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West Gate Tunnel Project

**In the matter of a joint Inquiry under the *Environment Effects Act 1978*
and an Advisory Committee appointed under section 151 of the *Planning and
Environment Act 1987***

Opening Submission on behalf of Maribyrnong City Council

1. Introduction

- 1.1 This opening submission is made by Maribyrnong City Council (**Council**) and relates to the West Gate Tunnel Project (**WGT**) and the:
 - 1.1.1 Environment Effects Statement (**EES**);
 - 1.1.2 draft planning scheme amendment (**draft PSA**); and
 - 1.1.3 the Works Approval Application for the tunnel ventilation structures (**WAA**).
- 1.2 This submission foreshadows some of the key issues that the Council intends to raise during the course of the IAC hearings (**inquiry**).
- 1.3 The Council recognises that the exhibited EES has responded in significant ways to the Council's desire, and the desire of the residents of the municipality, to shift freight traffic off local roads so as to improve health and amenity outcomes for the residents.
- 1.4 There are, however, components of the WGT that are not critical to this objective, or which require a critical reassessment to ensure the outcome that promotes the highest net community benefit.
- 1.5 The Council's concerns relate to the following key issues:
 - 1.5.1 the need to prevent toll avoidance by freight traffic and to ensure that the extended curfews are effective over time;
 - 1.5.2 the proposed McKenzie Street ramps;
 - 1.5.3 urban design and landscape architecture;
 - 1.5.4 impacts upon Yarraville Gardens;
 - 1.5.5 interface with Stony Creek Reserve;
 - 1.5.6 interface with Mclvor Reserve; and
 - 1.5.7 the approach to the provision of compensatory public open space.

- 1.6 Further, and more detailed, submissions on those key issues and the terms of the EPRs and the draft PSA were set out in the Council's submission to the EES (No 158). The Council will, as appropriate, refine and elaborate upon those issues during the course of the inquiry; in particular, in the context of the expert evidence before the inquiry.
- 1.7 The Council's submission included detailed arguments in relation to each of the above key issues and identified a set of recommendations which the Council considered that the IAC ought include in its report to the Minister.
- 1.8 That submission also highlighted certain additional information which the Council considered ought be before the IAC in order that it may be properly informed prior to preparing its report. Some of that information was also identified by the IAC in its request for additional information from the WDA.

KEY ISSUES

2. Preventing toll avoidance

- 2.1 Toll avoidance by freight traffic is a key issue. Toll avoidance is, presently, proposed to be achieved largely by the use of curfews. Curfews are proposed to be implemented via a regulatory framework (via subordinate legislation).
- 2.2 Accordingly, the terms and scope of curfews may be amended by a relatively straight-forward Ministerial decision. While such an amendment must be made in accordance with the processes applicable to subordinate legislation, that process would not include the safeguards inherent in the process required to amend curfews if they were contained in an Act of Parliament.
- 2.3 While the Council welcomes the prospect of extended curfews on local roads, they do not necessarily enjoy bipartisan support. In that circumstance, the benefits of the proposed curfews could be undermined by a change of government or by executive level action, and then the relief promised by the WGT for the residents of the inner west could not be assured and could prove to be temporary or, otherwise, illusory.

2.4 The Council welcomes the extension of curfews along Somerville Road and Francis, Moore and Buckley Streets. The proposal for 24 hour curfews along Buckley and Moore Streets, announced in April 2017, was not originally a part of the WGT but was a commitment included following the Council's involvement in the TRG and engagement by the Council with the Ministers for Roads and Planning.

2.5 The Council's concerns regarding the curfews are threefold:

2.5.1 the need to enshrine the extended curfews in an Act, so that they are not vulnerable to attack by Ministerial or other executive action;

2.5.2 the need to ensure that surveillance, reporting and compliance action is effective and transparent; and

2.5.3 the need to ensure that where trucks cannot easily use the WGT, there are associated planned road upgrades to ensure that trucks which would otherwise use Buckley Street or Moore Street can readily access the WGT.

2.6 The Council, therefore, contends that curfews ought be embedded in an Act of Parliament and not in subordinate legislation.

3. Design issues

3.1 The Council's submission addressed the following design issues, which it will make detailed submissions on during the course of the inquiry:

3.1.1 the Port connections *and* McKenzie Street ramps;

3.1.2 the design and appearance of the tunnel vent structures;

3.1.3 the need for an extension of the acoustic barriers along the interface with McIvor Reserve and the Bradmill site;

3.1.4 the need for accommodation of upgraded connections to the Westgate Freeway via the Paramount Road corridor;

3.1.5 the design, tenure, usability and function of the proposed compensatory open space offering and the River Edge areas affected by the off-ramp to McKenzie Street; and

3.1.6 the need for issues to be addressed through detailed design for:

- (a) the undercroft of the proposed structures over the Maribyrnong River; and
- (b) the proposed Harris Street shared use path.

