

# Ballarto Road and Lyrebird Drive Intersection Upgrade: Planning Assessment Report

FINAL REPORT

Prepared for the Department of Transport

19 July 2022

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- Department of Transport
- Department of Environment, Land, Water and Planning for access to Victorian Planning Provisions and VicPlan Mapshare tool.

Biosis staff involved in this project were:

- Ben Howells (Quality Assurance)
- Michael Knusden (GIS Mapping)
- Sarah Hilliar (Project Botanist)
- Zahlia Payne (Zoologist)
- Mark Venosta (Team Leader – Zoology (Victoria))

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# 1 Introduction

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## 1.1 Background

Biosis Pty Ltd (Biosis) was commissioned by the Department of Transport (DoT) to prepare a planning assessment report for an area of land proposed for an intersection upgrade (project). The project is located at the intersection of Ballarto Road and Lyrebird Road, including their respective road reserves, in Frankston North. The project also encompasses small sections of land within the Keith Turnbull Research Institute managed by the Department of Environment, Water, Land and Planning (DELWP) and Department of Jobs, Precincts and Regions (DJPR) (herein after referred to as the study area) (Figure 1 and 2).

As part of the project, DoT proposes to remove 0.847 hectares of native vegetation, including 11 large trees (proposal), within the study area to facilitate the construction of the project (Figure 3).

This report seeks to assist DoT in obtaining a planning permit for the removal of native vegetation in a manner that is consistent with the Frankston Planning Scheme and the *Planning & Environment Act 1989*.

Based on its current design (Attachment 1 and 2), Biosis has prepared a Flora and Fauna Assessment (FFA) (Biosis 2022) (Attachment 3), which has identified native vegetation required to be removed as part of the project. The FFA has been provided in support of the planning permit application to ensure the project is consistent with current legislation and policy, particularly in relation to Victoria's 'Guidelines for the removal, destruction or lopping of native vegetation' (the Guidelines) which are an incorporated document in the Victoria Planning Provisions under the *Planning and Environment Act 1987*.

Consent from DELWP and DJPR for an application to be made in relation to land managed by the respective authorities has been acquired by DoT and is provided in Attachment 4.

Unearthed Heritage was commissioned by DoT to prepare an Aboriginal Cultural Heritage Management Plan for the project (CHMP18037) (Attachment 5). CHMP18037 has not yet been approved. It is understood that the responsible authority (Minister for Planning) cannot issue a planning permit until a copy of the approved CHMP is provided (section 52(1) of the AH Act). Once CHMP18037 is approved, a copy will be submitted to the Minister for Planning as part of the planning permit application.

### 1.1.1 Planning Scheme Amendment VC200 and Clause 53.21

Amendment VC200 to the Frankston Planning Scheme was approved on 17 February 2022 and made the Minister for Planning the Responsible Authority for planning permit applications made by the Head, Transport for Victoria (Head, TfV) or the Secretary of the Department of Transport.

As DoT is acting on behalf of the Head, TfV to deliver the project, the provisions under Clause 53.21 (State transport projects) apply.

## 1.2 Planning permit requirements

The project requires a planning permit for the proposed works pursuant to the following provisions of the Frankston Planning Scheme:

- Clause 42.01 Environment Significance Overlay schedule 1 (ESO1), to remove, destroy or lop native vegetation.
- Clause 52.17 (Native vegetation) for the removal, destruction and lopping of native vegetation.

### 1.2.1 Planning permit exemptions

The project is exempt from planning permit requirements for the proposed works pursuant to the following provisions of the Frankston Planning Scheme:

- Pursuant to Clause 42.01-3 of the ESO1, a permit is not required to carry out works outside the Tree Protection zone of a native tree.
- Clause 61.02 (Uses not requiring a permit), any permit requirement in the Frankston Planning Scheme relating to the transport land use does not apply to the use of land for a Road.
- Under Clause 62.02-2 (Buildings and Works), any permit requirement in the Frankston Planning Scheme relating to building and works does not apply to roadworks.
  - The zones and overlays applicable to the study area do not specifically require a planning permit for building and works associated with roadworks.
    - This applies to the proposed shared use pathway (Attachment 2) as it forms part of the transportation network and is only proposed to enhance the existing road infrastructure which includes pedestrians and cyclists. It's primary use forms part of road network and allows for safer access to active and passive transport modes.
- Based on the FFA (Attachment 3), the proposal will exceed the threshold of native vegetation removal to rely on the road safety procedure, therefore permit exemptions under this procedure for native vegetation removal do not apply.
- Under the Public Use Zone schedule 7 (PUZ7), public land manager consent is required for an application to be lodged for a planning permit. DELWP and DJPR have provided this consent as the public land managers in Attachment 4.

## 1.3 Summary opinion

The project is considered to be consistent with relevant objectives and policies in the Planning Policy Framework under the Frankston Planning Scheme.

In accordance with the requirements in the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017) a Native Vegetation Report (NVR) is included in the FFA (Attachment 3) which confirms that an offset of 0.297 general habitat units and 11 large trees is required for the project. DoT will seek to purchase third party offset credits via an accredited trading scheme. A quote for the required native vegetation offsets is provided in Appendix 5a of the project's FFA (Attachment 3).

Permit requirements are listed under Section 1.2 of this report. Recommendations to mitigate the ecological impacts of the project can be found in Table 9 of Section 6 in the FFA prepared for this project (Attachment 3).

## 1.4 Supporting documentation

The Frankston Planning Scheme nominates a number of application requirements and documents which must be submitted with the planning permit application for the project. Table 1 below provides a summary of the information and documents accompanying this planning assessment report, including some documents which have been prepared for related approvals. Please note that a copy of CHMP18037 will be provided to the Minister for Planning once it has been approved by the Bunurong Land Council Aboriginal Corporation (BLCAC).

**Table 1 Summary of supporting information**

Item/information requirement	Description	Appendices
<b>Project Design</b>	<ul style="list-style-type: none"> <li>Refer to <i>Ballarto Road / Lyrebird Drive Intersection Upgrade</i> (File No. V21199-SKT-CI-0001-B), prepared by BG&amp;E.</li> </ul>	Attachment 1
<b>Shared Use Pathway Concept Plan</b>	<ul style="list-style-type: none"> <li>Refer to <i>Ballarto Road / Lyrebird Drive Detailed Design – Culvert Site Plan</i> (File No. V21199-DRG-ST-0040_0043-A), prepared by BG&amp;E Pty Ltd.</li> </ul>	Attachment 2
<b>Flora and Fauna Assessment</b>	<ul style="list-style-type: none"> <li>Refer to Ballarto Road and Lyrebird intersection upgrade: flora and fauna assessment (Biosis 2022).</li> <li>Supports permit requirements under Clause 42.01 and 52.17.</li> </ul>	Attachment 3
<b>Application consent from public land managers</b>	<ul style="list-style-type: none"> <li>Evidence of written consent from the public land managers for an application to be made (i.e. the Department of Water Land and Planning (DELWP) and the Department of Jobs, Precincts and Regions (DJPR)).</li> <li>Supports application requirements of Clause 36.01 (PUZ7)</li> </ul>	Attachment 4
<b>Cultural Heritage Management Plan</b>	<ul style="list-style-type: none"> <li>Refer to CHMP 18037, Road Intersection Upgrade, Ballarto and Lyrebird Drive, prepared by Uearthed Heritage.</li> </ul>	Attachment 5
<b>Summary of Community Consultation</b>	<ul style="list-style-type: none"> <li>Community information sessions were held at Carrum Downs regarding this project on Thursday 28 April and Saturday 30 April 2022.</li> <li>Refer to this summary document for details of community feedback on the project.</li> </ul>	Attachment 6

## 1.5 Notice and referral requirements

Clause 66 of the Planning Scheme specifies the notice and referral requirements under the P&E Act. A review of the relevant provisions at Clause 66 of the Planning Scheme indicate that the project triggers a referral to the:

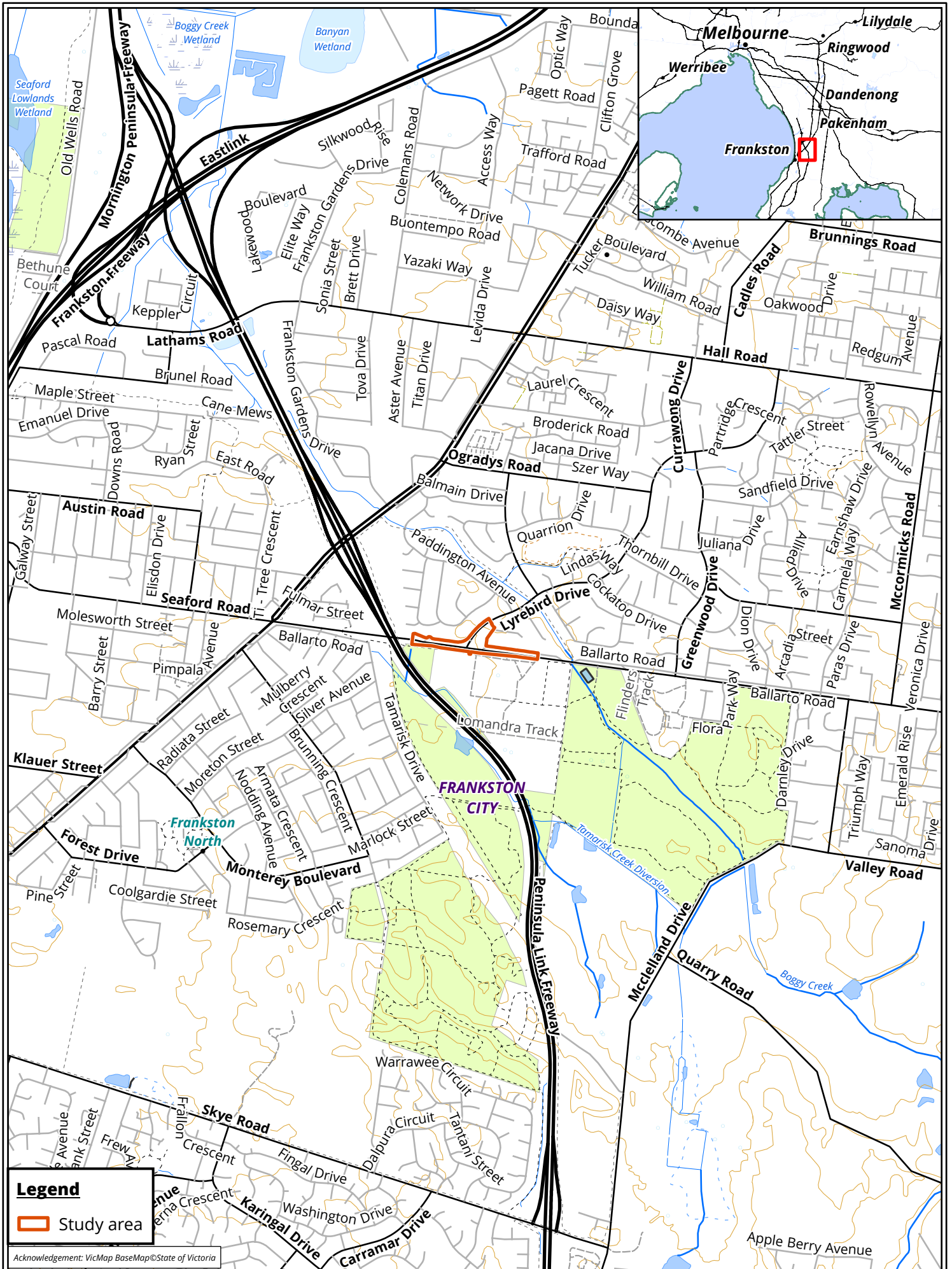
- Secretary to the Department of Environment, Land, Water and Planning (DELWP) (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987) for the removal of native vegetation.
- Frankston Council, as it is a recommending authority under Clause 53.21.

### Clause 52.17 and 66.02:

No notice requirements are specified under Clause 52.17 or 66.02.

### Clause 53.21 (State transport projects)

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 82(1) of the Act.



