

EAST WEST LINK (EASTERN SECTION) PROJECT

ASSESSMENT COMMITTEE APPOINTED UNDER SECTIONS 35 AND 235 OF THE MAJOR TRANSPORT PROJECTS FACILITATION ACT 2009

ROYAL PARK PROTECTION GROUP INC (645)
PROTECTORS OF PUBLIC LANDS (VICTORIA) INC (645)
PARKVILLE ASSOCIATION (317)
SAFETY NET FOR ROYAL PARK (257)
FRIENDS OF ROYAL PARK PARKVILLE INC (396)
CARLTON RESIDENTS ASSOCIATION (173)
YARRA CLIMATE ACTION NOW (534)
THE KENSINGTON ASSOCIATION (297)
RESIDENTS AGAINST THE TUNNEL (156)

COMMUNITY GROUP OPENING SUBMISSION

1. The community groups above (**Groups**) strongly oppose the East West Link (Eastern Section) Project (**proposal**). The Groups understand that many other community groups have similar concerns to those expressed in this opening.
2. The project is located in a heavily populated inner city environment with a diverse community and an historical urban and environmental character. This merits and requires a very different approach to the building of a major arterial road such as East Link or Peninsula Link in the outer suburbs of Melbourne. The project site is an incredibly tight urban and park environment where there is no scope to get it wrong.

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3. When reading submissions about this proposal, there is often great concern expressed about the potential impacts of the proposal, how they will be addressed and a general questioning of its benefits.
4. There are three general concerns that are common to the Groups:
 - (a) the use of a reference design for the CIS;
 - (b) the adequacy of the CIS; and
 - (c) the enforceability of the CIS through performance requirements and applicable approvals.
5. Some of the Groups intend to raise additional concerns which are summarised below.

Safety Net for Royal Park

6. Safety Net for Royal Park (**SNRP**) will submit alternative options to the present alignment of the reference design.
7. The rationale for the SNRP's submissions is to minimise adverse impacts of the proposal on Royal Park and West Parkville residents.

Kensington Association

8. The Kensington Association (**KA**) concerns relate to the impact of Part B of the proposal in Precinct 5.
9. The KA will make submissions about the impacts of the proposal on:
 - (a) visual amenity;

- (b) noise & air pollution;
- (c) additional traffic impacts; and
- (d) loss of public open space.

Residents against the Tunnel

- 10. The Residents Against the Tunnel (**RATS**) will make submissions concerning the impact which the proposal will have on residents directly and immediately affected by the proposal and on the local communities.
- 11. RATS will submit that the proposal's claim that it is a 'congestion buster' are not and cannot be justified.
- 12. In addition, RATS will submit that the costs of the proposal far outweigh the benefits.

Yarra Climate Action Now

- 13. Yarra Climate Action Now (**YCAN**) will submit that it is essential to develop a comprehensive public transport/ pedestrian/cycling network while retaining public open space in order to mitigate climate change.
- 14. YCAN will submit that this project will massively increase vehicular traffic while destroying vital open space like Royal Park.
- 15. This project is potentially catastrophic from a climate perspective.

Carlton Residents Association

16. The Carlton Residents Association (CRA) will submit that the proposal is the result of a highly politicised process rather than one that objectively looks at Melbourne's infrastructure needs for the future.
17. Further, the CRA will submit that building more roads will not remove traffic congestion.

Royal Park Protection Group & Protectors of Public Lands Victoria

18. The Royal Park Protection Group and Protectors of Public Lands Victoria are particularly concerned about the impact which the proposal will have on Royal Park, including the Zoo, the Trim Warren Tam-Boore Wetland (**the wetland**) and Anzac Hall.

Royal Park

19. The Royal Park Protection Group, Protectors of Public Lands Victoria Inc, the Friends of Royal Park and the Parkville Association have expressed particular concern about the way the proposal will impact upon Royal Park.
20. While each Group has a particular focus, the Groups wish to use the example of Royal Park to illustrate the Groups' general concerns about this proposal.
21. As Heritage Victoria has noted recently in its recommendation to include Royal Park in its entirety on the Heritage Register:¹

¹ Heritage Victoria, *Assessment of Cultural Heritage Significance and Executive Director Recommendation to the Heritage Council* dated 21 February 2014 p. 4.

