



**NORTH
EAST LINK**
PROGRAM



Primary Package (Tunnels)

Project Summary



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Artist's impression of express lanes, noise walls and Estelle Street bridge, Balwyn North

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Artist's impression of bicycle 'superhighway' and Eastern Express Busway, Kew

Foreword

On 28 October 2021, the Victorian Government (the State) and the North East Link State Tolling Corporation (State Toll Co) (together the State Parties) entered into a Public Private Partnership (PPP) with Spark North East Link Pty Ltd (Project Co or Spark) to deliver the North East Link Primary Package (the Primary Package or Project).

The Project was procured and will be delivered as an ‘availability-based’ PPP with an Incentivised Target Cost (ITC) regime that applies in respect of costs incurred during the design and construction phase of the Project.

This Project Summary is prepared according to, and in compliance with, the Partnerships Victoria Requirements (November 2016) and provides information about the contractual and commercial aspects of the Project, summarising the:

- Project objectives, scope, and procurement process;
- financial outcome, including the value of the Project and cost to government; and
- commercial risk allocation.

Partnerships Victoria forms part of the State’s strategy for providing better services to all Victorians by expanding and improving Victoria’s public infrastructure and service delivery.

The Partnerships Victoria framework enables the use of private sector expertise to design, finance, build, operate and maintain infrastructure projects. The framework consists of the National Public Private Partnership Policy and Guidelines and supplementary Partnerships Victoria Requirements.

Further information on the Partnerships Victoria framework is available at dtf.vic.gov.au.

This summary should not be relied upon to completely describe the rights and obligations of the parties in respect of the Project, which are governed by the Project Deed and associated documents.

The Project Deed and associated documents are available online at tenders.vic.gov.au



Part One / Project overview

North East Link Program



1.1 The North East Link

1.1.1 Overview

North East Link (NEL) is the largest investment in a road project in Victoria's history. It will complete the missing link in Melbourne's orbital freeway between an upgraded Eastern Freeway and the M80 Ring Road.

The north-south section of NEL, from the M80 interchange to the Eastern Freeway, will be tolled, however, there will be no new tolls on existing routes.

This includes no new tolls to use the Eastern Freeway, Greensborough Highway/Bypass and the M80 Ring Road.

The Project also requires that local roads are kept available for local trips. As part of the overall project there will be upgrades to the M3 and M80, which will be delivered through Freeway Packages, including the construction of the Eastern Express Busway along the Eastern Freeway.

By completing the missing link and enabling high value economic journeys, the State will support its policy objectives to boost productivity, improve liveability, and deliver jobs for Victorians.

NEL will improve traffic flow, reduce travel times, remove non local traffic from local roads and increase reliability for road users with up to 135,000 vehicles using the freeway daily. NEL will take up to 15,000 trucks off local roads resulting in reduced travel times for freight and associated industries. NEL is expected to reduce travel times by up to 35 minutes across the project corridor.

NEL will also improve access to opportunities such as employment, education and other social opportunities.

In total, around 34 kilometres of new and upgraded walking and cycling links will be provided delivering a continuous off-road cycling corridor linking the M80 Ring Road Path with the Main Yarra Trail and Koonung Creek Trail.

In a Victorian first, State Toll Co, a State-owned company, has been set up to collect tolls, with toll revenue going towards the cost of building and maintaining the missing link in Melbourne's freeway network, with tolling rights held by the State.

Like other toll roads in Victoria, the legislation provides that Parliament will have approval and revocation rights for the specific tolling arrangements, including the base tolls and rates of escalation.

1.1.2 Project context

Infrastructure Victoria designated NEL as a high priority infrastructure project as part of its 30-Year Infrastructure Strategy (2016).

The Victorian Infrastructure Plan (2017) subsequently confirmed NEL as one of several 'catalyst', state-shaping infrastructure projects designed to stimulate economic growth, create jobs and deliver positive, long-term benefits for Victorians. NEL also continues to be listed as a 'High Priority Project' on the Infrastructure Australia priority list.

The 2018-19 Victorian State Budget committed funding for NEL. The NEL Business Case was released by the Victorian Government in 2018 and is available for download on the following website:

bigbuild.vic.gov.au/projects

1.1.3 The service need and response

Poor connectivity through Melbourne's north east results in constraints on important and high value economic journeys between the Eastern Freeway and the M80 Ring Road. With no freeway standard link, arterial roads are having to accommodate both strategic orbital movements and local traffic. High levels of congestion, increased travel times and poor reliability for road users have created a significant barrier to the movement of people and goods around Melbourne and Victoria, which is hampering investment in key economic and employment centres and reducing local access to important local destinations.

DTF, DoT and NELP identified a connected freeway standard road linking the M80 to the Eastern Freeway as the preferred solution.

1.1.4 Project objectives and guiding principles

High-level objectives and guiding principles outlined in Table 1 have been established for NEL based on achieving the legislative objectives of the *Transport Integration Act 2010* (Vic) and the policy objectives of Plan Melbourne 2017-2050 (Project Objectives and Guiding Principles).

The Project Objectives and Guiding Principles were used to evaluate strategic and project options and will continue to inform the State's decision-making in relation to ongoing development, procurement methods and delivery of NEL.

Delivering high-quality urban design outcomes that contribute positively to the public realm.

Artist's impression of Bulleen Park & Ride ground concourse

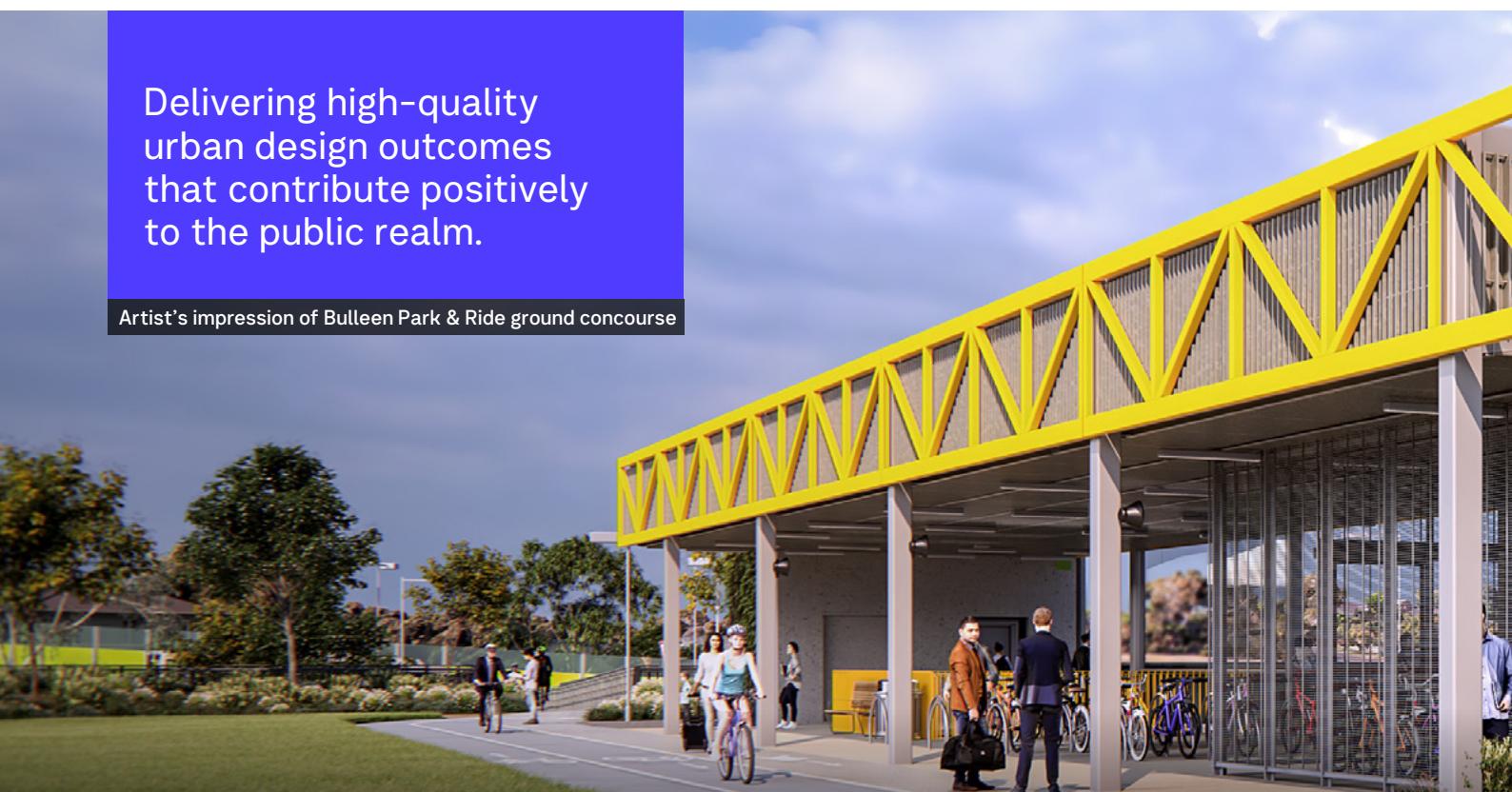






Table 1 – Project objectives and guiding principles

Project Objectives	Guiding Principle
<p>Improve business access and growth in Melbourne’s north, east and south east.</p>	 <p>Minimise impacts on communities.</p>
<p>Improve household access to employment and education in Melbourne’s north, east and south east.</p>	 <p>Minimise impacts on environmental and cultural assets.</p>
<p>Improve freight and supply chain efficiency and industrial growth across the north, east and south east.</p>	 <p>Minimise impacts during the Development Phase.</p>
<p>Improve access, amenity and safety for communities in the north east.</p>	 <p>Optimise the efficient use of resources.</p>



1.1.5 North East Link scope

In addition to the Primary Package, the scope of NEL includes the Early Works, multiple Freeway Packages and the Toll Collection Capability as further described

in Table 2 below, each of which will be separately procured and delivered under best for project contracting models.

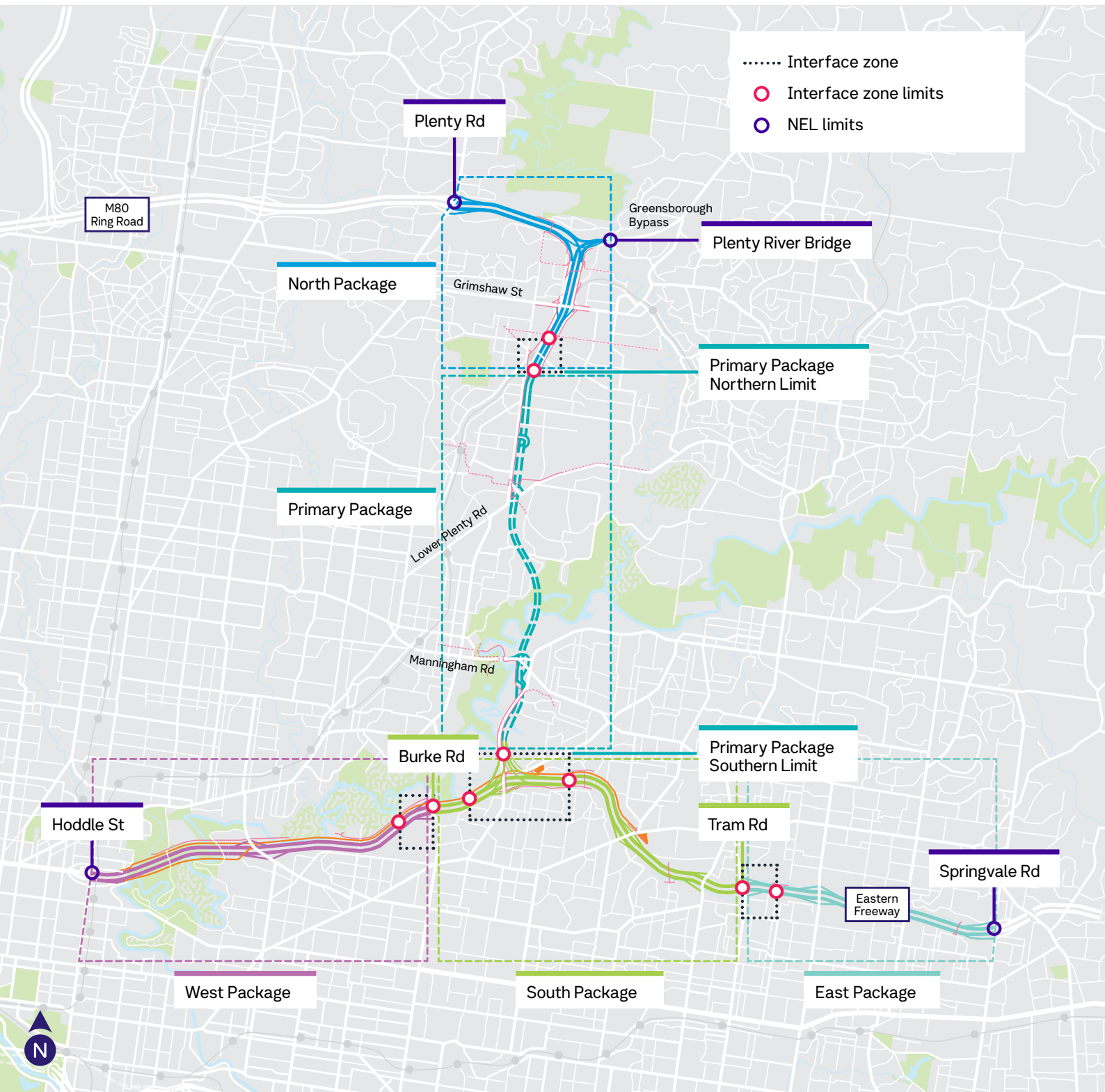
Table 2 – Scope of Early Works, Freeway Packages and Toll Collection Capability

