NORTH EAST LINK PROJECT
LAND USE PLANNING ASSESSMENT

23 JULY 2019
P0000021
FINAL
PREPARED FOR NORTH EAST LINK AUTHORITY
URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Director     Michael Barlow
Associate Director  Evan Granger
Project Code    P000021
Report Number   FINAL
TABLE OF CONTENTS

1. Introduction ......................................................................................................................... 1
  1.1. Qualifications and Experience ......................................................................................... 1
2. Summary of Key Issues, Opinions and Recommendations .................................................. 2
  2.1. Key Impacts ...................................................................................................................... 2
  2.2. Impacts Regarding Open Space and Recreational Facilities ............................................ 2
  2.3. Impacts Regarding the Bulleen Industrial Precinct .......................................................... 4
  2.4. Potential Amenity Impacts on Residential Areas and Open Space ................................. 5
  2.5. Assessment of Proposed Planning Controls ...................................................................... 6
  2.6. Declaration ....................................................................................................................... 7
3. Assessment of Land Use Impacts ......................................................................................... 8
  3.1. Overview .......................................................................................................................... 8
    3.1.1. Project Description ..................................................................................................... 8
    3.1.2. Physical Context ....................................................................................................... 9
4. Impacts on open space and recreation facilities .................................................................. 11
  4.1. Overview .......................................................................................................................... 11
    4.1.1. Plan Melbourne .......................................................................................................... 11
    4.1.2. Planning Policy Framework ....................................................................................... 12
    4.1.3. Local Policy ............................................................................................................ 12
    4.1.4. Summary ................................................................................................................ 13
  4.2. Summary of Issues Raised ............................................................................................... 13
  4.3. Northern area impacts ..................................................................................................... 14
    4.3.1. Temporary Occupation ............................................................................................. 14
    4.3.2. Permanent Occupation ............................................................................................. 15
  4.4. Bulleen Park area impacts ............................................................................................... 16
    4.4.1. Yarra River Corridor Policy Context ......................................................................... 16
    4.4.2. Bulleen Park open space ............................................................................................ 17
    4.4.3. Permanent Impact ..................................................................................................... 20
    4.4.4. Impact on private school sport and recreation assets .................................................... 23
  4.5. The Eastern Freeway corridor .......................................................................................... 24
    4.5.1. Open space required for temporary occupation .......................................................... 25
    4.5.2. Open space permanently required for project infrastructure ......................................... 28
  4.6. Assessment of overall Impacts on Open Space ................................................................. 29
  4.7. Environmental Performance Requirements ..................................................................... 30
  5. Impacts on Bulleen Industrial Precinct ............................................................................. 31
    5.1. Overview ........................................................................................................................ 31
    5.1.1. Planning Policy .......................................................................................................... 31
    5.1.2. Impacts on the Bulleen Industrial Precinct ................................................................. 31
    5.2. Summary of Issues Raised ............................................................................................ 32
    5.3. Assessment of Impacts on Bulleen Industrial Precinct .................................................... 33
      5.3.1. No Interchange at Manningham Road ....................................................................... 33
      5.3.2. Impact on Users of the Bulleen Industrial Precinct .................................................... 33
      5.3.3. Impact on Employment ............................................................................................ 35
      5.3.4. Summary Assessment .............................................................................................. 42
  6. Assessment of Project Amenity Impacts .......................................................................... 44
    6.1. Managing Overshadowing Impacts .............................................................................. 44
    6.2. Managing Potential Overlooking .................................................................................. 45
7. Assessment of Proposed Planning Scheme Amendment GC98 ........................................ 45
7.1. Overview .................................................................................................................. 47
7.1.1. Summary of Issues Raised .................................................................................... 47
7.1.2. Review of Amendment GC98 ............................................................................ 48

Appendix A  Letter of Instructions
Appendix B  Guide To Expert Evidence Response
Appendix C  List of Submissions Regarding Open Space and Recreation
Appendix D  Relocation Strategy Plans
Appendix E  List of Submissions Regarding Bulleen Industrial Centre

FIGURES:
Figure 1 – Map of project route and extent ........................................................................ 8
Figure 2 – Northern area sport and recreation reserves impacted by temporary occupation .......... 15
Figure 3 – Bulleen Park area land affected by the Project (Sport and Recreation Options Assessment, NELP, March 2019) ................................................................. 18
Figure 4 – Land Status Map – Extract from Yarra River – Bulleen Precinct Land Use Framework Plan ...... 22
Figure 5 – Construction impacts on private school land [EG3] in proximity to Bulleen Park ............. 23
Figure 6 – Eastern Freeway corridor [EG3] open space impacts between Bulleen Road and Springvale Road .......................................................................................... 27
Figure 7 – Bulleen Industrial Precinct – April 2018 aerial image .............................................. 32
Figure 8 – Map of 5, 10 and 15 minutes drive-time catchment for Bulleen Industrial Precinct ............. 34
Figure 9 – Map of 5, 10 and 15 minutes drive-time catchments for Preston, Heidelberg and Doncaster locations ........................................................................... 36
Figure 10 – Map of Industrial, Commercial 2 and Activity Centre zones in sub-region around Bulleen ...... 37
Figure 11 – Location of possible opportunity for additional industrial land at Websters Road, Templestowe ........................................................................ 38
Figure 12 – Manningham Road Interchange – Indicative Development Opportunity ..................... 39
1. INTRODUCTION

1. I have been engaged on behalf of the North East Link Project (Project) in my capacity as an expert in the field of urban planning. A copy of my instructions is attached in Appendix A.

2. The Project proposes to develop a freeway-standard connection between the Eastern Freeway at the intersection with Bulleen Road and the eastern end of the M80 Ring Road at Plenty Road to provide for a new and enhanced major transport link serving the north-east region of metropolitan Melbourne. The Project will also deliver Melbourne’s first dedicated high-speed busway, new public open space and extensive walking and cycling links.

3. I have been asked to review the Environment Effects Statement (EES), submissions and draft Planning Scheme Amendment prepared for the Project to the extent relevant to my area of expertise.

4. This report examines the potential impacts of the Project having regard to Land Use impacts, particular amenity impacts and the appropriateness of the proposed planning controls and approval processes forming part of the draft Planning Scheme Amendment.

5. This statement supplements my earlier statement as to the strategic rationale for the Project.

6. A draft Planning Scheme Amendment GC98 (the PSA) has been prepared by the Minister for Planning who is the planning authority. The draft PSA proposes to provide planning approval for the development of North East Link and protect the tunnel infrastructure from development that may compromise or adversely affect its structural integrity, operation or maintenance:
   - The introduction of the North East Link Project Incorporated Document, April 2019 into the planning schemes of the seven municipalities affected by the Project (being Banyule, Boroondara, Manningham, Nillumbik, Whitehorse, Whittlesea and Yarra) that will permit the use and development of the Project subject to certain conditions and subsidiary approvals (Schedules to Clauses 45.12 and 72.04).
   - Amend the schedules to clause 72.01 of the seven planning schemes to make the Minister for Planning the responsible authority for administering and enforcing the incorporated document, and any other provision of the scheme which applies to the project.
   - Amend the Schedules to Clause 72.03 of the seven planning schemes and Insert Planning Scheme Maps into each of the schemes defining the location and extent of the Specific Controls Overlay (SCO) to apply to the project area.

7. The amendment also changes the Manningham and Banyule Planning Schemes to:

8. Introduce new Schedules (13 and 14 in Banyule and 14 and 15 in Manningham) to clause 43.02 – Design and Development Overlay and amend and introduce new Planning Scheme Maps to apply the Design and Development Overlay to land above and immediately adjoining relevant North East Link infrastructure to protect the structural integrity of the tunnels and associated infrastructure.
   - Amend the schedule to clause 66.04 to make the Secretary of Department of Transport (and the Roads Corporation after 31 December 2030) a determining referral authority for permit applications triggered under the proposed new schedules to clause 43.02.

9. The proposed DDOs are not required in Boroondara, Yarra, Whitehorse, Whittlesea and Nillumbik as there is no proposed sub-surface works in these municipalities that require the protections of the DDOs.

10. The various EES assessment reports and the draft planning scheme amendment provide a comprehensive assessment of the relevant government planning policies and requirements. This report will not seek to replicate these assessments. The report will:
   - Provide an assessment of the key land use impacts of the Project.
   - Assess the impact of the buildings and works such associated with the Project on the future amenity of residential and uses adjoining the Project.
   - Assess the appropriateness of the proposed draft planning controls.

1.1. QUALIFICATIONS AND EXPERIENCE

11. Appendix B contains a statement setting out my qualifications and experience, and the other matters in accordance with Planning Panels Victoria’s ‘Guide to Expert Evidence’.
2. SUMMARY OF KEY ISSUES, OPINIONS AND RECOMMENDATIONS

2.1. KEY IMPACTS

12. In my opinion there are several potential Land Use impacts that may arise from the Project, being:

- The potential long-term impacts on the loss of and accessibility to sporting and recreation facilities, open space and active transport links.
- The potential impacts on the temporary loss of and accessibility to sporting and recreation facilities, open space and active transport links during the course of construction of the Project.
- The long-term impacts caused by the loss of businesses located at the Bulleen Industrial precinct in terms of the impact on the businesses and their employees, accessibility to jobs in the local area and the impact caused by loss of services etc. to the local communities.
- The impact on the future amenity of certain residences by potential shadowing or overlooking caused by structures associated with the Project (i.e. acoustic barriers and elevated accessways).

13. I recognise that other matters, such as air quality, noise and visual appearance are impacts that contribute to (or detract from) the amenity of a location and are relevant matters in the assessment of the Project. I have not assessed these as I understand others will be providing detailed technical assessments to the Advisory Committee.

14. I have also assessed the appropriateness of the planning controls and approval pathways of Planning Scheme Amendment GC98.

2.2. IMPACTS REGARDING OPEN SPACE AND RECREATIONAL FACILITIES

Key Issues

15. The key issues arising from the consideration of the land use impacts of the Project with regard to the matter of open space are:

- What is the net impact of the Project on the provision of open space within the various sectors of the Project?
- Will the Project have an adverse impact on the ongoing useability of the adjoining parkland and associated activities?
- Will the nearby communities be able to access a similar range of sporting fields and facilities both during construction and upon completion of the Project?
- Is the Project consistent with the various policies applying to the provision of open space and the character of that space in certain localities?

Opinions and Recommendations

16. There is an effective process underway to facilitate the relocation of the various sporting clubs and their operations to alternative locations for the course of the construction of the Project.

17. It is acknowledged that the Project will also take existing open space along the northern corridor around Greensborough Road, the Bulleen Road corridor and the Eastern Freeway corridor. As mentioned previously the growth of the city creates an intensifying competition for land. In this circumstance I consider it is appropriate to use this open space land for the creation of a major link in the metropolitan transport network.

18. I also consider it is important for the Project to assist in generating opportunities for new open space either directly on land affected by the Project or in other locations that would serve the local
communities. The Project has the potential to positively add to the supply of public open space and recreational facilities through:

- The upgrading of sporting facilities at other locations to accommodate the relocation of clubs on an interim basis – e.g. Greensborough College (Submission 551).
- Creation of new open space (0.85 hectares) alongside and over the Greensborough Road part of the Project.
- The acquisition of the Bulleen Golf Driving Range (approx. 6.5 hectares) and its conversion to public open space activities.
- The medium to long-term opportunity to transfer the Henderson Seeds operations (approx. 13 hectares) at 165 Templestowe Road to a new location to enable the use of this land for active sporting and public open space activities.
- A further 2.7 hectares of land could be incorporated if the adjoining private properties at 199-209 and 211-219 Templestowe Road were also acquired.
- The opportunity to utilise part of the former Bulleen Drive-In site (approx. 3.7 hectares) and the former industrial properties (approx. 1.1 hectares) on Manningham Road (that may need to be acquired as part of the project) for conservation purposes, passive recreation and the creation of new walking trail and accessways from Manningham Road to the south.

19. It is estimated that if these parcels of land (or a combination of some sites) are utilised in the future for open space and recreation purposes there would be a net gain in the amount of public open space and conservation land added to the Yarra River corridor at this location as compared to that lost in Bulleen Park.

20. As mentioned before, it is desirable to undertake a detailed analysis of the amount of public open space land that will be permanently taken by the Project to enable an appropriate assessment of the net impact of the Project on the supply of open space along its route. Based on my preliminary analysis it is possible that up to 27 hectares of new open space could be added to the supply as part of the Project mitigation works and the return of acquired land for open space purposes.

21. It is most likely that the amount of zoned public open space permanently lost to the Project (as opposed to land zoned for road purposes) will be significantly less than this amount. However, this should be confirmed as part of satisfying the overarching planning policy of Clause 19.02-6S that the reduction in open space is replaced with parkland of equal or greater size and quality.

22. I have recommended that a more detailed calculation of the land zoned for public open space (outside the Road Zone) which is required for the Project be undertaken. My opinions as to the likely impacts of the Project on open space, are based on my estimations of the extent of land reserved for open space that will be acquired for the Project. My opinions may vary depending on the results of the more detailed calculations.

**Recommended Changes to Environmental Performance Requirements**

23. Having regard to the above assessment it is my opinion that the EPRs for Social and Community should be revised to formalise an approach to the relocation efforts and the reinstatement of the reserve grounds/facilities after they are no longer required. The aim of the modified controls should be to:

- Provide confidence to affected stakeholders that engagement and adaptation or relocation efforts will continue following the planning approval for the Project.
- Provide a nexus between the Project and those works and processes, required to be undertaken beyond either the boundary or scope of the Project, to enable the temporary or permanent relocation of activities from affected sporting, recreation and other facilities.
- Provide an approval process for relocation plans where agreement between parties cannot be obtained.
24. As was done in the Metro Tunnel Project EPR\(^1\), it may be beneficial to formally produce a transformation and relocation strategy for the Bulleen Park area, in consultation with the Councils and affected sporting organisations. Such a strategy should allow for early actions to take place to facilitate the relocation of sporting clubs and other facilities whilst the strategy is being finalised. The strategy could comprise both a response to the temporary impacts and a response to the loss of land that requires permanent relocation of facilities. There will need to be an approval mechanism for this strategy, to ensure that replacement facilities can be delivered in a timely manner.

25. The Land Use (or Social and Community) EPRs should be revised to:

- Ensure that all efforts are made to minimise the extent of public open space land required for construction areas, to design the extent of construction areas to minimise disruption to the shared path routes and avoid and protect existing mature stands of trees where practicable.
- Make it clear as an obligation of the Project and contractor that open space land not required for permanent project infrastructure is to be returned to its existing use post-construction as quickly as possible.

2.3. IMPACTS REGARDING THE BULLEEN INDUSTRIAL PRECINCT

Key Issues

26. The Bulleen Industrial precinct is one of three locations within the City of Manningham currently used for industrial and related commercial purposes and is the largest area comprising approximately 9.5 hectares of the 15.3 hectares of land within an Industrial 1 zone. I note the municipality does not have any land zoned Commercial 2 that could accommodate many of the types of uses currently found in Bulleen.

27. I consider that the North East Link will have a significant land use impact being the loss of the Bulleen Industrial precinct which will necessitate the relocation or closure of approximately 80 businesses with consequential impacts on employees, customers and established business networks and interdependencies.

28. There are three consequential impacts arising from the proposal to utilise the land for an interchange and construction compound being:

- The need for existing businesses to find suitable alternative premises to accommodate their business.
- The removal of the businesses will result in the significant loss of employment opportunities in the Bulleen area for approximately 5 years.
- Potentially diminished accessibility to services currently provided in the precinct for nearby communities.

Opinions and Recommendations

29. It is recognised that the Project will result in the loss of approximately 80 businesses and 770 jobs from the BIP. Well-established businesses will either need to relocate or cease trading. The land acquisition and compensation system has been developed to address this circumstance.

30. I am satisfied that the surrounding communities will continue to have access to a full range of services at existing centres. This may require some residents to travel further than they currently do but the travel mapping demonstrates that most services will be within a 15-minute drive time. It is acknowledged that people travelling further from the east (e.g. Warrandyte) will have their journey extended (further to the west) if they do not wish to alter their travel direction and head to the south to access services in that part of the city. This is a matter of individual choice.

31. Having regard to the policy tension that exists between the need to create a freeway standard link between the north and east to improve metropolitan Melbourne’s transport network and the desire to maintain employment land uses it is considered, in this instance, the loss of industrial land is acceptable for the following reasons:

---

\(^1\) Refer to Metro Tunnel Environmental Management Framework, Version 3, August 2018 – see EPRs LU1 and SC7.
• The surrounding communities that rely on the BIP for a variety of service, business to business links etc. can be served by alternative service providers at other centres including the Preston Industrial Precinct, the Fairfield/Alphington Industrial Precinct and the Heidelberg West Industrial Precinct, the Doncaster Activity Centre and other local centres to the west and south.

• The loss of employment opportunities in the BIP will require some residents to travel further to access new job opportunities. It is expected that many will follow their employer as they relocate.

• Whilst local employment opportunities are reduced there are a number of locations within 15-30 minutes drive time offering employment in a similar range of industries. Accessibility is reduced for some residents, but not unacceptably so in the context of average commute times for jobs across the metropolis.

• There is an opportunity to partially ameliorate the loss of land and job opportunities through the creation of new industrial land at the Websters Road location that could accommodate industry that otherwise may not have ability to remain in the Manningham area.

• There is the opportunity to reinstate more than two-thirds of the existing industrial land at Bulleen following completion of the Project and accommodate service industries and the like.

• The net result could be that there is no loss of industrial land and its employment potential within a couple of years of the end of the construction of the Project.

32. I acknowledge that certain businesses and their clients have very strong links that may be irrevocably broken if the business cannot relocate locally. Given the extremely limited availability of employment land it is unlikely that any business can be accommodated locally except at the new land in Websters Road. This further suggests that the opportunity potentially provided by this land be promptly investigated.

