

# Terms of Reference

## Suburban Rail Loop East Inquiry and Advisory Committee

Version: October 2021

The Suburban Rail Loop East Inquiry and Advisory Committee (IAC) is appointed to inquire into, and report on, the environmental effects of the proposed works comprising the Suburban Rail Loop East (the project) and the draft planning scheme amendment (draft PSA) prepared for the project 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* (PE Act) as an advisory committee.

### Name

1. The IAC is to be known as the 'Suburban Rail Loop East IAC'.
2. The Suburban Rail Loop East was formerly known as 'Suburban Rail Loop Stage One'. Its name was changed with the release, in August 2021, of the Suburban Rail Loop Business and Investment Case. The works that comprise the project are defined in the public works order made for the Suburban Rail Loop Stage One (December 2020 and amended in August 2021) (public works order). The works are described in these terms of reference as the Suburban Rail Loop East.

### Skills

3. The IAC members should have the following skills:
  - a. land use and transport planning;
  - b. social impact assessment;
  - c. urban design and visual and landscape assessment;
  - d. tunnelling, hydrogeology and contamination; and
  - e. noise and vibration.
4. The IAC may seek additional expert advice to assist it in undertaking its role, in particular with respect to:
  - a. arboriculture;
  - b. heritage;
  - c. surface water and flooding; and
  - d. business impacts.
5. The IAC will comprise an appointed Chair (IAC Chair), a Deputy Chair and other members.

### Purpose of the IAC

6. 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. Subject to the matters specified below, the IAC is to:
  - a. review the environment effects statement (EES), including technical appendices, other exhibited documents and relevant submissions received in relation to the EES; and
  - b. having regard to the evaluation objectives in the EES scoping requirements and relevant policy and legislation, investigate and consider
    - i. the potential environmental effects of the project;
    - ii. the significance and acceptability of the potential environmental effects of the project;
    - iii. the appropriateness and effectiveness of proposed environmental mitigation or management measures for the project;



- iv. potential design alternatives or additional environmental mitigation and management measures it considers feasible and effective to avoid, mitigate or manage the environmental effects of the project or offer beneficial outcomes;
  - v. relevant conditions, controls and requirements that could form part of the approvals for the project; and
  - vi. all submissions made to the IAC in relation to any matter relevant to the IAC's investigation or consideration of the environmental effects of the project.
7. The IAC is also appointed as an advisory committee under section 151 of the PE Act to:
- a. review the draft PSA including incorporated documents, that have been prepared to facilitate the project, along with any relevant submissions received in relation to the draft PSA; and
  - b. having regard to relevant policy and legislation and the matters specified below, consider
    - i. all relevant submissions made to the IAC in relation to the draft PSA;
    - ii. whether the draft PSA contains provisions and controls that are an appropriate means by which to facilitate and implement the project; and
    - iii. any changes to the draft PSA it considers necessary.

## **Background**

### ***Suburban Rail Loop***

8. The Suburban Rail Loop is a proposed new 90-kilometre rail line to connect Melbourne's metropolitan train lines from the Frankston Line in the east to the Werribee Line in the west.
9. Given the significant scale and complexity of the Suburban Rail Loop, it is proposed to be developed in stages. The project comprises works for the purposes of the first stage, Suburban Rail Loop East, that is a rapid rail service between Cheltenham and Box Hill. The remaining stages of Suburban Rail Loop would be subject to separate planning and approval processes.

### ***The Project***

10. As set out in the public works order, the project includes the construction and operation of:
- a. twin-bore rail tunnels between Cheltenham and Box Hill, via a stabling facility in Heatherton;
  - b. six new stations constructed at Cheltenham, Clayton, Monash, Glen Waverley, Burwood and Box Hill with interchanges to existing railway stations at Cheltenham, Clayton, Glen Waverley and Box Hill;
  - c. stabling, train wash and maintenance facilities, an operational control centre and a power substation at the proposed stabling facility;
  - d. dive structures and rail tunnel portals at either side of the proposed stabling facility;
  - e. a power substation in the vicinity of the proposed Burwood Station; and
  - f. an intervention and ventilation facility between the proposed Glen Waverley and Burwood stations.
11. The project proponent is the Suburban Rail Loop Authority (SRLA), a division of the Department of Transport. SRLA is responsible for preparing technical studies, consulting with the public and stakeholders, and preparing the EES and draft PSA.