**Figure 1 Location of the study area - Frankston North, Victoria**

**Legend**  
 Study area

Acknowledgement: VicMap BaseMap©State of Victoria



Matter: 36224.  
 Date: 08 April 2022.  
 Prepared for: GHG, Prepared by: LW, Last edited by: IWilson  
 Layout: 36224\_F1\_Locality  
 Project: P:\36200s\36224\Mapping\36224\_BallartoRdLyrebirdDr\_Planning.aprx



Metres  
 Scale: 1:25,000 @ A4  
 Coordinate System GDA 1994 MGA Zone 55



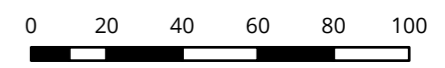




**Legend**

- Study area
- Impact area

**Figure 2 Study area**



Scale: 1:2,000 @ A3  
 Coordinate System: GDA 1994 MGA Zone 55



Matter: 36224,  
 Date: 12 July 2022,  
 Prepared for: GHG, Prepared by: LW, Last edited by: mknudsen  
 Layout: 36224\_F2\_StudyDetail  
 Project: P:\36200s\36224\Mapping\36224\_BallartoRdLyrebirdDr\_Planning.aprx

Acknowledgements: VicMap BaseMap © State of Victoria, Imagery Nearmap 2021

## 2 Context

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### 2.1 Location and extent of the study area

The study area is located along Ballarto Road and the intersection of Lyrebird Drive in Frankston North, within the City of Frankston. The study area approximately 1.8 kilometres south of the Carrum Downs CBD and 37.3 kilometres south-east of the Melbourne CBD (Figure 1 and 2).

The starts immediately west of the Carrum Downs police station and continues along Ballarto Road for a distance of approximately 650 metres. The study area extends approximately 180 metres down Lyrebird Drive (Figure 2). The study area comprises 3.96 hectares of public land, including the road reserves of Ballarto Road and Lyrebird Drive. An area of Crown land within Keith Turnbull Research Institute, managed by DELWP and DJPR, is included within the study area as it is required to deliver the proposed development.

The study area interfaces with the following:

- North: Continuation of Lyrebird Drive and its road reserve, medium density residential development and Botany Park which located directly north-east of the Ballarto Road-Lyrebird Drive intersection.
- East: Continuation of Ballarto Road, medium density residential development and the Boggy Creek crossing.
- South: Peninsula Link Trail and the Keith Turnbull Institute. Land comprising the Keith Turnbull Research Institute (KTRI) contains a research centre and public open space for areas of ecological significance which includes the Peninsula Link Trail, an unsealed track that supports the Frankston walking and cycling network. The Pines Flora and Fauna Reserve is located directly south-west of the study area. The construction footprint of the project does not impact the Pines Flora and Fauna Reserve. Continuation of Ballarto Road, Peninsula Link Freeway and the Pedestrian Link Trail.
- West: Continuation of Ballarto Road, Peninsula Link Freeway and the Pedestrian Link Trail.

### 2.2 Planning controls

The project is subject to the Frankston Planning Scheme (Planning Scheme). The following zones and overlays are impacted by the construction footprint of the project (see Figure 3 and 4 for further detail):

- Clause 32.08 Residential 1 Zone (R1Z)
- Clause 36.01 Public Use Zone schedule 7 (PUZ7)
- Clause 36.04 Transport Zone – Category 2 (TRZ2)
- Clause 42.01 Environmental Significance Overlay schedule 1 (ESO1)
- Clause 44.06 Bushfire Management Overlay schedule 1 (BMO1)

The following particular provisions are considered relevant to the project under the Planning Scheme:

- Clause 52.17 Native Vegetation
- Clause 53.21 State transport projects

## 2.3 Land Tenure

The study area includes several parcels of land under various classifications of ownership as described in Table 2 below.

**Table 2 Land tenure and cadastral details of land within the study area**

Project area	Tenure Description	Property Address	Crown Allotment	Land manager	Details relevant to this application
<b>Ballarto Road and reserves</b>	State Government Road (Arterial Road)	N/A	N/A	Department of Transport (DoT)	Ballarto Road is managed by DoT.
<b>Lyrebird Drive and road reserves</b>	Local Government Road (Collector Road)	N/A	N/A	Frankston City Council (Council)	Lyrebird Drive is managed by Council.
<b>Keith Turnbull Research Institute (DELWP land)</b>	Unleased Crown Land	40N Ballarto Road, Frankston North 3200 (Part only)	2086\PP2619	Department of Land Water and Planning (DELWP)	Based on its current design, the project will require approximately 723 sqm of unleased Crown Land managed by DELWP. DELWP has confirmed that they generally consent to the application for the project being made (Appendix 4).
<b>Keith Turnbull Research Institute (DJPR land)</b>	Unleased Crown Land	42N Ballarto Road, Frankston North 3200 (Part only)	2213\PP2619	Department of Jobs, Precincts and Regions (DJPR)	Based on its current design, the project will require approximately 457 sqm of land managed by DJPR. DJPR has confirmed that they generally consent to the application for the project being made (Appendix 4).

## 3 Proposal

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### 3.1 Project details

The project is part of a Commonwealth and State Government funded initiative to upgrade key intersections along Ballarto Road, in Melbourne's south east. The objective of the project is to reduce congestion and enhance existing road infrastructure. To achieve this, the project seeks to provide a new traffic signals, additional lanes on Ballarto Road and a shared use path connection to the existing Peninsula Link Trail. The proposed upgrade works will significantly improve vehicle and pedestrian safety and improve the overall efficiency of the intersection.

DoT has prepared detailed designs for the intersection upgrade (see Attachment 1) as well as for the shared use pathway that will link to the Peninsula Link Trail (Attachment 2).

The project and extent of works involves the:

- removal of 0.847 hectares of native vegetation and 11 large trees (Figure 3),
  - Vegetation shown on the project plans as not to be retained will be protected in accordance with Australian Standards.
- Excavation for drainage and temporary lay down of materials,
- Grading of surface in preparation for road surfacing.
- Cutting and filling to deliver appropriate road batter gradients.
- Widening of the Ballarto Road / Lyrebird Drive intersection to accommodate an additional auxiliary through lane on Ballarto Road in each direction, dedicated right-turn and left-turn auxiliary lanes on Ballarto Road into Lyrebird Drive,
- Installation of new traffic signals at the intersection and provision of pedestrian operated signals across the intersection in both directions.
- Installation of DDA compliant foot path connection at the intersection ,
- Installation of lighting and safety barriers on both sides of Ballarto Road,
- Construction of a batter fill interface along Ballarto Road which will extend along the majority of the proposed impact area,
- Construction of new footpaths, pavement and curbs within the road reserve of Lyrebird Drive and Ballarto Road,
- Construction of a raised pedestrian shared path to the Peninsula Link trail south of the study area,
  - The raised path will be 1.5 metres above the gully below and constructed with concrete culverts (see detailed designs in Attachment 2).
- Other related road works:
  - Temporary site office installation
  - Utility services and bus bays relocated as shown on the project designs
  - Removal and installation of road signage.

- A new advance warning sign to alert drivers heading west that they are approaching an intersection with traffic lights.
- Landscaping, ongoing maintenance and ancillary works as required.

The works listed above will be referred to as ‘the project’ hereinafter.

### Land acquisition

To deliver the project, DoT are seeking to acquire land within the Keith Turnbull Research Institute (i.e. unleased Crown Land) to widen Ballarto Road. As identified in Table 2) of this report, DELWP and DJPR are the public land managers of the area proposed for land acquisition.

Based on its current design, the project will require approximately 723sqm of unleased Crown Land managed by DELWP and 457 sqm of land managed by DJPR. The area proposed for land acquisition is shaded pink in Attachment 1 and its parcel details are provided in Table 2.

Pursuant to Clause 36.01-3 of the Planning Scheme, DELWP and DJPR have provided consent for a planning permit application to be made in relation to the land required for the project (see Appendix 4).

DoT is currently preparing two separate license agreements from DELWP and DJPR to undertake the proposed building and work works which will followed by the formal land acquisition and declarations of the two small parcel of the lands into DoT's road reserve.

### Project timeline

Subject to planning approval, consent from the relevant public land managers, project works are expected to commence by late November 2022 and be completed by June 2023.

## 3.2 Key considerations

In developing the design of the project and compiling this application, the following considerations have been deemed significant.

### Project rationale

The proposed road widening works on the south caters for the second westbound through lane, new footpath/bus stop, future services, and road safety barrier. A design memo has been prepared for the project by BG&E Pty Ltd and is provided in Attachment 1. During the design phase of the project, it was considered that a safer course of action is to retain the existing ‘straight’ Ballarto Road alignment and to widen each side of the road rather than attempting to shift the horizontal geometry to the north. The latter would result in the loss of additional trees through the outer separator.

### Environmental impacts

To understand the environmental constraints of the project, DoT engaged ecologists and zoologists from Biosis to prepare a Flora and Fauna Assessment (FFA) to assist with the project (see Attachment 3). The following considerations and amendments have been made to the project design based on the following:

- Avoiding and minimising impacts on local biodiversity and the surrounding environment.
- Identifying, avoiding or minimising impacts on the identified biodiversity values, including swamp skink impact mitigation management.

### **Urban congestion and road safety**

The key objective of this project is to reduce congestion, improve access, travel times and safety for all road users (including motorists, cyclists and pedestrians). The design and development phase of this project has been informed by these objectives and has incorporated the views of various stakeholders, including community response summarised in Attachment 6.

### **Aboriginal cultural heritage**

DoT has engaged with Uearthed Heritage Pty Ltd to undertake an assessment of the project and its potential impacts to the presence of Aboriginal cultural heritage within the study area. See Attachment 5 for further detail.

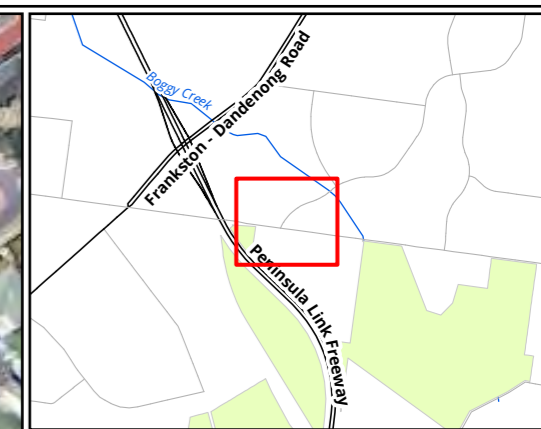
### **Stakeholder engagement**

The following key stakeholders have been engaged throughout the design and pre-approvals stage of the project:

- Bunurong Land Council Aboriginal Corporation (BLCAC).
- Frankston City Council (Council)
- Department of Land, Water, and Planning (DELWP)
- Department of Jobs, Precincts and Regions (DJPR)
- Parks Victoria (PV)
- Private Consultants (BG&E Pty Ltd, Biosis Pty Ltd and Uearthed Heritage Pty Ltd)
- Local community of Carrum Downs and Frankston North (see the summary of this consultation in Attachment 6).

### **Legislative compliance**

Throughout the design and pre-approvals stage of the project, DoT has sought to ensure compliance with permit controls and consistency of the project with State and Local planning policies.



- Legend**
- Study area
  - Impact area
  - Vegetation proposed to be removed
- Large patch tree**
- To be removed
  - To be retained
- Large scattered tree**
- ▲ To be removed
- Small scattered tree**
- + To be removed
  - + To be retained
- Ecological Vegetation Class**
- (GipP0048) Heathy Woodland
  - (GipP0053) Swamp Scrub

**Figure 3 Vegetation proposed to be removed**

0 20 40 60 80 100  
Metres  
Scale: 1:2,000 @ A3  
Coordinate System: GDA 1994 MGA Zone 55



Matter: 36023,  
Date: 12 July 2022,  
Prepared for: SM, Prepared by: DK, Last edited by: dkang  
Layout: 36023\_F3\_VegRemoval  
Project: P:\36000s\36023\Mapping\  
36023\_BallartoRdLyrebirdDr\_FFA\_PPA.aprx

Acknowledgements: VicMap BaseMap © State of Victoria, Imagery Nearmap 2021

## 4 Related Assessments

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### 4.1 Flora and Fauna Assessment

Biosis has prepared a detailed flora and fauna assessment of the project (FFA) (Attachment 3), which has identified native vegetation that is required to be removed based on its current design (refer to Attachment 1 and 2).

The FFA has been provided in support of the planning permit application to satisfy the requirements of schedule 1 of the Environmental Significance Overlay to Clause 42.01 Environmental Significance Overlay (ESO1) and Clause 52.17 (Native Vegetation) of the Planning Scheme.

