North East Link Project

Incorporated Document

April July September 2019

Incorporated document pursuant to section 6(2)(j) of the Planning and Environment Act 1987.
1. INTRODUCTION
1.1. This document is an incorporated document in the Banyule, Boroondara, Manningham, Nillumbik, Whitehorse, Whittlesea and Yarra Planning Schemes (Planning Schemes) and is made pursuant to section 6(2)(j) of the Planning and Environment Act 1987.
1.2. This incorporated document facilitates the delivery of the North East Link Project (Project).
1.3. The control in clause 4 prevails over any contrary or inconsistent provision in the Planning Schemes.

2. PURPOSE
2.1. The purpose of the control in clause 4 is to permit and facilitate the use and development of the land described in clause 3 for the purposes of the Project, in accordance with clause 4.

3. LAND
3.1. The control contained in clause 4 applies to land affected by Specific Controls Overlay – Schedule 1X (SCO1X) as shown on planning scheme maps in the Banyule, Boroondara, Manningham, Nillumbik, Whitehorse, Whittlesea and Yarra Planning Schemes (Project Land).

4. CONTROL
Exemption from Planning Scheme requirements
4.1. Despite any provision to the contrary, or any inconsistent provision, in the Planning Schemes, no planning permit is required for, and no provision in the Planning Schemes operates to prohibit, restrict or regulate the use or development of the Project Land for the purposes of, or related to, constructing, maintaining or operating the Project.
4.2. The use and development of the Project Land for the purposes of, or related to, the Project includes, but is not limited to:

(a) A freeway standard road connecting the Metropolitan Ring Road (M80) to the Eastern Freeway
(b) Twin road tunnels and associated infrastructure, including ventilation structures
(c) Improvements to and widening of the Metropolitan Western Ring Road and the Eastern Freeway to provide for additional lanes in each direction
(d) Elevated roads and road infrastructure, including gantries
(e) Interchanges and grade separations associated with road connections
(f) A dedicated busway in each direction along the Eastern Freeway together with associated infrastructure,
(g) A control centre and freeway maintenance facility
(h) Utility installation, relocation and associated services including relocation of electricity transmission towers, telecommunication towers, lines, cables and associated substations, relocation of water mains, water stations and sewers
(i) Construction and relocation of rail infrastructure and associated services
(j) Construction of at-grade or multi-level car parking facilities
(k) Earthworks and related structures, kerbs, channels, water and soil transfer and treatment structures, facilities and works, water quality facilities, retaining walls, noise walls and screening barriers, cuttings, batters and fill associated with the Project
(l) Any buildings or works or associated infrastructure or activities for the Project
Ancillary activities to the use and development of Project Land for the purposes of, or related to, the Project, including, but not limited to:

(i) Developing and using lay down areas for construction purposes
(ii) Constructing and using temporary site workshops and storage, administration and amenities buildings
(iii) Removing, destroying and lopping trees and vegetation, including native vegetation and dead vegetation
(iv) Demolishing and removing buildings, fixtures, structures and infrastructure
(v) Restoration and reinstatement works
(vi) Developing and using land for walking and cycling infrastructure and facilities, including shared use paths, pedestrian and cycling overpasses and bridges
(vii) Constructing or carrying out works for bridges, ramps, excavation, fences, temporary barriers, noise attenuation walls, stabilisation, creating bunds, mounds, landscaping, the salvage of artefacts, water treatment, water storage, flood mitigation and to alter drainage
(viii) Creating or altering access to a road in a Road Zone, Category 1
(ix) Creating or altering access to land in a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road
(x) Storage and assembly of materials and equipment required for the Project
(xi) Constructing and carrying out works to install, alter or relocate, drainage infrastructure, utility installations and services
(xii) Roadworks and constructing and using temporary access roads, diversion roads and vehicle parking areas
(xiii) Displaying construction, directional and business identification signs
(xiv) Stockpiling of excavation material
(xv) Subdividing and consolidating land in accordance with plan/s approved by the Minister for Planning.

**Tunnel Land**

4.3. Except where necessary to provide for infrastructure associated with minor utility installations, all buildings and works within the area shown as ‘Tunnel’ on the attached plan tilted “Appendix 1 - Tunnel Plan” (Tunnel Plan) must be carried out at a depth greater than 15 metres below surface level.

