

I am the Principal of John Briggs Architects Pty Ltd, Architect and Conservation Consultant at 331A Bay Street, Port Melbourne. This Statement of Evidence provides peer review and assessments of the heritage impacts that are likely to result from the Metro Rail Project.

I am a Registered Architect, No. 4972, a member of the RAI A and hold a Bachelor of Architecture, University of Melbourne. Of the 29 years that I have worked in the practice of Architecture, the last 25 years have been predominantly in the field of Conservation Architecture. For 8 of those years I was employed by the firm Allom Lovell and Associates and was the Project Architect responsible for the heritage works at both the Regent Theatre and the Gothic Bank at 380 Collins Street. I left Allom Lovell and Associates in 1998 to pursue practice in architecture and as a heritage consultant.

My work has provided me with broad experience in all aspects of heritage architecture including historical research, preparation and production of conservation reports and conservation plans for projects at all scales, as well as the preparation and presentation of submissions to Councils, Heritage Victoria, Planning Panels and to the Victorian Civil and Administrative Tribunal. I am a heritage advisor to the City of Melbourne. I have significant experience in the design, documentation and administration of restoration works, works to reconstruct missing historic elements and works to facilitate the adaptation of historic buildings for new use.

In preparing this statement I have been instructed by Hunt and Hunt Lawyers on behalf of the City of Melbourne.

I have made all the inquiries that I believe are desirable and appropriate, and no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Advisory Committee.



John Briggs Architects Pty Ltd

August 2016

Introduction

I have been instructed to prepare and present expert heritage evidence to the Inquiry on the Environment Effects Statement (EES) and the Advisory Committee for the Planning Scheme Amendment on behalf of the City of Melbourne (CoM) with respect to the Melbourne Metro Rail Project (MMRP). In making my assessment I have had regard to the City of Melbourne Submission of 6 July 2016, and the documents available online at <http://metrotunnel.vic.gov.au>. The letters of my instruction are appended to this evidence.

I have inspected the effected places from the public domain and in some cases have inspected the interiors of building likely to be effected by the MMRP.

Generally I have not sought to repeat here the extensive information presented in the MMRP documents, other than where I have felt it necessary to assist in understanding how I have come to my conclusions regarding the likely heritage impacts and the measures that I recommend be implemented to ensure adverse heritage impact is truly minimized.

With regard to my availability for attendance of a conclave of experts I would be available on the Wednesday the 17th and Thursday the 18th of August.

Report Structure

In review of the project documentation and in particular the MMRA EES Chapter 14 *Historical Cultural Heritage*, EES Technical Appendix J - *Historical Heritage Impact Assessment* by Lovell Chen, and the reports addressing vibration and ground movement, I have been instructed to follow the structure of the CoM Submission under the headings: Issues, Options and Deficiencies. Where deficiencies have been identified recommendations in relation to the *Environmental Performance Requirements* (EPR) recommendation of potential remedial requirement are offered.

Summary of Opinion

Whilst the MMRA EES and supporting Appendix provides an extensive and generally thorough assessment of the likely impacts upon heritage assets in the various precincts, there are a number of issues, and deficiencies, which I believe could be proactively addressed, mainly with additions to the *Environmental Performance Requirements* (EPR).

In the Western Portal, the crossing of CityLink, in the launch sites, Fawkner Park and in relation to the above ground presence of ventilation and emergency access structures, there are options that evidently avoid or minimize adverse heritage outcomes. From the heritage perspective these options that better respect heritage value should naturally be adopted. What is highlighted here is the absence of a method or process for balance of heritage importance against other imperatives of the MMRP in a transparent and accountable manner.

In my view there is an omission in that there appears no exploration of options that provide for the retention and conservation of the railway sheds forming the small heritage precinct, HO1093, within the Arden Precinct. That they cannot be retained, or may not be worth retaining, should not be a determination formed of expert assertion but should be the subject of reasoned assessment, explained and understandably present by experts.

A further related omission is, in my view, unquestioned demolition of the related timber framed corrugated Iron shed abutting the west end of the shed precinct. These structures offer opportunity with evident aesthetic and historical heritage value and are of a disappearing and previously undervalued form that will not be produced again. If retained they are likely to rapidly appreciate in value over the coming half century.

