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1.0 INTRODUCTION

My firm **Lovell Chen Pty Ltd** (with sub-consultants Andrew Long & Associates Pty Ltd and John Patrick Pty Ltd) prepared the report titled **North East Link Project: Technical Report K – Historical heritage assessment** (Technical Report) to the Environment Effects Statement (EES) for North East Link (Project).

I have been instructed by Clayton Utz on behalf of NELP to review and respond to the public submissions and give evidence on the environmental effects of the Project relevant to my area of expertise.

1.1 Qualifications and experience

Annexure A contains a statement setting out my qualifications and experience, and the other matters raised by Planning Panels Victoria’s Guide to Expert Evidence. A copy of my curriculum vitae is provided as Annexure B.

1.2 Summary of key issues, opinions and recommendations

There are relatively few locations where works for North East Link would intersect with or impact on historical heritage places or values. Importantly, no direct or indirect impacts were identified for the Victorian Heritage Register (VHR) places, Banyule, Heide I and Heide II.

A large old River Red Gum in Bridge Street Bulleen subject to Heritage Overlay (HO) controls is proposed for removal for the Manningham Road interchange (both reference and alternative designs). This tree is a landmark in the local area and is the subject of considerable community/social attachment, as reflected in a number of public submissions to the EES. From a heritage perspective its retention and protection would be preferred, in that its removal would result in the loss of all values. The impact could not be mitigated, but a tailored approach to recording the tree and its values has been recommended and this work is in progress.

While not subject to heritage controls, the first stage of the Eastern Freeway (Hoddle Street to Bulleen Road) has been identified as of heritage value, primarily for its design qualities, including its sequence of bespoke-designed concrete bridges. Impacts from North East Link on this section of the freeway are relatively minor at the western end and become more significant further east, including new elevated viaduct structures. Works within the freeway reserve would be extensive and there would be some adverse impacts. Accepting this, providing detailed design for freeway infrastructure is guided by the Urban Design Strategy (LV1) and with reference to the identified heritage values (HH1), it is expected that the key attributes and legibility of the original design could be largely maintained.

Limited impacts on historical archaeology are expected and any known or unforeseen impacts would be managed consistent with the requirements of the **Heritage Act 2017** and through the preparation and implementation of an Archaeological Management Plan for the project (EPR HH2).

The potential for ‘indirect’ impacts on heritage places from project works arising from ground movement, vibration and groundwater drawdown, has been considered. In considering these potential impacts and their assessment, management and mitigation, I rely on the findings of the relevant Technical reports. The relevant EPRs are set down in Technical Report K (subject to the correction identified in section 1.3 below in relation to the EPRs for Risk HH07).

In a broad sense, the Yarra River and its environs are considered to have historical heritage value as a layered cultural landscape, albeit only certain sites and areas are subject to statutory heritage controls. Impacts are generally avoided with the design of the project in tunnels below the riverine environs and the establishment of conditional and full no-go zones. Potential indirect impacts from tunnelling works from ground movement and groundwater drawdown are considered by other technical specialists and reported in Technical Report K. These included the potential for ecological impacts on the Bolin Bolin Billabong (itself a no-go zone), where some potential drawdown impacts were predicted and monitoring and mitigation measures were recommended. Other potential impacts included ground improvement works in Banksia Park, shared use path improvements, construction activities and new permanent infrastructure south of Manningham Road east of the river, and various works close to the river within
the Eastern Freeway reserve. These works comprise a mix of physical and visual impacts, generally confined to the edges of the river environs or in locations where change has already occurred. My view is that providing the potential impacts on the Bolin Bolin Billabong can be mitigated, the scope of works proposed would have a negligible impact on the historical heritage values of the Yarra River and its environs.

1.3 Technical Report K

The role that I had in preparing Technical Report K was in contributing to existing conditions and impact assessment, including site inspections and conclusions and recommendations. Other significant contributors to Technical Report K and their expertise are set out as follows:

_Lovell Chen_

- Peter Lovell, Director and Founding Principal, Bachelor of Building (Melbourne), 38 years’ experience in heritage conservation
- Suzanne Zahra, Senior Associate, Bachelor of Architecture (RMIT). More than 16 years’ experience in the heritage field including survey and assessment of heritage places, building and heritage planning assessments and impact assessment
- Libby Blamey, Senior Associate, Historian, Bachelor of Arts (Honours), Master of Arts (Public History) (Monash). More than 12 years’ experience in heritage, specialising in historical research and writing (including thematic and place-based histories) and assessment of heritage places.
- Michelle Bashta, Associate, Bachelor of Arts (Honours) (Melbourne), Master of Cultural Heritage (Deakin University). Three years’ experience at Lovell Chen as part of the heritage team.
- [from July 2018] Michael Cook, Master of Landscape Architecture (University of Toronto), landscape architect and heritage consultant. More than five years’ professional experience in Canada and Australia engaging in various aspects of industrial, landscape and infrastructure heritage, planning and design.

_Andrew Long & Associates_

- Jonathan Howell-Meurs, Executive Director, MA Archaeology, Bachelor of Arts (Honours) (Melbourne). Over 20 years’ experience in archaeological and heritage consulting in Victoria providing expert advice regarding both Aboriginal and non-Aboriginal heritage.

_John Patrick Pty Ltd_

- [before July 2018] Michael Cook, Master of Landscape Architecture (University of Toronto), landscape architect and heritage consultant. More than five years’ professional experience in Canada and Australia engaging in various aspects of industrial, landscape and infrastructure heritage, planning and design.

There are three further matters (corrections) to be raised in relation to Technical Report K.

These are as follows:

- It is noted there is a typographical error in the EPRs for Risk HH07 (Changes to groundwater conditions during construction) at section 8.6 (p. 146), where GW5 (Manage groundwater during operation) is listed. The correct EPR is GW3 (Minimise changes to groundwater levels through tunnel and trench drainage design and construction methods).
- It is also noted that the same EPR, GW3 should also be included in the list of EPRs at Table 9.2 at p. 159
- Further historical research in relation to the Eastern Freeway has clarified that the timber noise walls in the Eastern Freeway (Stage 1) between Hoddle Street, Clifton Hill/Collingwood and Bulleen Road, Balwyn North were constructed after the opening of the freeway and date from
the 1980s and later. These had previously been thought to be original. This is discussed at section 2.2 below.

Subject to these corrections, I adopt Technical Report K, in combination with this statement, as my written expert evidence for the purposes of the North East Link Inquiry and Advisory Committee’s inquiry into the environmental effects of the Project.

2.0 FURTHER WORK SINCE PREPARATION OF THE TECHNICAL REPORT

2.1 Former Bulleen Drive-in (HO72, Manningham)

Since the Technical Report was finalised, Lovell Chen has undertaken further work in relation to the former Bulleen Drive-in site at 49 Greenaway Street Bulleen - included in the HO in the Manningham Planning Scheme as HO72, ‘Archaeological site Bulleen Drive-in (fmr)’.

Access was not available to the site in the preparation of Technical Report K but was provided subsequently, and on 26 February 2019 a site inspection was undertaken. Following this, an additional review of historical information and aerial photography was undertaken in order to understand remaining physical features and plantings present on the property, and to assess their potential to have heritage values.

