

Submission Cover Sheet

North East Link Project EES IAC

715

Request to be heard?: yes

Full Name: Rod Barton MLC

Organisation: Parliament of Victoria

Affected property:

Attachment 1: NorthEastLink-EES

Attachment 2: NorthEastLink-EES

Attachment 3:

Comments: Please refer to the attached document



ROD BARTON MP

Member for Eastern Metropolitan Region
Parliament of Victoria | Legislative Council



The Secretariat

Engage Victoria – North East Link Panel Hearings

Via portal

7 June 2019

Please find attached a submission in connection the North East Link Project Environment Effects Statement.

As advised, I seek a suitable time to address the Panel Members during the public hearings.

Ideally, I would request a period of not more than 45 minutes to address the Panel.

Please note that it is preferable that my appearance before the Panel does not coincide with the Legislative Council's Parliamentary sitting days

Should you have any queries please contact my Electorate Office on 03 9850 8600

With thanks,

A handwritten signature in black ink, appearing to read 'Rod B', with a long horizontal flourish extending to the right.

Rod Barton MP

Member for Eastern Metropolitan Melbourne

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Response to the North East Link

Environment Effects Statement

The North East Link Tollway is a necessary project that will assist in managing the transport constraints of Melbourne's north-eastern and eastern communities.

In principle, I support the delivery of this project. However, I believe there are many aspects in the management of the project's design, approval and acquisition processes that require more work to be done.

I am concerned at the number of issues raised by constituents of my electorate and I have done my best to convey them for consideration.

I would also bring to the Panel's attention the fact that I have been approached by many people from outside of my electorate who feel they have not received accurate information or appropriate responses from the government's delivery Authority.

While I understand that it's an enormous task to get a project of this size off the ground, I believe that some things may have been rushed resulting in important considerations 'slipping through the cracks'.

Governance

The North East Link Authority in late 2017 carried out an initial public consultation in relation to four alternative routes ('options') for the toll road.

This consultation was promoted as being part of a process which would inform the consideration of which route would best serve local people and road users. Four options were presented for consideration.

The consultation however lacked robustness and detail. Stakeholders were led to believe that the consultation inputs would inform the outcome yet, today there is still uncertainty around why the Authority chose the current route.

For stakeholders this has created a sense of distrust and a lack of faith. Many believe that their voices were not heard.

The fact that my office has received so many concerns from constituents is worrying and suggests that more work is required.

The government announced the chosen route on 24th November 2017, and the Authority almost immediately sought Commonwealth environmental approvals in January 2018. Many of my constituents believe that the consultation activities were not genuine and that in the background a design had already been determined and was being fast-tracked.

I am aware of a series of promotional and marketing-styled items during early-mid 2018, however, the Authority did not open its main community information hub until 18 December 2018. This was a full

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month **after** the Authority had released the project's Expression of Interest invitation and the Request for Proposals for the main works package.

Put simply, for a project of this scale and complexity to progress to formal tendering proposals at such an early stage, without any robust consultation has led to many people feeling that their attendance at information sessions and feedback was ignored.

Constituents have also reported their concern over the language used by the Authority where repeated references were made to "engaging the best builders" and "appointing a tolling operator." I can understand how this has caused confusion. It seems that the Authority in rushing to get the project underway has accepted an approach that leaves out the design options that would come from an open competitive bidding process as was used for Eastlink and some other projects.

The decision by the government in the 2019-2020 budget to commit to fully debt fund this \$15.9 billion project calls for a rethink of how to best manage the project.

Given that the project represents almost one third of the states future net debt, I think we should now audit the original delivery strategy of the Authority and to revisit how risks and opportunities will be managed.

Such a review should also look at the Authority's consultation processes by the measure of public concerns suggests that some aspects have been missed, especially given the fast-track 'piggybacking' of approvals.

People are concerned about Authority's public acknowledgement that much of the early documentation associated with the project has been changed. However these changes have not been included in the reference design and the consultation documentation. I have also received multiple reports of public statements by Authority staff that the 'reference design' upon which the EES and other approvals refer, is (quote) "out of date."