These present shortcomings in the EES, and *Environmental Management Framework* (EMF) might be amended by the addition of a further general EPR such as the following: (CH2-A)

Where adverse impact upon heritage assets, or heritage significance, is anticipated then readily understandable reasoned explanation of the imperative necessitating the anticipated detriment, as well as the constraints upon options for avoidance of the adverse impact, are to be provided for evaluation against the heritage detriment.

It also presently appears that the nature, and extent, of above ground impacts remains undefined in most places. Under normal heritage controls of the Planning Scheme at Clause 43.01 *Heritage Overlay* there is the expectation that new introduced built presence in a heritage place should be 'in keeping' with the character and appearance of the place. A great deal of work is expected of these two works under the Planning Scheme where third party appeal rights exist. In the context of the more expedient decision making process proposed to facilitate this project, I recommend that further EPR to direct and foster quality

conjectural design, provide timely scrutiny and demonstration of compliance with heritage expectations should be developed.

With third party appeal rights to be removed under the planning scheme amendment it is my recommendation that an EPR be adopted to more clearly provide the brief for introduced new form in heritage places or which will affect the setting of a heritage place.

The EPR (CH2-B) might:

Require that design briefs are to be developed wherever new built presence is to be introduced to a heritage place, or may impact upon the setting of a heritage place, articulating the heritage characteristics, appearance and significant features and providing readily understandable reasoned explanation of the anticipated relationship between the introduced presence and the heritage place.

I recommend that the EPR CH9 should also be extended to include "... articulation, materials and the character and appearance of the heritage place". New built form introduced into a heritage place or likely to have impact upon the setting of a heritage place is to be demonstrably a complement to, and in keeping with, the character and appearance of the heritage place to ensure the visual appreciation of the heritage place is conserved.

Whilst clear explanation and reason will not ensure best practice heritage outcomes, properly informed decisions are generally better decisions even when made behind closed doors.

An appropriate EPR (GM1-A) to ensure appropriate reporting might require that:

Provide for Independent Audit of potential structural impacts on heritage assets of vibration and ground movement including outcomes of GM1-GM5 and provided for consultation with concerned owners of the heritage assets with the independent auditors.

It is also my view that further clarification is needed in relation to how decisions will be taken and by whom, in relation to whether heritage impacts are to be avoided, minimized or only rectified once damage has occurred. The stated expectation of many EPR is the Responsible Authority will be required to be 'satisfied' however as I understand the Incorporated Document there is only the requirement for 'consultation' with Councils. Given the inevitability of competing pressures this arrangement might be expected to produce overly compromised heritage outcomes.

The following tables summarize the indentified heritage impacts under each precinct with comment and recommendations. Of the heritage risks identified the attribution of Consequence and Risk is in my view, and in some cases deficient, underplaying the potential impact of the relevant component of the project on heritage significance.

Tunnels Precinct

Event	Risk No.	Consequence	Comment / recommendation
Ground improvement works associated with crossing over CityLink causing tree loss & legacy constraints	HH04	Major	Adopt alternative route below CityLink
Emergency access in Toms Block	HH06	Moderate not minor	The potential visual intrusion and tree loss is not a minor consequence and alternative locations in the area should be explored in accordance with EPR-CH2-A
Launch of TBM in Fawkner Park, Emergency access	HH07 HH08 HH09	Major Tree loss & legacy constraints	Adopt alternative route below CityLink

Western Portal (Kensington)

Event	Risk No.	Consequence	Comment / recommendation
Demolition of houses for construction of Western Portal	HH10 HH11	Moderate as nominated by LC but can be considered High	Adopt alternative with demolition of one ungraded house rather than four graded houses that define the south edge of the heritage precinct. Alternatively set out the imperatives for accepting HH10 in accordance with EPR-CH2-A rather than HH11.

Arden Precinct

Event	Risk No.	Consequence	Comment / recommendation
Demolition of buildings that were recommended by the C207 Panel for recognition under Heritage Overlay HO193 as well as the adjacent related shed	HH13	Major rather than Moderate as the heritage fabric recommended for the HO would be lost.	There is both current and future historical and aesthetic heritage value in the complex, which could be integrated into development of the precinct and station. At minimum the imperatives for accepting HH13, and possible alternative options, should be explored in accordance EPR-CH2-A.

to the immediate west, to make way for the construction of the Arden Station.			The constraints on an option to align the station box south of the heritage sheds, or the relocation of sheds, or alignment with Arden street, should be articulated for comparison with the impact of extinguishing the Heritage Overlay.
Demolition of the Pumping Station HO1092	HH14	Minor	The demolition appears avoidable and alternatives options should be pursued.

