

**INQUIRY AND ADVISORY COMMITTEE  
APPOINTED BY THE MINISTER FOR PLANNING  
PLANNING PANELS VICTORIA**

**IN THE MATTER OF THE MORDIALLOC BYPASS PROJECT ENVIRONMENTAL EFFECTS  
STATEMENT**

**IN THE MATTER OF DRAFT AMENDMENT GC107 TO THE KINGSTON AND GREATER  
DANDENONG PLANNING SCHEMES**

BETWEEN:

MAJOR ROAD PROJECTS VICTORIA

Proponent

and

KINGSTON CITY COUNCIL and others

Submitters

**SUBMISSIONS ON BEHALF OF  
MAJOR ROAD PROJECTS VICTORIA**

**PART A**

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## **Introduction**

1. This Part A submission is made on behalf of Major Road Projects Victoria (**MRPV**) as Proponent of the Mordialloc Bypass Project (**Project**), and is filed in accordance with the Inquiry and Advisory Committee (**IAC**) directions dated 5 February 2019.
2. The Part A submission is supplemented by the following documents, all of which form part of MRPV's case in support of the Project:
  - a. The exhibited Mordialloc Bypass Project Environment Effects Statement (**EES**) comprising:
    - i. Main Report (chapters 1-24);
    - ii. Attachments I-IV (maps and supporting documents); and
    - iii. Appendices A-O (technical impact assessments).
  - b. Witness reports by the following experts which will be supported by presentations to the IAC:
    - i. Michael Barlow in land use and planning;
    - ii. Peter Kelly in transport;
    - iii. Mike Dowsett in noise and vibration;
    - iv. Kirsten Bauer in landscape and visual amenity;
    - v. Ian Wallis in air quality;
    - vi. Nic McCaffrey in ecology;
    - vii. Allan Richardson in ornithology;
    - viii. Ian Smales in ornithology;
    - ix. Rodney van der Ree in fauna mitigation;
    - x. Helen Jones in contamination and acid sulfate soils;

- xi. Rob Leslie in surface water; and
  - xii. Ray Hatley in groundwater.
- c. Witness reports of the following experts have also been provided and will be relied upon without presentations to the IAC:
- i. Bernadette Fitzgerald in greenhouse gas;
  - ii. Tony Smith in groundwater;
  - iii. Jonathan Howell-Meurs in historic heritage;
  - iv. Andrea Murphy in aboriginal cultural heritage;
  - v. Naomi Cavanagh in social impacts; and
  - vi. John Noronha in business impacts.
3. The IAC's directions relevantly provide that MRPV's Part A submission should include:
- a. Identification of the issues raised in submissions and MRPV's response;
  - b. Any changes to the Environmental Performance Requirements (**EPRs**) and draft planning scheme amendment documentation proposed by MRPV as a result of the issues raised in submissions.
4. The IAC's directions also require MRPV to provide an overview of how the EES responds to the Scoping Requirements for the EES.
5. This Part A submission does the following:
- a. Explains the relationship between Transport for Victoria, MRPV and the Roads Corporation (trading as VicRoads) relevant to the Project;
  - b. Attaches noise wall and fencing plans that provide more detail of the fencing, multipurpose and fauna exclusion barriers proposed as part of the Project;

- c. Provides an overview of how the EES responds to the Scoping Requirements and addresses the Environmental Management Framework (**EMF**) for the Project;
- d. Addresses the draft planning scheme amendment;
- e. Summarises and responds to the submissions; and
- f. Explains that MRPV's position at this time is not to propose any changes to the EPRs.

## **Relevant agencies**

### *Transport for Victoria*

- 6. Transport for Victoria is created under Division 1 of Part 4A of the *Transport Integration Act 2010* and is the lead transport agency in Victoria.
- 7. Transport for Victoria has broad objectives to deliver better integrated and connected transport services that have a transport user focus and are value for money to the community.
- 8. Transport for Victoria's statutory functions are primarily concerned with leading the strategic planning of all forms of transport, leading all policy and regulatory functions relating to the operation and improvement of the transport system, and undertaking operational activities where appropriate.

### *MRPV*

- 9. First established in July 2018, MRPV is:
  - a. Part of the Major Transport Infrastructure Authority which is an administrative office in relation to the Department of Transport (**DOT**); and
  - b. Responsible for planning and delivering major road projects for Victoria.
- 10. MRPV oversees the delivery of major road projects around metropolitan Melbourne and regional Victoria.

11. MRPV is the agency responsible for the obtaining the approvals for the Project and delivering the Project in accordance with those approvals.
12. MRPV was formerly known as "Major Road Projects Authority". It is noted that the Project was originally commenced by VicRoads and the delivery of the Project was transferred to MRPV in July 2018.

