Dear Mr Wimbush

DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING BIODIVERSITY INPUT TO THE NORTH EAST LINK HEARINGS

Thank you for your letter to the Secretary of the Department of Environment, Land, Water and Planning (DELWP) on 9 July 2019 requesting DELWP Biodiversity input to the North East Link Hearings. As this matter falls within my responsibilities, I have been requested to provide a response. Please find advice responding to the five questions posed by the IAC, as well as responses to the further information request of 20 June 2019.

1. The degree to which likely impacts have been identified on habitats and species, and whether DELWP considers any habitats or species require further assessment in project development.

1.1 DELWP considers likely impacts on habitats and most species have been identified and addressed, however some require further assessment. The impact assessment presented in the Environment Effects Statement (EES) does not provide enough detail in describing the extent of impacts to some species, especially to the Matted Flax-lily, Studley Park Gum and other species as outlined below. There may be benefit in incorporating these requirements in the Environmental Performance Requirements (EPRs) and included in any approval conditions.

1.2 Matted Flax-lily (Dianella amoena). A salvage and translocation plan is required in EPR FF7 and one has been included in Appendix K of the ecological technical report. At least 95 Matted Flax-lily (MFL) plants/patches are likely to be impacted as part of the project. Most of the proposed translocation sites in the draft plan are not supported by DELWP due to lack of suitability (due to issues such as size of reserve and soil types). It is noted that an updated version of the translocation plan has been prepared, (Appendix F of the Expert Evidence provided by Cameron Miller) and DELWP will need to review this to determine the suitability of new sites suggested. The costs and ongoing management involved in translocation should not be underestimated and likelihood of translocation success should not be overstated given the current low success rate of other MFL translocations in Melbourne.

1.3 Arching Flax-lily (Dianella sp. aff. Longifolia (Benambra)). At least five individuals will be impacted by the project. DELWP expects that these will be salvaged and translocated along with the Matted Flax-lily.

1.4 River Swamp Wallaby Grass (Amphibromus fluitans). This species has been recorded previously at the Trinity Grammar Sporting Complex wetlands but was not observed during targeted surveys, potentially due to the dry conditions. DELWP expects that a survey will be undertaken prior to
any clearing or wetland draining to ensure there are no plants. Any plants found should have their seed collected.

1.5 Studley Park Gum (*Eucalyptus X studleyensis*). The Studley Park Gum is advisory listed as endangered in Victoria and the EES scoping requirements specifically require consideration of impacts on species on the advisory list. It should be noted these official listings are only part of the decision-making process, the range, extent and protection of individual species also are considered.

1.6 The proposed North East Link reference design will impact a significant population of Studley Park Gum, which is a hybrid of the River Red Gum and Swamp Gum, with cohorts of varying age at Simpson Barracks. The project will potentially eliminate most if not all of the last surviving habitat where active recruitment is still observed.

1.7 The EES as exhibited describes a commitment by the North East Link Project (NELP) to undertake further surveys to better estimate the numbers of individuals potentially impacted by the project. NELP has undertaken these surveys and provided a survey report of the project area (GHD, June 2019) to DELWP and has since committed to prepare a management plan/framework for this species which will describe seed collection, propagation and establishment of new conservation plantings (as well as amenity plantings) with associated management, maintenance and reporting commitments to mitigate the impact of what may be the loss of the last reproducing population of this hybrid.

1.8 DELWP notes the Studley Park Gum Survey Report (GHD, June 2019) found 43 Studley Park Gums in the project area compared to the 8 stated in the EES. However, the survey only covers the project area not all the vegetation within the Simpson Barracks. This does not enable a complete understanding of the extent of Studley Park Gum at Simpson Barracks. DELWP is advised that NELP consultants have also surveyed the remainder of the Barracks and DELWP is awaiting results to enable an accurate assessment of the impact of the project on the species at this site. Without this information it is impossible to determine what percentage of Studley Park Gum within the Barracks will be impacted, and what the baseline is for future monitoring, as noted in the conclusions of the survey report which states, ‘post construction monitoring of the remaining population is recommended’.

1.9 DELWP notes that the complete results of the Studley Park Gum survey have been provided in the expert evidence of Cameron Miller, with 43 trees identified within the project boundary, 83 trees within the Barracks and outside the project boundary, and an additional 57 outside the Barracks and project boundary. The project will therefore remove 34% of Studley Park Gum within the Barracks. These additional survey reports have not been provided to DELWP.

2. Any comment on the methodology undertaken to assess and calculate the Ecological Vegetation Classes identified in the EES.

