

Terms of Reference

West Gate Tunnel Project – Inquiry and Advisory Committee

An Inquiry appointed pursuant to section 9(1) of the *Environment Effects Act 1978* and an Advisory Committee pursuant to section 151 of the *Planning and Environment Act 1987* to consider and report on the West Gate Tunnel Project, in accordance with these terms of reference.

The Inquiry and Advisory Committee is to be known as the **West Gate Tunnel Project Inquiry and Advisory Committee (IAC)**.

1. Background

1. The West Gate Tunnel Project (the Project) comprises the following elements:
 - a. The upgrade and widening of the existing West Gate Freeway by two lanes in each direction to generally provide overall capacity of six through lanes each way and auxiliary lanes as required between Williamstown Road and M80 interchange, widening of Princes Freeway between M80 interchange and Kororoit Creek Road, collector-distributor carriageways, elevated ramps, structures and surface road connections including new connections to Hyde Street with the westbound freeway on ramp located to the south of the West Gate Bridge via a section of Simcock Avenue and the eastbound freeway off ramp located immediately north of the West Gate Bridge;
 - b. Two bored tunnels catering for three traffic lanes in both directions, with:
 - i. the eastbound tunnel having a length of approximately 2.8 kilometres commencing from the southern portal approximately 300 metres to the west of Williamstown Road and extending to the northern portal located east of the intersection of Whitehall Street and Harris Street;
 - ii. the westbound tunnel having a length of approximately 4 kilometres commencing from the northern portal located east of the intersection of Whitehall Street and Harris Street and extending to the southern portal located approximately 250 metres to the west of the Newport railway line on the south side of the existing West Gate Freeway; and
 - iii. the eastbound tunnel ventilation structure located approximately 60 metres east of Whitehall Street and 250 metres north of Somerville Road, and the westbound tunnel ventilation structure located in the widened West Gate Freeway approximately 150 metres west of the Newport railway line;
 - c. Bridges across the Maribyrnong River including a central carriageway connecting the tunnels with twin viaducts above Footscray Road and separate on and off ramps to the Port of Melbourne via Mackenzie Road, new off-ramp to Appleton Dock Road and outbound on-ramp from Footscray Road to the viaduct, twin viaducts above Footscray Road and connections to CityLink, Dynon Road and an extension of Wurundjeri Way to Dynon Road and widening to Flinders Street;
 - d. Relocation of major services infrastructure including relocation of high voltage electricity lines and the North Yarra Main Sewer;
 - e. Improvements to the shared pedestrian and bicycle network;
 - f. Upgrades to pedestrian infrastructure and links including replacing existing pedestrian bridges in the vicinity of Wembley Avenue and Rosala Avenue, a new veloway over Footscray Road and new pedestrian bridges over Whitehall Street, Moonee Ponds Creek, Footscray Road and the new Footscray Road connection to the east of CityLink; and

- g. Creation of new public open space areas of approximately 9 hectares.

These elements are more particularly shown within the project boundary for the Project on the plans referred to in Appendix A.