Scope	Description
Early Works	<ul style="list-style-type: none"> • Design development and potential modification, relocation and/or protection as far as practicable of 96 utility services that may be impacted by the Primary Package works and the Freeway Package works, together with other enabling works. • Detailed design and construction of the Bulleen Park and Ride. <p>These works have been procured.</p>
Toll Collection Capability	<p>The Toll Collection Capability comprises:</p> <ul style="list-style-type: none"> • the roadside tolling system; • the tolling back office system; and • the toll communication network. <p>The Toll Collection Capability will be procured and delivered by State Toll Co separately and will not form part of the Primary Package or the Freeway Packages. The Toll Collection Capability is underpinned by the Tolling Enabling Infrastructure that will be delivered by Project Co.</p>

Artist's impression of Yarra Link green bridge, Bulleen



Figure 1 – Location of Project



Maps/diagrams are for informative purposes only and may not accurately reflect the final NELP design.

This Project Summary only provides information on the outcome of the procurement process in relation to the Primary Package. The State is separately procuring the Freeway packages.

1.2 The Primary Package

1.2.1 Overview of the project scope

Project Co will be responsible for meeting the requirements of the Project Deed.

The Primary Package Project scope includes:

- twin, three-lane tunnels;
- split interchange at Lower Plenty Road and Manningham Road, and an upgrade on the existing interchange South of Bulleen Road to accommodate the tunnel on-ramp and a new interchange west of Thompsons Road to service the new Bulleen Park & Ride and accommodate the tunnel off- and on-ramps;
- major upgrade to Greensborough Road to a tree-lined boulevard;
- new and upgraded green land bridges, development of extensive shared user paths and walking and cycling infrastructure, to form a new North East Trail network;
- high quality outcomes in open space, noise walls design and maximising tree canopy replacement;
- new ancillary infrastructure to support the tunnel and freeway network, including additional power, a Motorway Control Centre, an alternate Motorway Control Centre, tunnel ventilation with an air monitoring system and water treatment facilities, and fire and life safety systems;
- development of a project-wide integrated managed motorway solution, including supply, testing and commissioning of the ITS within the Project and the Interface Zones;
- delivery and maintenance of the Tolling Enabling Infrastructure to support the Toll Collection Capability, including civil infrastructure, conduits, power, technical shelters, communications and gantry / signage footing, and toll customer signs;
- preliminary design for the Interface Zones, where the North Package and the South Package interfaces with the respective northern and southern limits of the Primary Package;
- a 25 year Operational Phase for the operational responsibilities in the Extended Operational Areas until the expiry date of the Operational Phase for the Primary Package; and
- private sector finance contribution for the Project.

Artist's impression of northern tunnel ventilation structure, Yallambie



1.3 A public private partnership

The decision to procure the Primary Package as a PPP focuses on achieving value for money outcomes by:

Risk Transfer

The model provides the State with the ability to optimise risks transferred to the private sector over the life of the Project.

Market Interest

A market-sounding demonstrated strong market interest and expected competition for an availability-style PPP.

Valuing Toll Revenue

The market sounding and financial analysis for the Project identified a lower prospect of achieving good value for money by selling toll revenues to the private sector as an economic toll road PPP compared to an availability-style PPP. This entitlement to toll revenues will instead be retained by the State Toll Co (wholly owned by the State).

Operational Performance

PPPs offer strong operational performance regimes with commercial incentives via targeted KPI and abatement regimes.

Innovation

A focus on longer term / 'whole-of-life' contracting drives private sector innovation in terms of how best to maintain and operate the asset over the term in the most cost effective and efficient manner while still meeting performance criteria.

Flexibility

With the State Toll Co retaining toll revenue risk, it allows greater flexibility for the tolling approach to be amended in the future in response to demand, network and technology change.

1.3.1 Revised procurement approach and delivery strategy

Following the receipt of original Proposals in response to the State's Request for Proposal issued on 26 September (2019) (RFP), the State amended the Project's risk allocation in part, to reflect changes to market dynamics in the domestic construction market and to take into account the COVID-19 pandemic.

The State adapted the PPP model to incorporate an ITC risk and reward regime in respect of the design and construct costs incurred during the Development Phase. The ITC regime creates incentives for the collaborative resolution of technical issues, motivating parties to solve issues expeditiously through the dispute resolution process.

The PPP maintains the core features of an availability PPP, including private finance and long-term asset management and operations contracted over the term.

1.4 Procurement process

1.4.1 Overview

The State conducted a competitive procurement process to select a private sector party to deliver the Project. The procurement process was led by NELP and implemented in accordance with the Partnerships Victoria framework to ensure that the State received the best value for money outcome. The tender process involved three phases as described below:

- EOI phase: involving the release of the invitation for EOI and concluding with the selection of the shortlisted Respondents;
- RFP phase: conducted under two discrete processes, namely:
 - Original process: involving the release of the RFP to the shortlisted Respondents, an intensive interactive tender process, submission of original Proposals by the shortlisted Respondents, and the clarification and evaluation of original Proposals; and
 - Revise and confirm (RAC) process: involving the release of an RFP supplement to the shortlisted Respondents, an intensive interactive tender process, submission of RAC Proposals by the shortlisted Respondents, and the clarification and Evaluation of RAC Proposals to select the preferred Respondent.
- Negotiation and completion phase: involving a negotiation period, the appointment of a preferred Respondent, final negotiations, the execution of the Project Documents and the achievement of Contract Close and Financial Close.

1.4.2 Procurement process timeline

Table 3 below contains a summary of the key dates of the procurement process.

Table 3 – Project procurement – key dates

Procurement process	Key date
EOI phase	
Invitation for EOI issued	26 November 2018
EOIs submitted	10 May 2019
Shortlist of Respondents to proceed announced	27 August 2019
RFP phase	
RFP issued	26 September 2019
Stage 1 Proposals submitted	27 May 2020
Stage 2 Proposals submitted	24 June 2020
RFP Supplement issued	22 December 2020
Stage 1 RAC Proposal submitted	3 March 2021
Stage 2 RAC Proposal submitted	31 March 2021
Negotiation and completion phase	
Preferred Respondent announced	24 June 2021
Contract Close	27 October 2021
Financial Close	28 October 2021

1.4.3 Procurement process governance structure

The State established a formal evaluation and governance structure to oversee the RFP evaluation process. An Evaluation Panel, supported by five discipline-based evaluation Sub-Panels, conducted the RFP evaluation. The sub-panels comprised:

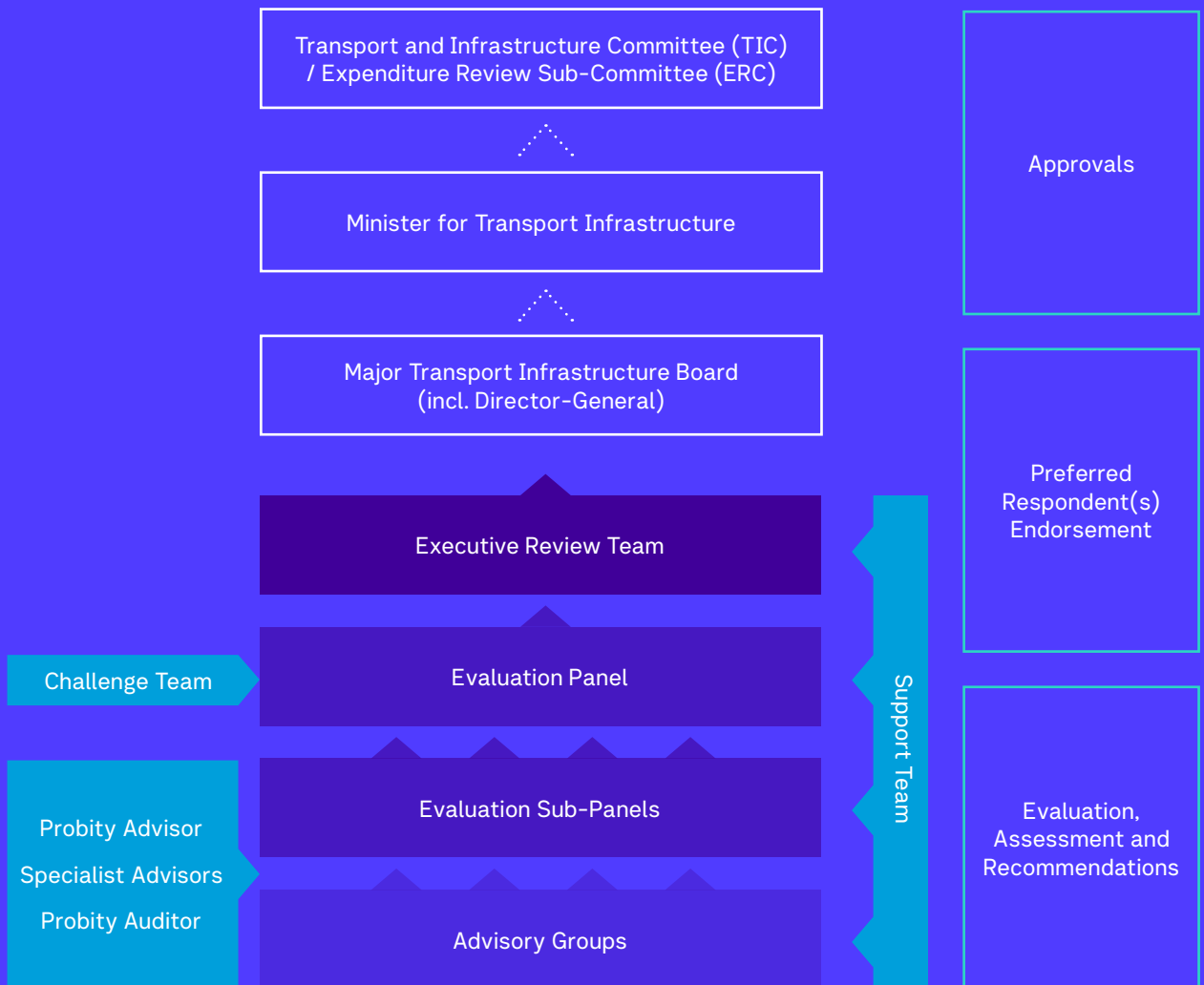
- Development and Delivery Sub-Panel;
- Services Sub-Panel;
- Commercial and Financial Sub-Panel;
- Government Policy Sub-Panel; and
- Value and Risk Sub-Panel.

The Evaluation Panel and Evaluation Sub-Panels were comprised of suitably experienced and qualified experts including representatives from DoT (Vic Roads) and DTF. Specialist advisers and other government agencies were also invited to advise where required. The Evaluation Criteria used in the assessment of Proposals is set out in Appendix 4.

The Evaluation Panel submitted its Evaluation Report (including evaluation recommendations) to the interdepartmental executive review team, which included senior representatives of NELP, MTIA, DTF and DPC.

The Evaluation Report was then endorsed by the Major Transport Infrastructure Board (including the Director-General) prior to being presented to the Minister for Transport Infrastructure and Government for approval. The governance structure is represented in Figure 2 below.

Figure 2 – Governance structure



1.4.4 Probity

The procurement process was undertaken within a robust probity framework, developed in consultation with the Project's Probity Adviser, based on the following probity principles:

- acting with integrity and impartiality;
- ensuring market equality;
- ensuring a consistent and transparent process;
- ensuring security and confidentiality of market engagement information;
- identifying and resolving conflicts of interest; and
- allocating appropriate capability to elements of the procurement process.

At the completion of the procurement process, the Probity Adviser and Probity Auditor concluded that the procurement process had been conducted in a manner consistent with the probity principles.

1.5 Procurement process outcomes

1.5.1 Procurement overview

Following the release of an invitation for EOI for the Project, three interested consortia submitted EOIs and, after a detailed evaluation process, three consortia, OneLink, Spark and ViaNova, were selected to proceed to the RFP phase. During the RFP phase the State conducted a comprehensive interactive tender process involving numerous workshops with each Respondent.

