

## 10.2 ARTC - SPECIFIC CONTROLS OVERLAY RESPONSE TO PROPOSED INCORPORATED DOCUMENT

**Author:** James Kirby - Senior Strategic Planner

**File No:** PLP/13/094

**Attachments:** 1. Strategic Planning Collated response - PSA Voluntary Notification 17 May 2021

### 1. Purpose

- 1.1 For Council to consider and endorse the attached submission (Attachment 1) to Planning Scheme Amendment GC157 which implements the Specific Controls Overlay to facilitate construction of the Federal Government's Inland Rail project.

### 2. Background

- 2.1 The Incorporated Document will be incorporated into the Whittlesea, Mitchell, Strathbogie, Benalla, Wangaratta and Wodonga Planning Schemes (the Planning Schemes) and is made pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.
- 2.2 The Project will utilise the existing corridor and modify or replace existing infrastructure at a number of locations where there is not adequate clearance for double-stacked freight trains. The main components of the Project include 12 discrete project areas (also referred to as 'enhancement sites') from Beveridge to Albury where road and rail interfaces do not provide the required horizontal and vertical clearance for double-stacked freight trains.
- 2.3 The proposed amendment seeks to introduce an Incorporated Document (with conditions) for a Specific Controls Overlay (SCO) which will avoid the need for future planning permits for works associated with the Inland Rail Project. The scope of the project itself is generally limited to the following seven sites within the shire:

Broadford-Wandong Road bridge, Wandong

Hamilton Street bridge, Broadford

Short Street bridge, Broadford

Marchbanks Road bridge, Broadford

Hume Highway bridge, Tallarook

Seymour-Avenel Road bridge, Seymour

Hume Highway bridge, Seymour

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### **3. Key Matters**

- 3.1 This Amendment has been prepared by the Minister for Planning, who is the planning authority for the Amendment.
- 3.2 The Amendment has been made at the request of the Australian Rail Track Corporation Ltd (ARTC) as the proponent responsible for the Inland Rail – Beveridge to Albury Project (the Project) which forms the Victorian portion of the broader Inland Rail Program.
- 3.3 The Amendment will introduce the SCO in specific locations, which will give effect to the Incorporated Document.
- 3.4 The proposed Incorporated Document is intended to streamline the planning approval pathways and to remove the need for a multitude of statutory planning approvals associated with the project.
- 3.5 In the officer level response attached, it is recommended that Council continues to have a significant role as the project progresses towards implementation and delivery, particularly as it relates to key strategic sites within our townships.

### **Recommendation**

**THAT** Council endorse and lodge the submission (Attachment 1) to the exhibited Planning Scheme Amendment GC157.

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#### **4. Financial, Resource and Asset Management Implications**

- 4.1 The submission to Amendment GC157 has been prepared by Council Officers.
- 4.2 Although the project has not been through detail design, there may be some implications on Council assets, primarily in relation to existing roads and associated local infrastructure.
- 4.3 Given new infrastructure needs to be built to facilitate the Project, Council will inherit new assets in some locations, including Hamilton Street and Short Street, Broadford and Broadford-Wandong Road, Wandong.

#### **5. Consultation**

- 5.1 Council officers have sought the views of internal departments and received comments from Engineering, Environment, Statutory Planning and Heritage.
- 5.2 As the proponent for the Amendment, ARTC have undertaken consultation with the broader community and stakeholders from 19 April until 17 May 2021. ARTC have also hosted all documentation on their website and held several community drop-in sessions at locations in Wandong, Seymour, Broadford.

#### **6. Sustainability Implications (Social and Environmental)**

- 6.1 The Minister for Planning deemed that the project did not require an Environmental Effects Statement (EES), subject to a range of conditions being met. One of these conditions required an Environment Report for the project which was required to examine direct and indirect impacts on biodiversity (listed species, fauna, listed communities and native vegetation). Targeted surveys and ecological investigations are also to be undertaken in consultation with DELWP.
- 6.2 An Environmental Management Framework is also required to be prepared, to be informed by the Environment Report. The EMF will be produced in consultation with Council and to the satisfaction of the Minister for Planning.