Parkville Precinct

Event	Risk No.	Consequence	Comment / recommendation
Visual impact of Station entries on setting of heritage assets	HH17 HH18 HH19 & HH20	Moderate and Minor as nominated by LC	Introduction of new built presence in a heritage place is expected to be in keeping with, and a complement to, the place. The process to ensure the fruition of this expectation should be subject of EPR, CH2-B

CBD North Station

Event	Risk No.	Consequence	Comment / recommendation
Visual impact of Station entries on setting of the City Baths	HH21	Moderate	Introduction of new built presence in a heritage place is expected to be in keeping with, and a complement to, the place. The process to ensure the fruition of this expectation should be subject of EPR, CH2-B The entries should be located to the southern side of Franklin Street.
Vibration and/or ground movement resulting from construction may have impact upon the City Baths given an anticipated settlement of up to 33mm	HH03	Moderate rather than minor consequence	The City Baths are not without structural flaws and these have potential to be exacerbated by the construction. The fragility of the building and potential impacts should be subject to detailed independent scrutiny with this in turn transparent to scrutiny by the property owner, CH2-C. It would be desirable for a program of rectification and restoration works to the City Baths to be conducted in coordination with the work of the MMRP

CBD South Station

Event	Risk No.	Consequence	Comment / recommendation
Demolition and visual impact of Station entries and replacement buildings within Flinders Street Station, the Flinders Gate Heritage Precinct HO505 and Federation Square	HH22, HH23 and HH24	Moderate	Introduction of new built presence in a heritage place is expected to be in keeping with, and a complement to, the place. The process to ensure the fruition of this expectation should be subject of an EPR, CH2-B.
Vibration and/or ground movement resulting from construction	HH03	Moderate rather than minor consequence	The heritage value of the Town Hall is high. Fragility of the portico and potential impacts should be subject to detailed independent scrutiny with this in turn transparent to scrutiny by the property owner. EPR, CH2-C would address the process for assessment, disclosure and determination to ensure avoidance of damage.

Domain Station Precinct

Event	Risk No.	Consequence	Comment / recommendation
Visual impact of Station entries on setting of the Shrine Reserve	HH26	Moderate rather Minor as nominated by LC	Introduction of new built presence in a heritage place is expected to be in keeping with, and a complement to, the place. The process to ensure the fruition of this expectation should be subject of an EPR, CH2-B

Explanation, Transparency and Accountability of Heritage Impacts

Given the complexity of competing issues, and range of expert opinion, involved in the MMRP one overarching concern relates to the need for transparent and verifiable process to ensure that expectations and intentions expressed in the *Environmental Effects Statement* (EES) are in actuality fulfilled. With regard to likely heritage impacts the *Environmental Performance Requirements* (EPR) often direct works to “avoid or minimize” or in some cases “mitigate” impacts, generally to the satisfaction of Heritage Victoria and/or the Responsible Authority. There is in such a statement a wide spectrum of discretion, and balance to be struck between possibility and constraint. The issue of concern is accountability and transparency of the exercise of this discretion and by whom. The

Environmental Performance Requirements (EPR) assume proper balance can be struck between the constraints upon those undertaking the design and the works, and the satisfaction of the authorizing body (Heritage Victoria or, with regards to my concern, the CoM). What this in actuality might eventually mean and how it is to be implemented, remains, in my view quite opaque. Presently it appears that fulfillment of terms such as ‘must’, ‘ensure’ and ‘satisfaction’ remains a matter of faith rather than confidence based upon understanding.

At issue is the matter of transparency and accountability, with regards to assessment of the imperatives driving adverse heritage outcomes and the balance of those imperatives against heritage detriment. Particularly in my view there should, in the EPR, be requirement for provision of readily understandable reasoned explanation of any imperative for any relaxation of the expectation of conservation of heritage value. This is to say that any decision to relax heritage expectation from proactive ‘avoidance’, to ‘minimization’, through to reactive ‘mitigation’ or ‘rectification’ in relation to heritage impacts requires full and transparent explanation. I have recommend EPR, CH2-A as a response.