On 19 February 2020, one consortium withdrew its participation in the tender Process.

The remaining two shortlisted Respondents submitted their original Proposals in compliance with the Project procurement – relevant key dates (see Table 3).

At the completion of the evaluation of the RAC Proposals, the State formally announced Spark as its preferred Respondent. Following this announcement, the parties negotiated the final form of the Project Documents. Contract Close was achieved on 27 October 2021 and Financial Close was achieved on 28 October 2021. Spark's Proposal has been assessed to provide value for money relative to the Public Sector Comparator (PSC) and the proposal submitted by the other shortlisted Respondent. Spark's Proposal addressed the State's


requirements as set out in the RFP and is considered capable of assisting the State in achieving the Project's objectives.

The commentary below identifies key elements and outcomes that are expected to be realised during the term of the Project.

1.5.2 Outcomes against Government policy requirements

Employment and local engagement outcomes

Spark's Proposal included a holistic approach to Government policy initiatives underpinned by an initiative addressing recruitment, employment, training and local business engagement. This initiative includes a project specific Skills and Job Centre, as well as a dedicated safety school and will support the State's skills and training objectives as well as its social procurement vision.



100% of electricity to build the North East Link Tunnels will be from renewable energy.

Artist's impression of Yarra Link green bridge, Bulleen

Under the Project Deed, Project Co:

- has to achieve 91.6% local content for the Development Activities;
- has to achieve 96.2% local content for the Services;
- has a target of sourcing 94.9% of steel locally for the Development Activities and will run regular steel industry forums to support local steel procurement;
- has a commitment to ensure 10% of total estimated labour hours across the life of the Project will be undertaken by apprentices, trainees and cadets in accordance with the Major Projects Skills Guarantee; and
- has to achieve a 2.5% Aboriginal employment target.

The Design and Construction Joint-Venture comprises four large international construction firms, three of which are new participants in the Victorian market. The Project will also deliver opportunities through the supply chain, including for approximately 1,000 local businesses and 250 small businesses.

Social procurement outcomes

Consistent with the Victorian Government Social Procurement Framework, Project Co will seek to maximise employment opportunities for disadvantaged, under-represented and priority cohorts and maximise social spend.

1.6 Public interest considerations

At various stages throughout the development of the Project, the State assessed the extent to which the Project was in the public interest. The assessment was undertaken in accordance with Partnerships Victoria Requirements.

At all stages the State determined that, on balance, the public interest was being met. Appendix 5 contains the Public Interest Test for the Project.

1.7 Project Deed milestones

The Project Deed contains a number of contract milestones for Project Co to meet as summarised in the table below.

Table 4 – Summary of key contract milestones

Contract milestone	Date
Contract Close	27 October 2021
Financial Close	28 October 2021
Date for Commercial Acceptance	29 December 2028
Date for Final Acceptance	29 June 2029

Final expiry date - The date which is the 25th anniversary of the earlier of the Date for Commercial Acceptance and the Date of Commercial Acceptance

The Project Objectives and Guiding Principles were used to evaluate strategic and project options and will continue to inform the State's decision-making in relation to ongoing development and delivery of NEL.

Artist's impression of Yarra Link green bridge, Bulleen

1.8 Project advisors

The following external project advisors were engaged to assist the State during the procurement process.

Table 5 – Project advisors

Role	Advisor
Transaction Advisor	Flagstaff Consulting, Infrastructure Advisory Group, MBB Group
Commercial & Financial Advisor	Ernst & Young
Legal Advisor	Clayton Utz
Technical Advisor	GHD
Strategic Technical Advisor	Smedley Technical & Strategic
STC Advisors	PricewaterhouseCoopers, Rothschild & Co, Acton Advisory, Clayton Utz
Cost Advisors	Systech
Traffic Modelling Services Advisor	Veitch Lister Consulting
Probity Advisor	RSM Australia Pty Ltd
Probity Auditor	Pitcher Partners Consulting Pty Ltd





Part Two / Financial outcome

North East Link Program



2.1 Value for money

2.1.1 Overview

The Partnerships Victoria framework seeks to identify and implement the most efficient form of infrastructure and service delivery. The concept of value for money goes beyond the selection of the cheapest proposal, focusing on the overall value of each delivery solution.

This involved an in-depth analysis of each Proposal received from the Respondents and comparison against a State-managed delivery option. The analysis considered quantifiable elements (for example, items that can be quantified in monetary terms or as a quantity of volume) as well as qualitative considerations.

2.1.2 Public Sector Comparator

The Public Sector Comparator (PSC) is an estimate of the hypothetical, risk adjusted, whole-of-life cost of the project if delivered by the State. The PSC is developed in accordance with the output specification and risk allocation proposed for the private sector party arrangement and is based on the most likely and efficient form of conventional (that is, non-PPP) delivery by the State.

The PSC is expressed in terms of the net present cost (NPC) to the State, calculated using a discounted cash flow method taking full account of the costs and risks that would arise through State delivery.

The PSC includes amounts for the design and construction of the works, as well as maintenance, lifecycle, operating and other costs during the Operational Phase of the Project.

The PSC is made up of a number of elements as contained in Table 6.

Table 6 – Components of the Public Sector Comparator

Components of the PSC	NPC (\$millions)
Construction cost	8,649
Maintenance, lifecycle and operating costs	1,673
Raw PSC	10,322
Transferred risks	1,172
Proposal comparable PSC (excluding retained risk)	11,494

- All numbers are expressed in net present cost (NPC) values as at 30 September 2021.
- In accordance with the National PPP Policy and Guidelines, a risk-free rate of 1.92% was used in calculating the net present value of the PSC and its components.
- The raw PSC represents the base raw costs to the State to deliver the Project. The term 'raw' refers to the estimate of costs to the State of delivering the Project before taking into account adjustments for competitive neutrality and risk.
- Where necessary, a PSC will be adjusted for advantages or disadvantages by virtue of its public ownership ('competitive neutrality'). There were no competitive neutrality adjustments required for this Project.
- The Proposal comparable PSC includes transferred risk estimates, but excludes State retained risk estimates to enable a like-for-like comparison to be made to Proposals.

2.1.3 Net present cost of Project Co's Proposal

The quantitative value for money assessment, as demonstrated by the estimated savings between the Proposal comparable PSC and the final Proposal is shown in Table 7.

Table 7 – Value for money comparison – Proposal Comparable PSC versus final Proposal

Public Sector Comparator (NPC - \$millions)	11,494
Final Proposal (NPC - \$millions)	11,122
Estimated savings (NPC - \$millions)	372
Estimated savings (%)	3.2%

2.2 Additional benefits

In addition to meeting all of the State’s requirements for the Project at a price that is 3.2% less than the State’s Proposal comparable PSC, Spark's Proposal also contained a number of additional benefits for the State and road network users, including:

A longer tunnel section

Project Co’s longer tunnel section provides a superior engineering and urban design solution that results in the northern tunnel portal being extended north compared to its position in the Reference Design. This provides greater connectivity in the Yallambie / Watsonia precinct, reduces visual impacts and returns more open space to the community. An additional 1.9km of twin tunnels will now be built using TBMs replacing cut and cover trenches, reducing disruption and creating more room for the boulevard on Greensborough Road.

Tree-lined boulevard along Greensborough Road

Project Co’s tree lined boulevard along Greensborough Road creates a strong ‘place’ identity for Greensborough, which provides a unique character for the area. This initiative improves the visual amenity and local identity for road users and the local community, creating a significant new boulevard for Melbourne, minimising the visual impact of the road and associated infrastructure and extending Borlase Reserve.

Split interchanges at Lower Plenty and Manningham

The split interchange at Lower Plenty and Manningham simplifies the driver experience, protects existing open space, and maximises opportunities for additional open space and future development. This split interchange reduces construction impacts and disruption.

A land bridge at the southern ventilation structure

The Yarra Link Land Bridge allows the southern ventilation structure to be integrated into the landscape. The land bridge provides a new east/west connection for people and nature, walking and cycling connections across the new tunnel and Bulleen Road, linking with new walking and cycling paths to Koonung Creek and Main Yarra Trails. It is a landmark feature of the Eastern Freeway Interchange that greatly improves the visual amenity of this precinct.

Well-integrated and well-programmed landscape solutions for key precincts

Project Co’s landscape solution for Borlase Reserve provides additional connections over and above the Urban Design Strategy requirements. The landscape design provides greatly expanded parkland area with direct connections for nearby residents. The new parkland connects with walking, cycling and bus networks and the new Greensborough Road boulevard, providing better cross-suburban access to open space.

2.3 Other costs

In addition to the costs shown above for Project Co’s Proposal, the State Toll Co will also meet a range of other costs in relation to the Project including:

- State Party project management costs of administering the State Project Documents;
- State Party retained risks associated with the Project;
- The Independent Reviewer and Environmental Auditor (IREA) costs and Independent Cost Auditor (ICA) costs;
- Toll Collection Capability
- costs associated with State procured insurances; and
- costs of procuring electricity during the Operational Phase (up to agreed maximum forecast usage amounts).

2.4 Costs and service payments

State Toll Co will make monthly Service Payments to Project Co and administer the payment mechanism during the Operational Phase of the Project. The payment mechanism is generally consistent with precedent availability PPP projects and has been developed to drive performance, innovation and value for money.

2.4.1 Base Monthly Service Payment components

The table below summarises the components of the base monthly Service Payment.

Table 8 – Components of the Base Monthly Service Payment

Component	Description
Capital component	<ul style="list-style-type: none"> • The repayment of capital (debt and equity) and interest for the investment in the works
Services component	<ul style="list-style-type: none"> • Maintenance and operating cost for the delivery of Services provided by Project Co in fulfilling its obligations under the Project Deed
Project Co cost component	<ul style="list-style-type: none"> • Costs associated with Project Co undertaking its obligations under the Project Deed
Lifecycle component	<ul style="list-style-type: none"> • Lifecycle cost for the refurbishment and replacement of existing assets within the Primary Package footprint undertaken by Project Co in fulfilling its obligations under the Project Deed

2.4.2 Abatement regime

The abatement regime has been designed to incentivise Project Co to achieve road, lane, ramp and tunnel availability and performance requirements in the Project Deed.

The abatement regime consists of four components:

- Unavailability abatements - unavailability events will be triggered where lanes on the freeway are unavailable for the safe passage of traffic during the Operational Phase, to the extent that this is caused by a failure of Project Co to meet its obligations.
- Performance abatements - abatements linked to Key Performance Indicators (KPIs) in the following categories:
 - environment;
 - traffic;
 - quality;
 - safety;
 - system availability; and
 - tolling enabling infrastructure.
- Initial abatements - abatements relating to the performance during the construction phase. Initial abatements are assessed on the following categories:
 - development phase milestones;
 - environmental performance requirements;
 - state policy compliance; and
 - safety.
- Lane Access abatements - any unscheduled or unplanned lane access events on public roads during construction may attract an abatement liability. The abatement accumulates during the period of construction and is payable on Commercial Acceptance.

2.4.3 Key Result Area Regime

The Key Result Areas (KRA) regime provides a robust and targeted performance regime to encourage alignment of interests during delivery, foster a collaborative culture between State Parties and Project Co, and incentivise exceptional performance.

Table 9 provides an overview of the KPIs that will measure Project Co's performance in each of the KRA categories.

The KPIs are defined as either:

- Reward KPI: KPIs which, if achieved, will result in payment of a Performance Amount from the Performance Pool. The objective of each Reward KPI is to incentivise Project Co to achieve or exceed the minimum performance requirement; and
- Modifier KPI: There is one Modifier KPI which will reduce the aggregate of any Reward KPI Performance Amounts achieved with respect to the Time Reward KPIs, if Project Co fails to achieve Commercial Acceptance by the Date for Commercial Acceptance.

Table 9 – KRAs / KPIs

KRA	Reward KPIs
Time	<ul style="list-style-type: none"> • Mobilisation activities • TBM assembly • TBM excavation • Tunnel pavement works
Collaboration and Compliance	<ul style="list-style-type: none"> • Collaboration with the State and the Freeway Package Contractors, and compliance with Compliance Requirements
Freeway Package (SP) Interface Zone Design	<ul style="list-style-type: none"> • SP Interface Zone Milestone (Secondary Package North) • SP Interface Zone Milestone (Secondary Package Eastern Freeway Interchange)
KRA	Modifier KPI
Time	<ul style="list-style-type: none"> • Failure to achieve the Date for Commercial Acceptance

2.4.4 Service Payment and financial liability treatment

The State Toll Co will accrue a financial liability in its balance sheet in relation to the Project. The financial liability arises due to the costs incurred by Project Co during construction, resulting in a progressive build up of an asset recognised in the State Toll Co's balance sheet as work in progress. A financial liability will be progressively recognised in line with these costs, representing the State Toll Co's obligation to

make future payments to Project Co for the financing, design and construction of the Project.