#### *VicRoads*

13. VicRoads is a transport system agency under the *Transport Integration Act 2010*.
14. The primary object of VicRoads is to provide, operate and maintain the road system.
15. VicRoads has powers and functions under the *Road Management Act 2004* and VicRoads will be responsible for operating the Project, once the Project has been delivered by MRPV.
16. The Project will be required to be designed in accordance with VicRoads' design standards and the Austroads guidelines in accordance with the EPRs for the Project.

#### **The Project**

2. The Project is described in Chapter 6 of the EES and an overview of the Project will be provided on the Day 1 of the hearing. A plan of the Project area is provided below.



**Figure 1: Plan of Project area**

3. Attached as Attachment A to this submission are noise wall and fencing plans<sup>1</sup> that provide more detail of the fencing, multipurpose and fauna exclusion barriers proposed as part of the Project.
  
4. The Project objectives are to:
  - a. Improve the safety, efficiency and functionality of the road network;
  
  - b. Improve transport connectivity, which would help the freight and logistics sectors by improving efficiency and vehicle operating costs;

<sup>1</sup> *Mordialloc Freeway - Noise Walls & Fencing Plans* (Sheets 1 to 3, dated 28 June 2018).

- c. Improve amenity by reducing the reliance on local and low-capacity arterial roads as key movement routes through the middle south-eastern suburbs;
  - d. Reduce delays at intersections;
  - e. Improve public transport performance;
  - f. Provide better access to economic and activity centres like shopping centres and business districts;
  - g. Reduce travel time variability and delays for commuters;
  - h. Protect, and where possible enhance, natural and cultural values during the planning, construction and operation of the project;
  - i. Support sustainable communities and land development during the planning, construction and operation of the project;
  - j. Achieve value for money for Victoria; and
  - k. Secure timely delivery of the project.
5. The Project objectives are to be considered by the IAC, amongst other matters, as part of its inquiry.<sup>2</sup>

### **Minister's decision**

6. On 13 September 2017, the Minister for Planning decided that an EES was required for the Project.
7. The Minister's reasons for decision identified that the Project is likely to have significant environmental effects on:
- a. The habitat value and quality of wetlands and other habitats adjoining or traversed by the Project, especially with regard to threatened species;

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<sup>2</sup> See paragraph 18(b) of the Terms of Reference dated 8 October 2018.

- b. The surface water and groundwater systems which contribute to the health and habitat quality of adjacent and nearby wetlands, including the Ramsar-listed Edithvale wetland;
  - c. Indigenous cultural heritage values that may occur within the Project alignment;
  - d. The containment and management of potentially contaminated soils and potential acid sulphate soils; and
  - e. Amenity values of adjacent land, especially residential land and parkland.
8. The Minister's decision was based on the information that formed part of the referral accepted by the Minister on 27 July 2017.
9. The Minister's reasons identified that other potential effects on the social or environmental setting are less likely to be significant and should be amenable to effective management through existing statutory processes and requirements under the, *Planning and Environment Act 1987* and the *Environment Protection Act 1970*, including impacts such as construction noise, traffic and transport impacts, and visual impacts.

#### **Accreditation under the EPBC Act**

10. The Project was referred to the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. The delegate for the Minister for the Environment and Energy determined on 30 January 2018 that the Project constitutes a 'controlled action' that requires assessment and approval under the EPBC Act. The provisions for the controlled action decision under the EPBC Act are:
- a. Ramsar wetlands (sections 16 and 17B);
  - b. Listed threatened species and ecological communities (sections 18 and 18A); and
  - c. Listed migratory species (sections 20 and 20A).

11. The State of Victoria and the Commonwealth Government have entered into a Bilateral Agreement (**Bilateral Agreement**) which provides for an integrated and coordinated approach to the assessment of actions requiring approval under the EPBC Act. The Bilateral Agreement is made under section 45 of the EPBC Act.
12. The EES for the Project has been undertaken in accordance with the Bilateral Agreement and there will be no separate assessment by the Commonwealth Government. The Commonwealth Minister or delegate will receive the Minister for Planning's assessment of the EES and will use that assessment as the basis for deciding on approvals required for the Project under the EPBC Act.
13. Clause 4.3(d)(ii) of Schedule 1 of the Bilateral Agreement requires the Proponent to prepare a written response to the submissions which summarises or takes into account the issues raised by the submissions. This is addressed further below and MRPV's response to the submissions is attached as Annexure B to this submission.

### **Scope of Inquiry**

14. The IAC is appointed:
  - a. as an Inquiry pursuant to section 9(1) of the *Environment Effects Act 1978* in respect of the Project; and
  - b. as an Advisory Committee pursuant to section 151 of the *Planning and Environment Act 1987* in respect of Amendment GC107 to the Kingston and Greater Dandenong Planning Schemes.
15. The tasks of the IAC are dictated by the Terms of Reference prepared by the Minister for Planning on 8 October 2018.