It is my understanding that the auditing of the EPR’s in relation to heritage would be undertaken by the MMRA and by ‘the’ Independent Auditor, to be provided to the “*MMRA, the Independent Review, the Minister for Planning and other Regulators and agencies (as appropriate)*”¹. Heritage is very much a public concern. Whilst physical impacts on particular fabric and places will rely upon expert assessment to manage risk and, as such, can be reasonably and rationally assessed behind closed doors, heritage matters involving public perception and by definition identity are likely to be compromised by the foreclosure of third party exposure. How is the proposed EMF and EPR process evidently transparent and accountable from the public perspective, as is stated at Section 23.2, particularly with regard such matters as the above ground interfaces, visual impacts, and loss of heritage buildings to the imperatives of other economies, or perhaps necessities? What is the transparency and accountability advanced to owners of particular heritage assets in relation to the spectrum of risk, and response, from avoidance to rectification?

¹ MMRA/EES, P23-5

I recommend that where adverse impact upon heritage assets, or significance, is anticipated then explanation of the necessity of the damaging proposal and the constraints upon options for avoidance of the adverse impact should be a requirement at EPR, CH2-A.

Deficiencies

Specific heritage risks have been systematically addressed in the EES documentation. There is however in my view one omission in the EES Appendix J *-Historical Heritage Impact Assessment* by Lovell Chen which has informed the EES.



Image 1: The eastern end of the shed to the immediate west of the recommended HO1093.

Arden Railway Sheds

This is the proposed demolition of a railway shed, having a 'Basilica' form, and which is situated to the immediate west of the recommended Heritage Overlay, HO1093. The Minister in the recent gazettal of Amendment C207 did not include this Heritage Overlay.

The recommendation of the Planning Panel was for the inclusion of the Heritage Overlay, which comprised the Victorian Railways Carpenters Shop, two parallel workshops to the north and a small brick substation east of northern workshop. The City of Melbourne has not been able to provide me with an account explaining what reasoning informed the exclusion of these railway workshop buildings. In Appendix J the comment of the Panel for Amendment C207 was note:

In the circumstances that 173-199 Laurens Street is only 'likely to be demolished' we believe that in balancing factors relevant to the proposal to apply the overlay, this factor does not weight heavily against the public benefits of application of heritage controls which at the very least could see recording of the building before demolition. Our view may have been different if the building was certain to be demolished.

There appear to be no readily understandable reasoned explanation of the decision to withhold the Heritage Overlay, or of the imperatives driving the proposed demolition, including explanation of the alternatives, and analysis of those alternatives that would allow retention of the complex. I have no doubt that the loss of the complex will deprive the public of a heritage asset of value and benefit that will not be assuaged by the recording of the buildings which is only a token offering and is no compensation or mitigation. Presently the justification for the destruction of this public asset inaccessible to public scrutiny and is neither transparent nor accountable decision making.

It is to be noted that although the Lovell Chen *Historical Heritage Impact Assessment* addresses the demolition of the buildings of the excluded Heritage Overlay, HO1093, this is not identified in the dot points listing instances in which heritage impacts could not be fully avoided or mitigated at 14.1 *Historical Cultural Heritage, Overview* in the EES. The loss is identified at 14.6 *Risk Assessment*.

That the loss of these heritage buildings along with another heritage shed to the immediate west is "unavoidable" does not appear to be demonstrated.



Image 2: Interior of the shed that is unaddressed in the EES.

It is also noted that the Technical Appendix J - *Historical Heritage Impact Assessment* raises, and dismisses, the possibility of relocation of “one or more of the buildings” on the basis that “this would not appear to be justified on the basis of their significance.”² It is my view that the complex of railway shed has historic and aesthetic value that warrant conservation and as a minimum test the imperatives for demolition should be demonstrated with readily understandable reasoned explanation rather than assertion of opinion, which is effectively opaque in the absence of explanation. The clear expectation of heritage policy under the Planning Scheme, and of the EES, is that heritage significance should be conserved. It seems reasonably to conclude that the Heritage Overlay was not applied because there was direction that demolition was a ‘necessity’ rather than “likely” indicating that options were at some point considered. The recommended EPR, CH2-A would a minimum clarify the record and, in my view, may well demonstrate that demolition can be avoided.

The Flax Seed Store Shed

The large corrugated iron clad shed to the west the railway workshop sheds was overlooked in the Amendment C207 and has not been addressed under section 9.3 *Existing Conditions*

² *Historical Heritage Impact Assessment, Lovell Chen, p 155.*

of Technical Appendix J, and is also unaddressed at section 9.3.2 *Potential additional heritage places* which addressed the potential approval of the Amendment C207 recommendations. From inspection of the maps and photographs of the area included in Appendix J it appears probable that the shed was constructed as late as 1941 in response to the grain glut that occurred at that time, and which would make it a contemporary of the Murtoa Stick Shed that is on the Victorian Heritage Register Ho791, as a rustic emergency grain store constructed during World War Two. Without reasoned explanation to the contrary it appears that the concept design could be amended to retain all the heritage sheds and that their integration into the redevelopment of the precinct would be of substantial public benefit both aesthetically and in imparting historical continuity to the present rail project.