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Royal Park is historically significant as an outstanding and largely intact example of the public parks set aside by Lieutenant-Governor Charles La Trobe from the mid-1840s as part of his vision for the city of Melbourne. It retains its early use and demonstrates La Trobe's contribution to the provision of public open space in the colony and also the vision of the colonial administration for the future development of Melbourne. Largely as a result of La Trobe's vision Melbourne now has a group of spectacular parks.

22. It also records that:

- (a) *"Royal Park is rare as ...it retains its basic form, its early use, remnant indigenous vegetation and important views to the city."*
- (b) Royal Park is "... the most important of Melbourne's early outer ring of parks..." and has "... greater historical significance..." than other parks.
- (c) Royal Park has "... significant, remnant indigenous vegetation ..." and is testament to the "ongoing dedication to planting native and indigenous plants over a period of 150 years..." (emphasis added).

CIS

23. It has been observed by the Groups that the Comprehensive Impact Statement (CIS), the document prepared by the Linking Melbourne Authority (LMA) to assess the benefits and the negative impacts of the

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project, highlights the claimed benefits and glosses over or ignores the negative impacts.

24. The Groups submit that the CIS is not a comprehensive statement of the impacts at all, merely one that proclaims the benefits. In its current form, it would be more appropriate if the document were renamed the Comprehensive Benefit Statement.
25. For such a major project, this approach is just not good enough.
26. It has been of great concern to the Groups that the CIS uses a reference design. As is stated again and again in the CIS, the reference design does not represent the final proposal. A reference design "... is used to determine the project's feasibility and ability to achieve acceptable outcomes."² In other words, it amounts to no more than a feasibility study.
27. Further, the CIS acknowledges that there will be variations to the reference design.³

The Reference Project may not be the design ultimately adopted for the project. Firms tendering to construct and/or operate the project may offer variations to its design or route alignment that deliver better value for money or that incorporate innovative approaches in design, technology or operations that have not been considered specifically as part of the assessment of the Reference Project.

² CIS Chapter OO p.6.

³ CIS Chapter OO pp. 6-7.

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The final design ultimately adopted for the project would need to fall within the project boundary and any variations would need to comply with the conditions on any applicable approval and the performance requirements set for the project.

(emphasis added)

28. The Groups submit that this is an extraordinary situation to be faced with. An appropriate CIS ought to be based on a finalised proposal which has specifically considered and exposed the full range of negative impacts resulting from the proposal, as well as its benefits.
29. It is no answer to say that the LMA cannot analyse all the negative impacts of the project because the design is not finalised. Therein lies the vice of the approach adopted in this case. And if cost becomes an overriding concern, as will inevitably be the case, the execution of this project will be a race to the bottom.
30. In the absence of the LMA volunteering further information on a range of important issues, the Committee should require that it be provided prior to it making its final decision.

3D Renderings and videos of the proposal

31. Given the above concerns about various omissions from and qualifications to the proposal, the Groups submit that the Committee must approach with some scepticism the 3D renderings of the proposal and video flyovers produced for the proposal. They are representations of the reference design, which it is acknowledged by LMA do not represent the final proposal.

32. The Group submits that the Committee cannot be satisfied that the renderings represent the most likely design. They represent no more than one possible outcome. They give an approximate indication of the location, scale etc. of the most basic project elements but they aren't sketch designs. The equivalent is the type of building envelope diagram used in structure plans to show potential building heights. These are not building designs but simply set out the parameters within which buildings can be designed. The addition to the images of aesthetic features such as grass and trees, when major structures are still missing (tolling, lighting and signage gantries, security fencing etc.), is patently an attempt at dis-information and spin.

Reference Design: Conclusions

33. What has been a carefully orchestrated approach by the LMA to highlight the best aspects of this proposal will have succeeded if the Committee is denied the opportunity to consider its worst aspects.
34. The Groups submit that it is incumbent upon the Committee to exercise a great degree of caution when forming a view about the proposal's adequacy or appropriateness, given the uncertainty of its status.

