

Land development and the
Biodiversity Conservation Strategy (BCS)

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Prior to EPBC Act

Prior to 1999 and the introduction of the EPBC Act:

- No federal legislation
- To clear native vegetation a permit was required under state legislation (*Planning and Environment Act 1987* and *Flora and Fauna Guarantee Act 1988*)
- Reserves and National Parks mostly Crown Land and were gazetted as conservation reserves in the 70s and 80s.

EPBC Act (1999)

Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)

- Commonwealth Government's primary environmental legislation
- Protects 'matters of national environmental significance' (MNES):
 - World heritage properties
 - National heritage properties
 - Wetlands of international importance
 - **Listed threatened species and ecological communities**
 - Commonwealth marine areas
 - Migratory species
 - Commonwealth marine areas
 - Great Barrier Reef Marine Park
 - Nuclear actions
 - A water resource, in relation to coal seam gas development and large coal mining development

What was the process?

Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)

- Every state across Australia – Part 9 referral
- Part 9 of the EPBC Act: Provides streamlined assessments and approvals processes under
- BUT Part 9 referrals take a very long time, 12 months+
- In WA, Bridgewater North
 - First Part 9 referral
 - Negotiated outcome
 - 12-18 months delay







PLAN NOTES

- 1 Stage 1 approved subdivision. Residential estate with lot sizes between approximately 460m² and 670m².
- 2 Quaristown Avenue to be extended into the Estate creating a boulevard lined tree corridor to the Estuary.
- 3 Extension of existing local roads, Cervantes Drive and east-west road approved in Stage 1.
- 4 Access under the Estuary Bridge to Egret Point/Leisure Way. This provides direct access to Old Coast Road & Mandurah Townsite.
- 5 Central Village Green providing a focus and 'heart' to the community.
- 6 Wetland Open Space. Typically will consist of planted drainage swales providing nutrient stripping capabilities. Final use of the Wetland Open Space to be confirmed with the City of Mandurah.
- 7 East-West linear vegetation corridor satisfying active, passive, native vegetation retention and drainage functions.
- 8 Foreshore Reserve POS. Retention of native trees where appropriate, and provision/extension of pedestrian network. Landscaped areas will also be incorporated.
- 9 Approximate location of existing Osprey nest. To be relocated in consultation with the City of Mandurah.
- 10 Three storey terrace houses defining the central circle and periphery.
- 11 Apartment buildings (from North to South) with heights of 10, 12, 12, 8 storeys providing housing choice and allowing for the substantial increase in land available for POS.
- 12 Indicative location of Mixed Use Cafe and Convenience Deli to satisfy daily needs of local residents.
- 13 Indicative location of informal canoe launch facility.
- 14 Proposed Boat Ramp & associated car park. Location, size and level of facility subject to further environmental investigations.
- 15 Proposed water main location. Final alignment subject to confirmation from Water Corporation.

What did Victoria do to address this issue?

- Lengthy Part 9 referral process prompted the Victorian Government to create a quicker more streamlined process
- Wanted a process where applications didn't need to be referred to the Commonwealth Government

Bilateral Agreement!!! First state to do it!

As a result, the Victorian Government prepared:

Strategic Impact Assessment Report (SIAR)

- Evaluated the State Governments development program on MNES

- Identified MNES species that are relevant to Victoria

Biodiversity Conservation Strategy (BCS)

- Map based strategy identifying certain areas for protection of Victorian relevant MNES

Subregional Species Strategy (SRSS)

- Detailed conservation outcomes for specific species

WHERE DOES THE BCS APPLY

The existing 16 precincts within the 2005 Urban Growth Boundary for which a precinct structure plan (PSP) was approved **after 1 March 2012**

- Beaconsfield
- Berwick Waterways
- Botanic Ridge
- Casey Central Town Centre
- C21 Business Park
- Hampton Park
- Greenvale Activity Centre (A4)
- Greenvale North (R1)
- Mickleham Employment Area North (E2) AND South (E3)
- Officer Employment Area
- Pakenham Employment Area (Stage 1) AND (Stage 2)
- Truganina Employment Area
- Werribee Technology Park
- Wyndham Vale.
- Part of Greenvale South (R3) is also covered by the BCS.