### **Scoping requirements**

16. The draft Scoping Requirements<sup>3</sup> for the EES were exhibited for public comment between 14 March 2018 to 11 April 2018. The final Scoping Requirements were issued in May 2018.

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<sup>3</sup> dated June 2017.

17. The Scoping Requirements:
  - a. Detail the matters to be addressed in the EES;
  - b. Contain evaluation objectives for the assessment of significant environmental effects; and
  - c. Require the EES to describe a transparent EMF for the Project with clear accountabilities for managing and monitoring environmental effects and hazards associated with the construction and operation phases of the Project to achieve acceptable environmental outcomes.
  
18. Section 3 of the Scoping Requirements details the matters to be addressed in the EES, which are summarised below:
  - a. The general approach of the EES is to assess the environmental effects including direct, indirect, combined, consequential, short and long-term, beneficial and adverse effects arising from all components and stages of the Project, as described in section 3.1 of the Scoping Requirements;
  - b. The general content and style of the EES should conform with the framework detailed in section 3.2 of the Scoping Requirements, including addressing relevant statutory requirements;
  - c. The EES must describe the project in sufficient detail, both to allow an understanding of all components, processes and development stages, and to enable assessment of their likely potential environmental effects, as required by section 3.3 of the Scoping Requirements;
  - d. The EES should document the Proponent's consideration of relevant alternatives and include an explanation of how specific alternatives were shortlisted for evaluation within the EES, as required in section 3.4 of the Scoping Requirements;
  - e. The EES will need to identify relevant legislation, policies, guidelines and standards, and assess their specific requirements or implications for the project, as required by section 3.5 of the Scoping Requirements;

- f. The EES should document the process and results of the consultation undertaken by the Proponent during the preparation of the EES, as required by section 3.6 of the Scoping Requirements;
- g. Through an integrated assessment of the project effects against the evaluation objectives, the EES needs to show that a balance of environmental outcomes has been considered, which contribute to integrated and sustainable transport development and provide a net community benefit over the short and long-term, as required by section 3.7 of the Scoping Requirements.
- h. As detailed in section 3.8 of the Scoping Requirements, the EMF in the EES outlines a transparent environmental management framework with clear accountabilities for managing and monitoring environmental effects and hazards associated with construction and operation phases of the project in order to achieve acceptable environmental outcomes.

19. Section 4 of the Scoping Requirements requires the EES to assess specific environmental effects, adopting a risk-based approach so that a greater level of effort is directed at investigating and managing those matters that pose relatively higher risk of adverse effects, in particular those identified in the Minister's EES decision. The evaluation objectives particularly focus on:

- a. Transport efficiency, capacity and safety;
- b. Biodiversity;
- c. Water, catchment values and hydrology;
- d. Land contamination and acid sulfate soils;
- e. Cultural heritage;
- f. Amenity and environmental quality; and
- g. Social, land use and infrastructure.

20. The draft evaluation objectives and key issues from section 4 of the Scoping Requirements are extracted in Table 1 below.

Draft evaluation objectives	Key issues
<p><b>Transport efficiency, capacity and safety</b></p> <p>To provide for an effective connection between the Mornington Peninsula Freeway and the Dingley Bypass, to improve travel efficiency, road safety, and network capacity, as well as improve amenity and local transport networks in the Aspendale/Dingley area.</p>	<ul style="list-style-type: none"> <li>• Changes to distribution and volumes of traffic (including heavy vehicles) on roads that might be affected by the project.</li> <li>• Effective integration of the proposed project with local transport networks including public transport and shared bicycle pathways.</li> <li>• Identify and compare modelled transport performance of the preferred project relative to identified alternatives (including the arterial road option and the “no project” option), in terms of travel times, capacity, traffic volumes, road safety and accessibility.</li> </ul>
<p><b>Biodiversity</b></p> <p>To avoid, minimise or offset potential adverse effects on native vegetation, listed migratory and threatened species and communities, as well as habitat for other protected species.</p>	<ul style="list-style-type: none"> <li>• Direct loss of native vegetation and any associated listed threatened flora and fauna species and communities known or likely to occur in the project site, such as Plains Grassy Woodland, Damp Sands Herb-rich Woodland/Heathy Woodland Mosaic, Plains Grassy Wetlands, Creekline Grassy Woodland and Swamp Scrub Plains Grassy Woodland.</li> <li>• Loss of, degradation, modification or hydrological alteration to any ecological communities listed as threatened under the FFG Act and EPBC Act, including revegetated areas, and including but not limited to: <ul style="list-style-type: none"> <li>– Herb-rich Plains Grassy Wetland (West Gippsland) Community (FFG Act)/ critically endangered Seasonal Herbaceous Wetlands (Freshwater) of the Temperate Lowland Plains (EPBC Act); and</li> <li>– Plains Grassland (South Gippsland) Community (FFG Act).</li> </ul> </li> <li>• Direct loss of, or degradation to, habitat for flora and fauna species listed as threatened or migratory under the EPBC Act, the FFG Act and/or DELWP Advisory Lists, including but not limited to avifauna species, in particular: <ul style="list-style-type: none"> <li>– Australian Fairy Tern (<i>Sternula nereis</i></li> </ul> </li> </ul>