Adequacy of CIS

35. The CIS acknowledges that there are range of potential outcomes or designs that may be available to a tenderer to build the project. It is imperative that this range of outcomes is addressed in the CIS. Instead, as just one of many examples, what is seen throughout the

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CIS is the following statement (in this case, in relation to the Urban Design Framework):⁴

It is important to recognise that the Reference Project is a concept design and that it does not constitute a considered response to the Urban Design Framework. (emphasis added)

36. The Groups question to the above statement is: why not?

Adequacy of CIS: Ventilation Structures

37. Another example of the problem with the CIS is in relation to the way the CIS addresses the need for a ventilation structure in Royal Park.

38. The CIS proposes that two ventilation structures will be required for the proposal. Each have been located for the purposes of the reference design at the eastern and western portal entrances to the tunnel, with the usual proviso that:⁵

The exact location of the structures would be determined by the contractor and an additional air quality assessment would be required to prove that the performance requirements to policy levels would be met.

39. The ventilation structure in Royal Park is to have a vent diameter of 8 metres and a height of 20 metres.⁶ To ensure appropriate dispersal of emissions from the tunnels, there have been considerations made in

⁴ East West Link (Eastern Section) Assessment Committee Request for Information under section 57(4) of the Major Transport Projects Facilitation Act 2009 Response of the Linking Melbourne Authority 11 February 2014 p. 61.

⁵ CIS Chapter 11 p. 10.

⁶ CIS Chapter 11 p. 11.

the CIS to ensure that buildings near these structures do not affect the dispersal characteristics of the structures.⁷

40. The Air Quality report, annexed to the CIS as Appendix I, notes the following:⁸

The modelling locations of the ventilation structures are representative of one possible location, close to the respective tunnel exit portals, that could be used in a final tunnel design. The ventilation structures have not been placed in an optimised location but have been selected at one possible configuration in which emissions from the tunnel can comply with Victorian environmental regulations. (emphasis added).

41. The expert's report from which this quote is taken, notes that the optimal location for the western ventilation structure is likely to be in a location other than at the western portal. Placing the ventilation structure (and associated air handling equipment) in the optimal position in Royal Park may locate the structure much closer to the State Netball and Hockey Centre, Melbourne Zoo and the Children's Hospital. The visual impact of a 20 metre high structure in the park would also be significantly different from that shown in the promotional videos by LMA. The dispersal plumes shown and modelled in the CIS will also change.

⁷ CIS Chapter 11 p. 15.

⁸ CIS Appendix I Air Quality Assessment p. 57.

42. The visual impact of a 20 metre high structure in the park would also be significantly different from that shown in the promotional videos and renderings by LMA.
43. The Groups submit that this is an example of an issue, the detail of which is likely already known to the LMA, but in relation to which proper consideration of any alternative is not evident from the CIS.

Adequacy of CIS: Cut and cover

44. There is the option in the CIS for all of the tunnel in Royal Park to be constructed using the cut and cover method. The Groups submit that if this method of construction is cheaper than tunnelling, there is no doubt that it will be used.
45. It is extraordinary to the Groups that even though this method is clearly an option, it is only given nominal assessment in the CIS.
46. The Group cannot think of a more destructive activity in Royal Park than cutting a 30 metre deep and possibly 120 metre wide trench for 1.4 kilometres through the park over the next 5 years. And yet, the Groups note and the Committee should observe that the potential impacts of this activity are given scant attention in the CIS.
47. And there is no apparent obligation on the contractor to re-fill the trench in any timely fashion. Arguably, it could remain open cut until works are required to be completed under the planning permit by 31 December 2030.⁹

⁹ CIS Technical Appendices Appendix A Approvals Planning Scheme Amendment Incorporated Document para 6.0.

