

**GREATER DANDENONG PLANNING SCHEME  
KINGSTON PLANNING SCHEME**

**AMENDMENT GC107**

**EXPLANATORY REPORT**

**Who is the planning authority?**

This amendment has been prepared by the Minister for Planning who is the planning authority for this amendment.

The amendment has been made at the request of the Major Road Projects Authority (MRPA), an administrative office in the Department of Economic Development, Jobs, Transport and Resources.

**Land affected by the Amendment**

The amendment applies to land required for the Mordialloc Bypass (Freeway) (the project) between Thames Promenade and the Dingley Bypass, as shown on planning scheme map number 7SCO of the Greater Dandenong Planning Scheme and map numbers 3SCO, 6SCO and 8SCO of the Kingston Planning Scheme.

**What the Amendment does**

The amendment inserts the incorporated document *'Mordialloc Bypass (Freeway) Incorporated Document, October 2018'* (incorporated document) into the schedules to Clause 45.12 Specific Controls Overlay (SCO) and the schedules to Clause 72.04 (Documents incorporated in the scheme) of the Greater Dandenong and Kingston Planning Schemes.

The amendment inserts Planning Scheme Map 7SCO of the Greater Dandenong Planning Scheme and Planning Scheme Maps 3SCO, 6SCO and 8SCO of the Kingston Planning Scheme to apply the SCO to the project area.

The amendment amends map 6PAO of the Kingston Planning Scheme to apply the Public Acquisition Overlay (PAO) to the following parcels of land:

- Parcel CP106278, 1-7 Bell Grove Braeside
- Parcel CP161872, 63-67 Tarnard Drive, Braeside
- Parcel CP101726, 414-426 Lower Dandenong Road Braeside
- Parcel Res 1 PS327478, 47 Mills Road, Braeside

The amendment also amends Map 06HO of the Kingston Planning Scheme to amend the boundary of Heritage Overlay HO104, Braeside Park Precinct, to accurately reflect the location of the heritage asset.

**Strategic assessment of the Amendment**

**Why is the Amendment required?**

In May 2017, the Victorian Government announced the intended construction of the Mordialloc Bypass (Freeway) (the project). The project contributes to the Victorian Government's commitment to expanding the network of roads in Melbourne's outer suburbs. The project will improve connections, ease congestion, reduce delays and alleviate the pressure that population and urban growth is placing upon the existing capacity of road infrastructure across Melbourne's south-eastern suburbs.

This amendment is required to facilitate the timely, coordinated and consistent delivery of the project. The amendment allows the 'as of right' use and development of land for the purposes of the project, in accordance with the incorporated document.

The amendment is also required to facilitate the acquisition of land required for the project that is not currently within a Road Zone Category 1 or a PAO for the purposes of a road.

The correction of the Heritage Overlay map 6HO in the Kingston Planning Scheme is required as the existing HO104 is not accurately located on the map.

### **How does the Amendment implement the objectives of planning in Victoria?**

The amendment implements the objectives of planning in Victoria as set out in Section 4 of the *Planning and Environment Act 1987* in the following ways:

a) *To provide for the fair, orderly, economic and sustainable use, and development of land*

The amendment facilitates a project that will reduce congestion, contribute to a more reliable road system and improve connectivity for road users, pedestrians and cyclists in Melbourne's south-eastern suburbs.

b) *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity*

The incorporated document requires use and development of the project to be carried out in accordance with a set of approved Environmental Performance Requirements (EPRs) and an *Environmental Management Framework* (EMF) for the project. The EMF is a framework to ensure that the project will comply with relevant statutory requirements and minimise environmental risks. The EMF and EPRs have been informed by detailed technical studies which have considered environmental risks and impacts associated with the design, construction and operation of the project. The EPRs detail the environmental outcomes to be achieved during the design, construction and operation of the project and will encourage innovation within the parameters of the project. The EMF also sets out accountabilities for managing and monitoring environmental effects and hazards associated with the design, construction and operation of the project. The EMF and EPRs reflect the outcomes of the Environment Effects Statement (EES) assessment process required for the project.

The design and construction of the project will minimise any impacts on native vegetation and offsets will be provided in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017), except as otherwise agreed by the Secretary to the Department of Environment, Land, Water and Planning (DELWP). This outcome is secured by conditions in the incorporated document.

c) *To ensure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria*

The amendment will facilitate a project that will contribute to the more efficient use of road infrastructure by improving the reliability and capacity of the road network, as well as improving its safety. The location of the project is within a bayside area that is used for a mixture of residential, employment and recreational purposes. The project will facilitate movement

between residential and employment areas and to other bayside areas which are used by Victorians and tourists, particularly during the summer season.

