

SUBMISSION BY THE STOP NORTH EAST LINK ALLIANCE OF COMMUNITY GROUPS

This submission identifies deficiencies in policy and process as demonstrated with the North East Link Project, especially in their treatment of potential adverse environmental and health effects of the project. The submission identifies failings to be avoided in all infrastructure projects.

The North East Link Project and the Transport Integration Act

With respect to environmental sustainability the Transport Integration Act (Division 2, Clause 11) declares that the transport system should actively contribute to environmental sustainability by:

- (a) protecting, conserving and improving the natural environment;
- (b) avoiding, minimizing and offsetting harm to the local and global environment including through transport – related emissions and pollutants and the loss of biodiversity;
- (c) promoting forms of transport and the use of energy and transport technologies which have the least impact on the natural environment;
- (d) improving the environmental performance of all forms of transport and the forms of energy used in transport.

The EES Process and Ministerial approval

On 3 March 2020, Clifford Hayes MLC asked the following in parliamentary question time:

Why was a proper Air Quality State Environment Protection Policy study not completed as part of the Environment Effects Statement?

In response, Minister Jacinta Allan glossed over important issues. She contended that ““The North East Link Project has been the subject of an Environment Effects Statement (EES), Victoria’s most robust impact assessment process. The Minister for Planning approved scoping requirements for the EES in June 2018, which set out specific environmental matters to be investigated and documents within the Project’s EES.”

The Minister went on to say that “a detailed air quality impact assessment was undertaken as part of the North East Link EES. This assessment included air dispersion modelling of the tunnel ventilation system and surface roads, utilising accepted vehicle emission standards, scenarios and sensitivity analysis. The assessment and modelling were undertaken in accordance with the EES scoping requirements and to assess compliance with State Environment Protection Policy, where applicable. For surface roads, the modelling was used to assess air quality impacts for the ‘with project’ and ‘no project’ scenarios at sensitive receptors adjacent to major surface roads, where the project is expected to cause significant changes in traffic volumes or fleet mix.”

In fact, the North East Link Environmental Effects Statement Air Quality Study found that the State Environmental Protection Policy standards for particulate emissions are exceeded on the Eastern Freeway at current traffic levels. Of great concern is the fact that expected daily 24-hour exceedances in emissions as a consequence of projected increases in traffic were not quantified in the Environment Effects Statement. They should have been and they need to be as was recommended to the North East Link Panel Hearing.

The North East Link Project collected air quality data at five locations on the North East Link corridor including at Bellevue Primary School in Balwyn North, Trinity College in Bulleen, at the corner of Middleborough Road and the Eastern Freeway, the corner of Lower Plenty Road and the Greensborough Bypass and at the corner of Grimshaw Street and the Greensborough Bypass.

To provide for a measure of safety, under the NEL EES State Environmental Protection Policy, no daily exceedances for Particle Pollution PM 10 and PM 2.5 are permitted. PM 10 is particulate matter 10 micrometers or less in diameter and PM 2.5 is particulate matter 2.5 micrometers or less in diameter and are otherwise known as fine particles. Asbestos fibres and smoke are another source of particle pollution. The World Health Organisation declares the only safe level of particle pollution is zero.

The threat to human health posed by this particulate matter lies in its ability to deeply penetrate the lungs. This is especially the case with PM 2.5 particulate matter which can penetrate the lungs more deeply and may even enter the blood stream.

These particles precipitate a wide range of health conditions, including premature death in people with heart or lung disease, aggravated asthma, decreased lung function, and increased respiratory symptoms. People with heart or lung diseases, children and older adults are most likely to be adversely affected by exposure to particle pollution.

The North East Link Project refuses to release the data collected at the five above-mentioned locations to the public on the tendentious grounds that it is "confidential."

However, we have secured some data for the period May to August 2019 under a Freedom of Information request. Nine exceedances of permissible limits were shown in the data released. In addition, we know that the measured PM 10 data under-states actual PM 10 pollution levels. Significantly the worst quality air was shown to be at Bellevue Primary School in Balwyn North.

The fact is that the Environment Protection Authority should have activated the SEPP Intervention Level because daily limits are being exceeded. But they have not.

It is recommended that the Committee refer to the submission by campaign member Mr Barry Watson for a detailed expose of these matters.

The Sidelineing of Local Government and community engagement

The Victorian Government through the agency of the North East Link Project and, before it, the North East Link Authority, directed local government agencies in the North East Link corridor to sign memoranda of understanding which included a confidentiality provision.

This had the effect of stymying direct communications of these councils on aspects of the project which would affect residents, including health effects. Councils affected in this way included the cities of Banyule, Boroondara, Whitehorse and Manningham. Our campaign is critical of the feeble responses of these councils, and notes that other councils have shown much greater fortitude in defending the interests of their residents against other flawed projects. These have included inner city councils successful campaign against the East West Link project and, more recently, opposition by Shire of Mornington Peninsula the construction of a gas terminal in Westernport Bay. We do, however, recognize the substantial powers of coercion through legislative authority and the “money power” that the state government is able to assert.