Several constituents within my electorate have expressed other concerns, including lack of factual information and inconsistent advice.

Several constituents have also expressed their concerns about a lack of transparency regarding both the EES submission and review processes.

I agree with the views of the constituents that it is difficult to accept the Authority's claims that submissions to the EES will help to refine and inform the final design, when the Request for Proposals for the 'main works package' and the 'early works package' were sent out before the consultation and EES period.

In fact, I find it strange that early works to facilitate what is a conceptual design will be carried out before the bid proposals for the main works package. This could in fact mean that we lose the opportunity of design innovation and value for money.

I am also concerned the Authority proposes that the contractor who will be awarded the early works package, will also be engaged to provide overall 'Managing Contractor' services. Constituents with

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professional experience suggest that this arrangement means that by providing both managing contractor services and the delivery of the early works, the successful contractor is conflicted; and the taxpayer is exposed to the potential of costs from risks being transferred back to the government.

The contract documents for this role are not publicly available. This means that the most significant part of the project is being delegated or 'jobbed out' to a conflicted third party, downstream of the Authority. The contractor will be paid by the taxpayer to manage itself and manage the interests of other contractors. For my constituents, this is unacceptable as it will place even more barriers between them and management of the works; especially given the Authority's intention of downgrading many construction controls to individual contractors' management plans.

This approach prioritises the interests of the works contractors over local people, and , is like a gag on the public, silencing their genuine needs and likely suffering.

I believe that halt it is necessary to stop the existing, yet to be executed tendering processes and conduct an independent review of the delivery strategy, especially as this project is no longer characteristic of typical Public Private Partnerships (PPP) and is now effectively a purchase paid for by the taxpayer.

RECOMMENDATIONS:

- Given the Victorian Government's change to the delivery mode, the back of house amendments to the design and the broader concerns of communities it is appropriate that an Independent review of the project's governance and delivery strategy be undertaken prior to execution or negotiation of works contracts and:
- Halt all project relates procurements until the findings of the ESS are known
- Consider the appointment of an Independent Reviewer and Independent Verifier

Land Acquisition Impacts

The delivery Authority's actions in rushing to declare the reference design as the main project footprint has caused distress to many residents, businesses, local councils, sporting and community organisations.

While I agree with the need to provide certainty for contract matters, the Authority's management of some potentially affected residential and business stakeholders is concerning.

Residents of Yallambie along Borlase and Drysdale Streets are just two examples where the Authority formally advised the residents that 'no impacts whatsoever' would be experienced. The Authority's written advice in these cases relied upon the declared project area.

Not satisfied, the residents sought professional advice which showed major amenity, safety and economic impacts both pre and post construction, directly contradicting the Authority's written advice.

I note that within hours of my staff meeting with the local residents, they reported that the Authority hurriedly hand delivered letters advising that 'some' undefined impacts would occur.

While some impacts have been overlooked, others appear to be over the top.

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The Bulleen Business Centre is the only commercially zoned site within the Manningham local government area. The businesses in this location employ more than 1,200 people and provides a range of services to the local community within a compact market area of about 5kms.

I was shocked when it was confirmed that the Authority had determined that the **entire** area was to be razed with many businesses being forced to close. I was further concerned when I learned that the razing of the entire commercial zone was mainly to use a highly invasive 'cut and cover' construction technique and to provide a 'lay-down' area for construction contractors.

This decision has created more than 18 months of emotional stress for business owners and landlords within the area. Owners are unable to sell with several reporting large drops in market valuations while tenants in the area are not entitled to any support whatsoever as they are not considered under the state's Land Acquisition Compensation Act.

Calls to seek more innovative designs and less invasive construction methods have been ignored and dismissed by the Authority. The plans show that when complete, the land will become open green space. I note however that this open green space will actually be little more than a land locked, grassed area that cannot be accessed or used as it is surrounded by busy surface roads.

These two examples highlight the lack of detail in the reference design and highlights the need to review how this project is being delivered.

