

# Melbourne Metro Rail Project

Incorporated Document

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~~May 2017~~ March 2018

Incorporated Document in the Maribyrnong, Melbourne, Port Phillip and Stonnington Planning Schemes pursuant to section 6(2)(j) of the *Planning and Environment Act 1987* (Vic).

## 1. INTRODUCTION

1.1 This document is an Incorporated Document in the Maribyrnong, Melbourne, Port Phillip and Stonnington Planning Schemes (**Planning Schemes**) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987* (Vic).

1.2 This Incorporated Document facilitates the delivery of the Melbourne Metro Rail Project (**Project**).

1.3 The control in clause 4 prevails over any contrary or inconsistent provisions in the Planning Schemes except as provided in clause 1.4.

1.4 The control in clause 4 of this Incorporated Document does not apply to the use and development of Project Land for over site development (OSD) as defined in the Metro Tunnel: Over Site Development – CBD North, October 2017 and the Metro Tunnel: Over Site Development – CBD South, October 2017 documents (the **OSD Incorporated Documents**) and to which the controls in the OSD Incorporated Documents apply.

## 2. PURPOSE

2.1 The purpose of the control in clause 4 is to permit and facilitate the use and development of land described in clause 3 for the purposes of the Project, in accordance with clauses 4 and 5.

## 3. LAND DESCRIPTION

3.1 The control in clause 4 applies to the land described as Project Land for the Melbourne Metro Rail Project as shown in on Maps 1 to 16 at Appendix 1.

## 4. CONTROL

### Exemption from Planning Scheme Requirements

4.1 Despite any provision to the contrary or any inconsistent provision in the Planning Schemes, no planning permit is required for, and no provision in the Planning Schemes operates to prohibit, control or restrict the use or development of the Project Land in accordance with the control in this clause for the purposes of, or related to, constructing or maintaining the Project or using any aspect of the Project infrastructure to operate passenger train and tram services.

4.14.2 The subdivision of Project Land for or associated with the Project, or on completion of Project works on land acquired for the Project, is exempt from a public open space contribution under clause 52.01 of the Planning Scheme and the subdivision of Project Land is a class that is exempt from any public open space requirement under the *Subdivision Act 1988* despite anything to the contrary stated in this Planning Scheme or the *Subdivision Act 1988*.

4.24.3 The Project infrastructure to which this control applies includes, but is not limited to:

- a) *Railways*, including twin railway tunnels, about 9km long, between South Kensington and South Yarra, and tunnel portals at those locations

- b) Underground and above-ground railway lines between and adjacent to the tunnel portals
- c) Underground *Railway stations, Retail premises* and support structures at Arden, Parkville, CBD North (including passenger connection to Melbourne Central Train Station), CBD South (including passenger connection to Flinders Street Train Station) and Domain
- d) Above ground *Railway station* works and modifications at West Footscray Station
- e) Ventilation structures and systems
- f) *Utility installations* and services to construct and operate any aspect of the Project, including any Project infrastructure and the operation of passenger trains or trams. Such services include traction energy, communications and rail operating systems
- g) *Tramways*
- h) Emergency and maintenance access shafts and infrastructure
- i) Bridges, transport interchanges and road works
- j) Earthworks and related-ground support structures or measures, kerbs, channels, water quality and soil treatment structures or works, retaining walls, noise and screening barriers, cuttings, batters and fill associated with the Project

4.34.4The use and development of the Project Land for the purposes of, or related to, the Project includes, but is not limited to:

- a) Use and development of laydown areas for construction purposes
- b) Removing, destroying and lopping trees and vegetation
- c) Demolishing and removing buildings, fixtures, structures and infrastructure
- d) Constructing or carrying out works for excavation, fences, temporary barriers, noise attenuation walls, stabilisation, creating bunds or mounds, landscaping, shared use paths, wetlands or ground treatment
- e) Creating or altering access to a road in a Road Zone, Category 1
- f) Constructing and using temporary site workshops and storage, administration and amenities buildings
- g) Manufacturing any materials required for the Project within the Arden precinct
- h) Constructing and using temporary access roads, diversion roads and vehicle parking areas
- i) Displaying construction, directional and business identification signage

- j) Carrying out of preparatory works including, but not limited to, those set out in clause 4.12
- k) Subdividing and consolidating land
- l) Altering or relocating rail lines, tram lines and Utility installations
- m) Any activity, buildings or works that the Minister for Planning confirms in writing is for the purposes of the Project.