3.2 The Council will, including by reference to the expert evidence before the inquiry, maintain its position that these design issues must be resolved before the plans for the WGT are approved (and ought not be left to resolution through the secondary consent mechanisms, presently, envisaged in the EPRs. This is especially the case noting that the WDA states , in its Part A submission, that the plans are final design plans.

4. Visual impact of the infrastructure associated with the WTP

4.1 The visual analysis prepared as part of the EES, which is primarily to be found in the Landscape and Visual Impact Assessment, lacks panoramic perspectives and provides glimpses that do not enable one to appreciate the peripheral experience when looking at this imposing proposition.

4.2 The on and off ramps will have a significant visual impact. The Council's evidence (Kirsten Bauer) highlights the critical issues associated with the visual impact of the ramps and the assessment made as part of the EES.

5. The ramp structures: Impact on the public realm

5.1 The proposed ramp connections (on and off) to, and from, the Port of Melbourne will transform in a negative way the relevant section of the Maribyrnong River corridor, particularly when looking south, when viewed from Shepherd Bridge or the nearby river banks and public areas.

5.2 These are important public realm perspectives. Furthermore, the proposed ramp connections will detract from the urban design attributes of the proposed bridge and will result in a poor urban design outcome for decades with little, or no actual, justification.

5.3 Protection of river corridors receives the highest level of state policy support. The Maribyrnong River receives explicit policy support in clause 12.04 of the *Maribyrnong Planning Scheme*, as one of Melbourne's two significant rivers.

5.4 Port policy is found at Clause 18.03 (Ports) and one of the strategies is to:

Provide for the ongoing development of ports in accordance with approved Port Development Strategies.

5.5 For decades now, the current (and former) municipal council has had in place policies which have had the sole purpose of making the river more accessible and a primary destination for residents. The strategic planning history of the Maribyrnong River corridor will be described in greater detail during Council's presentation to the IAC.

5.6 The Council contends that:

- 5.6.1 the proposed ramp connections (**the ramps**) lack proper justification;
- 5.6.2 the primary basis upon which the ramps are sought to be justified (the assumption that Coode Road is certainly destined for closure), is not consistent with, nor justified by reference to, any relevant port development plan or analysis contained in the report of Infrastructure Victoria;
- 5.6.3 there has not been any appropriately robust modelling carried out of the performance of Appleton Dock Road without the ramps. The Council submits that, on the basis of any approved port development plans, it is possible that Appleton Dock Road will continue to provide an acceptable level of service (with or without a direct connection to the WGT);
- 5.6.4 if the Council's primary submission on the lack of the justification for the ramps is not accepted, the Council contends, alternatively, that:
 - (a) an off-ramp providing access to Dock Link Road ought be preferred;
or
 - (b) provision be made to accommodate the future construction of the ramps, in the event that approval is granted in the future to close Coode Road (as then contemplated in the approved Port of Melbourne Development Plan), such that access to Swanson Dock West would be constrained.

- 5.7 The ramps are not an infrastructure item identified as a fixed outcome in the Port of Melbourne Development Plan. The structure detracts heavily from the public realm for the (purported) benefit of the Port of Melbourne in circumstances where the Port of Melbourne has plenty of land at its disposal and a largely unfettered ability to provide further connections if needed to the Footscray Road corridor.
- 5.8 The assumed closure of Coode Road presupposes a major capital upgrade, or expansion, of Swanson Dock which would require a suite of statutory approvals under legislation which governs the development of the Port of Melbourne. The new owner/lessee of the Port of Melbourne has not committed to pursue closure of Coode Road. The state government has also not indicated that such closure would be necessary in the foreseeable future.
- 5.9 Even if such a closure were to occur, it cannot be said (with any confidence) that it would occur before 2031, when any justification for the ramps is likely to be further diluted by the potential selection of Bay West as Victoria's second port.
- 5.10 Upon the material, presently available, there is no proper basis for decisions being made upon the assumption that the closure of Coode Road will go ahead at this time or into the future and, accordingly, the assumption which underpins the case for the ramps ought be rejected by the IAC.