	<p>neréis);</p> <ul style="list-style-type: none"> <li>- Eastern Curlew (<i>Numenius madagascariensis</i>);</li> <li>- Curlew Sandpiper (<i>Calidris ferruginea</i>);</li> <li>- Australasian Bittern (<i>Botaurus poiciloptilus</i>);</li> <li>- Sharp-tailed Sandpiper (<i>Calidris acuminata</i>);</li> <li>- Latham’s Snipe (<i>Gallinago hardwickii</i>); and</li> <li>- Australian Painted Snipe (<i>Rostratula australis</i>).</li> </ul> <ul style="list-style-type: none"> <li>• Indirect loss of vegetation or habitat quality, that may support any listed species or other protected fauna, resulting from hydrological or hydrogeological change, edge effects, overshadowing, habitat fragmentation, loss of connectivity, or other disturbance impacts including noise from haul trucks during construction and from potential increased traffic along Springvale Road through the Edithvale Wetland.</li> <li>• Potential for adverse effects on the ecological character and biodiversity values of the listed Edithvale-Seaford Wetlands Ramsar site including, but not limited to, the bird species mentioned above.</li> <li>• Potential for indirect effects on biodiversity values including but not limited to those effects associated with changes in hydrology (including surface and groundwater changes), water quality (i.e. on water dependent ecosystems), contaminants and pollutants, weeds, pathogens and pest animals.</li> <li>• Potential for impacts on FFG Act and EPBC Act listed species and other protected species resulting from construction and operation activities, including but not limited to significantly increasing mortality due to road traffic, and disturbance to foraging, roosting and breeding of listed threatened species and listed migratory species due to increased lighting, noise and traffic.</li> <li>• Potential for indirect significant impacts due to shading of vegetation because of the project including but not limited to elevated structures, such as the proposed bridges</li> </ul>
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	<p>over Mordialloc Creek and the Waterways wetlands.</p> <ul style="list-style-type: none"> <li>• The availability of suitable offsets for the loss of native vegetation and habitat for relevant listed threatened species, ecological communities and migratory species under the EPBC Act and/or FFG Act.</li> </ul>
<p><b>Water, catchment values and hydrology</b></p> <p>To minimise adverse effects on groundwater, surface water and floodplain environments and minimise effects on water quality and beneficial uses, including the ecological character of the Edithvale-Seafood Wetlands Ramsar site.</p>	<ul style="list-style-type: none"> <li>• The potential for adverse effects on the functions, values and beneficial uses of surface water environments (including Braeside West and Mordialloc Creek Wetlands, Waterways wetlands, Woodlands Industrial Estate wetlands, and associated Mordialloc Creek drainage system) due to the project, such as interception or diversion of flows or changed water quality or flow regimes during construction and operation.</li> <li>• The potential for adverse effects on the functions, values and beneficial uses of groundwater due to the project, in particular on groundwater dependent ecosystems (GDEs) and the ecological character of the Edithvale-Seafood Wetlands due to changes in groundwater levels, behaviour or quality.</li> <li>• The potential for adverse effects on nearby and downstream water environments (including the Mordialloc Creek catchment and Edithvale-Seafood Wetlands) due to changed flow regimes, floodplain storage, run-off rates, water quality changes, or other waterway conditions during construction and operation.</li> <li>• The potential for adverse effects on biodiversity values of the Edithvale-Seafood Wetlands Ramsar site including, but not limited to: <ul style="list-style-type: none"> <li>- Australasian Bittern; and</li> <li>- Sharp-tailed Sandpiper.</li> </ul> </li> </ul>
<p><b>Land contamination and acid sulfate soils</b></p> <p>To prevent adverse environmental or health effects from disturbing, storing or influencing the transport/movement of contaminated or acid-forming material.</p>	<ul style="list-style-type: none"> <li>• Potential for adverse environmental or health effects resulting from disturbance of or influencing the transport/ movement of contaminated soil, gases/ vapours or groundwater.</li> <li>• Potential for adverse environmental or health effects resulting from handling, storage or transportation of excavated contaminated spoil or potential acid</li> </ul>