#### Summary of ecological impacts

- A total of 0.847 hectares of native vegetation and 11 large trees, consisting of 3 large scattered trees and 8 large trees in patches, are proposed to be removed (Figure 3). Details of tree impacts are in Appendix 4 of the FFA (Attachment 3) and photos of the scattered trees to be removed (or deemed lost) are available in the arborist report in Appendix 6 of the FFA (Attachment 3).
- 0.297 general habitat units with a minimum strategic biodiversity value score of 0.171 and 11 large trees are required to be offset by the Department of Transport.
- DoT will secure third party offsets as required by the project through the Victorian Native Credit Register (NVCR) and in accordance with Clause 52.17 and the *Guidelines*. A search of the NVCR was conducted on 14 July 2022 for the required general offsets that will satisfy the biodiversity offset requirements as specified in the FFA (Attachment 3). There are currently 14 offset options available on the NVCR which will meet this offset obligation.
- A quote for the required native vegetation offsets is provided in Appendix 5a of the project's FFA (Attachment 3).
- The FFA includes mitigation recommendations which DoT are committed to implementing during the construction phase of this project. Of particular relevance to the project, the FFA includes mitigation recommendations related to Swamp Skink habitat along Ballarto Road following consultation with DELWP. Further details on this can be found in Table 9 under Section 6 of the FFA (Attachment 3).

#### Ecological values of the study area

Based on the FFA prepared for the project (see Attachment 3), the key ecological values identified within the study area and surrounds include:

- The study area sits within an urban landscape and has been highly modified, however still holds a range of ecological features including native vegetation, large trees and scattered trees.
- Two EVCs occur within the study area; Heathy Woodland (EVC 48) which has a bioregional conservation status of Least Concern and Swamp Scrub (EVC 53) which has a bioregional conservation status of Endangered.
- Heathy Woodland (EVC 48) occurs in the middle of the study area, opposite Lyrebird Drive alongside the Peninsular Link Trail, as well as a small part in the far-east of the study area, near Carrum Downs police station. This EVC is characterised by an overstorey of Swamp Gum *Eucalyptus ovata*, some of which are large. The mid story is sparse and characterised by various wattles *Acacia* sp. The



understorey is predominantly introduced grass species including Great Brome *Bromus diandrus*, Panic Veldt Grass *Ehrharta erecta* and Soft Brome *Bromus hordeaceus*.

- The southern part of the study area contains low to moderate quality patch native vegetation, with the highest value vegetation located along the southern interface with the Pines Flora and Fauna Reserve. Vegetation in this area consists of Swamp Scrub (EVC53) which has a bioregional conservation status of Endangered, and Heathy Woodland EVC 48, which has a bioregional conservation status of Least Concern.
- The study area contains nine patches of native vegetation, 14 indigenous scattered trees and 20 large trees in patches. There are also a large number of planted non-local native species and introduced species in the study area, particularly in the median and north of Ballarto Road.
- The vegetation along the interface with Pines Flora and Fauna Reserve and the Keith Turnbull Institute contains ephemeral swampy habitat which is intermittently connected to wetlands and Boggy Creek located to the south.
- There is potential habitat for the following threatened fauna species listed under the EPBC and FFG Act:
  - Swift Parrot *Lathamus discolor* – Listed as critically endangered under the EPBC Act and FFG Act.
  - White-throated Needletail *Hirundapus caudacutus* – Listed as vulnerable under the EPBC Act and FFG Act.
  - Painted Honeyeater *Grantiella picta* – Listed as vulnerable under the EPBC Act and FFG Act.
  - Grey-headed Flying-fox *Pteropus poliocephalus* – Listed as vulnerable under the EPBC Act and FFG Act.
  - Dwarf Galaxias *Galaxiella pusilla* – Listed as vulnerable under the EPBC Act and endangered under the FFG Act.
  - Black Falcon *Falco subniger* – Listed as critically endangered under the FFG Act.
  - Swamp Skink *Lissolepis coventryi* – Listed as endangered under the FFG Act.
  - Southern Toadlet *Pseudophryne semimarmorata* – Listed as endangered under the FFG Act.
  - White-bellied Sea Eagle *Haliaeetus leucogaster* – Listed as endangered under the FFG Act.
  - Lewin's Rail *Lewinia pectoralis* – Listed as vulnerable under the FFG Act.
  - Little Eagle *Hieraaetus morphnoides* – Listed as vulnerable under the FFG Act.
  - Square-tailed Kite *Lophoictinia isura* – Listed as vulnerable under the FFG Act.
  - Hooded Robin *Melanodryas cucullata* – Listed as vulnerable under the FFG Act.
- Giant Honey-myrtle *Melaleuca armillaris* subsp. *armillaris* is present in the study area, which is listed as endangered under the *Flora and Fauna Guarantee Act 1988* (FFG Act).
- Melbourne Yellow-gum *Eucalyptus leucoxylon* subsp. *connata* is present in the study area, which is listed as endangered under the FFG Act.
- The study area contains suitable habitat for River Swamp Wallaby-grass *Amphibromus fluitans*, which is listed as vulnerable under the EPBC Act.
- The site is within 2.9 kilometres upstream of the Edithvale-Seaford Wetlands, which is a Ramsar wetland located to the north-west of the study area.

## 4.2 Cultural Heritage Management Plan

The Aboriginal Heritage Act 2006 (the AH Act) and the associated Aboriginal Heritage Regulations 2018 (the AH Regulations) are the primary pieces of legislation providing protection for Aboriginal cultural heritage in Victoria.

Unearthed Heritage was commissioned by DoT to prepare an Aboriginal Cultural Heritage Management Plan (CHMP18037) (Attachment 5) for the project. CHMP18037 has not yet been approved.

The requirement for the undertaking of a CHMP is triggered by the AH Regulations (regulation 7) when an activity (referred to as project in this report) includes a *high impact activity* and the defined activity area (referred to as the study area in this report) includes an area of cultural heritage sensitivity (CHS).

CHMP18037 confirms the following as relevant to the project:

- The Registered Aboriginal Party (RAP) for the activity area is the Bunurong Land Council Aboriginal Corporation (BLCAC).
- The project is classified as a high impact activity under Regulation 47 of the AH Regulations as its proposed activity is if for the construction of a road.
- According to the definitions in the AH Regulations, the study area includes an area of CHS; as the entire activity area is an area mapped as “Qd1”:
  - Sand sheets - Regulation 41
- There is also a section of the activity area that is located within 200m of Boggy Creek, which is an area of CHS:
  - Waterways – Regulation 26
- As the proposed activity includes a high impact activity and includes an area of CHS, the preparation of a mandatory CHMP is required for the project.
- The RAP was consulted as part of the preparation of CHMP18037. Field representatives of the RAP were involved in the standard assessment of the CHMP on 29 and 30 July 2021 and in the complex assessment on 08 November 2021.
- The CHMP18037 confirms that based on its assessments, no Aboriginal heritage was identified within the study area and that therefore the proposed works are deemed not likely to harm Aboriginal heritage.
- CHMP18037 has been lodged for approval by the relevant authority. Once approved, the CHMP will be provided to the responsible authority (Minister for Planning) as part of the project’s planning permit application. The requirements, conditions and contingencies of CHMP 18037 **will** be complied with. The contingencies **will** be relied upon in the unlikely event Aboriginal cultural heritage is located during the construction works.

## 5 Frankston Planning Scheme

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The *Planning and Environment Act 1989* (P&E Act) requires each Council to ensure all land use and development occurs in accordance with the Planning Scheme for its municipal district. The Frankston Planning Scheme (the Planning Scheme) applies to the study area and sets out the objectives, policies and provisions relating to the use, development and protection of land.

### 5.1 Municipal Planning Strategy

- Clause 2.01 – Context
- Clause 2.02 – Vision
- Clause 2.03 – Strategic Directions
- Clause 2.04 – Strategic Framework Plans

#### 5.1.1 Response to the Frankston Planning Strategy

The project is consistent with the Frankston Planning Strategy, particularly the environment and landscape values as well as the transport strategic directions specified in Clause 2.03-8. See Section 7 for detailed responses to Clause 2.03.

### 5.2 Planning Policy Framework

#### 5.2.1 Planning policies

The following state and local policies in the Planning Scheme are considered to be relevant:

- Clause 12 Environmental and Landscape Values
  - Clause 12.01 Biodiversity
    - Clause 12.01-1S Protection of biodiversity
    - Clause 12.01-1L Protection of biodiversity
    - Clause 12.01-2S Native vegetation management
  - Clause 12.05 Significant environments and landscapes
    - Clause 12.05-1S Environmentally sensitive areas
    - Clause 12.05-2L Frankston landscapes
- Clause 15 Built Environment and Heritage
  - Clause 15.03 Heritage
    - Clause 15.03-2S Aboriginal cultural heritage
- Clause 18 Transport
  - Clause 18.01 Land use and transport
    - Clause 18.01-3S Sustainable and safe transport

- Clause 18.01-3R Sustainable and safe transport – Metropolitan Melbourne
- Clause 18.02 Movement networks
  - Clause 18.02-1S Walking
  - Clause 18.02-3R Principal Public Transport Network
  - Clause 18.02-4S Roads

### 5.2.2 State policy response

Clause 12.01 (Biodiversity) and 12.05 (Significant Environments and Landscapes) aim to protect, conserve and enhance Victoria's biodiversity. DoT has consulted Biosis' ecologists to identify native vegetation and trees on site and in the surrounding area (see Attachment 3). The project has been designed to reduce additional impacts to the ecological values within and surrounding the study area. This has been achieved through the incorporation of recommendations made by Biosis into the design of the project (Biosis 2022). The proposed design includes the complete removal of vegetation within the study area to allow for the construction of a walking path along Ballarto Road and the proposed shared use path connecting to the Peninsula Link Trail. This will allow for improved pedestrian and cyclist connectivity within the local area. Vegetation surrounding the study area will be protected and treated as a no-go zone. It is understood that no-go zones will be implemented during construction of the project. Specific detail relating to preventing impacts to retained native vegetation and terrestrial habitat are included in the FFA which DoT are committed to implementing (see Attachment 3). Efforts will be made to retain as much native vegetation within the study area as much as possible, despite it being considered lost for the purposes of the project's FFA (Biosis 2022) (Attachment 3). Additionally, the FFA has identified the project's required offsets, which equates to 0.297 general habitat units and 11 large trees, are required to be sourced within the locality. This helps to achieve '*no net loss to biodiversity*' in accordance with Clause 12.01-2S of the Planning Scheme.

Clause 15.03-2S (Aboriginal cultural heritage) seeks to ensure the protection and conservation of Aboriginal cultural heritage. In preparation of this project, DoT engaged qualified heritage advisors (Unearthed Heritage) to identify, assess and document places of Aboriginal cultural heritage significance, in consultation with the Registered Aboriginal Party, the Bunurong Land Council and Corporation. This was done to ensure the protection and conservation of pre-contact and post-contact Aboriginal cultural heritage places within the study area. In accordance with the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2018*, a Cultural Heritage Management Plan was prepared for the project (CHMP18037) (Attachment 5). Based on the findings of CHMP18037, no Aboriginal heritage was identified within the study area and that therefore the proposed works are deemed not likely to harm Aboriginal heritage. The project will comply with all of the contingencies, requirements and conditions of the CHMP and ensure that permit approvals align with the recommendations of CHMP18037 approved under the *Aboriginal Heritage Act 2006*.

Clause 18.01 (Land use and transport) and 18.02 (Movement networks) of the Planning Policy Framework (PPF) specifies state, regional and local planning policies for land use planning for transport. Clause 18.01 includes an overarching planning policy calling for the integration of the entire transport system (as defined in clause 73.01). Specific policies relating to the integration of each movement network is stipulated at Clause 18.02. Components of the project such as the delivery of new traffic signals, safety barriers and new designated left turn lanes in and out of Lyrebird Drive, is considered to improve the safety and function of Ballarto Road. By extension this will improve multiple movement networks that form part of an important east-west links from Frankston-Dandenong Road to Western Port Highway (i.e. walking, cycling and bus movement networks) (DoT, 2022). By improving the Ballarto Road and Lyrebird Intersection, the delivery of this project is expected to reduce congestion, improve access, travel times and safety for all road users (DoT, 2019). The project provides efficient connectivity to active and public transportation within the Ballarto Road and Lyrebird Drive intersection, further promoting forms of low-emission transport in accordance with Clause

18.02. Given these considerations, the project is viewed to be in accordance with the objectives and strategies of state policies under the Planning Policy Framework.

### 5.2.3 Local policy response

The project is consistent with the relevant local planning policies under the Frankston planning scheme, particularly the environment and landscape values as well as the transport objectives and strategies.

See Section 7 for detailed responses to the relevant local planning policies listed above in Section 5.2.1.

### 5.2.4 Relevant policy documents

- *Protecting Victoria's Environment – Biodiversity 2037* (Department of Environment, Land, Water and Planning, 2017)
- *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017)
- *Movement and Place in Victoria* (Department of Transport, February 2019)
- *Victorian Road Safety Strategy 2021-2030* (Department of Transport, 2021)

## 5.3 Frankston Planning Scheme Controls

Review of the proposed against the Planning Scheme has been conducted based on the following understandings:

### Land tenure

Land within the TR22 (transport land) is managed by DoT. The Head, TfV are the land owners of land within PAO1. Land south of Ballarto Road (Keith Turnbull Research Institute), that is yet to be acquired by DoT, is classified as unleased Crown Land owned by DELWP and DJPR. Land within the R1Z, including the median strip within Lyrebird Drive, is owned by Council.