2. The Project, which was formally known as the Western Distributor Project, was declared to be ‘public works’ under section 3(1) of the *Environment Effects Act 1978* (Vic) (EE Act) by order of the Minister for Planning on 23 December 2015. As a consequence, an Environment Effects Statement must be prepared in respect of the Project (EES).
3. Following the completion of a competitive tender process, on 2 April 2017 the State announced the selection of CPB John Holland Joint Venture to design and construct the Project. The declaration of “public works” under the EE Act was subsequently amended by order of the Minister for Planning on 17 May 2017 to describe more specifically the design as selected, so as to facilitate the more effective, targeted and efficient assessment of the environmental effects of the Project (the Order).
4. The Order specifies the procedures and requirements that are to apply to the EES. These include (but are not limited to):
 - a. The preparation of scoping requirements in respect of the EES (which were published in April 2016);
 - b. The appointment of an inter-agency Technical Reference Group in respect of the Project (which occurred in January 2016);
 - c. The public exhibition of the EES for a period of 30 days (which is anticipated to commence on or around 29 May 2017); and
 - d. The appointment of an inquiry to consider the environmental effects of the Project (which, pursuant to these terms of reference, is required to conduct a public hearing commencing on or around 14 August 2017).
5. The proponent for the Project is the Western Distributor Authority (WDA), an administrative office within the Department of Economic Development, Jobs, Transport and Resources. The WDA is tasked with the development and delivery of the Project on behalf of the State of Victoria. Part of the WDA’s responsibilities is to prepare the EES, including all necessary technical studies, and to undertake stakeholder consultation.
6. A draft planning scheme amendment has been prepared by WDA in respect of the Project (draft PSA) in accordance with the *Planning and Environment Act 1987* (Vic) (PE Act). The draft PSA, which will be exhibited with the EES, affects the Hobsons Bay, Maribyrnong, Melbourne, Port of Melbourne, Brimbank and Wyndham Planning Schemes. The draft PSA would facilitate the use and development of the Project and will implement measures necessary to protect the operation and structural integrity of the Project.
7. A works approval application has been prepared in accordance with the provisions of the *Environment Protection Act 1970* (Vic) (EP Act) in respect of the proposed tunnel ventilation systems (WAA). Notice of the works approval application will be advertised jointly with the EES, in accordance with section 20AA of the EP Act.
8. Consistent with the terms of the Order, an Inquiry will be appointed under section 9(1) of the EE Act to consider the environmental effects of the Project. The Inquiry will also consider submissions made in respect of the works approval application.
9. The Inquiry members will also be appointed as an Advisory Committee under section 151 of the PE Act to consider aspects of the draft PSA.
10. The IAC is to include experience in:
 - a. the planning framework;

- b. the environmental management framework;
- c. social cohesion and community;
- d. urban design; and
- e. traffic.

11. These terms of reference:

- a. identify the tasks of the IAC acting in its capacity as an Inquiry under the EE Act and as an Advisory Committee under the PE Act;
- b. provide directions concerning the conduct of the public hearing to be conducted by the IAC; and
- c. address other miscellaneous matters concerning the operation of the IAC.

2. Tasks of the Inquiry

12. The purpose of the Inquiry is to inquire into and provide an integrated assessment of the environmental effects of the construction and operation of the Project.

13. The Inquiry is to undertake the following:

- a. Review and consider:
 - i. the EES and technical appendices, together with WAA No. S0100269; and
 - ii. all public submissions received as part of the exhibition process relevant to the Project.
- b. Convene an early public information session during the exhibition of the EES and WAA at which the proponent must describe the Project and outline in broad terms the content of the EES and WAA.
- c. Conduct a Directions Hearing on or as near as possible to 19 July 2017 to:
 - i. identify key issues, relevant to these terms of reference, that the Inquiry intends to examine;
 - ii. identify submitters, agencies and associated experts that seek to appear before it at the public hearing (both in its capacity as an Inquiry under the EE Act and an Advisory Committee under the PE Act);
 - iii. provide directions to submitters concerning the conduct of the public hearing and any procedural steps prior to the commencement of the public hearing; and
 - iv. finalise a timetable for proceedings.
- d. Conduct a public hearing commencing on or as near as possible to 14 August 2017.
- e. Consider and, where relevant, investigate in relation to the Project:
 - i. the magnitude, likelihood and significance of adverse and beneficial environmental effects;
 - ii. the adequacy of the proposed environmental management framework, including the proposed environmental performance requirements and environmental management measures contained in the EES, with reference to applicable legislation and policy;
 - iii. the adequacy of WAA No. S0100269, with reference to applicable legislation and policy;
 - iv. the adequacy of the impact assessment and whether the proposed environmental performance requirements are capable of being met;
 - v. feasible modifications to the design of the Project within or reasonably proximate to the project boundary that could offer demonstrably overall superior outcomes;

