



# Planning Panels Victoria

Department of Environment, Land, Water and Planning

21 July 2017

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Via e-mail

Dear Submitter

## **West Gate Tunnel Project Inquiry and Advisory Committee – IAC Directions**

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A Directions Hearing for the above project was held on Wednesday 19 July 2017 at the Footscray Community Arts Centre. A copy of the Inquiry and Advisory Committee's (IAC) Directions and an evidence distribution list are attached.

There a number of key dates relevant to this matter; a summary is provided in the table behind this letter. Please read the Directions in detail for the context to these dates.

Any communication is to be provided by email to [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au)

The following information is enclosed for your information:

- IAC Directions
- Distribution List.

A Version 1 timetable will be circulated shortly.

If you have any general queries on the Hearing process please contact Ms Greta Grivas on 8392 5121 or [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au).

Yours sincerely,

**Nick Wimbush**

Chair, Inquiry and Advisory Committee

### **Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



### KEY DATES LEADING TO HEARING

Direction	Item	Key dates	Who is to respond?
29	Communication of name and place of employment of expert witnesses to IAC	<b>4.00pm on Monday 24 July 2017</b>	All parties calling evidence
55	Nominate community group representatives to WDA for site inspection	<b>4.00pm on Monday 24 July 2017</b>	Community groups
54	Invited parties to site inspection to RSVP names to WDA	<b>12 noon on Wednesday 26 July 2017</b>	All parties invited to site inspection
2	Any submitters requesting electronic copies of submissions	<b>Close of business on Friday 28 July</b>	Submitters
12	Submitters requesting evening session	<b>Close of business on Friday 28 July</b>	Submitters who have requested to be heard
31	Expert witness statements must be circulated in accordance with Directions	<b>12 noon on Wednesday 2 August 2017</b>	All parties calling evidence
18	Provision of Part A submission by WDA	<b>12 noon on Monday 7 August 2017</b>	WDA
22	Provision of opening written submission	<b>12 noon on Wednesday 9 August 2017</b>	Melbourne, Maribyrnong and Hobsons Bay Councils
59	Nomination to receive audio recording	<b>12 noon Friday 11 August 2017</b>	Major parties and community groups
9	Hearing commences	<b>10am Monday 14 August 2017</b>	Everyone who is attending hearing

# Inquiry and Advisory Committee Directions

## West Gate Tunnel Project Inquiry and Advisory Committee – IAC Directions

### Submission Availability

1. Following requests and submissions at the Directions Hearing, the Inquiry and Advisory Committee (IAC) has agreed in principle to make submissions available online. This will be undertaken progressively as soon as possible following receipt of consent from submitters; the consent of parties at the Directions Hearing is noted.
2. Any submitter to the West Gate Tunnel Project EES who requires an electronic copy of submissions must make a request through [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au) by close of business on **Friday 28 July 2017**. Arrangements will be made for distribution following that date; the IAC is in the process of redacting contact and other sensitive information for web and e-copies.
3. Hard copy submissions are already available for viewing at the following locations:
  - a. Hobsons Bay City Council, 115 Civic Parade, Altona
  - b. Maribyrnong City Council, 61 Napier Street, Footscray
  - c. City of Melbourne, Level 3, 240 Little Collins Street, Melbourne
  - d. Brimbank City Council, 301 Hampshire Road, Sunshine
  - e. City of Wyndham, 45 Princes Highway, Werribee

### Electronic Material

4. Except with the written consent of the IAC, all material (not limited to written submissions) filed with the IAC is to be provided in electronic format to [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au).
5. Files must not exceed 10MB in size. Documents larger than 10MB should be broken into smaller files less than 10MB.
6. Written submissions are to be in Microsoft Word format.
7. Exemptions from the requirements of Direction 4 can be made by contacting the IAC on [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au) or by phone on 03 8392 5121 at least 2 business days in advance of the time that the material is due to be filed.
8. Submitters who have obtained an exemption should deliver hard copy submissions to the IAC for it to scan and upload prior to the day upon which they are making their submission.