- d) *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*

The amendment facilitates a project that has thoroughly considered its heritage impact as outlined in the EES. There are 68 registered Aboriginal archaeological sites located within the geographic region. Aboriginal cultural heritage will be managed in accordance with a Cultural Heritage Management Plan (CHMP) approved under the *Aboriginal Heritage Act 2006* (AH Act).

The land also includes land within a Heritage Overlay. The HO104 applies to the Braeside Park Precinct – remnant MMBW equipment on Lower Dandenong Road, Braeside. The amendment comprises a correction to the Heritage Overlay as it is not accurately located on the map. This correction will therefore provide effective heritage protection for heritage assets.

- e) *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community*

The incorporated document provides for a single approval that will facilitate the orderly and coordinated provision of transport infrastructure for the benefit of the community. The incorporated document ensures that existing utilities are adequately protected, relocated and upgraded where necessary.

- f) *To balance the present and future interests of all Victorians.*

The amendment will facilitate a project that will benefit present and future users of the road infrastructure. The construction of the freeway and associated works will improve road, bicycle and pedestrian connections for Victorians living, working and travelling within the vicinity of the project. It will improve the safety, capacity and operational efficiency of the road network today and into the future. The delivery of the project will be carefully managed to minimise disruption for road users, local communities and businesses and provides a net positive improvement to the local area.

### **How does the Amendment address any environmental, social and economic effects?**

The amendment implements a project which has been assessed under the *Environment Effects Act 1978*. As part of this process, the project and its potential environmental, social and economic effects have been considered. This process has included the preparation of an Environment Effects Statement (EES) including Environmental Performance Requirements and an Environmental Management Framework (EMF) which guides the management of potential environmental effects resulting from the project.

#### Environmental Management Framework

The Incorporated Document requires the project to be developed in accordance with the EMF. The EMF is a framework to ensure that the Project will comply with relevant statutory requirements and minimise environmental risks. The EMF contains the Environmental Performance Requirements (EPRs) for the project. The EPRs comprise a set of project specific performance requirements or standards that must be met during design, construction and operation of the project to ensure that adverse environmental impacts are managed to achieve acceptable outcomes.

The EMF sets out accountabilities for managing and monitoring environmental impacts associated with the design and construction of the Project. The EMF and finalised EPRs approved under the Incorporated Document will reflect the outcomes of the EES assessment process for the project.

The EPRs have been informed by detailed technical studies that have considered the following environmental impacts and potential effects:

- Groundwater
- Biodiversity
- Soils and Contaminated Land
- Surface water
- Land Use and Planning
- Traffic and Transport
- Noise and Vibration Effects
- Air quality and Greenhouse Gas
- Landscape and Visual Effects
- Economic Effects
- Social Effects
- Aboriginal Cultural Heritage
- Historic Cultural Heritage
- Matters of National Environmental Significance
- Cumulative Impacts.

#### Native Vegetation

The Incorporated Document requires details of the removal, destruction or lopping of native vegetation to be prepared, and appropriately offset in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017), except as otherwise agreed by the Secretary to DELWP. This requirement is in addition to the relevant EPRs that address vegetation.

#### Heritage

Heritage impacts will be appropriately addressed in accordance with applicable EPRs.

The preparation and approval of a CHMP is required for the Project in accordance with the AH Act. Works will be undertaken in accordance with the AH Act and the approved CHMP for the Project.

#### Land acquisition

In addition, as part of the planning process, extensive consultation has been undertaken with landowners within the Project area to help inform localised impacts resulting from the Project. Discussions with landowners have informed the final alignment of the project and the land subject to acquisition is identified in the PAO maps forming part of the amendment. Any impacts associated with the acquisition of land will be managed through compensation procedures under the *Land Acquisition and Compensation Act 1986*.

#### **Does the Amendment address relevant bushfire risk?**

The project is not affected by a Bushfire Management Overlay. The project alignment between Governor Road and Lower Dandenong Road is adjacent to a bushfire prone area and a larger bushfire prone area is located to the south of Springvale Road. The road upgrade will improve emergency access to a bushfire prone area and will not result in an increased risk to life, property or the environment.