#### **7. Alignment to Council Plan**

- 7.1 The upgrades to infrastructure and public realm in Broadford, Wandong and Seymour are consistent with Strategy 3.7 "Improve the liveability of Mitchell Shire" and Strategy 3.9 "Improve the accessibility and connectivity of pedestrian and cycle paths within and between our towns". Once delivered the infrastructure upgrades will also help achieve Strategy 6.2: Deliver high quality projects that benefit our community.

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## 8. Conflict of Interest

8.1 No officers involved in the preparation of this report have any direct or indirect interest in this matter.

## 9. Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Given the current phase of the project, and the fact final design work is not completed, there are still some unknown implications in relation to the proposed new infrastructure and its ultimate impact on the surrounding community.	Medium	Ensure Council officers continue to work with ARTC and other relevant Authorities to achieve optimal outcomes for the community.	Can be achieved within existing resources.

## 10. Discussion

### Planning:

- 10.1 The physical scope of the Specific Controls Overlay needs to be provided. While it is acknowledged the overlay will seek to allow all works required to deliver the Inland rail Project, clarity on the function and form of the overlay should be provided.
- 10.2 Heritage Management would typically require Council's approval for any works at the Seymour Railway Station, Wallan Station Complex or 770 Wandong Road. It is noted that none of the main proposed project sites (listed above) are within immediate proximity of a heritage place.
- 10.3 Urban Design Framework is a key document and should incorporate Council's desire to see vastly improved public spaces particularly for Wandong and Broadford considering the project sites are in strategic locations located within town centres.
- 10.4 The provisions allowing for the removal of native vegetation are considered acceptable when comparing these to the range of exemptions currently applicable (e.g.: for utility installation, for road safety etc).

### Engineering:

- 10.5 Agreement has been reached with ARTC around the review, delivery and handover of road assets, that generally detail the engineering and

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landscape requirements and obligations of both parties. Officers are relatively comfortable that this, along with the statutory road work controls that would be in place, enable Council to provide input and supervision from an engineering and landscape perspective.

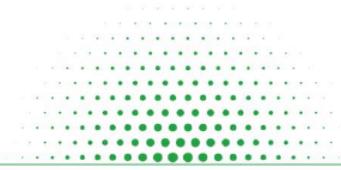
Environment:

- 10.6 'Local Government' should be listed for approval in relation to the Flora and Fauna Guarantee (FFG) Act and Environmental Protection Biodiversity Conservation (EPBC) Act included.
- 10.7 Council should be involved in the development of the Environmental Management Framework. This framework should read "to the satisfaction of the relevant local government" "not "in consultation with".
- 10.8 Council recommends a 5-year maintenance period for any lay down points and site compounds; this is to ensure the control of declared noxious weeds that may be brought in on machinery. This has been the example in Kilmore East where Chilean needle grass has been introduced along the railway line following rail works. Further details of how sites will be rehabilitated needs to be included in the documentation and in the environmental management framework. This must include collaboration with the relevant landholders whether government or freehold property owners.

Heritage:

- 10.9 In relation to the Incorporated Document, if works affecting heritage places and trees are exempt from the permit requirements of the Planning Scheme, it appears that all is required is "*a heritage assessment prepared to the satisfaction of the Minister*". The Explanatory Report is at odds with this as it states that the requirement is for "*plans detailing the extent of development to be prepared to the satisfaction of the Minister for Planning*".
- 10.10 The heritage places in the Project Land are most commonly associated with Station Precincts. In accordance with Clause 15.03-1S (Heritage Conservation) mitigation measures will be developed as part of the Project to ensure the protection and appropriate treatment of heritage sites. Compliance with any heritage permit conditions will need to be incorporated into the Environmental Management Framework.
- 10.11 Similarly, the Explanatory Report states that "The Incorporated Document includes conditions to manage the impact of the Project on specified heritage places listed on local Heritage Overlay. This includes a requirement for a report or plans detailing the extent of development to be prepared to the satisfaction of the Minister for Planning where, but for the Incorporated Document, a planning permit would be required for buildings, works, demolition, alteration or removal of a heritage place within a Heritage Overlay". There are no 'conditions' as such and needs to be included within the Amendment documentation.

