

Terms of Reference

Beaufort Bypass Inquiry and Advisory Committee

Version: June 2021

The Beaufort Bypass Inquiry and Advisory Committee (the IAC) is appointed to inquire into, and report on, the proposed Beaufort Bypass Project (the project) and its environmental effects in accordance with these terms of reference.

The IAC is appointed pursuant to:

- section 9(1) of the *Environment Effects Act 1978* (EE Act) as an inquiry; and
- part 7, section 151 of the *Planning and Environment Act 1987* (P&E Act) as an advisory committee.

Name

1. The IAC is to be known as the 'Beaufort Bypass Inquiry and Advisory Committee'

Skills

2. The IAC members should have the following skills:
 - a. Biodiversity/ecology, including habitat connectivity;
 - b. hydrology;
 - c. land use planning; and
 - d. transport modelling and road design.
3. The IAC may seek additional specialist expert advice to assist it in undertaking its role.
4. The IAC will comprise of appointed Chair (IAC Chair) and other members.

Purpose of the IAC

5. The IAC is appointed by the Minister for Planning under section 9(1) of the EE Act to hold an inquiry into and provide an integrated assessment of the environmental effects of the project. The inquiry is to:
 - a. review and consider the environment effects statement (EES), submissions received in relation to the project, the predicted environmental effects, and the other exhibited documents;
 - b. consider and report on the potential environmental effects of the project (i.e. the proposed alignment and alternatives), their significance and acceptability, having regard to the draft evaluation objectives in the EES scoping requirements and relevant policy and legislation;
 - c. identify any measures it considers necessary and effective to avoid, mitigate or manage the environmental effects of the project within acceptable limits, including any necessary project modifications; and
 - d. advise on how this relates to relevant conditions, controls and requirements that could form part of the necessary approvals and consent for the project.
6. The IAC is also appointed as an advisory committee under section 151 of the P&E Act to:
 - a. review draft planning scheme amendment (PSA) C50pyrn and incorporated document, which has been prepared to apply a public acquisition overlay and establish planning approval for the project, along with any public submissions received in relation to the draft PSA;
 - b. provide a report to the Minister for Planning as to whether the proposed PSA contains provisions and controls that are appropriate for the project; and
 - c. recommend any changes to the draft PSA that it considers necessary.

7. The IAC is to produce a report of its findings and recommendations to the Minister for Planning to inform his assessment under the EE Act and to assist the Minister to make a decision about the draft PSA.

Background

Project outline

8. The project comprises 11 kilometres of dual carriageway that bypasses Beaufort and connects two recently duplicated sections of the Western Highway to the east and west of the Beaufort township. The project includes:
 - a. half diamond interchanges on either side of the Beaufort township at the eastern and western tie ins to the Western Highway;
 - b. full diamond interchange at Beaufort-Lexton Road;
 - c. one road over rail bridge across the Melbourne-Ararat line;
 - d. overpass structures which will bridge across the existing road network;
 - e. culverts and 2 small bridges over waterways; and
 - f. ten watercourse realignments.
9. The project proponent is Regional Roads Victoria (RRV), a division of the Department of Transport. RRV is responsible for preparing technical studies, consulting with the public and stakeholders, and preparing the EES and PSA.
10. RRV examined options resulting in the shortlisting of four potential alignments (C2, C0, A2 and A0) for further examination and consultation during the EES process. RRV has identified C2 as their preferred alignment for the project.
11. RRV assessed the four potential alignment in the EES and technical studies, but focused detailed impact assessment in the EES on the preferred alignment for the project.
12. RRV has prepared a reference design for their preferred alignment for the Project, to apply for and obtain primary planning approvals.
13. Major Roads Projects Victoria, a division of the Department of Transport, may be assigned to construct the project in the future, should funding become available for the project.
14. The EES needed to assess the environmental effects of the project from construction to operation.