#### **Does the Amendment comply with the requirements of any Minister's Direction applicable to the Amendment?**

Section 12(2) (a) of the *Planning Environment Act 1987* requires that in preparing a planning scheme amendment, a planning authority must have regard to the Minister's Directions. The following Minister's Directions are relevant to this amendment:

#### Ministerial Direction - The Form and Content of Planning Schemes

The amendment is consistent with the *Ministerial Direction - The Form and Content of Planning Schemes* under Section 7(5) of the *Planning and Environment Act 1987*.

#### Ministerial Direction No. 1 - Potentially Contaminated Land

The incorporated document requires the design, construction and operation of the project to be in accordance with the EMF. The project will also comply with the EPRs to ensure the acceptable management of contaminated land impacted by the project and to ensure the environmental condition of the land is suitable for future use. No sensitive uses are proposed as part of the Project under the provisions of Ministerial Direction No. 1.

#### Ministerial Direction No. 9 – Metropolitan Strategy

The amendment is consistent with *Ministerial Direction No. 9 – Metropolitan Strategy* and providing the following key benefits:

- Jobs and investment in the local area
- Delivers new transport infrastructure to increase accessibility
- Improves local travel options with better connections to the Monash and Dandenong National Employment and Innovation Clusters, the Moorabbin Airport, industrial areas in Braeside and Moorabbin, and relevant metropolitan activity centres
- Facilitates a more efficient and safer road network which benefits all road users
- Improves the operation of the existing transport network with faster, more reliable and efficient on-road traffic movement by reducing congestion on Springvale Road
- Ensures the environmental and construction impacts are managed and minimised through the incorporation of an EMF and EPRs for the project

#### Ministerial Direction No. 11 Strategic Assessment of Amendments

The amendment is consistent with *Ministerial Direction No. 11 Strategic Assessment of Amendments* and *Planning Practice Note 46: Strategic Assessment Guidelines for Planning Scheme Amendments*.

#### Ministerial Direction No.15 – The Planning Scheme Amendment Process

Ministerial Direction No.15 encourages consistent, efficient and timely processing of amendments by setting times for completing key steps in the amendment process. The Amendment has been prepared with regards to this Ministerial Direction and is consistent with its process.

#### **How does the Amendment support or implement the Planning Policy Framework and any adopted State policy?**

The amendment supports or implements the following clauses of the Planning Policy Framework:

#### Clause 11 (Settlement)

Clause 11 requires planning to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning

is to recognise the need for and contribute to accessibility, economic viability and the integration of land use and transport. Furthermore, planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

The amendment is consistent with this policy and will provide improved transport choices reducing congestion on the existing road network, facilitating the orderly development of urban areas and improving access to local, regional and metropolitan centres.

#### Clause 12 (Environmental and Landscape Values)

Clause 12 recognises the importance of incorporating the protection of biodiversity and the health of ecological systems. Planning should protect, restore and enhance sites and features of nature conservation, biodiversity, geological or landscape value.

The project is located predominately in a long established reserved road corridor. Most of the project area has been highly modified due to past disturbances including clearing of vegetation; urban development; alterations to local hydrology through manipulation of waterways and the introduction of exotic flora and fauna species.

The amendment supports this policy and will provide for the design, construction and operation of the project in a way that appropriately protects environmental and landscape values.

#### Clause 13 (Environmental Risks and Amenity)

Clause 13 encourages a best practice environmental management and risk management approach which aims to avoid or minimise natural and human-made environmental degradation, environmental hazards and amenity conflicts.

The project will be designed, constructed and operated in accordance with the EMF and EPRs which will include best practice measures to reduce and manage environmental impacts of the project.

#### Clause 15 (Built environment and Heritage)

Clause 15 recognises that planning should ensure all new land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context. Furthermore, planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

The HO104 applies to the Braeside Park Precinct remnant MMBW equipment on Lower Dandenong Road and is recognised as being of local heritage significance. In addition, the HO3 applies to the Christ Church at 387-405 Old Dandenong Road (corner Centre Dandenong Road), Dingley.

The project responds to the identified heritage values in the project area and the amendment supports and implements Clause 15 through the EPRs in respect of heritage matters and through the preparation of a Cultural Heritage Management Plan (CHMP) approved under the *Aboriginal Heritage Act 2006*.

#### Clause 17 (Economic Development)

Clause 17 states planning is to contribute to the economic wellbeing of the State and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential. The amendment will deliver the project which provides new transport infrastructure providing improved access to employment opportunities and positively contributes to the economic wellbeing of the south-eastern suburbs and metropolitan Melbourne.