The financial liability for the Project is outlined below. The reported figure represents the peak financial liability that the State Toll Co will incur based on the Financial Close financial model. This peak occurs following the end of the Development Phase.

The following tables provide further details on the contract value, quantum of the service payments and the financial liability outcomes for the Project.

Table 10 – Disclosure of contract value

Cost of Proposal (NPC - \$millions)	11,122
Discount rate used to arrive at NPC	5.23% p.a - (Monthly Service Payments) and 4.73% pa (State Capital Contribution)
First full year service payment (Nominal - \$millions) ¹	304

1. This figure reflects monthly Service Payments from January 2029 to December 2029 (expected date of Commercial Acceptance: 29 December 2028)

Table 11 – Breakdown of monthly Service Payments

	Nominal (\$millions)
Sum of monthly Service Payments over the life of the contract	11,357
Capital component of Monthly Service Payments	8,662
Maintenance, lifecycle and operating component of Monthly Service Payments	2,695

The financial liability for the Project is outlined below. The reported figure represents the financial liability that the State Toll Co will incur in respect of the PPP based on the Financial Close financial model.

Table 12 – Accounting treatment of financial liability

Financial liability (\$ millions)	4,741
Implied interest rate in financial liability	4.87%
Commencement of repayment of financial liability (Commercial Acceptance)	2028

2.5 ITC Regime

The Project Documents include an ITC regime in respect of the design and construct costs incurred during the design and construction phase of the Project. Key elements of the ITC regime include:

Project target outturn cost (Project TOC)

The Project TOC represents the target total Allowable Costs of the D&C Contractor to deliver the Development Activities prior to the Date of Commercial Acceptance. The Project TOC is agreed at Financial Close and may be subsequently adjusted

in accordance with the Project Deed. Consistent with the expected commitment to transparency and visibility of cost and time, the State has worked with Project Co during the procurement phase to understand the build-up of the Initial Project TOC.

Upstream cost to complete

The upstream cost to complete test is based on a retrospective determination of Allowable Costs incurred (at any time) and a prospective assessment of the Allowable Costs to be incurred to achieve Commercial Acceptance. The Upstream Cost to Complete test is determined by IREA and forms part of the ITC regime for the purposes of:

- identifying whether the forecast actual outturn cost at Commercial Acceptance (the Expected Project AOC) is expected to be greater than the Project TOC; and
- State Toll Co providing cashflow support to Project Co in respect of Allowable Costs at a point in time where the Expected Project AOC is forecast to be greater than the Project TOC; and Allowable Costs are claimed by the D&C Contractor in excess of applicable limits on private financing at that point in time.

Painshare / gainshare regime

The ITC framework includes a painshare/ gainshare regime. Following Commercial Acceptance, the actual outturn cost (Project AOC) incurred in achieving Commercial Acceptance will be compared against the Project TOC to determine any painshare amount or gainshare amount payable to or by

Project Co. The IREA will determine the Project AOC and the relevant painshare amount or gainshare amount payable to or by Project Co. The regime includes a cap on Project Co's entitlement to a gainshare and no cap on the painshare.

Cost Transparency and role of IREA

Project Co is required to provide regular and accurate cost reporting information to inform the administration of the ITC framework. Each quarter, the IREA is required to determine which of the costs incurred

as set out in a quarterly cost summary report are Allowable Costs. The IREA's determination of Allowable Costs will inform the IREA's determination in respect of the Expected Project AOC and the Project AOC.

Default Termination Event

Where the Project AOC exceeds the Project TOC by a set percentage, subject to the Finance Direct Deed, the State has the right to terminate the Project Deed or require Project Co to cure the default.

If cured, the State cannot exercise its right to terminate.

2.6 Construction capital contribution

In order to optimise private finance, reduce the total cost of the PPP and enhance value for money, State Toll Co will make Construction Capital Contributions to Project Co during the Development Phase. The key features of the Construction Capital Contributions can be summarised as:

- a monthly Construction Capital Contribution up to an agreed maximum amount, reflecting the Initial Project TOC plus other costs to undertake the Development Activities and finance the PPP as agreed at Financial Close less the private finance to be contributed by Project Co;
 - once the requisite amount of private finance has been contributed, State Toll Co will make monthly payments to Project Co at the same time as (and proportionate to) advances by Project Co's debt financiers.
- Quantum of private finance was determined by ensuring:
- it was sizeable enough to be attractive to the private finance market and achievable under the constrained financing market conditions in 2020; and
 - it represented best value for money to the State by optimising the level of private finance and the discipline it drives, such as financier due diligence and oversight over the contract term.

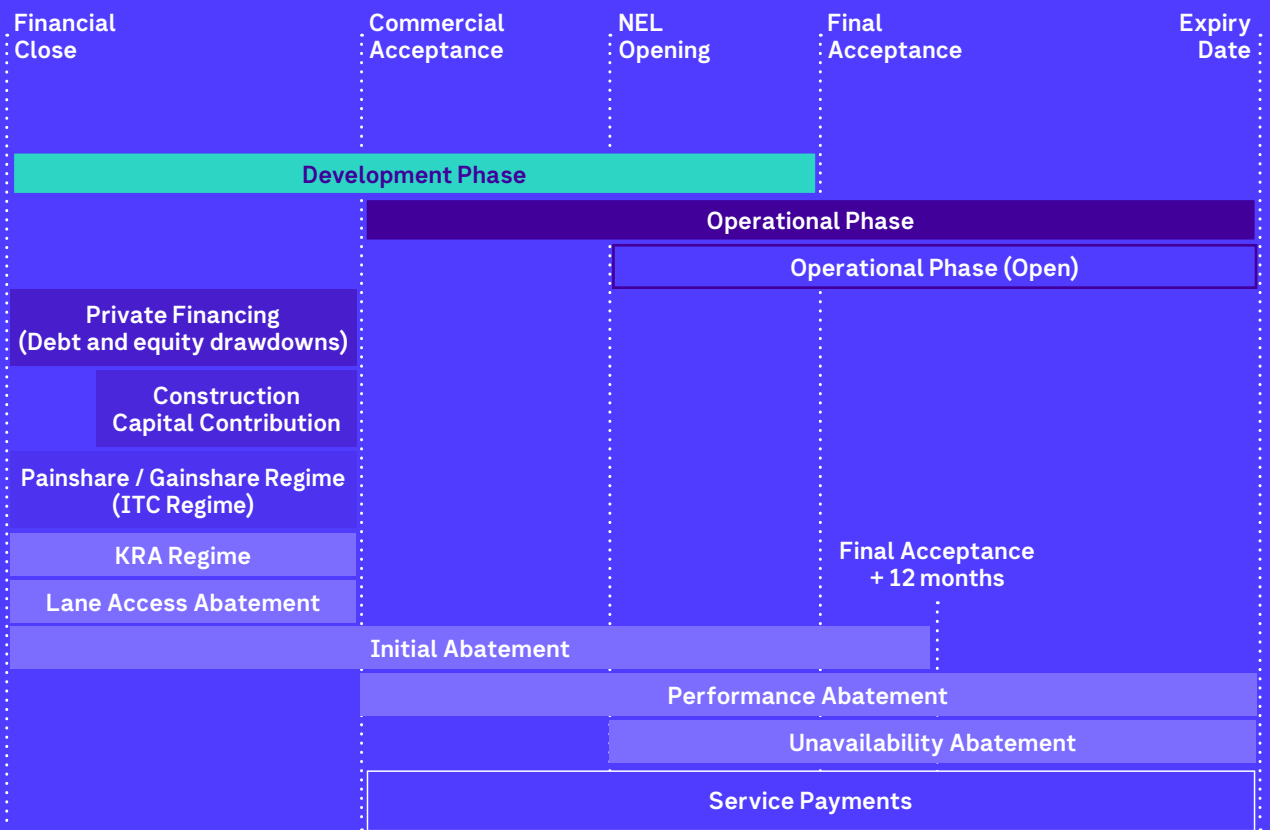
Table 13 – Construction Capital Contributions

Construction Capital Contribution	Nominal (\$millions)
Construction Capital Contribution during the Development Phase	8,375

2.7 Overview of payment arrangements

The following provides an overview of the key contractual milestones, Project phases and the timing of Project funding, abatements and Service Payments.

Figure 3 – Overview of payment arrangements



2.8 Bid cost reimbursement

The State is making a contribution to the unsuccessful Respondents for the verifiable and reasonable external costs incurred in preparing its Proposal capped at a maximum payment of \$99 million. Actual costs incurred by bidders would have exceeded this contribution.

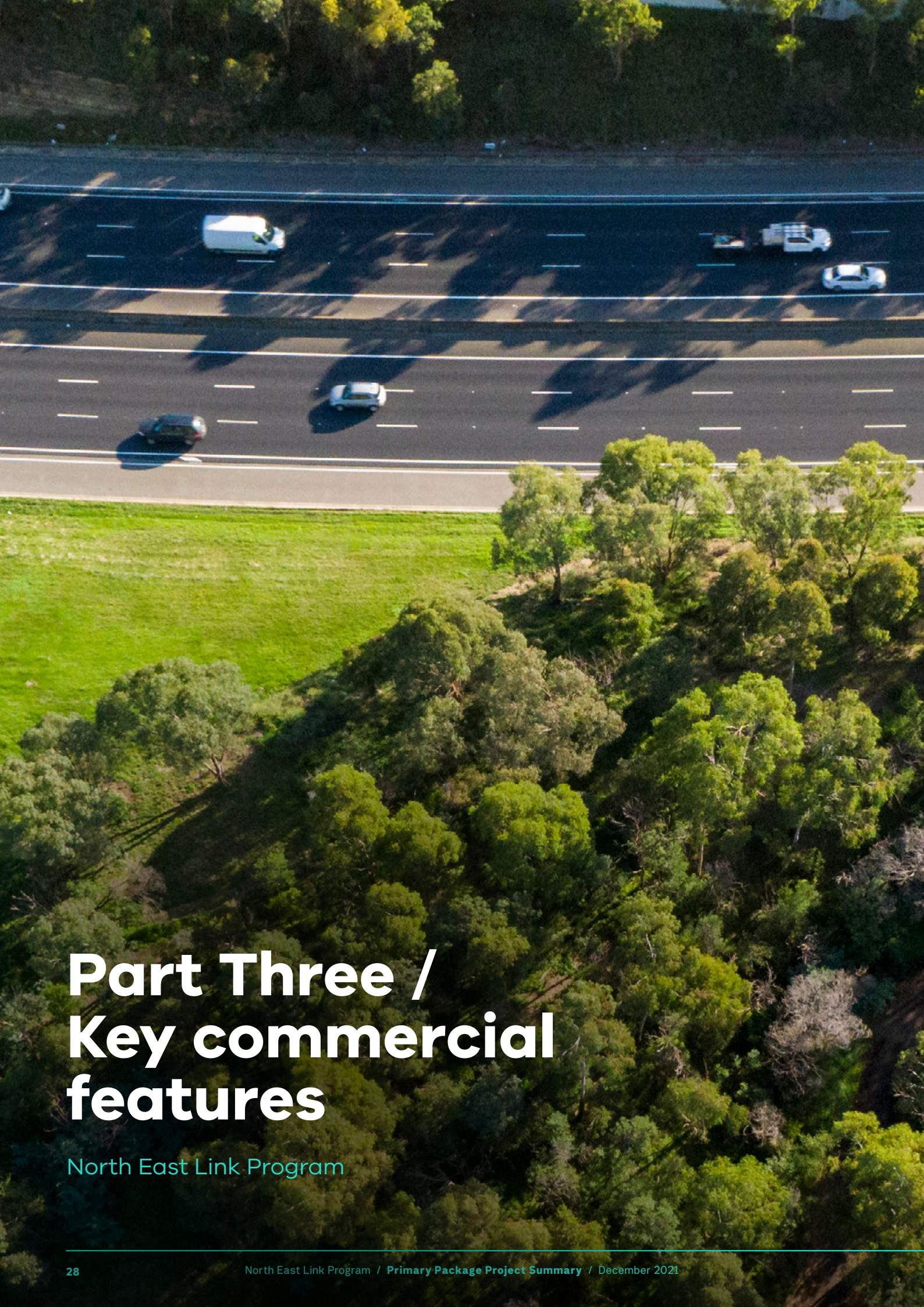
The cap on bid reimbursement cost for the unsuccessful Respondents was previously set at \$50 million. This was subsequently increased to \$99 million to reflect:

- The extended nature of the procurement process (due in part to the pandemic); and
- Additional work required by the bidders as a result of the Revise and Confirm process and (see 1.4).

