

30 May 2019

Environment Manager – North East Link Project
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COMMENTS ON THE PUBLIC ENVIRONMENTAL REPORT FOR THE NORTH EAST LINK PROJECT (EPBC 2018/8142)

1. These comments are made on behalf of Manningham City Council ('the Council') in relation to draft Public Environmental Report ('PER') for the North-East Link Project ('the Project'), EPBC Act referral no. 2018/8142.
2. The Council makes the following comments:
 - (a) First, it considers that the Project should not be approved until after the State approval process has been completed;
 - (b) Second, it considers that the Project is likely to have a significant impact on the Matted Flax Lily (*Dianella amoena*) at Simpson Army Barracks; and
 - (c) Third, it considers that the groundwater modelling undertaken for the Project is inadequate to allow the drawing of the conclusions drawn in the PER.

TIMING OF THE APPROVAL DECISION

3. Section 130(1A) of the Environment Protection and Biodiversity Conservation Act 1999 ('the Act') requires the Minister to decide whether or not to approve an action 'within the period specified in subsection (1B) ... or such longer period as the Minister specifies in writing'. Here, the relevant period specified in subsection 1B is 40 days.
4. The Council considers that, in the particular circumstances of this action, the Minister ought to specify a longer a period for the making of her decision.
5. This is because the Project, including those aspects of the Project which are the subject of the referral under the Act, will be the subject of a hearing before an inquiry appointed under s 8 of the Environment Effects Act 1978 (Vic).
6. That hearing is likely to be conducted between 25 July and 6 September. In the course of the hearing, the parties – including the Council and other affected municipal councils – will have the opportunity to lead evidence, cross-examine and make submissions. This will provide an opportunity for the testing of the material which forms the basis of the existing draft PER.
7. Once the hearing is complete, the inquiry will prepare a report which will consider the material before it and make recommendations to the Victorian Minister for Planning, including recommendations relating to any conditions which should be imposed on



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the taking of the action. The inquiry will usually be required to complete its report within 30 business days of the end of the hearing.

8. The Victorian Minister will then issue his own assessment report and make a final decision on the conditions which will apply to any State approval. Again, this typically takes 30 business days from the date of receipt of the inquiry report.
9. Council considers that the Minister would be likely to be assisted by being able to consider the inquiry report and the Victorian Minister's assessment report as part of her own assessment.
10. This is particularly so in light of s 134(4) of the Act which requires the Minister to have regard to the conditions that have been, or are likely to be, imposed on any State approval for an action.
11. It is apparent that, in the absence of the specification of a longer period, the Minister will have to make a decision prior to the publication of either report.
12. Accordingly, the Council submits that the Minister should exercise her power under s 130(1A) of the Act and specify her decision will be made no later than 30 business days after she is provided with a copy of the Victorian Minister for Planning's assessment report.

MATTED FLAX LILY

13. Council consider that the Project is likely to have a significant impact on the Matted Flax Lily population at Simpson Army Barracks. That population is recognised as a significant population in the National Recovery Plan for the Matted Flax Lily (2010).
14. The PER expressly states that, in the absence of translocation, the Project is likely to have a range of negative effects on the population. The Council is concerned that the PER appears to treat translocation as a panacea to the impacts on the Lily. The Council does not agree. Even if translocation is successful, there will be a reduction in extent of both the population and the habitat at Simpson Army Barracks. The Council considers that, given the conservation status of the Lily, this is likely to be a significant effect.
15. Further, the Council does not regard translocation as mitigating the impacts of the Project:
 - (a) First, the translocation itself does not reduce the loss of habitat and individuals forming part of the Simpson Army Barracks population that arises directly as a result of the Project – a fact partially acknowledged by the PER which recognises that the loss of critical habitat for the species is possible even with translocation.
 - (b) Second, the overall effect appears to be to transfer a number of plants from a relatively healthy and self-sustaining population to other sites in

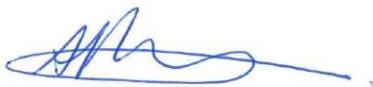
circumstances where it is not clear that the transfer will result in an overall increase in the number of plants or the establishment of self-sustaining populations at those sites.

16. In these circumstances, the Council considers that, even with the proposed translocation, the Project is still likely to have a significant effect on the population of Matted Flax Lily at Simpson Army Barracks.

GROUNDWATER IMPACTS

17. The Council is concerned that the current groundwater modelling does not provide an adequate basis on which to assess the impacts of the Project on matters of national environmental significance.
18. The model is a Class 1 model within the meaning of the Australian Groundwater Modelling Guidelines (2012). The Guidelines state that a Class 1 model has relatively low confidence associated with any predictions and is therefore best suited for managing low value resources (i.e. few groundwater users with few or low-value groundwater dependent ecosystems) for assessing impacts of low-risk developments or when the modelling objectives are relatively modest.
19. The Council considers that the adoption of a Class 1 model is not appropriate for making predictions about impacts on matters of national environmental significance and considers that the modelling should target at least Class 2.
20. The Council notes that issues regarding the adequacy of the groundwater modelling and the potential impacts on groundwater and groundwater dependent ecosystems are likely to be the subject of evidence and submissions at the inquiry hearing. On that basis, the Council again submits that the approval decision for the Project should be deferred in order to enable the inquiry process to be completed before a decision is made.

Yours sincerely,



Angelo Kourambas
Director City Planning and Community
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