

Echuca-Moama Bridge Preliminary Documentation

Addendum Report

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Introduction

VicRoads, in partnership with Roads and Maritime Services NSW, has undertaken planning activities for a second Murray River crossing at Echuca-Moama (the Project).

On 23 April 2013, an EPBC Act referral for the Project was made in relation to the potential impact on the South-eastern Long-eared Bat, Macquarie Perch, Murray Cod and Murray Hardyhead based on previous flora and fauna investigations undertaken between 2009 and 2013.

On 11 July 2013, the Commonwealth Minister for the Environment determined the Project had potential to significantly impact EPBC listed species, and was considered likely to have a significant impact as it would involve the destruction and modification of a habitat for the South-eastern Long-eared Bat.

As such, the Project was declared to be a controlled action under the EPBC Act. The Minister further determined the Project would be assessed via Preliminary Documentation. The Preliminary Documentation will consider the whole project located in both Victoria and NSW. A requested variation to the project under Section 156A of the EPBC Act, based on the Mid-West alignment to exclude the Murray Valley Highway and Warren Street intersection, was issued by the Department of Environment on 22 December 2014.

A subsequent peer review (Gration, 2015) of the bat survey findings found that the habitat present in the study area was not suitable for the South-eastern Long-eared Bat, that the nearest record of this species was 50 km to the west and that the recorded bat calls could not be attributed to this species. As such the peer review concluded that the South-eastern Long-eared Bat was not likely to occur within the study area.

Preliminary Documentation was prepared based on the understanding that the South-eastern Long-eared Bat is not likely to occur within the Project area. A copy of the peer review (Gration, 2015) was included as an attachment in the Preliminary Document.

1. Exhibition of the Preliminary Documentation

The Preliminary Documentation was displayed concurrently with the formal exhibition of the Environment Effects Statement (EES) (August 2015), draft Planning Scheme Amendment documentation and the NSW Referral of Environmental Factors. The documents were placed on exhibition between 27 August and 9 October 2015. Stakeholders and community members were invited to make submissions on the exhibited documents. Twelve submissions were received during the formal exhibition of the EES, with two submissions making reference to EPBC related matters:

Campaspe Shire Council submission noted that

The survey of bats has been comprehensive and the initial 'finding' that South-eastern Long-eared Bat or Corben's Long-eared Bat (Nyctophilus corbeni) was present was an incorrect identification. Council notes the skills of the six experts who reviewed the initial findings and is confident that South-eastern Long-eared Bat is not present in this area.

The Department of Environment, Land, Water and Planning submission noted that:

The peer review of the South-eastern Long-eared Bat surveys is supported. DELWP agrees with the conclusion that the findings that the bat is not likely to be present in the study area.

In relation to EPBC listed Aquatic Flora and Fauna the Campaspe Shire Council submission noted:

Council understands the management strategies proposed to mitigate this residual risk and that in the longer term the risk of impacts to the local aquatic fauna populations is negligible. This is not surprising as there are no structures proposed in the river channel.

Submissions from the Victorian Department of Environment, Land, Water and Planning (DELWP) and the NSW Office of Environment and Heritage did not provide specific comment on EPBC listed Aquatic Flora and Fauna, however the DELWP submission stated:

It is preferable that the timing of noisy works avoids the breeding season of aquatic fauna to minimise impacts.

2. EES Directions Hearing

Following the exhibition of the EES and the Preliminary Documentation, the Victorian Minister for Planning convened an independent Inquiry and Advisory Committee to consider the EES and associated documentation, including submissions made during the formal exhibition of the documents.

On 28 October 2015, the EES Inquiry and Advisory Committee held a Directions Hearing in Echuca, which was open to community members.

Following the Directions Hearing for the EES, the Inquiry and Advisory Committee requested clarification of issues and information to be provided at the Public Hearings in its Panel Directions in relation to EPBC matters. These clarifications are discussed in the following section.

3. EES public hearings

The EES Inquiry and Advisory Committee held a public hearing on 16 and 17 November 2015 in Echuca.

The hearing included presentation of an expert witness statement from Mr Brett Lane of Brett Lane and Associates.

The Panel Directions item 11a requested:

Page 4-9 EPBC offsets. An offset is required of 54.6ha for the South-eastern Long-eared Bat which Table 4.9 suggests that this offset is not readily available. Has VicRoads obtained more information on how it will secure such offsets which the Commonwealth will need to be satisfied with prior to being able to approve the project under the EPBC Act? Alternatively, has the Commonwealth accepted the peer reviewer's advice regarding the South-eastern Long-eared Bat and therefore no offset is required?