#### Clause 18 (Transport)

Clause 18 seeks to promote an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.

The amendment supports Clause 18 through the delivery of an improvement to the road network increasing local connectivity and accessibility to employment areas. The project will deliver new road infrastructure improving access to employment opportunities particularly in the job rich areas of Dandenong National Employment and Innovation Cluster and industrial areas in Braeside and Moorabbin. It will facilitate safety and efficiency gains to meet local needs and will service markets throughout Victoria by providing an alternative and direct route thus reducing congestion on the existing road network. The project will provide opportunities for a reduction in greenhouse gas emissions through reduced road congestion and the increased facilitation of sustainable transport options via the delivery of safe shared cycling and pedestrian paths.

### **How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment supports or implements the following policy directions of the Local Planning Policy Framework of the Greater Dandenong and Kingston Planning Schemes:

#### Greater Dandenong Planning Scheme

- Clause 21.03 A Vision for Greater Dandenong
- Clause 21.06 Open Space and Natural Environment
- Clause 21.07 Infrastructure and Transportation
- Clause 22.05 Green Wedge Local Planning Policy

The project will provide improved access to employment opportunities and positively contribute to the economic wellbeing of Greater Dandenong in line with its vision set out in Clause 21.03 of the scheme.

The incorporated document requires that the design and construction of the project be in accordance with the EMF which will provide an overarching framework and specific measures to manage environmental, social and economic impacts. The EMF has been informed by numerous technical reports and sets out a number of strategies that reduce air, water and noise pollution and that promote ecologically sustainable development to ensure natural assets are managed appropriately. This will implement Clauses 21.03 and 21.06.

The project implements Clause 21.07 as it facilitates walking and cycling through the design and inclusion of shared pathways. It supports the enhancement of the existing operation and safety of arterial roads for all road users through the enhancement of efficiency of freight movement and increasing vehicular routes and access points.

#### Kingston Planning Scheme

- Clause 21.03 Land Use Challenges for the New Millennium
- Clause 21.04 Vision
- Clause 21.09 Environment, Wetlands and Waterways
- Clause 21.12 Transport, Movement and Access
- Clause 21.13 Heritage
- Clause 22.04 South East Non Urban Area Policy
- Clause 22.16 Heritage Policy

The project supports Objective 1 of Clause 21.12 to create a safe, convenient and efficient road network based on a functional hierarchy of local and regional road linkages, which meets the transport and freight needs of Kingston's residents, businesses, and through traffic. The project will provide a direct and continuous route improving connectivity locally and assisting regional movements in a north-south direction.

The project will strengthen the role of public transport, walking and cycling as a means of accessing local facilities and surrounding suburbs by providing shared paths to encourage walking and cycling, directing regional traffic to the main arterial corridors, alleviating pressure on existing local roads and minimising interactions with sensitive land uses in accordance with Objective 3 of Clause 21.12.

The EMF, required by the incorporated document, will provide an overarching framework and targeted performance measures to manage environmental, social and economic impacts. This will protect and enhance ecological value in accordance with Clause 21.03 and 21.04 and achieve Objective 3 of Clause 21.09.

The project will meet an identified capacity deficiency in the regional road network, reduce conflict and the impact of congestion on the local road network in line with Clause 21.03.

The project proposes to correct the Heritage Overlay map 6HO of the Kingston Planning Scheme which will ensure the heritage assets are protected effectively. In addition, the Project will be carried out in accordance with an approved Cultural Heritage Management Plan. This will protect places of identified heritage value for present and future generations in accordance with Clause 21.13.

### **Does the Amendment make proper use of the Victoria Planning Provisions?**

The amendment makes proper use of the Victoria Planning Provisions, specifically Clause 45.12 and Clause 72.04 of the Greater Dandenong and the Kingston Planning Schemes to deliver the project.

The purpose of Clause 45.12 is to provide in extraordinary circumstances specific controls designed to achieve a particular land use and development outcome.

The use of this provision is appropriate because the project is of genuine State significance and the incorporated document proposed by the amendment will allow the project to be delivered in a coordinated, consistent and timely manner under a single planning control and will remove the need for the project to seek multiple and separate planning permits. The site specific controls in this amendment are set out in Clause 4.0 of the incorporated document and allow the use and development of the land for the purposes of the project in accordance with the conditions set out in the incorporated document.