WHERE DOES THE BCS APPLY

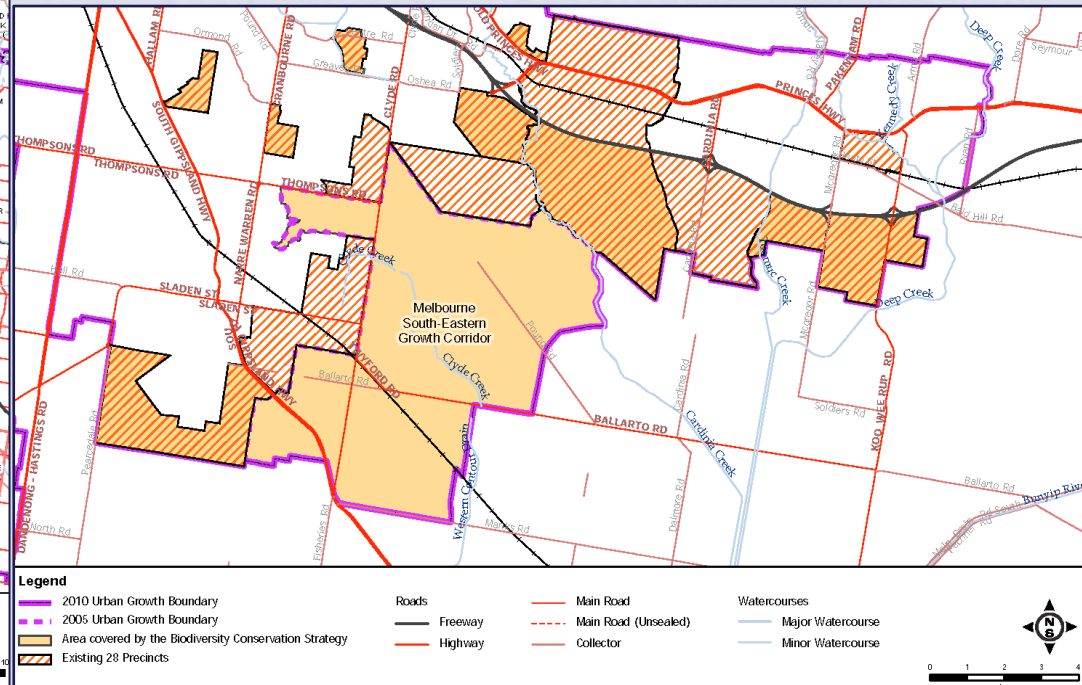
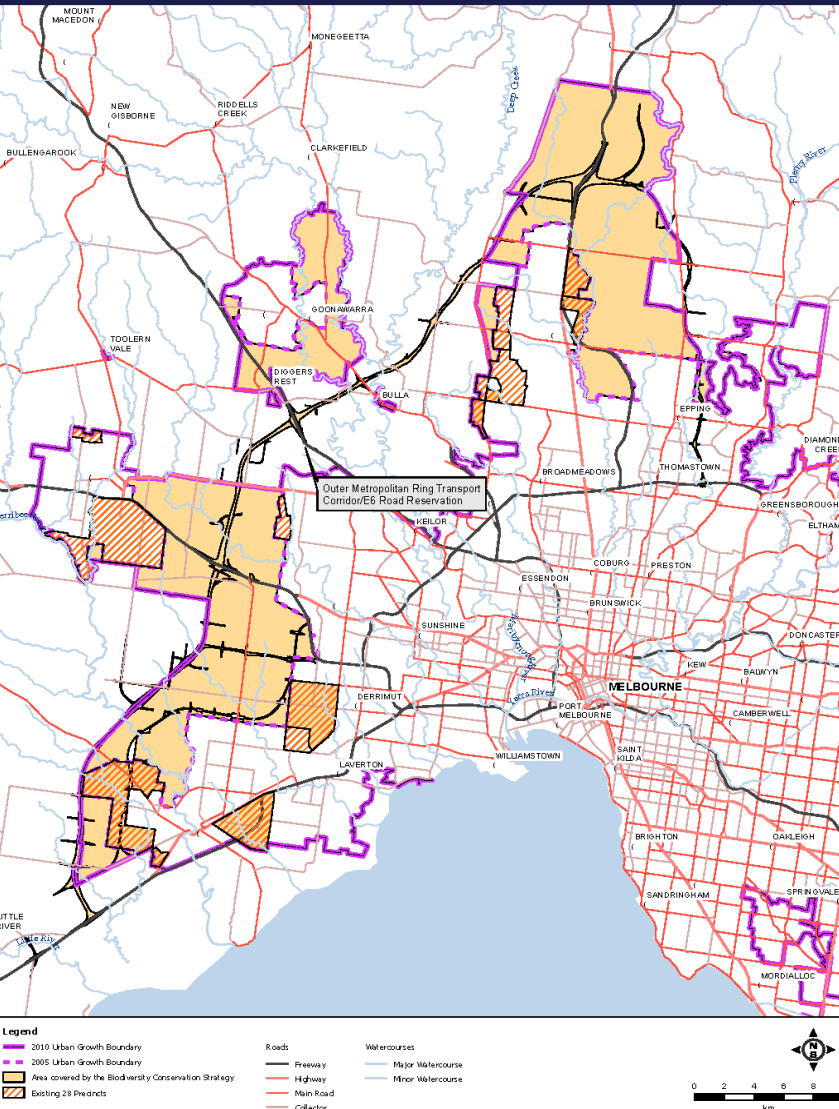
IN ADDITION...

- The four (4) growth corridors within the expanded 2010 Urban Growth Boundary:
 - Western Growth Corridor (Melton and Wyndham)
 - Northwestern Growth Corridor (Sunbury)
 - Northern Growth Corridor (Hume, Whittlesea and Mitchell)
 - Southeastern Growth Corridor (Casey and Cardinia)
- The Outer Metropolitan Ring Transport Corridor/ E6 Road Reservation

WHERE DOES THE BCS APPLY

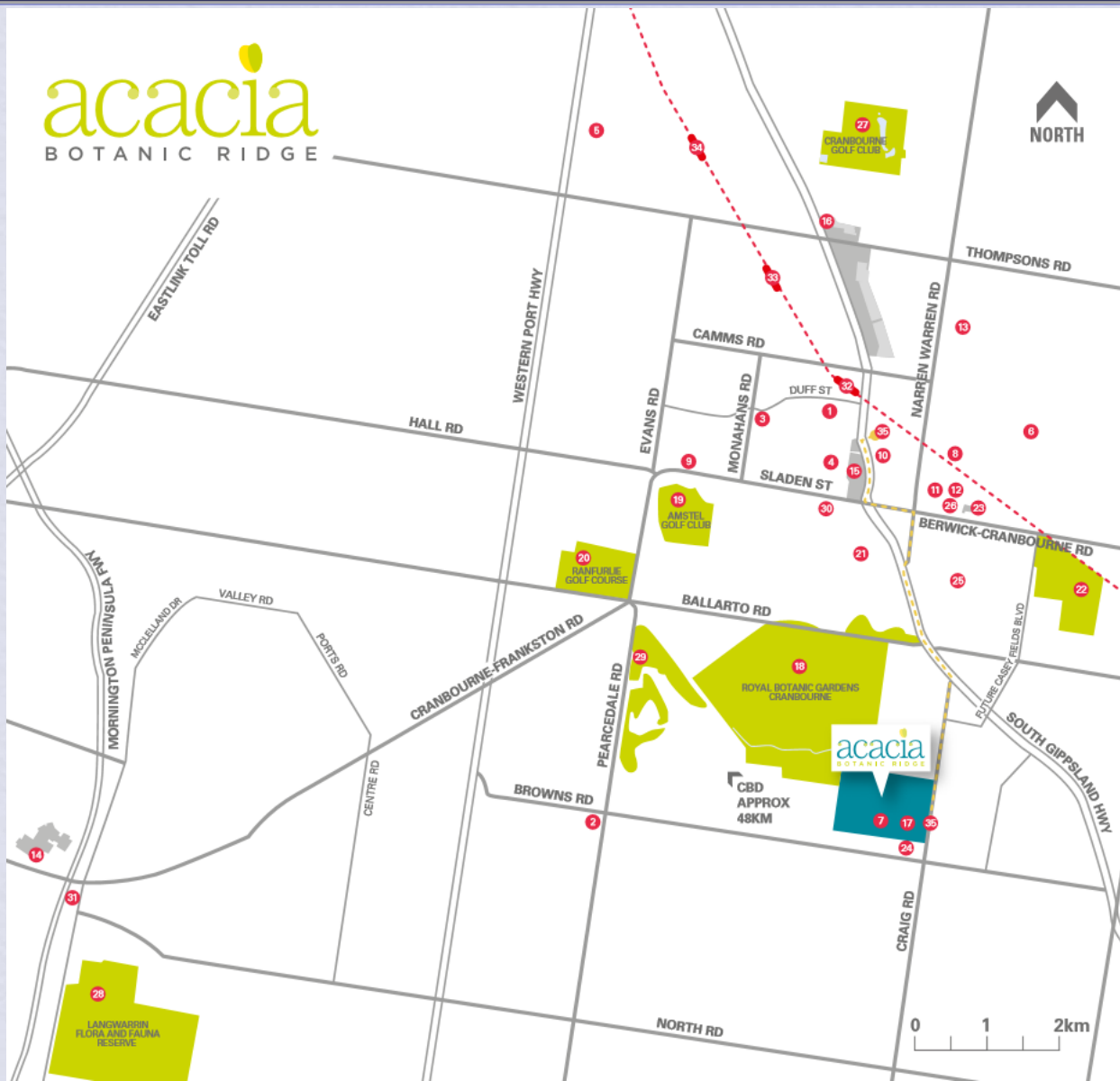
Northwestern and northern Growth Corridors (left)

Southeastern Growth Corridor (below)



What did this look like in Victoria?