Following is a summary of my findings in relation to this further work:

- Review of further planning reports confirms that the Heritage Overlay (HO) applied to the property under the Manningham Planning Scheme related to an assessment of Aboriginal archaeological potential included in ‘The City of Doncaster and Templestowe: Archaeological Survey of Aboriginal Sites’ (Isabel Ellender, 1991). That study identified no archaeological sites on the property, but recommended testing be required prior to any development (Ellender, 1991: 67)

- A limited review of the historical archaeological potential of the site was undertaken. Historical references were found to a ‘Bulleen Inn’ or ‘Bulleen Hotel’ including in c. 1850s digitised newspapers and a large-scale survey plan, and the rough location shown on the survey may correspond with the former Bulleen Drive-in site. On this basis, there is a limited potential for historical archaeological remains of this hotel to be present on the site

- Surviving evidence of the Bulleen Drive-in, which operated on the site from c.1965 to 1984, is fragmentary, consisting of building footings, demolition rubble, and other remnants, including boundary landscape treatments. In contrast to surviving drive-in complexes at Coburg and Dromana which have been included in the Victorian Heritage Register (VHR) under the Heritage Act 2017, the minimal physical evidence of the Bulleen Drive-in is not considered to be of heritage significance

- The majority of surviving landscape plantings on the site are associated with boundary landscape treatments that were established c.1965-1970 and later for the drive-in. These are not considered of heritage significance

- The vegetated riparian corridor of the Yarra River abuts the west and south boundaries of the property. As with other parts of the corridor, this vegetation consists of regenerating indigenous woodland, with some exotic trees that stem from past agricultural land uses. It is of significance as part of the larger Yarra River and environs, which was identified in the Technical Report as an important landscape feature with overlapping ecological and cultural values.

A number of images of the former Drive-In site are included in Annexure E.

This further work has not caused me to materially change my opinions as expressed in the Technical Report at section 8.2.3. Specifically:

- The potential for Aboriginal cultural heritage is addressed in the CHMP for the project
• The location of the Bulleen Inn should be further investigated as part of the preparation of an Archaeological Management Plan for the project (EPR HH2 Implement an Archaeological Management Plan to avoid and minimise impacts on historic archaeological sites and values)

• The Archaeological Management Plan under HH2 must include requirements for background historical research, which would include a detailed land use history where sites are to be disturbed. EPR HH2 also sets out the requirements for previously unidentified sites that may be discovered during the construction of North East Link

• Construction uses of the property and construction of permanent infrastructure are likely to result in the removal of trees and other remnants of the former Bulleen Drive-in. These features are not assessed as being of historical heritage value, and their removal would not have an adverse impact

• The vegetated riparian edge of the property abutting the Yarra River would be retained and protected during construction. The permanent infrastructure for North East Link would be set well away from the Yarra River, on land that was previously cleared and developed for the drive-in, and would be situated in tunnels or open cut roads

• A single River Red Gum of some age near the southern boundary of the site is related to the river environs but stands slightly separated and is within the area indicated for potential construction purposes. This should also be retained and protected consistent with EPR AR1 Develop and implement a Tree Removal Plan, and EPR AR2 Implement a Tree Protection Plan(s) to protect trees to be retained. Note also that EPR FF2 Minimise and offset native vegetation removal makes specific reference to the ‘portion of 49 Greenaway Street Bulleen (former Drive-in) heavily vegetated with trees along the Yarra River’.

No additional or amended EPRs are recommended as a result of this further work.

2.2 Eastern Freeway (Stage 1)

Since the Technical Report was finalised, Lovell Chen has also undertaken further work in relation to the Eastern Freeway.

Additional research and analysis have been undertaken, including an assessment of significance against the Heritage Council of Victoria’s Victorian Heritage Register Criteria and Threshold Guidelines (updated 2019).

The conclusion of this further assessment was that the first stage of the Eastern Freeway (Stage 1) between Hoddle Street, Clifton Hill/Collingwood and Bulleen Road, Balwyn North is considered to satisfy three of the criteria for inclusion in the VHR (Criterion A, Criterion D and Criterion E). Later stages of the freeway were considered but found not to meet any of the criteria at a state level.

NELP has referred this assessment to the Department of Transport for its consideration for potential nomination to the VHR.

Implications for Technical Report K

There is one outcome of the additional research that requires a change to the Technical Report K. The historical research and analysis of aerial photographs has indicated that while there are contemporary (1977) references to ‘noise reflecting barriers’ (Royal Auto, November 1977: 3), the existing timber noise walls are generally of later construction. The existing walls appear to date from the 1980s and later and to have been constructed in phases. These previously had been thought to have been original (Technical Report K, p. 94), and Technical Report K noted that the ‘understated noise walls’ are considered to contribute to an understanding of the design’ (Technical Report K, p. 134). The further research has indicated that they are later. In this context, my view would be that while their design and understated timber appearance is in keeping with the general approach to landscaping for Stage 1, they do not make a strong contribution to significance.

Other than for this factual correction, this further work has not caused me to materially change my opinions as expressed in the Technical Report.
In the event a nomination to the VHR proceeds, the inclusion of the Eastern Freeway (Stage 1) in the VHR would be subject to the Executive Director, Heritage Victoria’s assessment and ultimately, the outcome of the registrations process under the Heritage Act.

In considering the implications of the additional assessment, it is noted that the significance of the Eastern Freeway (Stage 1) was considered at a potential state level as part of impact assessment. The potential state-level values identified in the Technical Report have been clarified and confirmed in the further work, as being historical, representative and aesthetic and being primarily related to its design, which set a new standard in freeway design in Victoria.

In the event the Eastern Freeway (Stage 1) is included in the VHR, the status of the place would change and permits would be required under the Heritage Act for North East Link where works are within the extent of registration.

No change would be recommended to the EPRs relevant to the works proposed for the Eastern Freeway (Stage 1) as an outcome of registration, if that were to occur.

The EPRs identified as relevant were:
- HH1 (Design and construct to minimise impacts on heritage)
- HH4 (Undertake archival photographic recording)
- AR1 (Develop and implement a Tree Removal Plan)
- LV1 (Design to be generally in accordance with the Urban Design Strategy).

Importantly, the Urban Design Strategy (UDS) was developed in part based on the heritage assessment and provides a series of detailed recommendations for the design of works within the Eastern Freeway (Stage 1). The UDS describes the significance of the first stage of the Eastern Freeway and supports a design approach that prioritises the retention of original fabric and features and respects and responds to the valued aesthetic qualities of the place. It is considered to provide a sound basis for approaching works for the NEL in a manner consistent with the identified heritage values.

Additionally, it is noted that in the event Stage 1 of the Eastern Freeway is included in the VHR, any permit applications under the Heritage Act would need to include a detailed heritage impact assessment.

### 2.3 River Red Gum, Bridge Street Bulleen: ‘Cultural Biography’

As referenced in Technical Report K (section 8.2.2), NELP has commissioned Lovell Chen to prepare a cultural biography of the tree and this work is in progress.

The idea of a ‘cultural biography’ is based on the concept that ‘objects’, ‘things’ or ‘places’ are invested with meaning and significance though social and physical interaction with people and events, with meaning and significance being dynamic and accumulating over time. This approach can describe the way the values of a place or object and people’s relationships to it have been shaped by changing contexts. The concept is explored and explained by Emeritus Professor John R Stephens of Curtin University in his 2013 article ‘The cultural biography of a Western Australian war memorial’ (Stephens, 2013).

In this case, the intent of the cultural biography of the River Red Gum on Bridge Street is to provide a more detailed history of the tree and its changing meanings over time, including the community’s interaction with it. Currently in progress, the cultural biography work involves additional historical research, interviews (oral history) and reference to various individual and community actions and expressions of attachment to the tree, both in the past and currently. It is hoped the work will allow for a more nuanced reflection on its cultural and social meanings.