4.44.5 Land uses in italics have the same meaning as in clause 74 of the Planning Schemes.

### **Conditions**

4.54.6 The use and development permitted by this Incorporated Document must be undertaken in accordance with the following conditions:

#### 4.64.7 Development Plans

4.6.14.7.1 Subject to clause 4.12, a Development Plan must be approved by the Minister for Planning for development that relates to each of the following:

- a) Western tunnel portal
- b) Eastern tunnel portal
- c) Arden Station
- d) Parkville Station
- e) CBD North Station
- f) CBD South Station
- g) Domain Station
- h) Rail turnback at West Footscray Station
- i) Any other above-ground works or structures that are part of the Project.

4.6.24.7.2 A Development Plan must address permanent surface works that are associated with each of the items listed in clause 4.6.1. A Development Plan for a station must address underground areas from the station entrance to the ticket gate.

4.6.34.7.3 A Development Plan must include:

- a) A site layout plan/s
- b) Architectural, landscape and public realm plans and elevations including lighting, signage, pedestrian access, bicycle access and other ancillary facilities

- c) An explanation demonstrating how the Development Plan (including materials and external finishes) is in accordance with the approved Urban Design Strategy and the approved Environmental Performance Requirements included within the Environmental Management Framework.

4.6.44.7.4 Prior to submission of a Development Plan to the Minister for Planning for approval under clause 4.6.1, a Development Plan must be:

- a) Provided to the Office of the Victorian Government Architect and relevant council/s for consultation.
- b) Where relevant, provided to the Head of Transport for Victoria, Roads Corporation, Public Transport Development Authority, Melbourne Water and Heritage Victoria for consultation.
- c) Made available for public inspection and comment on a clearly identifiable Project website for 15 business days. The website must set out details about the entity and contact details to which written comments can be directed during that time and specify the time and manner for the making of written comments.

For the avoidance of doubt, consultation in accordance with (a) and (b) can occur prior to or after the public inspection and comment period in (c).

Before, or on the same day as a Development Plan is made available in accordance with clause 4.6.4(c), a notice must be published in a newspaper generally circulating in the area to which a Development Plan applies informing the community of the matters set out in clause 4.6.4(c).

4.6.54.7.5 A Development Plan submitted to the Minister for Planning for approval under clause 4.6.1 must be accompanied by all written comments received under clause 4.6.4 and a summary of consultation and response to issues raised during the consultation.

4.6.64.7.6 Before deciding whether to approve a Development Plan under clause 4.6.1, the Minister for Planning must consider all written comments received under clause 4.6.4 and the consultation and response summary provided under clause 4.6.5.

4.6.74.7.7 A Development Plan must be approved by the Minister for Planning prior to the commencement of any development relating to an item in clause 4.6.1, except for Early Works that are carried out in accordance with clause 4.9.

4.6.84.7.8 A Development Plan may be prepared and approved in stages or parts, and may be amended from time to time with the approval of the Minister for Planning. The Minister must require an application for approval of an amendment to a Development Plan to comply with the requirements of clauses 4.6.3, 4.6.4, 4.6.5 and 4.6.6 unless, in the opinion of the Minister:

- a) the proposed amendment:
  - i) does not result in a material detriment to any person; or

- ii) a person who may suffer a material detriment as a result of the Minister's approval of the amendment has already been sufficiently consulted in respect of the amendment; and
- b) any amendment does not involve any change to an approved Environmental Performance Requirement.

4.6.94.7.9 For land to which a Development Plan applies, development must be carried out in accordance with an approved Development Plan.