2.1 DELWP is satisfied the methodology used to assess and calculate the Ecological Vegetation Classes (EVC) was consistent with the Vegetation Quality Assessment Manual (DSE, 2004) and the Guidelines for the removal, destruction or lopping of native vegetation (DELWP, 2017).

3. The approach to habitat identification and offsets, the likelihood of finding acceptable offsets for habitat loss of the order of magnitude possible, and the likely proximity of the offset sites to the project area or region.
3.1 NELP submitted an application on 16 April 2019 requesting written approval to remove four species from consideration in the assessment of an application to remove native vegetation associated with the proposed North East Link Project. The request sought to remove consideration of Yarra Pygmy Perch, Small Golden Moth orchids, Melbourne Yellow Gum and Australian Grayling where it is proposed that the native vegetation to be removed has habitat characteristics that are clearly inconsistent with the habitat requirements of the species.

3.2 The Department has completed an assessment of the proposal and did not approve removal of consideration of Australian Grayling for habitat zones adjacent to Koonung Creek downstream of Thompsons Road because the habitat characteristics of the vegetation to be removed are not clearly inconsistent with the habitat requirements of the species.

3.3 The following were approved for removal for the habitat zones listed below because the habitat characteristics of the vegetation to be removed are clearly inconsistent with the habitat requirements of the species:

- Removal of consideration of Yarra Pygmy Perch for habitat zones 4-S, 5-S and 93-O.
- Removal of consideration of Melbourne Yellow Gum for habitat zones identified as Floodplain Riparian Woodland (EVC 56), Swamp Scrub (EVC 53) or Swampy Riparian Woodland (EVC 83).
- Removal of consideration of Small Golden Moths orchids for all habitat zones.
- Removal of consideration of Australian Grayling for all habitat zones adjacent to Koonung Creek upstream of Thompsons Road.

3.4 DELWP has prepared an updated Native Vegetation Removal Report (GHD_2019_007_edit) (Attachment 1) which requires NELP to provide the following offset:
- 9,384 general habitat units with a minimum strategic biodiversity value score of 0.164 within the Port Phillip and Western Port CMA
- 22,945 species units of habitat for Grey-headed Flying Fox
- 179 large trees (within the Port Phillip and Western Port CMA)

3.5 The Native Vegetation Credit Register currently only has one offset available for the Grey-headed Flying Fox totalling 0.310 units in the Shire of Yarra Ranges (Attachment 2). Therefore, the likelihood of finding the required offsets of 22,945 units for this species is currently very low (Attachments 3 & 4).

3.6 It should be noted that species specific offsets can be sourced from anywhere in Victoria, however it is preferred to secure offsets locally to the impact.

3.7 There may be opportunities during the land acquisition process to relocate existing sporting facilities and/or to compensate for lost public open space for that land to contain modelled habitat for the Grey-headed Flying Fox. Most of the existing Public Acquisition Overlay Schedule 2 for future addition to the Yarra Valley Parklands along the Yarra River contain the required modelled habitat (Attachment 5) which could meet these multiple objectives and should be investigated further. This would also secure the offsets within close proximity to the clearing which is preferred from an impact on biodiversity perspective.

3.8 NELP consultants have also advised that they are investigating an opportunity for Grey-headed Flying Fox offsets that is not a current registered site.
3.9 The general and large tree offset requirements are readily available on the Native Vegetation Credit Register (Attachment 6).

4. Whether the risk assessment process in the EES for native flora and fauna is considered acceptable within the project approach.

4.1 Feedback was provided through the technical reference group regarding the use of "planned" as a risk rating for those activities that are going to take place. This approach is inconsistent with standard practice.

4.2 The activity of clearing vegetation itself is a planned activity. However, what is required to be assessed from a risk perspective is what the risk of that activity is to a range of ecological values. For example, risk EC01 – land clearing during construction impacting threatened flora and ecological communities. We agree that the activity of land clearing is planned, however what is the risk to threatened flora and ecological communities? The likelihood based on impacts to Matted Flax-lily and Studley Park Gum is almost certain. The consequence should be moderate-major, which would give a risk rating of high-to-very high.

4.3 NELP technical note 10 has been reviewed which states that native vegetation removal was designated as a planned event in the EES in recognition that it is not possible to totally avoid the removal of native vegetation. This is true, however the risk to be assessed is that impact of that activity on threatened flora and ecological communities in risk EC01 for example. Those impacts can be mitigated and offset where not possible to avoid.

