

# NEL EES Community information session

Thursday 2 May 2019, 7pm – 8:30pm

Greythorn Community Hub

# Overview

1. Welcome and introduction – Councillor Jim Parke.
2. Council's key concerns – Carolyn Terry.
3. EES processes and how to make a submission – Barnaby McIlrath.
4. Thanks and meeting close.
5. Informal discussion.



# Welcome and introduction

# Council's key concerns

# Council's key concerns

1. Impact on the neighbourhood amenity.
2. Loss of:
  - a. Public open space.
  - b. Trees and vegetation.
  - c. Biodiversity.
  - d. The Boroondara Tennis Centre.
  - e. Four of the front five holes of the Freeway Golf Course.
3. Increased:
  - a. Traffic volumes on the Eastern Freeway.
  - b. Traffic volumes on our local roads.
  - c. Traffic noise on the Eastern Freeway.
4. Decreased air quality.

# Council's key concerns

Impact on the neighbourhood amenity.

## References:

Map Book: Sheets 22 to 35.

Chapter 16: Landscape and visual.

Technical report H: Landscape and visual.

Chapter 7: Urban Design.

Attachment 2: Urban Design Strategy.

# Council's key concerns

Loss of:

- a. Public open space.
- b. Trees and vegetation.
- c. Biodiversity.

References:

Map Book: Sheets 22 to 35.

Technical report E: Land Use Planning.

Technical report I: Social.

Technical report G: Arboriculture.

Technical report Q: Ecology.

# Council's key concerns

Loss of:

- a. The Boroondara Tennis Centre.
- b. Four of the front five holes of the Freeway Golf Course.

References:

Technical report I: Social, Appendix 2: Bulleen Park Area Sports and Recreation Options Assessment.

# Council's key concerns

## Increased:

- a. Traffic volumes on the Eastern Freeway.
- b. Traffic volumes on our local roads.
- c. Traffic noise on the Eastern Freeway.

## References:

Technical report A: Traffic and Transport.

Technical Report C: Surface Noise and vibration.

Technical Report I: Social - Appendix E.

# Council's key concerns

Decreased air quality.

References:

Technical Report B: Air Quality.

# EES processes and how to make a submission

# North East Link

Environment Effects Statement Inquiry



# Overview of legislation

1. EPBC Act and Matters of National Environmental Significance (MNES)
  - Internationally protected species and communities and impacts on Commonwealth places
2. *Environment Effects Act 1978*
  - *Inquiry and Environment Effects Statement (EES)*
3. *Planning & Environment Act 1987*
  - *Advisory Committee and planning scheme amendment*
4. *Major Transport Projects Facilitation Act 2009 (MTPFA)*
  - *Project delivery powers, land acquisition and compensation*
5. *Environment Protection Act 1970*
  - Works approval for tunnel emissions