While not a mitigation measure for the removal of the tree, this was recommended in Technical Report K as a means through which its different values could be mapped and documented.
3.0 SUBMISSIONS

3.1 Submissions received

I have read the public submissions to the EES, draft planning scheme amendment and works approval application and identified those that are relevant to the Technical Report and my area of expertise.

Many of the submissions that reference historical heritage matters raise issues that have already been addressed in Technical Report K and do not materially affect the findings and opinions expressed in Technical Report K.

However, some of the issues raised require an additional response and this is set out in Annexure D.

4.0 ENVIRONMENTAL PERFORMANCE REQUIREMENTS

It is my view that the environmental performance requirements relevant to my area of expertise, being [HH1-HH5], are appropriate and will ensure that the environmental effects of the Project relevant to my area of expertise will be suitably managed to achieve acceptable outcomes.

As such, I do not recommend any changes to the environmental performance requirements for the Project.

In confirming this view, I note that some potential heritage issues and impacts are addressed by EPRs related to other technical areas, notably those of:

- Surface noise and vibration
- Tunnel vibration
- Arboriculture
- Landscape and visual
- Aboriginal cultural heritage
- Ground movement
- Groundwater
- Ecology.

5.0 DECLARATION

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the North East Link Inquiry and Advisory Committee.

Signed

Date: 12 July 2019
REFERENCES


Royal Auto, November 1977

ANNEXURE A  MATTERS RAISED BY PPV GUIDE TO EXPERT EVIDENCE
Matters Raised by PPV Guide to Expert Evidence

a) the name and address of the expert;

Katharine Fiona Gray

Lovell Chen Pty Ltd, Architects and Heritage Consultants, Level 5, 176 Wellington Parade, East Melbourne

b) the expert's qualifications, experience and area of expertise

I hold a BA (Hons) (Melb) MA (History) (Melb) Grad Dip Heritage Planning and Management (VU) and am a full international member of ICOMOS.

I am a historian with post-graduate qualification in heritage planning and management, and I have 29 years’ experience in heritage practice. This experience includes working within local, state and Commonwealth statutory frameworks and on a range of heritage places and projects. Of relevance, I oversaw the historical heritage assessments prepared by Lovell Chen for the Metro Tunnel and West Gate Tunnel Environment Effects Statements.

I have expertise in (non-Indigenous) cultural heritage identification, assessment and management, and in impact assessment.

My curriculum vitae is attached at Annexure B.

c) Details of any other significant contributors to this statement (if any) and their expertise

Lovell Chen

• Peter Lovell, Director and Founding Principal, Bachelor of Building (Melbourne), 38 years’ experience in heritage conservation

• Suzanne Zahra, Senior Associate, Bachelor of Architecture (RMIT). More than 16 years’ experience in the heritage field including survey and assessment of heritage places, building and heritage planning assessments and impact assessment

• Libby Blamey, Senior Associate, Historian, Bachelor of Arts (Honours), Master of Arts (Public History) (Monash). More than 12 years’ experience in heritage, specialising in historical research and writing (including thematic and place-based histories) and assessment of heritage places

• Michelle Bashta, Associate, Bachelor of Arts (Honours) (Melbourne), Master of Cultural Heritage (Deakin University). Three years’ experience at Lovell Chen as part of the heritage team

• [from July 2018] Michael Cook, Master of Landscape Architecture (University of Toronto) landscape architect and heritage consultant. More than five years’ professional experience in Canada and Australia engaging in various aspects of industrial, landscape and infrastructure heritage, planning and design.

Andrew Long & Associates

• Jonathan Howell-Meurs, Executive Director, MA Archaeology, Bachelor of Arts (Honours) (Melbourne). Over 20 years’ experience in archaeological and heritage consulting in Victoria providing expert advice regarding both Aboriginal and non-Aboriginal heritage

John Patrick Pty Ltd

• [before July 2018] Michael Cook, Master of Landscape Architecture (University of Toronto), landscape architect and heritage consultant. More than five years’ professional experience in Canada and Australia engaging in various aspects of industrial, landscape and infrastructure heritage, planning and design.
d) all instructions that define the scope of the report (original and supplementary and whether in writing or oral)

I received my instructions to prepare this expert report from Ms Sallyanne Everett, Partner of Clayton Utz and William Bartley, Senior Associate, also of Clayton Utz. Those instructions were in writing (correspondence dated 28 May 2019, copy attached at Annexure C. I was instructed to review submissions and identify those relevant to my area of expertise, prepare an expert witness statement that addresses Technical Report K and the environmental effects of the Project relevant to my area of expertise and responds to issues raised in public submissions relevant to my area of expertise. I was also instructed to prepare a power point presentation for presenting at the hearing, if required by the IAC participate in an expert conclave, and attend the hearing to give evidence in relation to my report.

e) the identity of the person who carried out any tests or experiments upon which the expert relied in making this report and the qualifications of that person;

Not applicable.

f) a statement setting out the key assumptions made in preparing the report;

It is assumed that copies of all submissions received have been made available to me.

g) a statement setting out any questions falling outside the expert’s expertise and also a statement indicating whether the report is incomplete or inaccurate in any respect.

Aboriginal cultural heritage is not the primary focus of Technical Report K and this is assessed in Technical Report L – Aboriginal cultural heritage, prepared by Andrew Long & Associates. Accepting this, there number of places that are addressed in the historical heritage report which have multiple values including significant Aboriginal cultural values. I note that for these places, Jonathan Howell-Meurs, of Andrew Long & Associates contributed to the response in Technical Report K. Further to this, I note that I am not an expert in Aboriginal cultural heritage.

In my report I respond to submissions raising the issue of potential damage or adverse impacts to heritage buildings and places from the effects of construction of the project, including those related to construction vibration, ground movement, and groundwater changes. Further to this, there are matters relating to groundwater impacts on ecology and arboriculture which are also relevant to heritage impact assessment.

In doing so, I make it clear that these potential impacts and the means through which they might be managed are outside my area of expertise and are properly considered by relevant technical specialists.

In addition, I also note that while I have experience in considering heritage landscapes, I am not an expert in arboricultural matters.

h) Any departures from the findings or opinions expressed in the Technical Report and, if so, why

Further work has been undertaken since the Technical Report and this is detailed in the evidence statement (refer to section 2.0). This has resulted in additional information about two of the heritage places considered in the Technical Report but no material change in the findings and opinions expressed in that report.

Similarly, the public submissions themselves have included additional information as detailed in Annexure D, but these have not resulted in any material change in the findings and opinions expressed in the Technical Report.

i) Whether the Technical Report is incomplete or inaccurate in any respect
It is noted there is a typographical error in the EPRs for Risk HH07 (Changes to groundwater conditions during construction) at section 8.6 (p. 146), where GW5 (Manage groundwater during operation) is listed. The correct EPR is GW3 (Minimise changes to groundwater levels through tunnel and trench drainage design and construction methods).

It is also noted that the same EPR, GW3 should also be included in the list of EPRs at Table 9.2 at p. 159.

j) Details of any changed circumstances or assumptions since the Technical Report was prepared and whether these affect the opinions expressed in the Technical Report

None identified.
KATE GRAY
PRINCIPAL HERITAGE

BA (Hons) (Melb) MA (Hist) (Melb) Grad Dip Heritage Planning & Management MICOMOS

Associate Director Kate Gray is an historian with a post graduate qualification in heritage planning and management. She brings more than 28 years of experience in cultural heritage practice to her work in heritage assessment, the provision of high-level strategic advice, and the identification and management of heritage sites and places.