The reference design has had a significant impact on property values, affected business confidence and caused a range of social and financial impacts on the community. Constituents have advised me of the difference in the rises in valuations for land tax purposes and the low market valuations which are greatly depressed by the North East Link Authority's land overlay

RECOMMENDATIONS:

- Cease all acquisition notices and actions until a review of the delivery methodology and final design is validated
- Provide a detailed statement of compensatory provisions (outside of LACA) including provisions for affected tenants
- Review the acquired land requirements for the purposes of contractor lay-down and site sheds

Recreational land

Across the entire project corridor, the delivery project will affect many public sporting and recreational spaces and facilities.

Some of these acquisitions are due to the locations of project elements, but many are merely to provide laydown and construction areas for the convenience of contractors. These create impacts on the site and the surrounding areas.

In the southern section, the alignment of the tunnels to the west of the existing Bulleen Road surface roadway will disrupt a variety of sporting organisations including the Yarra Junior Football Club, Bulleen Soccer Club, tennis, golf, archery, aeromodelling and a variety of other sporting organisations. The

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project also impacts the sporting facilities of the two private schools and the sporting facilities of the Veneto Club.

In the northern section, which has less access to sporting fields, the impact is equally significant with much of the land seized to provide contractors with laydown and site accommodation areas.

I have been contacted by a number of affected sporting and recreational clubs who reported a range of difficulties in obtaining information along with frustrations in communicating with the Authority in relation to broader impacts.

The submission made by the Bulleen Templestowe District Junior Football Club highlights the disconnect between drawing a line around the grounds inside the project area and the impact on grounds that overlap or are located outside of the declared project boundary.

In the long term, the club has fears that the proposed 'replacement' facilities as specified in the EES documents will not be up to the standards set out in the AFL's published guidelines.

The Club's submission also details its very real concerns of relocation impacts during the construction period including a lack of access, a lack of traffic controls and the loss of club facilities.

There is a valid fear that fixing the congested access to the proposed temporary grounds is being refused by the project Authority, despite support from Manningham Council which also supported the need for temporary traffic lights. Both the Club and Council report that this aspect has been rejected outright by the Authority on the basis that temporary traffic controls will affect construction contractors.

Local Councils have reported difficulties in dealing with the project Authority to resolve issues with compulsory acquisition of recreational spaces that cross local government boundaries. I am advised by one Council that the Authority advised them to 'work it out' with their neighbouring Council or risk losing any form of compensation from the Authority. I believe that we need to find the best solutions for all people which can only be discovered by working together.

The state's Land Acquisition legislation that does not provide a way to compensate these organisations for their direct costs and losses. I firmly believe that if the project is making a club move, then the project needs to pick up the costs and compensate them for any losses.

RECOMMENDATIONS:

- Review the range of planned impacts and uplift all affected areas, and the corresponding relation sites into the project's declared boundary
- Produce a plan that demonstrates the delivery of alternative facilities prior to the commencement of works
- Provide appropriate compensation for economic impacts that will affect displaced clubs
- Provide each affected club with a detailed risk assessment of the changed provisions, including, but not limited to traffic, pedestrian and cycle safety.

Open Space

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The project includes the 'green ribbon' that is part of the attractiveness of the north eastern suburbs. The project however takes more than 52 hectares of native vegetation and destroys a number of strategically important green spaces.

There are opportunities to enhance the green Yarra River corridor through the addition of additional pedestrian and cycle connections and relocation of some recreational facilities.

I support these improvements and those detailed in the submission provided by Manningham City Council as well as encouraging the Authority to re-assess the timing of providing new spaces. This will require amendments to the declared project boundary, which I understand is a simple administrative process.

Within the other Council areas, I also support the importance of providing alternative open spaces prior to the commencement of works. I draw the Authority's attention to the area along Bulleen Road immediately south of the Eastern Freeway. This area will be significantly impacted by traffic and the widening of the Eastern Freeway.

Although outside of my electorate, I have received advice from businesses, communities and stakeholders in the northern section of the project where there is already pressure on available open space.