### ***EES assessment process***

12. In September 2020 the Suburban Rail Loop Ministerial Guidelines for Assessment of Environmental Effects (September 2020) were made under section 10 of the EE Act.
13. The project has been declared pursuant to section 3(1) of the EE Act to be 'public works' for the purposes of that act by an order of the Minister for Planning published in the Government Gazette on 21 December 2020. The Minister for Planning amended the order on 5 August 2021. Pursuant to section 4(1) of the EE Act, an EES must be prepared for public works, and submitted to the Minister for Planning, before those works can commence. Procedures and requirements specified in the public works order are provided in Attachment 1.



14. The EES main report can be presented in an online, interactive, digital platform.
15. 'Initial works' for the project have been excluded from the declared public works. The cumulative effects of the initial works and the public works are assessed within the EES.
16. The EES was prepared by the project proponent in response to the public works order and the EES scoping requirements issued by the Minister for Planning on 1 July 2021.
17. The EES will be on public exhibition for thirty (30) business days, together with the draft PSA. SRLA is responsible for giving notice of public exhibition and for providing other consultation opportunities.
18. The Department of Environment, Land, Water and Planning's (DELWP) Impact Assessment Unit must liaise with the office of Planning Panels Victoria (PPV) to confirm the directions hearing and hearing dates, which are to be included on all public notices.

### **Planning approval process**

19. A draft PSA is proposed to be included in the Whitehorse, Monash, Kingston and Bayside planning schemes (planning schemes).
20. The draft PSA proposes to apply two Specific Controls Overlays that would:
  - a. facilitate the use and development of the project through an incorporated document, subject to conditions, without the need to obtain a planning permit; and
  - b. protect project infrastructure through an incorporated document that sets out permit requirements for development that may compromise the structural integrity or operation of the infrastructure.
21. The draft PSA proposes to make the Minister for Planning the responsible authority for administering and enforcing the provisions of the planning schemes as they relate to the use and development of land for the project.
22. The incorporated document includes requirements for secondary approvals including surface and tunnel plans that illustrate the use and development of the project land, an urban design strategy (UDS) to direct the urban design outcomes for the project, an environmental management framework (EMF) to manage the environmental effects associated with the construction and operation of the project and urban design and landscape plans that demonstrate implementation of the UDS and EMF.
23. The future development of land above and surrounding the project for purposes other than the project, will be the subject of future planning processes. It is proposed that precinct structure plans will be developed for precincts above and around the project. The strategic planning for these precincts will be undertaken separately to this IAC process.

### **Other approvals**

24. The project may require 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*;
  - d. approvals and licences for works on waterways, to construct a groundwater bore and to extract groundwater under the *Water Act 1989*;
  - e. an amendment to a pipeline licence under the *Pipelines Act 2005*;
  - f. consents, permits or exemptions under the *Heritage Act 2017*; and
  - g. consent for works on freeways and arterial roads declared under the *Road Management Act 2004*.



## **Process**

### ***Stage 1 – Submissions***

25. Submissions on the EES and draft PSA are to be provided in writing on or before the date by which submissions are due. 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.
26. Petitions and pro-forma responses will be treated as a single submission, with only the first name appearing on the first page of the submission to receive correspondence in relation to the submission.
27. All written submissions, evidence and any other documents received through the course of the IAC are public documents that will be published online, unless otherwise directed by the IAC.
28. Electronic copies of each submission on the EES and draft PSA are to be provided to SRLA, DELWP, EPA, the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation, the Bunurong Land Council Aboriginal Corporation and the Bayside, Kingston, Monash and Whitehorse Councils.
29. PPV will retain any written submissions, evidence and other documentation provided to the IAC for a period of five years after the time of its appointment.