	<p>sulphate soils (PASS).</p> <ul style="list-style-type: none"> <li>• Potential for adverse environmental or health effects from other waste materials/streams generated from project works.</li> <li>• Potential for adverse environmental effects on the Edithvale-Seaford Wetlands Ramsar site resulting from disturbing, storing or influencing the transport/movement of contaminated or acid-forming material.</li> </ul>
<p><b>Amenity and environmental quality</b></p> <p>To protect the health and wellbeing of residents and local communities, and minimise effects on air quality, noise and the social amenity of the area, having regard to relevant limits, targets or standards.</p>	<ul style="list-style-type: none"> <li>• Potential for dust emissions resulting from construction works and activities, including dust from potentially contaminated soil.</li> <li>• Potential for increases in noise and vibration levels during the project construction to significantly affect amenity in adjacent residential and parkland areas.</li> <li>• Potential for increases in noise levels from the project's operation to affect amenity significantly in adjacent residential and parkland areas.</li> <li>• Potential for increased vehicle traffic to affect local air quality adversely due to exposure to vehicle emissions.</li> <li>• Potential for increased emissions of greenhouse gases to result from the project.</li> </ul>
<p><b>Cultural heritage</b></p> <p>To avoid or minimise adverse effects on Aboriginal and historic cultural heritage values.</p>	<ul style="list-style-type: none"> <li>• Potential for adverse effects on known and unknown Aboriginal and non-Aboriginal cultural heritage values.</li> <li>• Potential for permanent loss of significant heritage values.</li> </ul>
<p><b>Amenity and environmental quality</b></p> <p>To protect the health and wellbeing of residents and local communities, and minimise effects on air quality, noise and the social amenity of the area, having regard to relevant limits, targets or standards.</p>	<ul style="list-style-type: none"> <li>• Potential for dust emissions resulting from construction works and activities, including dust from potentially contaminated soil.</li> <li>• Potential for increases in noise and vibration levels during the project construction to significantly affect amenity in adjacent residential and parkland areas.</li> <li>• Potential for increases in noise levels from the project's operation to affect amenity significantly in adjacent residential and parkland areas.</li> <li>• Potential for increased vehicle traffic to affect local air quality adversely due to exposure to vehicle emissions.</li> </ul>

	<ul style="list-style-type: none"> <li>• Potential for increased emissions of greenhouse gases to result from the project.</li> </ul>
<p><b>Social, land use and infrastructure</b></p> <p>To minimise potential adverse social and land use effects, including impacts on existing infrastructure and open space.</p>	<ul style="list-style-type: none"> <li>• Potential for dislocation due to severance causing reduced access to social networks and community facilities.</li> <li>• Temporary restrictions to access to regionally significant open spaces, including Braeside Park.</li> <li>• Potential for effects on the landscape and recreational values of neighbouring open space and residential areas, including the Mordialloc Creek, Waterways and Braeside Park environs from the project, in particular from elevated structures, such as bridges over the Mordialloc Creek, new Freeway interchanges, new ancillary structures such as noise barriers, and new lighting associated with the project.</li> <li>• Potential for overshadowing, overlooking and/or other privacy or security impacts on nearby residential properties, especially in connection with new elevated stretches of road.</li> <li>• Potential for changes to the existing infrastructure in the project area and in its vicinity.</li> </ul>

**Table 1: Scoping requirement draft evaluation objectives and key issues**

Response to the Scoping Requirements

21. In accordance with the Scoping Requirements, the EES was prepared using a systematic risk-based assessment approach, as depicted in Figure 2 and Figure 3 below.