33. In summary, the project will have some significant impacts on the existing businesses located at Bulleen but having regard to the policy imperatives I consider that a balanced outcome will be achieved with the replacement of employment land at the Bulleen location. I note that if the Websters Road site is found to be unacceptable, my overall opinion does not change. However, I acknowledge that there will be a long-term reduction in local employment opportunities as compared to today.

34. In my opinion, this reduction is outweighed by the overall benefits of the project which are expected to positively contribute to enhanced accessibility to employment for large parts of the north and east and the overall growth in economic activity for the metropolis.

Recommended Changes to Environmental Performance Requirements

35. I consider that the Land Use EPR LP1 could be strengthened to also require that the Manningham interchange should be designed to ensure that commercial and industrial activities can be constructed adjacent to the finished Project tunnel and ramps. If this occurs and the reference design solution of the Manningham Interchange is followed, then the land will be available at the completion of the construction of the Project.

2.4. POTENTIAL AMENITY IMPACTS ON RESIDENTIAL AREAS AND OPEN SPACE

Overshadowing

36. In some locations along the route of the Project the proposed acoustic barriers have the potential to cause adverse amenity impacts by way of excessive overshadowing of residential properties and open space.

37. I have identified several locations along the route of the Project where the proposed acoustic barriers are to be erected on or near residential boundaries (if solid) will cause excessive overshadowing of private open space and north facing windows during the winter months. This highlights the need for the acoustic barriers in certain locations to be constructed with transparent materials to permit the passage of daylight and sunlight.
38. The draft Environmental Management Plan LP4 states:

**Minimise overshadowing from noise walls and elevated structures**

Overshadowing from elevated structures and noise walls to residential properties (including solar panels), community facilities, open spaces, waterways and valuable habitats must be minimised through detailed design.

**Overlooking**

39. The reference design anticipates that the elevated overpasses will be located close to property boundaries. This will, in some instances, enable direct views into private open spaces. It is apparent that each instance of where the potential overlooking may occur will require a detailed analysis of impact and bespoke design response.

**Recommended Changes to Environmental Performance Requirements**

40. It is considered that the implementation of this EPR could be assisted by the addition of criteria to guide what is meant by ‘minimise’. In my view these criteria should seek to ensure that any new shadowing impact is no worse than the current shadowing impacts caused by existing noise walls and elevated structures associated with the existing road and freeway routes.

41. Where there is no existing impact and the noise walls will cause shadowing, I recommend that a standard based on the ResCode shadowing controls could be used. I note that the control would need to be modified to take account of potential winter shadowing impacts to ensure that properties were not subjected to excessive overshadowing for long periods of a day.

42. It is recommended that the Land Use EPR LP4 be modified to require the overpasses to be located and designed to prevent direct overlooking into private open spaces and windows. I suggest that a minimum view threshold distance of 15 metres (i.e. distance from viewer to private open space or window in dwelling) be used in assessing potential overlooking impacts.

2.5. **ASSESSMENT OF PROPOSED PLANNING CONTROLS**

**Key Issues**

43. Key issues raised by submitters are:

- The extent of the area covered by the proposed Specific Control Overlay is too broad and should be reduced to generally follow the route of the reference design.

- Yarra Valley Water seeks to be included as one of the authorities to be consulted under Condition 4.5.2 that sets out what the Environmental Management Framework must include in terms of the authorities to be consulted.

- The proposed conditions of the Incorporated Document and the use of the EPRs in the Environmental Management Framework deny the opportunity for local government and affected stakeholders to be further consulted regarding secondary design and planning processes.

44. Each of these concerns are reviewed in Section 7 of the report and I conclude that the proposed planning mechanism provides reasonable assurance that the project will generally follow the design approach posited and tested as part of the EES process - acknowledging that there will be minor variations arising through the detailed design process.

45. As the Project is assessed through the IAC process there are sure to be changes made to specific EPRs to either provide greater specificity or clarify what is intended to be achieved by the imposition of the EPR and its requirements. Accepting the opportunity for changes to occur I consider the proposed approach to the form and content of the planning controls to be appropriate to the nature and scale of the Project.
2.6. DECLARATION

46. I declare that in preparing the material contained in this report I have made all 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 Panel.

Michael Barlow  Director of Planning – Urbis Pty Ltd
3. **ASSESSMENT OF LAND USE IMPACTS**

3.1. **OVERVIEW**

47. I have been requested to set out my planning assessment of the Land Use matters of the Project and the potential amenity impacts arising from the structures associated with the Project.

3.1.1. **Project Description**

48. The Executive Summary of the EES describes the project as having three elements, being:

- **M80 Ring Road to the northern portal** – From the M80 Ring Road at Plenty Road and the Greensborough Bypass at Plenty River Drive, North East Link would extend to the northern tunnel portal near Blamey Road using a combination of above, below and at surface road sections. New road interchanges would be provided at the M80 Ring Road and Grimshaw Street.

- **Northern portal to southern portal** – At the northern portal of the tunnel, the road would transition into twin tunnels that connect to Lower Plenty Road via a new interchange before travelling under residential areas, Banyule Flats and the Yarra River to a new interchange at Manningham Road. The tunnel would then continue to the southern portal located south of the Veneto Club.

- **Eastern Freeway** – From around Hoddle Street in the west through to Springvale Road in the east, modifications to the Eastern Freeway would include widening to accommodate future traffic volumes and new dedicated bus lanes for the Doncaster Busway. A new interchange at Bulleen Road would connect North East Link to the Eastern Freeway.

![Figure 1 – Map of project route and extent](image.png)
3.1.2. Physical Context

49. The physical context of the Project includes:
   - The residential suburbs of Watsonia North, Greensborough and Watsonia in the north;
   - The Simpson Barracks, the residential suburbs of Yallambie, Macleod, Rosanna and Viewbank and the Banyule Flats parkland in the centre of the project;
   - The Bulleen Industrial Precinct, the Bulleen Precinct of the Yarra River parklands together with the sporting and recreational open space and facilities centred along Bulleen Road;
   - The residential suburbs of Clifton Hill, Abbotsford, Kew, North Balwyn, Bulleen, Doncaster, East Doncaster, Donvale, Box Hill North, Blackburn North and Nunawading along the route of the proposed expansion of the Eastern Freeway.

50. The Project corridor adjoins a range of existing land uses including residential neighbourhoods, an industrial precinct, significant public open space, wetlands and recreational facilities.

51. The Appendix B to the Land Use and Planning technical report helpfully locates the proposed reference design for the Project within the existing zoning framework and illustrates where the road works and associated structures will sit and what additional land beyond the existing road reservations is required. This has been supplemented by a series of detailed plans showing the extent of ‘open space’ (being land that the general public may perceive as reserved for that purpose) and the actual zoning and location of the project for each key section of the Project.

52. I have undertaken an assessment of the land use impacts of the Project on key areas identified through the EES assessment, technical reports and public submissions.

53. My review of the EES documentation (Chapters 1 – 8 and 13, supporting technical reports, the Map Books and Attachment V) also included a review of some of the matters in Business (Chapter 14), Landscape and Visual (Chapter16), Social (Chapter 17) and the Environmental Management Framework (Chapter 27) that I regarded as relevant to my assessment of land use impacts.

54. I have read the relevant public submissions in respect of the EES and draft Planning Scheme Amendment for the Project as identified as relevant to my area of expertise. Given the quantum of submissions I have sought to define the key impacts and through my assessment respond as appropriate to the issues and concerns raised in the submissions.

55. In undertaking this assessment, I have also understood the need to balance the consideration of issues. In a project of the extent and scale found with the North East Link Project the issues at hand range from metropolitan and local policy matters to the potential temporary or long-term impact at a specific location. When balancing these issues consideration must be given to a number of factors including:
   - What is the benefit and who benefits? In the case of a regional or metropolitan benefit (e.g. enhanced accessibility and the consequential flow ons from this) clearly many will benefit.
   - What is the impact and is it broad or confined? Is it a significant impact? Is the impact temporary or capable of a simple amelioration?
   - Is it incapable of amelioration and hence will it cause ongoing unacceptable impacts?
   - Is it necessary to completely obviate the impact? In many cases, it will not be necessary to do so given that the impact is short term or is a reasonable outcome of the continual evolution of the city.

56. In my opinion there are several key matters of potential land use impacts that arise from the Project being:
   - The potential long-term impacts on the loss of and accessibility to sporting and recreation facilities, open space and active transport links. This principally occurs in around Bulleen Road area and along parts of the Eastern Freeway corridor.
   - The potential impacts on the temporary loss of accessibility to open space, sporting and recreation facilities and active transport links during the course of construction of the Project.
• The long-term impacts caused by the loss of businesses located at the Bulleen Industrial precinct in terms of the impact on the businesses and their employees, accessibility to jobs in the local area and the impact caused by loss of services etc. to the local communities.

• The impact on the future amenity of certain residences and open space by potential shadowing or overlooking caused by structures associated with the Project (i.e. acoustic barriers and elevated accessways).

57. I recognise that the potential of other environmental impacts, such as air quality, noise and visual appearance are impacts that contribute to (or detract from) the amenity of a location and are relevant matters in the assessment of the Project. I have not assessed these as I understand others will be providing detailed technical assessments to the Advisory Committee.

58. The following sections of my report address these issues.
4. IMPACTS ON OPEN SPACE AND RECREATION FACILITIES

4.1. OVERVIEW

59. The matter of open space impacts is a key consideration in the assessment of the proposed reference design. As I explained in my assessment of the strategic rationale for the project, as cities grow, they become more complex and there is increased competition for land within the established areas of the metropolis.

60. The opportunity to establish major new transport links is severely constrained by the existing land use pattern and the lack of ‘open’ corridors. Often the only options are to fully utilise existing road reservations and use land currently used for open space - given its generally low level of development. This factor however does not of itself make it acceptable to use open space for this purpose given the same issue facing the competition for land. That is open space is a vital component of an urban area and it too must be provided for, particularly in a city that is growing as fast as Melbourne.

61. The Project traverses a variety of open spaces ranging from local sporting fields to highly valued parkland within the Yarra corridor that plays a regional recreational role, to spaces supporting other activities with a regional catchment (e.g. aero modellers club) to areas of ‘passive’ open space where many activities can be accommodated.

62. In the case of the North East Link the open space areas are often connected by shared pathways connecting many suburbs within the sub-region. Two paths of particular prominence are the Koonung Creek Trail and the Main Yarra Trail.

63. The significance of some of these spaces is recognised in Plan Melbourne, the Planning Policy Framework of the various Council’s planning schemes and other documents.

4.1.1. Plan Melbourne

64. Plan Melbourne seeks through Direction 4.1 to Create more great public places across Melbourne. This is reinforced by Policy 4.1.4 that seeks to Protect and enhance the metropolitan water’s edge parklands². The policy states (in part)

The Yarra River and its parklands shaped the development of Melbourne and are essential to the identity, liveability and prosperity of the city. The magnificent natural riverscape and network of parklands are a legacy of protection and planning decisions of the past.

… These parklands are essential to the health and wellbeing of local communities. They also attract tourists and events that generate significant revenue streams for businesses and are the source of considerable historical and cultural importance to Aboriginal Victorians.

Stronger planning controls will also be put in place to protect water’s edge parklands from intrusion and encroachment of development that impacts on open space and diminishes their natural landscape setting.

65. Direction 6.4 seeks to Make Melbourne Cooler and Greener. This will be achieved by a number of policies including Policy 6.4.2 - Strengthen the integrated metropolitan open space network³. The policy recognises that:

Better planning, design and use of new and existing public open space is critical. Developing innovative approaches to access and making use of other types of public land, such as waterways, school grounds and utility easements, are also important parts of delivering an integrated open space network that responds to Melbourne’s projected population growth.

---

² DELWP – Plan Melbourne 2017-2050, 2017 – page 81
³ ibid – page 119
4.1.2. Planning Policy Framework

The broad directions of Plan Melbourne are reinforced by the Planning Policy Framework, in particular by:

Clause 12 Environmental and Landscape Values – The clause acknowledges the importance of protecting the health of ecological systems, biodiversity and conservation areas with identified environmental value. Relevant sub-clauses include:

- Clause 12.03-1S seeks to protect and enhance river corridors, waterways, lakes and wetlands and specifically mentions the need to protect the Yarra River (among others) as significant economic, environmental and cultural assets.
- Clause 12.05-1S seeks to protect and conserve environmentally sensitive areas which includes the Yarra River.
- Clause 12.03-1R ‘Yarra River protection’, which details ways to improve the river with strategies that aim to manage development in the vicinity of the River’s environmental and landscape context.

Clause 19 Infrastructure - This clause recognises that planning for development of social and physical infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely. Relevant sub-clauses include:

- 19.02-6S Open Space seeks to establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community. The policy provides for multiple strategies to achieve this objective. One of the key strategies is to ensure that where there is a reduction of open space due to a change in land use or occupation, additional or replacement parkland of equal or greater size and quality is provided.
- 19.02-6R Open space - Metropolitan Melbourne seeks to strengthen the integrated metropolitan open space network by developing a network of local open spaces that are accessible and of high-quality and ensuring major open space corridors are protected and enhanced. The policy also seeks to protect the metropolitan water’s edge parklands from intrusion and encroachment of development that impacts on open space and their natural landscape setting. The Yarra River corridor (Warrandyte to Port Phillip Bay) is specifically referenced with regard to creating continuous open space links and trails.

4.1.3. Local Policy

Each of the seven municipalities have a variety of policies pertaining to open space as relevant to their circumstances. Set out below is a summary of the local policies for those municipalities affected by the proposed permanent occupation of open space by the Project.

Manningham

Clause 21.13 Open Space and Tourism seeks to provide a range of active and passive open space opportunities in accordance with community needs. The policy is guided by the Manningham City Council (2014) Open Space Strategy – Parts 1 and 2. The North East Link traverses a number of open space precincts as defined in this report.

Banyule

Clause 21.04-4 Community Facilities provides guidance for the provision and development of a range of community facilities including open space. Key strategies include the protection and enhancement of open space, its visual amenity and encouraging a linked system of public open spaces.

Whitehorse

Clause 22.15 Public Open Space Contribution identifies localities within the municipality that will require additional open space to cater to anticipated population growth. The policy is supported by the Whitehorse Open Space Strategy, November 2007 that identifies several precincts that adjoin the existing Eastern Freeway.
The report identified that the open space adjacent to the freeway was of a ‘linear’ typology of which some components also had a nature conservation and bushland character and accommodate waterways (in this case Koonung Creek). Elgar Park was separately defined as a ‘sporting’ typology.

**Boroondara**

Clause 21.03 Environment and Open Space provides for a series of detailed strategies addressing matters including: the provision of open space to those areas that are underserviced through several methods; securing funding for new open space provision; to protect and enhance biodiversity and protecting and enhancing he landscape character within the Yarra River corridor environs and securing additional land in the corridor. This policy is supported by the Boroondara Open Space Strategy 2013.

**4.1.4. Summary**

In summary, the overarching policy setting for open space is to protect and enhance that asset through improved utilisation, better linkages and to accommodate new and changing demands. It is apparent that the current policy framework creates a tension between differing aspirations. In this instance a critical matter is the balance between the need for a new major road link to serve metropolitan Melbourne and the need to provide access to sport and recreational spaces and the activities they support.

**4.2. SUMMARY OF ISSUES RAISED**

I have read the public submissions in respect of the EES and draft Planning Scheme Amendment for the Project and identified those that are relevant to matters of impacts on open space and recreational facilities as relevant to area of expertise. A list of the submissions received regarding these matters are attached in Appendix C.

I note that many of the submissions cover multiple issues. Through the construction of the Project, a number of open spaces and sports and recreation facilities will be impacted either during construction or permanently during operation. As such, commentary on land use effects from an open space and recreation perspective is a common theme throughout the submissions received during the EES exhibition process.

I note that during my assessment it has become apparent that the description of the affected ‘open spaces’ has not taken into account the underlying zoning of the land in question. In many cases along the route of the Project land is within an existing Road Zone but is seen to be part of the open space system given it is not currently used for road purposes. Local residents, understandably, would see this land as being ‘open space’. However, the land is recognised in the various planning schemes as land that is reserved for road purposes - with the likelihood that it will, one day, be developed for this purpose.

At the present time the calculation of the land zoned for open space (e.g. PPRZ, PCRZ or a residential zone in a local neighbourhood) that will be affected by either temporary or permanent occupation has not been undertaken. I consider that it is extremely important that this is done to enable a proper assessment of the impact on land use and the achievement or otherwise of the abovementioned policies.

The key questions arising from the consideration of the land use impacts of the Project on the matter of open space are:

- What is the net impact of the Project on the provision of open space within the various sectors of the Project?
- Will the Project have an adverse impact on the ongoing useability of the adjoining parkland and associated activities?
- Will the nearby communities be able to access a similar range of sporting fields and facilities both during construction and upon completion of the Project?
- Is the Project consistent with the various policies applying to the provision of open space and the character of that space in certain localities?
79. EES submissions concerning open space impacts can be broadly summarised into two categories:

**Impacts during construction of the Project:**
- Impact on sporting clubs, recreational facilities and community facilities during construction
- Temporary relocation of facilities or suitability of alternative sites for sporting facilities during construction
- The location of proposed construction compounds and disruption to shared use paths during construction (especially along the Eastern Freeway corridor)

**Impacts during operation of Project after opening:**
- Permanent impact on sporting clubs and recreational facilities though loss of land or facility
- Permanent relocation of facilities or suitability of alternative sites for sporting facilities
- Loss of, and impact on, parkland, open space and community facilities by the operation of the project

80. In a similar manner to the Sport and Recreation Preliminary Options Assessment (Appendix F of EES Technical Report I Social Appendices), I have concentrated on three geographic areas of impact:

1. **Northern area impacts** – areas of open space and sports and recreation facilities in proximity to Watsonia Station
2. **Bulleen Park area impacts** – areas of open space and sports and recreation facilities within and in proximity to Bulleen Park
3. **Eastern Freeway corridor impacts** – areas of open space adjacent to or in proximity to the Eastern Freeway

4.3. **NORTHERN AREA IMPACTS**

4.3.1. **Temporary Occupation**

81. It is proposed that the northern area of the Project will see the temporary occupation of three sporting reserves as road infrastructure is constructed (AK Lines Reserve, Gabonia Reserve and Winsor Reserve). **Figure 2** provides the location of the three affected reserves, which may be used as construction compounds for the Project.