Payment of this contribution to Proposal costs is subject to the Respondent satisfying certain terms and conditions including an audit process.

Reimbursement of a proportion of the Respondent's bid costs is consistent with the Partnerships Victoria Requirements where it will maximise value for

money by incentivising stronger market responses and attracting better quality Proposals. The State receives the benefit of the intellectual property contained in each Respondent's Proposal. The bid costs are considered reasonable in the circumstances given the \$11.1 billion price of the project as well as its scale, complexity and the two-year bid evaluation and negotiation process.



Part Three / Key commercial features

North East Link Program

An aerial photograph showing a multi-lane highway with white lane markings. In the foreground, there is a dense forest of green trees. A teal-colored text box is overlaid on the right side of the image.

North East Link (NEL) is the largest investment in a road project in Victoria's history. It will complete the missing link in Melbourne's orbital freeway between an upgraded Eastern Freeway and the M80 Ring Road.

3.1 Parties to the State Project Documents

The relevant parties under the Project documents and other contractual arrangements are set out in Table 14 below.

Table 14 – Relevant parties

Entity	
State parties	
The State	<ul style="list-style-type: none"> The State is a signatory to the Project Deed and associated State Project Documents. The Minister for Transport Infrastructure is the person empowered to execute these contracts on behalf of the State.
NELP	<ul style="list-style-type: none"> NELP (a division of MTIA, an Administrative Office in relation to DoT, established under the <i>Public Administration Act 2004 (Vic)</i>), is responsible for the procurement and delivery of the North East Link project.
State Tolling Corporation	<ul style="list-style-type: none"> As legislated in the <i>North East Link Act 2020 (Vic)</i>, the North East Link State Toll Co is a wholly owned statutory corporation that has been established to own the Project assets, collect and own the toll revenue generated by the Primary Package and be responsible for managing the Project during the Operational Phase. The State Toll Co holds a 99-year lease on Project Land that is Crown Land, according to the <i>North East Link Act 2020 (Vic)</i>. State Toll Co is a signatory to the Project Deed and associated State Project Documents.
Secretary of the Department of Transport	<ul style="list-style-type: none"> Is a signatory (as Project Proponent) to the Development Phase Licence. Is a signatory (as Project Authority) to the Delegation & Licence Deed.
Head, Transport for Victoria	<ul style="list-style-type: none"> Is a signatory (as the State Road Operator) to the Common Disputes Deed and the Managed Motorway Agreement.

Entity

Key private sector parties

Project Co

- Spark North East Link Pty Ltd as trustee of the Spark North East Link Trust (Spark) is the primary contracting entity with the State. Spark, in turn, has entered into a range of contracts with its consortium partners to deliver elements of the Primary Package. Notwithstanding this, Spark will be the organisation ultimately responsible for the delivery of the Primary Package.

D&C Contractors

Project Co has engaged:

- Webuild S.p.A (Webuild);
- GS Engineering & Construction Australia Pty Ltd (GS E&C);
- CPB Contractors Pty Ltd (CPB); and
- China Construction Oceania Pty Limited (CCO),

under a D&C Contract to carry out the design and construction of the Primary Package.

Services Contractor

- Project Co has engaged Ventia Australia Pty Ltd (Ventia) under a Services Contract to carry out operations and maintenance requirements on the Primary Package.

Equity Investors

The following entities have committed to provide the equity required for Project Co to deliver the Primary Package:

- Webuild;
- John Laing Investments Limited;
- GS Engineering & Construction Corp;
- DIF Infrastructure VI Cooperatief U.A. (DIF);
- Lendlease Infrastructure Investments Pty Limited; and
- Pacific Partnerships Pty Limited.

Entity

Key private sector parties

Financiers

The following entities have committed to provide the senior debt required for delivery of the Primary Package:

- Bank of China Limited, Sydney Branch;
- Commonwealth Bank of Australia;
- DZ BANK AG Deutsche Zentral -Genossenschaftsbank, Frankfurt am Main, Hong Kong Branch;
- KfW IPEX-Bank GmbH;
- Kookmin Bank Co., Ltd;
- Mizuho Bank, Ltd;
- Natixis, Honk Kong Branch;
- Nippon Life Insurance Company;
- Standard Chartered Bank, Australia Branch;
- Sumitomo Mitsui Banking Corporation;
- Sumitomo Mitsui Trust Bank, Limited, Singapore Branch;
- The Export-Import Bank of Korea;
- The Hongkong and Shanghai Banking Corporation Limited, Sydney Branch;
- The Korea Development Bank;
- United Overseas Bank Limited, Sydney Branch;
- Westpac Banking Corporation;
- Swiss Reinsurance Company Ltd;
- Just Retirement Limited;
- Hana Financial Investment Co. Ltd;
- IFM Investors Pty Ltd (investment manager for C.M. Life Insurance Company);
- IFM Investors Pty Ltd (investment manager for Massachusetts Mutual Life Insurance Company);
- IFM Investors Pty Ltd (investment manager for Nationwide Life and Annuity Insurance Company);
- Manulife General Account Investments (HK) Ltd (investment manager for Manulife Life Insurance Company);
- Manulife (international) Ltd;
- Manulife (Singapore) Pte Ltd;
- Manufacturers Life Reinsurance Limited;
- NH Investment & Securities Co., Ltd;
- NongHyup Bank (Trustee of KB Global Infrastructure Synergy Private Special Asset Fund)
- Samsung Global Infrastructure Professional Investor's Private Placed Investment Fund No.1;
- Sun Life Assurance Company of Canada;
- TD Asset Management Inc; and
- Vantage Infrastructure (UK) Limited (investment manager for NatWest Pension trustee Limited).

Other parties

Independent Reviewer and Environmental Auditor

- APP Corporation Pty Limited, Arup Australia Projects Pty Ltd and Aurecon Australasia Pty Ltd have been jointly appointed by the State and Project Co to oversee the design and construction of the Primary Package in accordance with the Independent Reviewer and Environmental Auditor Deed of Appointment.

Independent Cost Auditor

- KPMG has been appointed as a Nominated Subcontractor to the IREA to perform the independent audit function required for the ITC Regime under the terms of the Independent Cost Auditor Deed of Appointment.

3.2 Contractual relationships

Figure 4 outlines some key contractual arrangements and relationships required for delivering the Project.

Figure 4: Summary of contractual arrangements and relationships



Notes: Direct Deeds and other ancillary documents (for example the Common Disputes Deed) are not shown in this figure. There may be multiple Freeway Package contractors. Only one has been depicted for simplicity.

The State Parties will also enter into a number of other contractual arrangements governing the management of interfaces between Project Co and the contractors delivering the Freeway Packages and the Toll Collection Capability, which are described in sections 3.4.1 and 3.4.2.

3.3 Risk allocation

The risk allocation in the Project Deed allocates risks to the party best able to manage them in order to achieve best value for money for the State. This results in various risks being:

- retained by the State Parties;
- transferred to the private sector; or
- shared between the parties.

The Project Deed (which is based on the standard form Partnerships Victoria Standard Project Deed and adapted to incorporate the ITC framework) and associated State Project Documents establish the obligations of each party in managing these risks.

Table 15 provides a high-level outline of the risk allocation for the Project. Where a risk is allocated to more than one party, those parties may not share that allocation equally. All risks are dealt with in detail in the Project Deed and associated documents.

Table 15 – Project risk summary

No.	Type of risk	Description	Allocation		
			State/ State Toll Co ^[1]	Project Co	Shared
Site Risks					
1	Land acquisition	Risk associated with acquiring land identified at Contract Close as required for Project Co's design accepted by the State.	✓		
		Risk associated with acquiring land as a result of design changes requested by the State after Contract Close.	✓		
		Risk associated with acquiring land as a result of design changes requested by Project Co after Contract Close.		✓	
2	Planning Approvals	Risk of obtaining State approvals and planning reservations of the land required for the Project Area based on the design agreed at Contract Close.	✓		
3	Native title claims	Risk of native title claims affecting the Project Area.	✓		
4	Heritage and artefacts	Risk associated with suspension or cessation of works in connection with the discovery of items of aboriginal heritage and other artefacts at the site.	✓		
5	Site conditions	Risk of unanticipated geotechnical or other ground conditions (including services and utilities) in respect of the Project Area.		✓	
		Risk of managing, removing and remediating contamination caused or disturbed by Project Co.			✓

				Allocation		
No.	Type of risk	Description	State/ State Toll Co ^[1]	Project Co	Shared	
Design, Construction and Commissioning Risks						
6	Force majeure	Risk of delay caused by force majeure events which prevent construction milestones being met.				✓
7	Design risk	Risk that the design does not meet the Project Scope and Delivery Requirements.		✓		
8	Construction risk - time	Risk that construction activities cannot be completed on time.		✓		
9	Construction risk - cost	Risk that construction activities cannot be completed on budget.				✓
10	Interface with other NEL Project work packages	Risk in relation to managing interfaces and coordinating design and construction activities with other NEL Project work packages in accordance with the requirements of the Project Deed.				✓
		Risk in relation to meeting defined Project milestones such as the provision of design information or site access from / by other work packages.			✓	
		Risk in relation to other NEL Project work packages failing to meet specified requirements.	✓			
11	Other State projects	Impact of other State projects which result in a modification or delay to the Project activities.	✓			
12	Defects risk	Risk that defects are identified following completion of construction.		✓		

			Allocation		
No.	Type of risk	Description	State/ State Toll Co ^[1]	Project Co	Shared
13	Equipment	Responsibility for the selection and procurement of equipment (excluding tolling systems).		✓	
		Responsibility for the installation of equipment (excluding tolling systems).		✓	
14	Commissioning	Risk that the works are not constructed so as to be fit for purpose or do not comply with contractual obligations.		✓	
		Risk that the works cannot be commissioned in accordance with the commissioning regime agreed with the other NEL Project work packages.			✓
15	Electricity	Risk of changes in the volume and price of electricity during the Development Phase.			✓
Operating risk					
16	Force majeure	Risk that force majeure events affect the operation or availability of the NEL Freeway.			✓
17	Tolling Toll revenue Risk	Provision and performance of the tolling system on the NEL Freeway.	✓		
18	Asset availability and maintenance	Making the NEL Freeway available in accordance with availability requirements.		✓	
19	Meeting performance requirements	NEL Freeway performance (operations and maintenance) does not meet the performance requirements.		✓	
20	Lifecycle costs	Risks associated with the replacement and refurbishment of Project Assets over the Operational Phase (excluding Returned Assets).		✓	

			Allocation		
No.	Type of risk	Description	State/ State Toll Co ^[1]	Project Co	Shared
21	Residual life and end of Term handover	Satisfying the residual design life requirements for the NEL Freeway at the end of the Operational Phase.		✓	
22	Electricity	Risk of changes in the volume of electricity required during the Operational Phase.			✓
		Risk of changes in the price of electricity during the Operational Phase.	✓		
Industrial Relations					
23	Industrial relations risk	Risks of industrial action and industrial relations matters in connection with the Project activities (excluding those actions which directly result from an act or omission of the State and only affect the Project or in the direct vicinity of the Project Area).		✓	
Change in law					
24	Project specific change in law	Risk of additional cost or delay resulting from changes in State policy or law which directly affect the Project.	✓		
25	General change in law	Risk of a general change in law that relates to the Development Activities within 2 years of Contract Close.			✓
Financing and Insurance Risks					
26	Financing	Obtaining and maintaining private sector financing.		✓	
27	Base interest rate risk	Base interest rate risk prior to Financial Close.	✓		
		Base interest rate risk from Financial Close to the first re-finance date.		✓	
		Base interest rate risk from the first re-finance date.	✓		

No.	Type of risk	Description	Allocation		
			State/ State Toll Co ^[1]	Project Co	Shared
Financing and Insurance Risks					
28	Refinancing	Risk of refinancing losses.		✓	
		Benefit of refinancing gains.			✓
29	Tax	Risk that actual tax payable by Project Co differs from the base case financial model.		✓	
30	Forex risk	Risk of forex movements after Financial Close.		✓	
31	Insurance	Responsibility for effecting insurances required for construction and operation of the Project.			✓

Notes: 1. This column simplifies allocation of State / State Toll Co risk allocation. See further section 3.6.1 below.

3.4 Departures from standard project deed and project-specific regimes

The Project Deed has been developed in accordance with Partnership Victoria requirements, specifically the guidance notes and the template standard form project deed for linear infrastructure projects.