- Botanic Ridge, Casey
 - Bilateral Agreement
 - Strategic Impact Assessment Review
 - Biodiversity Conservation Strategy
 - Southern Brown Bandicoot Sub-Regional Strategy
 - SBB Corridor identification
 - Bushfire vs vegetation in urban setting
 - Compensation



ALL WITHIN REACH

Education

1. Cranbourne Park Primary School
2. Cranbourne South Primary School
3. Cranbourne West Primary School
4. St Agatha's Catholic Primary School
5. Lyndhurst Primary School
6. Cranbourne East Primary School
7. Future Primary School
8. Casey Grammar
9. St Peter's College
10. Cranbourne Secondary College
11. Chisholm Institute
12. William Angliss Institute
13. Casey Childcare and Kindergarten

Shopping & Leisure

14. Karingal Hub Shopping Centre
15. Cranbourne Park Shopping Centre
16. Cranbourne Homemaker Centre
17. Future Shopping Centre
18. Royal Botanic Gardens Cranbourne
19. Amstel Golf Club
20. Ranfurly Golf Course
21. Cranbourne Turf Club
22. Casey Fields
23. Casey Race
24. Future Playing Fields/Open Space
25. Future Nine Hectare Sporting Precinct
26. Cranbourne Library
27. Cranbourne Golf Club
28. Langwarrin Flora and Fauna Reserve
29. Settlers Run Golf & Country Club

Health Services

30. Amstel Medical Centre
31. Peninsula Private Hospital

Transport

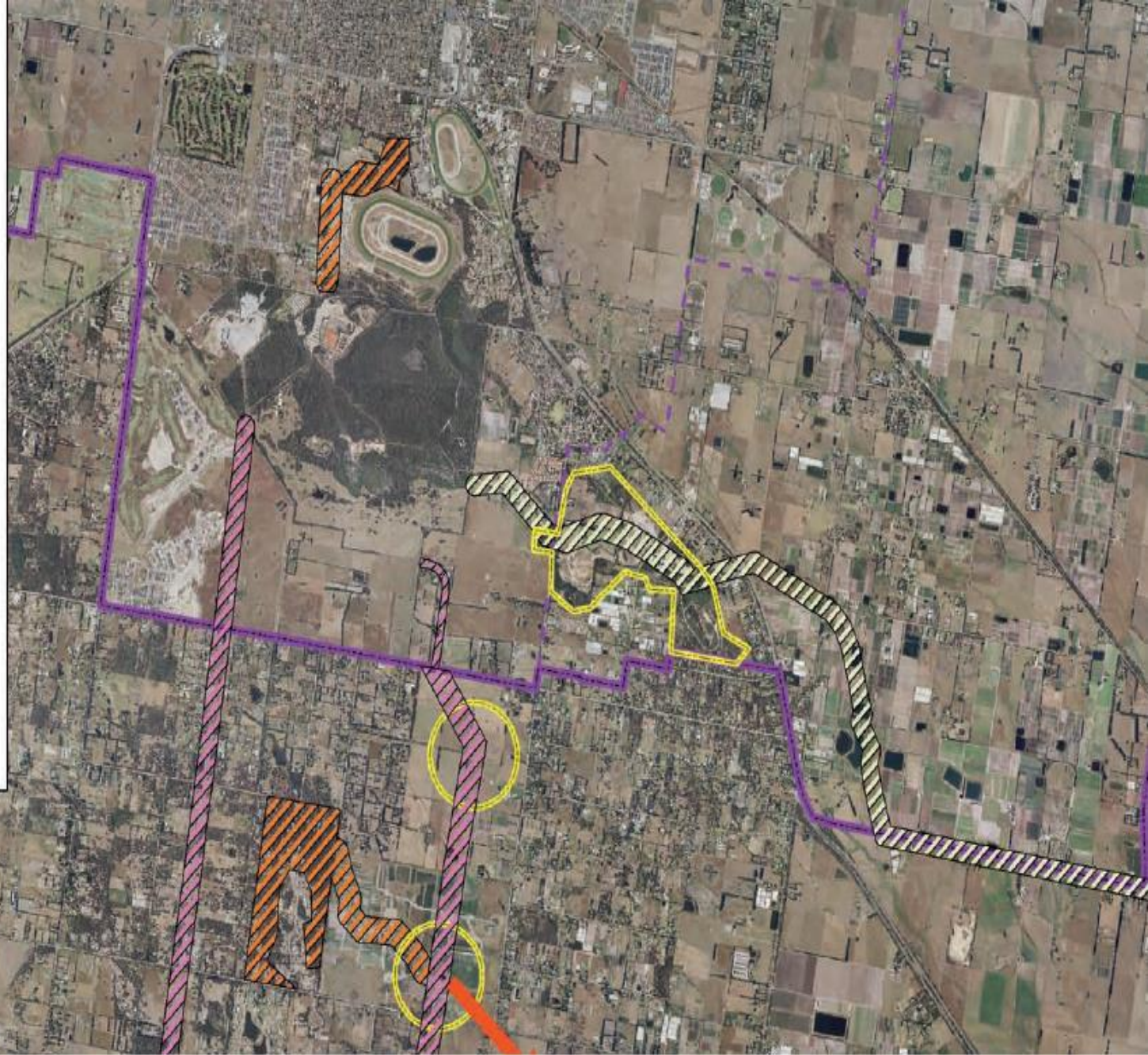
32. Cranbourne Train Station
33. Merinda Park Train Station
34. Lynbrook Train Station
35. Bus Stop - Route 795 & 796

