

Northern Highway / Wandong Road Roundabout

Planning Report

November 2024





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Version History

Version	Date	Description of changes made
1	4 November 2024	Submitted for Planning Permit Application



1. Introduction

The Department of Transport and Planning (Transport Services Group) (DTP) has prepared this Planning Report to accompany a planning permit application to remove native vegetation associated with the delivery of the Northern Highway and Wandong Road intersection upgrade project.

DTP is delivering this project on behalf of the Head, Transport for Victoria.

1.1. This report

The purpose of this report is to:

- Provide an overview of the project site and surrounds.
- Detail aspects of the proposal and accompanying application documents.
- Outline the relevant policies and provisions of the Mitchell Planning Scheme.
- Consider whether the proposal is consistent with the requirements of the Mitchell Planning Scheme.

1.2. Application Documents

This application is supported by the following documents:

- Northern Highway Epping-Kilmore Road Intersection Application Plans (DTP, 2024)
- Certificates of Title for all freehold land
- *Detailed Flora and Fauna Assessment: Northern Highway and Wandong Road Intersection* (SMEC, 2024)
- *Arboricultural Impact Assessment: Assessment of Trees at the Intersection of Northern Highway and Wandong Road, Kilmore* (Ryder, 2022)
- *Cultural Heritage Management Plan: Northern Highway and Wandong Road Intersection Upgrade* (Heritage Insight, 2024)
- Correspondence from the Head, TfV advising that the project is consistent with the purpose of the PAO5 (October, 2024).

2. Site Analysis

2.1. Summary

Site Details

Land Details	Northern Highway road reserve, Kilmore Wandong Road road reserve, Kilmore Gehreys Road road reserve, Kilmore Part 15 Wandong Road, Kilmore (C.A. 63 Parish of Bylands, Vol. 09254 Fol. 843) Part 1420 Northern Highway, Kilmore (Lot 1 PS208099K, Vol. 12308 Fol. 503) Part 1425 Northern Highway, Kilmore (C.A. 69 Parish of Bylands, Vol. 09493 Fol. 593)
Local Government Area	Mitchell Shire Council
Covenants	N/A
Easements	N/A
Section 173 Agreements	AW867306A (see Vol. 09254 Fol. 843) AF340834K (see Vol. 09493 Fol. 573) Refer to Section 2.3.

2.2. Site description

The land subject to this permit application are the traditional lands of the Taungurung people.

Northern Highway and Wandong Road are both two-lane, sealed roads that are declared arterial roads under the *Road Management Act 2004*. Northern Highway is also a dedicated Oversize / Overmass (OSOM) heavy vehicle route. The existing T-intersection of the roads includes a concrete splitter island on Wandong Road and a left-hand deceleration lane for south-bound traffic on Northern Highway turning onto Wandong Road. The verges of both roads contain significant vegetation further described below.

Gehreys Lane is an unmade road managed by Mitchell Shire Council.

The application land includes the Northern Highway and Wandong Road reserves, as well following properties where the Head, TfV intends to acquire part of the land shown as 'proposed right of way' on the application plans:

- 1420 Northern Highway, Kilmore (8.1ha)
- 1425 Northern Highway, Kilmore (14.4ha)
- 15 Kilmore Road, Wandong (15.3ha).

1420 and 1425 Northern Highway are large agricultural properties. Each property contains a dwelling and a variety of agricultural outbuildings that will be unaffected by the proposed roundabout.

15 Kilmore Road, Wandong is a former agricultural property currently undergoing urban development. There is an existing dwelling located along Wandong Road.



Vegetation

The following provides a description of native vegetation within the project area:

- Native vegetation along the Northern Highway predominantly comprises Herb-rich Foothill Forest (EVC 23 – Least Concern). In addition, a patch of Matted Flax-Lily (EPBC Protected Flora) is located on the western side of Northern Highway, north of Wandong Road.
- Patches of vegetation along Wandong Highway include patches of Grassy Woodland (EVC-175 – Depleted) as well as areas of planted vegetation.