### Order of Proceedings

9. The following parties will be invited to make brief opening submissions on Day 1, **Monday 14 August 2017**:
  - a. Minister for Planning
  - b. Western Distributor Authority (WDA)
  - c. City of Melbourne
  - d. City of Maribyrnong
  - e. Hobsons Bay City Council
10. Agency submissions from the Environment Protection Authority and VicRoads will then be made, followed in a traditional case presentation format by:
  - a. WDA
  - b. City of Melbourne

- c. Maribyrnong City Council
  - d. Hobsons Bay City Council
  - e. Other submitters calling evidence
  - f. Community and other submitters
11. The IAC advises it will hold concurrent sessions later in the Hearing to maximise the opportunity for appearances within the overall assessment timeframe.
  12. Evening sessions are also proposed for community submitters who cannot attend during the day. These are likely to be held if there is interest on Tuesday 12 and Thursday 14 September 2017. Any submitter wishing to be heard in the evening should advise the IAC through [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au) by close of business on **Friday 28 July 2017**.
  13. The WDA will be given the opportunity to make a reply submission.
  14. A day or half day near the end of the Hearing will be allocated for a “without prejudice” discussion of the draft Planning Scheme Amendment (PSA), Environmental Management Framework (EMF) and Environmental Performance Requirements (EPRs).

#### **Confidential submissions**

15. VicRoads have requested that part of their submission be heard in confidence and the IAC has acceded to this request. Arrangements for this session will be coordinated through the IAC’s Counsel.

#### **Written Submissions at the Hearing**

16. The WDA must provide and circulate its Part A written submission (and a copy of any documents or extracts of documents that WDA intends to rely upon which have not already been provided to the IAC) by **12.00 noon on Monday 7 August 2017**.
17. The WDA's Part A submission is to address the IAC’s Terms of Reference and is to include:
  - a. A summary of and initial response to submissions.
  - b. A response to the IACs and submitters’ information requests as far as practicable; with a further response to be table at the Hearing opening.
  - c. An outline of the background to the project and the development of the project and EES and the key elements of the case for the project.
18. This Part A submission will be taken as read at the Hearing subject to any questions of clarification from the IAC.
19. The WDA must provide at the commencement of the Hearing further written submissions outlining any proposed changes to the project or project documentation arising from the submissions or evidence, including conclave outcomes, including any proposed changes to the draft PSA, EMF or EPRs. Proposed changes to the project documentation are to be provided in tracked changes format. The WDA is expected to update that document throughout the hearing, as set out in these directions.
20. The Melbourne, Maribyrnong and Hobsons Bay Councils must circulate a brief written opening submission by **12 noon on Wednesday 9 August 2017**.
21. Except for the Directions above, all submitters must provide and circulate their written submissions and any documents (or extracts of document) to be relied upon two clear business days prior to their nominated submission time. This direction will be applied with some flexibility to the closing submissions of represented parties if the evidence is not complete by the due date for filing.

22. All submissions will be loaded on the project website as soon as possible after they are received:  
<http://www.planning.vic.gov.au/west-gate-tunnel-project-hearing>

23. In addition to the uploading of documents above, **20 (twenty)** hard copies of documents should be brought to the Hearing at the time of making your submission.

#### **Hard Copy Documents**

24. All hard copy material provided to the IAC, including evidence and submissions, must be in A4 portrait format, two hole punched, and stapled (not bound).

#### **Public Documents**

25. Submissions and all other material provided to the IAC by submitters during the Hearing are public documents and will be made publicly available by uploading to the PPV website unless confidentiality is expressly sought and granted by the IAC.
26. The WDA must maintain a full set of Hearing documents in hard copy at the Hearing venue for the course of the IAC Hearings.