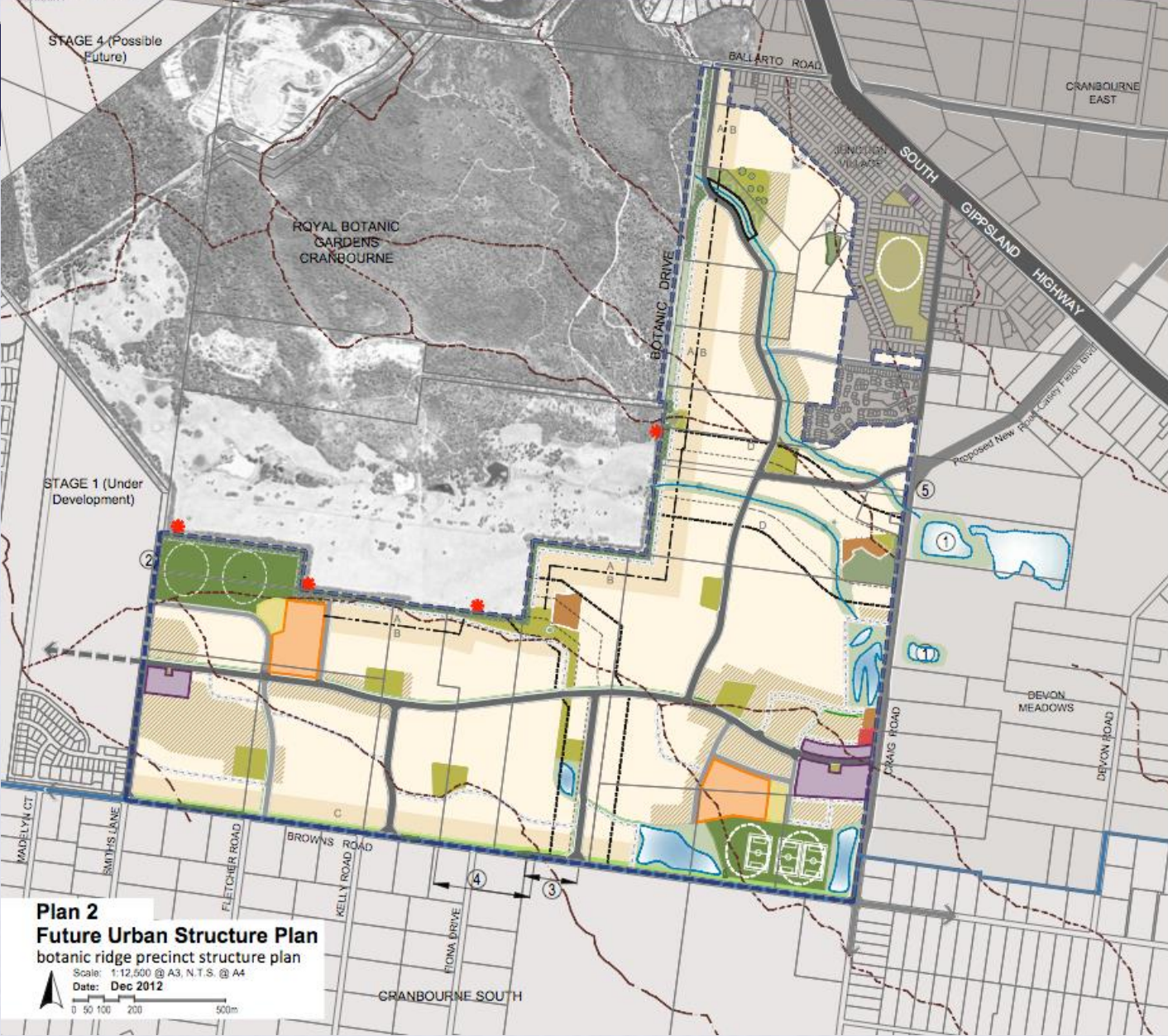


(BCS, 2013)

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- Current Urban Growth Boundary
 - Previous Urban Growth Boundary
 - Management Commitments (funded by urban development)
 - SBB corridor
 - SBB node*
 - Alternative options for North-South corridor
 - * Indicative location within which habitat is to be created
 - Future Management (subject to feasibility and funding)
 - SBB habitat corridor
 - Potential linkages (indicative only)
 - Proposed Melbourne Water Retarding Basin
- Note: Node boundaries are indicative only





Plan 2
Future Urban Structure Plan
botanic ridge precinct structure plan

Scale: 1:12,500 @ A3, N.T.S. @ A4
Date: Dec 2012

- Precinct Structure Plan Area
- Urban Growth Boundary
- Village Housing Zone
- Interface Housing Zone (A, B & C)
- Neighbourhood Housing Zone
- Town Centre
- Potential Mixed use
- Council Community Facility
- Government Education Facility (Primary)
- Active Open Space/Playing Fields
- Passive Open Space
- Conservation area set aside subject to VCAT enforcement order (in addition to NVPP requirements)
- Defendable space - RBGC Perimeter *
- Conservation Open Space (NVPP Requirement) *
- Waterway modification works minimised *
- Waterway / Drainage / Waterbodies / Wetlands *
- Tree Reserve along Browns Roads *
- Heritage site / Open Space (Aboriginal) *
- Scattered Trees *
- Non Urban Land / Existing Urban Area
- Other Undeveloped Land Within UGB
- Major Arterial Road (South Gipps Highway)
- Arterial Road - Craig Rd. / Browns Rd. (2 - 4 lane)
- Connector Street (20m)
- Connector Street (with Landscape and trail 32m)
- Access Street - Level 2 (20m)
- Access Street - Level 2 (with Landscape and trail 28m)
- Key Access Street - Level 1
- Key Access Street - Level 1 (with Landscape and trail 24m)
- Ridge Line
- RBGC Potential Pedestrian Access Point subject to RBGC approval.
- ① Wetland retarding basin located outside Precinct subject to Melbourne Water PAO
- ② Eastern 5m of Smiths Lane road reserve used for Active Open Space
- * Encumbered - No POS Credit
- ③ Flexibility for Connector Road Location. Refer Plan 7 & Appx. D
- ④ Alternative for interim access to initial stages of development via a local street. Refer Plan 7 & Appx. D
- ⑤ Potential for intersection to shift South to align with existing Road Reserve. Refer Section 3.7
- Land subject to EPBC Act (Commonwealth)

Compensation

- Initially there was no compensation offered – land owners were expected to give up their land free of cost.
- Second option - Charge for everyone within a particular PSP
- Final option - SBB SRS: charge for everyone in SE development area

—Compensation \$4,015/ha

WHAT TO THINK ABOUT

If you are acting for clients who wish to purchase/acquire land within the UGB or already own a site, you need to consider:

1. Rezoned/Planning Permit approved pre 1999
2. Rezoned/PSP Approved post 1999
 - a) Prior to BCS
 - b) Post BCS

PRE EPBC ACT and PRE BCS LAND

If the land is subject to a rezoning/development plan/permit that was approved **before** the EPBC Act came into affect (ie pre 1999) and therefore **before** the BCS came into affect:

- The reserves are likely protected through the P&E Act and F&FG Act
- To amend boundaries, approval is dependant on what the conditions were at the time the reserve was drafted.
- State Government is likely to look for no nett loss in habitat or biodiversity
- If supportive, an amendment could be undertaken to rezone any amended boundaries from a reserve to residential etc

POST EPBC ACT and PRE BCS LAND

If the land is subject to a rezoning/permit that was approved **after** the EPBC Act came into affect (i.e. post 1999) yet **before** the BCS came into affect:

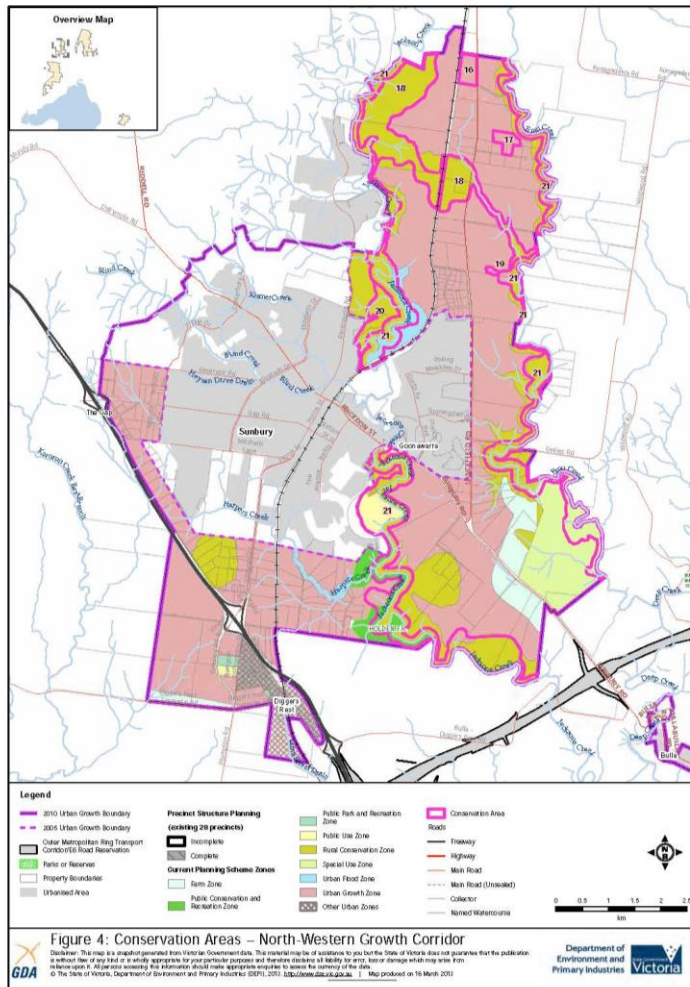
- NMES Fauna reserves and/or permitted developments that may impact NMES fauna will have been decided upon through a Part 9 EPBC referral.
- All other vegetation removal requirements are as per the planning scheme
- If within an approved PSP - Permitted clearing requirements for flora will be determined by a Native Vegetation Precinct Plan (NVPP) and Biodiversity Plan

POST EPBC ACT and POST BCS LAND

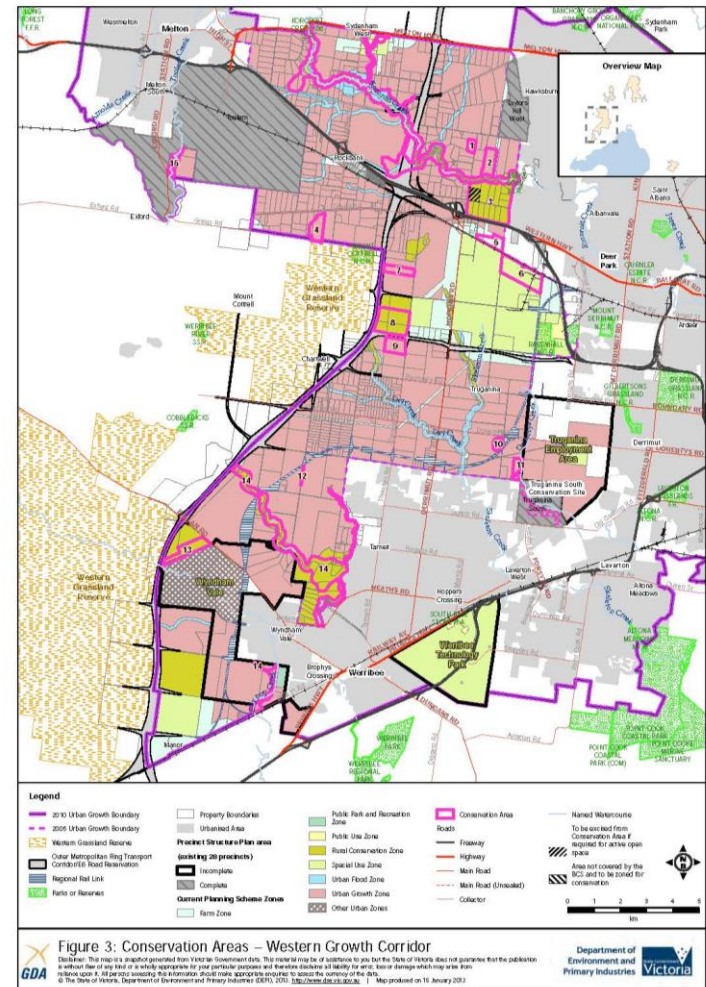
If the land is subject to a rezoning/permit that was approved **after** the EPBC Act came into affect (i.e. post 1999) and **after** the BCS came into affect:

- **Conservation areas** for both flora and fauna have been designated within the BCS
 - Growling Grass Frog Conservation, Floodplain and Open Space
 - Nature Conservation
 - Regional Parks
 - Existing Public Land
 - Existing Offset (to be treated as Nature Conservation)
 - Open Space
 - *Undetermined*
- Any changes to the reserve will be determined through BCS area criterion (only applicable if reserve picked up later as a BCS conservation area)

WHERE ARE THE CONSERVATION AREA BOUNDARIES?