82. The three reserves are used by a variety of sports clubs, user groups and informal recreation users, and it is expected that the reserves will be occupied for project construction purposes for five years, with an additional year required to reinstate sporting facilities.

83. The temporary occupation of these areas will significantly impact on users in the short-term, and it is appropriate to identify relocation options as part of the Project’s assessment and review. I am advised that NELP have identified and progressing scoping for the relocation options for the three affected areas and their current users. I have been provided with a plan illustrating the options (attached at Appendix D) and understand that others will provide the detail of these options.

84. I note that the assessment is underway and has involved master planning, facility scoping and, in some instances, commencing to engage architects to progress the design. Further work is required including consultation and formal agreements to undertake the necessary works to accommodate the relocated activities and clubs following the Minister for Planning’s assessment of the EES. However, in my opinion, the process currently being undertaken, the work done to date and the identification of practical options has been extensive and appropriate for this stage in the process.

---

4 As per the Sports and Recreation Options Assessment (found at Appendix F of Technical Report I Social Appendices)
85. Most importantly, it has confirmed that there are options available that will ensure that there is as little disruption as is possible to the ongoing access to active sports facilities in this part of the Project.

86. I discuss potential changes to the Environmental Performance Requirements in Section 4.6.

4.3.2. Permanent Occupation

87. The existing land zoned for public open space purposes in this sector that will be affected in the long-term impact by the Project is set out in the table below. I note that the use of some of the locations may not fully reflect the purpose of the zone.

Table 1 – Open Space in Northern Sector Permanently Required

<table>
<thead>
<tr>
<th>Open Space Impacts on completion of the Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Sector</td>
</tr>
<tr>
<td>1 A K Lines Reserve – small loss of north-east corner</td>
</tr>
<tr>
<td>2 Frensham SEC Reserve – location for pedestrian overpass</td>
</tr>
<tr>
<td>3 Gillingham Reserve – new shared path through reserve</td>
</tr>
<tr>
<td>Open Space Impacts on completion of the Project</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>4    Trist Street Reserve – new shared path through edge of reserve</td>
</tr>
<tr>
<td>5    Borlase Reserve</td>
</tr>
<tr>
<td>6    Creekbend Reserve – new shared path through northern edge of reserve</td>
</tr>
<tr>
<td>7    Watsonia Road Reserve – new shared path and pedestrian overpass through reserve</td>
</tr>
</tbody>
</table>

88. It is apparent that the largest impact occurs with the loss of Borlase Reserve situated at the northeast corner of Greensborough and Lower Plenty Roads. The land currently adjoins a small residential pocket immediately to the east and contains the continuation of a watercourse flowing south from the Simpson Army Barracks site.

89. In my view the reserve, notwithstanding its generous size, is unlikely to be used regularly by the local community due to its location adjacent to two very busy roadways and its relative separation from the community to the west of Greensborough Road.

90. It is noted that the reference design proposes to create new open space comprising a series of 'land bridges' and north south link along the east side of the new road utilising acquired land. This additional area will add approximately 8,500 sq.m of new open space to the network. The new open space will not fully replace the loss of part of Borlase Reserve for the new road.

91. It is recommended that consideration be given to the opportunity to further enhance the north-south shared user link along Greensborough Road to Creekbend Reserve and the River Gum walk on the south side of Plenty Road.

4.4. **BULLEEN PARK AREA IMPACTS**

4.4.1. **Yarra River Corridor Policy Context**

92. The Bulleen Park area sits within the Yarra River corridor that is recognised as a key natural asset of the metropolis.

93. The Yarra River, as confirmed in the Planning Policy Framework is seen as having several roles to play from providing an open space corridor with a variety of activities, to enhancing the environment to economic opportunities. The Government has introduced a ‘whole of river’ approach to managing the river course, water quality and the various development and activities with the river corridor. A key document in commencing this approach is the document *Protecting the Yarra River (Birrarung) - Ministerial Advisory Committee Final Report* (DELWP 2016). The report notes that:

   Community use of, access to and amenity of the river and its parklands: The Yarra River and its corridor have an important part to play in Melbourne’s liveability and economic prosperity.5

94. The report prepared an extensive list of recommendations for government to implement over the short, medium and long term including:

- **Recommendation 2** - Recognise the importance of the Yarra River and its parklands to the economic prosperity, vitality and liveability of Melbourne and Yarra Valley in relevant state policies.

- **Recommendation 21** - Introduce the stronger planning controls along the Yarra River that are currently under development as quickly as possible, and expand this work as part of the Yarra Strategic Plan to other areas along the Yarra River.

- **Recommendation 29** – Provide … immediate funds to lead the development and implementation of solutions to two areas … including, preparing an integrated precinct plan to provide further direction to the future land use changes for the Yarra corridor between Bolin Bolin Billabong and the Yarra Valley Country Club.

---

5 State of Victoria (DELWP) - Protecting the Yarra River (Birrarung) - Ministerial Advisory Committee Final Report, 2016 – page 11
95. The report proposes that:

This precinct has the opportunity to become an integrated cultural precinct, centred on the relationship between the arts, nature and Traditional Owner heritage. The precinct has a number of public acquisition overlays and land use opportunities that should be reviewed as a whole.

96. The State has subsequently developed the Yarra River Action Plan - State of Victoria, DELWP 2017 and adopted many of the recommendations of the Ministerial Advisory Committee including the development of the draft Yarra River - Bulleen Precinct Land Use Framework Plan 2019.

97. The recently released draft Land Use Framework Plan highlights that several sites including the former Bulleen Drive-in site, the Bulleen Golf Driving Range and the Yarra Valley Country Club site have been identified as forming part of the parklands and conservation areas of the river valley. An Advisory Committee has been asked to provide strategic and statutory planning advice on the Bulleen Study area (see map) and make recommendations about the draft Framework Plan.

98. A review of the planning controls for the middle reaches of the Yarra River corridor is also currently underway.

4.4.2. Bulleen Park open space

99. The Bulleen Park area is a significant regional parkland, which is home to a variety of sporting clubs and is heavily utilised. The majority of land is allocated to active recreation (aeromodelling, archery, Australian Rules football, cricket, golf, soccer and tennis), but passive recreation is also catered for through the presence of walking trails, a playground and barbeque facilities. The Bulleen Park area also features notable billabongs and is within the Bolin Bolin Billabong Walk and Cultural Heritage Precinct.

100. Carey Baptist Grammar Sports Centre, Trinity Grammar Sports Fields and Marcellin College are located on private land in the Bulleen Park area. The Project's impacts on private school sport and recreation facilities are addressed in Section 4.4.4. The Boroondara Tennis Centre is located to the east of the Bulleen Park area, across Bulleen Road.

101. The Bulleen Park area consists of land owned and managed by three parties:

- City of Boroondara land (the Freeway Public Golf Course and Boroondara Tennis Centre)
- City of Manningham land (football/cricket ovals, soccer pitches, and aeromodelling and archery fields)
- The Veneto Club in the area’s north-east, which accommodates two soccer pitches.

102. Based on the EES reference design, the Project will affect the current sport and recreation land use of the Bulleen Park area, both temporarily or permanently. This includes an Australian Rules football oval (home of the Yarra Junior Football League), the entire Boroondara Tennis Centre (23 courts), car parking associated with the Veneto Club, and four holes of the 18-hole Freeway Public Golf Course. This is illustrated in Figure 3.

103. In response to the anticipated impact of Project Infrastructure, I understand that NELP has worked to minimise impacts to the area's sporting facilities and has developed a range of concept designs to ensure continued community use of the area or accommodate impacted activities in alternate locations. This process is outlined in the Technical Report I Social Appendices document – Sport and Recreation Options Assessment (Appendix F) and Bulleen Park Area Sports and Recreation Options Assessment (Appendix 2 of Appendix F).

104. NELP should be commended for the rigorous work it has undertaken through concept development, engagement and assessment. The thoroughness of the documents in the Technical Report, especially the Bulleen Park Area Sports and Recreation Options Assessment, is a testament to this diligence.

105. Seven initial concept designs for a modified Bulleen Park Area were developed and assessed against a set of Evaluation Criteria. The development of the options also included consultation and feedback from Council officers and representatives of state government agencies, such as Parks Victoria and Sports and Recreation Victoria, State Sporting Associations and the impacted clubs.
A key issue in the development of the options is that the land take required by the affected facilities is significant – there is not enough space (or ‘left over’ land) in the Bulleen Park area to relocate all the impacted facilities without impacting upon other facilities or user groups. This has led to the consideration of potential offset sites. NELP has determined that an appropriate offset site is the Bulleen Driving Range (Offset Site Option B), due to its proximity to the Bulleen Park area and the current reservation of the land for a public open space (the land is covered by a Public Acquisition Overlay for this purpose). The land is also adjacent to a parcel of Crown Land managed by Parks Victoria, which could be included to create a larger offset site (Offset Site Option A).

While the offset site has benefits, it is also limited by the presence of transmission lines (running through the property in an east-west direction) and topography. Both of these limitations limit the accommodation of large playing fields/ovals, such as Oval 1, and aeromodelling.

Of the seven options, NELP determined to discount four of the options (Options 1, 5, 6 and 7). This was due to the extent of impact they impose and their inability to accommodate suitable replacement facilities for sporting clubs and user groups. For example, Options 1 and 5 result in a par 66 golf course, which is not competition standard. I agree with this decision to remove these options from further consideration.

The remaining three concept design options are:
• **Option 2** - accommodates all users (with the exception of the aero modellers’ club). I note that at this stage, a suitable relocation site for aeromodelling has not been identified due to the nature of the activity (the requirement to be situated away from housing, roads and transmission lines). The golf course is redesigned as an 18-hole par 69 course, encroaching north onto City of Manningham land (currently used as an archery field).

• **Option 3** - accommodates all users and through the inclusion of the offset site (Option A achieves a net gain in unrestricted public open space. The golf course is redesigned as an 18-hole par 69 course, encroaching north onto City of Manningham land (current archery field). I understand that the City of Manningham officers have indicated that they prefer not to lose existing open space to accommodate the golf course re-arrangement.

• **Option 4** - is the most radical of the three preferred design concepts. It accommodates all user groups but relies on a different golf course layout and operating model. A 9-hole course is proposed, which is complemented by golf lesson and practice areas and a driving range. The relocation of the Boroondara Tennis Centre to within the redesigned course creates an opportunity for shared use of clubhouse buildings and may help to improve each club’s long-term viability. However, I understand that it is not the preference of Boroondara City Council officers to reduce the size of the course from 18 to 9 holes (even though playing the course twice would result in a par 72 course). The Bulleen Golf Driving Range offset site (Option B) is utilised as part of this concept design, and as such would increase the extent of unrestricted open space in the Bulleen area.

110. In my opinion, Concept Options 3 and 4 could both deliver positive land use outcomes:

• **Option 3:**
  - This concept provides a sensible solution to the Tennis Centre relocation by positioning it to the immediate north. I understand it is the intention of NELP to stage the relocation of the tennis courts to ensure that 23 courts are available at all times using the existing facility, the new location and courts at Trinity Grammar. This concept may also result in improved public transport accessibility for facility users once the Doncaster Busway Park and Ride Facility is operational.
  - While the archery field needs to be relocated in this concept (to accommodate two golf course holes), it provides the opportunity to develop an integrated sporting facility on Offset Site Option A, with the potential to deliver shared sporting and clubhouse facilities (soccer and archery).
  - While it is noted that Manningham City Council officers are concerned with the loss of unrestricted passive recreation space in this option (due to northern extension of golf course), it is my view that there will still be ample passive recreation space available in the immediate area (e.g. Oval 2, new Ovals N1 and N3, the aeromodelling field and the current and proposed walking trails along the path of the Yarra River).

• **Option 4:**
  - This concept would potentially deliver a more integrated golf and tennis offer and the co-location of these facilities may help to make these activities more viable in the long-term.
  - The proposed location for the relocated Tennis Centre may result in better amenity outcomes for facility users, as opposed to Option 3’s location adjacent to Project infrastructure.
  - Both archery and aeromodelling activities remain in place, and the offset land required is not as extensive as it only needs to accommodate the relocated soccer pitches.

111. I note that both Option 3 and 4 will require modifications to the Koonung Creek environment. Option 4 proposes a road bridge over the creek, adjacent the current Bulleen Road alignment, whereas Option 3 requires a more significant intervention by undergrounding part of the creek to accommodate the relocation of the Tennis Centre to the north of its current location. I agree with NELP that a detailed ecological investigation will be required to inform detailed design of these options.
112. As well as incorporating detailed specialist advice (e.g. ecology, hydrology), the successful realisation of the preferred concept design will require a shared vision for the area’s transformation between all stakeholders.

113. Since the preparation of the Options Assessment a further possible relocation site has been identified being a site located on the north side of Templestowe Road known as the Henderson’s Seed site (165 Templestowe Road, Templestowe). The land is owned by the Crown but is leased back to the operators of the seed farm.

114. I am advised that NELP have prepared an updated Option 3 that includes the potential of the long-term use of the Henderson’s seed farm (at 165 Templestowe Road) as an active sports facility. A plan summarising the option is attached in Appendix D. I am satisfied that the long-term loss of active sporting fields adjacent to Bulleen Road can be offset through a combination of bringing more land into public ownership (the Bulleen Golf Driving Range) and purposing it with public sports facilities and re-purposing Crown land for public sports facilities.

115. It is apparent that the relocation of affected open space user groups will be a complex undertaking, which will require a coordinated response from NELP, the affected and potentially surrounding Councils, and the sporting clubs. The cooperation of Boroondara and Manningham City Councils will be essential in establishing this vision, especially in relation to land tenure arrangements.

4.4.3. Permanent Impact

116. The existing public open space in this sector that will be affected in the long-term impact by the Project is set out in the table below.

**Table 2 – Open Space in Bulleen Road Sector Permanently Required**

<table>
<thead>
<tr>
<th>Open space</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bulleen Park</td>
</tr>
<tr>
<td>2 Leonis Avenue Reserve, Balwyn North</td>
</tr>
<tr>
<td>3 Unnamed reserve (north of the Boroondara Tennis Centre, bordering the Bulleen Swim Centre)</td>
</tr>
<tr>
<td>4 Unnamed reserve (eastern side of Bulleen Rd, between Golden Way and the Trinity Sports Complex)</td>
</tr>
</tbody>
</table>

117. It is apparent that the largest impacts occur with:

- The loss of the current oval and nearby open space land on the west side of Bulleen Road. It is evident that the current oval use cannot continue on the greatly reduced footprint. As discussed in relation to the temporary impacts there is, in my opinion, an excellent opportunity to utilise the Project to achieve several long-term aspirations for this part of the Yarra corridor.

- The loss of two holes of the Freeway Golf Course making the course ‘unviable’ as an 18-hole golf course.

- The loss of the Boroondara Tennis Centre that comprise 23 tennis courts and associated facilities.

118. As explained earlier the tennis centre can be reinstated in a position immediately to the north of the current location (noting that there may other suitable locations that may be found after further investigation and consultation).

119. The *Draft Land Use Framework Plan*[^6] for the Bulleen Precinct sets out four objectives for achieving the vision for the area. The fourth objective seeks to create a complementary mix of uses. This is graphically presented in the report as follows:

[^6]: DELWP Yarra River - Bulleen Precinct Land Use Framework Plan 2019 – page 9
120. I note that a number of land parcels identified over 40 years ago for incorporation into the Yarra Valley park system have not yet been acquired – see Figure 4. The Project through its impacts at other locations creates the opportunity to utilise these land parcels to allow for the relocation of key sporting activities on a permanent basis, expand the park system and assist in achieving the vision of the Draft Land Use Framework Plan. These properties include:

- The acquisition of the Bulleen Golf Driving Range (approx. 6.5 hectares) and its conversion to public open space activities.

- The transfer of the Henderson Seeds operations (approx. 13 hectares) at 165 Templestowe Road to a new location to enable the use of this land for public open space activities. A further 2.7 hectares of land could be incorporated if the adjoining private properties at 199-209 and 211-219 Templestowe Road were also acquired.

- The opportunity to utilise part of the former Bulleen Drive-In site (approx. 3.7 hectares) and the former industrial properties (approx. 1.1 hectares) on Manningham Road (that will need to be acquired as part of the project) for conservation purposes, passive recreation and the creation of new walking trail and accessways from Manningham Road to the south.

- It is estimated that if these parcels of land are utilised in the future for open space and recreation purposes there will be a significant net gain in the amount of public open space and conservation land added to the Yarra River corridor at this location as compared to that lost in Bulleen Park.

121. In total a further 27 hectares of land could be added to the public open space system of the Yarra River if each of these initiatives were pursued. This scale of new open space is significant at a metropolitan scale and can further support the regional role by offering a variety of pursuits and activities along the river corridor.

122. Importantly, the Project will help implement a long-term vision for the Yarra River in the Bulleen/Heidelberg locality.
Figure 4 – Land Status Map – Extract from Yarra River – Bulleen Precinct Land Use Framework Plan
123. I also note that whilst the expanded open space will generally serve a regional function and not a local function the additional space should be considered as part of the potential off-set for the loss of open space in localities such as North Balwyn that are proximate to the Yarra River corridor.

4.4.4. Impact on private school sport and recreation assets

124. I note that the Sport and Recreation Preliminary Options Assessment prepared for the reference design excludes an analysis of the impact to the private school sports and recreation facilities along Bulleen Road. The below points and Figure 5, which has been based on the Horizontal Alignment Plans and Technical Report I Social, illustrates the extent of project impacts:

**Trinity Grammar School Sporting Complex:**

- 26% of the site area affected during construction, 4% during operation
- Three playing fields will be impacted by temporary occupation and the north-western tennis courts will be relocated within school grounds prior to the project construction.