I acknowledge the genuine concerns of residents and businesses in the proximity of McLeod and Watsonia where the Authority's use of a 'cut and cover' method will create many issues including cutting existing local connections. The proposed design is likely to create several rat-runs to avoid the tolling points which will affect local streets.

RECOMMENDATIONS:

- Review the loss of open space within each locality and create a localised design and risk assessment of the proposed mitigators
- Adopt the recommendations contained within the City of Manningham submission to deliver the Yarra Corridor Plan
- Reduce the amount of lay-down and site shed space for contractors by requiring offsite mustering and staging to minimise the scale of impacts.

Commonwealth land

The Authority on behalf of the Victorian government has automatically 'assumed' the acquisition of Commonwealth land at the Simpson Barracks site in Watsonia.

I note that the application for environmental approval was made in early 2018 and relied upon the project's early documents. These documents and concepts, together with reports informing the project's Environment Effects Statement, were also used to create the draft Public Environment Report to which public comment was sought.

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I am concerned that the Authority's confirmation that much of the early documentation prepared for the project has been changed and that Commonwealth approvals have been sought before a final design is determined, and before the impacts were fully understood.

I also acknowledge the constituent who highlighted that the proposed acquisition of the Commonwealth land and loss of this important green space is driven by the Authority's promotion of an invasive design for a connection at Lower Plenty Road.

This design takes 11 hectares of the Simpson Barracks Defence site and wipes out numerous large trees and permanently affects important habitats.

Some veterans are upset and offended that the project will require the removal of the commemorative Aleppo Pines at the Simpson Barracks.

RECOMMENDATION:

I recommend that plans to acquire the land be suspended until:

- a refined detailed design which has been reviewed by key stakeholders;
- appropriate environmental and amenity protections including monitoring and treatment controls during construction are provided; and
- post construction environmental and amenity protections including monitoring and treatment controls are provided

Environmental Impacts

The draft design proposed by the North East Link Authority causes major impacts to the landscape as well as causing other impacts both within, and outside of the designated project area.

Controls for these identified impacts are suggested in the EES, however, they are lacking detail and regulatory back up. In some instances, the documents don't propose any solutions and reject any opportunity for later consideration of public concerns.

The North East Link Authority's documents show loss of several significant trees and forecasts the likely loss of others.

Overall, more than 15,800 trees will be removed. The project documents offer no solutions except for the broad, non-specific environmental offsets required under state legislation which enables the offsetting of the lost trees by planting works in other parts of Victoria. My concern is that major tree replacement programs may not occur in the project area and there is no obligation to replant on site.

Concerned residents have also raised the issue of water quality with the toll road expected to increase the volume of contaminated stormwater. No solutions are proposed for this issue and the documents

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lack any mention of measures during construction where the subsoils will be exposed and are likely to produce large amounts of silt.

Where de-watering treatments are mentioned, the Authority has delegated this to the contractor suggesting that a licence to discharge contaminated water into the sewer system could be requested. I am inclined to agree with the constituents who suggest that de-watering and runoff must be controlled within the site and also that dust controls should require all construction related dust to be kept within the project site.

Overall, the North East Link Authority's documents offer no confirmation on the repair of land. In a growing suburban environment, green spaces are critical components contributing to local ecology and biodiversity. I support the calls for a better approach.

I am concerned that the North East Link Authority's preference to use a highly invasive construction process will result in many environmental impacts that are not fully considered or understood within the project documentation. These impacts include dust, noise and disturbance of flora and fauna as well as traffic and community safety.

For example, the EES describes the construction of temporary 'haul roads' between the residential neighbourhood at Yallambie and the proposed area on Commonwealth land. These roads will substantially destroy native plant life and affect a diverse range of native animals. Water runoff treatment is not properly considered. Measures to manage dust and air quality are also missing. The North East Link Authority estimates up to 300 trucks per hour will use these 'haul roads' which will create significant noise impacts on local residents, businesses and other stakeholders, however no solutions are offered.

I believe in this location, the North East Link Authority has also failed to assess the need for pedestrian, traffic and community safety provisions in connection with the forecast high volumes of construction vehicles.