Figure 2: EES assessment approach

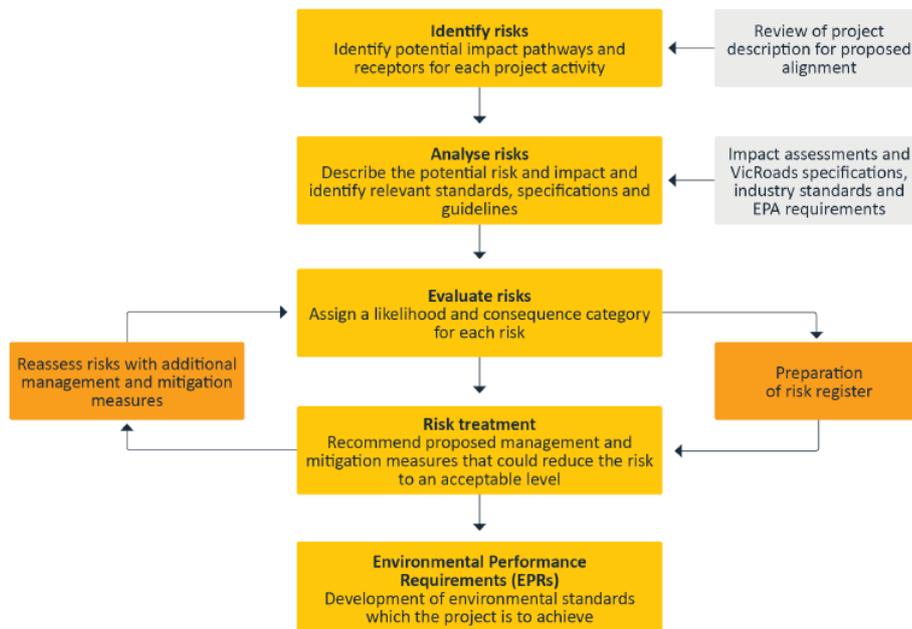


Figure 3: EES risk-based assessment process

22. The risk assessment is included as Attachment I to the EES and was conducted using an approach which is consistent with AS/NZS ISO 31000:2018 Risk Management Guidelines.
23. The overall risk management process involved the following steps:
  - a. Establishment of the context of the risk assessment;
  - b. Risk identification;
  - c. Risk analysis;
  - d. Risk evaluation; and
  - e. Risk treatment.
24. The level of risks and potential impacts were continually reviewed throughout the EES assessment process and have been updated as necessary in light of specialist investigations and as the understanding of the potential impacts of the Project has increased.
25. Technical studies were undertaken in accordance with the evaluation objectives covering the following matters:
  - a. Transport;
  - b. Biodiversity, with a particular emphasis on listed migratory and threatened species and communities, as well as habitat for protected species;
  - c. Surface water;
  - d. Groundwater;
  - e. Contamination and acid sulfate soils;
  - f. Aboriginal cultural heritage and historic heritage;
  - g. Air quality and noise and vibration;
  - h. Greenhouse gas;

- i. Land use and planning; and
  - j. Landscape and visual.
26. Business and social technical impact assessments were also undertaken.
27. MRPV's proposed approach to managing the anticipated environmental effects of the Project is contained in the EES in the form of the EMF and proposed EPRs.
28. The Project rationale, an explanation of the alternative options assessment that was undertaken, and a detailed description of the Project is contained in Chapters 2, 5 and 6 of the EES respectively.
29. Applicable legislation, policies and strategies are identified in each of the technical impact assessments and the associated Chapters of the EES, as relevant. Chapter 3 of the EES also addresses the legislative framework and approval requirements for the Project.
30. A consultation report is attached as Attachment IV to the EES and details the consultation that was undertaken in respect of the Project.
31. The EMF is contained in Chapter 23 of the EES. The EMF:
- a. Details the contract structure and governance framework for the Project (sections 23.5 and 23.6), which is based on a design and construct contract model;
  - b. Identifies the roles and responsibilities for environmental management (section 23.7);
  - c. Describes how the environmental management plans and documentation would be prepared, approved and implemented (section 23.9);
  - d. Identifies the requirements for performance management including monitoring, reporting and auditing of compliance with the obligations imposed under the Incorporated Document, including the EMF, EPRs and environmental plans (section 23.11); and

- e. Contains the proposed EPRs that define Project-wide environmental outcomes to be achieved and respond to the evaluation objectives (section 23.12).
- 32. The specific requirements or implications for the Project is discussed in each of the relevant Technical Reports and addressed by the EMF and proposed EPRs.
- 33. The EES responds to section 4 of the Scoping Requirements by identifying any potential adverse environmental effects of the Project, with a particular focus on the draft evaluation objectives and key issues.
- 34. The key issues arising out of the EES have been addressed in the EMF and by the EPRs. The key issues will also be identified and addressed in detail through submissions and expert evidence.

### **Environmental Management Framework**

- 35. The EMF is a robust and appropriate means by which the environmental effects of the Project can be acceptably managed.
- 36. The EMF provides the structure for:
  - a. Managing the Project in a way that achieves compliance with environmental legislation and encourages continual improvement in environmental performance;
  - b. Establishing and assessing performance against the Project's environmental commitments;
  - c. Developing and implementing appropriate plans and procedures for all phases of the Project; and
  - d. Monitoring, auditing, reviewing and reporting performance.
- 37. The EMF approach is commonly applied for large projects that have been subject to an environmental assessment process (whether under the *Major Transport Projects Facilitation Act 2009* or under the *Environment Effects Act 1978*).

38. Recent projects that have used the EMF approach include the Edithvale and Bonbeach Level Crossing Removals, East West Link, Melbourne Metro Rail, West Gate Tunnel, Desalination Plant and Peninsula Link.