**Marcellin College:**

- 20% of the site area affected during construction, 1% during operation
- Three playing fields will be impacted by temporary occupation.

---

7 I have been instructed that the tennis courts will be replaced following completion of the tunnels in this area.
Carey Baptist Grammar Sports Centre:

- 9% of the site area affected during construction, 3% during operation
- Permanent acquisition of land adjacent to Bulleen Road (including two netball/tennis courts).

125. When viewed as a whole, there is a cumulative impact across the three school landholdings, being:

- Five (5) of the 21 sporting fields across the three schools will be occupied during construction
- 8 tennis courts (recognising that these will be immediately replaced) and 2 netball courts will be permanently acquired to accommodate the proposed road infrastructure.

126. Although temporary (with the exception of the Carey tennis courts), these works will impact upon students and community members for up to several years during construction. The Marcellin College land will be particularly impacted, with temporary occupation affecting three of its six fields (as set out for cricket). Along with its primary use for education, the school grounds are used by school sports program and school competition, and Old Collegians sports clubs which is a critical part of the school community.

127. While the impact on the schools’ sports and recreation facilities is largely temporary, the Project will need to effectively address the cumulative impact that this area will face. I am instructed that a separate process is being undertaken to address the proposed temporary and permanent impacts on these school facilities.

128. I note that while NELP is endeavouring to find a solution with the affected schools, there is no mechanism in the Environmental Management Framework to ensure that NELP develops a formal strategy with affected parties to mitigate or manage temporary occupation impacts. This is reflected in several of the submissions (e.g. Nos. 233, 601 and 718), where schools and sporting clubs have highlighted the uncertainty felt around the impact of temporary occupation and potential relocation of activities.

129. In my opinion, it may be desirable to create a relocation plan for Trinity and Marcellin Colleges to manage the temporary occupation impacts and provide appropriate interim access for the Carey Sports Complex. This requirement would not be needed if NELP and the relevant school were to reach agreement.

4.5. THE EASTERN FREEWAY CORRIDOR

130. As part of the Project, the Eastern Freeway is proposed to be widened in sections to accommodate new lanes, modifications to lane arrangements to separate short and long trips, and provision for the new Doncaster Busway. As a result, changes are proposed to the current road reserve and adjacent open spaces that have been established since the construction of the original freeway project in the late 1970s.

131. Open space land use impacts along the corridor are generally located to between Bulleen Road and Springvale Road. This section of the report addresses these potential impacts.

132. From a land use perspective, the Eastern Freeway corridor open space network plays an important local and regional recreation and active transport role. The linear park system accommodates a network of shared paths that are not only well utilised by nearby residents and community members, but also recreational and commuter cyclists, either travelling between suburbs or greater distances (e.g. connecting into the East Link trail network and beyond). The corridor is also home to informal and formal recreation areas and facilities, such as the sports fields at Elgar Park, various playgrounds, and grassed areas for ball games and play.

133. The construction of the Project will impact on the use of the Eastern Freeway corridor linear park network in the following ways:

- Permanent land use changes due to construction of Project infrastructure
- Temporary occupation of open space for Project construction.

134. These impacts are detailed further in the following sections.
4.5.1. Open space required for temporary occupation

NELP has noted that areas of open space along the Eastern Freeway corridor will be required for temporarily occupation for construction compounds or for the construction of paths and/or drainage features. These areas are detailed in the following table.

<table>
<thead>
<tr>
<th>#</th>
<th>Open space</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Koonung Reserve, in proximity to Thompsons Road and Kampman Street</td>
<td>Land occupied for construction compound, impacting on informal open space use during construction</td>
</tr>
<tr>
<td>2</td>
<td>Koonung Creek Reserve, between Mountain View Road and Wandeen Street</td>
<td>Land occupied for construction compound, and construction of paths and drainage features. Temporary occupation of this area will impact on use of informal open space and shared paths</td>
</tr>
<tr>
<td>3</td>
<td>Koonung Creek Reserve, at intersection of Doncaster Road and Eastern Freeway</td>
<td>Land occupied for construction compound, impacting on informal open space use during construction, as well as shared path network</td>
</tr>
<tr>
<td>4</td>
<td>Koonung Creek Wetlands/Elgar Park, between Jocelyn Avenue and Vivianne Avenue</td>
<td>Land occupied for construction of paths and drainage features, resulting in interruption to Koonung Creek Trail shared path network</td>
</tr>
<tr>
<td>5</td>
<td>Katrina Street Reserve, in proximity to Stanton Street</td>
<td>Land occupied for a construction compound, reducing north-south connectivity between Katrina Street Reserve and the Koonung Creek Reserve</td>
</tr>
<tr>
<td>6</td>
<td>Elgar Park, at intersection of Elgar Road and Eastern Freeway (PPRZ)</td>
<td>Land impacted due to occupation for construction of drainage features (north-west field) and construction compound (north-east field), as well as potential detour of Koonung Creek Trail shared paths</td>
</tr>
<tr>
<td>7</td>
<td>Eram Park/Koonung Creek Linear Park, between Tram Road and Wetherby Road</td>
<td>Land occupied for construction of paths and drainage features (as well as permanent road infrastructure within the southern extent of the parkland). Koonung Creek Trail shared path will require multiple detours during construction, especially in proximity to Norfolk Circuit</td>
</tr>
<tr>
<td>8</td>
<td>Koonung Creek Reserve (adjacent to Boronia Grove Reserve) and Eastern Freeway Linear Reserve (in proximity to Middlefield Drive)</td>
<td>Land occupied for construction of paths and drainage features, may disconnect shared path network</td>
</tr>
<tr>
<td>9</td>
<td>Koonung Creek Linear Park, in proximity to Darvall Street and Fink Court</td>
<td>Land occupied for construction of paths due to construction of new shared use path overpass</td>
</tr>
<tr>
<td>10</td>
<td>Eastern Freeway Linear Reserve, between Winifred Street and Springvale Road</td>
<td>Land occupied for the construction of paths (western land) and for a construction compound (eastern land), which will impact upon shared path connectivity and informal recreation</td>
</tr>
</tbody>
</table>

As noted earlier some parts of the current ‘open space’ network along the Eastern Freeway are located within a Road Zone which will be utilised for that purpose by the Project. Key locations that find this circumstance include:

- That part of the Project between Doncaster and Elgar Roads (with only a small portion of the PPR zoned land being required).
- That part of the Project between Elgar and Tram Roads.
- The southern side of the Project between Station Street and Middleborough Road where the Road Zone extends to the rear (north) boundaries of the adjoining residential properties.
- The southern side of the Project between Middleborough Road and Surrey Road where the Road Zone extends to the rear (north) boundaries of some of the adjoining residential and industrial properties.
• The southern side of the Project between Surrey Road and Springvale where the Road Zone extends to the rear (north) boundaries of some of the adjoining residential properties.

137. These areas contain well established tracts of parkland and, these larger open spaces, are largely located within a Public Park and Recreation Zone (PPRZ). Areas of temporary occupation along the corridor are shown in Figure 6, which illustrates the extent of impact on the Koonung Creek Trail during construction.

138. The key land use impact created by the proposed extent of temporary occupation is that the open space corridor’s use would be diminished during construction. Commuter cyclists would be impacted through the likely time penalties imposed by shared path route detours, recreational trail users would likely seek to avoid detours and areas of reduced amenity (e.g. areas adjacent to construction compounds), and users of informal and formal open space (e.g. sports teams based at Elgar Park) would need to seek alternative locations.

139. While open space and shared path users will likely tolerate isolated sections of temporary occupation, the use of the corridor will be significantly impacted if the majority of the aforementioned areas are occupied at any one time. This will be compounded if multiple path closures and detours are in effect for years at a time.

140. In my opinion, construction of the Eastern Freeway project infrastructure should be coordinated in a manner that reduces widespread disruption to the Koonung Creek Trail during the construction period. If periods of widespread disruption are unavoidable, detour routes should follow as efficient a route as possible and be clearly communicated in advance. This can be achieved through revisions to the EPRs.

141. The Sport and Recreation Options Assessment prepared by NELP (Appendix F of Technical Report I Social Appendices) considers the impact upon Elgar Park’s northern ovals. Relocation options have been considered for both senior turf cricket and junior cricket games during the construction period. I accept that due to current demand for active open space and projected participation rates, relocation opportunities in the local area are limited.

142. However, the relocation program developed by the Project demonstrates that the clubs can be accommodated at alternate grounds during the construction period – see Appendix D.

143. I note that Whitehorse City Council’s (Submission No. 716) preferred location for the construction compound/laydown area is Eram Park not Elgar Park. I also understand that it is Council’s view that at this stage insufficient detail has been provided by NELP about the proposed management of the open space during construction. I note that the Sport and Recreation Options Assessment sets out several practical reasons as to why Eram Park cannot effectively operate as an area for a construction compound.

144. Based on the high-level analysis to date, and the content of submissions, further consultation with affected user groups and Whitehorse City Council should take place and this should be followed by the development of a strategy that details the extent of works within Elgar Park (including timing) and the temporary relocation of activities/user groups. The development of this plan should be reflected in the Project EPRs.

---

8 North East Link EES - Technical Report I Social Appendices page 279
Figure 6 – Eastern Freeway corridor [EG3] open space impacts between Bulleen Road and Springvale Road

Loss of open space for project infrastructure:
1. Koonung Reserve
2. Koonung Creek Reserve
3. Eram Park

Areas of temporary occupation:
1. Koonung Reserve
2. Koonung Creek Reserve
3. Koonung Creek Reserve
4. Koonung Creek Wetlands/Elgar Park
5. Katrina Street Reserve
6. Elgar Park
7. Eram Park/Koonung Creek Linear Park
8. Koonung Creek Reserve
9. Koonung Creek Linear Park
10. Eastern Freeway Linear Reserve
4.5.2. **Open space permanently required for project infrastructure**

145. There are several areas of zoned open space land currently along the Eastern Freeway corridor, which are proposed to be used for the Project infrastructure. Open spaces that will be affected are detailed in the following table.

**Table 3 – Open Space in Eastern Freeway Sector Permanently Required**

<table>
<thead>
<tr>
<th></th>
<th>Open space</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Koonung Reserve, to the north of the Eastern Freeway (east of Thompsons Road)</td>
</tr>
<tr>
<td>2</td>
<td>Koonung Creek Reserve, between Bulleen Road and Doncaster Road (to the south of the Eastern Freeway)</td>
</tr>
<tr>
<td>3</td>
<td>Koonung Creek Linear Park (Doncaster/Donvale/Box Hill North)</td>
</tr>
<tr>
<td>4</td>
<td>Koonung Creek Wetlands to the west of Elgar Park near Valda Avenue</td>
</tr>
</tbody>
</table>

146. These areas are shown in **Figure 6**, which illustrates the locations of permanent works and temporary occupation along the Eastern Freeway open space corridor.

147. It is apparent that in two locations the amount of zoned public open space available to the adjoining local communities will be reduced – being Koonung Creek Reserve (Balwyn North) and Koonung Creek Linear Park (Doncaster/Donvale/Box Hill North). The other two locations lose relatively small amounts of zoned public open space with most of the Project infrastructure falling within the existing Road Zone in those locations.

148. I note that whilst the quantum of land lost at Koonung Creek Reserve (south of the freeway) near Carron Street and Kosciusko Road is large, the actual impact on useable open space is small. The principal loss in this section is of mature trees and associated vegetation that visually separate the area from the existing freeway.

149. The extent of PPRZ land that is required at the Koonung Creek Linear Park has a width of approximately 40 - 50 metres (at a point approximately 450 metres to the east of Tram Road) and a length of approximately 650 metres. The land is currently open passive space with stands of mature vegetation that is elevated above the level of the Eastern Freeway. The loss of land will lessen the amount of useable passive open space however the remaining parkland will be able to accommodate all of the activities that the space is used for.

150. The impact on Koonung Reserve near Thompsons Road and Kampman Street is a small loss of land zoned PPRZ. The most noticeable impact will be the reduction in separation distance from the freeway and the creation of a constrained width to allow for the connection between the open space areas that make up the reserve.

151. The amount of land to be acquired at the Koonung Creek Wetlands is relatively small but the loss will be exacerbated by the full use of the existing road reserve for the Project infrastructure. The road reserve includes part of the course of the Koonung Creek and associated vegetation that currently creates a well vegetated buffer between the Eastern Freeway and the two waterbodies that will be retained in the reserve.

152. I am instructed that others will review the consequential visual impacts arising from the changes in these locations.

153. It is considered that the loss of open space at three of the abovementioned locations (Nos. 2, 3 and 4) will cause a significant impact in the short to medium-term at the local level due to the loss of passive open space and especially the loss of the significant existing buffer vegetation that is located in both the open space and road reserve.

154. Local residents will notice the loss, although I note that the area of land available for activities will generally similar to the current circumstances. The Project should seek to reduce these areas further and protect existing stands of trees outside the actual new road route wherever possible. I note that the relevant EPR (LP1) is designed to achieve this outcome.
155. Technical Report E Land Use Planning states that open space land not required for permanent project infrastructure is to be returned to its existing use post-construction. However, this intent is not explicit in EPR SC4 and it should be revised accordingly.

156. Whilst there is an impact for local resident’s, I do not consider that the loss of the public open space land is such that the Project should not proceed. It is readily apparent that great care will need to be taken in the design and location of the acoustic barriers and the associated buffer planting to ensure that the open spaces regain their current character.

4.6. **ASSESSMENT OF OVERALL IMPACTS ON OPEN SPACE**

157. The above assessment demonstrates that there is an effective process underway to facilitate the relocation of the various sporting clubs and their operations to alternative locations for the course of the construction of the Project.

158. It is acknowledged that the Project will also take existing open space along the northern corridor around Greensborough Road, the Bulleen Road corridor and the Eastern Freeway corridor. As mentioned previously the growth of the city creates an intensifying competition for land. In this circumstance I consider it is appropriate to use this open space land for the creation of a major link in the metropolitan transport network.

159. However, I also consider it is important for the Project to assist in generating opportunities for new open space either directly on land affected by the Project or in other locations that would serve the local communities. The Project has the potential to positively add to the supply of public open space and recreational facilities through:

- The upgrading of sporting facilities at other locations to accommodate the relocation of clubs on an interim basis – e.g. Greensborough College (Submission 551).
- Creation of new open space (0.85 hectares) alongside and over the Greensborough Road part of the Project.
- The acquisition of the Bulleen Golf Driving Range (approx. 6.5 hectares) and its conversion to public open space activities.
- The medium to long-term opportunity to transfer the Henderson Seeds operations (approx. 13 hectares) at 165 Templestowe Road to a new location to enable the use of this land for active sporting and public open space activities.
- The opportunity to utilise part of the former Bullen Drive-In site (approx. 3.7 hectares) and the former industrial properties (approx. 1.1 hectares) on Manningham Road (both of which will need to be acquired as part of the Project) for conservation purposes, passive recreation and the creation of new walking trail and accessways from Manningham road to the south.

160. It is estimated that if these parcels of land (or a combination of some sites) are utilised in the future for open space and recreation purposes there would be a net gain in the amount of public open space and conservation land added to the Yarra River corridor at this location as compared to that lost in Bulleen Park.

161. As mentioned before, it is desirable to undertake a detailed analysis of the amount of public open space land that will be permanently taken by the Project to enable an appropriate assessment of the net impact of the Project on the supply of open space along its route. Based on my preliminary analysis it is possible that up to 27 hectares of new open space could be added to the supply as part of the Project mitigation works and the return of acquired land for open space purposes.

162. It is most likely that the amount of public open space permanently lost to the Project (as opposed to land zoned for road purposes) will be significantly less than this amount. However, this should be confirmed as part of satisfying the overarching planning policy of Clause 19.02-6S that the reduction in open space is replaced with parkland of equal or greater size and quality.
4.7. ENVIRONMENTAL PERFORMANCE REQUIREMENTS

163. Having regard to the above assessment it is my opinion that the EPRs for Social and Community should be revised to formalise an approach to the relocation efforts and the reinstatement of the reserve grounds/facilities after they are no longer required. The aim of the modified controls should be to:

- Provide confidence to affected stakeholders that engagement and adaptation or relocation efforts will continue following the planning approval for the Project.
- Provide a nexus between the Project and those works and processes, required to be undertaken beyond either the boundary or scope of the Project, to enable the temporary or permanent relocation of activities from affected sporting, recreation and other facilities.
- Provide an approval process for relocation plans where agreement between parties cannot be obtained.

164. As was done in the Metro Tunnel Project EPR\(^9\), it may be beneficial to formally produce a transformation and relocation strategy for the Bulleen Park area, in consultation with the Councils and affected sporting organisations. Such a strategy should allow for early actions to take place to facilitate the relocation of sporting clubs and other facilities whilst the strategy is being finalised. The strategy could comprise both a response to the temporary impacts and a response to the loss of land that requires permanent relocation of facilities. There will need to be an approval mechanism for this strategy, to ensure that replacement facilities can be delivered in a timely manner.

165. The Land Use (or Social and Community) EPRs should be revised to:

- Ensure that all efforts are made to minimise the extent of public open space land required for construction areas, to design the extent of construction areas to minimise disruption to the share path routes and avoid and protect existing mature stands of trees where practicable.
- Make it clear as an obligation of the Project and contractor that open space land not required for permanent project infrastructure is to be returned to its existing use post-construction as quickly as possible.

---

\(^9\) Refer to Metro Tunnel Environmental Management Framework, Version 3, August 2018 – EPRs LU1 and SC7
5. IMPACTS ON BULLEEN INDUSTRIAL PRECINCT

5.1. OVERVIEW

5.1.1. Planning Policy

166. The Planning Policy Framework provides a focus on industrial areas as a part of the metropolis’ economic base and opportunities for employment. Clause 17.03-1S seeks to ensure the availability of industrial land using strategies including:

- Protect and carefully plan existing industrial areas to, where possible, facilitate further industrial development.
- Avoid approving non-industrial land uses that will prejudice the availability of land in identified industrial areas for future industrial use.