### Land use

Pursuant to Clause 62.01 of the Planning Scheme, any permit requirement in the Frankston Planning Scheme relating to the transport land use does not apply to the use of land for a Road.

### Building and works

Under Clause 62.02-2 (Buildings and Works), any permit requirement in the Frankston Planning Scheme relating to building and works does not apply to roadworks unless specifically required. The zones and overlays that apply do not specifically require a planning permit for building and works associated with a planning permit.

### Native vegetation removal

As noted in Section 3, the project requires the removal of native vegetation to facilitate the proposed building and works. The proposed removal of native vegetation has been assessed in accordance with the Guidelines as required under Clause 52.17 (please see the FFA in Attachment 3).

### 5.3.1 Planning Controls Summary

Table 2 below provides a summary of the relevant controls applicable to the study area of the project.

**Table 3 Summary of planning controls**

Planning Scheme Control	Description	Permit required?
<b>Zones</b>	<b>Clause 32.08 Residential 1 Zone (R1Z)</b>	<ul style="list-style-type: none"> <li>A permit is not required for use or building and works.</li> </ul>
	<b>Clause 36.01 Public Use Zone schedule 7 (PUZ7) (Other Public Use)</b>	<ul style="list-style-type: none"> <li>A permit is not required for use or building and works.               <ul style="list-style-type: none"> <li>This applies to the proposed shared use pathway which is considered as part of the transport road network of Ballarto Road.</li> </ul> </li> <li>Although a permit for the proposed works and use of land within the PUZ7 is not required, land manager consent is required for an application to be lodged for a planning permit. DELWP and DJPR have provided this consent to DoT, see Attachment 4.</li> </ul>
	<b>Clause 36.04 Transport Zone – Category 2 (TRZ2)</b>	<ul style="list-style-type: none"> <li>A permit is not required for use or building and works.</li> </ul>
<b>Overlays</b>	<b>Clause 42.01 Environmental Significance Overlay schedule 1 (ESO1)</b>	<ul style="list-style-type: none"> <li>A permit is required to destroy, lop or remove native vegetation outside of transport land (TRZ2).</li> </ul>
	<b>Clause 44.06 Bushfire Management Overlay schedule 1 (BMO1)</b>	<ul style="list-style-type: none"> <li>A permit is not required for use or building and works.</li> </ul>
<b>Particular Provisions</b>	<b>Clause 52.17 Native Vegetation</b>	<ul style="list-style-type: none"> <li>A permit is required to destroy, lop or remove native vegetation.</li> </ul>
	<b>Clause 53.21 State transport projects</b>	<ul style="list-style-type: none"> <li>Not applicable as permit requirements are not included under this provision.</li> </ul>

### 5.3.2 Permit exemptions

The following exemptions apply to the Project:

- Pursuant to clause 42.01-3 of the ESO1, a permit is not required to carry out works outside the Tree Protection zone of a native tree.
- Pursuant to Clause 42.01-3 of the ESO1, a permit is not required to remove, destroy, prune or lop vegetation where:

- The vegetation is exotic.
- The pruning or lopping of limbs is less than one-third of the crown of the tree.
- The vegetation is an environmental weed listed in Table 2 of schedule 1 to the ESO.
- Clause 61.02 (Uses not requiring a permit), any permit requirement in the Frankston Planning Scheme relating to the land use does not apply to the use of land for a Road. This applies to the proposed shared use path connection to the existing Peninsula Link Trail (Attachment 2) as it forms part of the road network (i.e. use is not identified to be for outdoor recreation, rather for the function of Ballarto Road and the wider movement network).
- Under Clause 62.02-2 (Buildings and Works), any permit requirement in the Frankston Planning Scheme relating to building and works does not apply to roadworks.
  - The zones and overlays applicable to the study area do not require a planning permit for building and works associated to roadworks.

### 5.3.3 Permit requirements

A permit is required for the following reasons:

- Pursuant to Clause 42.01-3 of the ESO1, a permit is required to remove, destroy or lop native vegetation for proposed works outside of the TRZ2 (i.e. transport land).
- Pursuant to Clause 52.17-3 (Native Vegetation), a permit is required to remove, destroy or lop native vegetation.

### Clause 42.01 Environmental Significance Overlay schedule 1 (ESO1)

The purpose of the ESO is:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.
- Environment

#### Removal of native vegetation

Pursuant to Clause 42.01-3 of the ESO1, a permit is required to remove, destroy or lop native vegetation for proposed works outside of the TRZ2 (i.e. transport land).

#### Application requirements and decision guideline

A response to the application requirements under Clause 42.01 is provided under Section 8 of this report.

### 5.3.4 Particular provisions

#### Clause 52.17 Native Vegetation

The purpose of this provision 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 ((DELWP 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

#### Permit requirement

Pursuant to Clause 52.17-1, a permit is required for the removal, destruction or lopping of native vegetation.

Clause 52.17-7 of the Planning Scheme states that a permit is not required to remove, destroy or lop native vegetation to the minimum extent necessary on transport land (i.e. land within the TRZ2) if it is carried out by or on behalf of the Head, TfV. Our understanding to date is that there is no written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987). Therefore the exemption does not apply to the project until such time as the agreement is in place.

#### Proposed native vegetation removal

The project has been assessed against the *Guidelines for the removal, destruction or lopping of native vegetation* (the Guidelines) (DELWP 2017) in the project's FFA (Attachment 3). Table 3 below provides a summary of the DELWP NVRR, as specified in the project's FFA (Biosis 2022).

#### Offset strategy

DoT will secure third party offsets as required by the project through the Victorian Native Credit Register (NVCR) and in accordance with Clause 52.17 and the *Guidelines*. A search of the NVCR was conducted on 14 July 2022 for the required general offsets that will satisfy the biodiversity offset requirements as specified in the FFA (Attachment 3). There are currently 14 offset options available on the NVCR which will meet this offset obligation. A quote for the required native vegetation offsets is provided in Appendix 5a of the project's FFA (Attachment3).

#### Application requirements and decision guidelines

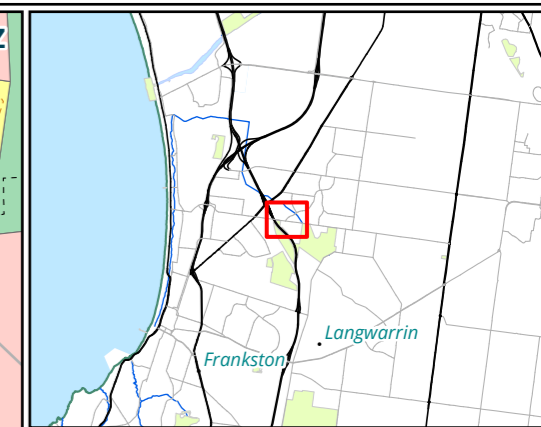
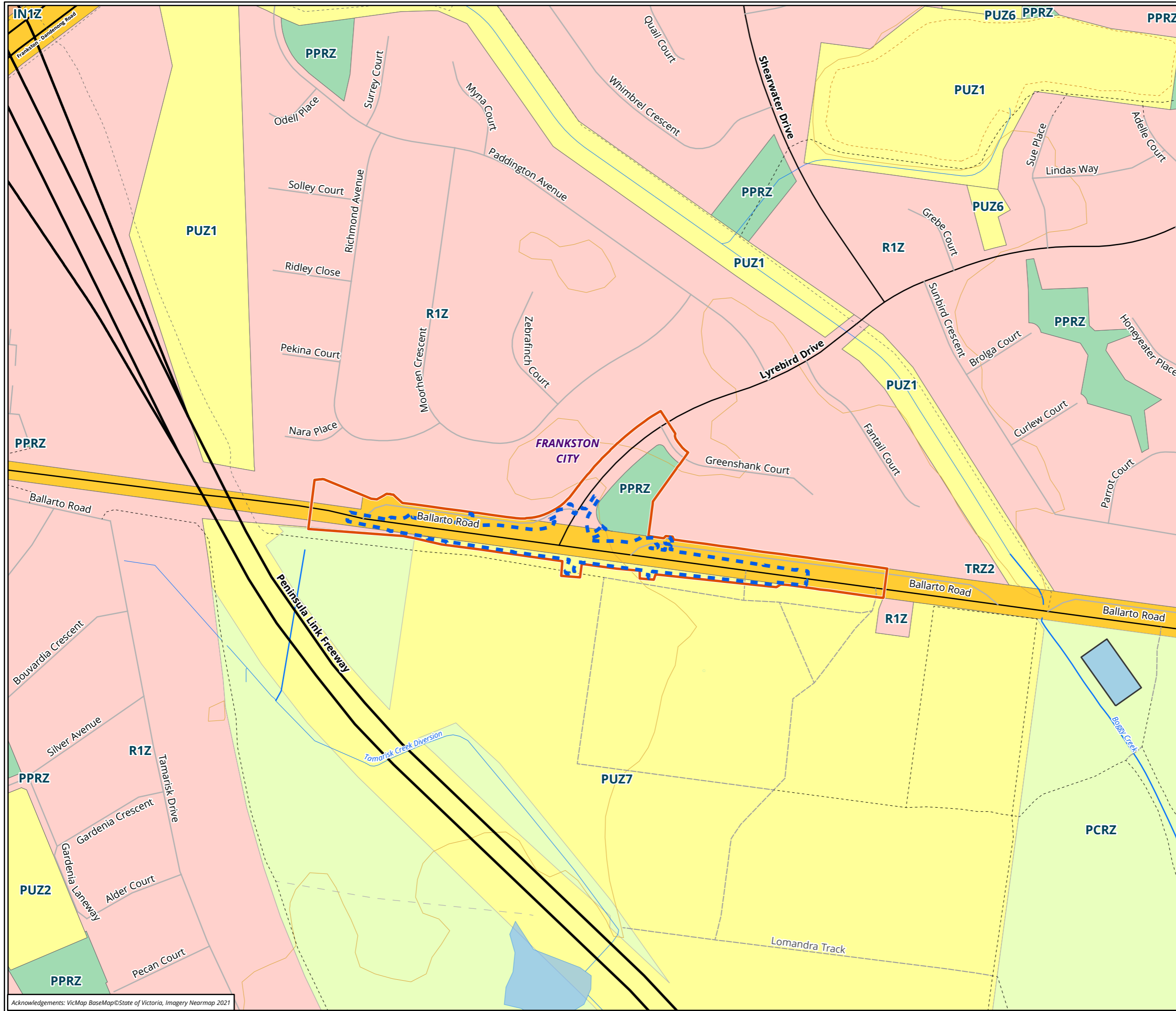
A response to the application requirements and decision guidelines of Clause 52.17 is provided in Section 8 of this report.

**Table 4 DELWP NVRR**

Attribute	Outcome	Notes
<b>Location category</b>	2	The native vegetation is in an area mapped as an endangered Ecological Vegetation Class (as per the statewide EVC map).
<b>Native vegetation removal extent</b>	0.847 hectares	Including patch vegetation and 11 scattered trees.
<b>Assessment pathway</b>	Detailed	≥ 0.5 hectares and 11 large trees.
<b>Strategic Biodiversity Value Score</b>	Ranges between 0.170 and 0.570	
<b>Modelled habitat for threatened species</b>	Yes	Modelled habitat for 21 species (see Section 3.3.2 and Appendix 5). No species habitat thresholds were reached for the modelled species.



Attribute	Outcome	Notes
<b>Offset type</b>	General	
<b>Offset multiplier</b>	NA	
<b>Offset amount: general habitat units</b>	0.297 general habitat units	
<b>General offset vicinity</b>	Port Phillip and Westernport Catchment Management Authority (CMA) or Frankston City Council.	The offset site must be located within the same Catchment Management Authority boundary or municipal district as the native vegetation to be removed.
<b>General offset minimum Strategic Biodiversity Value Score</b>	0.171	
<b>Offset amount: Species habitat units</b>	NA	
<b>Large tree attributes</b>	11 large trees	The offset must include protection of at least one large tree for every large tree to be removed.