Visual Impact

The Domain, as it presents to the intersection of Domain and St Kilda Roads, is as a rising open parkland and as an apron of grass running down to the urban edge almost entirely unobstructed, other than by trees, and the occasional monument all the way to Government House Drive, and beyond. With the pressures of urban development this generosity of space, raised slightly above the business of the day, but otherwise unobstructed, is an extraordinary characteristic of the place. For me this open and accessible largeness has long been representative, and demonstrative of the great value of our civil society and reminder of the sacrifice and dedication that has produced and maintained that society. The Domain has great heritage value and its unobstructed openness to the road and footpaths, visually and physically is a critical characteristic of the place. The construction of a significant obstacle demarcating and separating this symbolic space from the day to day should not be dismissed as a small thing.

In Technical Appendix J at Table 11, *Risk Register for Impact Assessment* the consequence of the “detrimental visual impact of the entry in the Shrine Reserve” is nominated as “minor”. As the likelihood is “Almost Certain” the attributed risk is tabled as “Medium”. In my assessment the risk of detrimental visual impact on heritage significance that is likely to eventuate from the presently proposed arrangements is ‘high’ to ‘boiling point’ in this instance. It is my recommendation that the governance processes need to guarantee that any, and all, options for entries in this area be thoroughly and transparently explored and assessed in a very public and educative manner. The recently conducted works to the

Shrine provide an interesting and perhaps informative approach for addressing visual impact.

The nature, and extent, of above ground impacts remains undefined in most places. Under normal heritage controls of Clause 43.01 *Heritage Overlay* there is the expectation that new introduced built presence in a heritage place should be 'in keeping' with the character and appearance of the place. The planning scheme at other clauses introduces the expectation that heritage places area not only conserved but 'enhance'. This seeks to place the heritage character, appearance of the place, perception of it and its significance as a forefront consideration in managing or introducing change. The expectation is that the heritage character and appearance is not disrupted by new presence and retains its primacy. The concept of 'in keeping' is elaborated in the local heritage policies with terms such as complement, respect, respond to, be sympathetic, and be compatible, with the heritage place. These are generally performance criteria that require quality contextual design, generated initially by a design brief focused firmly upon the heritage setting. Discretion rather than a tick the box approach is required in fostering, and assessment of, the relationship between introduced built presence and the host heritage place.

Vibration and Ground Movement

The information provide in the Chapter 19 of the EES, Ground Movement and Land Stability is based upon the assumption that ground movement may be between 5 and 10mm and may result in "fine cracks [that] could be treated during normal decoration" and that "Re-pointing may be required of external cracks...". Under the heading *Buildings*³ it is stated that "any damaged sustained would be cosmetic in nature and readily repaired post-construction." The maximum settlement of the City Baths anticipated in Technical Appendix P Part 1 - *Ground Movement and Land Stability Impact Assessment* at Table 8-3 *Estimated Impacts to Selected Heritage Buildings* is 33mm. This in my experience could cause considerable damage, although the tables estimate of impact is "Negligible to minor impact" producing "fine cracks" to be tread during normal decoration. Storey Hall is tabled with a potential for settlement of 24mm. The Melbourne Town Hall is tabled with a maximum settlement of 6mm, St Pauls at 17mm and Young and Jackson at 19mm. It is my understanding that the modeling of potential impacts on heritage buildings was based largely upon brick construction. Although the predicted maximum settlement is well below

³ EES Ground Movement and Land Stability P19-19

that of the City Baths the nature of the portico as a massive stone edifice integrated into the main building behind is essentially a brittle structure. Should the front of the portico settle by the 6mm estimated at the south west corner, where it is approached by the sub surface excavation for the station box, differentially from the body of the Town Hall, then rotation over the height to the upper entablature and cornice has a potential to produce amplified cracking of the stone that can not be cosmetically addressed.