167. Clause 17.03-2S seeks to facilitate the sustainable development and operation of industry and includes the strategy to protect industrial activity in industrial zones from the encroachment of commercial, residential and other sensitive uses that would adversely affect industrial uses.

168. The importance of the precinct is highlighted in several of the City of Manningham’s local policies including:

- Clause 21.08 Industrial Policy that Manningham has few areas zoned industrial and that it is important to keep these areas available for industrial uses. It further envisages that parts of the commercial and industrial areas of the Doncaster Hill Activity Centre will be phased out over time as it redevelops.
- The subsidiary Industrial Areas Policy (Clause 22.16) notes that the industrial centres of Bulleen and Templestowe are located within high quality landscapes and vistas and that with the desire to consolidate industrial functions at these locations it is important that the area does not have a detrimental impact on the existing landscape.
- These policies are complemented by Clause 22.10 – Bulleen Gateway Policy that seeks to ensure that the integrity of the nearby residential areas is maintained and to encourage high standards of development and built form to enhance the gateway across the Yarra River to the municipality.

5.1.2. Impacts on the Bulleen Industrial Precinct

169. It is proposed that the Project will provide for an interchange between the new link and the major east west route at Manningham Road near Bulleen Road. This locality currently accommodates an industrial precinct which is largely bound by Bridge Street to the north, Bulleen Park to the south and west, and Bulleen Road to the east. and has an approximate area of 9.5 hectares. The precinct and surrounding area are shown in Figure 7.

170. To the north-west of the industrial precinct of Manningham Road is Banksia Park that forms part of the Yarra Valley parklands. On the west side of Bulleen Road directly opposite the industrial area is a small commercial cluster (zoned Commercial 1) that functions as part of the broader precinct.

171. The industrial precinct is currently home to approximately 80 businesses that employ approximately 800 people. The types of businesses range from the industrial (concrete batching plant) to commercial (offices) with many businesses specialising in automotive repairs and maintenance.

172. The total supply of industrial land within the City of Manningham is only 15.3 hectares. The precinct is the largest (9.5 ha.) of three localities in Manningham with an Industrial zoning with the other two locations (Templestowe Road and Websters Road) comprising relatively small areas. The area is likely one of the largest concentrations of employment within the municipality, other than the larger activities centres.

173. It is proposed that all of the industrial precinct located on the west side of Bulleen Road be acquired to provide for the creation of an interchange with all on/off movements contained to the south side of Manningham Road. It is noted that parts of the precinct will also serve as a works compound to support the construction of the Project.
5.2. SUMMARY OF ISSUES RAISED

174. I have read the public submissions in respect of the EES and draft Planning Scheme Amendment for the Project and identified those that are relevant to matter of impacts on the Bulleen Industrial precinct as relevant to my area of expertise. A list of the submissions received regarding the impacts on the Bulleen Industrial Precinct are attached in Appendix E.

175. There are four consequential impacts arising from the proposal to utilise the land for an interchange and construction compound being:

- The loss of the business connectivity and relationships with customers, established business networks and interdependencies potentially leading to business failure upon relocation.
- The need for existing businesses to find suitable alternative premises to accommodate their business.
- The reduced number of employment opportunities within the Bulleen locality.
- Potentially diminished accessibility to services currently provided in the precinct for nearby communities.

176. I note that many of the submissions cover similar issues. One land use within the precinct, being the Bulleen Art and Garden Centre attracted a significant number (72) of submissions. Many submitters were concerned that the centre provides a rare service for many like-minded gardeners and is a real focal point for the Bulleen and surrounding communities. The Centre is also home to an allied use being Sustainable Gardening Australia that promoted sustainable gardening practices. The submissions in support of the existing business have made suggestions ranging from re-designing the Project to avoid the need to acquire the garden centre to re-establishing the centre at another nearby location in conjunction with other sustainability activities.

177. Another issue raised included a questioning of the need for the Manningham Road interchange with the Project.
5.3. ASSESSMENT OF IMPACTS ON BULLEEN INDUSTRIAL PRECINCT

5.3.1. No Interchange at Manningham Road

178. Some submissions in response to the EES have suggested that there is no need for an interchange at Manningham Road. I understand that matter will be addressed by others but observe that if there is no interchange at Manningham Road then the traffic using the Banksia/Manningham corridor to gain access to the North East Link would need to continue using either Rosanna Road or Bulleen Road depending on their direction of travel. With the Project as currently designed this traffic is taken off the network until it is closer to its journey’s end and provides the opportunity for a number of streets to carry less traffic and provide some flexibility in the network.

179. If a more traditional interchange designed was used that included links running north from Manningham Road to the link, then it would be necessary to utilise public open space land being part of the Banksia Park.

180. The resultant position is that any interchange at this location will have consequential impacts on the existing uses and development in the area.

5.3.2. Impact on Users of the Bulleen Industrial Precinct

181. In my opinion the proposed closure of the Bulleen Industrial precinct (BIP) is the most significant impact of the proposed reference design given that it has a number of effects as set out above. The lack of alternative locations elsewhere within the local area to re-establish relocating businesses compounds the impact as the ‘relationships’ between businesses and their customers, particularly those offering services to individuals, will be severed. Whilst a business can physically relocate, it may not be possible to retain the links due to distance between the business and the customer.

182. As already discussed, there is no other industrial zoned land in Manningham, other than the two small areas mentioned earlier and they are fully occupied. The Manningham municipality does not have any land zoned Commercial 2 that could accommodate many of the types of uses currently found in Bulleen.

183. I understand that a review\(^{10}\) of possible relocation sites has been carried out on behalf of the authority that confirms there are three locations of Industrial 1 or 3 zoned land within a 5 kilometres radius of the precinct being:

- The Preston Industrial Precinct on Bell Street is the nearest being approximately 4.65 kilometres by road to the west of the BIP.
- The Heidelberg West Industrial Precinct located on the north side of Dougharty Road and is approximately 5.3 kilometres by road to the north-west of the BIP.
- Fairfield/Alphington Industrial Precinct located at the intersection of Darebin and Grange Roads and is approximately 5.5 kilometres by road to the south-west of the BIP.

184. Each of these locations are to the west of the BIP hence any users of the BIP have an extended trip to access any relocated or similar businesses in these locations, whereas any users located to the west will have a shorter journey time.

185. I have had prepared two maps showing the relative catchments of the BIP and other localities based on peak hour drivetimes of 5, 10 and 15 minutes. The BIP has a 15-minute catchment that extends approximately 5 – 6 kilometres and reaches each of the abovementioned industrial precincts to the west. To the east the catchments extends out to the intersection of Reynolds and Blackburn Roads and south and south-east beyond the Eastern Freeway to Box Hill North, Balwyn North and Kew East.

---

\(^{10}\) EY Consulting – North East Link Project - Opportunities for Relocation: Bulleen Industrial Precinct, March 2019
Figure 8 – Map of 5, 10- and 15 minutes drive-time catchment for Bulleen Industrial Precinct – Source Urbis
186. A second map showing the drive-time catchments for three locations being:

- The Preston Industrial Precinct.
- A small ‘service’ centre at Bell Street, Heidelberg Heights that contains several service type businesses similar to those found in the BIP. I note that notwithstanding the current range of uses and character of the centre the land has now been zoned Mixed Use.
- The south-west precinct (No. 7) of the Doncaster Activity Centre that currently contains a range of service businesses such as car servicing and repair, equipment hire and commercial and industrial sales.

187. This map overlays the catchment of the BIP (blue lines) with the catchments of the three locations (ochre shades) and highlights that the three locations, provided they have equivalent services, will offer similar accessibility to most of the affected communities as that of the BIP. A small area of Kew East area will be slightly beyond the 15-minute drive time catchment of the three localities.

188. Whilst the local community may lose access to a preferred supplier the drive time analysis demonstrates that several locations can provide equivalent accessibility. A broader review of the location of land zoned Commercial 1, Commercial 2, Industrial 1 and Industrial 3 shows that other locations will also be capable of proving alternate services to the communities that currently rely on services located at the BIP.

189. I am very aware of submissions raising concerns about losing access to a specific service (e.g. Bulleen Art and Garden Centre) or the severance of a strong business relationship or service that is essential to the submitter. The fact that other localities may provide similar services does not overcome the concerns that the nature of the business itself, the convenience of the location or other factors that will lost by the acquisition of the land.

5.3.3. Impact on Employment

190. I have reviewed the ABS 2016 Census data for Place of Work by residential location for the Bulleen SA2 as provided by the ABS in response to a request for a more detailed analysis. I note that the SA2 covers a larger area than the BIP and includes the private school sporting fields and Marcellin College. The ABS recorded responses for 1,142 people who worked in the area covered by the reduced SA2 (noting that some people do not provide this information). If people working in education are excluded the number falls to 888 people. Nearly half of these people came from suburbs that were within 6 kilometres of the BIP, with approximately 25% of workers from Bulleen and the immediately adjoining suburbs.

191. Further analysis reveals that the residential locations of the current workforce is generally located in areas served by a series of east west connections to the BIP. This includes:

- Bell Street – Banksia Street - Manningham Road
- Heidelberg-Warrandyte Road – Reynolds Road – Templestowe Road
- Doncaster Road – Manningham Road

192. It is reasonable to infer from this data that the BIP currently offers local employment opportunities. The removal of the businesses will reduce the opportunity for local employment and potentially reduce the opportunity for employment within the sub-region due to the lack of new employment land.

193. That is whilst industry and other forms of employment are generally becoming more efficient in terms of space occupied, certain businesses require large open sites. The survey undertaken by EY of other industrial precincts has confirmed that there are few, if any, vacant sites and very few sales of industrial sites within those locations (but a reasonable number of properties for lease). The BIP hosts a number of these businesses including builders and demolition storage yards and a concrete batching plant.
Figure 9 – Map of 5, 10 and 15 minutes drive-time catchments for Preston, Heidelberg and Doncaster locations – Source Urbis

Drivetimes are modelled in ArcGIS online, using real-time and historical traffic modelling provided by HERE.

Individual peak hour drivetimes have a high degree of variability, the mapped drivetime breaks therefore indicate average weekday travel time for arrival at the destination at 7pm.

- Manningham Rd, Bulleen
- Comparison Sites
- Employment Land
- Peak Hour Drivetime to Subject Site
  - 5 minutes
  - 10 minutes
  - 15 minutes
- Peak Hour Drivetime to Comparison Sites
  - 5 minutes
  - 10 minutes
  - 15 minutes
A key direction of Plan Melbourne and the supporting planning policy framework is to create increased opportunities for employment in areas where there are significant residential populations. Whilst Plan Melbourne is primarily focussing on the significant metropolitan employment hubs it is also seeking to improve access to job opportunities across many suburban locations of metropolitan Melbourne.

A review of available employment zones (Commercial 1, Commercial 2, Industrial 1 and Industrial 3) within and near to the City of Manningham highlights that there are few employment areas to the eastern part of the sub-region see Figure 9.

It is apparent that in the immediate short term (i.e. two years) there is no opportunity to provide alternative locations within the immediate area for many of the current businesses within the BIP. Further even those businesses that could locate within a Commercial 1 zoned area may find the rent costs for those types of premises too high compared to the generally lower rents found in industrial areas.

It is concluded that most businesses will need to relocate to different suburbs be it to the west, north or south-east depending on the nature of the business.

Figure 10 – Map of Industrial, Commercial 2 and Activity Centre zones in sub-region around Bulleen
– Source VicPlan

With the loss of this employment from the Bulleen Area it is considered several approaches could be put into effect to mitigate the longer-term impact of the loss of employment land being:

- The identification of a suitable short-term replacement location in the near locality that can accommodate some, or all, of the industrial type activities being displaced.
- The reutilisation of land at Bulleen that is not required for the ongoing operation of the Project for employment purposes.
New Industrial Land Option

199. It is understood that the City of Manningham has identified a potential site to accommodate industrial uses being land at Websters Road, Templestowe. I understand that the site is currently used for green waste disposal and management and is adjacent to the small industrial precinct on the south side of Websters Road, a power terminal station to east and the municipal depot to the south-east – see Figure 11.

![Figure 11 – Location of possible opportunity for additional industrial land at Websters Road, Templestowe](image)

200. The site has an area of approximately 4.4 hectares, is in a Public Use Zone 6 (Local Government) and located outside the Urban Growth Boundary (UGB). Given the location of the site in an area already used for a range of industrial purposes and its accessibility to the broader area it is considered that further detailed consideration should be given to the opportunity of utilising the site for industrial purposes.

201. Key considerations in assessing the matter further will include, the appropriateness of changing the UGB, potential impacts on the residential area to the west and potential impacts on the Yarra River corridor. If the assessment of the appropriateness or otherwise of the proposal can be expeditiously pursued there is a prospect that the land may be made available to businesses relocating from Bulleen (depending on when that land is required). Alternatively, the land will offer an opportunity for new businesses to establish providing both employment opportunities and services to the surrounding communities.

Reinstating Employment Land at Bulleen

202. The opportunity to utilise part of the BIP for new employment following the completion of the Project is in my view a realistic prospect given that much of the land require to enable construction is not required for the final interchange design. Indeed, the draft Yarra River - Bulleen Precinct Land Use Framework Plan 2019\(^\text{11}\) considers the role of the BIP and concludes:

> Recognising the role of the Bulleen Industrial Precinct has played in providing local employment and services, this draft Framework recommends a renewal of community and employment uses in the precinct, where suitable, following construction of North East Link Project.

---

\(^{11}\) DELWP - Yarra River - Bulleen Precinct Land Use Framework Plan 2019 – page 36
Figure 12 – Manningham Road Interchange – Indicative Development Opportunity
– Source NELA and Urbis
203. Having regard to the reference design I have prepared an assessment of the opportunity to utilise the ‘surplus’ land. The plan describing the site development options is at Figure 12. The reference design creates the opportunity for the creation of three separate parcels of land as described in Table 4.

Table 4 – Description of Site Development Options for Bulleen

<table>
<thead>
<tr>
<th>Site</th>
<th>Area (Ha)</th>
<th>Frontage</th>
<th>Description</th>
</tr>
</thead>
</table>
| A    | 4.75      | Manningham Road: 170 m  
Bulleen Road: 225 m | Site A is located to the immediate east of the proposed North East Link tunnels, roughly covering the area currently serviced by Greenaway Street and Kim Close. It stretches from Bulleen Park at its south to Manningham Road at its north. On its west it would back onto the freeway, with a portion limited by the Emergency Smoke Exhaust setback (approximately 50 metres on all sides). It is the largest of the sites with an area of 47,500 sqm. It would also have the most significant frontage to the existing and proposed road network. |
| B    | 0.92      | Bridge Street: 50 m  
Bulleen Road: 150 m | Site B is least affected by the North East Link’s permanent road infrastructure, comprising the land bounded by Manningham Road to the south, Greenaway Street to the east, Bridge Street to the north, and Bulleen Road to the west. A permanent substation for the project is proposed in the vicinity of Site B. Some or all of Site B may be required for the Project’s Tunnel Control Area – a 12,500 sqm area that may include a 2-storey operations building, maintenance yard, and car parking. |
| C    | 1.10      | Manningham Road: 170 m | Site C is bounded by a realigned portion of Manningham Road, a small segment of the North East Link to the west and Bulleen Park. It would see relatively little change to its area, with frontages to Bulleen Park constant. |

204. The following analysis of the issues and opportunities for the development options confirms that the sites are appropriate for use and development for employment purposes and matters such as access can be managed. As set out in the table the final extent of land available will be subject to matters such as flood mitigation (Site C), proximity to tunnel and ability to build over cut and cover parts of the ramps (Sites A & C) and the extent of land required for the tunnel control centre.

Table 5 - Site issues and opportunities analysis

<table>
<thead>
<tr>
<th>Site</th>
<th>Issues</th>
<th>Opportunities</th>
</tr>
</thead>
</table>
| A    | • Site access largely limited to left-in, left-out off major arterial roads, reducing connectivity and convenience for land users.  
• Proximity to cut and cover tunnel and trench infrastructure may reduce development capacity  
• Amenity impacts from surrounding arterial road environment  
• Southern and western portion of land subject to inundation (although this is proposed to be remedied through the construction of a flood wall along the | • Good exposure to passing traffic on Bulleen Road and Manningham Road  
• Potential left in/left out access opportunity from Bulleen Road  
• Potential left in/left out access opportunity from Manningham Road  
• Opportunity to regrade southern portion of site through project construction  
• Dimensions of site allow for a range of subdivision outcomes, including development on either side of an internal access road  
• ‘Greenfield’ development opportunity in an established area |
<p>| B    |        |               |
| C    |        |               |</p>
<table>
<thead>
<tr>
<th>Site</th>
<th>Issues</th>
<th>Opportunities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>western boundary of the project infrastructure</td>
<td>• Dramatically improved access to the Eastern Freeway and the M80 Ring Road</td>
</tr>
<tr>
<td></td>
<td>• Proximity to Smoke Extraction Building and associated exclusion buffer (assume 50 metres to all sides of structure)</td>
<td>• Access to local convenience retail (Bulleen Road)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• An ‘island’ site separated from ‘sensitive uses’ in the surrounding area</td>
</tr>
<tr>
<td>A</td>
<td>• Proximity to proposed Tunnel Control Centre and permanent substation – potential for use conflicts</td>
<td>• Good exposure to passing traffic on Bulleen Road, Bridge Street and Manningham Road</td>
</tr>
<tr>
<td></td>
<td>• Location of project infrastructure (Tunnel Control Centre and permanent substation) may reduce area for development</td>
<td>• Access available from Bulleen Road and Bridge Street</td>
</tr>
<tr>
<td></td>
<td>• Proximity to existing sensitive uses may create future land use conflicts:</td>
<td>• ‘Greenfield’ development opportunity in an established area</td>
</tr>
<tr>
<td></td>
<td>o Existing childcare centre on the northern side of Bridge Street</td>
<td>• Dramatically improved access to the Eastern Freeway and the M80 Ring Road</td>
</tr>
<tr>
<td></td>
<td>o Existing residential properties on the eastern side of Bulleen Road</td>
<td>• Access to local convenience retail (Bulleen Road)</td>
</tr>
<tr>
<td></td>
<td>• Amenity impacts from adjacent arterial road environment</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Proximity to high value environmental area (Yarra Parkland – Floodplain Riparian Woodland)</td>
<td>• Good exposure to passing traffic on Manningham Road</td>
</tr>
<tr>
<td></td>
<td>• Project works on Manningham Road may reduce access opportunities to the site</td>
<td>• ‘Greenfield’ development opportunity in an established area</td>
</tr>
<tr>
<td></td>
<td>• Proximity to cut and cover tunnel infrastructure (eastern portion of the site) may reduce development capacity</td>
<td>• Dramatically improved access to the Eastern Freeway and the M80 Ring Road</td>
</tr>
<tr>
<td></td>
<td>• Amenity impacts from adjacent arterial road environment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Land subject to inundation (may limit development capacity)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Site may be subject to flooding – this is dependent on the final design of the Project and associated floodwall.</td>
<td></td>
</tr>
</tbody>
</table>

205. The analysis indicates that up to 6.77 hectares of new employment land could be created around the new Manningham Interchange for the Project. Parts of the overall site may not be able to accommodate large buildings or any building (i.e. over cut and cover ramps) but could accommodate at-grade car parking and landscaping. The immediate opportunity would be replicating local businesses impacted by the works, given strong demand and no alternative sites in the locality.