**MITCHELL SHIRE COUNCIL.**  
*Memorandum - Environment*



**STRATEGIC PLANNING MEMO – PLANNING SCHEME AMENDMENT  
TO INTRODUCE A ‘SPECIFIC CONTROLS OVERLAY’ FOR ARTC WORKS**

<b>MEMO TO:</b>	Mike McIntosh
<b>MEMO FROM:</b>	James Kirby – Strategic Planning
<b>DATE:</b>	24/06/21
<b>RE:</b>	ARTC Planning Scheme Amendment
<b>ERMS Container/ Record/Folder Number:</b>	PL/13/094

The proposed amendment seeks introduce an Incorporated Document (with conditions) for a Specific Controls Overlay to avoid the requirement for planning permits for works associated with the Inland Rail Project. The scope of the project itself is *generally* limited to the following seven sites within the shire:

- Broadford-Wandong Road bridge, Wandong
- Hamilton Street bridge, Broadford
- Short Street bridge, Broadford
- Marchbanks Road bridge, Broadford
- Hume Highway bridge, Tallarook
- Seymour-Avenel Road bridge, Seymour
- Hume Highway bridge, Seymour

Internal feedback has been sought from various sections of the organisation with comments provided by Engineering, Statutory Planning, Environment and Heritage.

The **Statutory Planning** raised the following:

- The physical scope of the Specific Controls Overlay needs to be provided. While it is acknowledged the overlay will seek to allow for any and all works required to deliver the Inland rail Project, clarity on the course of the overlay should be provided.
- 4.2.11 – Heritage Management should require Council’s approval for any works at the Seymour Railway Station, Wallan Station Complex or 770 Wandong Road. It is noted that none of the main proposed project sites (listed above) are within immediate proximity of a heritage place;
- 4.2.16 – Urban Design Framework should require Council’s approval for any UDF prepared for Wandong and Broadford considering the project sites are located within the town centre; and
- The provisions allowing for the removal of native vegetation are considered acceptable when comparing these to the range of exemptions currently applicable (e.g.: for utility installation, for road safety etc).

**Engineering**

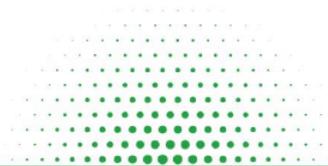
- Agreement has been reached with ARTC around the review, delivery and handover of road assets, that generally detail the engineering and landscape requirements and obligations of both parties. Engineering are relatively comfortable that this along with the statutory road work controls that would be in place, enable us to provide input and supervision from an engineering and landscape point of view over the project outcomes.

Contact us:  
t: (03) 5734 6200  
e: [mitchell@mitchellshire.vic.gov.au](mailto:mitchell@mitchellshire.vic.gov.au)  
w: [www.mitchellshire.vic.gov.au](http://www.mitchellshire.vic.gov.au)