Adequacy of CIS: The project area

48. There is an extensive amount of land reserved for the project in Royal Park, particularly around Ross Straw field and the wetlands. In addition, the project boundary runs immediately adjacent to Anzac Hall, a heritage listed place. There is no specific justification for the extent of land prescribed within the project boundary in the CIS.
49. The Groups say that this is an example of where the Committee should exercise greater scrutiny of the CIS and particularly its strategic justification.
50. Unusually for the CIS, the land within the project area is stated to be "... a 'worst case' scenario – not all of this area may be needed by the contractor who would be required to use as small an area as possible and to minimise temporary and permanent construction footprints in the park."¹⁰
51. The major laydown areas, project offices and workforce carparks are not anticipated to be located in or adjacent to Ross Straw field.¹¹
52. The Groups submit that about half of that land would be required to construct the proposed flyovers.

Adequacy of CIS: Conclusions

53. The Groups submit that use of a reference design should not be justification for:

¹⁰ CIS Chapter OO p.24.
¹¹ CIS Chapter OO p. 25.

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- (a) omitting analysis from the CIS of all key issues;
 - (b) failing to consider the expected range of possible outcomes; or
 - (c) leaving the issue for resolution until after a tenderer is selected.
54. The Groups submit that the Committee should carefully scrutinise the CIS where any of the above circumstances arise.
55. If cost becomes the overriding factor in consideration of tenders, as is inevitable, the Groups submit that this project will become a race to the bottom.
56. If during the course of this hearing, further material is forthcoming from the LMA that properly assesses the range of outcomes including the worst case (as it should), the Groups request that they be provided with an appropriate opportunity to respond.

Enforceability: Spoil disposal

57. The Groups submit that the question of disposal of spoil is a very good example of the third concern expressed by the Groups.
58. The CIS notes that the proposal will create somewhere between 2.5 and 3 million cubic metres of spoil¹² which will need to be disposed of. The CIS further notes that this spoil will be disposed of 'off-site'. The amount of spoil to be removed is huge.

¹²

CIS Chapter 4 pp. 21-22.

59. As far as problems posed by enforcement of the CIS in its present form, the Groups submit that:
- (a) as it stands, the performance requirements in the CIS do not mandate removal of spoil from the project area.¹³
 - (b) there is ample scope to dump the spoil on and in the vicinity of Ross Straw fields, in particular, endangering or destroying the wetlands. The tenderer may advise the LMA that there are cost benefits in not removing spoil off site;
 - (c) the planning permit allows earthworks to be conducted and fill to be disposed of, 'as of right' within the project area.¹⁴
60. One could not be criticised for concluding that the only reason for setting aside such a large project area is to allow for dumping of spoil and avoiding the cost of its removal from Royal Park.

Enforceability: Planning Permit

61. The Act under which this proposal is being assessed is, amongst other things, a 'one stop shop' for all applicable approvals include planning permission. The Groups submit that the level of diligence required to be exercised by the Committee when granting approval for the proposal, is highlighted by the terms of the proposed planning permit.
62. The planning permit will approve the following activities, amongst other things:

¹³ CIS Chapter 17 p.25 Performance requirement W1 merely requires the contractor to develop and implement management measures for waste minimisation during construction and operation including spoil from tunnel construction.

¹⁴ CIS Appendix A Planning scheme amendment, incorporated document clause 4.0.

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- (a) all works for the new road tunnel and associated infrastructure;
- (b) earthworks and structures, kerbs, channels, cuttings, batters and fill associated with the proposal;
- (c) ancillary activities such as destroying and lopping trees and removing vegetation including native vegetation.

63. The only limitations on the above activities are the following:

- (a) requiring the contractor to ensure that the development is generally in accordance with the urban design principles and the environmental management plan, both of which are matters the subject of this hearing; and
- (b) any requirements in the signed agreement between the tenderer and the Victorian Government or LMA (which remain confidential).

64. The tenderer can remain in occupation of the project site until 31 December 2030 at which point, the project must be completed and the use started. The successful tenderer has until 31 December 2020 to start the project.

Elliott Ave

65. The Groups submit that there is no strategic reason to have the only interchange in the proposal at Elliott Avenue. This is especially so, when regard is had to the proximity of this proposed interchange to

the Zoo. It is the Group's submission that this part of the proposal should be removed.

