

CHAPTER 5: FURTHER STEPS



This section provides an overview of the Australian Government and Victorian Government regulatory and approvals frameworks through which this proposal will be considered, following the public consultation phase on this Planning Assessment Report.

5.1 AUSTRALIAN GOVERNMENT PROCESS

5.1.1 AUSTRALIAN GOVERNMENT MINISTER FOR THE ENVIRONMENT, HERITAGE AND THE ARTS



The Department of Sustainability and Environment has submitted an Impact Assessment of the integrated package of proposed actions comprising the revision of Melbourne's Urban Growth Boundary, construction of the Regional Rail Link and OMR/E6 Transport Corridor and protection of rare and endangered grasslands. Public comment is being sought on this draft Impact Assessment.

The draft Impact Assessment relates to the possible impacts of the proposed actions, on Matters of National Environmental Significance, which are protected under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*. Relevant matters protected by the EPBC Act are listed threatened species and communities, listed migratory species and Ramsar Wetlands.

Following public comment and amendment as appropriate, the Impact Assessment has been submitted to the Australian Government Department of the Environment, Water, Heritage and the Arts under the provisions of the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

The Minister for the Environment, Heritage and the Arts is anticipated to be considering his decision on the Impact Assessment by August/September 2009. That decision would be anticipated to set out conditions for undertaking future developments, such as the OMR/E6 Transport Corridor.

5.1.2 AUSTRALIAN GOVERNMENT MINISTER FOR INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND LOCAL GOVERNMENT

Any future proposal to fund the OMR/E6 Transport Corridor under a future AusLink program would be decided on by the Australian Government Minister for Infrastructure, Transport, Regional Development and Local Government or his/her delegate under the provisions of the *AusLink (National Land Transport) Act 2005*. In making this decision, the decision-maker needs to have regard as to whether the necessary environmental approvals under Commonwealth and State law have been obtained.



VicRoads would therefore be required to provide certification that the necessary environmental approvals have been obtained before such a funding decision could be made.

The construction of road and rail facilities within the proposed corridor is not currently funded. The Victorian Transport Plan indicates that the project would be unlikely to be funded before 2020.

5.2 VICTORIAN GOVERNMENT PROCESS

5.2.1 ENVIRONMENT EFFECTS STATEMENT

The *Environment Effects Act 1978* applies to works 'reasonably considered to have or be capable of having a significant effect on the environment'.

VicRoads has referred the proposal to the Minister for Planning to determine whether an Environment Effects Statement (EES) process should be followed in relation to the future construction of the Outer Metropolitan Ring / E6 Transport Corridor.

The options available to the Minister for Planning are:

- > Determine that an Environment Effects Statement is required; or
- > Determine that an Environment Effects Statement is not required; or
- > Determine that an Environment Effects Statement is not required, subject to certain conditions

Once the assessment phase of the process is complete, a planning approval, in the form of a Planning Scheme Amendment, will be sought in accordance with the requirements of the *Planning and Environment Act 1987*.

5.2.2 LAND RESERVATION

The *Planning and Environment (P&E) Act 1987* sets out the framework for controlling land use, development and the undertaking of works upon land in Victoria. The Act sets out the structure and administration of planning in Victoria and generally authorises the preparation of planning schemes, the processing and issue of planning permits and planning agreements and appeals.

This proposal is located within the Cities of Greater Geelong, Wyndham, Brimbank, Hume, and Whittlesea and in the Shires of Melton and Mitchell and is affected by the provisions of the relevant planning schemes.

Land that is affected by the proposal is shown on plans prepared by VicRoads that have been placed on public exhibition. Land within the red dashed lines shown on those plans is proposed to be subject to a reservation, such as a Public Acquisition Overlay. Land, where it is proposed that the titles be restructured, is shown on the plans with an 'S'.

The route alignment that is ultimately adopted, together with other elements of the package of changes associated with review of Melbourne's Urban Growth Boundary, the Regional Rail Link proposal and the reservation of endangered grasslands, will need to be provided for in the relevant Planning Schemes by the means of a Planning Scheme Amendment (PSA).

The procedures for amending a Planning Scheme are set out in the P&E Act 1987. After the Government's decision on the alignment for the OMR/E6 Transport Corridor has been made, it is expected that the land required for the OMR/E6 Transport Corridor will be reserved in Council Planning Schemes by means of a Planning Scheme Amendment that creates a Public Acquisition Overlay.

The introduction of a Public Acquisition Overlay will give affected landowners rights to compensation that are not available when there is a planning study underway and no finalised alignment defined by a planning scheme.

Once land is reserved in a Planning Scheme, by means of a Public Acquisition Overlay, it can be compulsorily acquired. Existing landowners may continue to use their property until the land is acquired. However, a Public Acquisition Overlay provides that a range of development activities are subject to a planning permit requirement. As nominated Acquiring Authority, all planning permit applications would be referred by the Council to VicRoads for advice as to whether a planning permit should be issued.

5.2.3 EARLY LAND PURCHASE / COMPENSATION FOR LOSS ON SALE

Once a defined alignment has been reserved in Council Planning schemes, compensation may be payable if a landowner applies for a planning permit to develop his/her land and it is refused on the basis that the land is required for a public purpose. Conditions apply and the landowner should discuss any prospective claim of this nature with an officer from VicRoads Property Services Department.

Once a reservation for the route is in place in Council Planning Schemes, but before VicRoads acquires a property, compensation may be available if a landowner suffers a loss on the sale of that property.

In exceptional circumstances, if a land owner is suffering hardship as a direct result of the investigations into a route for the proposal, and the landowner has unsuccessfully attempted to sell the property on the open market (auction), consideration may be given to purchasing the property.

5.2.4 LAND ACQUISITION

When the government approves the construction of the project, the land required will be compulsorily acquired in line with the provisions of the *Land Acquisition and Compensation Act 1986*.

Compulsory acquisition does not normally occur until the project is funded for construction. There is no funding allocated for construction at this point in time. In the case of the OMR/E6 Transport Corridor, construction is unlikely to be funded before 2020.