#### **Exchange of Expert Witness Reports**

27. Expert witnesses reports must comply with the Planning Panels Victoria Guide to Expert Evidence:  
<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>
28. The names and areas of expertise of specific experts must be provided to the IAC and those on the distribution list by close of business on **Monday 24 July 2017**.
29. Expert witness reports should not refer to any individual submitter by name. If necessary, submitters may be referred to by submission number.
30. All expert witness statements are to be circulated by **12 noon on Wednesday 2 August 2017** in accordance with the attached distribution list.
31. Electronic expert witness statements must be less than 10MB in size and in PDF format. An unlocked word version must also be provided to the IAC.
32. Expert witness statements must be circulated in accordance with the attached distribution list which requires direct circulation to those parties calling evidence. All other parties can access expert evidence on the PPV website after 2 August 2017 at:  
<http://www.planning.vic.gov.au/west-gate-tunnel-project-hearing>

Expert witnesses called by the WDA who are the author or joint author of reports appended to the EES should not repeat in their witness statements the material contained in the EES report. If the EES report does not contain a summary, then the witness statement should summarise that information. The witness statement should adopt the prior EES report, with any necessary changes, and address the IAC's Terms of Reference and key issues raised in submissions.

#### **Summary of evidence being called**

33. The following evidence has been identified to the IAC:

Party	Evidence
WDA	<ul style="list-style-type: none"> <li>• Planning</li> <li>• Urban Design</li> <li>• Construction Method</li> <li>• Ground Movement</li> <li>• Contaminated Spoil</li> <li>• Groundwater</li> <li>• Vibration</li> <li>• Surface water</li> <li>• Ecology</li> <li>• Traffic</li> <li>• Noise</li> <li>• Air Quality</li> <li>• Human Health</li> <li>• Social</li> <li>• Business</li> <li>• Greenhouse (TBC)</li> <li>• Heritage (TBC)</li> <li>• Cultural Heritage (TBC)</li> </ul>
City of Melbourne	<ul style="list-style-type: none"> <li>• Ecology and biodiversity</li> <li>• Economics</li> <li>• Freeway Design</li> <li>• Noise</li> <li>• Open space/landscape</li> <li>• Strategic transport</li> <li>• Traffic</li> <li>• Urban forest</li> <li>• Urban design</li> </ul>
Maribyrnong City Council	<ul style="list-style-type: none"> <li>• Traffic engineering</li> <li>• Urban design and landscape architecture</li> <li>• Air quality impact assessment</li> <li>• Town planning</li> </ul>
Hobsons Bay City Council	<ul style="list-style-type: none"> <li>• Traffic</li> <li>• Social Impacts</li> <li>• Noise and vibration</li> <li>• Air quality expert</li> </ul>
Spotswood South Kingsville Residents Group Inc.	<ul style="list-style-type: none"> <li>• Health impacts</li> </ul>
Environment Protection Authority	<ul style="list-style-type: none"> <li>• Air Quality</li> <li>• Noise</li> <li>• Groundwater</li> <li>• Contaminated Land</li> <li>• Human health</li> </ul>
Victorian Transport Action Group	<ul style="list-style-type: none"> <li>• Planning</li> </ul>
Inner Melbourne Planning Alliance	<ul style="list-style-type: none"> <li>• Planning</li> </ul>
Dr Patrick Love	<ul style="list-style-type: none"> <li>• Planning</li> </ul>
Lung Health Research Centre	<ul style="list-style-type: none"> <li>• Two experts in health</li> </ul>

