



**Russell Kennedy**  
Lawyers

**MORDIALLOC BY-PASS PROJECT INQUIRY  
AND ADVISORY COMMITTEE**

**OPENING SUBMISSION OF KINGSTON CITY  
COUNCIL**

**Presentation: 4 March 2019**

## TABLE OF CONTENTS

1	INTRODUCTION .....	1
2	COUNCIL'S POSITION .....	2
	<i>Environmental Management Strategy (EMS), other plans and environmental compliance assessment and approval</i> .....	2
	<i>Built form/urban design</i> .....	2
	<i>Shared User Pathway and key connections along project alignment</i> .....	3
	<i>Multi-Function Fauna Barrier (MFFB)</i> .....	4
	<i>Acoustic impacts</i> .....	4
	<i>Wetland impacts</i> .....	4
	<i>Heritage EPR and heritage overlay HO104</i> .....	4
	<i>Groundwater</i> .....	5
	<i>Surface Water/Flooding</i> .....	5
	<i>Woodlands Drive Amendment</i> .....	5
	<i>Reclaimed water pipeline opportunity</i> .....	5
	<i>Stormwater/future wetland opportunities</i> .....	6
	<i>Solar installation along Project alignment</i> .....	6
	<i>Incorporated Document</i> .....	6
3	CONCLUSION .....	6

# 1 INTRODUCTION

- 1.1 Kingston City Council (**Council**) wishes to make submissions in response to the proposed Mordialloc Bypass Freeway connecting the Dingley Bypass with the Morning Peninsula Freeway (the **Project**).
- 1.2 Council identified in its submission (number 83) some recommendations, which we will explain again in this submission, noting some account of these have already been taken by the proponent, Major Road Projects Victoria (**MRPV**).
- 1.3 Council considered it prudent to retain experts to review key aspects of the Project. Ultimately, due to a division of tasks and expertise this resulted in seven (7) expert statements, namely:
- Landscape Design (Maddy Bisits, Spiire);
  - Urban Design and Strategic Planning (Tim Biles, Message Consultants);
  - Wetland Impact (Lance Lloyd, Lloyd Environmental);
  - Acoustic Engineering (Ross Leo, Clarity Acoustics);
  - Hydrogeology (Chris Smitt, EHS Support);
  - Hydrology (Warwick Bishop, Water Technology); and
  - Ecology, specifically Birdlife (Richard Loyn, Eco Insights).
- 1.4 The purpose of this opening submission is to highlight quite specific recommendations the Council is asking the Inquiry and Advisory Committee (**Committee**) to make that have been distilled from the Environmental Effects Statement (**EES**), public submissions, further expert reports submitted and the Committee hearing to date.
- 1.5 This submission also attaches Council's preferred EPRs as at 1 March 2019 (**Attachment 1**) which are likely to invite further suggested changes as the hearing proceeds including, we respectfully request, from Council also.

## 2 COUNCIL'S POSITION

### ***Environmental Management Strategy (EMS), other plans and environmental compliance assessment and approval***

- 2.1 The EPRs (contrary to many other project EPRs) lack requirements for scrutiny and/or oversight of the various plans that must first be approved and then complied with under the EMS and Incorporated Document approach to the Project. A requirement for a third party auditor apparently exists under the EES as an obligation of the “contractor” but it ought to be a requirement of the EPRs.
- 2.2 Council suggests a number of changes to EM1 and EM2 and a new EM3 to achieve this.
- 2.3 Note also the issue of the name of MRPV as an entity to comply, given it is not a legal entity.

### ***Built form/urban design***

- 2.4 Council's concern as it relates to urban design is that the exhibited EPRs had no urban design requirement or recognition of any kind.
- 2.5 In the version of EPRs that were circulated at the commencement of the Committee hearing, urban design has been ‘bolted on’ to the landscape design EPR LV1 instead of a separate EPR to deal with urban design.
- 2.6 Issues, including those which stem from combining landscape design and urban design into one EPR, are:
- 2.6.1 the design guidelines invoked are very high level;
  - 2.6.2 the EPR lacks even broad objectives with respect to the ultimate urban design outcome;
  - 2.6.3 there is no third party review or approval (eg Office of the Victorian Government Architect (**OVGA**) or Urban Design Advisory Panel (**UDAP**) style process);
  - 2.6.4 there is no requirement to report departures from any OVGA or UDAP style approval or even recommended design outcome;
  - 2.6.5 no specific mechanism is provided for in the current EPR for Council to participate in the design process.

- 2.7 Council seeks urban design additions to the EPRs that provide:
- 2.7.1 broad guidance to urban design form;
  - 2.7.2 independent review and (ideally) approval of design outcome by the OVGA or other entity;
  - 2.7.3 council is a named participant or to be consulted in the design process, either through a UDAP process or some other similar mechanism;
  - 2.7.4 an EPR that is specific to built form design ( LV2);
  - 2.7.5 add specific elements to the design both already recommended by Council in its draft EPRs , plus a facility for the IAC to add other specific elements(eg barriers/fencing at Braeside Park).

