ENVIRONMENTAL PERFORMANCE REQUIREMENTS:

1. There are a number of EPRs where the requirement is to minimise an impact, for example EPR B2 requires that impacts to business disruption through acquisition and temporary occupation are minimised to the extent practicable.

2. The EPRs define the minimum environmental outcomes that must be achieved during design, construction and operation of the project regardless of the solutions adopted. This performance-based approach of the EPRs enables different design alternatives or construction methodologies to be considered to achieve the outcomes. This provides a delivery model that is flexible and encourages innovation through the procurement process by allowing the contractor to determine how EPRs would be achieved while developing and optimising the project design.

3. The EPRs are expressed in terms of minimising impacts and the...
risk of harm to human health and environment to within reasonable limits, whilst having regard to contextual factors and the practical delivery of the project. At this stage of the design and construction process, to prescribe specific mitigation measures at specific locations for matters such as business disruption would limit the potential for better solutions to be developed.

Approval of compliance with EPRs

4. The contract between the State and the contractors responsible for design, construction and operation of North East Link would establish detailed processes for design and construction documentation to be prepared and submitted to the Independent Environmental Auditor (IEA) and the State. As part of this documentation, contractors would be expected to demonstrate how impacts have been considered and relevant EPRs have been met. For example, where land is proposed to be acquired or temporarily occupied, the contractor’s documentation would be required to outline what consultation has been undertaken to understand the issues, and how the detailed design and delivery approach has minimised acquisition and temporary occupation.

5. The criteria for assessing performance against qualitative standards in EPRs is expected to vary for each technical discipline.

6. In demonstrating how impacts have been minimised, the contractor’s documentation would be expected to:
   - identify the factors or criteria considered
   - describe how the proposed outcome optimises any competing factors
   - demonstrate a credible effort to reduce impacts to the extent practicable, using the reference project assessed in the EES as the baseline.

7. In some cases, management plans required to be developed by the EPRs would also outline processes for achieving EPRs. For example, the Communications and Community Engagement Plan is expected to outline processes for engagement with businesses and landowners impacted by temporary occupation and how engagement will inform options to minimise disruption. Where relevant, the EPRs also require contractors to consider legislation, policy or guidelines. For example, EPR AQ1 requires the EPA Best Practice Environmental Management: Environmental Guidelines for Major Construction Sites to be considered when developing the Dust and Air Quality Management Plan for construction.

8. Contractors would be required to document their approach to complying with relevant EPRs in the Environmental Strategy prepared under EPR EMF2. This includes the actions proposed,
timing, management plans or documents to be produced, consultation proposed, and evidence that would be available to demonstrate compliance with each EPR. The IEA is required to review and verify the contractor’s Environmental Strategy prior to NELP endorsement under project contract documents.

9. As outlined in EMF table 27-1 and 27-3, the IEA would have a specific role in reviewing all management plans for compliance with EPRs prior to the works commencing. They would also undertake environmental audits to confirm compliance with the implementation of the EPRs and associated plans.

Ensuring compliance with EPRs in delivery

10. The IEA would be expected to conduct audits using audit processes that are consistent with international standards for auditing (in accordance with AS/NZS ISO 19011), which includes gathering evidence from either the State or the contractor to demonstrate compliance. This may include evidence from documents specified in EPRs or the contract, but may also include site-based observation, interviews, review of data, and review of other records, for example evidence of the engagement with businesses, agendas of the Business Liaison Group meetings, and the outcomes of engagement through statutory acquisition processes.

11. IEA audit results would be provided to NELP and the contractor. The contractor would be required to take corrective action to address identified non-conformances and, where required, other audit findings.

12. The EPRs provide for forums including a Business Liaison Group, Community Liaison Group and Transport Management Liaison Group to enable reporting of feedback, impacts and the effectiveness of measures to minimise impacts. Contractors would be part of these forums and would be expected to respond to issues and complaints raised.

Mitigation

13. In some cases, there may be limited practicable ability to minimise impact. Mitigation would be dependent on the individual circumstances of each case, which is why the EPRs are not prescriptive on the mitigation measures. Mitigation options may be set out in relevant management plans and where required, would be developed on a case by case basis to address impacts.

14. In relation to business disruption, contractors would need to develop management plans that address impacts specific to the different businesses affected. Mitigation options would be informed by business engagement, contractor options on occupation timing, and regular review of the effectiveness of the mitigation options. This will also be audited by the IEA.

15. Where mitigation options are not effective, the businesses could raise this directly with the contractor, with NELP or the Business
Liaison Group to seek a resolution and acceptable mitigation option.

CORRESPONDENCE: N/A
ATTACHMENTS: N/A