39. The Advisory Committee that assessed the East West Link project relevantly stated:

*"... the EMF is a sound framework for managing potential environmental risks associated with the Project as long as there are robust and transparent monitoring and review mechanisms in place to ensure compliance with the applicable approvals, EMF, construction and operation EMPs and performance requirements."*<sup>4</sup>

40. The Inquiry and Advisory Committee appointed in respect of the Melbourne Metro Rail project found in respect of that project that:

*"... the EMF is a sound and robust framework for managing the environmental effects of the Project during its construction and operational stages."*<sup>5</sup>

41. The Minister's Assessment of the Melbourne Metro Rail project commented that:

*"The proposed approach whereby the incorporated document requires that the Project be constructed and operated within environmental parameters established by an EMF is common for projects of this nature and scale."*<sup>6</sup>

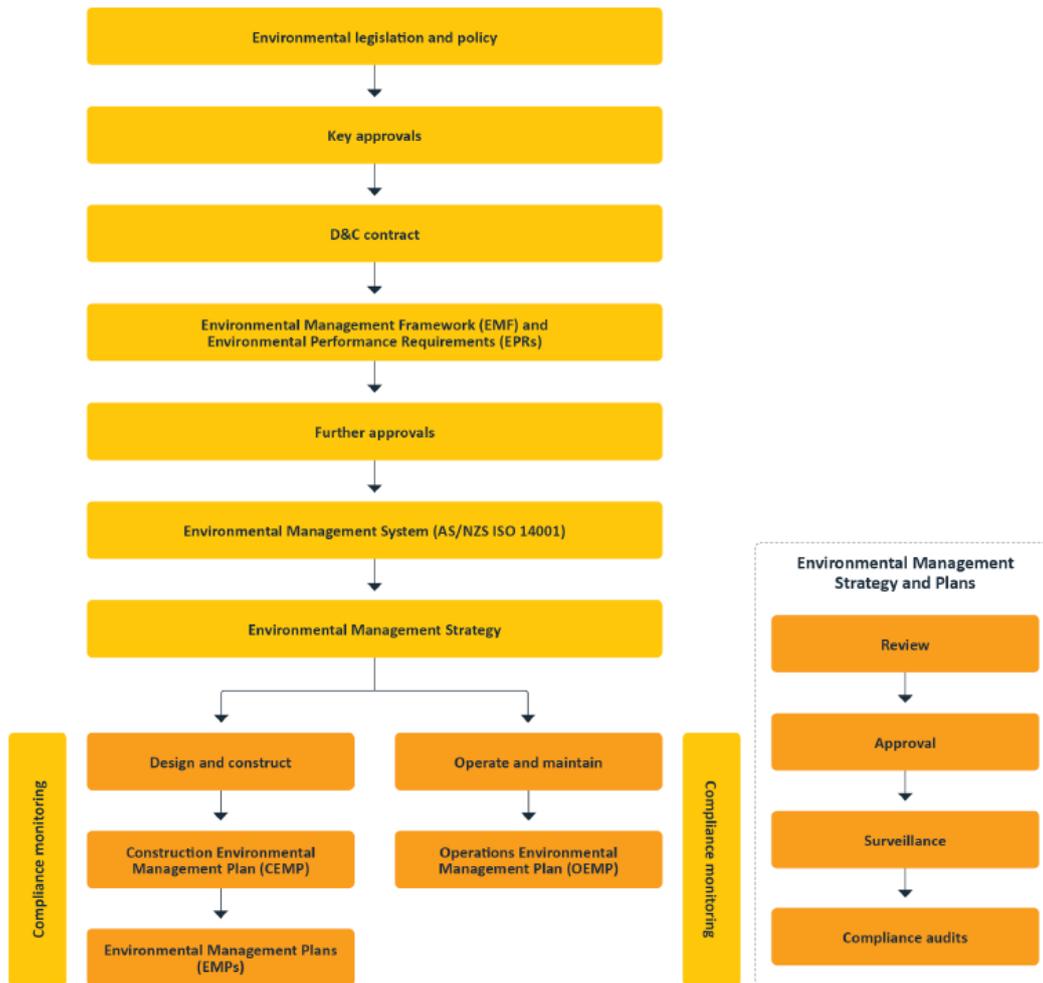
42. The EMF contained in the EES provides a tiered approach to the governance and management of environmental effects, as depicted in Figure 4. A detailed description of the documentation and approval requirements is contained in sections 23.9.1 to 23.9.4 of the EMF.

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<sup>4</sup> East West Link Assessment Committee (AC) [2014] PPV 76, page 361.

<sup>5</sup> Melbourne Metro Rail Project (EES) [2016] PPV 143, page 284.

<sup>6</sup> Melbourne Metro Rail Project – Ministers Assessment under the *Environmental Effects Act 1978*, December 2016, page 13.