## Meeting of Expert Witnesses

34. Expert witnesses in like topics are directed to meet to identify and discuss the key issues and the facts and assumptions relevant to these issues, in the period after circulation of statements and prior to the Hearing. On a preliminary view of the evidence topics the IAC considers, expert meetings will be required in relation to:
  - a. Town planning
  - b. Architecture, Urban design and landscape
  - c. Urban ecology and biodiversity
  - d. Groundwater
  - e. Contaminated land
  - f. Strategic transport planning
  - g. Traffic engineering and freeway design
  - h. Noise and vibration
  - i. Air quality and health
  - j. Business and economic impacts
35. The submissions from the WDA to restrict expert meetings to specific technical areas are noted but not accepted by the IAC. The expert meetings in the IACs view will still be useful in narrowing issues in all fields.
36. The following government agencies should also be invited to nominate a person with relevant expertise to attend the relevant conclaves:
  - a. EPA – noise and vibration, air quality and health, contaminated land, groundwater
  - b. VicRoads – traffic and transport
37. The suggested conclave topics may be further broken down with the agreement of the parties who are calling the experts who participate in that conclave. Any such agreement should be communicated in writing to the IAC.
38. The arrangement and conduct of the expert meetings is at the discretion of the experts. It is normal practice for an expert appointed by the proponent to coordinate arrangements and note taking but other arrangements may be made by agreement between the experts.
39. The WDA has requested that they be allowed to prepare a protocol for the expert meetings to guide their operation; such a protocol will be subject to approval by the IAC. The IAC accedes to the request and the WDA is to draft the protocol in consultation with the IAC's Counsel and Counsel for other parties for approval by the IAC prior to the circulation of evidence.
40. The expert meeting protocol must consider and include as relevant the following:
  - a. The meeting should only be attended by the experts being called to give evidence, and a non-participating note taker if necessary. Advocates for parties or those instructing the experts must not attend the meeting.
  - b. A joint statement of not more than 10 pages from the meeting should be prepared which highlights points of agreement and disagreement between the experts. The experts present for any significant discussion point should be noted if some attendees are only there for part of the meeting.
  - c. The joint statement should address, as relevant, the matters set out in the IAC's Terms of Reference paragraphs 13(e) and (g) and 14(c) and should note the reasons for any differences in opinion between the experts including but not limited to differences in methodology, assumptions, results or the interpretation of results.

- d. The statement should be signed by all participants and circulated to the distribution list at least two clear business days prior to the calling of the first witness in the conclave.
- e. If any expert witness directed by the IAC to meet with any other expert is instructed not to reach agreement in respect of points of difference, the fact of such instructions must be reported in writing to the IAC by the expert witness.

#### **All Experts – Leave Required to Cross Examine**

41. Legally represented parties do not require leave to cross examine. However, in accordance with the Terms of Reference the IAC may limit the time for cross examination.
42. Parties who are not legally represented seeking to cross examine experts must email Counsel Assisting 1 (one) clear business day prior to the evidence being called, notifying her of the expert they wish to cross examine, their questions under clear topic headings and a well-considered estimate of the likely length of time required for cross examination.
43. The IAC Chair may decline to give leave to unrepresented parties to cross examine the experts or limit their time. Matters that will be considered include whether the topic areas have been sufficiently covered and whether the IAC or Counsel Assisting proposes to ask questions on those topic areas.
44. No person may cross examine an expert if they have not read the expert's entire report, including an EES technical report adopted as part of the expert's evidence; and been present for the entirety of the experts appearance on the stand in the Hearing.

#### **Information to be supplied**

45. At the Directions Hearing the IAC tabled a request for further information from WDA. To the extent practicable, this information is to be provided in expert witness reports filed by the WDA, in the WDA's Part A written submission; as part of its opening submissions or tabled at the commencement of the Hearing with a timeframe for receipt of outstanding material.
46. The WDA is to maintain 3 hard copy folders of response to questions asked by the IAC, with one folder to be made publicly available, and two copies to be kept available to the IAC.

#### **Draft PSA, EMF and EPRs**

47. All submitters wishing to make submissions about the draft PSA, EMF and EPRs should do so in the time allocated for their submission.
48. All parties making submissions about specific wording of the draft PSA, EMF or EPR, must address the most up-to-date version of the draft PSA, EMF or EPRs as uploaded onto the WDA project website.
49. The WDA must update the PSA, EMF or EPRs at regular intervals with track changes, indicating with a note whether the change has been made in response to submissions or evidence.

#### **IAC's Experts**

50. The IAC has engaged three experts to give it advice on technical aspects of the proposed works. The written advice of the experts will be made publicly available.

#### **Site visits**

51. Accompanied site inspections will be held on 1 August 2017. One 48 seat bus is proposed to enable commentary en-route.
52. A draft itinerary has been developed and will be provided to attendees in advance of the site inspection.