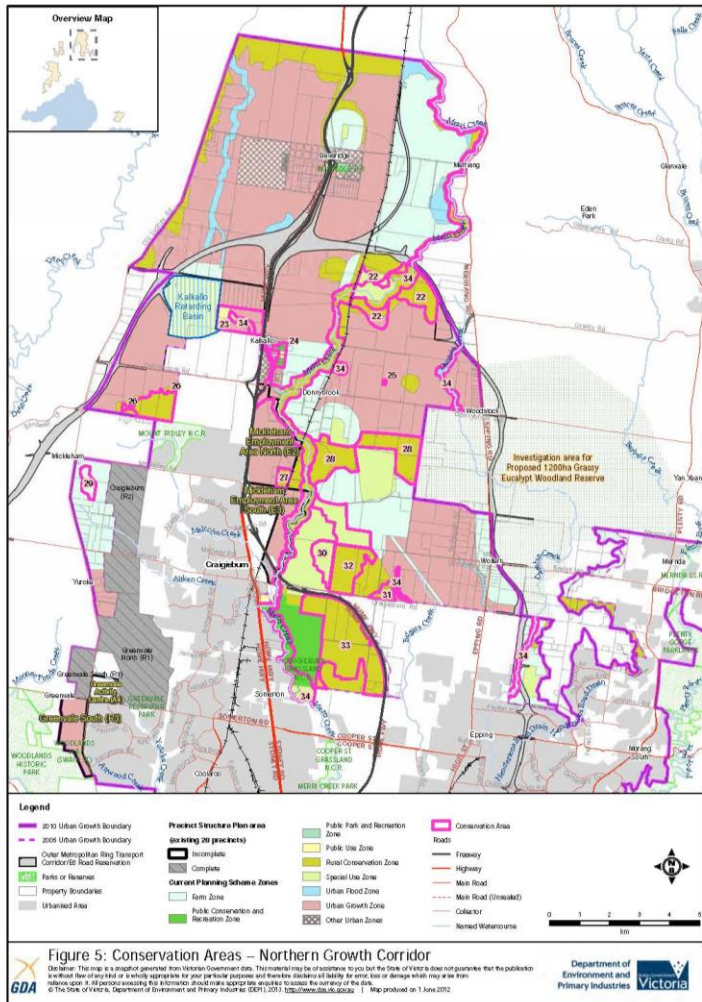


(Department of Environment and Primary Industry, 2012)

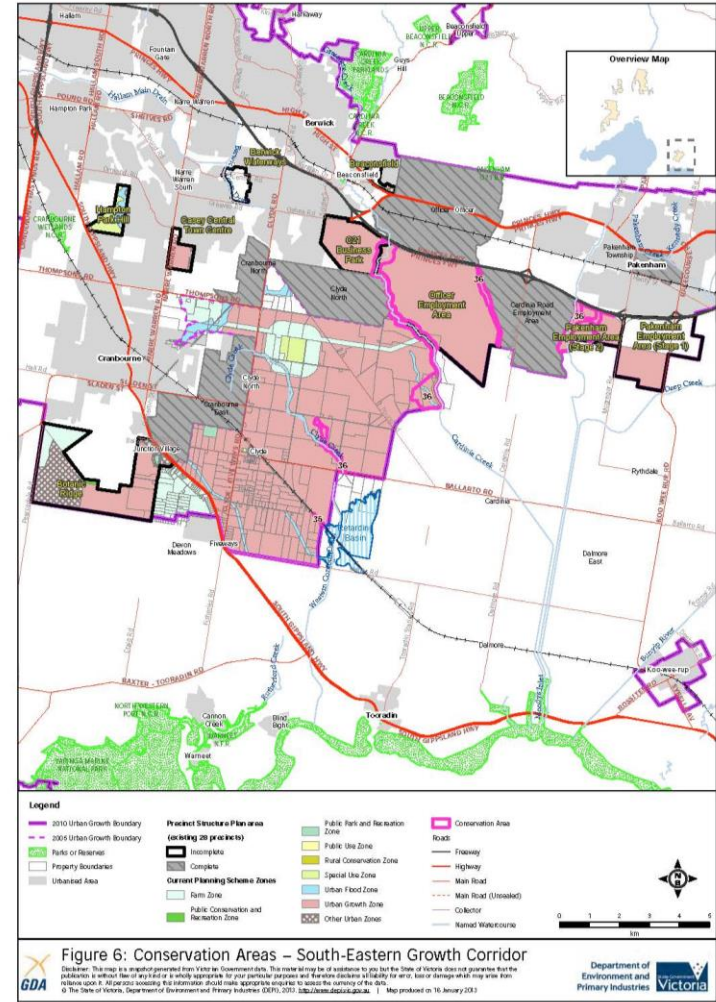


(Department of Environment and Primary Industry, 2012)

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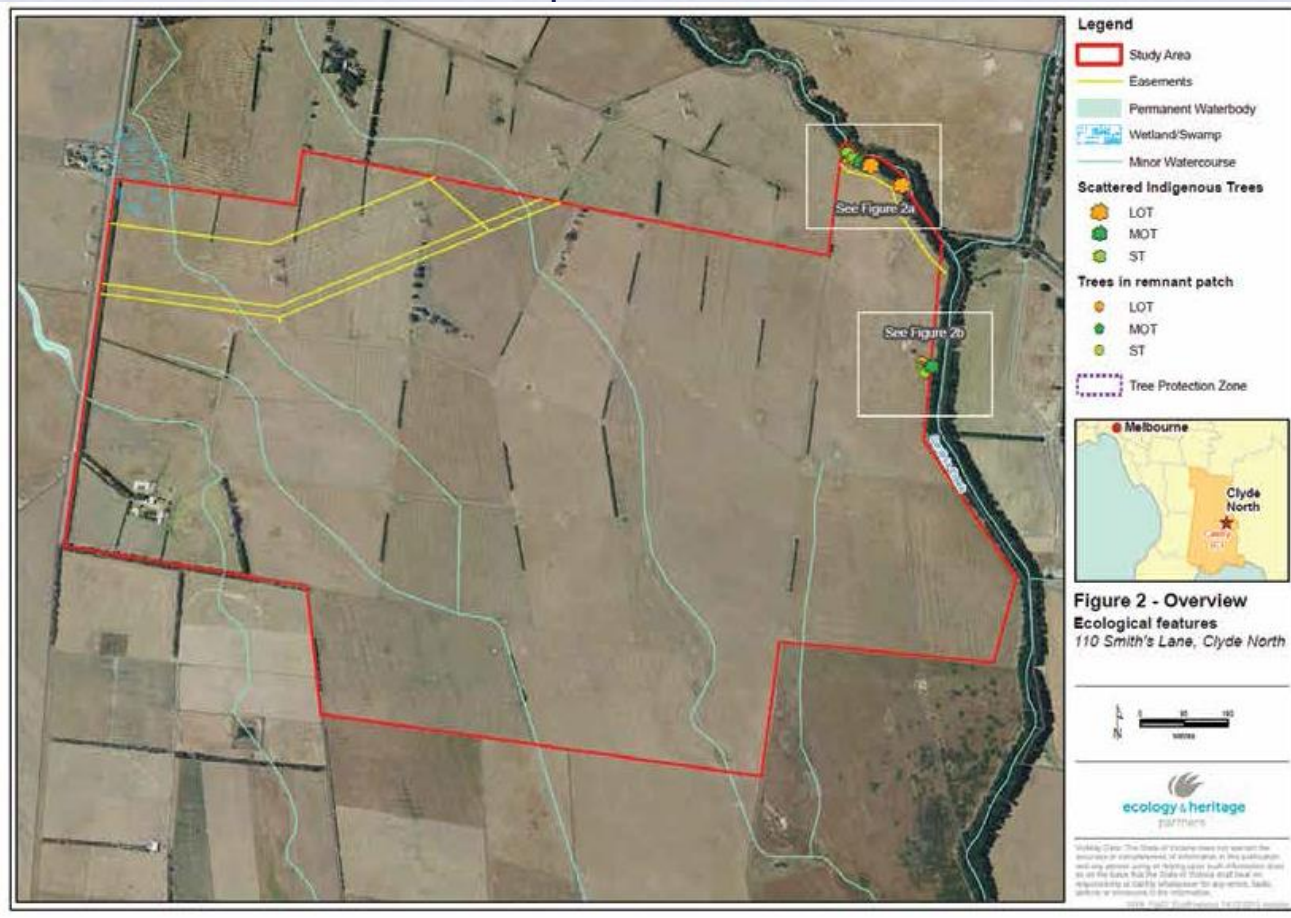
- Areas affected by Victorian specific MNES will have offsets payable dependent on the type of flora/fauna within which development is proposed to occur.
- **Offsets may be payable** in regard to the broader BCS area for the following:
 - Native Vegetation
 - Scattered Trees
 - Matted Flax Lily
 - Golden Sun Moth
 - Growling Grass Frog
 - Southern Brown Bandicoot

HOW MUCH ARE THE OFFSETS?