206. It is considered that the re-use of the land for employment purposes is appropriate for the locality and can be accommodated in the Yarra River corridor environment due to the separation of the sites from the river and its immediate environs by the existing and proposed roadways. The existing parkland to the immediate west and south of the BIP is to be fully retained throughout the construction of the Project and features mature trees that provide an effective buffer between the activities if the BIP and the Yarra River.

207. In summary, the re-utilisation of the site for new employment purposes will replace up to 6.77 hectares of the original 9.5 hectares of the BIP. If Council can provide new industrial land at Websters Road, then another 4.4 hectares would be added providing an overall total of 11.17 hectares of employment land at the conclusion of the construction of the Project. If Site C is excluded due to flood or its requirement for open space, then the total declines to 10.07 hectares.
208. It is acknowledged that at this stage the re-utilisation of the Bulleen industrial land is not a confirmed part of the Project. I however note that proposed EPR LP1 requires:

The project must be designed and constructed to:

- Minimise the design footprint and avoid, to the extent practicable, any temporary and permanent impacts on the following land uses:
  - Parks and reserves
  - Significant landscapes around the Yarra River
  - Other sensitive land uses such as educational facilities
  - Recreational and community facilities
  - Residential properties
  - Commercial and industrial sites.

- Consolidate or minimise the fragmentation of, and provide access to, residual land parcels to support future viable land use to the extent practicable.

209. I consider that the EPR could be strengthened to also require that the Manningham interchange should be designed to ensure that commercial and industrial activities can be constructed adjacent to the finished Project tunnel and ramps. If this occurs and the reference design solution of the Manningham Interchange is followed, then the land will be available at the completion of the construction of the Project.

5.3.4. Summary Assessment

210. It is recognised that the Project will result in the loss of approximately 80 businesses and 770 jobs from the BIP. Well-established businesses will either need to relocate or cease trading. The land acquisition and compensation system has been developed to address this circumstance.

211. I am satisfied that the surrounding communities will continue to have access to a full range of services at existing centres. This may require some residents to travel further than they currently do but the travel mapping demonstrates that most services will be within a 15-minute drive time. It is acknowledged that people travelling further from the east (e.g. Warrandyte) will have their journey extended (further to the west) if they do not wish to alter their travel direction and head to the south to access services in that part of the city. This is a matter of individual choice.

212. The removal of the businesses will result in the significant loss of employment opportunities in the Bulleen area for approximately 5 years. I note that approximately 195 of the jobs were occupied by residents of Manningham – West, 94 were from Banyule, 27 from Manningham – East and 64 from Nillumbik – Kinglake.12

213. It is considered that ameliorative measures should be put in place to increase the supply of industrial land in the locality in the short-term and not await the completion of the Project to re-instate the employment land in Bulleen. It is considered that the City of Manningham’s proposal that the land at Webster Road be considered as new industrial land deserves a comprehensive and expeditious assessment to confirm whether the land is suitable and then carry out the necessary approvals to enable its use for that purpose.

214. Whilst this land will not fully replace the Bulleen land immediately it will enable key industrial facilities to continue to be located within the Manningham area, this could include, the concrete batching plant operations (which are always difficult to locate to limit off-site impacts), builders and hardware supplies and a variety of other service industries. Depending on the types of businesses located on the land it could generate employment for approximately 150 - 250 people.

215. If all of the 6.77 hectares of land at Bulleen could be re-utilised it is estimated that the sites would be best utilised for service industries, automotive repair and maintenance, trade supplies, office and restricted retail and would generate in between 300 - 500 jobs. If more intensive uses occupied sites, similar to some of the uses currently in the BIP, then employment would be higher.

---

12 ABS: 2016 Census of Population and Housing, Customised Data Report - Table 1 - Bulleen (Vic) DZN 211562129 (POW) X Statistical Area Level 2 (UR) X Industry of Employment (INDP) – 2016, page 1
216. Having regard to the policy tension that exists between the need to create a freeway standard link between the north and east to improve metropolitan Melbourne’s transport network and the desire to maintain employment land uses it is considered, in this instance, the loss of industrial land is acceptable for the following reasons:

- The surrounding communities that rely on the BIP for a variety of service, business to business links etc. can be served by alternative service providers at other centres including the Preston Industrial Precinct, the Fairfield/Alphington Industrial Precinct and the Heidelberg West Industrial Precinct, the Doncaster Activity Centre and other local centres to the west and south.

- The loss of employment opportunities in the BIP will require some residents to travel further to access new job opportunities. It is expected that many will follow their employer as they relocate.

- Whilst local employment opportunities are reduced there are a number of locations within 15 -30 minutes drive time offering employment in a similar range of industries. Accessibility is reduced for some residents, but not unacceptably so in the context of average commute times for jobs across the metropolis.

- There is an opportunity to partially ameliorate the loss of land and job opportunities through the creation of new industrial land at the Websters Road location that could accommodate industry that otherwise may not have ability to remain in the Manningham area.

- There is the opportunity to reinstate more than two-thirds of the existing industrial land at Bulleen following completion of the Project and accommodate service industries and the like.

- The net result could be that there is no net loss of employment land and its employment potential at the end of the construction of the Project.

217. I acknowledge that certain businesses and their clients have very strong links that may be irrevocably broken if the business cannot relocate locally. Given the extremely limited availability of employment land it is unlikely that any business can be accommodated locally except at the new land in Websters Road. This further suggests that the opportunity potentially provided by this land be promptly investigated.

218. In summary, the project will have some significant impacts on the existing businesses located at Bulleen but, having regard to the policy imperatives, I consider that a balanced outcome will be achieved with the reinstatement of employment land at the Bulleen location. I note that if the Websters Road site is found to be unacceptable, my overall opinion does not change. However, I acknowledge that there will be a permanent reduction in local employment opportunities as compared to today.

219. In my opinion, this reduction is outweighed by the overall benefits of the project which are expected to positively contribute to enhanced accessibility to employment for large parts of the north and east and the overall growth in economic activity for the metropolis
6. ASSESSMENT OF PROJECT AMENITY IMPACTS

6.1. MANAGING OVERSHADOWING IMPACTS

220. One of the impacts arising from the Project is that with the widening of the Eastern Freeway to accommodate the additional traffic lanes and dedicated busway is that, in an effort to utilise only the available land within the existing road corridor or minimise the acquisition of adjoining parkland, many of the new or relocated noise barriers are located close to or on the property boundaries of existing residences.

221. In most residential environments there is the ResCode test for defining acceptable amounts of shadowing caused by new development. This measures sun impact on private open space during the equinox period (22 September) and between the hours of 9:00 am to 3:00 pm. Whilst this is an appropriate test for individual buildings and their impact I consider a more conservative approach needs to be used for assessing the impacts of structure that are up to hundreds of metres long with no break in the structure (unlike the spacing between buildings in a residential environment).

222. In this instance it is appropriate to understand the winter solstice (22 June) shadowing impacts to ascertain if the proposed barriers (assuming they are solid) cast shadows greater than that experienced in a typical residential environment.

223. There are several locations along the route of the Project where this occurs. Some of these locations are set out in the following table to assist in the assessment of potential shadowing impacts.

Table 6 – Location of properties adjacent to or near noise barriers (Reference Design)

<table>
<thead>
<tr>
<th>#</th>
<th>Location</th>
<th>Proposed Structure and Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>North side of Eram Road to the west of Middleborough Road, Box Hill North (south of the Eastern Freeway).</td>
<td>A new acoustic barrier on the northern boundary required for the relocated on-ramp and Koonung Creek Trail. The proposed barrier will significantly overshadow the rear yards of these residences during the equinox (September 22)</td>
</tr>
<tr>
<td>2</td>
<td>North side of Hughes Circuit, Carroll Close and Brandon Crescent, Bundoora (south of the Metropolitan Ring Road)</td>
<td>An acoustic barrier between 8 – 10 metres in height will be located north of the rear (north) boundaries of the properties. At a minimum the barrier will be located approx. 4 metres from the nearest dwelling at 23 Carroll Close. At the equinox the shadow lengths will fall fully across most of the year yards which have an average depth of approx. 5 metres. During winter the shadows fall across the dwellings and in some instances overshadow part of the roof.</td>
</tr>
<tr>
<td>3</td>
<td>Multi-unit development at 2 Ambrose Treacy Drive, Bundoora – located south of the west bound exit to Plenty Road from the M80</td>
<td>Six units are located near the north boundary. It is proposed to place an acoustic barrier directly adjacent to the north (rear) fence. A barrier of greater than 3 metres in height will cast significant shadows years round across the small rear courtyard and the north facing wall.</td>
</tr>
<tr>
<td>4</td>
<td>Multi-unit development at 1240 Old Burke Road, Kew – located on the south of the west bound entry ramp from Burke Road onto the Easter Freeway</td>
<td>Three units are located ‘below’ the height of the on ramp with their two roofs sitting at the level of the roadway. The rear courtyards are already fully shaded in winter. It is proposed to extend the noise barriers to the east and increase their height. The new winter shadow will fall across the entire north elevation of the dwellings and parts of the lower level roofs.</td>
</tr>
<tr>
<td>5</td>
<td>1 Viewpoint Road, North Balwyn – adjacent to west bound off-ramp from Eastern Freeway to Bulleen Road (south)</td>
<td>Single property built close to the existing acoustic barrier. It is proposed to increase the height of the barrier that will cast a shadow across the majority of the private open space of the dwelling.</td>
</tr>
</tbody>
</table>
224. There are other locations that also will be affected by excessive shadowing if high solid acoustic barriers are to be erected on or near residential boundaries. The draft Environmental Management Plan LP4 states:

Minimise overshadowing from noise walls and elevated structures
Overshadowing from elevated structures and noise walls to residential properties (including solar panels), community facilities, open spaces, waterways and valuable habitats must be minimised through detailed design.

225. It is considered that the implementation of this EPR could be assisted by the addition of criteria to guide what is meant by ‘minimise’. In my view these criteria should seek to ensure that any new shadowing impact is no worse than the current shadowing impacts caused by existing noise walls associated with the existing road and freeway routes.

226. Where there is no existing impact and the new structures will cause shadowing, I recommend that a standard based on the ResCode shadowing controls could be used. I note that the control would need to be modified to take account of potential winter shadowing impacts to ensure that properties were not subjected to excessive overshadowing for long periods of a day.

227. It is apparent that a fundamental approach to minimising shadowing (and impacts by way of bulk or scale) is to ensure that the acoustic barriers are setback from residential property boundaries. I recommend that every endeavour be used to ensure that this occurs in the final design process and that sufficient room is provided for access and landscaping (e.g. shared path used as a setback element) between the barrier and the residential boundary.

6.2. MANAGING POTENTIAL OVERLOOKING

228. The matter of overlooking from public places into private open space and windows of dwellings can arise where the proposed new elevated pedestrian and cyclist pathways either land or pass by near to existing dwellings. I have not examined the potential for overlooking from the roadways as I expect views will be momentary given the speed of traffic flows.

229. With the assistance of NELP I have reviewed the reference design plans to ascertain where the potential for overlooking could arise and have identified five locations being:

- The new overpass crossing from Eastgate Drive, Greensborough to Macorna Street, Watsonia North (Page 10 – Horizontal Alignment Plans – Part 1).
- The new overpass crossing from Yando Street, Greensborough to Hakea Street, Watsonia North (Page 16 – Horizontal Alignment Plans – Part 1).
- The new overpass crossing from Fensham SEC Reserve, Greensborough (adjacent to dwellings at 400 Service Road) to Watsonia Station (Page 24 – Horizontal Alignment Plans – Part 1).
- The new overpass crossing from Stanton Street, Doncaster to Elgar Park Wetlands (Page 28 – Horizontal Alignment Plans – Part 2).
- The new overpass crossing from Eram Park to the shared user path at the rear (north) of residences in Lyndhurst Crescent (Page 32 – Horizontal Alignment Plans – Part 2).

230. There are other locations where views can be obtained across residential areas but views from these locations do not intrude into private open space (I do not consider front gardens open to a street as private open spaces) or windows of a dwelling.

231. The reference design anticipates that the elevated overpasses will be located close to property boundaries that will provide, in some instances, direct views into private opens spaces. It is appreciated that ResCode provides a control to provide protection from overlooking being, areas within 9 metres of the viewpoint need to be protected from direct view and locations beyond 9 metres do not need to be screened. In most cases this overlooking protection only needs to be applied to one or two neighbouring properties.
232. I consider that the degree of protection from overlooking from public vantage points needs to be stronger than the ResCode provisions given that the spaces will be likely well used by many individuals for most of the day. Desirably permanent screening should be provided on the overpass to prevent direct overlooking into the private open spaces.

233. A review of the abovementioned locations reveals that the overpass is located so that any screening is likely to add to the shadowing impact on the nearby dwellings. This creates a design ‘conundrum’ of how to provide screening but not create excessive shadow impacts. It is apparent that each instance of where the potential overlooking may occur will require a detailed analysis of impact and bespoke design response.

234. It is recommended that the Land Use EPR LP4 be modified to require the overpasses to be located and designed to prevent direct overlooking into private open spaces and windows. I suggest that a minimum view threshold distance of 15 metres (i.e. distance from viewer to private open space or window in dwelling) be adopted in assessing potential overlooking impacts.
7. ASSESSMENT OF PROPOSED PLANNING SCHEME AMENDMENT GC98

7.1. OVERVIEW

235. It is proposed to amend the provisions of the Banyule, Boroondara, Manningham, Nillumbik, Whitehorse, Whittlesea and Yarra Planning Schemes to facilitate the development and operation of the North East Link Project.

236. The components of the proposed amendment are fully described in Attachment V to the EES documentation and include the statutory documentation together with an explanation of the amendment and why the form of planning within the Amendment have been proposed. The principal components of the Amendment are:

- The introduction of the North East Link Project Incorporated Document, April 2019 into the planning schemes of the seven municipalities affected by the Project (being Banyule, Boroondara, Manningham, Nillumbik, Whitehorse, Whittlesea and Yarra) that will permit the use and development of the Project subject to certain conditions and subsidiary approvals (Schedules to Clauses 45.12 and 72.04).

- Amend the schedules to clause 72.01 of the seven planning schemes to make the Minister for Planning the responsible authority for administering and enforcing the incorporated document, and any other provision of the scheme which applies to the project.

- Amend the Schedules to Clause 72.03 of the seven planning schemes and Insert Planning Scheme Maps into each of the schemes defining the location and extent of the Specific Controls Overlay (SCO) to apply to the project area.

237. The amendment also changes the Manningham and Banyule Planning Schemes to:

- Introduce new Schedules (13 and 14 in Banyule and 14 and 15 in Manningham) to clause 43.02 – Design and Development Overlay and amend and introduce new Planning Scheme Maps to apply the Design and Development Overlay to land above and immediately adjoining relevant North East Link infrastructure to protect the structural integrity of the tunnels and associated infrastructure.

- Amend the schedule to clause 66.04 to make the Secretary of Department of Transport (and the Roads Corporation after 31 December 2030) a determining referral authority for permit applications triggered under the proposed new schedules to clause 43.02.

238. The proposed DDO is not required in Boroondara, Yarra, Whitehorse, Whittlesea and Nillumbik as there is no proposed sub-surface works in these municipalities.

239. I have read the public submissions in respect of the EES and identified those that are relevant to matters of the appropriateness or otherwise of the proposed planning controls. These include the following submissions:

- Nos. 50, 181, 239, 290, 316, 378, 396, 539, 596, 600, 631, 716, 849.

240. I note that many of the submissions cover a range of issues with many particularly commenting on the effectiveness of a particular EPR responding to matters such as air quality etc. I have not assessed the individual EPRs relating to areas outside my expertise. Rather I have considered the overall effect of the planning controls, the conditions of the proposed Incorporated Document and

7.1.1. Summary of Issues Raised

241. EES submissions concerning the proposed planning scheme amendment can be broadly summarised as follows:

- The extent of the area covered by the proposed Specific Control Overlay is too broad and should be reduced to generally follow the route of the reference design.
• Yarra Valley Water would seek to be included as one of the authorities to be consulted under Condition 4.5.2 that sets out what the Environmental Management Framework must include in terms of the authorities to be consulted.

• The proposed conditions of the Incorporated Document and the use of the EPRs in the Environmental Management Framework deny the opportunity for local government and affected stakeholders to be further consulted regarding secondary design and planning processes.

7.1.2. **Review of Amendment GC98**

242. My assessment of the detailed investigation of the appropriate form the planning controls required for the Project and the proposed controls concludes that:

• The use of a GC amendment is appropriate given that the project will involve land in seven municipalities and the fact that the Project is a detailed interlinked infrastructure project that is not readily capable of being disaggregated into components that are aligned with the municipal or planning control boundaries.