- Legend**
- Study area
  - Impact area
- Industrial**
- IN1Z - Industrial 1 Zone
- Public Land**
- PCRZ - Public Conservation and Resource Zone
  - PPRZ - Public Park and Recreation Zone
  - PUZ1 - Public Use Zone-Service and Utility
  - PUZ2 - Public Use Zone-Education
  - PUZ6 - Public Use Zone-Local Government
  - PUZ7 - Public Use Zone-Other Public Use
  - TRZ2 - Transport Zone 2-Principal Road Network
- Residential**
- R1Z - Residential 1 Zone (superseded by GRZ)

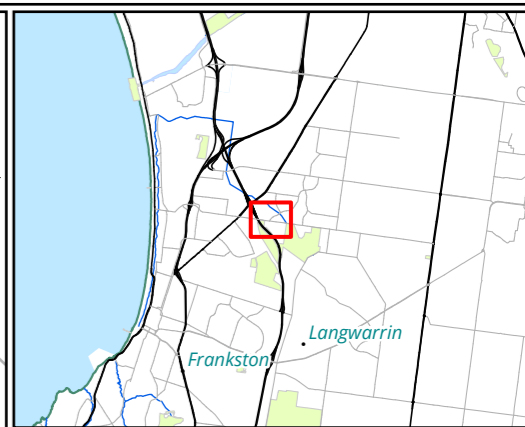
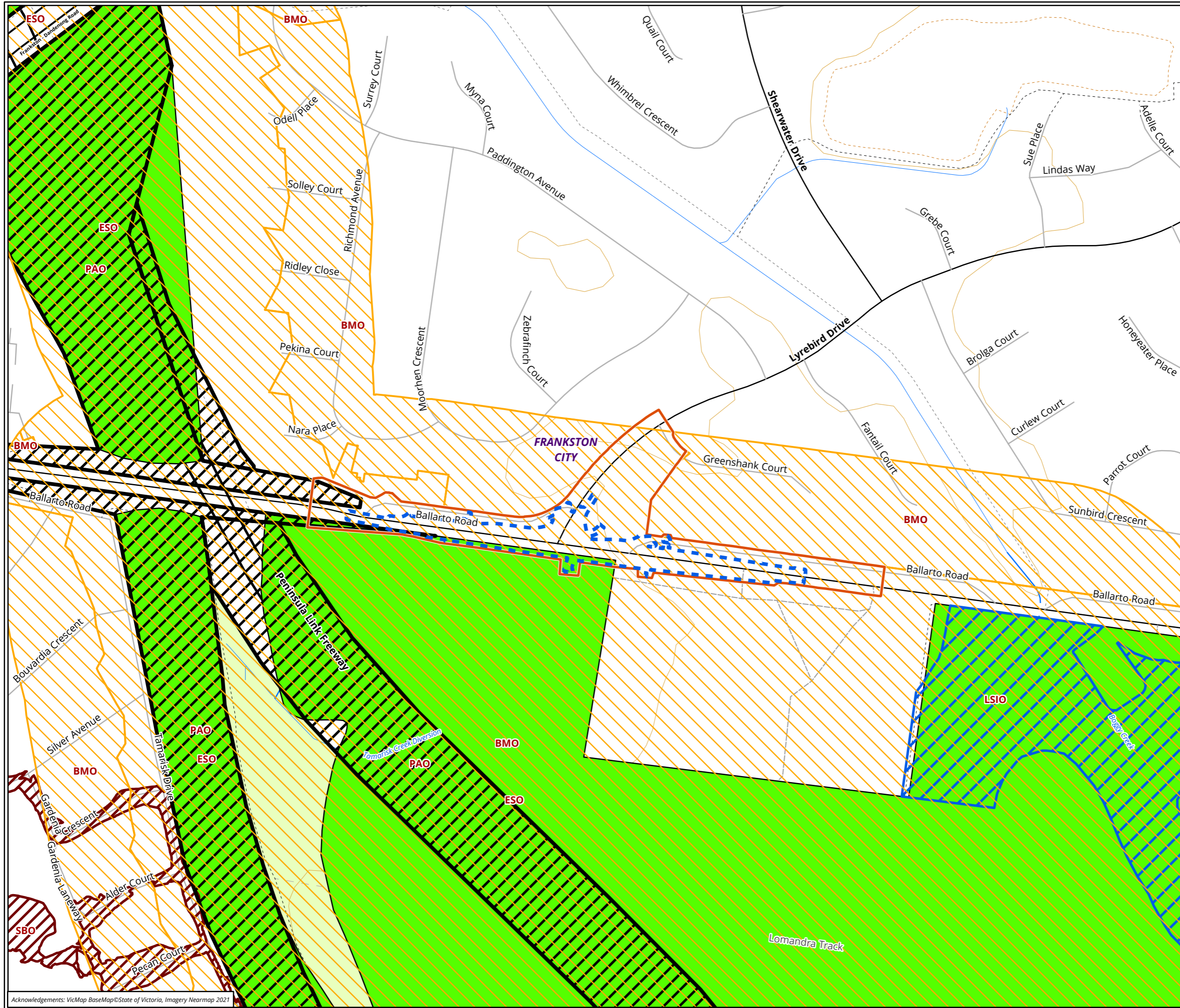
**Figure 4 Planning Zones**

0 50 100 150 200  
 Metres  
 Scale: 1:4,000 @ A3  
 Coordinate System: GDA 1994 MGA Zone 55



Matter: 36224,  
 Date: 12 July 2022,  
 Prepared for: GHG, Prepared by: LW, Last edited by: mknudsen  
 Layout: 36224\_F4\_PlanningZones  
 Project: P:\36200s\36224\Mapping\36224\_BallartoRdLyrebirdDr\_Planning.aprx

Acknowledgements: VicMap BaseMap © State of Victoria, Imagery Nearmap 2021



**Legend**

- Study area
- Impact area
- Planning Overlay**
- Bushfire Management Overlay (BMO)
- Environmental Significance Overlay (ESO)
- Land Subject to Inundation Overlay (LSIO)
- Public Acquisition Overlay (PAO)
- Special Building Overlay (SBO)

**Figure 5 Planning Overlays**

0 50 100 150 200  
 Metres  
 Scale: 1:4,000 @ A3  
 Coordinate System: GDA 1994 MGA Zone 55



Acknowledgements: VicMap BaseMap © State of Victoria, Imagery Nearmap 2021

Matter: 36224,  
 Date: 12 July 2022,  
 Prepared for: GHG, Prepared by: LW, Last edited by: mknudsen  
 Layout: 36224\_F5\_PlanningOverlays  
 Project: P:\36200s\36224\Mapping\36224\_BallartoRdLyrebirdDr\_Planning.aprx

## 5.4 Related legislative requirements

The following legislation is considered relevant to the project.

### Aboriginal Heritage Act 2006 (AH Act)

The *Aboriginal Heritage Act 2006* (AH Act) sets the framework for identifying and protecting Aboriginal Cultural heritage. The AH Act primarily seeks to provide for the protection of Aboriginal cultural heritage in Victoria. The AH Act allows organisations, groups and bodies to enforce and preserve policies regarding Aboriginal Heritage.

The *Aboriginal Heritage Regulations 2018* (the Regulations) is the subordinate instruments which gives effect to the AH Act. The Regulations set out the circumstances in which a Cultural Heritage Management Plan (CHMP) should be prepared. The Regulations are read in conjunction with the Act.

Based on AH Act and the Regulations, the following implications for the project apply:

- The study area is within an area of cultural heritage sensitivity.
- The proposed building and works are considered to be a high impact activity under Regulation 47 and is identified to be in an area of Cultural Heritage Sensitivity.
- A mandatory CHMP is therefore required for the project.
- Unearthed Heritage has prepared a CHMP, nominated at CHMP18307, which has been lodged for approval. See section 4.2 for further details.
- It is understood that the responsible authority (Minister for Planning) cannot issue a planning permit until a copy of the approved CHMP is provided (section 52(1) of the AH Act). Upon the approval of CHMP18037, a copy will be submitted to the Minister for Planning as part of the planning permit application.

### Catchment and Land Protection Act 1994 (CaLP Act)

The *Catchment and Land Protection Act 1994* (CaLP Act) identifies and classifies certain species as noxious weeds or pest animals, and provides a system of controls on noxious species.

Based on the FFA prepared for the project (see Attachment 3), the following implications for the project under the CaLP Act apply:

- The Artichoke Thistle, a regionally restricted noxious weed, is identified in the study area. To view the listed declared noxious weeds, including established pest animals, within the study area please refer to Table A.1.1 and A.2.1 provided in Appendix 1 of the FFA.
- The Department of Transport must take all reasonable steps to eradicate regionally prohibited weeds, prevent the growth and spread of regionally controlled weeds, and prevent the spread of and as far as possible eradicate established pest animals. The State is responsible for eradicating State prohibited weeds from all land in Victoria.
- No permit or approval are required under the CaLP Act.

### Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) applies to developments and associated activities that have the potential to significantly impact on Matters of National Environmental Significance (MNES) protected under the EPBC Act.

Based on the FFA prepared for the project (see Attachment 3), the following implications for the project under the EPBC Act apply:

- 48 EPBC Act listed fauna species and 11 flora species have been recorded or are predicted to occur in the 5 km radius project search area (local area). The likelihood of these species occurring in the study area is assessed in Appendix 1 (flora) and Appendix 2 (fauna).
- MNES relevant to the project are summarised in the FFA prepared for this project (Attachment 3). The FFA determined that the project and its impacts are considered unlikely to have a significant impact on MNES.
- Given this, a referral to the Commonwealth Environment Minister will not be required as part of the project.

### Flora and Fauna Guarantee Act 1988 (FFG Act)

The *Flora and Fauna Guarantee Act 1988* (FFG Act) is the key piece of Victorian legislation for the conservation of threatened species and communities and for the management of potentially threatening processes.

Under the FFG Act a permit is required by DELWP to 'take' protected flora species from public land. Permit exemptions under the FFG Act generally apply to the non-commercial removal of protected flora from private land, unless there is 'critical habitat' that has been declared on the land. Authorisation under the FFG Act is required to collect, kill, injure or disturb listed fish on private or public land.

Based on the FFA prepared for the project (see Attachment 3), the following implications for the project under the FFG Act apply:

- The FFG Act defines public land as *Crown land or land owned by, or vested in, a public authority*, while private land is defined as *any land other than public land*. Therefore, the study area is considered to be public land under the FFG Act.
- A public authority is defined in the FFG Act as a body established for a public purpose by or under any Act. The Department of Transport is considered as a public authority under the FFG Act.
- As a public authority undertaking works on public land, the Department of Transport needs to observe their public authority duty, by considering the objectives of the FFG Act. See Table 6 of the FFA (Attachment 3) to see how DoT has considered the public authority duty as part of this project.
- Native vegetation on site is contributing to the FFG act listed threatened community of Victorian Temperate Woodland Bird Community, and contains four protected flora species, two FFG Act listed threatened flora species and 12 FFG Act listed threatened fauna species or habitat for them (Appendices 1 and 2 of the FFA provided in Attachment 3).
- A protected flora permit from DELWP will be required for the four protected species that are expected to be affected by the proposal. An application for a protected flora permit will be lodged by DoT following the issue of a planning permit for the project. The Department of Transport will engage with DELWP to identify what is required of them to satisfy their Public Authority Duty for the proposed works, as Ministerial guidelines that outline these responsibilities are still in development.

### Native Title Act 1993 (Native Title Act)

The *Native Title Act 1993* (Native Title Act) is a law passed by the Australian Parliament that recognises the rights and interest of Aboriginal and Torres Strait Islander people in land and waters according to their traditional laws and customs. The Native Title Act has established a process for claiming and recognising native title lands and waters in Australia. The Native Title Act aims to balance Indigenous and non-Indigenous peoples' rights to land, and sets out how native title rights and interests fit within Australian law.

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Upon review of the National Native Title Tribunal Register, the study area was found to contain no determinations, registrations or other claims relating to Native Title.

### **Wildlife Act 1975 (Wildlife Act)**

The FFA identifies Swamp Skink species being recorded in habitat adjacent to the proposed footprint and there is a likelihood of suitable habitat within the proposed footprint.

Although the Swamp Sink is a listed species under the FFG Act, it is also a native species of wildlife and is protected under the *Wildlife Act 1975* (Wildlife Act). Therefore, any regulatory requirements for the protection of this species are stipulated under the Wildlife Act and not the FFG Act.

DoT has undertaken consultation with Biosis and DELWP to discuss mitigation solutions to the impacts on Swamp Skink populations within and in proximity to the study area. Based on recommendations made by DELWP and Biosis, DoT will commission a qualified professional to undertake pre-construction surveys and install artificial refuges for capture and release of any Swamp Skink species. DoT will also incorporate swamp skink fencing into their temporary and permanent fencing along the southern boundary of Ballarto Road. Further details on this can be found in Table 9 under Section 6 of the FFA (Attachment 3).