Fee Type	Unit	Prices at 1 May 2013 (plus GST)
Native Vegetation fee	Per hectare of native vegetation lost or removed	\$95,075
Scattered Tree fee	Per tree considered lost or removed	\$13,218
Matted Flax-lily fee	Per hectare of habitat lost or removed	\$11,196
Spiny Rice-flower fee	Per hectare of habitat lost or removed	\$7,937
Golden Sun Moth fee	Per hectare of habitat lost or removed	\$7,914
Growling Grass Frog fee	Per hectare of category 2 habitat lost or removed	\$7,529
Southern Brown Bandicoot fee	Per hectare of habitat lost or removed	\$4,015

Scattered Trees Assessment – Ecology and Heritage

- To identify the number and type of scattered native trees. Gives an indication of what you might save and what you might not.
- Provides an indication of offset requirements.

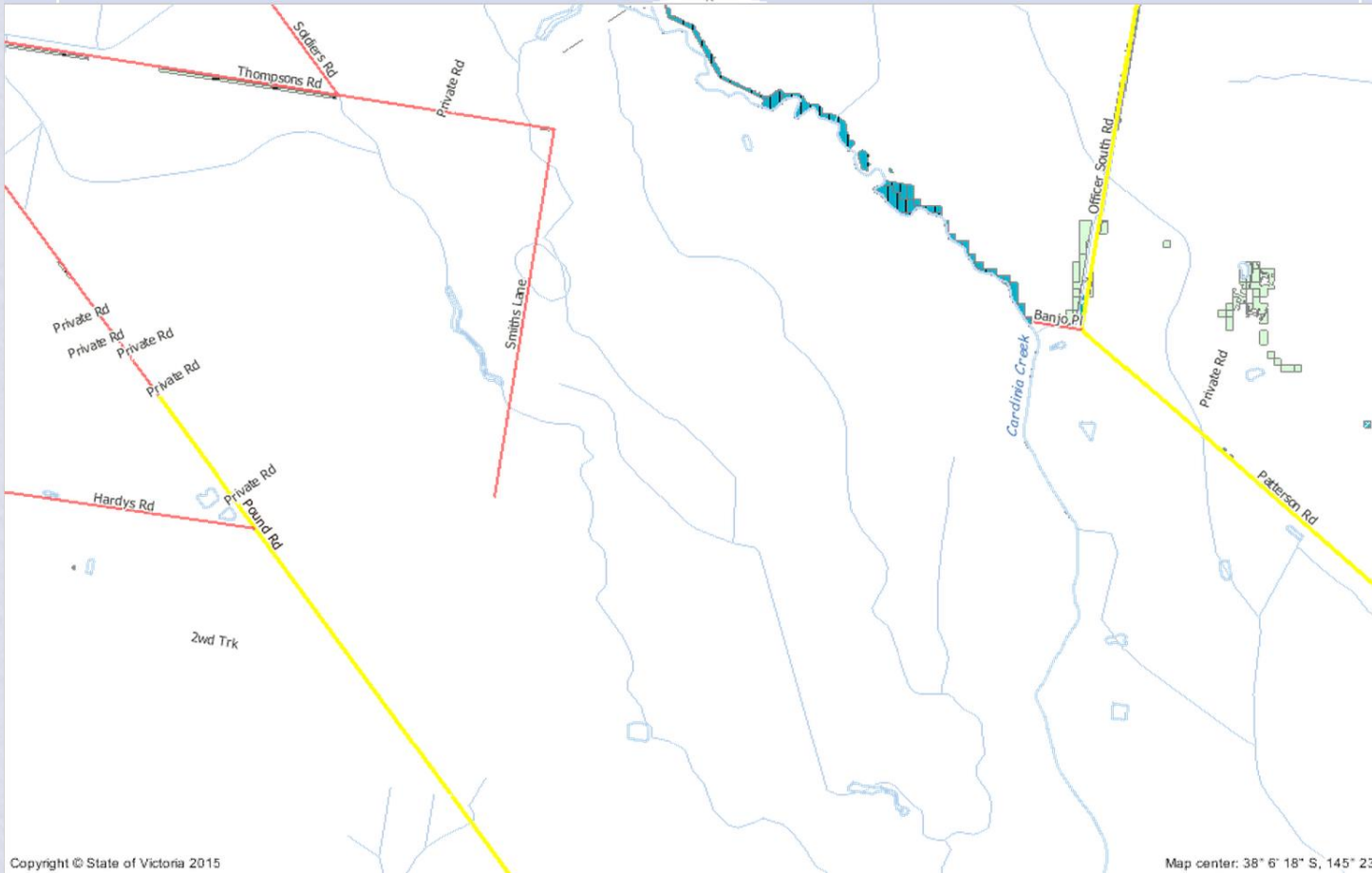


Time stamped native vegetation

Biodiversity Interactive Map - 3.2

powered by **MapShare**

File Layers Legend Find Query Select Filter Themes Help Login

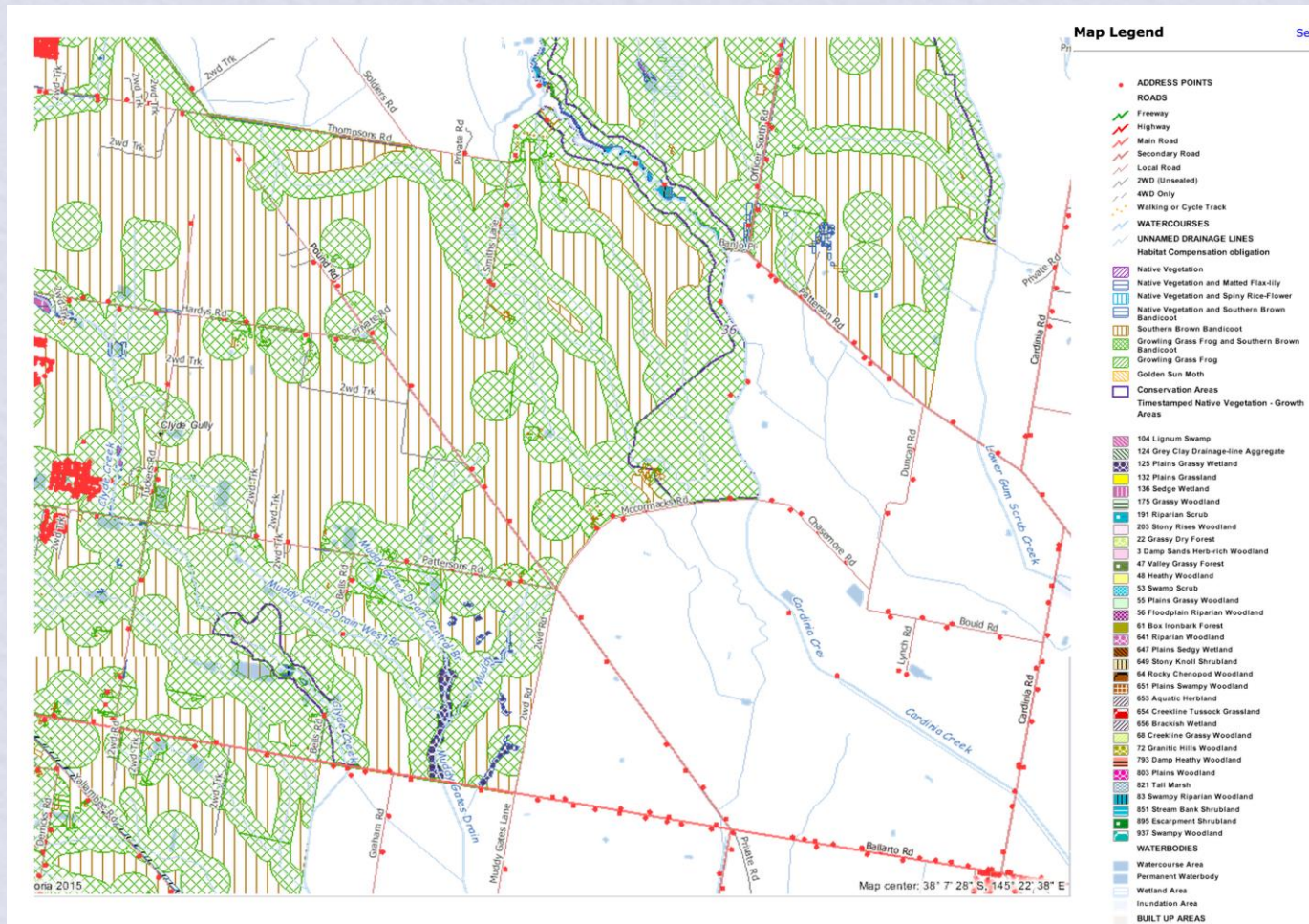


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Map center: 38° 6' 18" S, 145° 23'

(Map Share, 2013)

Biodiversity Interactive Mapping – Growling Grass Frog and Southern Brown Bandicoot



<http://mapshare2.dse.vic.gov.au/MapShare2EXT/imf.jsp?site=bim>

- What happens if land isn't within the flagged areas?????