The agreed departures and other project-specific regimes are summarised in the following table:

Table 16 – Departures from standard Project Deed and Project-specific regimes

Topic	Summary
Departures from the standard Project Deed	
Delivery Strategy	The risk allocation with respect to the implementation of the delivery strategy intends to reflect the party which can best manage / mitigate the particular risk.
Interface Management	<p>Interface regimes between Project Co and each Secondary Package contractor, the Early Works Contractor and the Toll Collection Capability Contractor.</p> <p>All package contractors are required to enter into a Coordination and Interface Deed Poll agreeing to a common set of Framework Coordination and Interface Principles and to establish and actively participate in a Joint Coordination Committee.</p> <p>The interface regime includes defined Development Phase Milestones to be met by Project Co for a number of key Project Co inputs into interfaces.</p>
State Procured Insurances	State Parties to procure, maintain and pay all premiums for specified State procured insurances, unless an increase to a premium is attributable to an act or omission of Project Co. The State is procuring the specified insurance policies to facilitate the project delivery strategy and/or optimise value for money.
Contamination	Project Co is entitled to contamination relief where it is required to remediate outside the Project Area.
State Policies	Victorian Industry Participation Policy Local Jobs, local steel requirements, Aboriginal Participation, Major Project Skills Guarantee and sustainability policies applied with corresponding abatements to ensure outcomes are achieved.
Project-specific regimes	
ITC Regime	An ITC structure implemented within the PPP framework as described in section 2.5
KRA Regime	A performance regime to monitor and measure Project Co's performance in relation to specified KRAs.

3.5 General obligations of Project Co

Under the Project Deed, Project Co will be responsible for:

- designing, financing, constructing and commissioning the works in the Project Area, as well as undertaking preliminary design of the SP Interface Zone Design, and the delivery of certain ITS works outside the Project Area;
- undertaking all operations and maintenance services in respect of the Primary Package; and
- conducting incident response services and a specified set of other operational activities in adjacent sections of the road network outside the Project Area.

The full detail of Project Co's obligations is contained in the Project Deed and associated documents.

Over the course of the Project, Project Co will be responsible for:

- all risks in relation to the Project, unless expressly stated otherwise;
- completion of all Development Activities, including achieving each milestone completion requirement by the relevant milestone dates, and acceptance by the relevant date for acceptance;
- all aspects of the design, construction and financing of the Development Activities;
- the provision of all Project Services throughout the Operational Phase, in accordance with specified performance standards;
- taking out and maintaining certain insurances during the Development and Operational Phases; and
- undertaking all necessary tasks to ensure that the Project assets and the Project Area are handed back to the State on expiry of the Project Deed in the required condition and in accordance with the end of Term requirements set out in the Project Deed.

3.6 General obligations of the State Parties

3.6.1 State and State Toll Co responsibilities

As noted in section 3.1 above, both the State and State Toll Co have executed the Project Deed.

During the Development Phase, the State Parties' rights and obligations under the Project Deed will be administered by the North East Link Project, a division of the MTIA.

STC has also executed the Project Deed for a range of project-specific reasons, including the following:

- STC is the concession holder of the NEL Freeway and will manage the delivery of the services to ensure Project Co meets its obligations during the operational period;
- STC is responsible for all key payments to Project Co under the Project Documents;

- during the Operational Phase, STC will be responsible for administering the State Parties rights and obligations under the Project Deed;
- on the declaration of the NEL Freeway and the commencement of road operations, STC will be the statutory road authority for the NEL Freeway, responsible for contracting the operations and maintenance of the NEL Freeway, including the procurement of electricity supply;
- under the North East Link Act (2020), STC will hold the entitlement to impose tolls on users of the road and will retain the associated toll revenues; and
- State Toll Co is responsible for procuring the Toll Collection Capability Contractor and managing the operational interface between Project Co and the Toll Collection Capability Contractor once the Toll Collection Capability Contractors commences operation.

3.6.2 Key obligations

Under the Project Deed, the State's key obligations to be administered by NELP include the following:

- procuring key approvals in relation to the Primary Package, including planning scheme amendments, a cultural heritage management plan, approval under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth), and EPA works approval;
- providing Project Co with the necessary access to land and delegations of powers to allow it to perform its obligations;
- together with Project Co, jointly engaging the IREA under the IREA Deed of Appointment and managing that relationship;
- reviewing and commenting on project plans, design documentation and other material that will be submitted by Project Co in accordance with the Project Deed;
- convening and chairing governance meetings during the Development Phase, including the Senior Representatives Group, Project Control Group and the Joint Coordination Committee framework; and
- overseeing the progressive achievement of project milestones and managing the process for Commercial Acceptance, defect resolution and commencement of the Operational Phase.

State Toll Co's key obligations under the Project Deed include the following:

- payments to Project Co including ITC payments and Construction Capital Contributions during the Development Phase and the Service Payments throughout the Operational Phase;
- during the Operational Phase, administering the abatement regime, conducting audits and other performance analysis to ensure compliance with the Project Deed and achievement of required performance levels; and
- as the State Party to which the Project assets revert on expiry of the Term, administering the asset handback process, including any required refurbishment works in advance of handback.

The Project Deed also imposes certain requirements on the State Parties in relation to any divestment of State Toll Co's rights and interests in respect of the Project, including any change in control of State Toll Co.

3.7 Modifications and augmentations

The State Parties may request Project Co to implement changes to the Project's assets and Services, provided that Project Co provides a value for money offer to implement the change and the State Parties adequately compensate Project Co.

The two main mechanisms for effecting changes to the scope of the Project are modifications or augmentations.

3.7.1 Modifications

The State may, at any time and at its sole discretion, request Project Co to implement modifications to the Project, provided that the State adequately compensates Project Co.

Modifications may also be claimed by Project Co in response to the occurrence of prescribed categories of specified events, including in respect

of State approvals or changes in mandatory requirements, or which arise as a result of the operation of the Project interface management regime through the Joint Coordination Committee (JCC) framework or in response to other specific directions from the State.

3.7.2 Augmentations

This regime captures changes to the Project requirements and activities which:

- have a total cost which the State considers is likely to be in excess of \$80 million; and
- the State determines should be delivered pursuant to the augmentation process which has been designed to deliver large and complex Project changes.

3.8 Relief events

Subject to certain conditions, Project Co may be entitled to time, costs and performance relief under the Project Deed as a result of the following events:

Table 17 – Relief events

Relief event	Details of relief event
Change in Law	Project Co will be entitled to relief for a general change in law that occurs within 2 years after Contract Close
Change in Policy	Project Co will be entitled to relief for a change in policy that Project Co must comply with, or that the State directs Project Co to comply with.
Pandemic Relief	Project Co will be entitled to relief if, after the date of the Project Deed, a Pandemic Direction, in respect of COVID-19, any variant, mutation or adaptation of COVID-19 or another pandemic, causes: <ul style="list-style-type: none"> • a cessation or suspension of any part of the Development Activities or Services; or • a material change to the way in which the Development Activities or Services are carried out.
Contamination	See Section 3.4.

3.9 Default, step-in and termination regime

3.9.1 Default

A default by Project Co will entitle the State to various remedies. In most instances Project Co will be given an opportunity to cure the default, failing which, the default will escalate to a Major Default.

Failure of Project Co to rectify a major default in accordance with its own cure program, may, subject to financier cure rights, give rise to the State's right to terminate the Project Deed.

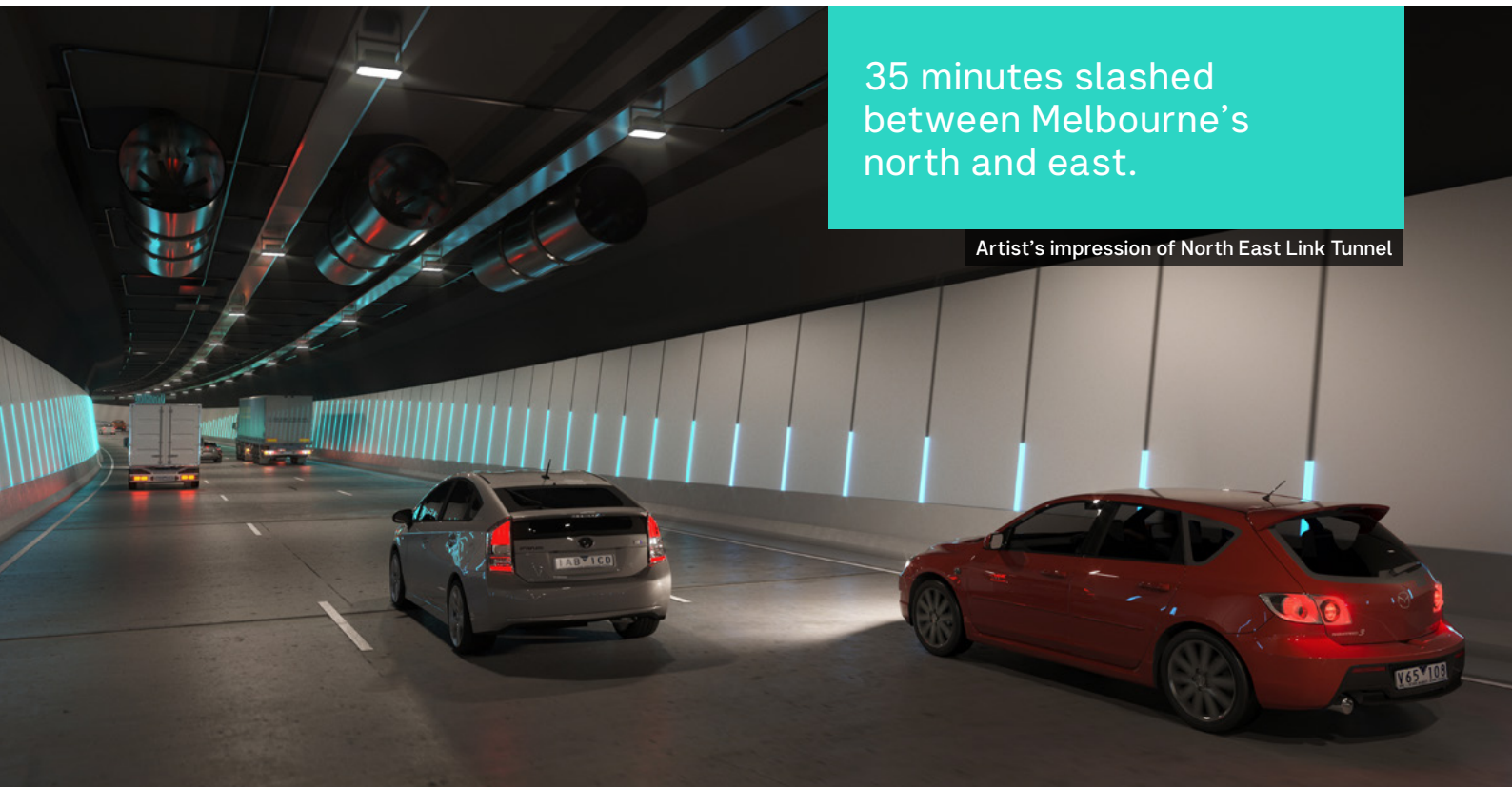
There is a limited number of instances where a Project Co default will result in a right to the State to immediately terminate the Project Deed (subject to financier cure rights) (default termination events).

3.9.2 Step-in

In addition to triggering termination rights, major defaults and default termination events may trigger State rights and remedies, including the right to step-in to remedy a default or termination event.

Step-in rights for the State can be triggered when:

- a major default has occurred;
- a default termination event has occurred;
- a State cure notice has been issued by the D&C Contractor or the Services Contractor;
- a State Party is entitled by law to act to discharge a statutory power of duty;
- a serious incidence or significant damage to a project asset has occurred incident has occurred; and
- any Project activities are suspended following the occurrence of an Intervening Event.
- During any step-in associated with a default, the service payment will be abated to the extent that the services are not being provided.



35 minutes slashed
between Melbourne's
north and east.

Artist's impression of North East Link Tunnel

3.9.3 Termination

After Financial Close the Project Deed can be terminated for the following reasons:

- default;
- ongoing force majeure continuing for 180 days or more;
- convenience or for network consolidation; and
- where the State may, or is required to, pay compensation due to contamination or a designation delay event for an extended period.

Calculation of termination payments will be made in accordance with Table 18. In the event that the termination payment is a negative amount, Project Co must pay that amount to the State.

Table 18 – Calculation of termination payments

Event	Trigger	Termination Payment
Default Termination Event	The State may terminate the Project Deed if a default termination event occurs.	The Project's fair market value determined by tendering or by an independent expert (although a tender cannot be conducted where there is no liquid market).
Termination for Force Majeure	The occurrence of a force majeure termination event.	The outstanding debt as at the termination date plus / minus other costs.
Termination for Convenience	The State may, at any time, for reasons of its own choosing, unilaterally elect to terminate the Project Deed for convenience.	The outstanding debt as at the termination date, pre-agreed equity amounts depending on the relevant termination date, and other reasonable costs including termination payments to subcontractors.
Network Consolidation Termination for Convenience	The State may, on defined dates between 2043 and 2045, for reasons of its own choosing, unilaterally elect to terminate the Project Deed for convenience.	The outstanding debt as at the termination date, pre-agreed equity amounts depending on the relevant termination date, and other reasonable costs including termination payments to subcontractors.
Unknown Risk Termination Event	The State may terminate the Project Deed for specified contamination compensation events or related risks.	The outstanding debt as at the termination date, equity contributed, and other reasonable costs.