***Shared User Pathway and key connections along project alignment***

- 2.8 Council seeks four key connections built along the Project alignment to allow users high quality access to the shared user pathway (**SUP**), including from the “Chain of Parks”:
- 2.8.1 a widened underpass (not less than 6 metres wide) from Park Way to Braeside Park;
  - 2.8.2 the SUP continues on a board walk, south of Bowen Parkway, going east to west under the elevated carriageway at Waterways Estate, to meet the western SUP;
  - 2.8.3 an underpass connection at (approximately) Chadwick Reserve; and
  - 2.8.4 an underpass or overpass connection at the Dingley Bypass, from north to south on the eastern side.
- 2.9 Council seeks that the SUP be designed at a minimum width of 3 metres wide;
- 2.10 All such pathways and connections designed in accordance with best practice guidelines.
- 2.11 Allowance for (others to build in the future) a western pathway from the Dingley Bypass to Bowen Parkway for the long-term connection of the “Chain of Parks”.

***Multi-Function Fauna Barrier (MFFB)***

- 2.12 EPRs that require further research/consultation/analysis/design to achieve:
- 2.12.1 firm resolve on the “best” height for MFFB facing various wetlands;
  - 2.12.2 utilising the MFFB as an acoustic control also, to achieve a an appropriate noise level (apparently “around” 60 dB for wetland birds);
  - 2.12.3 design requirements in relation to materials and look.

***Acoustic impacts***

- 2.13 Modified EPRs to achieve:
- 2.13.1 an acoustic barrier (not less than 3 metres in height) at Braeside Park along the entire east side of the park between the Project and the SUP;
  - 2.13.2 the MFFB also at the 3 metre height minimum and achieving the acoustic outcome;
  - 2.13.3 modified EPRs to ensure compliance with VicRoads Policy in respect of residential impacts for the “greater than PLUS 12 dB impact” subject to site specific barrier impact assessment;
  - 2.13.4 various EPR modifications regarding construction noise and vibration.

***Wetland impacts***

- 2.14 Concern regarding the lack of both construction and design detail for the wetlands bridging construction, impacts and reinstatement.
- 2.15 Suggested changes to W 1 and W 5 for ecosystem “reinstatement”. See also changes to EM 1 EM2 and new EM 3 to improve confidence on issue.

***Heritage EPR and heritage overlay HO104***

- 2.16 Council seeks the reference at EPR H3 to the former MMBW building to include the Sewerage works adjacent as contemplated in the HO citation.
- 2.17 Also Council opposes a reduction of the area of HO104 to cover “just” the building.

- 2.18 Council seeks that HO104 should correct the mapping error and seek to reflect the underlying policy rationale to ensure the protection of the historical buildings at Braeside Park, and the MMBW infrastructure.

### ***Groundwater***

- 2.19 The lack of groundwater assessment and ramifications from that need to be considered.
- 2.20 Council currently offers some potential new EPRs that require further consideration, designed to enhance confidence on this aspect.

### ***Surface Water/Flooding***

- 2.21 Council concern on impact on Council drainage assets to be addressed by EPRs (see W6).
- 2.22 Suggested change to EPR W2 regarding high afflux at 3 properties requiring further work.

### ***Woodlands Drive Amendment***

- 2.23 Council has a strong preference for the alternative solution at Woodlands Drive, namely direct connection from Woodlands Drive to the Project and removal of the new proposed bridge of the drain and new connection through “side streets”.
- 2.24 Further work required to minimise impact on the last northern property on the eastern side of Woodlands Drive.

### ***Reclaimed water pipeline opportunity***

- 2.25 To allow for the location of a pipeline from the South Eastern Purification Plant (SEPP) up the eastern side of the Project alignment.
- 2.26 Seed funding exists regarding market opportunities research.
- 2.27 MRPV to either build (others pay) as part of project or leave sufficient space in SUP reserve to build later.
- 2.28 Incorporated documents allow for installation of utilities and services.

***Stormwater/future wetland opportunities***

- 2.29 Two key opportunities exist for the project to enhance stormwater treatment and re-use. If so minded, the Committee could incorporate these at the new LV2 proposed by Council.
- 2.30 Chadwick Reserve (Proposed Wetlands) - particular opportunity to allow Project reserve to treat stormwater in combination with Council proposal.
- 2.31 Northern Project Wetlands - at Dingley Bypass.

***Solar installation along Project alignment***

- 2.32 Opportunity to recognise the potential for a solar installation along the Project alignment, including in conjunction with Council and private operators.

***Incorporated Document***

- 2.33 We need to correct an incorrect comment from Council representatives, in respect to a potential expiry of the Incorporated Document control. The current draft does NOT include a sunset for the ongoing operation of it or the EPRs, provided the Project is built and use commences.
- 2.34 There are some minor changes requested to the Incorporated Document.
- 2.35 “Built form” or “Urban design” should be added to the 4.2.1 sub sections.
- 2.36 Paragraph 4.2.4 should also require compliance with (in addition to the Environmental Management Framework) *“the EPRs, the Environmental Management Plans and all other plans approved under the EPRs”*.

**3 CONCLUSION**

- 3.1 To the extent necessary council will expand on these submissions in its full submission.
- 3.2 Broadly, Kingston City Council encourages the Committee’s careful consideration of the Project and the works undertaken through the EES, noting the need for and appropriateness of, various recommendations to refine and improve the EES outcomes in the form of modifications to the Incorporated Document or the EPRs.

4 March 2019



.....  
Andrew Sherman, Principal  
**Russell Kennedy Lawyers**  
for and on behalf of Kingston City Council