EES assessment process

15. In response to a referral under the EE Act from the proponent, the Minister for Planning determined on 22 July 2015 that an EES is required for the project and issued his decision with procedures and requirements for the preparation of the EES as specified in **Attachment 1**.
16. The EES was prepared by the proponent in response to EES scoping requirements issued by the Minister for Planning in January 2017.
17. The EES will be placed on public exhibition for thirty (30) business days, together with the draft PSA. The proponent (RRV) is responsible for giving notice.
18. DELWP's impact assessment unit must liaise with the office of Planning Panels Victoria (PPV) to agree on the Directions Hearing and Hearing dates, which are to be included on all public notices.

Commonwealth assessment process

19. Because of its potential impacts on matters of national environmental significance, the project was determined to be a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) on 21 February 2020. The relevant controlling provision under the EPBC Act is 'listed threatened species and communities' (sections 18 and 18A).
20. The Victorian EES process is serving as the accredited assessment process for this controlled action under the EPBC Act. The assessment of environmental effects to be made by the Victorian Minister

for Planning will be provided to the Commonwealth Minister for the Environment to inform the approvals decision under the EPBC Act. To assist the Minister for Planning in making his assessment, the inquiry should specifically identify its advice relevant to impacts on specific matters of national environmental significance examined in the EES.

Planning approval process

21. The IAC is to consider and provide advice on draft PSA C50pyrn that proposes planning controls and provisions for various works and activities associated with construction and operation of the project. The PSA is proposed to apply a PAO to the project area and regulate the use and development of the project in accordance with an incorporated document proposed to be included in the Pyrenees Planning Scheme.

Other approvals

22. The project may require several other statutory approvals and/or consents, as outlined in the EES, including:
 - a. an approved Cultural Heritage Management Plan under the *Aboriginal Heritage Act 2006*;
 - b. a permit to remove listed flora under the *Flora and Fauna Guarantee Act 1988*;
 - c. an authority to take or disturb wildlife under the *Wildlife Act 1975*; and
 - d. approvals under the *Water Act 1989* for works on waterways.

Stage 1 – Submissions

23. Submissions on the EES and draft PSA are to be provided in writing on or before the close of submissions. Submissions will be collected by the office of PPV in accordance with the '*Guide to Privacy at PPV*' through the Engage Victoria Website. All submissions must state the name and address of the person making the submission.
24. Petitions and Pro-forma responses will be treated as a single submission, and only the first name to appear on the first page of the submission should receive correspondence in relation to the IAC.
25. All written submissions and other supporting documentation / material or evidence received through the course of the inquiry may be published online, unless the IAC specifically directs that the submission or other material, or part of it, is to remain confidential.
26. Electronic copies of each submission on the EES and draft PSA are to be provided to the proponent, DELWP Impact Assessment, DELWP Regional Planning Services, Pyrenees Shire council and the Wadawurrung Traditional Owners Aboriginal Corporation.
27. PPV will retain any written submissions and other documentation provided to the IAC for a period of five years after the time of its appointment.

Stage 2 – Public hearing

28. Prior to the commencement of the public hearing, the IAC must hold a Directions Hearing to make directions it considers necessary or appropriate as to the conduct, scope or scheduling of the public hearing.
29. The IAC must hold a public hearing and may make other such enquiries as are relevant to undertaking its role.
30. When it conducts a public hearing, the IAC has all the powers of an advisory committee that are specified in section 152(2) of the P&E Act.
31. The IAC may inform itself in any way it sees fit, but must review and consider:
 - a. the exhibited EES and draft PSA;
 - b. all submissions and evidence provided to the IAC by the proponent, state agencies, local councils and submitters;