# Project delivery and the MTPFA

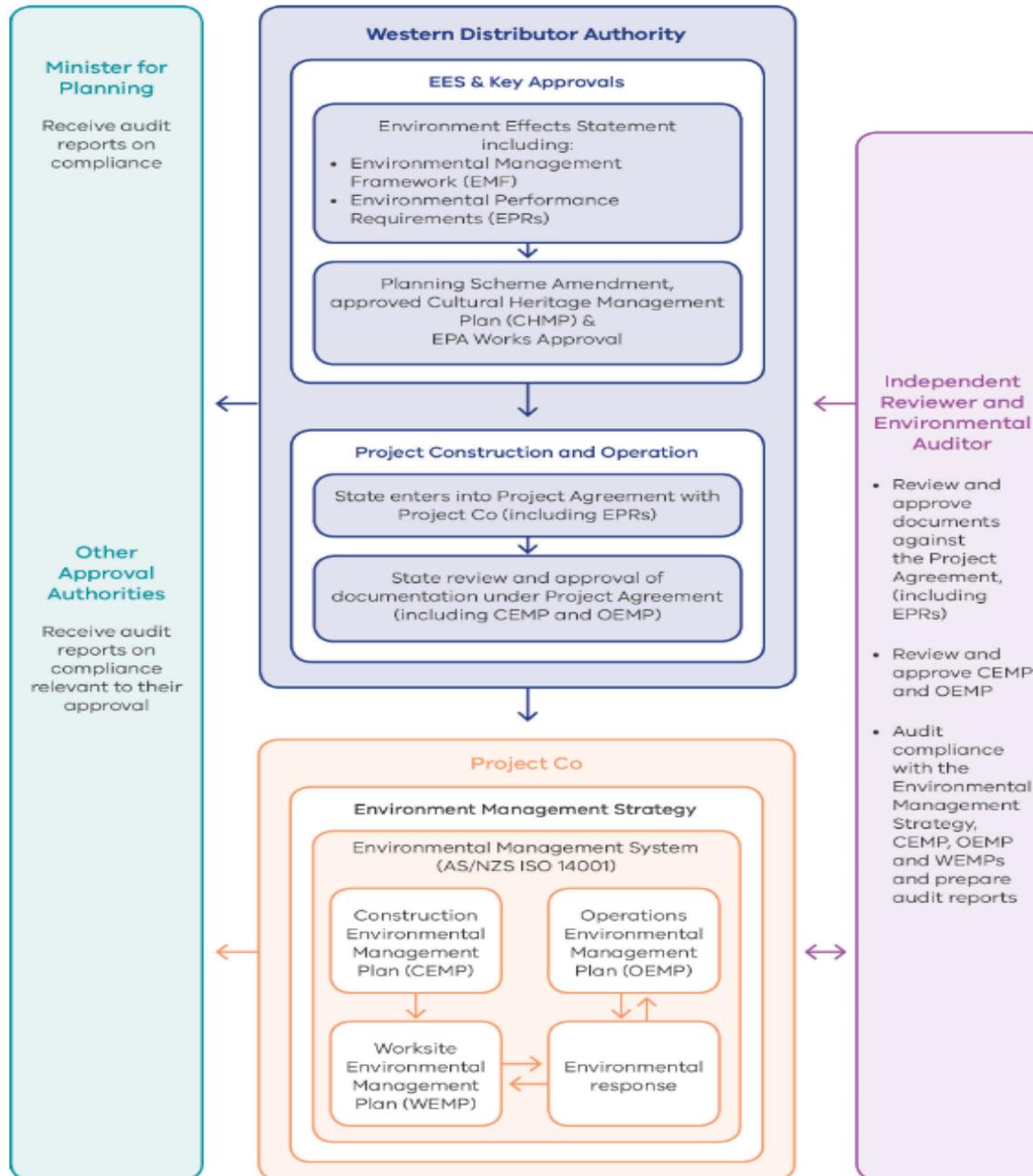
1. MTPFA powers:
  - apply to the declared project area
  - facilitates acquisition and road closures
  - override the powers of councils under Acts administered by local government
2. MTPFA assessment process not invoked (they are using an EES instead)
3. MTPFA provides for compensation, but the IAC does not determine compensation entitlements

# Environmental Assessment Process

1. Scoping requirements for EES
2. EES development and engagement with Technical Reference Group (TRG)
3. Announce reference design (detailed mapping)
4. EES Exhibition
5. Appointment of Inquiry and Advisory Committee
  - Terms of Reference
  - Confined hearing timetable (6 weeks)
6. Hearings (late July –August and into September)
7. IAC report released (usually just before Xmas)



Figure 8-1 Governance framework



# Environmental Management Framework

- Performance requirements for the winning tenderer are distilled from the EES and IAC recommendations into an EMF that is enforced through the Project Deed
- The EMF includes a detailed list of Environmental Performance Requirements (EPRs) that become the lead contractor's responsibility
  - Enforceable through planning scheme
  - 'Early Works' are subject to various exceptions

# Plans to be approved

- Environmental Management Framework and EPRs
- Urban Design Strategy
- Early Works Plan
- Development Plans?
- Heritage Approvals
- Works Approval (EPA)
- CHMP

# EPRs - scope

- EPRs cover:
  - The EMF
  - Aquatic ecology and river health
  - Aboriginal cultural heritage
  - Air quality
  - Arboriculture
  - Business and social impacts
  - Contaminated land and spoil management
  - Cultural heritage
  - Electromagnetic interference
  - Flora and fauna
  - Greenhouse gas
  - Ground movement and stability
  - Groundwater
  - Land use and planning
  - Landscape and visual
  - Noise and vibration (design, construction & operation)
  - Social and community
  - Surface water
  - Transport