**Conditions**

4.4. The use and development permitted by this incorporated document is subject to the following conditions:

In these conditions, reference to ‘a stage’ includes any stage or part of the Project, whether for construction or operation or both.

4.5. **Environmental Management Framework**

4.5.1. Prior to the commencement of development (excluding preparatory buildings and works under clause 4.9), an Environmental Management Framework (EMF) must be prepared to the satisfaction of the Minister for Planning. The EMF must include Environmental Performance Requirements (EPRs) addressing the following areas and any other relevant matters:

(a) Aboriginal cultural heritage;

(b) Air quality;
4.5.2. The EMF must:
(a) set out the process and timing for development of a Construction Environmental Management Plan, Site Environmental Implementation Plan, Operations Environmental Management Plan and other plans and procedures required by the EPRs as relevant to any stage of the Project, including the process and timing for consultation with relevant councils, Heritage Victoria, the Roads Corporation, Melbourne Water, Public Transport Development Authority, the Environment Protection Authority and the Head, Transport for Victoria, as relevant; and
(b) be accompanied by a statement explaining any difference between it (including the EPRs), and the matters set out in the Minister’s Assessment dated [insert date] made pursuant to the EE Act.

4.5.3. The EMF may be prepared and approved in stages (including separately for construction and operation) but the EMF for any stage must be approved before the commencement of development (excluding preparatory buildings and works under clause 4.9) for that stage.

4.5.4. The EMF may be amended from time to time, to the satisfaction of the Minister for Planning.

4.5.5. The EMF must be amended to update references and requirements following commencement of the Environment Protection (Amendment) Act 2018, to the satisfaction of the Minister for Planning. The amended EMF must be prepared in consultation with the Environment Protection Authority and the amended EMF must be submitted to the Minister for approval within 12 months of the commencement of the Environment Protection (Amendment) Act 2018.

4.5.6. The use and development of the Project must be carried out in accordance with the approved EMF (including the EPRS and all plans and procedures required by the EPRs).

4.6. Urban Design Strategy

4.6.1. Prior to commencement of development (excluding preparatory buildings and works under clause 4.9), an Urban Design Strategy (UDS) must be prepared to the satisfaction of the Minister for Planning.
4.6.2. The UDS must include:
   (a) An urban design vision;
   (b) Urban design principles and objectives;
   (c) Location-specific design directions or themes, including design guidelines.

4.6.3. The UDS must be accompanied with a statement explaining any differences between it, and relevant matters set out in the Minister’s Assessment dated [insert date] under the Environment Effects Act 1978.

4.6.4. The UDS may be prepared and approved in stages but the UDS for any stage must be approved before the commencement of development (excluding preparatory buildings and works under clause 4.9) for that stage.

4.6.5. The UDS may be amended from time to time, to the satisfaction of the Minister for Planning.

4.6.6. The use and development for the Project must be carried out in accordance with the approved UDS.

4.7. Urban Design and Landscape Plans

4.7.1. Prior to the commencement of development of permanent above-ground buildings or structures (excluding preparatory buildings and works under clause 4.9), Urban Design and Landscape Plans (UDLP) must be prepared to the satisfaction of the Minister for Planning.

4.7.2. The UDLPs must show the final built form design for the Project and include where relevant:
   (a) A site layout plan that shows the location of permanent above-ground buildings and structures (including but not limited to proposed bridges, elevated roads, tunnel portals, ventilation structures, flood walls, noise walls, public transport infrastructure, and walking and cycling facilities);
   (b) Architectural plans, including sections and elevations, with materials and finishes;
   (c) Landscape plans, including sections and elevations, with plant species;

4.7.3. An UDLP must be accompanied by the following where relevant:
   (a) An explanation demonstrating how the UDLP is in accordance with the approved UDS;
   (b) An explanation demonstrating how the UDLP is consistent with outline of the approach to compliance with the approved EPRs included in the EMF.
   (c) A plan which shows the extent of the UDLP area in relation to any publicly available or approved UDLP(s).
   (d) A plan which shows the boundary of the Project Land and location of areas to be used for construction compounds.

4.7.4. Prior to the submission of an UDLP to the Minister for Planning for approval, an UDLP must be:
   (a) Provided to the Urban Design Advisory Panel and relevant council/s for consultation.
   (b) Where relevant, provided to the Roads Corporation, Public Transport Development Authority, Melbourne Water, Heritage Victoria and the Head, Transport for Victoria for consultation.
   (c) Made available for public inspection and comment on a clearly identifiable Project website for 15 business days. The website must set out details about the entity and contact details to which written comments can be directed during that time and specify the time and manner for the making of written comments.
For the avoidance of doubt, consultation in accordance with (a) and (b) can occur prior to, during and after the public inspection and comment period in (c).