## MITCHELL SHIRE COUNCIL.

### Memorandum - Environment



#### The Environment Team.

- 4.2.5 local government should be listed for approval in reference to the flora and fauna guarantee act and Environmental Protection biodiversity conservation act included.
- 4.3a (x) and (xi) should reference 4.2.5 as permits may be required.
- 4.1j (iv) should reference 4.2.5 as permits may be required.
- 4.1 j (xiii) – reference to the need for a permit for works on waterways under the Water Act.
- Mitchell Shire Council looks forward to being involved in the development of the Environmental Management Framework. The development of the framework should read “to the satisfaction of the relevant local government” “not “in consultation with”.
- Mitchell Shire council holds records of roadside conservation values and weed infestations these should be sourced by ARTC for each site as part of the development of the environmental management plan. ARTC can contact Councils Environment Department by emailing [environment@mitchellshire.vic.gov.au](mailto:environment@mitchellshire.vic.gov.au).
- Council recommends a 5-year maintenance period for any lay down points and site compounds; this is to ensure the control of declared noxious weeds that may be brought in on machinery. This has been the example in Kilmore East where Chilean needle grass has been introduced along the railway line following rail works. Further details of how sites will be rehabilitated needs to be included in the documentation and in the environmental management framework. This must include collaboration with the relevant landholders whether government or freehold property owners.
- Certified cleaned fill should only be used, and certificates provided to the relevant local government agency.
- Vehicle hygiene measures insight environmental management plans submitted to local government an approved prior to the commencement of work.

#### Heritage related concerns.

- According to s.4.2.11/4.2.12 of the Incorporated Document, if works affecting heritage places/trees are exempt from the permit requirements of the Planning Scheme, it appears that all is required instead is “a heritage assessment prepared to the satisfaction of the Minister”. The Explanatory Report is at odds with this as it states that the requirement is just for “plans detailing the extent of development to be prepared to the satisfaction of the Minister for Planning”.
- In relation to Clause 15 in the Planning Scheme (Built Environment and Heritage) the documentation states: “The Project will protect places and sites with significant heritage and cultural value in accordance with Clause 15.03-1S (Heritage conservation). The Project Land intersects with one place on the NHL, three places on the VHR, three places on the VHI and several places listed on local heritage overlays. The heritage places in the Project Land are most commonly associated with Station Precincts and the Glenrowan Heritage Precinct recognising the site of the ‘Kelly Gang’ siege. In accordance with Clause 15.03-1S (Heritage Conservation) mitigation measures will be developed as part of the Project to ensure the protection and appropriate treatment of heritage sites. Compliance with any heritage permit conditions will be incorporated into the EMF to the satisfaction of the Minister for Planning. “How can there be compliance with permit conditions when there are no permits?”
- Similarly, the Explanatory Report states that “The Incorporated Document includes conditions to manage the impact of the Project on specified heritage places listed on local Heritage Overlay. This includes a requirement for a report or plans detailing the extent of development to be prepared to the satisfaction of the Minister for Planning where, but for the Incorporated Document, a planning permit would be required for buildings, works, demolition, alteration or removal of a heritage place within a Heritage Overlay”. There are no ‘conditions’ as such and this term is only used to apply to the requirement mentioned in point 1 above.

#### Contact us:

t: (03) 5734 6200  
e: [mitchell@mitchellshire.vic.gov.au](mailto:mitchell@mitchellshire.vic.gov.au)  
w: [www.mitchellshire.vic.gov.au](http://www.mitchellshire.vic.gov.au)



## **MITCHELL SHIRE COUNCIL.**

### *Memorandum - Environment*



- Who will prepare the assessments, and what happens if proposals change, heritage infrastructure places are damaged or other heritage items are found in the course of the works? Council holds information that would be needed for these assessments (e.g., Heritage citations).

#### **Summary**

The strong level of interest from both community and Councillors in the ARTC infrastructure upgrades combined with the strength of the proposed Incorporated Document to introduce such a powerful overlay, means Council's referral response (submitted on 17 May 2021) should reflect the above concerns. Strategic Planning officers continue to work closely with ARTC as the design stage continues. A conversation between Strategic Planning and Department of Transport shows that the concern around the impact of the Hamilton Street bridge on the road reserve (Hamilton and High St intersection) is shared by State Government. In advocating for an improved outcome for Hamilton St (and other sites) Council needs to be clear in its expectations of ARTC. There is also a role for Advocacy in this process.

Contact us:  
t: (03) 5734 6200  
e: [mitchell@mitchellshire.vic.gov.au](mailto:mitchell@mitchellshire.vic.gov.au)  
w: [www.mitchellshire.vic.gov.au](http://www.mitchellshire.vic.gov.au)