3.10 Finance and security arrangements

The State requires Project Co to obtain private finance to a target private finance amount, with the remainder of the Project being funded by State Toll Co through Construction Capital Contributions.

The private financing structure comprises senior debt drawn progressively from Financial Close and equity committed at Financial Close by way of an equity letter of credit, with the equity finance being contributed near the end of the construction period.

The State Parties will take security over Project Co to secure their rights under the Project Deed. Under the Finance Direct Deed, the State Parties and Project Co

will agree the usual priority and enforcement rights whereby the State Parties retain first priority for out of pocket amounts (e.g. on step-in) and amounts payable to it on termination, subject only to the rights of long term institutional lenders to recover a portion of amounts funded by them at Financial Close that have not yet been utilised for the Project.

3.11 State rights at expiry of the Project Deed

The Project Deed requires Project Co to hand back the Project assets and the Project Area to the State Toll Co, or a nominated Project Successor, at the expiry of the Operational Phase for nil consideration in accordance with the expiry obligations.

The Project assets will be independently inspected, in the two years prior to expiry of the Operational Phase to identify work required to meet the relevant handover conditions and a program for undertaking such works including any Planned Lifecycle Activities (Final Refurbishment Works).

If the estimated cost of delivering the works to meet the handover condition is less than 120% of the remaining Service Payments, and Project Co elects

not to provide a suitable performance bond as security for the performance of the Final Refurbishment Works, the State Parties will be entitled to deposit all remaining Service Payments into an escrow account until the balance equals or exceeds 120% of the cost of the Final Refurbishment Works.

3.12 Audit and inspection rights of the State Parties

The Project Deed includes audit rights, including:

- inspect, test or observe any part of the assets or Project activities;
- conduct audits or asset condition surveys; and
- examine and make copies of all Project Co materials, including accounts, records, reports and other documents requested of Project Co or its subcontractors in connection with the Project.

The State Parties also have disclosure rights including to satisfy Victorian Auditor-General disclosure requirements or in respect of parliamentary accountability.



Appendices / A B C D and E

North East Link Program



Appendix A

Glossary

Term	Meaning
Allowable Costs	A specified set of costs that Project Co may claim
Commercial Acceptance	The stage when the Primary Package civil works is substantially complete
Contract Close	The date on which the State and Spark entered into the Project Deed and associated Project Documents. This occurred on 27 October 2021
Date for Commercial Acceptance	The date by which Project Co is contractually required to achieve Commercial Acceptance
Date of Commercial Acceptance	The date upon which the IREA certifies that Commercial Acceptance has been achieved
Development Activities	The design and construction of the works and all other things which Project Co is required to carry out in accordance with the Project Deed to achieve Final Acceptance
Development Phase	The period commencing on Financial Close and ending on the Date of Final Acceptance
DoT	Department of Transport
DTF	Department of Treasury and Finance
D&C	Design and construct
Early Works	Early works to facilitate the Project, as described in section 3.4.7
Environmental Effects Statement	The statement prepared for NEL in accordance with section 4 of the <i>Environment Protection Act 1970 (Vic)</i>
Environmental Performance Requirements	The minimum environmental outcomes that must be achieved during design, construction and operation of the Project
EOI	Expression of interest
EPA	Environmental Protection Authority Victoria
EPA Statutory Instrument	A written notice, order or direction issued to Project Co or an approval obtained or required, in connection with the Project under the <i>Environment Protection Act 2017 (Vic)</i> or any delegated legislation or statutory instrument made under it
Evaluation Criteria	The criteria used by the State to evaluate Proposals as set out in Appendix D
Extended Operational Area	The area adjacent to the Project Area in which Project Co will perform specified operational functions such as incident response

Term	Meaning
Final Acceptance	The stage when the remaining works and defects in respect of the Primary Package are complete
Financial Close	The date on which the parties satisfied all of the conditions precedent in respect of the Project Deed for the Primary Package. This occurred on 28 October 2021
Freeway Packages	West, South, East and North (see Figure 1)
Incorporated Document	The 'North East Link Project Incorporated Document, December 2019', approved 3 January 2020, as amended from time to time
IS Rating Scheme	The Infrastructure Sustainability Council of Australia design, as-built and operations rating schemes (as applicable)
ITC	Incentivised Target Cost
ITS	Intelligent transport systems for road operations and communication with drivers
KPI	Key performance indicator
KRA	Key Result Area
Mobilisation Activities	Those activities to be performed in the period where Project Co is ramping up its resourcing and establishing all required facilities, systems, plans and structures to perform the Development Activities
MTIA	The Major Transport Infrastructure Authority, an administrative office in relation to DoT, established under the <i>Public Administration Act 2004 (Vic)</i>
NEL Freeway	The freeway and related ramps and assets operated by Project Co and tolled by State Toll Co
NPC	Net present cost
Operational Phase	The period commencing on the Operational Commencement Date (being the day after the Date of Commercial Acceptance) and ending on the Final Expiry Date
Partnerships Victoria	The Partnerships Victoria policy is a State policy that provides a framework for developing contractual relationships between the State and private sector for the delivery of public infrastructure and related services through PPPs. The Partnerships Victoria team is part of the Infrastructure Delivery Group in DTF
PPP	Public private partnership
Primary Package	The Project the subject of this Project Summary. Also referred to in other NEL documentation as the Central Package
Project	The North East Link Primary Package

Term	Meaning
Project Area	The area of land in which works for the North East Link Primary Package are undertaken
Project Co (or Spark)	Spark North East Link Pty Ltd as trustee of the Spark North East Link Trust
Project Deed	The agreement entered into between the State, State Toll Co and Spark for the delivery of the Project
Project TOC	Project target outturn cost
Proposal	A proposal submitted by a Respondent in response to the RFP
Public Interest Test	The public interest test contained in Appendix E
PSC	Public Sector Comparator
Reference Design	Any design for the Project prepared and issued or made available by or on behalf of the State to Project Co as part of the tender materials
Respondent	An entity invited by the State to submit a Proposal to deliver the Project
Reward KPI	Each KPI which meeting may result in a Performance Amount
RFP	Request for Proposal
Service Payments	The amount that will be payable by State Toll Co to Project Co from the Operational Commencement Date until the Expiry Date
Services	The services and tasks that Project Co is or may be required to perform during the Operational Phase to comply with its obligations under or in connection with the State Project Documents
State Toll Co	North East Link State Tolling Corporation, established under section 8 of the <i>North East Link Act 2020</i> (Vic)
Term	The duration of the Project starting at Financial Close until the Final Expiry Date
Toll Collection Capability	The toll collection system for the calculation and collection of tolls and administration charges in relation to the passage of vehicles on the NEL Freeway
Toll Collection Capability Contractor	The contractor engaged to deliver the Toll Collection Capability
Tolling Enabling Infrastructure	Works required to enable the tolling system as described in section 1.1.5
Utility	Any utility service, including water, electricity, gas, telephone, drainage, sewerage, stormwater, communications and data services (including telephone, text message, facsimile, and internet)

Appendix B

Useful references and links

North East Link Program

 bigbuild.vic.gov.au/projects/north-east-link-project

Project documentation, including the Project Deed

 tenders.vic.gov.au

Partnerships Victoria policy

 dtf.vic.gov.au/Infrastructure-Delivery/Public-private-partnerships

National PPP Guidelines:

 infrastructure.gov.au/infrastructure/ngpd/index.aspx

Appendix C

Key contact details

North East Link Program

bigbuild.vic.gov.au/projects/north-east-link-project

GPO Box 2392, Melbourne, VIC 3001

1800 105 105

Department of Treasury and Finance
/ Partnerships Victoria

dtf.vic.gov.au

1 Treasury Place, East Melbourne, VIC 3002

(03) 9651 5111

Appendix D

Evaluation criteria

Evaluation Criteria		The State will evaluate	Priority/Weighting
Qualitative Evaluation Criteria			
Part A – Development and Delivery Solution			Three-stars
A1	Urban Design	The quality of the Respondent’s proposed urban design solution including its demonstrated integration, in concept and detail, with other design and delivery criteria.	✓✓✓
A2	Project Design	The degree to which the Respondent’s proposed design solution meets and/or exceeds the project requirements as set out in Volume 2 (Outline Scope and Requirements).	✓✓✓
A3	Project Delivery (Primary Package)	The degree to which the Respondent’s proposed project delivery approaches and strategies will provide certainty of achieving the Respondent’s nominated program, cost, and quality outcomes in delivering the Works.	✓✓✓
A4	Not used		
A5	Interface Management	The Respondent’s proposed approach to managing the numerous interfaces applicable to the delivery of the Development Activities.	✓✓✓
A6	Transport Network Management	The degree to which the Respondent’s Proposal minimises impacts on the existing transport network during construction and considers future improvements.	✓✓
A7	Not used		
A8	Safety (Development Phase)	The Respondent’s strategies, methods and approaches that have regard for safety aspects during the delivery of the Works.	✓✓✓
A9	Sustainability (Development Phase)	The degree to which the Respondent’s Proposal achieves positive sustainability outcomes in delivery of the Works and the SP Interface Zone Design in accordance with the NELP Sustainability Objectives and Targets.	✓

Evaluation Criteria		The State will evaluate	Priority/Weighting
A10	Environment and Planning (Development Phase)	The degree to which the Respondent's Proposal protects, mitigates or enhances the environment and conditions for the community (including compliance with environmental requirements) during delivery of NEL.	✓✓
A11	Land	The degree to which the Respondent's Proposal minimises impacts to land during delivery of NEL.	✓
A12	Industrial Relations	The Respondent's proposed approach to managing industrial relations and productivity.	✓✓
A13	Community and Stakeholder Management (Development Phase)	The Respondent's proposed approach to managing and mitigating impacts on the community and stakeholders during delivery of the Works.	✓✓
Part B – Services Solution			Two-stars
B1	Services Solution	The effectiveness and efficiency of the Respondent's proposed approach for delivering the Services.	✓✓✓
B2	Safety (Operational Phase)	The adequacy of the Respondent's strategies, methods and approaches that have regard for safety aspects during the delivery of the Services.	✓✓
B3	Sustainability (Operational Phase)	The degree to which Respondent's Proposal achieves positive sustainability outcomes in delivery of the Services in accordance with the NELP Sustainability Objectives and Targets.	✓
B4	Environment and Planning (Operational Phase)	The degree to which the Respondent's Proposal protects, mitigates or enhances the environment and conditions for the community (including compliance with environmental requirements) during delivery of the Services.	✓✓✓
B5	Community and Stakeholder Management (Operational Phase)	The adequacy of the Respondent's proposed approach to managing and mitigating impacts on the community and stakeholders during delivery of the Services.	✓✓
Part C – Commercial and Financial Solution			Two-stars
C1	Management and Commercial Solution	The appropriateness of the Respondent's management structure, intra-consortium relationships and stakeholder management, including the proposed partnership approach to actively managing risks and ensuring a single point of accountability.	✓✓

Evaluation Criteria		The State will evaluate	Priority/Weighting
C2	Acceptance of Risk Profile	The nature and extent of the Departures from the Draft Project Documents.	✓✓✓
C3	Financial Capacity	The financial capacity of the Respondent and the Respondent Members to deliver the Primary Package in its entirety.	✓✓
C4	Financing Structure	The appropriateness, competitiveness, flexibility and robustness of the financing structure.	✓✓
C5	Certainty of Financial Proposal	The certainty of the financing proposal.	✓✓✓
Part D – Government Policy Requirements			30% Weighting
D1	Industry Development	The Respondents' commitments to the VIPP, including as detailed in the submitted Local Industry Development Plan and the Local Industry Engagement and Sourcing Plan, recognising the NEL strategic significance with regard to VIPP.	10%
D2	Job Outcomes	The extent and degree of commitments to job outcomes, including job outcomes in relation to the MPSG, as detailed in the submitted Local Industry Development Plan and the Local Industry Engagement and Sourcing Plan.	10%
D3	Social Procurement	The nature and extent of the Respondent's proposed approach and commitment to social procurement, as detailed and submitted in the Social Procurement Compliance Plan.	10%
Qualitative Evaluation Criteria			
Part E – Value and Risk Proposition			Not applicable
E1	Risk Adjusted Cost of Proposal	The whole-of-life, risk-adjusted cost of the Proposal by taking into account the financial and risk consequences of each Proposal.	
E2	Not used		
E3	Financial Assumptions	The robustness and sustainability of the Respondent's financial assumptions	
E4	Value for Money Enhancements and Other Cost Impacts	Any value for money enhancements included in the Respondent's Proposal and other cost impacts to the State not reflected in the Financial Model.	