• The Incorporated Document form of control is most appropriate as it enables a single reference point for the approval (rather than multiple approvals) and ensures consistency of approach and decision making within the approval process.

• The Incorporated Document in this instance can be a concise document as it requires the preparation of an Environmental Management Plan that specifies the Environmental Performance Requirements (EPRs), and the preparation of Construction Environmental Management Plan (CEMP), Operational Environmental Management Plan (OEMP) and other plans prior to development. The EPRs provide a performance-based approach to the project that will ensure that agreed outcomes are achieved. The final design for the freeway must conform with the EPRs.

• This approach provides reasonable assurance that the project will generally follow the design approach posited and tested as part of the EES process - acknowledging that there will be minor variations arising through the detailed design process.

243. Turning to the various matters raised by the submitters I advise as follows:

• The Specific Control Overlay (SCO) ‘balloons out’ to take in a wide area between Lower Plenty Road (in the north) and Manningham Road (in the south). I understand that the SCO has been put in place to provide assurance that development within an area that may be affected by the tunnel does not create a future conflict with the potential tunnel route. I further understand that the extent of the SCO will be revised following the approval of the final design for the tunnel.

• The proposed planning controls require the involvement of other parties including specified authorities and other third parties in many parts of the ‘secondary’ approval process. This includes:
  - The preparation of the Environmental Management Plan (EMP) under Condition 4.5 of the Incorporated Document. Condition 4.5.2 specifically requires the EMF to set out the process and timing of the development of certain plan and the process and timing for consultation with relevant councils etc.
  - The preparation and approval of Urban Design and Landscape Plans (UDLP) requires consultation with relevant councils and others (Condition 4.7.4). The public are also entitled to review and comment on the plans before they are submitted to the Minister for approval.

• The request of Yarra Valley Water (YVW) to become in effect a public authority (such as Councils etc.) is my view unnecessary given that there are other controls (external to the project) that should ensure that the assets of YVW are protected.

244. I am sure that as the Project is assessed through the IAC process there will be changes made to specific EPRs to either provide greater specificity or clarify what is intended to be achieved by the imposition of the EPR and its requirements. Notwithstanding the opportunity for changers to occur I consider the proposed approach to the form and content of the planning controls to be appropriate to the nature and scale of the Project.
8. CONCLUSION

245. In conclusion the Project will have several significant land use impacts. Further the reference design highlights some areas of direct amenity impact by way of overshadowing and overlooking.

246. I consider that the impacts are acceptable having regard to the metropolitan importance of the project, the limited nature of the impact or the impacts are capable of amelioration through careful design and the provision of offsets.

247. My findings and recommendations are contained at Section 2 of my report.
APPENDIX A  LETTER OF INSTRUCTIONS
Confidential

Email

Michael Barlow
Urbis Pty Ltd
mbarlow@urbis.com.au

Dear Mr Barlow

North East Link Project: Land use planning

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.

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 Technical Report E to EES, Chapters 1 to 8, 13 and 27 of the EES, Attachment V to the EES (Draft Planning Scheme Amendment) 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 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.

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 have been given access to the public submissions by NELP, via Sharepoint. If you have 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 28 June 2019.

Fee proposal

Would you please provide a fee proposal to undertake the works as per the instructions set out above as soon as possible. Please send your fee proposal to Sallyanne Everett and Chris Wiseman of our office via email to severett@claytonutz.com or cwiseman@claytonutz.com.

If you think that you will exceed your fee proposal during the course of undertaking your work, please immediately let us know and provide us with a revised fee proposal for approval by our client. Please also ensure that approval has been obtained for that variation before rendering any account.

Communications

All communications should be through Clayton Utz in the first instance. Please contact Sallyanne Everett or Chris Wiseman 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.
Michael Barlow, Urbis Pty Ltd

13 June 2019

Yours sincerely

Sallyanne Everett, Partner
+61 3 9286 6965
severett@claytonutz.com

Chris Wiseman, Senior Associate
+61 3 9286 6329
cwiseman@claytonutz.com

Our ref 965/14769

Enclosures
<table>
<thead>
<tr>
<th>#</th>
<th>Document index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Key dates and activities</td>
</tr>
<tr>
<td>2.</td>
<td>Template for expert witness statement</td>
</tr>
<tr>
<td>3.</td>
<td>IAC terms of reference, dated 11 April 2019</td>
</tr>
</tbody>
</table>
NELP: Key Dates and Activities for Michael Barlow

<table>
<thead>
<tr>
<th>No.</th>
<th>Activity</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>EES Exhibition</td>
<td>10 April to 7 June 2019</td>
</tr>
<tr>
<td>2.</td>
<td>IAC Directions Hearing</td>
<td>Friday 21 June 2019</td>
</tr>
<tr>
<td>3.</td>
<td>Receipt of instructions to assist with the preparation of responses to IAC RFIs (as necessary).</td>
<td>On or about Monday 24 June 2019</td>
</tr>
<tr>
<td>4.</td>
<td>Main Hearing</td>
<td>Thursday 25 July to Friday 6 September 2019</td>
</tr>
<tr>
<td>5.</td>
<td>Receipt of formal instructions to prepare expert witness report, power point presentation and attend the hearing to give evidence</td>
<td>By 22 May 2019</td>
</tr>
<tr>
<td>6.</td>
<td>Access to public submissions database</td>
<td>By 10 May 2019</td>
</tr>
<tr>
<td>7.</td>
<td>Date for provision of draft expert witness report and power point presentation</td>
<td>28 June 2019</td>
</tr>
<tr>
<td>8.</td>
<td>Date expert witness report and power point presentation to be finalised</td>
<td>8 July 2019</td>
</tr>
<tr>
<td>9.</td>
<td>Anticipated date for receipt of expert reports of other parties (subject to IAC directions)</td>
<td>11 July 2019</td>
</tr>
<tr>
<td>10.</td>
<td>Possible expert witness conclaves</td>
<td>week of 15 July 2019</td>
</tr>
<tr>
<td>11.</td>
<td>Commencement of hearing</td>
<td>Thursday 25 July 2019</td>
</tr>
<tr>
<td>12.</td>
<td>Likely anticipated date / days for giving evidence before the IAC</td>
<td>Early in the week of 5 August 2019</td>
</tr>
<tr>
<td>13.</td>
<td>Additional attendance at IAC hearing</td>
<td>TBA</td>
</tr>
</tbody>
</table>

Note: The above program is subject to the directions of the IAC to issue on or about 21 June 2019
North East Link Inquiry and Advisory Committee

Expert Witness Statement of [insert name of expert]

State words to the following effect:

1. Introduction

1.1 I have been instructed by Clayton Utz on behalf of NELP to prepare an expert witness statement (Expert Witness Statement) that addresses strategic planning issues for the North East Link Project (Project). I have also been instructed to review and respond to public submissions and give evidence on the environmental effects of the Project relevant to statutory and strategic planning matters.

2. Qualifications and experience

2.1 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.

3. Expert Witness Statement

3.1 [Set out the body of your Expert Witness Statement including a summary of your opinions]

4. Submissions

Submissions received

4.1 I have read the public submissions to the Environment Effects Statement (EES) for the Project, draft planning scheme amendment and works approval application and identified those that are relevant to Technical Report [insert] contained in the EES and my area of expertise. These include the following submissions:

[Insert the submission numbers that you have identified as being relevant to the Technical Report and your area of expertise]

Summary of issues raised

4.2 The submissions have raised the following issues relevant to my area of expertise:

(a) [Insert a summary list of the issues raised by submissions relevant to your area of expertise]

(b) etc

Response to issues raised

4.3 Set out below are my comments and response to the issues raised by the written submissions relevant to the area of my expertise.

4.4 [Set out your response to issues raised in the written submissions as listed in 4.2 above. To the extent appropriate, the response should be thematic, based on the issues raised in the submissions]

5. Environmental Performance Requirements

Please select one of the following 2 options. Please read them carefully and decide which one is appropriate and delete the remaining option.

Option One
5.1 It is my view that the environmental performance requirements relevant to my area of expertise, being [specify all relevant EPRs], 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.

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

**Option Two**

5.3 I have further reviewed the environmental performance requirements relevant to my area of expertise, being [specify all relevant EPRs], in light of the public submissions, and recommend the following changes:

(a) [specify change]

(b) etc

5.4 Subject to these changes, it is my view that the environmental performance requirements are appropriate and will ensure that the environmental effects of the Project relevant to my area of expertise will be acceptably managed.

6. **Declaration**

6.1 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: [insert]
Annexure A - Matters Raised by PPV Guide to Expert Evidence

(a) The name and address of the expert
    (insert)

(b) The expert's qualifications, experience and area of expertise
    (insert, briefly summarise and attach CV as Annexure B)

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

(d) All instructions that define the scope of this statement (original and supplementary and whether in writing or verbal)
    (insert)

(e) Details and qualifications of any person who carried out any tests or experiments upon which the expert relied in preparing this statement
    (insert)

(f) The facts, matters and assumptions on which the expert relies in preparing the Expert Witness Statement
    (insert)

(g) Reference to the documents and materials the expert has used in preparing the Expert Witness Statement
    (insert)
The North East Link Inquiry and Advisory Committee (the IAC) is appointed to inquire into, and report on, the North East Link Project (Project) in accordance with these terms of reference.

The IAC is appointed pursuant to both:

- section 9(1) of the Environment Effects Act 1978 (EE Act) as an inquiry; and
- part 7, section 151 of the Planning and Environment Act 1987 (P&E Act) as an advisory committee.

The IAC will also provide advice that can be used to inform the Environment Protection Authority’s consideration of the works approval application (WAA) prepared by the proponent for the Project.

Role of the IAC

1. The IAC is appointed by the Minister for Planning under section 9(1) of the EE Act to hold an inquiry into the environmental effects of the Project. The IAC is to:
   - review and consider the environment effects statement (EES) and public submissions received in relation to the environmental effects of the project;
   - consider and report on the potential environmental effects of the project, having regard to the evaluation objectives in the EES scoping requirements;
   - identify any measures it considers necessary to avoid, mitigate or manage the environmental effects of the project; and
   - provide advice to the Environment Protection Authority that can be used to inform its consideration of the WAA.

2. The IAC is appointed as an advisory committee under section 151 of the P&E Act to:
   - review the draft planning scheme amendment (draft PSA), which has been prepared to facilitate the Project, along with any public submissions received in relation to the draft PSA;
   - provide a report to the Minister for Planning as to whether the draft PSA contains provisions and controls that are appropriate for the Project; and
   - recommend any changes to the draft PSA that it considers necessary.

IAC members

3. The IAC members should have the following skills:
   - road transport modelling, road design and traffic management;
   - social impact;
   - urban design and visual impact; and
   - statutory planning.

4. The IAC may seek additional specialist expert advice to assist it in undertaking its role.

5. The IAC will comprise an appointed chair (IAC Chair), a deputy chair and other members.
Background

Project outline

6. The Project proposes to connect Melbourne’s freeway network between the M80 Ring Road and the Eastern Freeway, which will be upgraded and include a new busway. In summary, the Project proposes the following sections of works:

a. M80 Ring Road to Lower Plenty Road – a mixture of above, below and at surface road sections, a ventilation facility near Blamey Road, and new road interchanges at the M80 Ring Road, Grimshaw Street and Lower Plenty Road.

b. Tunnels – twin tunnels under residential areas, the Banyule Flats and the Yarra River to south of Manningham Road.

c. Bridge Street to Eastern Freeway – a cut and cover tunnel and a mined tunnel, with the southern tunnel portal and associated ventilation facility located south of the Veneto Club. This section would also include new interchanges at Manningham Road and the Eastern Freeway.

d. Eastern Freeway – widening of the Eastern Freeway, from around Hoddle Street in the west through to Springvale Road in the east to accommodate future traffic volumes, the provision of new dedicated bus lanes for the Doncaster Busway and other associated works.

e. Ancillary and temporary works to support construction of the Project.

7. The proponent is the State of Victoria acting through the Major Transport Infrastructure Authority (MTIA), which is an administrative office within the Department of Transport. The North East Link Project (NELP) is the division within MTIA that is responsible for developing and delivering the Project.

8. The proponent is responsible for preparing technical studies, consulting with the public and stakeholders and preparing an EES.

EES assessment process

9. The Project has been declared pursuant to section 3(1) of the EE Act to be ‘public works’ for the purposes of that act by an order of the Minister for Planning published in the Government Gazette on 2 February 2018. Pursuant to section 4(1) of the EE Act, an EES must be prepared for public works, and submitted to the Minister for Planning, before those works can commence. Procedures and requirements specified in the order are provided in Attachment 1.

10. The EES has been prepared by the proponent in response to the EES scoping requirements issued by the Minister for Planning in June 2018.

11. The EES is to be placed on public exhibition from 10 April 2019 to 7 June 2019, together with the WAA, and draft PSA.

Commonwealth assessment process

12. Because of its potential impacts on matters of national environmental significance, the Project was determined to be a controlled action for the purposes of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) on 13 April 2018. The relevant controlling provisions under the EPBC Act relate to listed threatened species and communities (sections 18 and 18A), listed migratory species (sections 20 and 20A) and environment on Commonwealth lands (sections 26 and 27A).

13. The EPBC Act assessment is to be undertaken through a public environment report. The public environment report is intended to be exhibited concurrently with the EES and will be assessed independently from the IAC by the Commonwealth Department of Environment and Energy. Any submissions on matters of national environmental significance are to be made to the Department of Environment and Energy and consequently, the IAC report is not required to, and should not,
address impacts on matters of national environmental significance as described in the public environment report.

Planning approval process

14. The IAC is to consider and provide advice on the draft PSA. The draft PSA proposes planning controls and provisions that will allow for, and facilitate, the use and development of the Project in accordance with an incorporated document which is proposed to be included in the Banyule, Borroodara, Manningham, Nillumbik, Whitehorse, Whittlesea and Yarra planning schemes.

15. The draft PSA proposes that the Project be exempt from any requirement to obtain a planning permit, subject to any conditions set out in the incorporated document. The incorporated document is also proposed to include a requirement for the development of a framework to manage environmental effects associated with both the construction and operational phases of the Project.

Works approval process

16. A WAA for the Project has been prepared in accordance with the provisions of the Environment Protection Act 1970 (EP Act). The works approval application will be jointly advertised with the EES, in accordance with section 20AA of the EP Act.

17. Section 19B(3)(b) of the EP Act provides that: if an application for a works approval is to be jointly advertised under section 20AA with a notice relating to the same proposal under the Environment Effects Act 1978... comments by any person or body interested in the application must be made as a submission on the environment effects statement or be included in any submission on the environment effects statement. In addition, the Environment Protection Authority can no longer decide under section 19B(6) to hold a section 20B conference.

18. The IAC is to provide advice that can be used to inform the Environment Protection Authority’s consideration of the WAA prepared by the proponent. The IAC may request any further information from the proponent that it considers necessary to assist it to provide that advice. The advice should recommend avoidance, mitigation or management measures that the IAC considers are necessary to ensure compliance with any relevant legislation and/or policy.

Other approvals

19. The Project requires a number of other statutory approvals and/or consents, as outlined in the EES, and which include:

   a. an approved Cultural Heritage Management Plan under the Aboriginal Heritage Act 2006 to manage works in areas of cultural heritage sensitivity;

   b. a permit to remove listed flora and fauna under the Flora and Fauna Guarantee Act 1988;

   c. an authority to take or disturb wildlife under the Wildlife Act 1975;

   d. licences to construct a groundwater bore and subsequently extract groundwater, as well as consents for works on, over or under waterways under the Water Act 1989;

   e. consent for works on freeways and arterial roads declared under the Road Management Act 2004; and

   f. permits for impacts to places identified on the Victorian Heritage Register under the Heritage Act 2017.

Public Hearing

20. The IAC must hold a public hearing and may make other such enquiries as are relevant to undertaking its role.

21. When it conducts a public hearing, the IAC has all the powers of an advisory committee that are specified in section 152(2) of the P&E Act.
22. The IAC may inform itself in any way it sees fit, but must review and consider:
   a. the exhibited EES, draft PSA and WAA;
   b. all public submissions, and all submissions and evidence provided to the IAC by the proponent, state agencies, local councils and the public;
   c. any information provided by the proponent that responds to submissions; and
   d. any other relevant information that is provided to, or obtained by, the IAC.

23. Prior to the commencement of the public hearing, the IAC must hold a directions hearing in order to make any directions it considers necessary or appropriate as to the conduct, scope or scheduling of the public hearing.

24. The IAC must conduct its public hearing in accordance with the following principles:
   a. the public hearing will be conducted in an open, orderly and equitable manner, in accordance with the principles of natural justice, with a minimum of formality and without the necessity for legal representation; and
   b. the IAC process is to be exploratory and constructive with adversarial behaviour minimised with cross-examination strictly controlled by the IAC Chair.

25. The IAC may limit the time of parties appearing before it.

26. The IAC may, at its discretion, conduct concurrent public hearings as part of the public hearing where it considers it appropriate or efficient to do so, and where, in the opinion of the IAC, submitters participating in the hearing would not be unreasonably disadvantaged by those concurrent hearings.

27. The IAC Chair may direct that a submission or evidence is confidential in nature and the hearing be closed to the public for the purposes of receiving that submission or evidence.

28. The IAC may only conduct a public hearing (including any concurrent public hearing) when there is a quorum of at least two of its members present, one of whom must be the IAC Chair or deputy chair.

29. Recording of the hearing will be managed by Planning Panels Victoria, in accordance with any directions made by the IAC Chair. The audio recording of any hearing sessions will be made publicly available as soon as practicable after the conclusion of each day of the hearing, or otherwise as directed by the IAC Chair.

30. Any other audio or video recording of the hearing by any other person or organisation may only occur with the prior consent of, and strictly in accordance with, the directions of the IAC Chair.