In consequence, local government failed in its duty to represent constituent residents in relation to the adverse effects of the project, including that of air pollution and traffic noise.

In this regard, the Committee should be aware that under the Health and Wellbeing Act 2008, Division 3, Clause 24 (d) Councils are required to “seek to protect, improve and promote public health and wellbeing within the municipal district by developing and enforcing up-to-date public health standards and intervening if the health of people within the municipal district is affected.”

The Bid Process and the Reference Design

For a project of this scale, the Victorian government attracted relatively few bidding consortia, with only three announced in September 2019 following what was portrayed by the Victorian government as a world-wide search. It was expected that announcements were to be made in late 2020 of the successful bidder or bidders. However, it was then intimated that this was to occur in April 2021. There is now speculation that final announcements may be made as late as November 2021.

The project is unusual, but not unique, in that it sought bids based on a “reference design” with the intention of enabling individual bidders to make proposals within broad construction and design parameters.

The declared purpose of the Victorian government in utilising a reference design was that it would, in a competitive environment, provide an opportunity to bidders to apply their talent and skills in identifying superior design and engineering solutions.

However, it has not worked out that way. Meaningful competition which would drive down the price and deliver imaginative solutions in the project build were nowhere in sight. In fact, the government attracted very few bids and is now left with one and perhaps no bids which comply with the project brief.

As a consequence of this approach also, it is not publicly known with any certainty what the actual design parameters of the project would be. In fact, this would not be known until the Victorian government has awarded the project to a successful bidder (or bidders).

It is self-evident that during the period before successful bidders are decided, there can be no meaningful public dialogue on the health effects of the project on residents in the near

or general proximity of the project. As noted above, representative local government authorities are sworn to secrecy under the terms of the memorandum of understanding that each of them has entered into. They have been conducting meetings on the matter in camera. Little useful information is in the public domain during this period.

The situation now is one in which the North East Link Project, on behalf of the Victorian government, will be anxious to drive a deal with the successful bidder which does not far exceed cost estimates for the project previously declared publicly.

Such pressure is now heightened with public disclosure that there have been major cost blow-outs and stepped back delivery times for two other major transport infrastructure projects now in the construction phase, the Westgate Tunnel and the Metro Tunnel project.

This uncertainty is heightened by the effects of the pandemic and the fact that there may be durable changes in travel behaviour as a consequence.

In consequence of these cost pressures, it is likely that there will be significant efforts at cost shifting whereby costs which should be borne by the project may be borne socially, including by residents in close or even general proximity to the project. These costs may present, inter alia, in the form of greater exposure to air pollution and higher levels of road noise.

Several councils joined a legal action in opposition to the North East Link Project. But none of them opposed the fundamentals of the project: that it was desirable to build such a road project in the absence of an integrated approach to transport and land use in the project corridor which should necessarily take into consideration all transport modes. In the end, the court action buckled without any tangible benefit. In the aftermath, councils contended that the contest, brief as it was, gave them a “seat at the table.” This contention is risible in light of the fact that whatever discussions are had and information provided is not exposed to public scrutiny.

Future modes of transport, emissions and the use of space

In conclusion, it is worth reflecting on the claim that transport makes on the land area of Melbourne.

The land area of the Greater Melbourne area is about 562,740 hectares. Heavy rail is especially space efficient as a transport mode. This is reflected in the fact that only about 0.5% of Melbourne’s land is devoted to rail transport. Then follows trams or light rail and route bus services, both of which for the most part share the road network with private cars and trucks. The private motor car comes a distant last in terms of space efficiency. In fact, over 79,000 hectares of public land is devoted to road transport, about 14.1% of all land in Melbourne. (See Victorian Environmental Assessment Council, Melbourne Metropolitan Investigation Final Report (August 2011))

The North East Link is claiming more space for predominately private motor car use with the compulsory acquisition of private properties.

Paving more of Melbourne

Significant increases in paved surfaces are also indicated for the North East Link Project. For instance, as advised by the North East Link Project, the existing surface area of the Eastern Freeway covers approximately 802,000 m² while the reference project would add approximately an additional 205,000 m². In addition, the Doncaster Busway, also part of the project, would cover an estimated pavement area of 120,000 m². These figures include entry and exit ramps but not elevated structures.

We do not have data on the increase in paved surfaces elsewhere on the project. It may also be anticipated in the medium to longer term that much of the associated arterial road network would also need to be widened and car parking spaces removed. This would appear to be the case, for instance for the already overloaded Middleborough Road/ Weatherby Road and Blackburn Road in the cities of Whitehorse and Manningham. It is also proposed to duplicate Templestowe Road to cater for the needs of the North East Link.

Road surfaces also absorb and reflect significant heat, which cause the temperature of surrounding areas to elevate, a problem that is increasing in consequence of climate change.

Whilst exhaust emissions comprise most air pollution originating from road traffic, particles from road surfaces are also important. It may be anticipated that the North East Link Project will promote its sustainability credentials with an announcement that it will use “green” asphalt. However, it may be found that this product, produced from recycled materials including plastics, would also release particles into the atmosphere that are injurious to health.

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