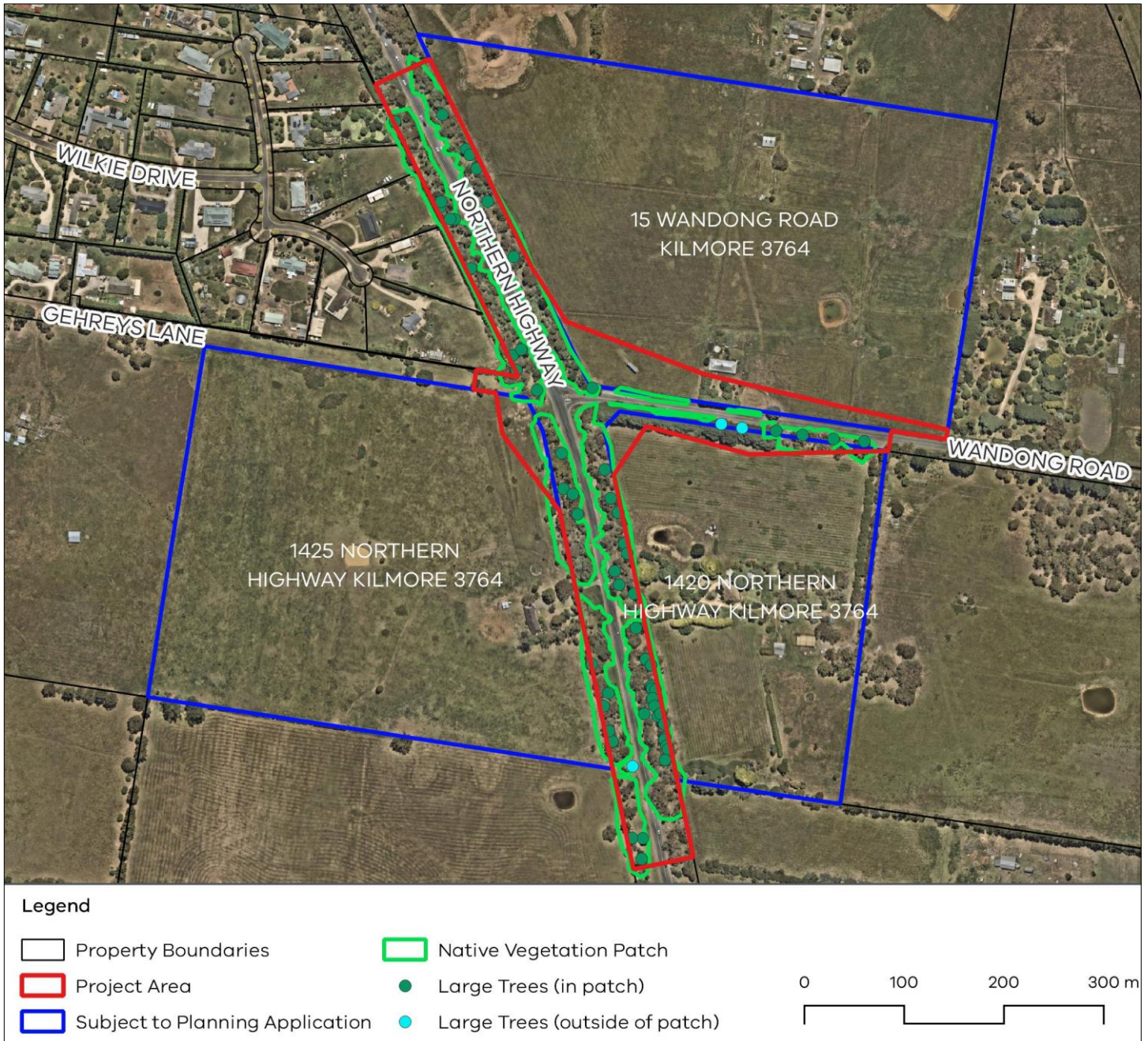


Figure 1: Existing Conditions

2.3. Section 173 Agreements

There are two Section 173 Agreements that are registered to land included within this application:

- Agreement AF340834K applies to 1425 Northern Highway, Kilmore. The agreement provides that the land may not be further subdivided in any way so as to create an additional lot. This application does not breach the agreement as no subdivision is proposed.
- Agreement AW867306A applies to 15 Wandong Road, Kilmore. The agreement requires the owner to pay a development contributions levy prior to the issue of a Statement of Compliance for the subdivision or any stage of any other development of the Subject Land. This application does not breach the agreement as no subdivision is proposed and therefore no Statement of Compliance will be issued.

2.4. Site context

The subject site is located at a strategically important section of the road network and at the southern gateway to Kilmore.

Long-term planning for Kilmore identifies the site as the forming the southern extent of planned urban growth. Broadly:

- Land to the north-east comprises land currently undergoing urban development. When completed, the land will comprise urban residential development. The land is known as the 'Montana Kilmore' estate,
- Land to the north-east comprises existing low-density residential development.
- Land to the south comprises agricultural land.

The southern leg of the intersection (Northern Highway) provides access to Kilmore to Metropolitan Melbourne via Wallan and the Hume Freeway, while the eastern leg of the intersection (Wandong Road) provides access to Wandong and regional townships further east and also to the Hume Freeway.

The intersection is located at the future junction of Stage 1 and Stage 2 of the future Kilmore Bypass. Stage 1 is the section west of Northern Highway. Planning controls to facilitate the land acquisition and delivery of Stage 1 of the Kilmore Bypass were introduced into the Mitchell Planning Scheme via Amendment C168mith on 5 September 2024. Stage 2 of the Bypass would extend from the subject site further east, providing a direct connection to the Hume Freeway.

The Kilmore Bypass is a long-term project with no confirmed delivery timeframe.

3. Proposal

3.1. Project context

This application is associated with the delivery of a new roundabout at the intersection of Northern Highway and Wandong Road as shown in Figure 2. A lack of exclusive turning lanes and reduced intersection visibility at the existing intersection results in an increased crash likelihood at the site. Varying vehicle profiles, which include passenger vehicles, heavy vehicles, and motorcyclists contributes to an increased severity in the event of a crash.

Installation of the proposed two-lane roundabout at this location is intended to adequately manage current and projected traffic volumes, as well as increasing safety by reducing vehicle approach speeds and turning conflicts. The project has also been designed to provide for better acceleration and deceleration opportunities for freight vehicles, which will improve the flow of traffic through the intersection.

Specifically, the project will involve:

- Acquisition of private land required to widen the road reserve.
- Construction of roadworks, including associated street furniture and traffic control signage.
- Modification to existing services, including the installation of new underground drainage beneath road infrastructure.
- Vegetation removal.

DTP intends to commence construction of the project in April, 2025 (subject to obtaining necessary approvals).