Local councils have raised concerns over the development and independent review of the Environmental Performance Requirements (EPRs), many of which cross over a range of regulatory controls managed by other agencies and local Councils. It is important that local Councils are able to review and endorse the project's EPR's and management plans.

While the Authority's draft EPR regime demonstrates genuine intentions, there is a lack of precision detail and certainty, especially in respect of monitoring, controls and mitigation solutions and treatments. The various management plans to be prepared by the yet to be appointed works contractors will address relevant issues. However, as these plans are internal documents, there is uncertainty about whether these plans will be made public, or if stakeholders and the community will be given an opportunity to review the management plans before acceptance and approval by the North East Link Authority.

In simple terms, it is not best practice to rely upon, a process that is unclear about its management of environmental, amenity and social impacts.

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I would like to see a clear set of EPRs that set out the required monitoring, solutions and responses that apply to the contract principal and all of its subcontractors.

RECOMMENDATION:

I recommend that any approvals prescribe the repatriation of lost flora within the immediate locality and; any future approvals mandate the inclusion of, and compliance with the Victorian Environment Protection Agency Major Construction Guidelines in all project transaction documents and individual contractor management plans.

Public Transport

While the commercial opportunity for the North East Link toll road is attractive for drivers, the region suffers from a lack of integrated public transport.

The Transport Integration Act applies to the project and during construction there needs to be a focus on ensuring that alternative transport solutions are available.

I have been made aware that the provision of construction areas will result several major changes affecting public transport commuters, including train and bus users. Of particular concern are the arrangements proposed at Watsonia Station that will slash the availability of car parking and require commuters to walk more than half a kilometre from their cars to board a train.

I support the local business owners and residents who believe that such arrangements will force commuters to drive to other locations, especially during wet weather or traffic delays.

The project Authority has also indicated that the Hurstbridge line will be required to be shut down for a period of at least 6 weeks.

This will leave a large number of commuters with no other options other than to drive. I believe it is important to consider alternative designs that would enable the 6-week shut down period to be reduced to as little as 48 hours.

I also note the comments of some constituents concerned at the impacts on cycle and pedestrian accessibility during construction. It appears that little has been done to properly plan workable solutions.

The project includes the provision of a Rapid Transit Busway running along the Eastern Freeway corridor to Hoddle Street. This is an inclusion that is worthy of support and must be given priority.

I strongly advocate that the Busway should be constructed before starting other major disruptive works to give affected commuters another option to using public transport during the years of congestion-heavy construction.

In delivering the Busway, I recommend that work be undertaken to consider the 'end-of-journey' factors, particularly at Hoddle Street. Without streamlined integrated connections, patronage commuter use will be low, resulting in additional vehicles using local roads and the Freeway.

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Under no circumstances however should the Busway component be delayed or given a lower construction priority. I commend the work undertaken by Manningham Council in detailing the 9 design requirements for the Busway and I support the adoption of these by the Authority.

RECOMMENDATIONS:

- Provision of a public transport audit with pre, during and post-construction controls and treatments to be developed
- Delivery of the Busway as a 'first priority'
- Integration of the Busway connections, particularly at Hoddle Street
- Independent assessment of alternative road design that negates the need for the extended shutdown of the Hurstbridge line.

Traffic

The understanding of traffic patterns and the road user changes that the North East Link will generate is controversial and remains a matter of considerable debate.

My staff have worked with residents, councils, businesses and community organisations, most of whom have expressed concerns and reservations about the Authority's approach to traffic matters.

Central to their concerns are the issues with the reference design including failure to consider the impacts on roads outside of the project boundary, such as Bulleen Road and Templestowe Road.

These concerns are particularly important at several locations including the feeder roads south of the Eastern Freeway, Templestowe Road in the north and non-conventional interchange configurations within the project such as the Lower Plenty Road connection.

The 25-metre-deep and 100m wide, Lower Plenty Road connection eats up a huge tract of land and creates many adverse community impacts. I note the feedback of residents and local professionals who have questioned the design which requires drivers wishing to join the tollway to drive 1.6km north, traverse a set of traffic signals before driving 1.7km south to enter a tolled southbound section.