### ***Stage 2 – Public hearing***

30. The IAC must hold a public hearing and may make other such enquiries as are relevant to undertaking its role in the most practicable manner available under the prevailing circumstances. That might, if necessary, include the use of video conferencing or other comparable technology.
31. 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.
32. The IAC may prepare and publish a 'request for further information' report at the directions hearing.
33. The IAC may seek advice from the proponent on how the Traditional Owners have been consulted and engaged with during the course of these proceedings.
34. When it conducts its public hearing, the IAC has all the powers of an advisory committee that are specified in section 152(2) of the PE Act.
35. 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 responds to directions of the IAC; and
  - d. any other relevant information that is provided to, or obtained by, the IAC.
36. 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; and
  - c. the IAC process is to be exploratory and constructive with adversarial behaviour discouraged and cross-examination and questioning regulated by the IAC Chair.
37. The IAC may limit the time of parties appearing before it.



38. 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.
39. 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 or Deputy Chair.
40. The IAC may, at its discretion, conduct concurrent public hearings as part of the public hearing where it considers it appropriate or efficient to do so, and where, in the opinion of the IAC, submitters participating in the hearing would not be unreasonably disadvantaged by those concurrent hearings.
41. Recording of the hearing must be undertaken by the proponent, where directed by the IAC Chair. 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.
42. 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**

43. The IAC in its capacity as an inquiry must produce a written report for the Minister for Planning containing its findings and recommendations, as relevant to the matters set out in paragraph 6, on:
  - a. the environmental effects of the project;
  - b. the significance and acceptability of the potential environmental effects of the project;
  - c. the appropriateness and effectiveness of proposed environmental mitigation or management measures for the project;
  - d. any potential design alternatives or additional environmental mitigation and management measures that it considers feasible and effective to avoid, mitigate or manage adverse environmental effects or offer beneficial outcomes having regard to relevant legislation, policy and the evaluation objectives in the EES scoping requirements;
  - e. any conditions that may be lawfully imposed on any approval for the project that it considers necessary to avoid, mitigate or manage the environmental effects of the project having regard to legislation, policy and the evaluation objectives in the EES scoping requirements.
44. The IAC in its capacity as an advisory committee must produce a written report for the Minister for Planning containing its advice, as relevant to the matters set out in paragraph 7, as to whether the draft PSA is an appropriate means by which to facilitate and implement the project and any recommended modifications to the draft PSA.
45. The report should include:
  - a. information and analysis in support of the IAC's findings, recommendations and advice;
  - 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 by the IAC;
  - d. a list of all submitters in response to the exhibited EES and draft PSA; and
  - e. a list of the documents tabled during the proceedings.

### **Timing**

46. The IAC should conduct a directions hearing no later than 15 business days from the final date of the public exhibition except if the period between the end of exhibition and the directions hearing spans Christmas – New Year, in which case 27 business days will apply.
47. The IAC should commence its public hearing no later than 40 business days from the final date of public exhibition except if the period between the end of exhibition and the hearing commencing spans Christmas – New Year, in which case 48 business days will apply.



48. The IAC must submit its report in writing to the Minister for Planning within 35 business days from the last day of its proceedings, unless an extension is approved by the Minister.

**Minister's assessment**

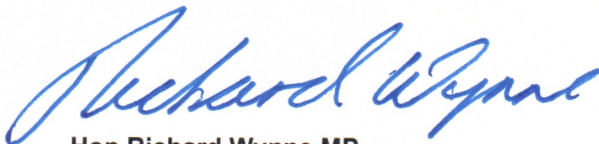
49. The Minister for Planning will make his assessment of the environmental effects of the project after considering the IAC's report as well as the EES, submissions and any other relevant matters.
50. PPV will notify all submitters of the release of the Minister for Planning's assessment and IAC report.

**Fees**

51. The fees for the members of the IAC will be set at the current rate for a panel appointed under part 8 of the PE Act.
52. All costs of the IAC, including the costs of obtaining any expert advice, technical administration and legal support, venue hire, online hearing platform, accommodation, recording proceedings and other costs must be met by SRLA.