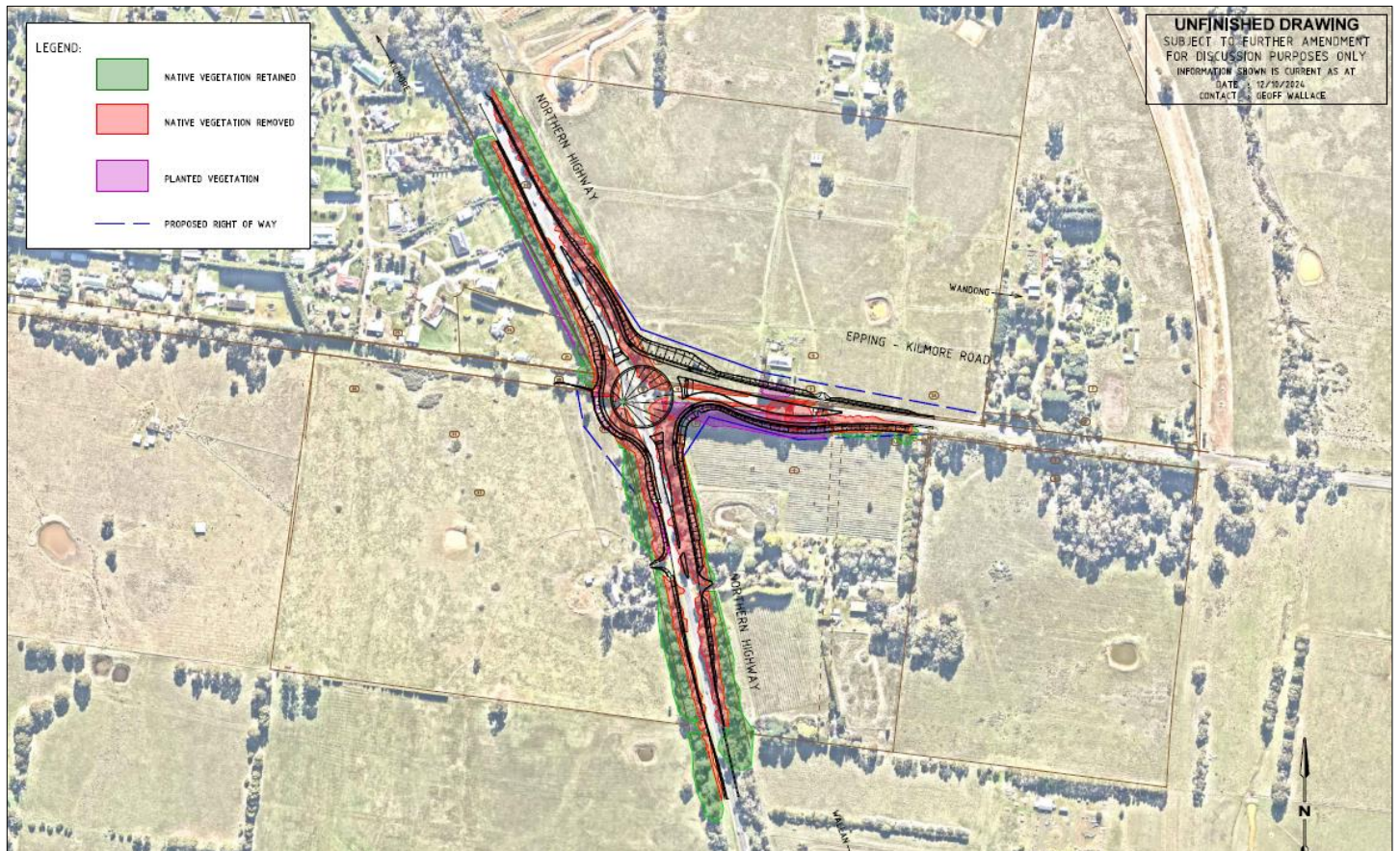


Figure 2: Project Overview



3.2. Use, buildings and works

The proposal seeks to continue to use the land for the purpose of a road. A road is defined in Section 3 of the *Planning and Environment Act 1987* as follows:

"road" includes highway, street, lane, footway, square, court, alley or right of way, whether a thoroughfare or not and whether accessible to the public generally or not;

The buildings and works associated with this project are generally described as roadworks, construction of street furniture and construction of traffic control signage. As outlined in Section 4 of this report, the project **does not** require a planning permit to use the land for the purpose of a road or to construct any buildings or works due to the exemptions contained in Clause 62.01 and Clause 62.02.

3.3. Native vegetation removal

The construction of the roundabout and associated infrastructure will require the removal of 2.444ha of native vegetation and 24 large trees, which will be off-set through the acquisition of third party native vegetation credits.

The extent of vegetation removal has been minimised through a comprehensive design and investigation exercise described in Section 5.1 of the *Detailed Flora and Fauna Assessment* (SMEC, 2024). Through the avoid and minimise process, DTP reduced the proposed removal amount from an initial amount of 2.879ha and 42 large trees, to 2.444ha and 24 large trees.

Native vegetation required to be removed associated with the project has been reflected on the application plans.

The retention of native vegetation not proposed for removal in the vicinity of the project area will be undertaken in accordance with a Construction Environment Management Plan (**CEMP**). As per the recommendations of the *Detailed Flora and Fauna Assessment*, the CEMP will include environmental management measures for pre, during and after construction including:

- Details on no-go zones for threatened species (including signage and fencing for the Matted Flax-Lily).
- Weed management to control noxious weeds and prevent spread within the project area.
- Fencing of native vegetation to be retained.
- Erosion and sediment control.
- Fauna pre-clearance survey procedures.
- Fauna management procedures to manage potential impacts to wildlife that may be using hollows and habitat that is proposed to be removed, including the supervision of a project ecologist.
- Tree protection measures, including the supervisions of a project arborist
- Vehicle and personnel hygiene measures.
- Contractor site induction and training.

During construction, DTP will retain native vegetation deemed lost where possible, under the advice of the project arborist. All removed hollows will be retained on site as habitat, and the removed timber will be used for ecological and community projects to the highest and best reuse value where possible.

DTP is also preparing a landscape plan to detail revegetation opportunities for the site.

If necessary, the preparation of the CEMP and landscape plan could be undertaken through a planning permit condition requiring the plans to be prepared in consultation with Mitchell Shire Council and approved by the Minister for Planning.



4. Mitchell Planning Scheme

4.1. Overview

This section provides an overview of the relevant policies and provisions contained within the Mitchell Planning Scheme. Planning permit triggers relevant to this application are set out in Table 1.

Table 1: Planning permit triggers

Clause	Trigger
52.17-1	A permit is required to remove, destroy or lop native vegetation, including dead vegetation. The application is not exempt from third party notice under Section 52(1)(a),(b) and (d) of the Act.

The Minister for Planning is the responsible authority as this application is made on behalf of the Head, Transport for Victoria. Table 2 sets out the referral authorities relevant to this application.

Table 2: Referral authorities

Clause	Referral authority	Type of referral authority
Clause 66.02-2	Secretary, DELWP (i.e., DEECA)	Recommending referral authority
Clause 66.02-13	Mitchell Shire Council	Recommending referral authority

4.2. Municipal Planning Strategy

The Municipal Planning Strategy at Clause 02 provides an overview of important local planning issues in an introductory context, sets out the vision for future use and development in the municipality and establishes strategic directions about how the municipality is expected to change through the implementation of planning policy and the planning scheme.