Kate leads a multi-disciplinary team of specialists producing heritage reports and outputs, including heritage impact statements, conservation and heritage management plans, municipal heritage studies, heritage appraisals, options assessments, and submissions to panels and hearings. In addition, she provides specialist technical advice as part of client project teams working on major infrastructure projects. Kate joined Lovell Chen in 1989.

EXPERTISE AND EXPERIENCE

Kate’s expertise includes the assessment of heritage places of significance at local, state and national levels. These include individual buildings and structures, landscapes, industrial complexes and groups of places linked by ownership or use. Her work has included historical research and writing, and the preparation of heritage appraisals, conservation and heritage management plans, municipal heritage reviews, and area or typological studies. Kate has managed major strategic heritage projects for clients with diverse assets, such as the University of Melbourne, Port of Melbourne Corporation and Airservices Australia.

As a member of multi-disciplinary project teams, Kate has contributed specialist advice for a number of large-scale infrastructure projects, collaborating with other planning and environmental assessment specialists. Working with Director Peter Lovell, she led the Lovell Chen team for the Metro Tunnel EES and provides ongoing heritage advice on that project. Kate was also specialist lead for Historical Heritage for the West Gate Tunnel (WGT) project.

Kate is highly experienced in the management of heritage sites and places, in the assessment of development and adaptation proposals, and in the consideration of options to mitigate possible impacts or risks. She provides high-level strategic heritage advice as well as addressing issues relating to detailed design.

She has an in-depth understanding of the requirements of statutory frameworks relevant to heritage projects and good working relationships with key regulatory authorities. She is an effective communicator and has provided expert evidence before planning panels, VCAT and the Heritage Council of Victoria.

PROJECTS

Select projects include:
- ANU, Canberra — Heritage Framework Plan
- Metro Tunnel Project, Melbourne — technical specialist for EES, ongoing heritage advice
- West Gate Tunnel, Melbourne technical specialist for EES
- Trades Hall, Victoria Street, Melbourne — CMP
- Kinneys Rope Works, Footscray, Victoria — CMP, development advice and approvals
- Wesley Church and Central Mission, Lonsdale Street, Melbourne — CMP, development advice and approvals
- Gough Whitlam House, Kew, Melbourne — HCV registrations hearing, expert evidence to Planning Panel
- Melbourne Cricket Ground, Yarra Park, Melbourne — CMP
- Mayday Hills, Beechworth, Victoria — CMP
- White Hills & East Bendigo Heritage Study
- Damascus College (Ballarat Orphanage), Ballarat, Victoria — CMP, HCV registrations hearing, expert evidence to Planning Panel
- Canberra Brickworks, Yarralumla, ACT — CMP
- Former Maribynong Explosives Factory, Victoria — strategic heritage advice, master planning, site inventory
- Shrine of Remembrance, St Kilda Road, Melbourne — CMP, heritage advice and approvals
- Port of Melbourne Corp. CMPs for Point Lonsdale Lighthouse, West Channel Pile Light, Port Melbourne Leading Lights
Confidential

Email

Kate Gray
Lovell Chen
KGray@lovellchen.com.au

28 May 2019

Dear Ms Gray

North East Link Project: Historic Heritage

We act for the North East Link Project (NELP) in relation to the North East Link (Project).

An Environment Effects Statement (EES), draft planning scheme amendment (PSA) and EPA works approval application (WAA) has been prepared for the Project, and is currently on exhibition and open for public comment until 7 June 2019.

The Minister for Planning has appointed the North East Link Inquiry and Advisory Committee (IAC) to conduct an inquiry into the environmental effects of the Project and to review and provide advice on the draft PSA and WAA, pursuant to terms of reference dated 11 April 2019 enclosed.

A directions hearing has been listed for Friday 21 June 2019 and the main hearing is scheduled to commence on Thursday 25 July 2019 for approximately 6 weeks.

In addition, the Project is being separately assessed by the Australian Government under the Environment Protection and Biodiversity Conservation Act 1999 by way of a public environment report (PER). The draft PER is on exhibition until 30 May 2019.

We understand that you are the lead author of the Technical Report titled 'Technical report K - Historical heritage assessment' (Technical Report) which is included as Appendix K to the EES.

The purpose of this letter is to formally instruct you to prepare an expert witness statement and to give evidence before the IAC relevant to your area of expertise.

Scope of Work

You are requested to undertake the following work:

1. Review the EES relevant to your area of expertise including the Technical Report, Chapters 1 to 8, 19 and 27 of the EES and the Map Book.

2. Review the public submissions relevant to your area of expertise.

3. Prepare an expert witness statement that:

   (a) addresses the Technical Report and the environmental effects of the Project relevant to your area of expertise;

   (b) responds to issues raised in the public submissions relevant to your area of expertise; and

   (c) addresses any other matter that you consider relevant to your area of expertise.
Kate Gray, Lovell Chen

4. Prepare a short (no more than 50 minutes) PowerPoint presentation for presenting before the IAC.

5. If required by the IAC, participate in an expert conclave in accordance with the IAC’s directions.

6. Attend the hearing to give evidence before the IAC.

Please find enclosed Planning Panels Victoria’s Guide to Expert Evidence dated April 2019. Please review and comply with this guide when preparing your expert witness statement and giving evidence before the IAC.

To provide consistency of format for the IAC, you are encouraged to use the enclosed template in the preparation of your expert witness statement.

Documents

Please find a brief of documents enclosed.

The EES and associated documents, including the documents referred to above, can be accessed on the Project website at http://northeastlink.vic.gov.au

You should now have access to the public submissions by NELP via Sharepoint. If not, please immediately let us know.

Timing

Based on the current hearing timetable, we would be pleased to receive your draft expert witness statement and PowerPoint presentation by 19 June 2019.

Communications

All communications should be through Clayton Utz in the first instance. Please contact Sallyanne Everett or William Bartley if you require any further information or clarification.

Should you have any queries in relation to this matter, or require any further information or additional instructions, please do not hesitate to let us know.

Yours sincerely

Sallyanne Everett, Partner
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severett@claytonutz.com

William Bartley, Senior Associate
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wbartley@claytonutz.com

Our ref 965/21054

Enclosures
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1.0 Introduction

This report provides a response to heritage issues raised in submissions to the North East Link (Project) Environment Effects Statement (EES) exhibition period. All submissions were reviewed. Submission numbers are referenced where relevant.

2.0 Response to general issues

2.1 Submissions

Some submissions contained general remarks or concerns about heritage, including Submissions 258, 410, and 472, but no details are provided. Other general comments include Submission 302 which refers to Bulleen’s history and Submission 559 which notes the cultural heritage values of waterways and environs, but no details about specific places or potential impacts are included. Submission 724 notes that the design is ‘not in keeping with the Heritage of Banyule’ and Submission 829 suggests it will ‘destroy … historical houses’ (Submission 829).

2.2 Technical Report K

Technical Report K sets out the known heritage places and their values and describes potential impacts and where possible, recommends processes to avoid, minimise or mitigate any adverse impacts.

2.3 Additional response

No response is provided to general concerns where no information is provided in relation to specific places or potential impacts.