## 6 Assessment

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### 6.1 Strategic justification

Due to traffic movements along Ballarto Road, drivers often experience congestion when trying to exit or enter the main road from residential streets (DoT, 2022). To address this issue, DoT seeks to deliver efficient and safe movement networks along Ballarto Road, including this project, which forms part of an important east-west link from Frankston-Dandenong Road to Western Port Highway (DoT, 2022).

The project seeks to:

- improve traffic flow and safety while supporting the growing community in the local area (DoT, 2022), and
- contribute to the successful delivery of this state transport project.

To deliver the project, the complete removal of native vegetation within the study area is required. While this requirement conflicts with biodiversity policies under the Planning Scheme, Clause 71.02-3 of the Planning Scheme stipulates that planning issues must consider net community benefit and sustainable development for the benefit of present and future generations.

Pursuant to Clause 71.02, the project has been considered against its relevant environmental issues in the project's FFA (see Attachment 3) which provides an assessment of the ecological values present on site and the likely impact of the proposed development on those values. The FFA also provides particular attention to the impact of the proposed development on threatened flora and fauna species and communities listed under the EPBC and FFG Act.

The project is considered to provide a balanced response to the transportation needs of the community (i.e. safe speeds and infrastructure) and the biodiversity constraints of the study area. The outcome of the project is found to support a multi-modal approach to network planning which ensures that transport investment have positive benefits to state, local and public transport networks and, provides opportunities for public access and recreation within an existing movement network. In accordance with the *Movement and Place in Victoria Framework* (DoT, 2019), the project minimises the risk of harm to persons arising from the transport system through the implementation of safety transport features listed in 3.1 of this report. Additionally, the project has also been designed to minimise the extent of vegetation removal within the area south of Ballarto Road, maintaining the important contribution that native vegetation makes to the landscape character of the surrounding area. The project is considered to provide net community benefit with regard given to the transportation and environmental planning issues affecting the wider area.

#### 6.1.1 Avoid, minimise and offset response

In accordance with the Guidelines, the design of the project has been updated a number of times after assessment and feedback, to minimise the footprint of the project in the vicinity of the higher value vegetation south of Ballarto Road and to avoid any new footpath construction that requires tree removal north of Ballarto Road.

The steps that have been taken during the design of the development to ensure that impacts on biodiversity from the removal of native vegetation have been minimised include:

- Initial options analysis for the development with a view to minimising impacts to the environment.
- Design workshop for preferred design options, to ensure the design achieved its road safety purpose with a view to causing minimal impacts.

- Risk assessment workshop to investigate potential environmental, social and economic risks associated with the proposed design.
- Site investigations to ensure the footprint design and road infrastructure was placed in the most appropriate sites and that site values were avoided where possible, or that minimal impacts are to be caused where site values could not be avoided by the design.
- Design review workshop to assess the final design against the recommendations in the previous workshop assessments.
- Environmental assessment of the proposed design by ecologists and an arborist, to ensure any significant values are identified and those with the potential of being impacted, or any risks to matters of state or national significance, are effectively addressed.

Other actions undertaken in the design process in attempt to minimise impacts to vegetation by DoT include:

- Avoiding higher quality areas of native vegetation by minimising the footprint of the development in the vicinity of the Pines Flora and Fauna Reserve.
- Where encroachment into vegetation to the south of Ballarto Road was required, the extent of encroachment was minimised to the greatest extent possible, while still allowing for the road construction project to achieve its desired road safety purpose.
- Locating all temporary site storage and compounds for the project on existing disturbed land to minimise impacts to native vegetation.
- Designing the new footpaths to avoid patch vegetation and scattered trees.
- Retaining as many trees which were deemed to be lost due to TPZ encroachment and factored into offset requirement, provided the tree retention does not provide a risk to road or path users.

Where impacts on native vegetation have been unavoidable, offsets for 0.297 general habitat units and 11 large trees will be secured.

DoT intends to purchase the offset credits from the Victorian Native Vegetation Credit Register (NVCR) through a third party offset.

A quote for the required native vegetation offsets has been acquired by DoT to satisfy the offset requirements in Appendix 5a of the FFA (Attachment 3). Payment of these offsets will occur following planning permit approval of the project.



## 7 Detailed planning policy response

This section of the report provides a detailed assessment of the project against the relevant strategic directions and local planning policies under the Planning Policy Framework.

**Table 5 Response to relevant directions in Clause 02.03 Strategic Directions**

Strategic direction	Proposal response
<b>2.03-2 – Environmental and landscape values</b>	
<ul style="list-style-type: none"> <li>• <b>Manage the loss and fragmentation of indigenous vegetation and Australian native vegetation to avoid loss of biodiversity.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The project is considered to have addressed this policy through the project's FFA (Biosis 2022) (Attachment 2) and through the minimisation steps taken to address significant environmental values present within the study area, as mentioned Section 5 of the FFA (Attachment 3).</li> <li>• The project's FFA (Biosis 2022) found that the project is unlikely to have any impacts on significant flora species and communities. This provides a level of certainty that threatened species and communities will not be impacted by the project and its associated works.</li> <li>• To manage the loss of fragmentation of native vegetation, areas adjacent to the construction impact area will be appropriately fenced-off to ensure that no additional impacts to vegetation occur as a result of the project.</li> <li>• While it is acknowledged that there are areas where the project is unable to avoid removal of native vegetation, the project has also been designed to minimise the extent of vegetation removal within the area south of Ballarto Road where practicable.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Secure and enhance habitat corridors to sustain the health of indigenous flora and fauna communities.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Impact to flora and fauna connectivity within the area south of Ballarto Road has been kept to a minimum where practicable. See the FFA (Attachment 3) for further detail.</li> </ul>
<b>02.03-8 – Transport</b>	
<ul style="list-style-type: none"> <li>• <b>Support development that enhances public transport, pedestrian and bike infrastructure.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The project will directly enhance existing infrastructure for public transport (i.e. bus stops), pedestrian and bike infrastructure (i.e. new footpaths, pedestrian lights and shared footpaths to Peninsula Link Trail) as described in Section 3 of this report and as shown in the project designs in Attachment 1.</li> <li>• The proposed works (Attachment 1) and the objectives of the project, mentioned in Section 6.1 of this report, demonstrates how the project will implement this policy.</li> </ul>

<ul style="list-style-type: none"> <li>• <b>Facilitate the efficient use of roads.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The duplication of Ballarto Road, introduction of left-turn lanes and construction of new traffic lights will facilitate the efficient use of Ballarto Road and Lyrebird Drive. See further details of the project in Section 3 of this report.</li> </ul>
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**Table 6 Response to relevant Frankston Planning Scheme Planning Policy Framework (Local policies)**

Relevant Objectives	Relevant Strategies	Proposal response
<b>Clause 12.01-1L Protection of biodiversity</b>		
<ul style="list-style-type: none"> <li>• <b>To assist the protection and conservation of Victoria's biodiversity.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that land use and development within or adjacent to sites of botanical or zoological significance:               <ul style="list-style-type: none"> <li>○ Protect indigenous flora and fauna.</li> <li>○ Help control environmental and noxious weeds and pest animals.</li> <li>○ Facilitate land management that supports ecological processes.</li> </ul> </li> <li>• Ensure the revegetation of land to re-create fauna habitat corridors.</li> <li>• Encourage retention of remnant indigenous vegetation on extractive sites.</li> <li>• Encourage the provision of open space links and conservation corridors during rehabilitation processes.</li> </ul>	<ul style="list-style-type: none"> <li>• The projects' FFA has assessed the study area with reference to the EPBC and FFG Act and has informed the design of the project to avoid and minimise impact to significant flora and fauna where practicable.</li> <li>• Additionally, the FFA provides recommendations on how the project can mitigate impacts to native vegetation, threatened species and ecological communities, weed invasion and habitat connectivity. The project is therefore considered to have met the object and strategies of this policy.</li> <li>• DoT will also secure and implement the required offsets for vegetation loss in accordance with Clause 52.17 and the Guidelines under the Planning Scheme.</li> </ul>
<b>Clause 12.05-2L Frankston landscapes</b>		
<ul style="list-style-type: none"> <li>• <b>To protect and conserve environmentally sensitive areas.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Encourage low intensity private recreational and institutional uses that are consistent with the objective of maintaining essentially rural landscapes.</li> <li>• Protect remnant bushland areas.</li> <li>• Protect canopy trees.</li> <li>• Support proposals that retain and enhance vegetation and contribute to the visual quality of significant landscapes.</li> </ul>	<ul style="list-style-type: none"> <li>• Majority of the project is contained within the existing infrastructure of Ballarto Road and Lyrebird Drive. In areas where the project will require new impacts along the south of Ballarto Road, DoT are committed to implementing mitigation recommendations as advised in the FFA (Biosis 2022) for flora and fauna habitat within the impact area where practicable.</li> <li>• The study area is not within, nor impacts, bushland areas.</li> <li>• The retention of trees have been kept to a minimum extent practicable.</li> </ul>

Relevant Objectives	Relevant Strategies	Proposal response
	<ul style="list-style-type: none"><li>• Protect significant landscapes, views and vistas within the municipality's green wedge areas.</li></ul>	<ul style="list-style-type: none"><li>• The implementation of recommendations included within the FFA will ensure the protection of the existing flora and fauna habitat along the south of Ballarto Road and will further support this policy under the Planning Scheme.</li><li>• The proposed works are considered to maintain visual amenity along Ballarto Road and will not impact green wedge areas or significant landscapes within Frankston.</li></ul>

## 8 Response to application requirements and decision guidelines

**Table 7 Response to Clause 36.01 Public Use Zone schedule 7 application requirements and decision guidelines**

Requirements	Proposal Response
<b>Clause 36.01-3 Application requirements</b>	
<p><b>An application for a permit by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:</b></p> <ul style="list-style-type: none"> <li>• To the application for permit being made.</li> <li>• To the application for permit being made and to the proposed use or development.</li> </ul>	<ul style="list-style-type: none"> <li>• Pursuant to Clause 36.01-3 of the Planning Scheme, DoT has sought for consent to the application for a permit being made from DELWP and DJPR for land within the Keith Turnbull Institute (shaded in pink in Attachment 1, identified in Table 2 and shown in Attachment 4).</li> </ul>
<b>Clause 36.01-4 Decision guidelines</b>	
<p><b>Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:</b></p> <ul style="list-style-type: none"> <li>• The Municipal Planning Strategy and the Planning Policy Framework.</li> <li>• The comments of any Minister or public land manager having responsibility for the care or management of the land or adjacent land.</li> <li>• Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.</li> </ul>	<ul style="list-style-type: none"> <li>• Under Clause 61.02 (Uses not requiring a permit), any permit requirement in the Frankston Planning Scheme relating to the land use does not apply to the use of land for a Road. This applies to the proposed shared use path connection to the existing Peninsula Link Trail (Attachment 2) as it forms part of the road network (i.e. use is not identified to be for outdoor recreation).</li> </ul>

**Table 8 Response to ESO1 application requirements and decision guidelines**

Requirements	Proposal Response
<b>Clause 42.01 Environmental Significant Overlay – Schedule 1 – Objectives to be achieved</b>	
<b>Protect national, state, regional and locally significant vegetation and biodiversity within Frankston City Council.</b>	<ul style="list-style-type: none"> <li>To the application for permit being made.</li> </ul>
<b>Protect populations or communities of indigenous flora and fauna.</b>	<ul style="list-style-type: none"> <li>The FFA includes recommendations to protect and mitigate impacts to flora and fauna species that have either been identified or have potential to be present within the study area. See Section 6 of the FFA (Attachment 3) for further detail.</li> </ul>
<b>To protect and enhance bio links across the landscape and ensure that vegetation is suitable for maintaining the health of species, communities and ecological processes, including the prevention of the incremental loss of vegetation.</b>	<ul style="list-style-type: none"> <li>The study area is in an urban environment and the vegetation present contributes to some connectivity along Ballarto Road between the high value Swamp Scrub in the west, located within the Pines Flora and Fauna Reserve, linking along Ballarto Road to the moderate to high value Heathy Woodland east of the study area (Biosis 2022).</li> <li>While the project is required to impact these areas to achieve its own objectives, measures to mitigate impacts to biodiversity values within the study area, as recommended within the FFA, will be implemented by DoT to support this objective.</li> </ul>
<b>Ensure that the development and management of land within areas of native vegetation and fauna habitat as specified in Table 1 and shown on Map 1 to this schedule is compatible with the long term protection and enhancement of their botanical and zoological values.</b>	<ul style="list-style-type: none"> <li>This objective will be achieved through the implementation of the FFA's mitigation measures that seek to minimise impacts to the study area as a result of the project.</li> </ul>
<b>Avoid and minimise the impacts of buildings and works and subdivision, on areas of native vegetation and fauna habitat specified in Table 1 and shown on Map 1 to this schedule.</b>	<ul style="list-style-type: none"> <li>Although the project is not identified within Map 1 of ESO1, the project seeks to meet this objective by ensuring the removal of native vegetation is minimised to the extent practicable and by implementing environmental management measures during the construction phase of the project as mentioned above.</li> </ul>