A responsible authority must take into account and give effect to the Municipal Planning Strategy when it makes a decision under this planning scheme. (Clause 71.01)

The Municipal Planning Scheme (**MPS**) establishes the role of Mitchell Shire as a key connector between Melbourne, regional Victoria, and New South Wales due to its position on the Hume Freeway, Northern Highway and Goulburn Valley Highway. The vision of Mitchell seeks for the municipality to capitalise on natural advantages, location and excellent infrastructure to attract employment and investment.

Kilmore is an important peri-urban township that has been nominated for significant urban development in accordance with structure plans. The MPS seeks to strengthen Kilmore as a key service centre by leveraging education and health care provision to establish foundations for growth.

The MPS identifies the need for improvements and upgrading of transport infrastructure to be in line with the expected impacts of land use and development. Relevant strategies include:

- Promote ongoing upgrades to the road and public transport network and facilitate better linkages between Melbourne, regional Victoria and New South Wales to support population growth and encourage economic growth.

The MPS notes that roadside vegetation and wildlife corridors contain pockets of remnant indigenous vegetation with rare, vulnerable and significant flora species. Some roadsides and corridors provide a valuable source of native seed stock and important habitat for wildlife. Relevant strategies include:

- Protect threatened flora species to improve habitat for fauna. Protect areas of remnant native vegetation identified in riparian zones and wetlands.
- Protect and enhance the distinctive sense of place, cultural identity and landscape within Mitchell.



4.3. Planning Policy Framework

The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

A responsible authority must take into account and give effect to the Planning Policy Framework when it makes a decision under this planning scheme. (Clause 71.02)

Table 3, below, provides an outline of sections of the Planning Policy Framework relevant to this application:

Table 3: Planning Policy Framework outline

Clause	Objective	Relevant strategies
11.03-3S Peri-urban areas	To manage growth in peri-urban areas to protect and enhance their identified valued attributes.	<p><i>Ensure development is linked to the timely and viable provision of physical and social infrastructure.</i></p> <p><i>Improve connections to regional and metropolitan transport services.</i></p> <p><i>Enhance the character, identity, attractiveness and amenity of peri-urban towns.</i></p>
12.01-S Protection of biodiversity	To protect and enhance Victoria's biodiversity.	<p><i>Avoid impacts of land use and development on important areas of biodiversity.</i></p> <p><i>Assist in the identification, protection and management of important areas of biodiversity.</i></p> <p><i>Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.</i></p>
12.01-1L Protection of biodiversity		<p><i>Protect indigenous flora and fauna through environmentally sustainable management of land, water and biological resources including:</i></p> <ul style="list-style-type: none"> <i>• Increased canopy tree coverage through planting.</i> <i>• Fencing of environmentally sensitive areas.</i> <i>• Improving the extent and condition of native vegetation and habitat.</i> <i>• Erosion control.</i> <i>• Control of pest animals and weeds.</i> <i>• Stormwater management.</i> <i>• Creation of linked environmental corridors or public reserves, including revegetation.</i> <p><i>Avoid diminishing the biodiversity value of land as a result of development.</i></p>



Clause	Objective	Relevant strategies
12.01-2S Native vegetation management	To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.	<p><i>Ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017):</i></p> <ul style="list-style-type: none"> • <i>Avoid the removal, destruction or lopping of native vegetation.</i> • <i>Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.</i> • <i>Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.</i>
18.01-1S Land use and transport integration	To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.	<p><i>Plan and develop a transport system that facilitates:</i></p> <ul style="list-style-type: none"> • <i>Social and economic inclusion for all people and builds community wellbeing.</i> • <i>The best use of existing social and economic infrastructure.</i> • <i>A reduction in the distances people have to travel to access jobs and services.</i> • <i>Better access to, and greater mobility within, local communities.</i> • <i>Network-wide efficiency and coordinated operation.</i> <p><i>Plan the timely delivery of transport infrastructure and services to support changing land use and associated transport demands.</i></p> <p><i>Plan improvements to public transport, walking and cycling networks to coordinate with the ongoing development and redevelopment of urban areas.</i></p> <p><i>Plan and develop the State Transport System comprising the:</i></p> <p>[...]</p> <ul style="list-style-type: none"> • <i>Principal Road Network: Declared arterial roads and freeways under the Road Management Act 2004.</i> <p><i>Facilitate delivery of:</i></p> <p>[...]</p> <ul style="list-style-type: none"> • <i>Transport projects that improve the State Transport System.</i>
18.01-3S Sustainable and safe transport	To facilitate an environmentally sustainable transport system that is safe and supports health and wellbeing.	<p><i>Plan the transport system to be safe by:</i></p> <ul style="list-style-type: none"> • <i>Developing safe transport infrastructure.</i> • <i>Optimising accessibility, emergency access, service and amenity.</i> • <i>Separating pedestrians, bicycles and motor vehicles, where practicable.</i> • <i>Reducing the need for cyclists to mix with other road users.</i> • <i>Supporting road users to make safe choices through design and wayfinding techniques.</i> • <i>Prioritising transport safety when designing high-speed roads and intersections.</i>



Clause	Objective	Relevant strategies
18.02-4S Roads	To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.	<i>Plan and develop the road network to:</i> <ul style="list-style-type: none">• <i>Ensure people are safe on and around roads.</i>• <i>Improve people’s perceptions of safety on and around roads.</i>• <i>Improve road connections for all road users.</i>• <i>Facilitate the use of public transport, cycling and walking.</i>• <i>Integrate new and emerging technologies into road design, including the increasing connectivity and automation of vehicles.</i>• <i>Accommodate the expansion of the High Productivity Freight Vehicle Network, and oversize and overmass vehicles.</i>
18.02-4L Road system		<i>Improve capacity, safety and address conflict issues between freight, cars and pedestrians on the Northern Highway through Wallan and Kilmore.</i> <i>Focus major traffic movements onto arterial roads and reduce through traffic on local streets.</i> <i>Support enhancements to the primary arterial road network.</i>



4.4. Zones

Zones affecting the project and surrounding area are shown in Figure 3. The following zones apply to land within the project area:

- Transport Zone 2 (TRZ2)
- Farming Zone (FZ)
- General Residential Zone (Schedule 1) (GRZ1)