3.0 Removal of the River Red Gum in Bridge Street Bulleen (HO24, Manningham)

3.1 Submissions

A large number of submissions comment on the proposed removal of the tree. A variety of comments and views were provided in relation to the values of the tree, including in relation to its age and scale and its landmark status in the local area.

For many submitters, its significance is as providing a connection to the Bulleen landscape in the pre-contact period. Some submitters suggested that the tree may have significance for Aboriginal people and the Wurundjeri Corporation (Submission 700) noted its ‘collective position that the tree be preserved as a remnant of the Wurundjeri Woi-wurrung landscape prior to European settlement if at all possible’.

For some submitters, a further layer of heritage value arises from its very survival as an isolated specimen. Several submitters noted that the tree is important for its resilience, having survived in a changed and highly urbanised context (refer to the additional photographs at Annexure E), including apparently, in the face of a number of attempts to remove it.

The tree has recently been named by the National Trust of Australia (Victoria) as ‘Victorian Tree of the Year’, following voting in an on-line contest (15 April-19 May) as part of the Australian Heritage Festival and many submitters commented on this.

Many submitters also suggested that the tree is highly valued by the community and there is a high degree of collective attachment to it. Others also expressed a more personal, individual attachment to the tree.

Submitters generally opposed removal of the tree and urged consideration of options for project design whereby the tree could be retained. Some commented that the requirement for removal was not
established in documents for the EES, including the Technical Report for historical heritage (Submission 532).

The National Trust of Australia (Victoria) recommended that a social values assessment be undertaken and the tree’s heritage values should be documented in consultation with the community (Submission 340).

A small number of submitters commented on possible measures in the event the tree is removed, including use of timber from the tree for a community purpose, creation of artwork representing the tree, and interpretation of the tree in a suitable location.


3.2 Technical Report K

Technical Report K addresses the values of the tree and the impact of its proposed removal at section 8.2.2.

The report outlined the heritage values identified in the various Council heritage studies (scientific, aesthetic and historical, the latter based on the age of the tree and its demonstration of pre-contact landscape).

Technical Report K also commented that while not referenced in Council heritage studies, additional high community and social values were likely to exist, including as related to its local landmark status, and as reflected in efforts to retain the tree to maintain and improve its health.

The report also noted the outcome of consultation with Wurundjeri Elders for Technical Report L (Aboriginal cultural heritage), confirming the importance of the tree as a remnant landscape element but that there was nothing inherently culturally significant about the tree.

Technical Report K found that the proposed removal of the tree would mean the loss of all associated values.

In this context, no mitigation measures were proposed but it was recommended that a more tailored and detailed study be undertaken to document its values. It was noted that this work was being developed and was to be undertaken by NELP.

3.3 Additional response

The responses in submissions to the EES have confirmed the tree is held in high regard by many in the community, and there is strongly held support for its retention. The submissions also reflect a level of collective and individual attachment to the tree as a local landmark and as a survivor of the pre-contact landscape. Its position as a notably isolated specimen in the urban environment which has been retained and protected contributes to this significance and the community attachment.

Technical Report K speculated that such community values were likely to be held and the values expressed in submissions are not unexpected.

Technical Report K assumes the removal of the tree, however I am instructed that NELP’s position is that that it would favourably assess any tender proposal that retains the tree whilst maintaining function, program and cost imperatives. The UDS also requires project contractors to ‘demonstrate efforts to retain the existing significant River Red Gum tree near the Caltex site’ (section 5.3, requirement 1B).
As referenced in my expert evidence statement (refer to section 2.3, *Further work since preparation of the Technical Report*) NELP has commissioned the preparation of a ‘cultural biography’ of the tree and this is in preparation at the time of writing. While not a mitigation measure for the removal of the tree, this work had been recommended in Technical Report K as a means through which its different values could be mapped and documented.

The intention of the cultural biography project is to provide a more detailed history of the tree and reflect on its changing meanings over time, including the community’s interaction with it. In its submission, the National Trust of Australia (Victoria) has suggested a social values assessment be undertaken and the tree’s heritage values documented in consultation with the community (Submission 340). In this context, the cultural biography approach is one which is intended to incorporate community inputs, including oral history, and to reflect on social attachment and meanings.

No additional or amended EPRs are recommended.

**4.0 Groundwater drawdown impacts including on Bolin Bolin Billabong (HO30, Manningham)**

**4.1 Submissions**

Numerous submissions comment on the potential for changes to groundwater conditions as a result of project works. In doing so, some submissions express concern about the potential for groundwater changes to have an adverse impact on heritage places.

Particular concern was expressed for the Bolin Bolin Billabong, where a lowering of the water level is anticipated. Many submitters expressed the concern for the billabong in terms of the potential for ecological impacts while others referenced its Aboriginal cultural heritage values, and it is recognised that the environmental/ecological and cultural values of the place are interrelated.

Submission 179 comments on the potential lowering of water levels and changes to groundwater flows as potentially causing degradation to the billabong. The National Trust of Australia (Victoria) comments that it ‘would consider any adverse impacts on Bolin Bolin Billabong to be unacceptable’ (Submission 340). Manningham City Council is concerned about the potential for groundwater drawdown to impact on other places and areas of heritage value, including:

- Yarra River environs generally
- Banyule Flats, Banyule Swamp and Banyule Creek
- Banyule escarpment
- Simpson Barracks

The submission on behalf of the Banyule, Boroondara and Whitehorse councils (Submission 716) notes that the project presents an unacceptable risk to the ecological integrity of the Yarra River Floodplain, the Bolin Bolin wetlands and Koonung Creek, which taken together comprise areas of highly valued environmental, social and cultural significance.

Relevant submissions include: Submissions 87, 100, 112, 128, 168, 214, 237, 286, 316, 340, 359, 381, 415, 418, 578, 598, 619, 634, 666, 694, 711, 714, 716, 724, 741, 783, 800, 802, 803, 857.

Photographs of the billabong have been included at Annexure E.
4.2 Technical Report K

In relation to groundwater, the issue of most relevance to heritage places and values is that of the potential for changes to groundwater conditions to have an impact on significant vegetation as part of heritage places, or on ecological values that contribute to heritage values (as for the Bolin Bolin Billabong, for example).

This issue was considered in Technical Report K at section 8.6 (Changes to groundwater conditions during construction) and section 8.7 (Changes to groundwater conditions during operation).

A series of EPRs specified in those reports were referenced.

It is noted there is a typographical error in the EPRs for Risk HH07 (Changes to groundwater conditions during construction) at section 8.6 (p. 146), where GW5 (Manage groundwater during operation) is listed. The correct EPR is GW3 (Minimise changes to groundwater levels through tunnel and trench drainage design and construction methods).

4.3 Additional response


No additional response is provided. No additional or amended EPRs are recommended.

5.0 Banyule Homestead (VHR H0296)

5.1 Submissions

Two submissions commented on the potential for damage to the VHR-listed Banyule Homestead (60 Buckingham Drive, Heidelberg).

Submission 214 expressed ‘major concerns for cracking and damage to the Banyule Homestead a nationally significant cultural asset given its location on the hillside where the tunnel is currently proposed’, while Submission 325 fears a significant impact on Banyule from tunnelling and construction.

5.2 Technical Report K

This issue is considered at section 8.1 of the Technical Report. Potential impacts to Banyule Homestead from tunnelling vibration, ground movement and groundwater drawdown were all addressed. No significant risk to the place was identified. Relevant Noise and Vibration and Ground Movement EPRs would apply. In the case of groundwater drawdown, Technical Report G Arboriculture concluded there is no risk to cultivated trees.