### **How does the Amendment address the views of any relevant agency?**

The views of relevant agencies and stakeholders have been considered through an extensive consultation framework as part of the EES process. The views of the following agencies and authorities were sought and considered:

- Aboriginal Victoria
- City of Greater Dandenong
- Department of Economic Development, Jobs, Transport and Resources (DEDJTR)
- Department of Environment, Land, Water and Planning (DELWP)
- Environment Protection Authority
- Emergency services: Melbourne Fire Brigade and Ambulance Victoria.



- Heritage Victoria
- Kingston City Council
- Melbourne Water
- MRPA
- Southern Rural Water
- Victorian Planning Authority

### **Does the Amendment address relevant requirements of the *Transport Integration Act 2010*?**

The amendment facilitates a project that will have a positive impact on the transport system as defined in Section 3 of the *Transport Integration Act 2010*. As described below, the amendment addresses key transport system objectives and decision-making principles set out in Part 2, Divisions 2 and 3 of the *Transport Integration Act 2010*.

#### Division 2 – System objectives

*S8 Social and economic inclusion:* The package of works will improve the capacity and efficiency of the road network in a key location thereby increasing opportunities for access to social and economic opportunities.

*S9 Economic prosperity:* The project will support economic prosperity through the creation of direct and indirect (multiplier) jobs. The package of works also facilitates the efficient and effective access to employment opportunities particularly in the Monash and Dandenong National Employment and Innovation Clusters, Moorabbin Airport and industrial areas in Braeside and Moorabbin.

*S10 Environmental sustainability:* The project will improve the efficiency of the road network reducing the environmental impacts resultant of congestion. The freeway will also reduce congestion on Springvale Road which will in turn improve bus services along this route. The Project has been designed to have minimal impact on remnant native vegetation, fauna habitats and adjacent areas of ecological, environmental or landscape significance.

*S11 Integration of transport and land use:* The area in which the project is to be completed characteristically relies heavily on private motor vehicles and public transport in the form of rail, bus and taxi services. The improvement in the road network will increase the overall transport capability of the area by facilitating movement to railway stations and local bus access. Additionally, the connections of the freeway with existing arterial roads maximise access to residences, employment, markets, services and recreation. The amendment will ensure the project is delivered in a timely manner to support the current and future requirements of the transport system and the demands of those communities in the south-eastern suburbs of metropolitan Melbourne.

*S12 Efficiency, coordination and reliability:* The project will facilitate network-wide efficient, coordinated and reliable movements of persons and vehicles.

*S13 Safety and health and wellbeing:* The program of works will reduce congestion and improve road safety for all users and will provide new and upgraded shared cycling and pedestrian paths as part of the works.

#### Division 3 – Decision-making principles

*S15 Principle of integrated decision-making:* The project has been the subject of a coordinated process between MRPA, statutory authorities, local government and other relevant agencies.

*S16 Principle of triple bottom line assessment:* The economic, environmental and social costs and benefits of the Project have been considered and the investigations and assessments undertaken for the project have achieved the principles of triple bottom-line assessment.

*S17 Principle of equity:* The project will improve the overall operation of the transport system within the vicinity and will cater for the needs of existing and future communities.

*S18 Principle of the transport system user perspective:* The project will facilitate improvements to the transport system improving the road network experience for users. It further encourages alternative modes of travel such as cycling through provision of new and upgraded shared cycling and pedestrian paths as part of the works.

*S19 Precautionary principle:* The precautionary principle was adopted during the development of the project design and through the inclusion of specialist investigations and evaluations to avoid serious or irreversible damage to the environment.

*S20 Principle of stakeholder engagement and community participation:* The amendment is supported by a communications strategy which includes consultation with local communities, local businesses, transport system users, landowners and other key stakeholders.

*S21 Principle of transparency:* as above, the amendment is supported by a communications strategy which included consultation with local communities, transport system users, landowners and relevant agencies. This consultation will continue throughout the project lifetime to provide transparency.

## **Resource and administrative costs**

### **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The implementation of the new planning provisions will have a minimal impact on the resource and administrative costs of the responsible authority. The amendment will reduce the regulatory burden for the affected councils by introducing planning controls for the project.

### **Where you may inspect this Amendment?**

The amendment is available for public inspection, free of charge, during office hours at the following places:

Kingston City Council  
1230 Nepean Highway  
Cheltenham VIC 3192

City of Greater Dandenong  
Level 2, 225 Lonsdale Street  
Dandenong VIC 3175

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

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