# Example EPR

No	Environmental Performance Requirements	Precinct	Timing																		
	(See EPRs SC4 and SC11).																				
<b>NV6</b>	<p><b>Airborne Construction Noise Guideline Targets (External)</b></p> <p>1. Implement management actions if construction noise is predicted to or does exceed the Guideline Noise Levels at residential locations as specified in EPA Publication 1254.</p> <table border="1"> <thead> <tr> <th rowspan="2">Time Period</th> <th rowspan="2">Applicable Hours</th> <th colspan="2">Guideline Noise Levels, <math>L_{Aeq}</math></th> </tr> <tr> <th>Up to 18 months after project commencement</th> <th>18 months or more after project commencement</th> </tr> </thead> <tbody> <tr> <td><b>Normal Working Hours</b></td> <td>7am to 6pm Monday to Friday 7am to 1pm Saturday</td> <td colspan="2">No specified Guideline Noise Levels are provided in EPA 1254 – Refer to EPR NV21 for the noise management levels (see note 1)</td> </tr> <tr> <td><b>Weekend / Evening work</b></td> <td>6pm to 10pm Monday to Friday 1pm to 10pm Saturday 7am to 10pm Sunday and Public Holidays</td> <td>Noise level at any residential premises not to exceed background noise by 10 dB(A) or more.</td> <td>Noise level at any residential premises not to exceed background noise (<math>L_{A90}</math>) by 5 dB(A) or more.</td> </tr> <tr> <td><b>Night</b></td> <td>10pm to 7am Monday to Sunday</td> <td colspan="2">Noise is to be inaudible within a habitable room of any residential premises.</td> </tr> </tbody> </table> <p><b>Note</b></p> <p>(1) During Normal Working Hours, the CNVMP must address noise levels that exceed the Management Levels specified in Table EPR NV21A.</p>	Time Period	Applicable Hours	Guideline Noise Levels, $L_{Aeq}$		Up to 18 months after project commencement	18 months or more after project commencement	<b>Normal Working Hours</b>	7am to 6pm Monday to Friday 7am to 1pm Saturday	No specified Guideline Noise Levels are provided in EPA 1254 – Refer to EPR NV21 for the noise management levels (see note 1)		<b>Weekend / Evening work</b>	6pm to 10pm Monday to Friday 1pm to 10pm Saturday 7am to 10pm Sunday and Public Holidays	Noise level at any residential premises not to exceed background noise by 10 dB(A) or more.	Noise level at any residential premises not to exceed background noise ( $L_{A90}$ ) by 5 dB(A) or more.	<b>Night</b>	10pm to 7am Monday to Sunday	Noise is to be inaudible within a habitable room of any residential premises.		All	Construction
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# Key considerations for submitters

- Directions hearing
  - Access to information/directions
  - Availability of witnesses
  - Scheduling
- Circulation of evidence
- Scheduling of time at hearing
- Presentation of submission and supporting materials

# Expert conclaves

- The IAC will require groups of experts in the same field to attend a 'conclave' and produce an agreed statement of facts, so as to narrow the issues in dispute
  - The conclave statements are important, so its important to keep abreast of them
  - Cross examination then can focus on points of disagreement, rather than the original witness statement
- You will get a feel for how the advocates cross examine by watching
  - Prepare a list of questions and cross off the ones that have been covered by others



# Structure of a good submission

- Distinguish between
  - Assessment of impacts
  - Corridor justification
  - Design issues (e.g. design of an interchange, alignment, tunnel or trenching, mitigation measures)
  - Construction and Operational issues (EPRs deal with these – like permit conditions)
- Being persuasive
  - Refer to evidence in support of key propositions (experts, reports, images, maps, plans, local flood histories, conservation programs, ecological reports)
  - Use the Planning Policy Framework and the EPRs as reference points
  - Explain what aspects of the local environment you value and why – tell your story
- EPRs and Incorporated Document
  - The EPRs tend to evolve during the course of the Inquiry
  - Parties will probably get a further opportunity at the end to make submissions about the latest version of EPRs
  - The EPRs are focused on implementing what is approved, rather than making major changes to the reference project design
- Keep It Simple
  - The Inquiry will be dealing with a large number of submissions
  - Don't spread yourself too thin: focus on a few key issues
  - Make it easy for the IAC to adopt your suggested changes and recommendations (use **cross references and hyperlinks**)
- Recommendations
  - Focus on key issues and recommendations
  - Look at previous EES reports for guidance as to structure ([www.austlii.edu.au](http://www.austlii.edu.au))



# Help the IAC to support your case

- Drafting recommendations
  - Be specific to a geographic location, interchange, plan, EPR or EES Chapter/Appendix
  - Use headings
- The EPRs
  - Use track changes – don't reinvent the wheel
  - Adopt Council's changes where you agree
- Piggy back on tendered documents
  - NELP will likely circulate numerous iterations of the EPRs and Incorporated Document during the hearing

# Questions?

**Barnaby McIlrath** | Consultant  
Maddocks

# EPBC Act process

- Draft Public Environment Report open for comment until 30 May 2019
  - The draft PER must address feasible alternatives
- Public Environment Report process does not allow for a public hearing
  - The Cth did not accept Council submission requesting a Public Inquiry
  - Evidence before the IAC is not automatically available to the Commonwealth Minister
  - Cth must have regard to advice from the State before granting approval
- Impacts on Commonwealth land and EPBC Act listed species or other 'MNES' cannot be assessed by the IAC



# Thanks and meeting close

## Key contacts:

North East Link Project

Email: [community@northeastlink.vic.gov.au](mailto:community@northeastlink.vic.gov.au)

Phone: [1800 941 191](tel:1800941191)

Post: GPO Box 4509, Melbourne VIC 3001

City of Boroondara

Phone: [9278 4444](tel:92784444)

Email: [transport@boroondara.vic.gov.au](mailto:transport@boroondara.vic.gov.au)

Post: Private Bag 1, Camberwell VIC 3124

# Informal discussion