Report

31. The IAC must produce a written report for the Minister for Planning containing the IAC’s:
   a. findings with respect to the environmental effects of the Project;
   b. findings as to the capacity for the Project to achieve acceptable environmental outcomes having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
   c. recommendations as to any feasible modifications to the alignment or design of the Project that would offer beneficial outcomes;
   d. recommendations and/or specific measures that it considers necessary and appropriate to prevent, mitigate or offset adverse environmental effects having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
e. recommendations for any appropriate conditions that may be lawfully imposed on any approval for the Project, or changes that should be made to the draft PSA in order to ensure that the environmental effects of the Project are acceptable having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;

f. recommendations for changes to the proposed urban design strategy;

g. recommendations as to the structure and content of the proposed environmental management framework;

h. recommendations as to any changes to the proposed environmental performance requirements; and

i. recommendations with respect to the structure and content of the draft PSA.

32. The report should include:

a. information and analysis in support of the IAC’s findings and recommendations;

b. a description of the public hearing conducted by the IAC, and a list of those persons consulted with or heard by the IAC;

c. a list of all recommendations, including cross-references to relevant discussions in the report; and

d. a list of the documents tabled during the public hearing.

Submissions

33. All submissions on the EES, draft PSA and WAA are to be sent to, and managed by, Planning Panels Victoria in accordance with Planning Panels Victoria’s guide to privacy. All written submissions or other supporting documentation should be published on Engage Victoria’s website, unless submitters request that their submission not be publicly available, or where the IAC specifically directs that the submission or part of it is to remain confidential.

34. Electronic copies of submissions on the EES, draft PSA and WAA should be provided to the Department of Environment, Land, Water and Planning, Environment Protection Authority and Major Transport Infrastructure Authority.

35. Petitions will be treated as a single submission, and only the first name to appear on the first page of the submission should receive correspondence in relation to the IAC.

36. Any written material or evidence provided to the IAC during the public hearing should be published on Engage Victoria’s website, unless the IAC specifically directs that the material is to remain confidential.

37. Planning Panels Victoria will notify submitters of the release of the Minister for Planning’s assessment and IAC report.

38. Planning Panels Victoria will retain any written submissions and other documentation provided to the IAC for a period of five years after the time of the appointment of the IAC.

Timing

39. The IAC must begin its hearings no later than 35 business days from the final date of the exhibition period, or as otherwise agreed by the Minister for Planning.

40. The IAC is required to submit its report in writing to the Minister for Planning within 30 business days from its last hearing date.
Fees and Allowances

41. The members of the IAC will receive the same fees and allowances as a senior sessional panel member appointed under division 1 of part 8 of the P&E Act.

42. All costs of the IAC, including the costs of obtaining any expert advice, technical administration and legal support (including legal counsel if engaged), venue hire, accommodation, recording proceedings and other costs must be met by the MTIA.

Miscellaneous

43. The IAC may apply to the Minister for Planning to vary these terms of reference in writing, at any time prior to submission of its report.

44. The IAC may retain legal counsel to assist it in undertaking its role.

45. Planning Panels Victoria is to provide any necessary administrative support to the IAC.

46. The IAC may engage additional technical and administrative support as required.

Richard Wynne MP
Minister for Planning

Date: 11/4/09
The following information does not form part of the Terms of Reference

Project manager

47. For matters regarding the IAC process, please contact Greta Grivas of Planning Panels Victoria, by phone (03) 8392 5123 or email planning.panels@delwp.vic.gov.au

48. For matters regarding the EES process please contact the Impact Assessment Unit in Department of Environment Land Water and Planning (DELWP) by phone (03) 8392 5503 or email environment.assessment@delwp.vic.gov.au.
Attachment 1

PROCEDURES AND REQUIREMENTS: North East Link Project
Under section 3(3) of the Environment Effects Act 1978

The following procedures and requirements are to apply to the environment effects statement (EES) for the Public Works:

(i) The EES is to document investigations of potential environmental effects of the Public Works, including the feasibility of design alternatives and relevant environmental mitigation and management measures, in particular for:
   a. potential effects on biodiversity, including through loss, degradation or fragmentation of habitat or through other causes (e.g. shading, light, noise and vibration), as well as related ecological effects;
   b. potential effects on beneficial uses of surface water and groundwaters due to changes in flows, water quality, hydrology connectivity, mobilisation of existing groundwater contamination, or dewatering arising during construction or operation;
   c. potential for ground movement or other geophysical conditions including risks related to land and river bank or bed stability;
   d. effects on cultural heritage values including Aboriginal cultural heritage;
   e. potential effects on health and amenity during construction and operation due to changes in visual conditions, changes in land use, redistributed traffic and transport changes, air quality, traffic noise and vibration;
   f. potential temporary and permanent effects on transport network and services, both for residents and businesses located in the vicinity of the proposed and related works and for the broader community;
   g. potential for displacement or severance of commercial and residential properties;
   h. potential for acid sulphate soils, other contaminated materials and the management of spoil throughout construction; and
   i. other effects on land uses and the community, including recreational value of open space.

(ii) The matters to be investigated and documented in the EES will be set out more fully in scoping requirements. Draft scoping requirements will be exhibited for at least 15 business days for public comment, before final scoping requirements are endorsed by the Minister for Planning.

(iii) The North East Link Authority is also to prepare and submit to the Department of Environment, Land, Water and Planning (DELWP) a draft EES study program to inform the preparation of scoping requirements.

(iv) The North East Link Authority is to prepare a schedule for the completion of studies, and preparation and exhibition of the EES to facilitate the alignment of the North East Link Authority’s and DELWP’s timeframes, including for review of technical studies for the EES and the main EES documentation.

(v) The level of detail for the EES studies should be consistent with the approach set out in the scoping requirements and be adequate to inform an assessment of the significance and acceptability of the potential environmental effects of the proposed works, in the context of the Ministerial Guidelines.

(vi) DELWP will convene an inter-agency technical reference group (TRG) to advise DELWP and the North East Link Authority, as appropriate, during the preparation of the EES, the scoping requirements, the design and adequacy of the EES studies, and coordination with statutory approval processes.

(vii) The North East Link Authority is to prepare and implement an EES consultation plan for informing the public and consulting with stakeholders during the preparation of the EES, having regard to advice from DELWP and the TRG.

(viii) The North East Link Authority is to apply appropriate peer review and quality management procedures to enable the completion of EES studies to a satisfactory standard.

(ix) The EES is to be exhibited for a period of 30 business days for public comment, unless the exhibition period spans the Christmas–New Year period, in which case 40 business days will apply.

(x) An inquiry appointed pursuant to section 9(1) of the Environment Effects Act 1978 will be established to consider the environmental effects of the Public Works.
Introduction

An expert witness has specialised knowledge from training, study or experience. A Panel may rely on that specialised knowledge to form an opinion about an issue that is relevant to the Hearing. Generally more weight will be given to expert evidence that is independent.

This Guide applies to:
- instructing an expert witness preparing expert evidence
- the preparation of the expert’s evidence
- the presentation of the evidence at the Hearing
- questioning ('cross examination') of an expert witness.

The Guide explains what happens when an expert witness is to be called at a Hearing. A Panel may make specific Directions that vary this Guide.

Parties calling an expert witness must make sure that the expert is made aware of this guide when they are retained.

Expert witness' duty to the Panel

An expert witness:
- has a paramount duty to the Panel
- has an overriding duty to assist the Panel on matters relevant to the expert's expertise
- is not an advocate for a party
- must not withhold material matters known to the witness even if it may be unfavourable to a particular party.

The expert witness statement

An expert witness preparing a written statement for a Hearing must do so in accordance with this Guide. The statement must include:
- the expert’s name and address
- the expert’s qualifications, experience and area of expertise
- details of any other significant contributors to the statement (if there are any), and their expertise
- all instructions that define the scope of the statement (original and supplementary and whether in writing or verbal)
- details and qualifications of any person who carried out any tests or experiments upon which the expert has relied in preparing the statement.

All experts must declare in their statements:

'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 Panel.'
Sometimes, an expert witness may have prepared an earlier report or advice that informed the Planning Scheme Amendment or proposal under consideration by the Panel. In these circumstances, the expert should not provide a revised version of that report. Instead, the expert’s witness statement should include:
  - a clear reference to the earlier report(s)
  - details of the expert’s role in preparing or overseeing the earlier report(s)
  - confirmation that the expert adopts the earlier report(s) and identifying:
    - any key assumptions made in preparing the earlier report(s)
    - any departure from findings or opinion expressed in the earlier report(s), and why
    - any questions falling outside the expert’s expertise
    - whether the earlier report is incomplete or inaccurate in any respect
  - details of any changed circumstances or assumptions since the earlier report(s) were prepared, and whether these affect the opinions expressed in the earlier report(s).

Where the expert was not involved in the preparation of earlier reports or advice that informed the Planning Scheme Amendment or proposal, the expert’s statement should include:
  - the facts, matters and assumptions on which the expert relies in preparing the statement
  - reference to documents and materials the expert has used in preparing the statement
  - a summary of the expert’s opinion(s), including provisional opinions.

Where the expert materially changes their opinion

An expert witness who changes their opinion on a material matter after the circulation of evidence must communicate that change in writing to the Panel and all parties to the Hearing and explain why their opinion has changed.

Privacy

Expert witness reports are usually published on a website. They are also available to all parties to a proceeding. An expert witness statement should not refer to submitters by name. Where necessary, submitters should be referenced by submission number.

Expert witnesses should inform themselves of their obligations under the Privacy and Data Protection Act 2014. Personal information contained in submissions should be used in accordance with the principles in the Act.

For more information on Privacy refer to the separate Guide to Privacy at Planning Panels Victoria.

Form of statement

Expert witness statements must be provided in the following form.

All copies

Witness statements and any supporting information must:
  - be prepared at A4 page size, unless otherwise directed
  - use a black, 12 point font (Arial or Calibri preferred)
  - have numbered paragraphs and pages.

Maps, images or plans must be at a high-definition resolution of at least 600 pixels per inch.
Electronic copies

An electronic version of a document must be less than 10MB in size and provided to:
- parties on the distribution list in accordance with the Panel’s Direction
- the Panel in unlocked ‘pdf’ or Microsoft Word format
- the Planning Authority in a format suitable for uploading to its website.

Paper copies

Paper copies of evidence are generally not required. Where the Panel directs a paper copy, each document must be:
- two-hole punched
- stapled, not bound
- printed on both sides of each page.

Maps, images or plans may be printed at A3 and be folded within the report so they can be read without being removed.

Circulation of expert reports

Parties must confirm at the Directions Hearing any evidence they will be calling at the Public Hearing.

Expert reports must be circulated five working days before the Hearing starts or as directed by the Panel.

People not on the evidence circulation list can obtain electronic copies by contacting the Panel Coordinator on 8392 5115.

Directions relating to expert witnesses

The Panel may direct that expert witnesses address certain matters in their evidence, to enable all parties to gain a clear understanding of the basis of evidence to be presented. Examples include a response to specific questions asked by the Panel, or to explain the methodology, assumptions and inputs that contributed to the expert’s assessment.

Expert meeting prior to the Hearing

The Panel may direct that expert witnesses in the same technical area meet before the Hearing and prepare a statement of agreed opinions and facts.

The expert meeting is for technical experts to discuss the issues without instructors, to identify (and if possible reduce) areas of disagreement in the Hearing. This ensures a more efficient and effective process. The Panel will provide specific directions for an expert meeting where required.

Evidence at the Hearing

Experts should identify any errors in their statement at the Hearing at the start of giving evidence. Witnesses should summarise key opinions in their evidence in no more than 30 minutes.

Experts can prepare a summary statement or presentation for the Hearing, but this must be drawn from the circulated evidence. Responses to other expert reports that constitute new material must be clearly identified.
Cross examination
An expert witness may be questioned by parties, advocates and the Panel. Questions put to expert witnesses must be relevant, directed to matters of fact or professional opinion, and must genuinely assist the Panel in understanding the issues. To ask questions of a witness, a party must be present for the whole of the evidence summary and questioning of the witness.

The Panel may regulate cross-examination to ensure an efficient hearing and that the cross examination remains relevant to the issues. The Panel may limit cross-examination that is not of benefit to the Panel.

Consequences of not complying with a Direction
The Panel has a broad range of powers to control Hearings under Division 2, Part 8 of the Planning and Environment Act 1987.

It is important to comply with Directions. The consequences of a failure to comply may be significant. For example, a Panel may refuse to allow an expert to present evidence at the Hearing.

Other witnesses
A range of other people with specialist expertise appear at Panels including:

- technical staff from agencies or Councils, who might make submissions in place of giving evidence
- lay witnesses who may have specialist knowledge. Past examples have included business owners, farmers and boat skippers.

These witnesses are generally not subject to cross examination but may be asked questions by the Panel or by other parties through the Chair.

Further information
Further information about Planning Panels Victoria can be found at:

APPENDIX B  GUIDE TO EXPERT EVIDENCE RESPONSE
Name and Address
Michael Bruce Barlow
Urbis Pty Ltd
Level 12, 120 Collins Street,
Melbourne, VIC 3000

• Qualifications
I am a Director of Urbis Pty Ltd. I am a qualified town planner and have practised as a town planner for over 35 years (including 34 as a consultant planner) and hold a Diploma of Applied Science (Town Planning) from Royal Melbourne Institute of Technology for which I qualified in 1981.

• Experience
My experience includes:
• 2011 to present: Director of Planning, Urbis Pty Ltd
• 2002 to 2010: Managing Director, Urbis Pty Ltd
• 1990 – 2001: Director of Urbis Pty Ltd (and its predecessors including A.T. Cocks Consulting)
• 1985 – 1990: Senior Planner, A.T. Cocks Consulting
• 1982 – 1985: Planning Officer and Appeals Officer, City of Melbourne
• 1981 – 1982: Planning Officer, Shire of Eltham
• 1977 – 1980: Planning Officer, City of Doncaster and Templestowe

I advise on the development of cities; their principal activities and land uses and have extensive experience in strategic and development planning. I have been engaged on a wide range of projects throughout Australia, China and the Middle East. I have particular project experience involving major urban development projects across a range of localities and activities including:
• The analysis of drivers of change in cities and their impacts and influence on industry, employment and economic development, retail and activity centres, residential development strategies and policy, metropolitan growth and urban management.
• The preparation of master plans for institutional and educational establishments, airports and new urban development.
• A wide range of international urban development projects including the planning of the new port city serving Shanghai and major city and new town strategies for a number of cities within the Yangtze River corridor, China.
• Leadership of the development of a comprehensive Framework Plan for the Emirate of Dubai. This project created a Vision to guide the economic development of the Emirate, an Urban Framework Plan and an Urban Management System for the government of Dubai.
• Advice on new and specialist land uses and development concepts including the ongoing development of major Australian airports, the introduction and impacts of new retail concepts and standalone megaplex cinemas and the introduction of the casino into central Melbourne.
• Major retail developments comprising central city centres, super-regional centres and mixed-use developments.
• Major commercial and residential developments in the Melbourne central city area including the CBD, Docklands and Southbank and throughout metropolitan Melbourne.

I provide expert evidence at various forums including the Supreme Court of Victoria, Federal Court of Australia, Land and Environment Court (NSW), the Victorian Civil and Administrative Tribunal and independent planning panels regarding the planning implications and impacts of development.
Expertise to make the report
I have advised on and assessed the introduction of new planning controls across Victoria ranging from the introduction of the new format schemes, new urban area development controls to site-specific development controls over the past 30 years.

Instructions
I have been requested by Clayton Utz, on behalf of the North East Link Project (NELP) to review the Environmental Effects Statement (EES) and draft Planning Scheme Amendment prepared for the North East Link (Project) to the extent relevant to my area of expertise concerning Planning and Land Use.

I confirm that I am the author of this report. I have been assisted by Mr Evan Granger in undertaking background research of the EES.

The Facts, Matters and Assumptions on which the Opinions are expressed in this Report
In undertaking my assessment, I have familiarised myself with the project area and surrounding environs as relevant and have had regard to the following documents:

- Plan Melbourne 2017-2050 and other relevant documents supporting the metropolitan planning strategy.
- The Planning Schemes for Banyule, Boroondara, Manningham and Whitehorse.
- The draft Planning Scheme Amendment GC98 for the Project.
- The draft ‘North East Link Incorporated Document, April 2019’
- The Exhibited Documents, in particular:
  - The EES Report (as relevant);
  - Technical Reports E, F, H and I (as relevant);
  - Attachment II Urban Design Strategy
  - EES Map Books
  - Attachment V Planning Scheme Amendment;
- Submissions made by Councils, authorities and others regarding the Environmental Effects Statement and the draft planning scheme amendment (PSA) relevant to my planning expertise.

The matters addressed within this report fall within my planning expertise. I note in the body of my report where I have specifically relied on the detailed technical assessments and supporting documentation prepared by others to assist my assessment of a particular matter.

Declaration
I declare that in preparing the material contained in this report I have made all 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 Panel.

Findings
My findings are set out in the body of this report.
APPENDIX C  LIST OF SUBMISSIONS REGARDING OPEN SPACE AND RECREATION
List of Submissions – Open Space and Recreational Facilities

Concerns/comment about impacts on open space and facilities during construction (temporary occupation)

Concerns/comment about impacts on open space and facilities following construction (permanent occupation)

Concerns/comment regarding potential disruption to shared user paths during construction
5, 195, 196, 198, 210, 211, 228, 247, 301, 338, 451, 466, 534, 685, 715, 716, 717, 731, 734, 740, 752, 800, 814

Concerns/comment about the potential for shadowing impacts on open spaces
61, 154, 194, 240, 258, 262, 316, 436, 598, 783, 818

General Concerns on impact that include topics on open space, pathways and loss of landscape
APPENDIX D  RELOCATION STRATEGY PLANS
APPENDIX E  LIST OF SUBMISSIONS REGARDING BULLEEN INDUSTRIAL CENTRE
List of Submissions – Bulleen Industrial Precinct

Concerns/comment about loss of local employment opportunities due to loss of Bulleen Industrial Precinct

Concerns/comment about loss of local services through acquisition of Bulleen Industrial Precinct

Concerns/comment regarding the loss of the Bulleen Art and Garden Centre