

Major Transport Projects Facilitation Act 2009

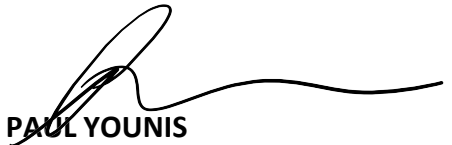
INSTRUMENT OF DELEGATION OF ROAD FUNCTIONS – NORTH EAST LINK PROJECT CENTRAL PACKAGE

1. I, Paul Younis, Secretary to the Department of Transport (**Department**), as project authority (**Project Authority**) for the North East Link Project, a declared project for which designation of the project area in accordance with Part 4 of the Major Transport Projects Facilitation Act 2009 (the **Act**) occurred on 5 February 2020, HEREBY DELEGATE, pursuant to section 105(1) of the Act, section 39 of the *Transport Integration Act 2010* (Vic) and any and all other enabling powers, the road functions set out in Subdivisions 1 and 3 of Division 8 of Part 6 of the Act (**Road Functions**) to the person from time to time designated as the project contractor pursuant to section 7 of the Act (**Project Contractor**).
2. This delegation is subject to the conditions and limitations that apply to the performance of Road Functions by the Project Authority under Subdivisions 1 and 3 of Division 8 of Part 6 of the Act and additionally to the following conditions and limitations:
 - a. the Project Contractor must not sub-delegate any Road Function except in accordance with clause 3; and
 - b. the Project Contractor must give the Project Authority and the State Representative at least seven days' notice in writing (or by any other means of notification specified in an agreement between the Project Contractor and Project Authority) of its intention to perform a Road Function; and
 - c. the Project Contractor must pay or reimburse, upon demand from the Project Authority, any compensation that is payable to a person under section 191, section 191A or section 192 of the Act; and
 - d. the Project Contractor must not exercise Road Functions except to the extent permitted by, and in accordance with, the State Project Documents (including in any Annexure, Schedule or Attachment to the State Project Documents); and
 - e. the Project Contractor's performance of Road Functions is subject to the direction and control of the Project Minister.
3. The Project Contractor may sub-delegate a Road Function to the D&C Contractor provided that:
 - a. the written consent of the Project Minister has been obtained; and
 - b. the Project Contractor procures that a notice of that sub-delegation is published on the Department's internet site; and
 - c. the sub-delegation is made on the same conditions and limitations as this delegation; and
 - d. the sub-delegation does not permit sub-sub-delegation.
4. This delegation does not limit:
 - a. the powers of the Project Authority to perform Road Functions or to perform functions or exercise powers under the Act or any other Act;
 - b. the powers of the State to perform any of the functions and exercise any of the rights, powers and discretions of the State in the State Project Documents

(including in any Annexure, Schedule or Attachment to the State Project Documents).

5. Nothing in this delegation derogates from or limits any obligation of the Project Contractor under any State Project Document (including in any Annexure, Schedule or Attachment to a State Project Document).
6. This delegation commences on the date it is made and continues until the Date of NEL Opening unless revoked earlier.
7. The terms "Date of NEL Opening", "D&C Contractor", "State Project Documents" and "State Representative" have the meaning given to them in the North East Link Primary Package Project Deed executed on 27 October 2021 between the State of Victoria, North East Link State Tolling Corporation and the Project Contractor.

DATED: 06 December 2021



PAUL YOUNIS

Secretary to the Department of
Transport