#### 4.74.8 Environmental Management Framework

4.7.14.8.1 Prior to the commencement of any buildings or works associated with the Project (including Early Works under clause 4.9), an Environmental Management Framework (EMF) must be approved by the Minister for Planning. The EMF must include Environmental Performance Requirements addressing the following areas and any other relevant matters:

- a) Aboriginal heritage
- b) Air quality
- c) Arboriculture
- d) Biodiversity
- e) Business
- f) Contaminated land and spoil management
- g) Greenhouse gas
- h) Ground movement
- i) Ground water
- j) Historical cultural heritage
- k) Land use and planning
- l) Noise and vibration
- m) Social and community
- n) Surface water
- o) Transport
- p) Urban design, landscape and visual

4.7.24.8.2 The EMF must also include Residential Impact Mitigation Guidelines and Business Support Guidelines for Construction.

4.7.34.8.3 The EMF must set out the process and timing for development of an Environmental Management System/s, Construction Environment Management Plan/s, Site Environment Implementation Plan/s and plans referenced in Appendix 2 of this Incorporated Document as relevant to any stage or part of the Project, including process and timing for consultation with relevant council/s, Heritage Victoria, Head of Transport For Victoria, the Roads Corporation, Melbourne Water, Public Transport Development Authority, the Environment Protection Authority, and key affected stakeholders as relevant.

4.7.44.8.4 The EMF must identify the entity responsible for approval of each plan required under this Incorporated Document or the Environmental Performance Requirements, in accordance with the table in Appendix 2 to this Incorporated Document.

4.7.54.8.5 The EMF must identify requirements for monitoring, reporting and auditing of compliance with the Environmental Performance Requirements, this Incorporated Document, and each plan set out in the table in Appendix 2 to this Incorporated Document.

4.7.64.8.6 The EMF (including the Environmental Performance Requirements, the Residential Impact Mitigation Guidelines and the Business Support Guidelines for Construction) submitted to the Minister for Planning for approval under clause 4.7.1 must be accompanied by a statement explaining any differences between it, and the matters set out in the Minister's Assessment under the *Environment Effects Act 1978* dated 20 December 2016, in particular in relation to Table A2.

4.7.74.8.7 The EMF must be submitted to and approved by the Minister for Planning and may be prepared and approved in stages or parts and may be amended from time to time with the approval of the Minister for Planning.

4.7.84.8.8 The use and development for the Project must be carried out in accordance with the approved EMF and the approved Environmental Performance Requirements.

#### 4.84.9 Urban Design Strategy

4.8.14.9.1 Prior to the submission of a Development Plan under clause 4.6, an Urban Design Strategy must be approved by Minister for Planning.

4.8.24.9.2 The Urban Design Strategy may be prepared and approved in stages or parts and may be amended from time to time with the approval of the Minister for Planning.

4.8.34.9.3 The use and development for the Project must be carried out in accordance with the approved Urban Design Strategy.

#### 4.94.10 Early Works Plans

4.9.14.10.1 Early Works identified in the Environment Effects Statement for the Project as Early Works may be carried out before a Development Plan is approved, provided that an Early Works Plan is approved by the Minister for Planning.

**4.9.24.10.2** Early works for the Project identified in the Environment Effect Statement include:

- a) Utility service relocation and protection of utility assets;
- b) Site preparation works, including demolition works, removal or relocation of trees and monuments, minor road / transport network changes; and
- c) Works for construction of shafts at CBD North and CBD South station precincts.

**4.9.34.10.3** An Early Works Plan must include site layout plan/s and demonstrate how the Early Works Plan is in accordance with the approved Environmental Performance Requirements and the approved Urban Design Strategy.

**4.9.44.10.4** Prior to the submission of an Early Works Plan to the Minister for Planning for approval under clause 4.9.1, an Early Works Plan prepared in accordance with clause 4.9.2 must be:

- a) Provided to the relevant council/s for consultation.
- b) Provided to affected utility service providers for consultation.
- c) Where relevant, provided to the [Head of Transport for Victoria](#), Roads Corporation, Public Transport Development Authority, Melbourne Water and Heritage Victoria for consultation.
- d) Where relevant, provided to key stakeholders for consultation.
- e) Made available for public inspection and comment on a clearly identifiable Project website for 15 business days. The website must set out details about the entity and contact details to which written comments can be directed during that time and specify the time and manner for the making of written comments.