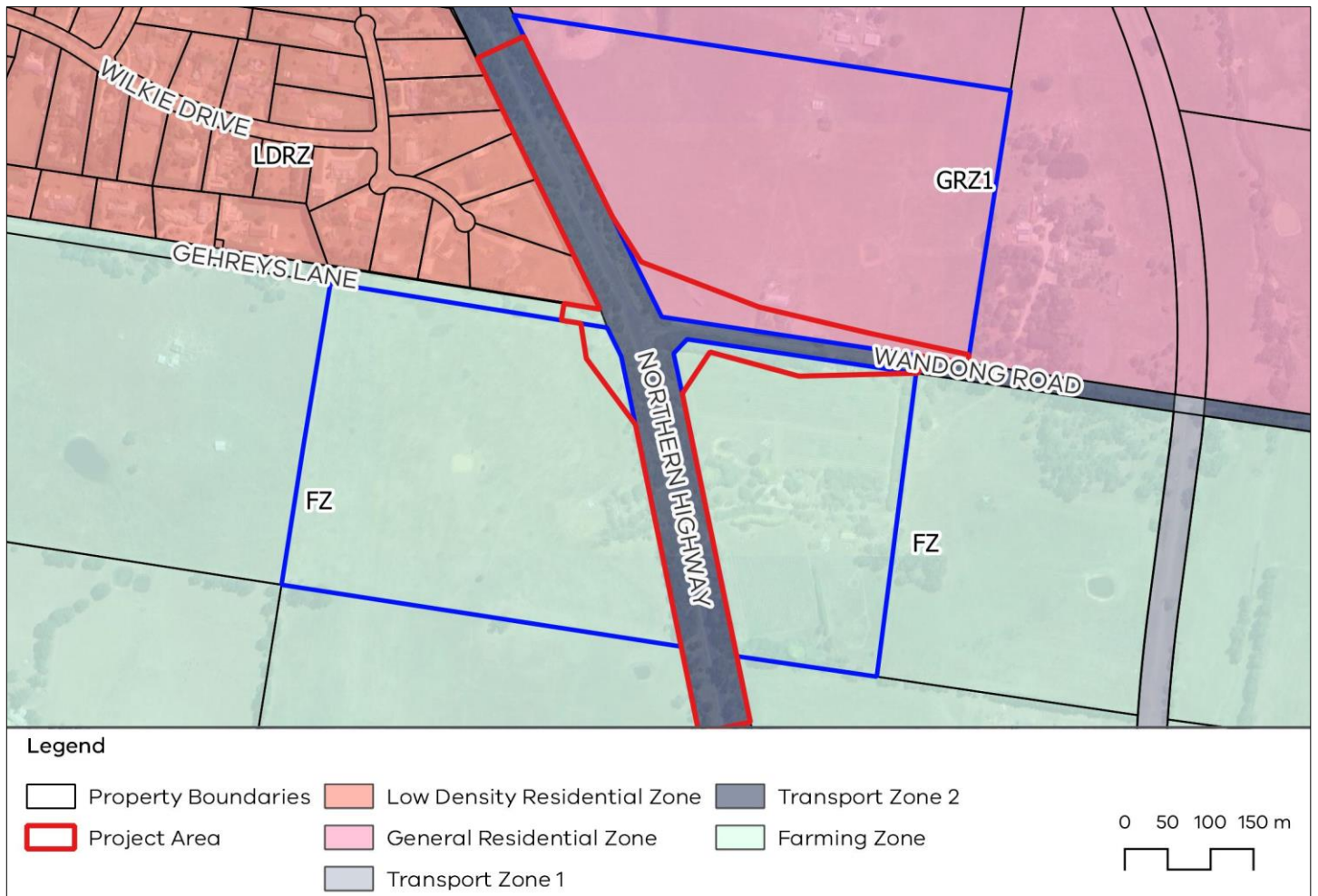


Figure 3: Zones

Transport Zone 2

Both the Kilmore Road and Wandong Road reserves are zoned Transport Zone 2 (TRZ2). The purpose of the TRZ2 is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for an integrated and sustainable transport system.
- To identify transport land use and land required for transport services and facilities.
- To provide for the use and development of land that complements, or is consistent with, the transport system or public land reservation.
- To ensure the efficient and safe use of transport infrastructure and land comprising the transport system.

The purpose of land shown on the TRZ2 is 'principal road network'.



Due to the operation of Clause 62.01, there is no permit requirement for the use of land as a road.

Due to the operation of Clause 62.02-2, there is no permit requirement for any buildings or works associated with the project.

As this application is made on behalf of the Head, TfV, no consent is required for the planning permit is required for the application under Clause 36.04-2. Head, TfV is the transport manager for both Kilmore Road and Wandong Road as both roads are declared arterial roads under the *Road Management Act 2004*.

Farming Zone

The Farming Zone (**FZ**) applies to all land south of Wandong Road / Gehreys Lane and includes the Gehreys Lane road reserve. The purpose of the FZ is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

Due to the operation of Clause 62.01, there is no permit requirement for the use of land as a road.

Due to the operation of Clause 62.02-2, there is no permit requirement for any buildings or works associated with the project including roadworks and street furniture.

General Residential Zone (Schedule 1)

The General Residential Zone (Schedule 1: Mitchell Residential Areas) (**GRZ1**) applies to land north of Wandong Road and east of the Northern Highway. The purpose of the GRZ1 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Due to the operation of Clause 62.01, there is no permit requirement for the use of land as a road.

Due to the operation of Clause 62.02-2, there is no permit requirement for any buildings or works associated with the project including roadworks and street furniture.