- c. any information provided by the proponent and parties that responds to submissions or directions of the IAC; and
 - d. any other relevant information that is provided to, or obtained by, the IAC.
32. The IAC must conduct its process in accordance with the following principles:
- a. The public hearing will be conducted in an open, orderly and equitable manner, in accordance with the principles of natural justice.
 - b. The public hearing will be conducted with a minimum of formality and without legal representation being necessary for parties to be effective participants.
 - c. The IAC process is to be exploratory and constructive, with adversarial behaviour discouraged and with cross-examination / questioning regulated by the Inquiry Chair.
33. The IAC may limit the time of parties appearing before it.
34. The IAC Chair may direct that a submission or evidence is confidential in nature and the hearing be closed to the public for the purposes of receiving that submission or evidence.
35. The IAC may conduct a public hearing when there is a quorum of at least two of its members present or participating through electronic means, one of whom must be the IAC Chair.
36. Recording of the hearing must be undertaken by the proponent, if directed by the IAC Chair. If recorded, the audio recording will be provided to PPV as a weblink and would be made publicly available as soon as practicable after the conclusion of each day of the hearing, or otherwise as directed by the IAC Chair.
37. Any other audio or video recording of the hearing by any other person or organisation may only occur with the prior consent of, and strictly in accordance with, the directions of the IAC Chair.

Stage 3 – Report

38. The IAC must produce a written report for the Minister for Planning containing its:
- a. analysis and conclusions with respect to the environmental effects of the project and their significance and acceptability;
 - b. advice on the suitability of the proposed alignment (C2) for the project on balance, compared to alternative alignments (C0, A0 and A1) examined within the EES, based on the EES documents and public submissions, as well as documentation and evidence presented to the IAC;
 - c. recommendations for any feasible modifications to the project necessary to achieve appropriate environmental outcomes, including in relation to the selection of an alignment, refinement of the preferred alignment, alternate configuration of mitigation measure(s), variations to the proposed design and/or environmental monitoring and management measures;
 - d. recommendation on whether the proposed C2 alignment should progress to planning approval stage or if a relevant alternate alignment (e.g. C0, A0, A1) should be pursued in place of C2;
 - e. findings on whether acceptable environmental outcomes can be achieved, having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
 - f. recommendations on specific measures appropriate to prevent, mitigate or offset adverse environmental effects to achieve acceptable environmental outcomes, having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;
 - g. recommendations for any appropriate conditions that may be lawfully imposed on any approval for the project, or changes that should be made to the draft PSA in order to ensure that the environmental effects of the project are acceptable having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;

- h. recommendations about the structure and content of the proposed environmental management framework, including with respect to mitigation and monitoring of environmental effects, contingency plans and site rehabilitation;
- i. recommendations for any changes to the proposed environmental commitments and performance requirements to be included in the environmental management framework;
- j. recommendations with respect to the structure and content of the draft PSA, including consideration of time horizons in which the project may be constructed; and
- k. specific findings and recommendations about the predicted impacts on matters of national environmental significance and their acceptability, including appropriate controls and environmental management.

39. The report should include:

- a. information and analysis in support of the IAC's findings and recommendations;
- b. a list of all recommendations, including cross-references to relevant discussions in the report;
- c. a description of the public hearing conducted by the IAC, and a list of those persons consulted with or heard;
- d. a list of all submitters in response to the exhibited EES and the draft PSA; and
- e. a list of the documents tabled during the proceedings.

Timing

- 40. The IAC should hold a directions hearing no later than 15 business days from the final date of the exhibition period.
- 41. The IAC should commence its public hearing no later than 40 business days from the final date of the exhibition period.
- 42. The IAC must submit its report in writing to the Minister for Planning within 40 business days from the last day of its proceedings.

Minister's assessment

- 43. The Minister for Planning will make his assessment of the environmental effects of the project after considering the IAC's report as well as the EES, submissions and any other relevant matters.
- 44. PPV will notify all submitters of the release of the Minister for Planning's assessment and IAC report.

Fee

- 45. The fees for the members of the IAC will be set at the current rate for a panel appointed under part 8 of the P&E Act.
- 46. All costs of the IAC, including the costs of obtaining any expert advice, technical administration and legal support, venue hire, accommodation, recording proceedings and other costs must be met by the proponent.

Miscellaneous

- 47. The IAC may apply to the Minister for Planning to vary these terms of reference in writing, at any time prior to submission of its report.
- 48. The IAC may retain legal counsel to assist if necessary.
- 49. PPV is to provide any necessary administrative support to the IAC.



Hon Richard Wynne MP

Minister for Planning

Date: 30 / 6 / 21