66. The key justification for the project in the CIS is that:¹⁵

The Eastern Freeway should be a vital link in Melbourne's and Victoria's economic infrastructure – instead, it is a 'stranded asset', cut off from the rest of the freeway network and giving vehicles no direct access to the Port of Melbourne and Melbourne Airport or to major routes out of the city to the north and west.

67. The Elliott Ave interchange is justified at a broad level in the CIS as being needed "... to better distribute traffic travelling to the north western suburbs"¹⁶. Further that:¹⁷

The intersection of Flemington Road, Mount Alexander Road, Racecourse Road and Elliott Avenue to the north-west of the CBD is a unique nucleus of transport links. Racecourse Road provides connections with major arterial roads in the west such as Ballarat Road and Geelong Road; Mount Alexander Road provides accessibility to the inner north-west suburbs; and Flemington Road and adjoining roads such as Boundary Road provide links into North Melbourne and the north of the CBD.

68. However, the Groups say that there are numerous entry and exit points to the proposal nearby on CityLink that provide far better linkages to "... the Port of Melbourne and Melbourne Airport and to major routes

¹⁵ CIS Chapter 00 p.2.

¹⁶ CIS Chapter 00 p. 13.

¹⁷ CIS Chapter 5 p.4.

out of the city to the north and west.”¹⁸ This is acknowledged by in the CIS in relation to CityLink wherein it is stated that:¹⁹

CityLink is a vital piece of Melbourne’s transport network, allowing connections with the M1 corridor, the Calder Freeway and the Tullamarine Freeway. The project’s connections with CityLink would improve access to the Port of Melbourne for businesses needing to move freight to and from the Port.

69. These linkages will only be enhanced by the additional entry and exit points to the East-West link proposed in Part B of the proposal, at Ormond Road, Arden Street and Footscray Road.
70. Ultimately it is the Groups position that the Committee should recommend that the Elliott Avenue interchange be removed from the proposal.

Publicly owned/privately possessed

71. The Groups submit that this project will alienate a swathe of inner city public open spaces in the municipalities of Melbourne, Yarra, Moonee Valley and Moreland for the benefit of a private toll road operator.
72. These spaces include:
- (a) parks,
 - (b) reserves,
 - (c) creeks,

¹⁸ CIS Chapter OO p. 2.
¹⁹ CIS Chapter 5 p. 4.

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- (d) waterways
- (e) wetlands,
- (f) sporting grounds and
- (g) playgrounds.

73. The Groups submit that the alignment of this project has been largely governed by the location of public open space. The LMA sees Royal Park and any public open space as “terra nullius” – vacant land there for the taking.

74. By contrast, the Groups submit that such open spaces are part of our heritage and, particularly in the case of Royal Park, an important legacy to be passed on to the next generation undamaged and preferably improved.

Conclusions

75. Royal Park is a significant and rare recreational and community asset owned by the people of Victoria. The Groups submit that the impact of this proposal on Royal Park will be substantial and permanent. It will dramatically change the quality of Royal Park for the worse. This would be a tragic outcome for such an important and rare public asset.

76. Our forebears, with vision, insight and intellect created Royal Park for the benefit of all Victorians. It has been handed down to us through the generations and remains a place reserved as a park for the benefit of all.

77. The Groups submit that it is incumbent on the Committee to apply a similar vision, insight and intellect to that of Lieutenant-Governor LaTrobe when assessing this proposal. The Committee's decision will greatly impact upon how Royal Park will be used into the future. What should be paramount in the Committee's deliberations is the fact that destruction of significant aspects of the park will reap permanent damage upon it.
78. The Groups submit that the Committee should consider what the legacy of their decision will be. Royal Park is too important and valuable for the Committee's decision to be made lightly.
79. Furthermore, while Royal Park is of particular concern, the issues raised about the impacts on Royal Park are also true for the other affected areas, with a wide variety of specific local concerns that merit full and careful consideration.

3 March 2014

T S PIKUSA
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