5.3 Additional response

No additional response provided. No additional or amended EPRs are recommended.

6.0 Heide I and II (VHR H0687 and VHR H01494)

6.1 Submissions

Submission 643 (Heide Museum of Modern Art) comments on a range of issues as related to the Heide complex.

Noting that Heide is included in the VHR in two parts (Heide I and Heide II), the issue of most relevance to the heritage values of the place is that of vibration during construction and specifically, the potential
for damage to Heide II on the basis it is constructed of ‘Grampians sandstone, particularly susceptible to
damage from vibrations’. The submission supports the need for condition assessments and the issuing
of protection works notices on the heritage buildings and other structures at Heide prior to tunnel works
under the property’ and in the event of vibrations exceeding 1.5mm/s works should be ceased until
remedial action has been taken’.

The submission also references visual impacts, noting that sightlines from Heide should not be
interrupted, and supports the UDS requirements for design of new structures to ‘integrate sensitively’.

Submission 512 notes the project will impact on Heide, but no details are provided.

6.2 **Technical Report K**

Technical Report K addresses potential impacts on Heide I and II at section 8.1.2. Noting that no surface
works are proposed within the extent of registration, the issues addressed relate to tunnelling within
the site and include the following:

- Groundwater drawdown
- Vibration and ground movement.

In the case of these ‘indirect’ impacts, Technical Report K relies on the assessments in other technical
reports. For tree impacts the relevant reports are Ecology (Technical Report Q) and Arboriculture
(Technical Report G), for potential damage to buildings and structures the relevant reports are Tunnel
vibration (Technical Report D) and Ground movement (Technical Report M). No adverse impacts are
expected with the relevant EPRs in place.

Refer also to sections 8.5, 8.6 and 8.7 of Technical Report K, where the issues of ground movement and
vibration and of groundwater drawdown are discussed in more detail.

In addition, consideration was given at section 8.1.2 of Technical Report K to potential visual impacts
from works on the adjacent Banksia Park site and from permanent infrastructure as part of the
Manningham Road interchange. No adverse impacts are expected on the heritage values of the
registered places as a result of these activities and works.

6.3 **Additional response**

No additional response has been provided, recognising that the risk of physical damage and disturbance
are considerations for the relevant technical specialists in those areas.

7.0 **Yarra River Protectorate Station site, Yarra Bend (HO307, Yarra)**

7.1 **Submissions**

Wurundjeri Woi-wurrung Corporation submission (Submission 700) comments that this ‘remains a
highly significant Aboriginal place even though very little evidence of Indigenous use and occupation
survives.’

7.2 **Technical Report K**

Technical Report K confirms the continuing significance of the place to the WWCHAC. Refer to section
8.2.4.

7.3 **Additional response**

No additional response. No additional or amended EPRs are recommended.
8.0 Simpson Barracks

8.1 Submissions

Submission 715 comments that ‘Some veterans are offended that the project will require the removal of the commemorative Aleppo Pines at the Simpson Barracks’. No further information is provided.

8.2 Technical Report K

The reference here is assumed to be to the Assembly Place and Lone Pine Commemorative Plantings south of Blamey Road.

This issue is addressed at section 8.4.1 of Technical Report K. The requirement for the removal of the memorial has not been confirmed and options for retention in situ (albeit it would be in an altered context) or salvage and potentially relocation and re-establishment of the memorial are discussed there.

The relevant EPRs are HH1 (Design and construct to minimise impacts on heritage) and HH4 (Undertaken archival photographic recording).

8.3 Additional response

There was no opportunity to undertake consultation in relation to the Simpson Barracks in the preparation of Technical Report K, however the report does identify the likely social significance of the various memorials on the site, including the Assembly Place and Lone Pine Commemorative Plantings.

All works and a final determination on the appropriate approach would be undertaken in consultation with Simpson Barracks and in accordance with Defence protocols. In that regard, Simpson Barracks should be made aware of the veterans’ concerns.

No additional or amended EPRs are recommended.

9.0 Archaeology

9.1 Submissions

Submission 624 identifies the site that formerly accommodated the Church of the Holy Spirit near the corner of Yallambie and Greensborough Roads. The Church was dedicated in 1926 and was located at the back of the Shell Service Station on this corner, and was demolished in 1961. The submitter believes that the foundations of the building are still visible ‘poking out of the ground beyond the cyclone wire mesh of the Barracks fence’, and suggests that an archaeological dig should be conducted’ before works in this location.

Submission 91 expresses concern about damage to ‘heritage ([I]ndigenous and non-[I]ndigenous)’ during the project, ‘Can you please take the time to archaeologically examine heritage as it is found, rather then just bulldoze straight through it to get the project completed on time’.

9.2 Technical Report K

Technical Report K addresses the issue of historical archaeology and its management at section 8.3. No specific reference was included to the site at Yallambie and Greensborough roads addressed in Submission 642. This site is not subject to any listings or controls as an archaeological site.

In response to Submission 91, and the comments on damage to heritage that is discovered during works (Submission 91), it is assumed that this is a reference to archaeological heritage that may be encountered during works. Technical Report K addresses this issue at section 8.3.2 (pp. 129-130). The stop work requirements of the Heritage Act would apply in such cases. EPR HH2 (Implement an Archaeological Management Plan and minimise impacts on historic archaeological sites and values)
requires the development of a protocol for managing such discoveries, in consultation with Heritage Victoria.

9.3 Additional response

The site referenced in Submission 642 is on Commonwealth land. The church referenced by the submitter is clearly visible on a 1945 aerial photograph of the area (Figure 1).

While it remains in Commonwealth ownership the land is not subject to the provisions of the Heritage Act as they relate to historical archaeology.

Notwithstanding this, even if in Commonwealth ownership, the relevant EPR HH2 would apply to North East Link project works that could disturb a site with archaeological potential.

EPR HH2 (Implement an Archaeological Management Plan and minimise impacts on historic archaeological sites and values) requires the development of a plan in consultation with Heritage Victoria which would include requirements for background historical research, excavation methodology, research design, reporting and artefact management and analysis. As part of this work, the background historical research would be expected to identify demolished structures and previous land uses such as this church.

As noted above, the plan is also required to include the development of a protocol for managing the discovery of previously unidentified sites during works.

No additional or amended EPRs are recommended.
10.0  Banyule Significant Tree Register (ESO4) trees

10.1  Submissions

Submission 471 is concerned with the way the EES ecology, heritage and arboricultural reports have addressed trees identified in the Banyule Significant Trees Register which are subject to Environmental Significance Overlay Schedule 4 (ESO4) in the Banyule Planning Scheme.

The submission suggests that assumptions should not be made on the inclusion of trees to the Significant Tree Register based on their nominated values, this is ‘misunderstanding the reasons that people engage with the cumbersome process of nominating trees. When people in Banyule nominate a tree to the register it is because they have a social or historical connection with trees and their role in our community landscape and our collective memory.’

In summary, the submission suggests that the definition of significance has been misunderstood and erroneously applied by the EES and that the EES has failed to evaluate correctly the community connection and urban forest value of trees in our community. All significant trees should be retained.

The three trees referenced are tree nos 51, 52 and 53, all *Eucalyptus melliodora* (Yellow Box).

10.2  Technical Report K

Technical Report K considered ESO4 in so far as it was considered to be relevant to heritage. Refer to sections 6.2.4 and 6.3.4.