6. Infrastructure Victoria's advice on Port Capacity

- 6.1 Infrastructure Victoria recently released its report entitled '*Advice on Securing Victoria's Port Capacity*' (May 2017), which favours the development of Bay West over the Port of Hastings. Its advice considers forecast growth in container traffic as well as the physical needs and constraints of the alternative options (including amenity issues, channel depth requirements, the need for dredging, land reclamation, terminal operations and transport connections beyond the port gate). The recommendations assumed a future capacity to handle up to 9 million TEU, noting that:

9 million TEU is a very large port for Australia. Today, the Port of Melbourne handles about 2.6 million TEU and all Australian ports handle about 8 million TEU in total.¹

¹ Page 110

6.2 The IAC’s assessment of the future volume of freight through the Port of Melbourne would more properly be facilitated by resort to the advice of Infrastructure Victoria (including as extensively identified in the Council’s submission).

7. The Paramount Road corridor connection

7.1 The Council has for some time advocated the completion of a road connection from Paramount Road in Tottenham to the West Gate Freeway (**the corridor**), as an alternative means of access to the Port of Melbourne, so as to take the pressure off Buckley Street and Moore Street in Footscray.

7.2 The Council recognises that, as the government has committed to extend 24 hour curfews to Moore Street and Buckley Street, an alternative means of access for freight traffic to, and from, the Tottenham Industrial Precinct must be made available.

7.3 There is an existing Public Acquisition Overlay over the majority but not all of the corridor. The continuation of the PAO to the Westgate Freeway and the construction of the road extension would provide a much needed route to the port from the Tottenham area alleviating the pressure on trucks to use local roads.

8. Public open space

8.1 The EES sets out the additional open space as follows:

Table 5-10 Additional public open space

Project component	Additional public open space	Area (m ²)
West Gate Freeway	Land between the West Gate Freeway and Precinct 15, west of Newport Freight Railway Line, Altona North	~30000
Tunnels	Land north of West Gate Bridge, south of Stony Creek and east of Williamstown railway line, Yarraville	~17000
	Land west of Whitehall Street and south of Youell Street, Yarraville	~28000
Port, CityLink and city connections	Land north of Footscray Road and west of Moonee Ponds Creek, West Melbourne	~14000

8.2 As can be seen, there is no detail regarding the tenure (ie will it be reserved for use by the public) or the nature of the open space. There is no spatial allocation of the figures suggested in Table 5-10 by reference to a map.

8.3 The EES states that an additional area of 8.9 hectares of public open space will be provided.

- 8.4 The EES includes little analysis of whether the compensatory open space will serve the same purpose as that which is proposed to be taken, degraded or lost. There is no analysis of whether the compensatory open space is encumbered or useable, by reference to the usual standards that are applied by Planning Panels Victoria in a strategic or precinct structure planning context.
- 8.5 The proposed compensatory open space appears to have simply emerged through the tender process. The 'offer' was not the subject of consultation with the Council before the reference design was announced in April 2017. All compensatory open space is heavily encumbered by being juxtaposed to road infrastructure and is really little more than left over land, partly serving other functions such as water quality improvement.
- 8.6 The effects of noise and visual impact upon on public open space assets is also a concern for the Council.

9. Mclvor Reserve and Fogarty Avenue

- 9.1 In its May 2016 assessment, the Council identified concerns relating to:
- 9.1.1 the need for additional noise attenuation along the West Gate Freeway reservation;
 - 9.1.2 the alignment of the shared path along Fogarty Avenue, and the need for a continuous off road path; and
 - 9.1.3 vibration and regenerated noise.
- 9.2 In particular, the Council emphasised the need for the extension of noise walls along the area between Fogarty Avenue and the Bradmill site.
- 9.3 In assessing the reference design released in April 2017, the Council notes that:
- 9.3.1 the shared use path has been separated from Fogarty Avenue; and
 - 9.3.2 there is no proposal to extend the acoustic barriers all the way along Fogarty Avenue to include the Bradmill site.
- 9.4 This leaves the users of the land occupied by the Yarraville Glory Soccer Club without appropriate acoustic protection, and fails to recognise the incremental increase in the level of noise experienced at the Bradmill site as a result of the

WGT. It is submitted that open space which is wedged between major infrastructure corridors must be afforded suitable acoustic protection to offset the attendant, major increase in noise levels.

- 9.5 Regional open space assets such as Mclvor Reserve and JJ Holland Park experience noise levels that have a significant effect on the amenity of the users of these regional assets. A major project such as this is a once-in-a-generation opportunity to deliver improved standards of urban amenity in, and around, these key assets and, for that matter, ought not detract from the amenity of the future residents of any development on the Bradmill site, noting that the site has been the subject of rezoning and planning controls to facilitate residential development (DPO7 introduced by Amendment C63).
- 9.6 This opening submission should not be regarded as referencing all of the issues to be raised by the Council but only as a means of identifying some of the headline issues that were raised in the Council's submission.

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MADDOCKS LAWYERS
For and on behalf of the Maribyrnong City Council
9 August 2017

Per:

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Counsel for the Maribyrnong City Council