This map illustrates the Outer Metropolitan Ring Transport Corridor/E6 Road Reservation in Melbourne. The corridor is highlighted in orange, with some sections marked with diagonal hatching. The map shows the 2010 Urban Growth Boundary (purple outline) and the 2005 Urban Growth Boundary (pink outline). Major roads, including freeways, highways, main roads, and collectors, are shown in various shades of red. Watercourses, including major and minor ones, are shown in blue. The map also indicates areas covered by the Biodiversity Conservation Strategy (yellow hatching) and existing 26 precincts (orange hatching). Key locations labeled include Mount Macedon, New Gisborne, Riddells Creek, Clarkefield, Bulla, Epping, Thomas Town, Greensborough, Eltham, Doncaster, Camberwell, Oakleigh, Springvale, Morfallo, Sandringham, Brighton, Saint Kilda, Port Melbourne, Williamstown, Laverton, Derrimut, Sunshine, Essendon, Coburn, Preston, Broadmeadows, and Melbourne. The map includes a legend, a scale bar (0 to 8 km), and a north arrow.

Legend

- 2010 Urban Growth Boundary
- 2005 Urban Growth Boundary
- Area covered by the Biodiversity Conservation Strategy
- Existing 26 Precincts

Roads

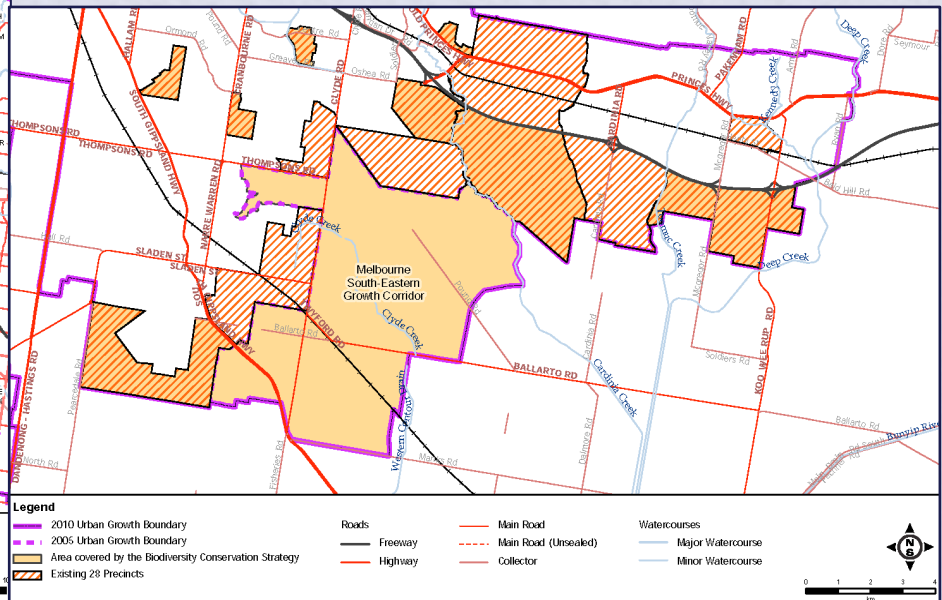
- Freeway
- Highway
- Main Road
- Collector

Watercourses

- Major Watercourse
- Minor Watercourse

0 2 4 6 8 km

Southeastern Growth Corridor (below)



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What happens if land isn't within the flagged areas?

- BCS doesn't apply
- Part 9 referral may be required
 - Relevant authorities will consider landholding and identify if there are MNES
 - Strong reliance on recommendations from consultant ecologist
- PSP may include an NVPP as an alternative – or a biodiversity study to determine whether any species are in existence