**Figure 4: Environmental governance**

43. The EPRs are contained in section 23.12 of the EMF. The EPRs are objective-based outcomes that must be achieved in the construction and operation of the Project, regardless of which final detailed designs are adopted for the Project.
44. The EPRs have been developed through the EES assessment process to address identified risks and impacts. The EPRs will be finalised as part of the EES assessment process, prior to the Incorporated Document being incorporated into the Kingston and Greater Dandenong Planning Schemes.
45. The EPRs that have been developed in respect of the matters identified in the draft evaluation objectives for the Project are:
  - a. Transport efficiency, capacity and safety - T1 to T3;
  - b. Biodiversity - B1 to B6;

- c. Water, catchment values and hydrology - W1 to W6;
  - d. Land contamination and acid sulfate soils - CL1 to CL7;
  - e. Cultural heritage - H1 to H3;
  - f. Amenity and environmental quality - AQ1 to AQ2, NV1 to NV3;
  - g. Social, land use and infrastructure - LV1 to LV7, S1 to S2.
46. The remaining EPRs are in respect of:
- a. Environmental management - EM1 to EM3;
  - b. Economic - E1 to E2;
  - c. Greenhouse gas - GG1 to GG2.
47. Requirements for monitoring, reporting, peer review (where required) and auditing are contained in section 23.11 of the EMF.

**Draft Amendment GC107**

48. Draft planning scheme amendment GC107 (**Amendment**) to the Kingston and Greater Dandenong Planning Schemes was exhibited with the EES.
49. The Amendment would facilitate the Project, by exempting the Project from the requirement to obtain planning permission for the use or development associated with the construction and operation of the Project.
50. The Amendment would insert or amend (as appropriate) a Schedule to Clause 45.12 "Specific Controls Overlay", Clause 72.03 "What does this planning scheme consist of?", and Clause 72.04 "Documents incorporated in this planning scheme" of the Kingston and Greater Dandenong Planning Schemes to insert a new Incorporated Document for the Project.
51. The Incorporated Document constitutes a project specific planning control and would govern the use and development of the Project.

52. The Amendment would also amend Map 6HO to the Kingston Planning Scheme to correct the curtilage of HO104 in respect of the Parks Victoria buildings in Braeside Park.
53. Detailed explanation of the Amendment and its rationale is contained in Attachment II to the EES.
54. The Incorporated Document has the following structure:
  - a. Introduction;
  - b. Purpose;
  - c. Land;
  - d. Control, including:
    - i. a description of the Project;
    - ii. Project conditions, and
  - e. Expiry.
55. The permission provided in the Incorporated Document is subject to specified conditions, which must be met throughout the construction and operation of the Project. Importantly, the Incorporated Document would require the Project to comply with the EMF and the EPRs.
56. The Incorporated Document will require plans and documents to be prepared to the satisfaction of the Minister or Planning (or the relevant approving authority).
57. This approach, in which the Incorporated Document will require the Project to be constructed and operated within environmental parameters established by the EMF, is appropriate and is common for projects of this nature and scale.
58. MRPV is not aware of any amendment sought to the Incorporated Document by a submitter or another party. Nor does MRPV currently consider any amendments to the Incorporated Document are required. MRPV will table amendments to the Incorporated Document if it considers necessary during the course of the hearing.

## **Cultural heritage management plan**

59. A cultural heritage management plan has been prepared for the Project in accordance with the *Aboriginal Heritage Regulations 2018* and will be approved in accordance with the *Aboriginal Heritage Act 2006* prior to the commencement of any works for the Project.

## **Submissions**

60. The EES was on public exhibition and open for public submissions for 30 business days. A total of 112 submissions were received, including late submissions.
61. In accordance with paragraph 1 of the IAC's directions dated 5 February 2019, a summary table of initial responses to the majority of issues raised in submissions is provided as Annexure B to this submission. If necessary, an updated table will be provided in the course of the hearing.

## **Changes to the Environmental Performance Requirements**

62. At this time, MRPV does not propose to amend any of the EPRs in response to the submissions. Accordingly, please find attached the 'exhibition version' of the EPRs which reflects MRPV's current position.
63. On Day 1 of the IAC hearing, MRPV will table amended EPRs if it considers any changes are necessary as a result of expert witness reports, which are required to be filed and served on the same day as this Part A submission.
64. MRPV will continue to consider potential amendments to the EPRs throughout the course of the hearing.

## **Next steps**

65. This Part A submission comprises the introductory parts of MRPV's case and sets out relevant background information. In combination with the table of responses to submissions it also sets out MRPV's initial identification and response to issues. This is intended to provide a practical basis for other parties and submitters to appreciate MRPV's case.
66. On Day 1 of the hearing, MRPV will provide an opening presentation of the Project.

67. MRPV will also prepare a Part B submission that will focus more directly on issues and questions emerging based on the evidence, and questions and submissions during the hearing. There will be an updated table of responses to submissions if necessary. It is anticipated that the best time to produce these documents and to present the Part B submission will be in the time afforded to MRPV for reply.

RUPERT WATTERS  
SERENA ARMSTRONG

Counsel for Major Road Projects Victoria  
Instructed by Clayton Utz

18 February 2019