Appendix E

Public interest test

The Public Interest Test (PIT) has been undertaken to assess whether or not the delivery of the North East Link Primary Package (Project) via a PPP is in the public interest. The purpose of the PIT is to ensure that:

- procuring the Project as a PPP is in the public interest; and
- after a decision has been made to procure the Project as a PPP, the process is structured so that the Project continues to be in the public interest.
- In accordance with the Partnerships Victoria Requirements (November 2016), procuring agencies are required to prepare a PIT at key stages of government approval (including prior to contract execution) to identify any changes to the public interest assessment and/or confirm that the Project remains in the public interest.

The PIT found that at the contract execution stage, the public interest can be adequately protected through a PPP delivery of the Project.

Public interest element

Effectiveness

Is the Project effective in meeting government objectives?

Standard

The Project aligns with all relevant government policies and strategies and, in particular, the following key policies:

- *Transport Integration Act 2010* (Vic);
- Plan Melbourne 2017-2050;
- Infrastructure Victoria, 30 year infrastructure strategy;
- Victorian Government Infrastructure Plan;
- Local Jobs First Policy;
- NELP Sustainability Policy; and
- Victorian Digital Asset Strategy.

Assessment

- The Project is closely aligned with a number of State policy objectives, in particular, those which promote sustainable population growth and access to jobs and services. In this context, the Business Case and RFP documents for the Project specified an output/service delivery solution which is consistent with government policies as outlined below.
- An assessment of the private sector's proposal was undertaken to ensure value for money over the long term to the State. Key aspects that were assessed include the private sector's Project solution, its commercial offer, funding and costs, and the value and risk to the State.
- The private sector's performance against the Project Objectives will be evaluated against the KPIs defined in the Benefits Management Plan (Appendix A to the Business Case) and in performance mechanism included in the Project Documents.
- The Local Jobs First Policy comprises the Victorian Industry Participation Policy (VIPP) and Major Projects Skills Guarantee (MPSG). The VIPP seeks to ensure that small and medium-sized business are given full and fair opportunity to compete for government contracts, whilst the MPSG seeks to provide job opportunities for apprentices, trainees and cadets on high value construction projects. The private sector has developed a Local Industry Development Plan (LIDP) which outlines how the local content and Local Jobs First Policy requirements will be achieved, including the processes and procedures for engaging local industry, products and services. The private sector is required to prepare and maintain records demonstrating its compliance with its LIDP.

Assessment (continued)

- The private sector has also developed a Social Procurement Compliance Plan (SPCP) which outlines its approach to achieve positive social or sustainability outcomes and value consistent with the Victorian Government's social procurement objectives, such as opportunities for Victorian Aboriginal people and Victorians with a disability, women's equality and safety, and environmental sustainable outputs. The private sector is required to submit monthly written reports to the State outlining its performance with the SPCP.
- The private sector is required to address sustainability requirements throughout the Project, including during design, construction and operations, in a manner that is consistent with the NELP Sustainability Policy and in accordance with the Sustainability Strategy, Sustainability Management Plan and the sustainability requirements.
- The Project has adopted the use of digital engineering to facilitate the creation of a 'digital twin'. The use of digital engineering provides the State, IREA and private sector with an approach that enables digital information to become the central tool for decision making, improved asset knowledge, capability and capacity planning and stakeholder engagement.

Public interest element

Accountability and transparency

Do the partnership arrangements ensure that:

- the community can be well-informed about the obligations of government and the private sector partner; and
- they can be overseen by the Auditor General?

Standard

The Project is to comply with the Victorian Government accountability and transparency policies and obligations. These standards include:

- Meeting Partnerships Victoria disclosure requirements;
- Meeting requirements under the *Freedom of Information Act 1982* (Cth);
- The entitlements of the Auditor-General under the *Audit Act 1994* (Vic); and
- Observance of appropriate probity principles.

Assessment

- The Business Case and details of the relevant Project Documents, subject to commercial-in-confidence considerations, have been published in accordance with Victorian Government policy.
- Relevant government departments and agencies including NELP and DTF are bound to comply with the *Freedom of Information Act 1982* (Vic).
- A Stakeholder Engagement Plan has been developed and included in the Business Case at Appendix U. This plan has guided NELP's communication and engagement activities with Project stakeholders to date.
- The private sector has developed a Communications and Community Engagement Strategy and Communications and Community Engagement Plan which outlines how it maintains a co-operative and responsive relationship with the community, stakeholders, affected landowners, freeway users, agencies and authorities during delivery and operation phases.
- The inclusion of the ITC regime in the commercial framework provides the State and Auditor-General with an increased level of transparency and visibility of Project costs. To support and foster the ITC regime, such that transparency and visibility of costs is achieved, the State and private sector are required to use reasonable endeavours to achieve the following relationship principles:
 - establish and maintain a culture that emphasises and reinforces safety and wellbeing, innovation and collaboration, excellence and achievement, certainty and responsiveness, integrity, mutual trust and respect and personal relationships;

- notify each other of perceived or real differences of opinion or conflicts of interest as soon as they arise so as to promote the resolution of such issues within the shortest possible timeframe;
- act in a manner that delivers value for money for the State; and
- commit to developing a communication culture and being transparent in all of their dealings with each other.
- The Auditor-General retains the right to view the Project material, subject only to any limitations in the *Audit Act 1994 (Vic)*.
- An independent probity advisor was appointed to oversee the project procurement and evaluation process.

Public interest element

Affected individuals and communities

Have those affected been able to contribute effectively at the planning stages, and are their rights protected through fair appeals processes and other conflict resolution mechanisms?

Standard

Relevant standards include:

- Following a public consultation process in relation to the Project prescribed by the appropriate planning approvals process;
- Undertaking an environmental impact analysis on relevant projects; and
- Undertaking a social impact analysis on high risk projects.

Assessment

- NELP undertook extensive initial consultation with stakeholders including local community members, interface councils and special interest groups. The information gathered through early consultation assisted the selection of the corridor for the Project and informed government regarding key areas of community interest and concern.
 - A Stakeholder Engagement Plan has been developed and included in the Business Case at Appendix U. This plan has guided NELP's communication and engagement activities with Project stakeholders to date.
 - An Environmental Effects Statement has been prepared for the Project, which describes the existing environment, identifies potential positive and negative effects during construction and operation and proposes ways to avoid, minimise, offset or manage any significant effects.
- In November 2019, the Minister for Planning concluded that the Project's environmental effects can be appropriately managed and are acceptable given the Project's significant benefits.
- A Cultural Heritage Management Plan has been developed for the Project in collaboration with Aboriginal Victoria and Traditional Owners Groups, including the registered Aboriginal party, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. The plan was approved by the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and Aboriginal Victoria in February 2020.

Public interest element

Equity

Are there adequate arrangements to ensure that disadvantaged groups can effectively use the infrastructure or access the related service?

Standard

Relevant standards include:

- *Disability Act 2006* (Vic) and *Disability Discrimination Act 1992* (Cth);
- *Disability Standards for Accessible Public Transport 2002* (DSAPT);
- *Racial Discrimination Act 1975* (Cth);
- *Sex Discrimination Act 1974* (Cth); and
- *Equal Opportunities Act 1995* (Vic).

Assessment

- NELP and the private sector will comply with all applicable legislation, codes and standards.
- The Project will provide new and upgraded cycling and pedestrian facilities that will improve connectivity, safety, and accessibility throughout the NEL transport corridor from current existing conditions. The new and improved facilities will extend to major interchanges and intersections to cater for pedestrian needs. The current DDA standards will be incorporated in the design and construction of the amenities while the ongoing maintenance will be taken care of by the transport operator or transferred to relevant asset owners at the completion of the works.
- The project will integrate existing facilities with new and upgraded walking and cycling facilities to improve the overall connectivity, safety and access corridor-wide. This approach will enhance existing conditions at major interchanges/ intersections and provide substantial benefits to adjoining communities, local schools, local businesses, and surrounding neighbourhoods.
- The Project will improve urban amenity by taking through traffic, particularly trucks off the local road network and residential streets.
- The Project will improve congestion on key arterial roads in the outer suburbs which benefits users of bus services.

Public interest element

Public access

Are there safeguards that ensure ongoing public access to essential infrastructure?

Standard

The key standard relates to ensuring appropriate arrangements are in place to ensure ongoing access to the surrounding transport network and its related infrastructure.

Assessment

- During the delivery phase, the State is imposing controls to ensure impacts on the surrounding transport network (including the public transport network) are minimised. To achieve this, the private sector has developed a Traffic Management Strategy and Transport Management Plan which outlines how traffic flow is managed, whilst providing a safe environment for all vehicles, cyclists, pedestrians, public transport users and construction personnel.
- The State is also imposing requirements to ensure impacts on access to private property and businesses are minimised.
- Where a footpath or shared user path requires closure, alternative existing or temporary routes will be provided with clear signage and lighting in compliance with DoT guidelines to minimise inconvenience to pedestrian and cyclist's during construction.

- Traffic Management Plans will consider delineating alternative pedestrian routes as far as reasonably practical from live traffic to reduce pedestrian/traffic interfaces while ensuring minimal inconvenience
- Prior to any change to pedestrian or cycling facility arrangements, detailed notifications to local residential and commercial properties will be done

Public interest element

Consumer rights

Does the Project provide sufficient safeguards for service recipients, particularly those for whom government has a high level of duty of care, and/or the most vulnerable?

Standard

- The key standards are those imposed by relevant laws.
- Service recipients to whom government owes a high level of duty of care include children, elderly, low income earners, physically/mentally disabled, non-English speaking, overseas tourists, those not familiar with the transport system, etc.

Assessment

- NELP and the private sector will comply with all applicable legislation, codes and standards.
- The Project provides sufficient safeguards for service recipients through:
 - Ongoing monitoring by the government of the conduct of the private sector responsible for the delivery of the Project;
 - Ongoing monitoring of the private sector's dealings with the community; and
- The procurement of the Project as an availability PPP in respect of the design and construct costs. Under this form of procurement, the State has the ability to abate the Service Payments made to the private sector for underperformance and unavailability against contracted service levels. Parliament has approval and disallowance for the specific tolling arrangements, including the base tolls and rates of escalation.

Public interest element

Security

Does the Project provide assurance that community health and safety will be secured?

Standard

The Project needs to ensure:

- all relevant occupational health and safety standards are met in design, construction and operation / maintenance stages;
- government can meet its duty of care obligations to the public; and
- all accreditation requirements are met.

Assessment

- Safety is a critical consideration throughout all aspects of the Project. The private sector has developed a Construction Health and Safety Management Plan and an Operational Phase Health and Safety Management Plan, which identifies how it complies with all safety legislation and Project specific occupational health and safety requirements during the respective phases of the Project.

Assessment (continued)

- The design solutions of the Project are compliant with all applicable legislation, codes and standards. This includes:
 - Occupational health and safety law;
 - Environmental laws; and
 - Road safety standards.
- The performance requirements developed for the Project include stringent standards around environmental matters. The roles and responsibilities regarding the implementation of the Environmental Performance Requirements are outlined in the Environmental Management Framework.
- The private sector has developed a Construction Environmental Management Plan which details the private sector's plan to manage environmental issues and compliance with environmental requirements across the Project. The Construction Environmental Management Plan includes a number of sub-plans, which target specific environmental requirements, such as:
 - the Spoil Management Plan, which outlines the health and safety procedures to minimise risks to workers, visitors and the general public during the excavation of spoil (to the satisfaction of EPA Victoria and Worksafe Victoria);
 - the Dust and Air Quality Management Plan, which sets out the measures to minimise and monitor impacts on air quality during construction; and
 - the Construction Noise and Vibration Management Plan, which outlines how it complies and addresses the noise and vibration Environmental Performance Requirements.
- An IREA has been appointed to verify compliance with the environmental requirements and State and Commonwealth approvals. The IREA produces six-monthly reports summarising its audit activities and findings, status of actions taken to resolve any issues raised, and the private sector's overall compliance with the Project's Environmental Management Framework and Environmental Performance Requirements. These reports are submitted to the Minister for Planning and are published on the Project's website.

Public interest element

Privacy

Does the Project provide adequate protection of users' rights to privacy?

Standard

Relevant privacy standards are set out in:

- Privacy Act 1988 (Cth);
- *Information Privacy Act 2000* (Vic);
- *Surveillance Devices Act 1999* (Vic); and
- *Health Records Act 2001* (Vic).

Assessment

The Project provides for protection of users' rights to privacy including through:

- Appointment of an independent probity advisor, who oversaw the procurement and evaluation process.
- Contractual obligations on all parties responsible for the delivery of the Project to comply with relevant privacy laws and requirements.
- Government agencies involved with the Project similarly observing privacy laws and requirements, including through the implementation of existing privacy policies.



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NORTH EAST LINK PROGRAM



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