**Miscellaneous**

53. 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.
54. PPV is to provide administrative support to the IAC.
55. The IAC may retain legal counsel to assist if necessary.
56. The IAC may engage additional technical support as needed.
57. The proponent must provide venues for the public hearing with reliable internet to support access to a web-based interactive digital EES.



Hon Richard Wynne MP

Minister for Planning

Date:

7 / 11 / 21



The following information does not form part of the Terms of Reference.

### **Project Management**

1. For matters regarding the IAC process, please contact, Planning Panels Victoria, by phone 136 186 or email [srl.iac@delwp.vic.gov.au](mailto:srl.iac@delwp.vic.gov.au).
2. For matters regarding the EES and Planning Scheme Amendment Process please contact the Impact Assessment Unit in DELWP by phone (03) 8392 5503 or email [environment.assessment@delwp.vic.gov.au](mailto:environment.assessment@delwp.vic.gov.au).



## Attachment 1

### Procedures and requirements: Suburban Rail Loop Stage One

#### Procedures and requirements under section 3(3) of the *Environment Effects Act 1978*

The following procedures and requirements are to apply to the environment effects statement (EES) for the proposed public works.

- (i) The EES is to document investigations of potential environmental effects of the public works, including the feasibility and effectiveness of design alternatives and environmental mitigation and management measures. In particular, the EES should document the potential effects of the proposed public works on:
  - a) amenity due to changes in visual, noise, vibration, air quality, transport and traffic and land use conditions;
  - b) social wellbeing due to residential acquisition, loss of access to public open space and community facilities and disruption to residents;
  - c) businesses and economic wellbeing due to acquisition of commercial and industrial land, changes in land use and disruption to business activities; and
  - d) disturbance of contaminated soils and groundwater, changes in surface water, geophysical conditions, including with respect to land stability, and the management of spoil.
- (ii) The level of detail of investigation for the EES studies should be adequate to inform an assessment of the significance and acceptability of potential environmental effects and be commensurate with the aspects of the public works that have potential for greatest impact, as set out in the *Suburban Rail Loop Ministerial Guidelines for Assessment of Environmental Effects (September 2020)*.
- (iii) 'Initial works' (refer Schedule 1) are excluded from the declared public works. The cumulative effects of the initial works and the public works to which this order applies are to be assessed within the EES.
- (iv) The Suburban Rail Loop Authority is to prepare and submit to the Department of Environment, Land, Water and Planning (DELWP) a draft EES study program to inform the preparation of scoping requirements.
- (v) The matters to be investigated and documented in the EES will be set out more fully in scoping requirements. Draft scoping requirements will be exhibited for at least 15 business days for public comment. The Minister for Planning will consider the public submissions before finalising and issuing the scoping requirements.
- (vi) The Suburban Rail Loop Authority is to prepare its proposed schedule for the completion of studies, preparation and exhibition of the EES, following review of the draft scoping requirements.
- (vii) DELWP will convene an inter-agency technical reference group (TRG) to advise DELWP and the Suburban Rail Loop Authority, as appropriate, during the preparation of the EES. The TRG will advise on the scoping requirements, the design and adequacy of the EES studies and coordination with statutory approval processes.
- (viii) The Suburban Rail Loop Authority is to prepare and implement an EES consultation plan for informing the public and consulting with stakeholders during the preparation of the EES, having regard to advice from DELWP and the TRG.
- (ix) The Suburban Rail Loop Authority is to apply appropriate peer review and quality management procedures to enable the completion of EES studies to a satisfactory standard.
- (x) The EES is to be exhibited for a period of 30 business days for public comment, unless the exhibition period spans the Christmas–New Year period, in which case 40 business days will apply.



- (xi) The EES information should be accessible to the public and may include an online interactive digital platform.
- (xii) An inquiry will be appointed pursuant to section 9(1) of the Environment Effects Act to consider the environmental effects of the public works.