Requirements	Proposal Response
<p><b>To ensure that development and management of land demonstrates the 'avoidance hierarchy':</b></p> <ul style="list-style-type: none"> <li>• <b>To avoid adverse impacts, particularly through vegetation clearance.</b></li> <li>• <b>If impacts cannot be avoided, to minimise impacts through appropriate consideration and expert input to project design or management.</b></li> <li>• <b>Identify appropriate mitigation options. Only after avoidance and minimisation actions are thoroughly investigated should mitigation be considered.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The design of the project has undergone several revisions to avoid significant environmental values whilst balancing stormwater management and infrastructure requirements to balance the needs of the project.</li> <li>• The native vegetation proposed to be removed has been minimise to mitigate impacts to biodiversity while also providing enhanced road, public transport and pedestrian infrastructure.</li> <li>• An offset amount of 0.297 general habitat units and eleven (11) large trees applies to the proposed removal of native vegetation.</li> <li>• A quote for the required native vegetation offsets has been acquired by DoT to satisfy the offset requirements in Appendix 5a of the FFA (Attachment 3). Payment of these offsets will occur following planning permit approval of the project.</li> </ul>
<p><b>Clause 42.01 &amp; Section 4.0 ESO1 Application requirements – Building and works</b></p>	
<p><b>An arboricultural report prepared by a suitably qualified and experienced arborist assessing any native tree with a Tree Protection Zone within the works footprint.</b></p>	<ul style="list-style-type: none"> <li>• An Arboricultural report has been prepared by a suitably qualified arborist for the project. This report is provided as an attachment to the project's flora and fauna assessment, please refer to Attachment 3 of this report for further detail.</li> </ul>

Requirements	Proposal Response
<p><b>A site plan (drawn to scale) including but not limited to:</b></p> <ul style="list-style-type: none"> <li>• The location of buildings or works including but not limited to driveways, batters, trenches and underground services and effluent disposal systems.</li> <li>• Dimensions of any existing building envelope.</li> <li>• The location, type and extent of native vegetation on site.</li> <li>• Accurate and detailed existing and proposed site levels.</li> <li>• Cross sections to illustrate the extent of cut and fill.</li> <li>• Details of retaining walls including height, materials and if required, drainage.</li> <li>• Demonstration that adverse environmental impacts will be avoided, or where they cannot be avoided, minimised, so that the ecological integrity of the area is conserved and protected. This includes avoiding or minimising the likely impact of any proposed subdivision and possible future development of the lots, including but not limited to: Earthworks and Changes to the hydrology and drainage pattern.</li> </ul>	<ul style="list-style-type: none"> <li>• This requirement has been met. Please refer to the project design in Attachment 1 and the figures included within this report.</li> </ul>
<p><b>Measures to be undertaken to minimise environmental impacts during the construction period, including soil conservation, waterway and native vegetation protection measures.</b></p>	<ul style="list-style-type: none"> <li>• The project's FFA (Attachment 3) provides an overview of key ecological values within and in proximity to the study area and outlines potential implications of project on those values. In response to these impact, the FFA recommends primary mitigation measures to minimise impacts on the environment and biodiversity as a result of the project. DoT are committed to implementing these recommendation as part of the construction phase of the project. Please refer to Section 6 of the FFA in Attachment 3 for further detail.</li> </ul>
<p><b>Clause 42.01 &amp; Section 4.0 ESO1 Application requirements - Vegetation removal</b></p>	
<p><b>An arborist's report for any native trees to be removed including assessment of the presence of hollows.</b></p>	<ul style="list-style-type: none"> <li>• This requirement has been met. Please refer to the project design in Appendix 6 of the FFA (Attachment 3).</li> </ul>

Requirements	Proposal Response
<p><b>A flora and fauna assessment that includes as a minimum:</b></p> <ul style="list-style-type: none"> <li>• <b>Inventory of flora and fauna species present on the site.</b></li> <li>• <b>Mapping of native vegetation present on site.</b></li> <li>• <b>A habitat hectare assessment of native vegetation quality.</b></li> <li>• <b>A habitat assessment for threatened fauna.</b></li> <li>• <b>An assessment of the ecological values present on site and the likely impact of the proposed development on those values with particular attention given to the impact of the proposed development on flora and fauna species and communities listed under the Commonwealth Environment Protection &amp; Biodiversity Conservation Act 1999 and Victorian Flora &amp; Fauna Guarantee Act 1988, Advisory Lists of rare or threatened plants and fauna in Victoria, and local and regional significant flora and fauna.</b></li> <li>• <b>An assessment of the contribution the proposed vegetation removal would have on cumulative losses and / or strategic directions for biodiversity protection within Frankston City Council.</b></li> <li>• <b>Whether offsets can be provided on-site.</b></li> <li>• <b>Demonstration of the application of the avoidance hierarchy (avoid, minimise, mitigate principles) in relation to native vegetation on site.</b></li> </ul>	<ul style="list-style-type: none"> <li>• This requirement has been met, please see the project's FFA provided in Attachment 3.</li> </ul>
<p><b>Clause 42.01 &amp; Section 5.0 ESO1 Decision guidelines</b></p>	
<p><b>Demonstration of the avoidance hierarchy.</b></p>	<p>This requirement has been met, please see Section 5 of the project's FFA provided in Attachment 3.</p>



Requirements	Proposal Response
<p><b>The impact of the proposal on native vegetation and fauna habitat on site and the immediate locality.</b></p>	<ul style="list-style-type: none"> <li>• The impact of the project on native vegetation and fauna habitat has been considered during the design phase of the project by DoT. This has included consultation with Biosis and DELWP to understand best practice mitigation solutions to any impacts that may result from the project. Please refer to Attachment 3 for the project's FFA which includes more details.</li> <li>• DoT are committed to implementing the following mitigation management measures for Swamp Skink management (see Section 6 of the FFA): <ul style="list-style-type: none"> <li>○ In accordance with DELWP recommendations to mitigate impacts on Swamp Skink populations, a temporary fence with a 600mm high silt fence should be installed prior to works to prevent Swamp Skink from dispersing into the roadworks area (Figure 4 of the FFA).</li> <li>○ The temporary fence should start from the pathway connecting Ballarto Road to the Peninsula Link Trail and extend approximately 250 metres to join the existing north-south running fence to the east.</li> <li>○ The temporary fence is to be maintained and installed for the entirety of roadworks period. Additionally, artificial refuges, i.e. roof tiles, should be installed between the road and temporary fence to capture any Swamp Skink and release into habitat behind the temporary fence.</li> <li>○ Up to 50 roof tiles at intervals of 5m need to be deployed up to 4 weeks before surveys begin.</li> <li>○ Surveys should commence in Spring to early Summer (DELWP 2020).</li> <li>○ Tiles should be inspected at least three times and up to 5 times during the survey period with a week between inspections (DELWP 2020).</li> <li>○ The last check needs to coincide with the first day of vegetation removal.</li> <li>○ Upon completion of the road works, a permanent cyclone fence with an additional low barrier to prevent the dispersal of Swamp Skink should be installed and the temporary fence will be removed. This permanent fence should follow specifications outlined by Animex International 2021 (Appendix 7 of the FFA, Photo 9).</li> </ul> </li> </ul>

Requirements	Proposal Response
<p><b>The impact of the proposal on bio links across the landscape.</b></p>	<ul style="list-style-type: none"> <li>The study area is in an urban environment and the vegetation present contributes to some connectivity along Ballarto Road between the high value Swamp Scrub in the west, located within the Pines Flora and Fauna Reserve, linking along Ballarto Road to the moderate to high value Heathy Woodland east of the study area (Biosis 2022).</li> <li>The project's FFA (Attachment 3) provides an assessment of how the project will impact the habitat connectivity within the study area, in particular along the south of Ballarto Road, and how the project may capably mitigate these impacts in Section 6 of the FFA. Given that DoT are committed to implementing these mitigation measures as advised by Biosis, the project is considered to provide an appropriate response to its biodiversity impacts.</li> </ul>
<p><b>The results of any arborist report, flora and fauna survey and assessment of the biological values of the land and consideration of whether the survey and assessment has been adequately completed under appropriate seasonal conditions.</b></p>	<ul style="list-style-type: none"> <li>The assessments conducted for the arborist report and flora and fauna survey were completed under appropriate seasonal conditions. Please refer to the Arborist report and the FFA in Attachment 2 for further detail.</li> </ul>
<p><b>Replacement planting to address the loss of native vegetation having regard to the conservation significance of the vegetation, including local and regionally significant vegetation.</b></p>	<ul style="list-style-type: none"> <li>Details for landscaping as part of the project are to be determined at a later stage of the project.</li> </ul>
<p><b>Whether offsets can be provided on-site.</b></p>	<ul style="list-style-type: none"> <li>Offsets cannot be provided on site. According to the Native Vegetation Removal (NVR) report, 0.847 hectares of native vegetation and 11 large trees of native vegetation (Attachment 3). These required offsets of 0.297 general habitat units and 11 trees will be secured off site. A quote for the required native vegetation offsets has been acquired by DoT to satisfy the offset requirements in Appendix 5a of the FFA (Attachment 3). Payment of these offsets will occur following planning permit approval of the project.</li> </ul>
<p><b>The need to prepare an integrated land management plan that addresses the protection and enhancement of native vegetation and waterways, soil erosion and stabilisation of soil, pest plant and animal control, hydrological changes and revegetation of degraded areas with indigenous plant species.</b></p>	<ul style="list-style-type: none"> <li>Given the nature and scale of the project, the need for an integrated land management plan is not considered to be required to inform environmental management of the project. This is as the FFA provides recommendations that are typically incorporated in a Site or Construction Environmental Management Plan and is therefore considered satisfactory for the project and its required approvals.</li> </ul>

Requirements	Proposal Response
<b>The guidelines and principles of AS4970-2009 – Protection of Trees on Development Sites.</b>	<ul style="list-style-type: none"> <li>AS4970-2009 has been used for the preparation of the arborist report (Appendix 6 of the FFA) to assess the project’s impacts to trees within the study area. Given this, it is considered that this decision guidelines has been met.</li> </ul>

**Table 9 Response to Clause 52.17 (Native Vegetation) application requirements and decision guidelines**

Requirements	Project response
<b>Clause 52.17-2 Application requirements for all applications</b>	
<p><b>Information about the native vegetation to be removed, including:</b></p> <ul style="list-style-type: none"> <li><b>The assessment pathway and reason for the assessment pathway. This includes the location category of the native vegetation to be removed.</b></li> <li><b>A description of the native vegetation to be removed that includes:</b> <ul style="list-style-type: none"> <li>whether it is a patch or a scattered tree (or both)</li> <li>the extent (in hectares)</li> <li>the number and circumference (in centimetres measured at 1.3 metres above ground level) of any large trees within a patch</li> <li>the number and circumference (in centimetres measured at 1.3 metres above ground level) of any scattered trees, and whether each tree is small or large</li> <li>the strategic biodiversity value score</li> <li>the condition score</li> <li>if it includes endangered Ecological Vegetation Classes</li> <li>if it includes sensitive wetland or coastal areas.</li> </ul> </li> <li><b>Maps showing the native vegetation and property in context and containing:</b></li> </ul>	<ul style="list-style-type: none"> <li>The proposed removal of native vegetation has been assessed and included in the project’s FFA (Biosis 2022) (Attachment 3)</li> <li>Please see section 4.1 of this report for a summary of the study area’s ecological values which has been extracted from the project’s FFA.</li> <li>The proposed removal of native vegetation is assessed under the Detailed Assessment Pathway and is located in Location 2.</li> <li>The study area has been modelled as having a low to moderate Strategic Biodiversity Value Score ranging between 0.170 and 0.570 .</li> <li>The condition score of native vegetation within and immediately adjacent to the study area is listed in the project’s FFA report (Biosis 2022) (Attachment 3).</li> <li>The proposed removal of native vegetation includes the Swamp Scrub (EVC53) which has a bioregional conservation status of Endangered, and Heathy Woodland EVC 48, which has a bioregional conservation status of Least Concern.</li> <li>A map that shows the location of the proposed native vegetation for removal in the study area can be found in Figure 5.</li> <li>Offset requirements – According to the Native Vegetation Removal (NVR) report an offset amount of 0.297 general habitat units including 11 large trees is required (Attachment 3).</li> </ul>