- vi. all submissions made to the Inquiry in relation to any of the matters set out in paragraphs 13(e)(i) to (v) above; and
- vii. any matter reasonably incidental to the matters set out in paragraphs 13(e)(i) to (v) above.
- f. Conduct the hearing as provided for by these terms of reference.
- g. Provide a report to the Minister containing a description of the proceedings conducted by the IAC (including a list of those making a submission or consulted), and the IAC's findings and recommendations in relation to its investigations and considerations referred to above. The report should include, but not necessarily be limited to, the following specific matters in relation to the Project:
 - i. consideration of adverse and beneficial environmental effects;
 - ii. any feasible modifications to the design of the Project within or reasonably proximate to the project boundary that could offer demonstrably overall superior outcomes;
 - iii. conditions that should be imposed on any approval given for the Project under Victorian law;
 - iv. any recommendations to strengthen the environmental management framework; and
 - v. any recommendations regarding specific environmental performance requirements that would be appropriate to achieve acceptable environmental outcomes consistent with applicable legislation and policy.
- h. The IAC is to submit its report to the Minister by 23 October 2017, unless an extension is agreed to by the Minister.

3. Tasks of the Advisory Committee

14. The Advisory Committee is to undertake the following.
- a. Review:
 - i. the draft PSA; and
 - ii. public submissions received in relation to the planning controls proposed by the draft PSA.
 - b. Conduct a hearing to hear from the WDA, and any other submitters who wish to be heard, concerning the appropriateness of the planning controls specified in the draft PSA having regard to these terms of reference. The hearing is to be conducted jointly with the Inquiry hearing in relation to the EES.
 - c. Provide a report to the Minister containing the Advisory Committee's advice as to whether the planning controls proposed by the draft PSA are an appropriate means by which to facilitate the use and development of the Project, and any recommendations it might have in relation to the statutory planning framework to be established for the Project. The IAC is to submit its report to the Minister jointly with its report under paragraph 1313(h) of these terms of reference.

4. Conduct of Hearings

15. The hearings are to be conducted in an open, orderly and equitable manner, as provided for by these terms of reference, with a minimum of formality and without the necessity for legal representation.
16. The hearings are to be conducted in public unless a submission is confidential in nature and the IAC is of the opinion that the hearing should be closed to the public in relation to such that submission.

17. The Inquiry process will be an investigative rather than an adversarial process. The Inquiry process aims to be exploratory and constructive.
18. In conducting hearings, the IAC may at its discretion:
 - a. limit the time of submitters appearing before it;
 - b. limit the time for presentation of evidence by witnesses;
 - c. strictly control cross examination of witnesses, including by prohibition of cross examination in appropriate circumstances;
 - d. meet with a quorum of at least two members present, including the IAC Chair or Deputy Chair; and
 - e. conduct concurrent hearings on matters as determined by the IAC where the quorum is achieved and where, in the opinion of the IAC, no submitter who wishes to participate in the hearing is likely to be unfairly prejudiced by concurrent hearings.
19. The IAC will make an audio recording of any hearing sessions publicly available as soon as practicable after the conclusion of the sessions.

5. Miscellaneous

Submissions

20. Submissions to the IAC are public documents unless otherwise directed by the IAC.
21. Submissions to the IAC will be retained for five years from the appointment of the IAC, or longer if otherwise directed by the IAC.

Fees and Costs of Inquiry and Advisory Committee

22. The members of the IAC will receive the same fees and allowances as a Senior Panel Chair appointed under Division 1 of Part 8 of the *Planning and Environment Act 1987*.
23. All costs of the IAC, including expert advice, technical administration and legal support, venue hire, accommodation, recording proceedings and other costs will be met by the WDA.

Technical, Legal and Administrative Support

24. The IAC may seek advice from experts where it considers this is necessary.
25. The IAC may retain legal counsel to assist it.
26. Planning Panels Victoria is to provide administrative support to the IAC.
27. The IAC may engage additional technical and administrative support as required.



Richard Wynne MP
Minister for Planning

Date: 26/5/17

Appendix A – Other information and project boundary

Project Managers

1. For matters regarding the Inquiry process, please contact Greta Grivas of Planning Panels Victoria, on phone: (03) 8392 5121 or email planning.panels@delwp.vic.gov.au
2. For matters regarding the EES process, please contact the Impact Assessment Unit in Department of Environment Land Water and Planning (DELWP) on phone (03) 8392 5503 or email environment.assessment@delwp.vic.gov.au