Trees and areas of vegetation listed in the ESO4 in the Banyule Planning Scheme vary in terms of the reason for listing and this is noted in the Planning Scheme (Schedule 4 to Clause 42.01):

There are many individual trees, groups of trees and areas of vegetation within Banyule, which have special significance. They include a variety of native and exotic trees and other vegetation, which are of landscape, habitat, horticultural or genetic value, are rare or of localised distribution, are outstanding examples of their species or are of cultural or historical significance. All are included on the Banyule City Council Significant Trees Register and some are included on the National Trust of Australia’s Register of Significant Trees of Victoria.

For the purposes of the Historical Heritage assessment, the approach to trees in the Significant Tree Registers and subject to ESO4 was to refer to Council’s documentation (citations) in relation to the values of these. This documentation is understood to have been prepared by Council, likely on the basis of nomination material. Recognising trees in the register and listed under ESO4 have been listed for different reasons, only trees identified as of ‘historic’ significance on the individual citations were considered in the historical heritage assessment.

The three trees referenced in the submission are all at 359-389 Service Road Greensborough and are all identified as of ecological value (Habitat) on the Significant Tree Study citations.

On this basis they were not considered in Technical Report K.

10.3  Additional response

While there are some exceptions, in general the work for Technical Report K has relied upon the assessments of significance which support the listing of heritage places. In the case of the ESO4 trees that is Council’s Significant Tree and Vegetation citations.

It was beyond the scope of the assessment to speculate on additional reasons that individual trees may have been nominated for the Significant Tree Register.
11.0 Yarra River (HO72, Manningham, HO30, Manningham, HO134, Banyule)

11.1 Submissions

Given the location of the North East Link, many submissions refer to the Yarra River and its environs. In doing so, a number refer to the importance of heritage in a general sense (both in terms of Aboriginal cultural heritage and non-Aboriginal heritage). This is consistent with the approach in Technical Report K which recognises that the river and its environs are of heritage value, including as a layered cultural landscape with multiple values.

A number of submissions including those from Melbourne Water (Submission 800), Parks Victoria (Submission 774) and the Birrarung Council (Submission 742) reference the Yarra River Protection (Wilip-gin Birrarung murrum) Act 2017 and the strategic planning and cultural initiatives being undertaken under its auspices. These include the Yarra River Strategic Plan, the Yarra River Action Plan and the related draft Yarra River Bulleen Precinct Land Use Framework plan (previously the Cultural River Precinct Structure Plan). This plan addresses the area between Bulleen Park and Banyule Flats and proposes the development of a significant cultural precinct centred on the relationship between the arts, nature and Aboriginal cultural heritage. A recent proposal for a Birrarung Cultural Precinct prepared by Maudie Palmer and Eugene Howard (May 2019) is also referenced by the Birrarung Council and is the subject of a separate submission (Submission 683).

Accepting the multiplicity of issues relevant to the river generally, the approach in responding to submissions has been to note only those submissions that refer to heritage values or specific issues of relevance to the assessment in Technical Report K.

Submission 82 comments on the visual impacts on the Yarra Flats Park (HO134, Banyule):

- No assessment of visual impact on Yarra Flats Park has been done, potential for visual impact from the Manningham interchange on the northern section of the park (could be mitigated with planting of trees between the interchange and the Yarra River)
- Southern ventilation structure will be very prominent from large sections of the Yarra Flats Park and most of the residential areas on the hillslope above the park
- Significant visual impact on the southern section of the park from the removal of trees on the northern side of the Eastern Freeway, only 50m from the park.

Submission 800 (Melbourne Water) references potential impact on billabongs generally and the Bolin Bolin Billabong in particular. Parks Victoria supports the protection of the billabongs (Submission 774). Submission 864 says nothing should be done that reduces its importance.

11.2 Technical Report K

Technical Report K recognises that the river and its environs are of heritage value, including as a layered cultural landscape with multiple values (refer to Section 6.1, existing conditions). This is accepting that only some parts of or places within of the river environs are subject to statutory heritage controls. Impact assessment is provided both for the listed places within the river environs (at section 8.2.3) and the broader area including unlisted areas (at section 8.4.4).

11.3 Additional Response

The ventilation structure will be visible from locations within the Yarra Flats (HO134), on the west side of the Yarra River. Accepting this, as noted in Technical Report K, where the Yarra Flats is closest, the new structure will be screened by the heavily vegetated riverine edge (refer to section 8.2.3, p. 125). Refer to the photographs at Annexure E. It is accepted, as commented in Submission 82, that the structure will be visible from the more open areas of the Yarra Flats parkland further west and away from the river,
but in those views it will be more distant. Views from the residential areas overlooking the Yarra Flats are not considered relevant to heritage.

The issue of impact of the Manningham interchange from the northern section of the park has not been reviewed in detail.

The issue of the Bolin Bolin Billabong is addressed at section 4.0.

No additional or amended EPRs are recommended.

12.0 Eastern Freeway (no statutory controls)

12.1 Submissions

The National Trust of Australia (Victoria) (Submission 340) recommends Stage 1 of the freeway be nominated to the Victorian Heritage Register and it would support such a nomination. This would ensure that the heritage values of the place are appropriately documented and managed.

Submission 3 commented on the works to the Eastern Freeway, describing it as ‘one of the best designed freeways in Melbourne’ and the expansion of the Eastern Freeway will lead to the loss of significant architectural and landscape features (Submission 3).

12.2 Technical Report K

The heritage values of the Eastern Freeway are discussed in Existing Conditions at section 6.4.7 (pp. 90-96) and further in Impact Assessment at section 8.4.3 (pp. 134-137). The report acknowledges the potential for the Eastern Freeway Stage 1 (between Hoddle Street, Clifton Hill/Collingwood and Bulleen Road, Balwyn North) to have heritage values at a state level.

In impact assessment at section 8.4.3 the works proposed in the reference project within Stage 1 were identified and the potential for these works to have an adverse impact on the valued qualities and characteristics of the freeway design was considered. There would be some significant physical and visual changes within the Eastern Freeway Stage 1, and some adverse impacts as a result. Accepting this, subject to detailed design, the conclusion was that it would be possible to undertake the NEL works while largely maintaining the key attributes and features and the legibility of the original design.

In undertaking this assessment, the important role played by the Urban Design Strategy is noted, where this would guide the approach to freeway design. Relevant EPRs are:

- HH1 (Design and construct to minimise impacts on heritage)
- HH4 (Undertake archival photographic recording)
- AR1 (Develop and implement a Tree Removal Plan)
- LV1 (Design to be generally in accordance with the Urban Design Strategy).

12.3 Additional response

Further research and assessment have been undertaken since the completion of Technical Report K.

As a result, the potential for state level values has been confirmed, with Stage 1 assessed as meeting three criteria for VHR registration.

Refer also to section 2.2 of my expert witness statement.
13.0 Sentinel (no statutory controls)

13.1 Submissions

The National Trust of Australia (Victoria) has commented on the sculpture Sentinel, by artist Inge King, which is located on the south side of Doncaster Road just north of the Eastern Freeway (Submission 340).

In summary, the Trust’s position is as follows:

- Disagrees with Lovell Chen’s assessment that the sculpture is not of heritage value, suggests it is likely to ‘be at least of local significance’
- Sculpture is a prominent landmark and is site-specific, referencing the Mullum Mullum and Koonung Creeks
- King was a resident of the municipality for the majority of her life in Australia
- Includes management recommendations in the event the sculpture is required to be removed or relocated (management, storage and reinstatement plan prepared by a conservator, work to be reinstated as close as practicable to its current location, and its prominence as a landmark maintained, in consultation with the Manningham Council and the National Trust).