4.4 The use of "planned" is also not applied consistently. For example, aspects such as construction noise and groundwater dewatering are also planned events that are not possible to avoid. However, the risks associated with these activities have been assessed in a standard manner.

5. Given the significance of the Environmental Performance Requirements in project management and delivery, does DELWP have a view on the EPRs as published and whether any modifications would be appropriate?

5.1 DELWP recommends that an additional EPR be added to appropriately mitigate the potential significant impacts to Studley Park Gum, preliminary draft suggested wording could be:

FF10 - To mitigate impacts to Studley Park Gum, a management plan/framework must be developed and approved by DELWP which includes:
- Assessment of the population to be removed, including range and abundance within the Barracks
- Avoidance and minimisation measures
- Mitigation and management measures such as:
  - Potential locations for increased protection of existing populations
  - Development of seed collection and propagation protocols
  - Identification of possible sites for planting and improved management in conservation reserves (which may include supplementary understorey planting and weed control) in consultation with landowners/managers
  - Identification of possible planting sites in public open space for amenity or tree canopy replacement
  - Ongoing monitoring, reporting and management requirements and responsibilities
5.2 DELWP also recommends that an additional EPR be added to ensure that all flora and fauna data captured during the project is submitted to the Victorian Biodiversity Atlas, such as:

FF11 – A ‘project’ must be created within the Victorian Biodiversity Atlas (VBA) and all flora and fauna records obtained during surveys added. A detailed species report from this project must be provided to DELWP along with the evidence the native vegetation offset has been secured.

5.3 EPR FF1 should specifically add a requirement for a Kangaroo Management Plan for the Simpson Barracks and M80 intersection sites, to ensure the safety of drivers in the area and the welfare of the kangaroos is not compromised during construction works, as well as for the management of the land locked population within the Barracks that will be contained in a smaller area.

6. Whether DELWP wishes to present at the Hearings?
6.1 DELWP does not intend to present at the Hearings.

Response to additional matters raised in the Preliminary Matters and Further Information Request, Inquiry and Advisory Committee North East Link Project, 20 June 2019

56. An update from the Proponent and/or DELWP on whether offsets for the removal of native vegetation (approximately 52 hectares) can be achieved and any proposed strategies for the Proponent to achieve the offset requirements prior to construction.

56.1 This has been addressed in Question 3 above.

57. Clarification from the Proponent and/or DELWP regarding the statement made by the City of Banyule, Boroondara and Whitehorse Councils (submission 716 paragraph 2.93) that an existing native vegetation offset is to be removed for the project and any implications for that removal.

57.1 The construction of the shared use path along Greensborough Highway by VicRoads required the revegetation of two areas of the Simpson Barracks to offset the removal of 15 River Red Gums and one Blackwood tree as outlined in the Net Gain Assessment and Offset Plan (Indigenous Design, May 2017) (Attachment 7). Due to the Barracks being Commonwealth land this offset was deemed to be secure under the regulations at the time.

57.2 The reference design proposes to remove the western offset area and therefore the proponent would need to provide an equivalent to the original offset requirement for the shared path, AND the offset requirement for the vegetation removed for NELP. North East Link Project should provide shapefiles of these areas to DELWP native vegetation support to update the Native Vegetation Removal Report (NVRR).

58. Warringal Parklands and Banyule Flats are identified as being of state significance in their extent and quality and for their ability to support birldlife. Under the DELWP Guidelines they also represent areas of native vegetation (Technical Appendix Q Ecology page 137). Are these wetland areas included in the calculation of native vegetation loss, i.e. part of the 52 hectares of loss?
58.1 The Ecology report states that no impacts are anticipated on the Warringal Parklands and Banyule Flats (<0.1m drawdown) and therefore these wetland areas have not been included in the extent of native vegetation loss.

58.2 However, Bolin Bolin Billabong is expected to have a groundwater drawdown of 0.1-0.5m. Therefore, the area of the billabong which will be affected by a 0.5m reduction in water levels, which would reduce aquatic habitat, should be included in the NVRR.

59. Are there any further obligations of offsets for the Project due to the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) Public Environment Report (PER) assessment?

59.1 This is a matter for the Commonwealth to determine.

If you have any questions regarding the above, please contact Leah Wheatley, Senior Natural Environment Program Officer, Port Phillip Region, DELWP on 0436 696 417 or email leah.wheatley@delwp.vic.gov.au.

Yours sincerely

[Signature]

Stephen H Chapple
Regional Director Port Phillip

25 / 7 / 2019