53. The following parties must notify the WDA by 12 noon on **Wednesday 26 July 2017** of the name and mobile number of the person attending the site inspection:
- a. IAC and support staff (12)
  - b. WDA (5)
  - c. DELWP Impact Assessment Unit (2)
  - d. Environment Protection Authority (2)
  - e. VicRoads (2)
  - f. City of Melbourne (2)
  - g. Hobsons Bay City Council (2)
  - h. Maribyrnong City Council (2)
  - i. Port Phillip City Council (1)
  - j. Community representatives (12)
54. Interested community groups are asked to nominate a representative to the WDA to attend the site inspection by close of business on **Monday 24 July 2017**.
55. The IAC may, at its discretion, limit the number of persons attending the site inspections depending on safety and transport considerations.

#### **Recording**

56. The IAC proposes to audio record the Hearing.
57. Recordings will be made available in the Hearing Room on CD on a 24-48 hour lag basis to parties requesting a copy. Copies will generally be restricted to major parties and representative groups rather than individuals.
58. Requests to be on the recording distribution list should be made to [westgatetunnelproject.ppv@delwp.vic.gov.au](mailto:westgatetunnelproject.ppv@delwp.vic.gov.au) by **12 noon on Friday 11 August 2017**.

# Expert Evidence Distribution List

## West Gate Tunnel Project Inquiry and Advisory Committee – IAC Directions

This list is to be used for the circulation of Expert witness statements and any other information as directed by the Panel.

Note: Expert witness reports must be circulated by **12.00 noon on Wednesday 2 August 2017**.

Party	Hard Copies	Electronic Copy
<b>WGT Inquiry and Advisory Committee</b> GPO Box 2392 Melbourne, Victoria 3001 (By courier to Level 5, 1 Spring Street, Melbourne 3000 and mark as 'Urgent')	10	<a href="mailto:westgatetunnelproject.ppv@delwp.vic.gov.au">westgatetunnelproject.ppv@delwp.vic.gov.au</a>
<b>Minister for Planning</b> c/- Legal Services Division, DELWP	0	<a href="mailto:kerrie.diamantopoulos@delwp.vic.gov.au">kerrie.diamantopoulos@delwp.vic.gov.au</a>
<b>Department of Environment, Land, Water and Planning</b> c/- Impact Assessment Unit	0	<a href="mailto:kathryn.friday@delwp.vic.gov.au">kathryn.friday@delwp.vic.gov.au</a>
<b>Western Distributor Authority</b> c/- Clayton Utz	0	<a href="mailto:severett@claytonutz.com">severett@claytonutz.com</a>
<b>City of Melbourne</b> C/ Ashurst Lawyers	0	<a href="mailto:jane.hall@ashurst.com">jane.hall@ashurst.com</a>
<b>Maribyrnong City Council</b> C/-Maddocks Lawyers	0	<a href="mailto:Terry.montebello@maddocks.com.au">Terry.montebello@maddocks.com.au</a> <a href="mailto:Briana.eastaugh@maddocks.com.au">Briana.eastaugh@maddocks.com.au</a>
<b>Hobsons Bay City Council</b> c/- Harwood Andrews	0	<a href="mailto:gtobin@ha.legal">gtobin@ha.legal</a>
<b>Spotswood South Kingsville Residents Group Inc.</b>	0	<a href="mailto:mckozo@me.com">mckozo@me.com</a>
<b>Environment Protection Authority</b>	0	<a href="mailto:mae.olmstead@epa.vic.gov.au">mae.olmstead@epa.vic.gov.au</a>
<b>VicRoads</b> C/- Norton Rose Fulbright	0	<a href="mailto:rory.oconnor@nortonrosefulbright.com">rory.oconnor@nortonrosefulbright.com</a>
<b>Victorian Transport Action Group</b>	0	<a href="mailto:peter@vta.com.au">peter@vta.com.au</a>
<b>Inner Melbourne Planning Alliance</b>	0	<a href="mailto:Gerry@impa.org.au">Gerry@impa.org.au</a>
<b>Ashe Morgan</b>	0	<a href="mailto:travis@conversionpm.com.au">travis@conversionpm.com.au</a>
<b>Lung Health Research Centre</b>	0	<a href="mailto:clarem.walter@gmail.com">clarem.walter@gmail.com</a>