Before, or on the same day as an UDLP is made available in accordance with clause 4.7.3(c), a notice must be published in a newspaper generally circulating in the area to which an UDLP applies informing the community of the matters set out in clause 4.7.3(c).

4.7.5. An UDLP submitted to the Minister for Planning for approval under clause 4.7.1 must be accompanied by a summary of the consultation carried out under clause 4.7.4, all written comments received and a response to issues raised.

4.7.6. An UDLP may be prepared and approved in stages but a UDLP for any stage must be approved before the commencement of development (excluding any or all preparatory buildings and works under clause 4.9) for that stage.

4.7.7. An UDLP may be amended from time to time, to the satisfaction of the Minister for Planning. The Minister must require an application for approval of an amendment to an UDLP to comply with the requirements of clauses 4.7.2, 4.7.3 and 4.7.5 unless, in the opinion of the Minister:

(a) the proposed amendment:
   (i) would not result in a material detriment to any person; or
   (ii) a person who may suffer a material detriment as a result of the Minister’s approval of the amendment has already been consulted in respect of the proposed amendment; and

(b) any proposed amendment does not involve any change to an approved Environmental Performance Requirement.

4.7.8. The use and development for the Project must be carried out generally in accordance with the approved UDLPs.

4.8. Native vegetation

4.8.1. Native vegetation offsets for the removal of native vegetation to construct the Project must be provided in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning 2017), except as otherwise agreed by the Secretary to the Department of Environment, Land, Water and Planning.

4.9. Preparatory buildings and works

4.9.1. The following buildings and works may commence before approval of the documents under clauses 4.4.4.5 to 4.7:

(a) Preparatory buildings and works for the Project, including, but not limited to:
   (i) Works, including vegetation removal, where, but for this incorporated document, a planning permit would not be required under the provisions of the Planning Schemes.
   (ii) Investigating, testing and preparatory works to determine the suitability of land, and property condition surveys.
   (iii) Creation of construction access points and working platforms.
   (iv) Site establishment works, including temporary site fencing and hoarding, site offices, hardstands and laydown areas.
   (v) Establishing temporary car parking sites.
   (vi) Temporary relocation of walking and bicycle pathways and trails.
   (vii) Construction, protection, modification, removal or relocation of electricity transmission towers on land that forms part of an existing electricity
transmission easement area, minor utility installations, rail signalling, and overhead and associated infrastructure.

(viii) Establishment of environment and traffic controls.
(ix) Demolition to the minimum extent necessary to enable preparatory works.
(x) Salvaging and relocating of artefacts and other preparatory works required to be undertaken in accordance with the approved Cultural Heritage Management Plan (CHMP) prepared for the project under the *Aboriginal Heritage Act 2006*.
(xi) Salvaging Matted Flax-lily (*Dianella amoena*) and other preparatory works required to translocate Matted Flax-lily (*Dianella amoena*) in accordance with a Translocation Plan approved for the Project under the *Environment Protection and Biodiversity Conservation Act 1999*.

b) The removal, destruction or lopping of native vegetation to the minimum extent necessary to enable preparatory works, to the satisfaction of the Minister for Planning. Any native vegetation removed to enable preparatory works forms part of the total extent of native vegetation removal necessary for the construction of the project and native vegetation offsets must be provided in accordance with clause 4.8, except as otherwise agreed by the Secretary to DELWP.

4.10. **Availability of approved plans and documents**

4.10.1. The current version of the following plans and documents must be available on a clearly identifiable project website **during construction of the Project** and for at least five years after the commencement of operation of the Project:

(a) Environmental Management Framework approved under clause 4.5;
(b) Urban Design Strategy approved under clause 4.6; and
(c) Urban Design and Landscape Plans approved under clause 4.7; and
(d) Communications and Community Engagement Plan.

5. **EXPIRY**

5.1. The control in this document expires if any of the following circumstances apply:

(a) The development allowed by the control is not started by 31 December 2021.
(b) The development allowed by the control is not completed by 31 December 2030.
(c) The use allowed by the control is not started by 1 January 2031.