Brett Lane responded in his Ecological Expert Witness Statement:

... Based on the analysis of calls recorded during the bat surveys it was initially determined by Greg Richards that the South-eastern Long-eared Bat was present. However, a subsequent peer review of these findings found that the habitat present was not suitable and that the recorded calls could not be attributed to the South-eastern Long-eared Bat. As such, it was finally determined that the South-eastern Long-eared Bat is unlikely to occur within the study area. Preliminary Documentation has been prepared based on the current understanding that the South-eastern Long-eared Bat is not likely to occur within the study area. The Commonwealth Department of the Environment has accepted the Preliminary Documentation, which included the findings of the peer review, that the bat is unlikely to be present (Helen Searle, pers. Comm. with VicRoads 27 May 2015). Furthermore, the information provided in the preliminary documentation was considered by the Commonwealth to be sufficient to address the information requirements for the assessment and be exhibited for public comment (Helen Searle, pers. Comm. with VicRoads 27 May 2015). A decision under this Act will be made by the Commonwealth Minister for the Environment. The Panel Directions item 11b requested:

Page 9-22 says "VicRoads is preparing Prelim Doc as required under the EPBC Act based on these revised findings that the South-eastern Long-eared Bat is not present within the study area". Does VicRoads have any correspondence/ evidence from the Commonwealth that the revised assessment is accepted?

Brett Lane responded in his Ecological Expert Witness Statement:

The Commonwealth Department of the Environment has accepted the Preliminary Documentation, which included the findings of the peer review that the bat is unlikely to be present.

Furthermore, the information provided in the Preliminary Documentation was considered by the Commonwealth to be sufficient to address the information requirements for the assessment to be exhibited for public comment (Helen Searle, pers. Comm. with VicRoads 27 May 2015).

In relation to DELWP's submission 'That it is preferable that the timing of noisy works avoids the breeding season of aquatic fauna to minimise impact's, Brett Lane provided the following response in his expert witness statement.

Table 25 (technical report) Mitigation measure #14: BL&A agree with the submission. Text should be changed to state that it is preferable that the timing of 'noisy' work avoids the breeding season of threatened fauna to minimise impacts where practical and feasible.

In verbal advice given to the Inquiry by VicRoads noted that it may not be practical or feasible to avoid the breeding season of aquatic fauna.

VicRoads notes the technical advice given by the Aquatic Flora and Fauna Assessment (Technical Appendix D) Section 6.2.7:

It is noted that night works are unlikely (and therefore no significant noise would be expected to be generated) during any 24 hour period thus providing reprieve to fauna. Low-level noise generated by plant movement is not likely to significantly impact aquatic fauna: the Murray River already experiences a moderate level of disturbance due to commercial and recreational activities and access to the Campaspe River channel has been proposed. A number of control measures have been proposed by VicRoads and Roads and Maritime as part of their standard control measures. Although these measures are proposed to minimise impacts to humans, they do provide some measures which will also allow for the impacts of noise on aquatic fauna to be minimised. Therefore, given the likely short-term, localised, nature of noise generation, aquatic fauna may evacuate or avoid the Study Area for a limited time period. Therefore the impact on aquatic fauna is considered to be minor.

4. Inquiry and Advisory Committee report

Following the public hearing for the EES, the Inquiry and Advisory Committee prepared its report for the Victorian Minister for Planning's assessment.

The Inquiry and Advisory Committee report makes reference to the EPBC Act in Chapter 6 - Biodiversity and Habitat.

Existing conditions flora...No threatened ecological communities listed on the EPBC Act or the Flora and Fauna Guarantee Act 1988 (Vic) (FFG Act) were identified in the Victorian component of the study area and were therefore considered in the EES as unlikely to occur. Targeted surveys were undertaken for four EPBC Act listed species that were considered to potentially occur in the study area. However, none of the EPBC Act listed species were recorded during the targeted surveys, and are therefore considered by BLA unlikely to occur in the study area...

Existing conditions fauna...Eight species considered likely to occur in the study area are listed under the EPBC Act.. The only EPBC listed fauna species recorded during the field assessments undertaken for the project was the Rainbow Bee-eater. The Rainbow Bee-eater is a summer visitor to the study area. The Rainbow Bee-eater is widespread in Australia, and

though listed as a migratory species under the EPBC Act, it is not a threatened species. The EES states the removal of native vegetation within the study area is unlikely to have a significant impact on this species...