For the avoidance of doubt, consultation in accordance with (a) to (d) can occur prior to or after the public inspection and comment period in (e).

Before, or on the same day as an Early Works Plan is made available in accordance with clause 4.9.4(e), a notice must be published in a newspaper generally circulating in the area to which the Early Works Plan applies informing the community of the matters set out in clause 4.9.4(e).

**4.9.54.10.5** An Early Works Plan submitted to the Minister for Planning for approval under clause 4.9.1 must be accompanied by all written comments received under clause 4.9.4 and a summary of consultation and response to issues raised during consultation.

**4.9.64.10.6** Before deciding whether to approve an Early Works Plan under clause 4.9.1, the Minister for Planning must consider all written comments received under clause 4.9.4 and the consultation and response summary provided under clause 4.9.5.

4.9.74.10.7 An Early Works Plan must be approved by the Minister for Planning prior to the commencement of any works to which that Early Works Plan relates.

4.9.84.10.8 Early Works for the Project may be carried out before a Development Plan is approved under clause 4.6.1 provided that the Minister for Planning has approved an Early Works Plan for such works under clause 4.9.1.

4.9.94.10.9 An Early Works Plan may be prepared and approved in stages or parts and may be amended from time to time with the approval of the Minister for Planning. The Minister must require an application for approval of an amendment to an Early Works Plan to comply with the requirements of clauses 4.9.3, 4.9.4, 4.9.5, 4.9.6 unless, in the opinion of the Minister:

- a) the proposed amendment:
  - i) does not result in a material detriment to any person; or
  - ii) a person who may suffer a material detriment as a result of the Minister's approval of the amendment has already been sufficiently consulted in respect of the amendment; and
- b) any amendment does not involve any change to an approved Environmental Performance Requirement.

4.9.104.10.10 For land to which an Early Works Plan applies, development must be carried out in accordance with an approved Early Works Plan.

#### 4.104.11 Native Vegetation

4.10.14.11.1 Native vegetation offsets for the removal of native vegetation to construct the Project must be provided in accordance with the *Permitted Clearing of Native Vegetation - Biodiversity Assessment Guidelines* (Department of Environment and Primary Industries, September 2013), except as otherwise agreed by the Secretary to the Department of Environment, Land, Water and Planning.

#### 4.114.12 Creating or altering access to a road in a Road Zone, Category 1

4.11.14.12.1 Any buildings and works to create or alter access to a road in a Road Zone, Category 1 must be undertaken to the satisfaction of the relevant road authority.

#### 4.124.13 Preparatory Works

4.12.14.13.1 Preparatory works for the Project may commence before the plans and other matters listed in sub-clauses 4.6 to 4.9 are approved.

4.12.24.13.2 The preparatory works for the Project permitted under clause 4.12 include, but are not limited to:

- a) Works, including vegetation removal, that would not require a permit under the provisions of the Planning Schemes that, but for this Incorporated Document, would apply to the relevant land.

- b) Investigations, surveys, testing and preparatory works to determine the suitability of land.
- c) Creation of construction access points.
- d) Establishment of environmental and traffic controls.
- e) Fencing and temporary barriers to enable preparatory works.
- f) utility service relocations and protection works ~~limited to the following locations only:~~
  - ~~i) in the CBD North Precinct that are preparatory to works for the construction of shafts at Franklin and A'Beckett Streets (including associated tree removal);~~
  - ~~ii) on Flinders Lane between Russell and Swanston Streets that are preparatory to works for shaft construction at City Square; and~~
  - ~~iii) at Toorak Road West (between St Kilda Road and Leopold Street) that are preparatory to works associated with diverting tram services along Toorak Road West to connect with St Kilda Road.~~

~~4.12.34.13.3~~ For the avoidance of doubt, preparatory works permitted under clause 4.12 do not include excavation of shafts or station caverns, or tunnelling of railway tunnels.

