOs, using ESOs as the overlay to incorporate the design guidelines outlined in section 4 of this report. Areas already covered, or about to be covered, by development plans incorporated into planning schemes will be excluded.
- > Revise council Municipal Strategic Statements to incorporate the agreed vision and design guidelines outlined in section 4 of this report, and delete any redundant local policies.
- > Review and introduce PAOs to reflect any commitments to land acquisition for open space.
- > Define appropriate exemptions for public land managers in any overlay controls.
- > Remove redundant controls such as IPOs relating to the *Lower Maribyrnong River Concept Plan 1986*.
- > Include the *Maribyrnong River Valley Design Guidelines* as a reference document in all planning schemes.

#### Priority 2:

- > Consider the need for additional overlay controls (e.g. ESO, SLO) in areas further back from the river.
- > Introduce Heritage Overlays (HOs) where needed.
- > Consider introduction of Floodway Overlays (FOs) in high hazard areas along the Maribyrnong River on the basis of flood depth, frequency and velocity.
- > Introduce ESOs in areas now undergoing large scale redevelopment, at the same time as introducing 'final' zones when development is complete.
- > Implement any planning scheme changes in the green wedge, according to approved Green Wedge Management Plans.