13.2 Technical Report K

Sentinel is not currently subject to statutory heritage controls, nor has it been identified in heritage studies consulted for Technical Report K.

Section 6.4.7 (p. 96) of Technical Report K (Unlisted places of potential heritage significance) described the artwork and considered the potential for heritage significance. Given the relatively recent date of the work and the more significant examples of King’s work, it was considered not to be of heritage significance and on this basis was not considered in impact assessment.

Notwithstanding this, Technical Report K commented on the issue of the location and siting of the artwork:

... it is noted that Sentinel was designed specifically for this location and there is likely to be a sensitivity related to the placement of the work (Technical Report K, p. 96)

13.3 Additional response

This artwork dates from 2000 and was commissioned as part of a Gateways Project. It is of note as a work by the prominent artist Inge King. Equally, it is one of a number of major public artworks in the City of Manningham and these variously have particular meanings and significance and are subject to management requirements, without necessarily being identified as having a heritage value. According to Council’s public art brochure ([http://www.manningham.vic.gov.au/public-art-in-manningham](http://www.manningham.vic.gov.au/public-art-in-manningham)), the collection includes Boulder, an earlier (1967) work by King. King’s distinctive Rings of Saturn (2006) is also located at the Heide Museum of Modern Art.

It is also noted that within Manningham, the Inge and Grahame King house in Drysdale Road, Warrandyte (designed in conjunction with the architect Robin Boyd in 1951) is included in the VHR (VHR H1313). It is identified as of state historical significance as the long-time home and workplace of King and her husband, the painter, industrial designer and printmaker, Grahame King.

In terms of the management and relocation of Sentinel, if required, it would be expected the issues raised by the National Trust (and other issues not identified in the submission) would form part of a management plan for the sculpture, with the City of Manningham the key stakeholder as the commissioning owner of the artwork.
It is noted that the UDS requires consideration of the artwork in the design of the Doncaster Road interchange (Corridor-wide - Key Direction 4: Provide a great experience for road users, p. 20):

The Doncaster Road interchange is also an important node for bus users and marks the entry to the Doncaster Park and Ride. The design at the Doncaster Road interchange must consider the ‘Sentinel’ sculpture at Doncaster Road.

The UDS also includes the following requirement at Doncaster Road and the Eastern Freeway:

Create a landscape feature at Doncaster Road which integrates with the Manningham Gateway Sculpture, ‘Sentinel’ by Inge King. Should relocation of the sculpture be required this is to be undertaken in close consultation with relevant stakeholders.

This requirement would address the issues raised by the Trust in terms of siting, design and the physical management of the artwork and would also address the need to consult with relevant stakeholders.

14.0 Bulleen Art and Garden (no statutory controls)

14.1 Submissions

Numerous submissions to the EES include reference to the potential impact on the Bulleen Art and Garden, a specialist gardening centre known for its retail plant nursery, landscape supplies and community reach including advisory / educational / environmental / sustainability services and activities as well as support for local artists. The business is located on the south side of Manningham Road (6 Manningham Road, Bulleen) and back onto the Yarra River environs.

Of the many submissions calling for North East Link to avoid any impact on the Bulleen Art and Garden, only three were identified that reference the concept of ‘heritage’ as relevant to the business, in the context of a potential impact from North East Link.

Submission 699 makes a general comment to the effect that ‘BAAG has been a place of significance and cultural heritage for around 50 years’. Submission 414 suggesting redirecting the NELP away from BAAG, which plays an important part in the community including art and garden classes, and further comments ‘The location is perfect and after numerous decades establishing a business that is a national trust heritage to our community’. Submission 517 makes a more explicit claim for heritage value and suggests a heritage listing would be appropriate.

‘Heritage - Although only 51 years old, I believe Bulleen Art and Garden should be heritage listed by the local council or state government as a local identity that needs to be retained for the future. - Front facade a local identity. - Place of historical contribution to local (and national SGA [Sustainable Gardening Australia]) garden history. - Previous work place of renown poet G. Edwards. - Rody for Hunters & Collectors worked there, as did Michelle Stefanovich, Mr. Develliaire and other now famous people. - Kevin Heinze dropped by, as did Don Burke. - I worked there! -And so many other great people. 6 Manningham Road West is much more than an address !!’

14.2 Technical Report K

Bulleen Art and Garden was not assessed or described in Technical Report K.

14.3 Additional response

Bulleen Art and Garden is not subject to statutory heritage controls. It was not identified as a place of potential heritage significance in the Council municipal heritage studies nor in other thematic or typological heritage studies reviewed for Technical Report K. The site was not identified by Lovell Chen.
No assessment has been undertaken of the potential for Bulleen Art and Garden to be of heritage value or to be considered a heritage place. The site has not been accessed or inspected and no research has been undertaken. In this regard, the following comments are general in nature.

A nursery has been located on the site since 1967 (contemporary with several other businesses in the Bulleen Industrial Precinct), however the Bulleen Art and Garden business itself is understood to date from 1982 (https://www.weekendnotes.com/bulleen-art-garden-birthday-celebration/).

The submissions in relation to Bulleen Art and Garden vary in their focus, but many refer to the business / place as being highly valued by the community as an important resource (for its utility as well the values it embodies) and as a place that many enjoy spending time.

In a heritage context, one of the typologies of places that can be of social value is places that provide a community function that, over time, become places to which a community group develops an attachment that supersedes the utility value – ie. markets (Lovell Chen with The University of Melbourne, 2018: 21). It is possible that there is a definable community which has developed an attachment to Bulleen Art and Garden in this way. Equally, it may be that the attachment is not greatly different from other highly valued businesses in the local area.

It is noted that the vast majority of submissions received (with the exceptions noted above) do not characterise the business as having heritage value, nor is the potential impact described as a heritage issue or impact.
References

City of Manningham, Exploring Manningham’s Public Art brochure,  

Lovell Chen in association with The University of Melbourne, Assessing and managing social significance,  
Final Report, prepared for the Heritage Council of Victoria, June 2018,  
ANNEXURE E  SELECT ADDITIONAL PHOTOGRAPHS
ANNEXURE E  Select additional photographs

The following photographs have been included for reference as additional to those included in Technical Report K.

They include photographs of the former Bulleen Drive-in site, as discussed at section 2.0 of the evidence statement (Further work since the preparation of the Technical Report) and photographs of some of the places referenced in Annexure D Response to submissions.
Former Bulleen Drive-in site, Greenaway Street Bulleen (HO72, Manningham)

Figure 1  Nearmap image of the former Bulleen Drive-in site

Figure 2  Footings of the former kiosk in the centre of the site
Figure 3  Boundary plantings on the northern edge of the site

Figure 4  Large old River Red Gum on the southern edge
River Red Gum, Bridge Street Bulleen (HO24, Manningham)

Figure 5  View of the tree in the service station context, from Bridge Street

Figure 6  1991 plaque referencing the City of Doncaster and Templestowe and Melbourne Water
Bolin Bolin Billabong (HO30 Manningham)

Figure 7  Views within Bolin Bolin Billabong
Yarra Flats (HO134, Banyule)

Figure 8  (Top) views within the riparian edge, (bottom) view looking south across the central section of Yarra Flats