As a professional driver for more than 25 years, I believe they are correct in stating that drivers wishing to join the southbound sections of the North East Link tollway will not 'travel north to go south and pay a toll,' when they can simply travel along Rosanna Road and join the tollway further south.

I have also been advised of what appears to be a disagreement between the traffic data proposed by the Authority and the data provided to residents by VicRoads.

VicRoads data provides the maximum potential catchment for this interchange based on their 2017 and 2018 traffic surveys. Assuming the rise in numbers that normally occurs, and taking away local traffic and vehicles entering the North East Link at other connections, the VicRoads' data suggests that the most likely catchment for this interchange would be approximately 4,000 vehicles per day. This is at

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odds with the Authority that claims the interchange will attract 30,000 vehicles per day or the equivalent of 25% of the total North East Link traffic volume!

Such low numbers, even in future projections, prove that the massive cost and highly invasive impacts of this connection are not commercially or socially justified.

I am supportive of the proposal by many locals to replace the 'cut and cover' sections of the project with a complete bored tunnel that runs from north to south, commencing just north of the Hurstbridge rail line.

I understand that this idea increases the cost of the main works package, but provides huge offsets in reduced property acquisitions, less surface road costs and avoid expensive utility works. As the Tunnel Boring Machines are already mobilised, and at the location, the additional cost is estimated at only around \$80m.

Further savings and benefits are possible especially with a massive reduction in construction vehicles, the ability for soil to be removed directly via the Ring Road, avoiding almost 3,000 truck movements a day through the suburban corridor. Other benefits include reducing the impact on rail lines with the possibility of only affecting trains for 48 hours not 6 weeks, and the saving of significant green spaces from the bulldozers.

This extended tunnel option was part of the Authority's original options and has been confirmed by experts as being technically achievable. The option also means the location of ventilation exhaust stacks can be made in several locations and it means that Victoria does not need to purchase the Commonwealth land at Simpson Barracks

I support this approach as it eliminates the need to bulldoze areas such the Bulleen Business Park and put so many people out of work.

Constituents have also been suggesting connections to the North East Link tunnel via the Bourke Road exits from the Eastern Freeway. I'm informed that this would greatly reduce the pressure on Bulleen Road and other surface roads and provide relief to what the Authority identifies as increasing congestion points along the Eastern Freeway. Commercially, this option makes sense and would benefit the toll operator. From a safety perspective, there are no impediments as similar connections exist in many other roads around the world.

I believe that the Authority's expectation of 120,000 vehicle movements a day along the length of the North East Link is a reasonable forecast, however, based on advice, I have doubts about the spread of the traffic between the Ring Road and the Eastern Freeway, especially the claims about removing trucks from local roads. VicRoads' data shows that the greater proportion of trucks using the existing surface roads are carrying out localised deliveries.

I also I question the Authority's claim that the Hoddle Street end of the Eastern Freeway will only experience a small increase in traffic and congestion. This claim defies the point-to-point network traffic modelling done by others.

I also believe that the Authority's plans to break up the works into smaller packages does not stack up given that the Authority has not specified construction traffic routes, curfews and staging.

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I note that the Authority is preferring to delegate this obligation to the contractor. I agree with my constituents that this is not appropriate and that in view of the long term intensive construction impacts, that a better solution is required.

In delivering the North East Link, the Authority must also take every step to avoid 'building out' future options which may include modes such as trackless trams and autonomous vehicle lanes.

The Authority should also consider the streamlining of access to water, sewer, internet, gas and electricity by locating access nodes and future branch connections within pathways rather than within the road and tunnel substructure.

RECOMMENDATIONS:

- Independently investigate and value the net improvements to the project arising from a fully continuous bored tunnel option
- Independently validate the surface road assumptions including the Authority's claimed dispersal numbers
- Review the declared project area to incorporate acknowledged feeder roads such Bullen Road and Templestowe Road and make provision for monitoring and treatment remedies prior to the start of works.