Requirements	Project response
<ul style="list-style-type: none"> <li>- scale, north point and property boundaries</li> <li>- location of any patches of native vegetation and the number of large trees within the patch proposed to be removed</li> <li>- location of scattered trees proposed to be removed, including their size</li> <li>• The offset requirement, determined in accordance with section 5 of the Guidelines that will apply if the native vegetation is approved to be removed.</li> </ul>	
<ul style="list-style-type: none"> <li>• Topographic and land information relating to the native vegetation to be removed, showing ridges, crests and hilltops, wetlands and waterways, slopes of more than 20 percent, drainage lines, low lying areas, saline discharge areas, and areas of existing erosion, as appropriate. This may be represented in a map or plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Please refer to the FFA provided in Attachment 3 which provides details regarding this information.</li> </ul>
<ul style="list-style-type: none"> <li>• Recent, dated photographs of the native vegetation to be removed.</li> </ul>	<ul style="list-style-type: none"> <li>• This information is provided in the project's design (Attachment 1) and FFA (Biosis 2022) (Attachment 3).</li> </ul>
<ul style="list-style-type: none"> <li>• Details of any other native vegetation approved to be removed, or that was removed without the required approvals, on the same property or on contiguous land in the same ownership as the applicant, in the five year period before the application for a permit is lodged.</li> </ul>	<ul style="list-style-type: none"> <li>• No past permitted clearing has occurred on-site in the past five years.</li> </ul>
<ul style="list-style-type: none"> <li>• An avoid and minimise statement. The statement describes any efforts to avoid the removal of, and minimise the impacts on the biodiversity and other values of native vegetation, and how these efforts focussed on areas of native vegetation that have the most value. The statement should include a description of the following:</li> <li>• Strategic level planning - any regional or landscape scale strategic planning process that the site has been subject to that avoided and minimised impacts on native vegetation across a region or landscape</li> <li>• Site level planning - how the proposed use or development has been sited or designed to avoid and minimise impacts on native vegetation.</li> <li>• That no feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.</li> </ul>	<ul style="list-style-type: none"> <li>• DoT intends to avoid and minimise impacts on the existing native vegetation of the study area by committing to the following measures during the design, and construction/ post-construction stages: <ul style="list-style-type: none"> <li>○ Vegetation outside of the construction footprint should be fenced off and sign-posted as no-go zones.</li> <li>○ Environmental inductions should inform contractors of no-go zones.</li> <li>○ Identify and implement appropriate offsets for vegetation losses as specified above.</li> <li>○ Specific detail relating to the prevention of impacts to the retained native vegetation in proximity to the study area is further elaborated in the project's FFA (Attachment 3).</li> </ul> </li> </ul>

Requirements	Project response
	<ul style="list-style-type: none"> <li>○ A temporary fence with a 600mm high silt fence will be installed prior to works to prevent Swamp Skink from dispersing into the roadworks area (Figure 4 of the FFA). Upon completion of the road works, a permanent cyclone fence with an additional low barrier to prevent the dispersal of Swamp Skink should be installed and the temporary fence will be removed. This permanent fence should follow specifications outlined by Animex International 2021 (Appendix 7 of the FFA, Photo 9).</li> </ul>
<ul style="list-style-type: none"> <li>● <b>A copy of any Property Vegetation Plan contained within an agreement made pursuant to section 69 of the Conservation, Forests and Lands Act 1987 that applies to the native vegetation to be removed.</b></li> </ul>	<ul style="list-style-type: none"> <li>● Not applicable.</li> </ul>
<ul style="list-style-type: none"> <li>● <b>Where the removal of native vegetation is to create defensible space, a written statement explaining why the removal of native vegetation is necessary. This statement must have regard to other available bushfire risk mitigation measures. This statement is not required when the creation of defensible space is in conjunction with an application under the Bushfire Management Overlay</b></li> </ul>	<ul style="list-style-type: none"> <li>● The native vegetation proposed to be removed has been minimised to mitigate impacts to biodiversity.</li> </ul>
<ul style="list-style-type: none"> <li>● <b>If the application is under Clause 52.16, a statement that explains how the proposal responds to the Native Vegetation Precinct Plan considerations at decision guideline 8.</b></li> </ul>	<ul style="list-style-type: none"> <li>● Not applicable.</li> </ul>
<ul style="list-style-type: none"> <li>● <b>An offset statement providing evidence that an offset that meets the offset requirements for the native vegetation to be removed has been identified, and can be secured in accordance with the Guidelines.</b></li> <li>● <b>A suitable statement includes evidence that the required offset:</b></li> <li>● <b>is available to purchase from a third party, or</b></li> <li>● <b>will be established as a new offset and has the agreement of the proposed offset provider, or can be met by a first party offset.</b></li> </ul>	<ul style="list-style-type: none"> <li>● An offset amount of 0.297 general habitat units with a minimum Strategic Biodiversity Value of 0.171 and 11 large trees applies to the proposed removal of native vegetation.</li> <li>● A quote for the required native vegetation offsets has been acquired by DoT to satisfy the offset requirements in Appendix 5a of the FFA (Attachment 3). Payment of these offsets will occur following planning permit approval of the project.</li> </ul>
<b>Clause 52.17-5 decision guidelines</b>	
<b>Decision guidelines (all applications)</b>	<ul style="list-style-type: none"> <li>● See response above.</li> </ul>

Requirements	Project response
<ul style="list-style-type: none"> <li>• Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation, and should focus on areas of native vegetation that have the most value. Taking this into account consider whether:</li> <li>• the site has been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation</li> <li>• the proposed use or development has been appropriately sited or designed to avoid and minimise impacts on native vegetation</li> <li>• feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.</li> </ul>	
<p>The role of native vegetation to be removed in:</p> <ul style="list-style-type: none"> <li>• Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway in a special water supply catchment area listed in the Catchment and Land Protection Act 1994.</li> <li>• Preventing land degradation, including soil erosion, salination, acidity, instability and water logging particularly:             <ul style="list-style-type: none"> <li>– where ground slopes are more than 20 per cent</li> <li>– on land which is subject to soil erosion or slippage</li> <li>– in harsh environments, such as coastal or alpine areas.</li> </ul> </li> <li>• Preventing adverse effects on groundwater quality, particularly on land:             <ul style="list-style-type: none"> <li>– where groundwater recharge to saline water tables occurs</li> <li>– that is in proximity to a discharge area that is a known recharge area</li> </ul> </li> </ul>	<p>The proposed removal of native vegetation:</p> <ul style="list-style-type: none"> <li>• Is unlikely to have any impacts on existing water resources given the distance from the nearest water resources listed in the decision guidelines.</li> </ul>
<ul style="list-style-type: none"> <li>• The need to manage native vegetation to preserve identified landscape values.</li> </ul>	<ul style="list-style-type: none"> <li>• The area surrounding the study area within the village also largely supports modified/ non-vegetated areas, with small areas of Swamp Scrub and Heathy Woodland.</li> </ul>

Requirements	Project response
	<ul style="list-style-type: none"> <li>DoT intends to avoid significant impact on landscape values of the Land and broader environment by minimising the removal of native vegetation to the minimum possible extent.</li> </ul>
<p><b>Whether any part of the native vegetation to be removed, destroyed or lopped is protected under the <i>Aboriginal Heritage Act 2006</i>.</b></p>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
<ul style="list-style-type: none"> <li><b>The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to other available bushfire risk mitigation measures</b></li> </ul>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
<ul style="list-style-type: none"> <li><b>Whether the native vegetation to be removed is in accordance with any Property Vegetation Plan that applies to the site.</b></li> </ul>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
<ul style="list-style-type: none"> <li><b>Whether an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines</b></li> </ul>	<ul style="list-style-type: none"> <li>An offset amount of 0.297 general habitat units including 11 large trees applies to the proposed removal of native vegetation.</li> <li>A quote for the required native vegetation offsets has been acquired by DoT to satisfy the offset requirements in Appendix 5a of the FFA (Attachment 3). Payment of these offsets will occur following planning permit approval of the project.</li> </ul>
<p><b>Decision guidelines (Clause 52.17)</b>  <b>Consider in relation to the native vegetation to be removed:</b></p> <ul style="list-style-type: none"> <li><b>The purpose and objectives of the Native Vegetation Precinct Plan.</b></li> <li><b>The effect on any native vegetation identified for retention in the Native Vegetation Precinct Plan.</b></li> <li><b>The potential for the effectiveness of the Native Vegetation Precinct Plan to be undermined.</b></li> <li><b>The potential for the proposed development to lead to the loss or fragmentation of native vegetation identified for retention in the Native Vegetation Precinct Plan.</b></li> </ul> <p><b>Offset requirements in the Native Vegetation Precinct Plan.</b></p>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>

Requirements	Project response
<p><b>For applications in both the Intermediate and Detailed Assessment Pathway only – consider the impacts on biodiversity based on the following values of the native vegetation to be removed:</b></p> <ul style="list-style-type: none"> <li>• <b>The extent.</b></li> <li>• <b>The condition score.</b></li> <li>• <b>The strategic biodiversity value score.</b></li> <li>• <b>The number and circumference of any large trees.</b></li> <li>• <b>Whether it includes an endangered Ecological Vegetation Class.</b></li> <li>• <b>Whether it includes sensitive wetlands or coastal areas.</b></li> </ul>	<ul style="list-style-type: none"> <li>• It is proposed to remove 0.847 hectares of native vegetation including 11 large trees. No past permitted clearing has been identified for the project site.</li> <li>• This is discussed in detail above.</li> <li>• The strategic biodiversity value score of the native vegetation to be removed is 0.171.</li> <li>• The proposed native vegetation to be removed does not include sensitive Wetlands or coastal areas.</li> </ul>
<p><b>For applications in the Detailed Assessment Pathway only – consider the impacts on habitat for rare or threatened species. Where native vegetation to be removed is habitat for rare or threatened species according to the Habitat importance maps, consider the following:</b></p> <ul style="list-style-type: none"> <li>• <b>The total number of species’ habitats.</b></li> <li>• <b>The species habitat(s) that require a species offset(s).</b></li> <li>• <b>The proportional impact of the native vegetation removal on the total habitat for each species, as calculated in section 5.3.1.</b></li> <li>• <b>The conservation status of the species (per the Advisory Lists maintained by DELWP).</b></li> <li>• <b>Whether the habitats are highly localised habitats, dispersed habitats, or important areas of habitat within a dispersed species habitat.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Impacts and mitigation measures to Swamp Skink populations has been considered as described in section 6 of the FFA (Attachment 3).</li> <li>• Please refer to the FFA which responds to the proportional impact of native vegetation removal on the total habitat for each species within the study area. The FFA also provides a thorough review of threatened species listed under the EPBC and FFG Act as relevant to the project.</li> </ul>



## Conclusion

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This report has outlined the planning controls and considerations associated with an application to construct the project at the Ballarto Road and Lyrebird Drive intersection.

Key considerations in seeking approval for this project have been identified and addressed, these include:

- The delivery of a coordinated and safe movement network by developing an integrated and efficient transport system.
- A responsive design which takes into account the biodiversity values and constraints.
- Ensuring the strategic value of the proposal has been considered.
- Achieving a no net loss in the contribution made by native vegetation to Victoria's biodiversity through the new risk-based approach, avoid, minimise and offset.
- Commitment to implementing best practice environmental standards as recommended in the project's FFA for the construction stage of the project.

In summary the proposal is considered to accord with the purpose of the relevant decision guidelines of the Planning Scheme and meets with all relevant requirements in each section. The proposal is also considered to be in accordance with Planning Policy Framework and the Frankston Planning Strategy and is considered worthy of a planning permit based on its merits.

## References

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Biosis 2022. Ballarto Road and Lyrebird Drive intersection upgrade: Flora and fauna assessment. Report for Department of Transport. S Mendham. Biosis Pty Ltd. Melbourne, VIC. Project no 36023.

DoT, 2019. Movement and Place in Victoria framework.

<https://transport.vic.gov.au/about/planning/transport-strategies-and-plans/movement-and-place-in-victoria>

DoT, 2022. Ballarto Road Upgrade. Department of Transport. VicRoads website. 7 February 2022.

<https://www.vicroads.vic.gov.au/planning-and-projects/melbourne-road-projects/ballarto-road-upgrade>

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## Attachments

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## Attachment 1 - Project Design

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## Attachment 2 – Shared Used Pathway Concept Plan

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## Attachment 3 - Flora and Fauna Assessment (FFA)

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## Attachment 4 – Application consent from Public Land Managers

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## Attachment 5 – CHMP18037

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## Attachment 6 – Summary of Community Consultation

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