#### 4.134.14 Availability of approved plans

~~4.13.14.14.1~~ A current version of each of the following approved plans must be available on a clearly identifiable Project website until commencement of public train operations through the tunnels:

- a) Each Development Plan approved under clause 4.6;
- b) Environmental Management Framework (including Environmental Performance Requirements, Residential Impact Mitigation Guidelines and Business Support Guidelines for Construction) approved under clause 4.7;
- c) Urban Design Strategy approved under clause 4.8; and
- d) Each Early Works Plan approved under clause 4.9.

## 5. EXPIRY

5.1 The control in this Incorporated Document expires if any of the following circumstances applies:

- a) The development allowed by the control is not started by 31 December 2018;
- b) The development allowed by this control is not completed by 31 December 2028; or

- c) The use allowed by the control is not started by 31 December 2028.
- 5.2 The Responsible Authority may extend these periods if a request is made in writing before the expiry date or within three months afterwards.

**Appendix 1 – Project Land**

**[MAPS 1 TO 16]**

## Appendix 2 – Approval of plans

Document	Approved by	Relevant provision
<b>Strategic framework and Development Plans</b>		
Development Plans Prepared by each Contractor to the extent relevant to its works	Minister for Planning	Incorporated Document clause 4. <del>67</del> .
Environmental Management Framework, including Environmental Performance Requirements Prepared by Melbourne Metro Rail Authority (MMRA)	Minister for Planning	Incorporated Document clause 4. <del>78</del> .
Urban Design Strategy Prepared by MMRA	Minister for Planning	Incorporated Document clause 4. <del>89</del> .
Early Works Plans Prepared by Early Works Contractor for works contemplated by clause 4.9 of the Incorporated Document.	Minister for Planning	Incorporated Document clause 4. <del>910</del> .
Community and Stakeholder Engagement Management Plan Prepared by MMRA	Minister for Planning	To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the Environmental Management Framework.
<b>Management of broad impacts</b>		
Construction Environmental Management Plan Prepared by each Contractor to the extent relevant to their works.	State of Victoria as party to the relevant contract (MMRA) For Public Private Partnership (PPP), also approved by Independent Reviewer	Incorporated Document clause 4. <del>78</del> . To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the Environmental Management Framework.
Site Environment Implementation Plan Prepared by each Contractor to the extent relevant to their	State of Victoria as party to the relevant contract (MMRA) For PPP, also approved	Incorporated Document clause 4. <del>78</del> . To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the

<b>Document</b>	<b>Approved by</b>	<b>Relevant provision</b>
works.	by Independent Reviewer	Environmental Management Framework.
Transport Management Plan/s (T1) Prepared by each Contractor to the extent relevant to their works.	State of Victoria as party to the relevant contract (MMRA) For PPP, also approved by Independent Reviewer	To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the Environmental Management Framework.
Operations Environmental Management Plan. Prepared by PPP Contractor.	State of Victoria as party to the relevant contract (MMRA) For PPP, also approved by Independent Reviewer	To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the Environmental Management Framework.
Business Disruption Plan. Prepared by each Contractor to the extent relevant to their works.	State of Victoria as party to the relevant contract (MMRA) For PPP, also approved by Independent Reviewer	To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the Environmental Management Framework.
Construction Noise and Vibration Management Plan. Prepared by each Contractor to the extent relevant to their works.	State of Victoria as party to the relevant contract (MMRA) For PPP, also approved by Independent Reviewer	To be referenced in the Environmental Performance Requirements for the Project to be prepared as part of the Environmental Management Framework.
<b>Technical plans</b>		
<p>Plans required by the Environmental Performance Requirements for the Project, other than the plans specifically listed above, will be approved as follows:</p> <ul style="list-style-type: none"> <li>• <i>For Early Works, Rail Infrastructure Alliance</i> (eastern and western tunnel portals and western turnback) <i>and Rail Systems Alliance</i> (the high capacity signalling, rail systems integration and commissioning) these plans would be approved by the State of Victoria as party to the relevant contract (MMRA); and</li> <li>• Where prepared by the <i>PPP Contractor</i> (Tunnels and Stations package), these plans would be reviewed and commented on by both the State of Victoria (MMRA) and the Independent Reviewer under the PPP review procedures, and written confirmation provided that the plan complies with all statutory approvals, the Incorporated Document and the approved Environmental Performance Requirements.</li> </ul>		