4.5. Overlays

Overlays affecting the project area are shown in **Error! Reference source not found..** The site is affected by the following overlays:

- Development Plan Overlay (Schedule 5) (**DPO5**)
- Public Acquisition Overlay (**PAO5**)
- Specific Control Overlay (**SCO2**)

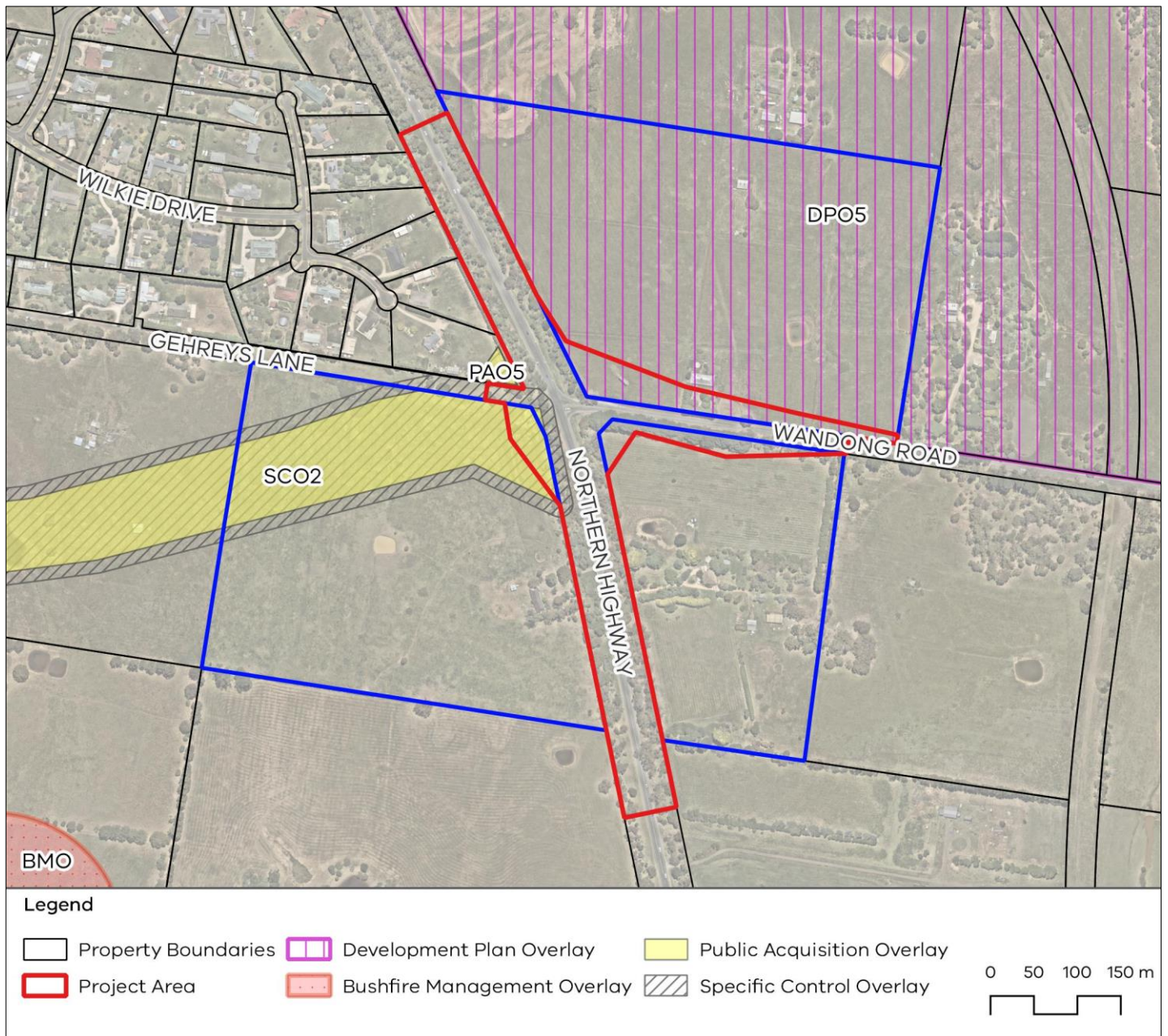


Figure 4: Overlays

Public Acquisition Overlay

The Public Acquisition Overlay (**PAO**) applies to land west of Northern Highway. The purpose of the Public Acquisition Overlay (**PAO**) is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify land which is proposed to be acquired by a Minister, public authority or municipal council.
- To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
- To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

The land is identified on the Planning Scheme Maps as PAO5. Details of the PAO5 are outlined in Table 4.



Table 4: Schedule to the PAO Details

PS map ref	Acquiring Authority	Purpose of acquisition
PAO5	Roads Corporation	Road construction and widening

Note: Section 318 of the Transport Integration Act 2010 provides that where a planning scheme refers to the Roads Corporation (whether as Roads Corporation or VicRoads), the specification of Roads Corporation is taken to be a specification of the Head, Transport for Victoria.

The permit requirements of Clause 45.01-1 do not apply:

- To the acquiring authority for the land if the land has been acquired and any of the above matters for which a permit is required is consistent with the purpose for which the land was acquired.
- To an authority or a municipal council if the responsible authority, after consulting with the acquiring authority for the land, is satisfied that any of the above matters for which a permit is required is consistent with the purpose for which the land is to be acquired.

Part of the land subject to this application has not yet been acquired by Head, TfV. Acquisition activities will be complete before any native vegetation is removed. Notwithstanding, as Head, TfV is the acquiring authority for the land and this application is made on behalf of Head, TfV to enable the delivery of a roundabout, is it submitted that the responsible authority should be satisfied that the exemption within Clause 45.01-1 applies.

This application is accompanied by a letter from Head, TfV confirming that the proposal is consistent with the purpose for which the land is to be acquired.

Specific Control Overlay (Schedule 2)

The purpose of the Specific Control Overlay (SCO) is:

- To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

The SCO2 implements the *Kilmore Bypass Stage 1 Project* (DTP, 2024) incorporated document. The purpose of the incorporated document is to permit the use and development of the land for Kilmore Bypass Stage 1 Project (the project) subject to the conditions of the document.

This application does not relate to the delivery of the Kilmore Bypass Stage 1 project and does not seek to rely on any of the exemptions contained within the incorporated document.

Development Plan Overlay (Schedule 5)

The Development Plan Overlay (Schedule 5: Kilmore North, West and South-East Growth Precincts) (**DPO5**) applies to land east of the Northern Highway and north of Wandong Road.

No vegetation removal is proposed on land affected by the DPO5.

