

Stop North East Link Alliance Submission to the Legislative Council Environment and Planning Committee Inquiry into 2022 Flood Event

June 5, 2023

Introduction

The Stop North East Link Alliance welcomes this inquiry into the major flooding event of October 2022 by the Legislative Council Environment and Planning Committee. The inquiry has the potential to not only draw important conclusions about the flooding of the Maribyrnong River in 2022, but perhaps more significantly underlines the need to address the issues which the Maribyrnong River event give rise to in today's world of anthropogenic climate change and its consequences for the natural and built environment. It is also significant in the light of predicted net population growth in the order of one million in the period to 2031-32 (2022 Population Statement, Australian Government Centre for Population) and the consequential impact of additional services and infrastructure.

We raise these major public policy issues in the context of the Victorian Government's "Big Build" North East Link Project which would see the construction of two 6.5-kilometre-long road tunnels between Bulleen and Watsonia. These tunnels would go under the Yarra River and the Yarra River Flats.

In addition, it is proposed to significantly increase the capacity of the Eastern Freeway to twelve lanes between Springvale Road in Blackburn North and Hoddle Street in Clifton Hill. Taken together with the addition of bus lanes between Doncaster Road and Hoddle Street, and major interchanges in Bulleen and Doncaster, the road surface area may treble.

Flood management risks and responsibilities

Under the State Emergency Management Plan, Melbourne Water is the flood prediction agency for the Melbourne Metropolitan catchments.

As a flood plain manager for the Port Phillip and Westernport region, Melbourne Water is required to undertake flood modelling to identify land that could be affected by a flood with a 1% chance of occurring in any year. Planning authorities rely on the information to make decisions about land use planning, including the application of flood overlays.

Whilst Melbourne Water recognised in its submission to the Maribyrnong River Flood Review "... that climate change and urbanisation will increase the frequency and severity of urban flooding." (Public Submission 53 at <https://yoursay.melbournewater.com.au/community-consultation>) its flood modelling of the Maribyrnong River was years out of date when the flood occurred in October 2022. (See https://hdp-au-prod-app-mw-yoursay-files.s3.ap-southeast-2.amazonaws.com/8516/8137/2443/MRFR-53_Redacted.pdf Also Sophie Aubrey, Chip Le Grand and Clay Lucas, "Melbourne Water to upgrade flood modelling," The Age, April 15, 2023).

Melbourne Water’s submission disclosed that the most recent flood modelling for the lower Maribyrnong was undertaken in 2003 and incorporated data from 1986.

The flood events along the Maribyrnong River in October and November 2022, which gave rise to this inquiry, were also experienced in the Yarra River corridor which is most directly affected by the North East Link Project.



Photograph 1: North East Link Project early works site flooding, Marcellin College, Bulleen Road, Bulleen, November 2022.

Photograph 1, above, shows an area of the Yarra River flood plain on the eastern side of Bulleen Road in Bulleen which was flooded in 2022. The site is within 500 metres of the river and the Bolin Bolin Billabong is also nearby.



Photograph 2: Bulleen, entry to North East Link early works site, November 2022, and the location for the proposed Eastern Freeway interchange and elevated tunnel ventilation structure.

Photograph 2, above, on the western side of Bulleen Road, Bulleen, shows the entry to Bulleen Park and the site for early works for the southern entry for North East Link tunnels.

This raises the question as to whether the flood modelling of the Yarra River is similarly out of date, and whether the quite significant structures proposed as part of the North East Link Project have been properly assessed for flood risk. We would ask that the Committee inquire into and report on this matter.

Pollutants and flooding

The identity and volume of all pollutants in soil in the Yarra River valley in the area in which the North East Link would be built is uncertain. A major reason for such uncertainty may be the lack of a public record related to the disposal of pollutants at approved sites in the period before the establishment of the Environment Protection Agency in 1970. It may also be the case that the record for subsequent years, and when documentation has been required by law, is also incomplete.

One such chemical which has been detected in the project corridor in the Yarra valley is PFAS, or per- and poly-fluoroalkyl substances. It is also known as a “forever chemical,” because it never breaks down. It has been linked to several forms of cancer in humans and has been in commercial use at least since the 1940’s. PFAS is designed to withstand very high temperatures and it is reportedly impossible to mineralise or decompose using currently available technologies. Most seriously, it spreads very easily in groundwater.

We understand that as an element of the tunnel boring process the North East Link Project proposes to treat substantial volumes of sludge. The volume of sludge to be processed in this way is unknown. It is understood, though, that some of it is to be permanently relocated to a remote site, but it is unclear what contaminants this sludge may contain. It is also unclear what volume of water is to be returned to the water table following processing and the nature and volume of any contaminants this water may contain.

In the circumstances, we believe that the Committee should devote attention to the collateral effects of flooding events, including those related to chemical pollution as may be identified with the North East Link Project.

Public accountability

Failure in public accountability has emerged as a major issue with the North East Link Project. This has especially been the case with environmental concerns, including flooding impacts, both in the short and long term. In this regard, it should be noted that the “Independent Environmental Auditor” for the project, Nation Partners, were appointed by the then Minister for Planning, Richard Wynne, to assess North East Link Project compliance with Environmental Performance Requirements (EPR’s) for the project. Nation Partners is a private consultancy which was previously commissioned by the North East Link Project to prepare reports for the EES hearings on the project, which assessed whether the project should proceed and the conditions and controls that should apply.

Assessments made by the consultant of conformity or failure to meet identified Environmental Performance Requirements are only published after they have been reviewed, amended and approved by the Minister for Planning. This is not a transparent and timely process for adequate environmental outcomes and project management. The process means that there is no effective project environmental oversight, particularly in the absence of other responsible regulatory agencies, including the Environment Protection Authority which have vacated the field and do not respond effectively to reports of possible non-compliance.

The project has also appointed two community liaison groups (Community Liaison Groups North and South), which include residents chosen by the North East Link Project itself to discuss emerging issues concerning the delivery of the project. Such information has not been made available to these committees either, and where it has been sought it has not been forthcoming.

On a broader level, it is more than troubling that representatives of the four local government authorities through which the project would run have been unreasonably restricted by confidentiality agreements contained in memoranda of understanding the North East Link Project directed them to sign. The Cities of Boroondara, Whitehorse, Banyule and Manningham are understood to have conformed with this requirement. This device largely subverts the representative character of the local authorities concerned and their ability to robustly review elements of the project, including environmental issues. The device compromises the ability of these local government agencies to adequately represent their constituents and to adequately deal with representations from constituents in relation to the project.

Public accountability is now a major issue because of significant recent failings at Federal and State level. It is central to the performance of our system of government we propose that the Committee give particular attention to the matters identified here.

Conclusions

In view of the concerns outlined above we propose that the Committee address these and related events that the North East Link Project gives rise to.

As outlined above, we can see clear comparisons with the events that occurred in the Maribyrnong precinct in 2022 and possible failures in government policy and process in relation to the North East Link Project.

As the impacts of anthropogenic climate change close in, and with it the increased probability of episodic and far more severe flooding events than those experienced in 1974 and 2022, we submit that these matters should be accorded the highest priority.