VicRoads provided a written response to the Inquiry and Advisory Committee on submissions including the DELWP's submission in relation to aquatic fauna advising that if feasible that noisy works during breeding season could be avoided. Verbal advice during the public hearing advised the Committee that avoiding the breeding season of all aquatic fauna would be unworkable in delivering the project.

In relation to Aquatic Flora and Fauna, the Inquiry and Advisory Committee report noted:

The Inquiry has reviewed the EES documentation and technical reports regarding aquatic biodiversity and agrees with the EES findings that impacts to four species likely to occur within the River and wetland systems (Murray Cod, Silver Perch, Golden perch and the Murray Spiny Crayfish) will be minimal, and the proposed mitigation measures to reduce potential impacts (which occur mainly during the construction period) are satisfactory.

5. Minister for Planning – EES Assessment report

On 23 March 2016, the Minister for Planning released his Assessment of the EES Inquiry and Advisory Committee report.

The Minister's Assessment makes reference to the EPBC Act in Section 1.6 - Commonwealth and NSW statutory approvals.

The project (action) requires approval under the EPBC Act because of its potentially significant impact on the matters of national environmental significance. On 11 July 2013, a decision was made that the project was a controlled action (under the controlling provisions of sections 18 and 18A – threaten species and ecological communities). Of particular concern to the Commonwealth was the presence (or otherwise) of the South-eastern Long-eared Bat. The project requires assessment via Preliminary Documentation PD.

This EES process was unable to be accredited for this project under the 'Commonwealth-Victorian Bilateral Agreement' as it falls within two jurisdictions and the EES process only applies to the Victorian Component of the project.

Nevertheless, the department has sought to align the different State and Commonwealth Processes to increase efficiency and minimise duplication, wherever possible. Both the Commonwealth Department of the Environment and New South Wales(NSW) Roads and Maritime participated in the TRG (Technical Reference Group) and reviewed relevant technical documents and relevant parts of the draft EES

Furthermore in Section 4.4 of the Minister's Assessment under the heading of Biodiversity and Habitat it was noted:

The South-eastern Long-eared Bat listed under both the EPBC Act and the FFG Act was initially considered to be present within the study area. A peer review commissioned by Roads and Maritime determined that the habitat present in the study was not suitable, the nearest record of species was 50km to the west and the recorded bat calls could not be attributed to this species. DELWP supported the peer review and agrees with the conclusion it is highly unlikely that the bat was present within the study area.

The Inquiry also accepted the peer review's conclusion that the South-eastern Long-eared Bat is unlikely to be present.

In relation to impacts on aquatic flora and fauna the Minister's assessment noted;

The potential impacts on other listed fauna species, including aquatic fauna, are not expected to be significant and would be acceptable provided the mitigation measures specified in chapter 9 and Appendix O of the EES are implemented, along with the additional mitigation measure identified by DELWP to mitigate the impact of noisy works on aquatic fauna.

6. Further advice

In addition to the information provided in the Aquatic Flora and Fauna Assessment (Technical Appendix D) Section 6.2.7. VicRoads has sought clarification from the Aquatic Consultant for the breeding times of significant aquatic fauna species. The advice provided on 9 May 2016 follows:

- Murray Cod - October to December
- Silver Perch – Spring to summer.
- Murray Spiny Cray – Late winter to early spring
- Trout Cod – Spring to early summer
- Freshwater (eel-tailed) Catfish – Spring to mid summer

Based on this advice, avoidance of the above breeding seasons would limit construction to the period from March to July.

The proposed bridge construction will be clear of normal flows in both the Murray and Campaspe Rivers, and there will be no bridge piers in the main river channels. It should be noted that this section of the Murray River is already heavily utilized during warmer months for water recreation activities, including ski racing, Jet Ski's, houseboats, paddle steamers etc.

In consideration of expert advice in section 6.2.7 of the Aquatic Flora and Fauna Report, it is VicRoads' view that the construction will have short term localised minimal impact and the avoidance of the combined breeding season would be highly restrictive in delivering the project:

Therefore, given the likely short-term, localised, nature of noise generation, aquatic fauna may evacuate or avoid the Study Area for a limited time period. Therefore the impact on aquatic fauna is considered to be minor.