Council approved the *Kilmore South-East Development Plan* (Mesh Planning, 2023) under the DPO5 on 30 May 2023 (**the approved DP**). The Development Plan:

- Identifies the intersection of the Northern Highway and Wandong Road as a key roundabout intersection (consistent with the Kilmore Structure Plan).
- Encourages larger transitional lots along Wandong Road to better integrate with rural interfaces.
- Seeks to respond to the Kilmore Bypass – Stage 2 by avoiding access from Wandong Road.

Clause 43.04-2 identifies that a permit granted must:

- Be generally in accordance with the development plan.
- Include any conditions or requirements specified in a schedule to this overlay.

The application is generally in accordance with the *Kilmore South-East Development Plan* which foreshadows the delivery of a roundabout in this location.

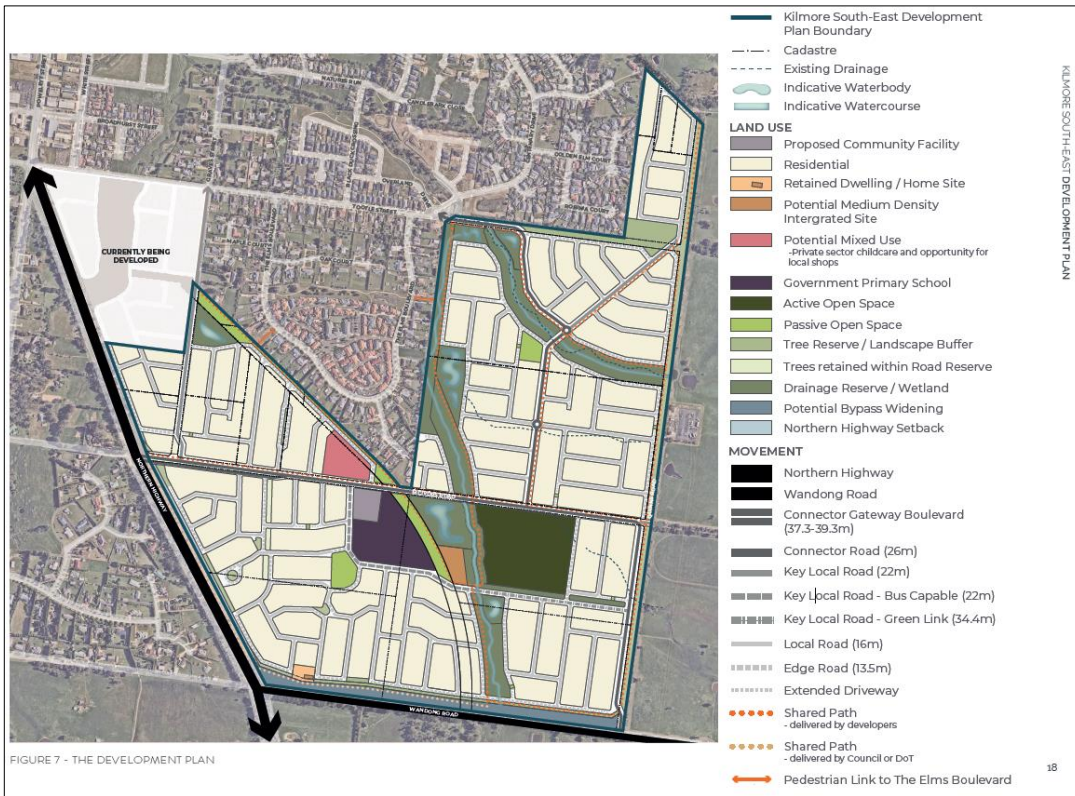


Figure 5: Kilmore South-East Development Plan



Figure 6: Kilmore South-East Development Plan: Infrastructure Plan

4.6. Particular, General and Operational Provisions

The following particular, general and operational provisions are relevant to the application:

Clause 52.05 (Signs)

The purpose of Clause 52.05 is:

- *To regulate the development of land for signs and associated structures.*
- *To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

Clause 52.05-10 sets out the signs that do not require a permit despite any provision in a zone, overlay or other provision of the planning scheme. This includes:

- *A sign controlling traffic on a public road, railway, tramway, water or in the air, provided it is displayed at the direction of a government department, public authority or municipal council.*
- *A sign in a road reserve that gives direction or guidance about a tourist attraction, service or facility of interest to road users. The sign must be displayed to the satisfaction of the road authority.*

All signage associated with the project is exempt from permit requirements in accordance with Clause 52.05-10.

Clause 52.17 (Native Vegetation)

The purpose of Clause 52.17 is:

*To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (**the Guidelines**):*

- 1. Avoid the removal, destruction or lopping of native vegetation.*
- 2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
- 3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

Pursuant to Clause 52.17-1, a permit is required to remove, destroy or lop native vegetation, including dead native vegetation. An application must comply with the Guidelines.

As the application involves the removal of more than 0.5ha of native vegetation, the Guidelines specify that the application falls into the **Detailed** assessment pathway.

The Secretary to the Department of Environment, Land, Water and Planning is a recommending referral authority for an application to remove native vegetation through the *Detailed* assessment pathway (Clause 66.02-2).

Clause 53.21 (State Transport Projects)

The purpose of Clause 53.21 is:

To facilitate the delivery of transport projects carried out by or on behalf of the State of Victoria.

Clause 53.21-2 provides that an application to which Clause 53.21 applies is exempt from the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 32(1) of the Act.

Clause 53.21 (State Transport Project) applies to this proposal as the permit application is made on behalf of the Head, Transport for Victoria.



Mitchell Shire Council is a recommending referral authority for an application to which Clause 53.21 applies (Clause 66.02-13).

Clause 62 (General Exemptions)

Clause 62 sets out the general exemptions that apply to the use and development of land. Relevant to this project are the following exemptions:

Clause 62.01 (Uses not requiring a permit)

Any requirement in this scheme relating to the use of land, other than a requirement in the Public Conservation and Resource Zone, does not apply to:

- *The use of land for a Road except within the Urban Floodway Zone and a Public Conservation and Resource Zone.*

Clause 62.02-2 (Buildings and works)

Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to:

[...]

- *Roadworks*

[...]

- *Street furniture including post boxes, telephone booths, fire hydrants, bus shelters, shade sails, traffic control devices and public toilets.*

[...]

This does not apply if a permit is specifically required for any of these matters.

Clause 65 (Decision Guidelines)

Clause 65.01 sets out the relevant matters a responsible authority must consider, as appropriate, before deciding to approve a permit application.

The following decision guidelines are relevant to this proposal:

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*

[...]

- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*

[...]

- *The impact the use or development will have on the current and future development and operation of the transport system.*



Clause 72.01 (Responsible Authority for this Planning Scheme)

Clause 72.01 identifies the responsible authority for administering the Planning Scheme. Clause 72.01-1 sets out:

The Minister for Planning is the responsible authority for matters under Divisions 1, 1A, 2 and 3 of Part 4 of the Act, and endorsement of, approval of or being satisfied with matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority, in relation to the use and development of land for a:

[...]

- *A use or development, other than the subdivision of land, carried out by or on behalf of the Head, Transport for Victoria or the Secretary to the Department of Transport and Planning.*

5. Other Victorian Regulatory Approvals

Relevant regulatory approvals required for the project under other Acts are outlined in Table 5.

Table 5: Other relevant regulatory approvals

Legislation	Status
<i>Environmental Effects Act 1978</i> (EE Act)	DTP has had regard for the <i>Ministerial guidelines for the assessment of environmental effects under the Environmental Effects Act 1978</i> (DTP, 2023) and determined that a referral to the Minister for Planning under the EE Act is not required.
<i>Flora and Fauna Guarantee Act 1988</i> (FFG Act)	<p>A permit to take protected flora will be required for the project to remove protected flora and vegetation that is associated with the Victoria Temperate Woodland Bird Community.</p> <p>DTP will secure this permit from DEECA prior to the removal of protected flora species.</p>
<i>Aboriginal Heritage Act 2006</i> (AH Act)	<p>A Cultural Heritage Management Plan (CHMP) has been prepared by DTP for this project. CHMP 19003 was approved by Taungurung Land and Waters Council Aboriginal Corporation on 27 May 2024.</p> <p>The project will be carried out in accordance with the requirements of the approved CEMP.</p>

6. Assessment

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause. (Clause 65)

The proposal has been assessed against the relevant provisions within the Planning Policy Framework and Clause 52.17 (Native Vegetation).

In considering the key relevant planning matters, this assessment addresses the following questions in turn:

- Is the proposal consistent with the Municipal Planning Strategy and Planning Policy Framework?
- Is the removal of native vegetation appropriate?

6.1. Consistency with the Municipal Planning Strategy and Planning Policy Framework

The proposed removal of native vegetation is required to deliver a new roundabout at the intersection of Northern Highway and Wandong Road. As such, it is considered that the application supports the objectives and strategies of the MPS and the PPF for the following reasons:

- The roundabout will improve the surrounding transport network and provide better linkages between Melbourne and regional Victoria, supporting population and economic growth and the operation of the Principal Road Network.
- The delivery of the project will support the role of Kilmore as a key service centre by ensuring transport infrastructure is improved in line with expected demand.
- The roundabout will improve safe and efficient movement of vehicles, including high-capacity freight vehicles, using the Northern Highway.
- The project has, as far as practicable, avoided and minimised impacts to the highest areas of ecological value to protect the landscape and ecological values of the area.

6.2. Appropriateness of native vegetation removal

The Detailed Flora and Fauna Assessment (SMEC, 2024) sets out the information and decision guideline requirements contained within the Guidelines. In particular, the Flora and Fauna Assessment outlines the steps DTP has taken to minimise the removal of native vegetation to deliver the project, which include:

- Reducing the extent of the proposed footprint on the south-western side of the road reserve to avoid a known population of Matted Flax-lily, which was identified as the area with the highest ecological value;
- Reducing the radius of the roundabout to the smallest area allowable for the vehicles utilising the road;
- Reducing the width of the traffic lanes and traffic islands to the smallest width allowable under VicRoads Standards;
- Designing the batters to a 2:1 formation to reduce the material formation behind the barriers;
- Reducing the barrier spacing to allow for the steeper batter formation;
- Reducing the shoulder widths to 0.7 m, which is the smallest width allowable for this speed zone; and,
- Further reducing the vegetation proposed to be removed and large trees to be impacted by implementing advice received from the Arborist Assessment (Ryder 2022).

During the delivery of the project, DTP will implement a Construction Environment Management Plan (**CEMP**), consistent with the recommendations of the Flora and Fauna Assessment (SMEC, 2024) which will include measures to protect retained native vegetation.

DTP is engaging with Mitchell Shire Council regarding potential re-vegetation and landscaping opportunities that can be delivered alongside the new intersection.

The removal of vegetation proposed by this application is considered to be appropriate.



7. Conclusion

This planning report has considered the removal of native vegetation associated with the delivery of a new roundabout at the intersection of Northern Highway and Wandong Road, Kilmore. This assessment has concluded the following:

- A permit is required to remove native vegetation pursuant to Clause 52.17-3.
- The permit application must be referred to the Secretary, DELWP (DEECA) as it will be assessed under the *Detailed* pathway under the Guidelines and to Mitchell Shire Council as Clause 52.31 applies to the application.
- The application will support the delivery of the Northern Highway / Wandong Road roundabout, which supports transport-related objectives contained within the Municipal Planning Statement and Planning Policy Framework by providing for safer and more efficient vehicle movements at the intersection and improving connectivity between Kilmore, Melbourne and the surrounding region.
- The application is consistent with the approved *Kilmore South-East Development Plan* which foreshadows the delivery of a roundabout at the intersection of the Northern Highway and Wandong Road.
- The project as applied appropriate avoidance and mitigation methods during the design of the project and will offset the removal of 2.444ha of native vegetation and 24 large trees.
- The proposal is consistent with the decision guidelines at Clause 65 as it will support the orderly development of Kilmore and have a positive effect on the State Transport System.

It is considered that the proposed removal of native vegetation to facilitate the delivery of proposed roundabout is appropriate and consistent with the requirements of the Mitchell Planning Scheme.