It may be noted that at 11.2 *Stakeholder Engagement* and 11.3 *Development of Acceptability* in Appendix P there is an undertaking for reporting to stake holders and ultimately a dispute resolution path with regards to damage due to ground movement. There appears however to be limited opportunity for property owners of heritage buildings to be informed by independent assessment of the detailed nature and capacity of their buildings and of the tailored and particular process that may be needed for management of expected, or potential, impact upon their heritage assets and to avoid or minimize damage. To be avoided is the 'Humpty Dumpty' approach of waiting to see what damage eventuates and then attempting remediation. In a stone building like the Town Hall, or other high value buildings, remediation may produce a less than satisfactory heritage outcome.

Planning Scheme Amendment (PSA)

The Planning Scheme Amendment (PSA) is, for amongst other reasons, needed to provide integrated, and streamlined approvals for the many design decision that will arise with the MMRP. There is a broad risk that the need for efficiency, and expediency, with regard to particular interests can drive less integrated and resolved outcomes, particularly in relation to less concrete matters such as heritage, its perception, appreciation and significance.

The use of the Incorporated Document and Design Development Overlay to obviate the requirement for planning permits, in particular to my interest those under Clause 43.01, Heritage Overlay, brings with it the overarching issue of the removal of third party appeal rights as a check and balance against the impact of development. The following EPR: (CH2, CH5, CH7, CH8, CH9, CH10, CH11, CH12, CH13, CH14, CH15, state that an action will be required to be to the 'satisfaction' of Heritage Victoria or the responsible authority (as applicable). At Technical Appendix A – *Planning Scheme Amendment and Associated Document* titled *Strategic Assessment of Draft Planning Scheme Amendment GC45*, The Appendix B - *Draft Incorporated Document* for Schedule to Clause 81, at section 5. *Condition*, it is stated that Development Plans are to be prepared to the 'satisfaction' of the

Minister for Planning. EPR CH15 includes "...and/or in consultation with the City of Melbourne...", and CH20 is to the satisfaction of the relevant Council "and/or the responsible authority." . The requirement of a summary of consultations to be undertaken with, in relation to my engagement, the CoM, is not the same as to the satisfaction of the CoM. At section 5.2 of the *Draft Incorporated Document* there is the requirement for the *Environmental Management Framework* including the *Environmental Performance Requirements* to be prepared⁴. These will include the set out of the process and timing of consultation with relevant Councils and Heritage Victoria (amongst other parties) but this consultation does not ensure that heritage impacts are to be managed to the 'satisfaction' of CoM or other property owners. In place of the removal of third party scrutiny I recommend an explicit requirement for an audit of reason supporting decisions and for reporting of the explanations justifying decision taken.

Conclusion

The MMRP is likely to be immensely disruptive in order to deliver significant benefit. There are many points along the route at which heritage value might easily be compromised in the pressure to get the job done. The planning scheme amendment will remove some checks and balances and the overriding risk is that with the detail of the many points yet to be resolved, transparency and opportunity for review of heritage decisions appear diminished or may be lost. In seeking protection under the planning scheme amendment for the future MMRP infrastructure, in the EES at Chapter 3.3 *Principal Approvals*, it is stated that: "Any application for review to VCAT would be required to clearly demonstrate on strong engineering grounds why the application should be approved or any condition designed to protect the Melbourne Metro be varied."⁵ I recommend that governance arrangement need to guarantee a similar level of demonstration and clarification will be required where any aspect of the project puts heritage at risk. In my view this might be achieved by adding into the EPR particular requirement for provision of explanation, for brief development, and for disclosure in relation to heritage risk and measure for its avoidance.

The following table is a summary of my recommendations about additional EPR that need to be considered for inclusion into chapter 23 of the EES.

⁴ Incorporated Document p5

⁵ EES section 3.3.1 Planning and Environment Act, p 3-6

EPR Area	Proposed New or amended EPR / Suggested Area for New Additional EPR
Cultural Heritage CH2-A	Where adverse impact upon heritage assets, or heritage significance, is anticipated then readily understandable reasoned explanation of the imperative(s) necessitating the anticipated detriment, as well as the constraints upon options for avoidance of the adverse impact, are to be provided for evaluation against the heritage detriment.
Cultural Heritage CH2-B	Require that design briefs are to be developed wherever new built presence is to be introduced to a heritage place, or may impact upon the setting of a heritage place, articulating the heritage characteristics, appearance and significant features and providing readily understandable reasoned explanation of the anticipated relationship between the introduced presence and the heritage place.
Cultural Heritage CH9 (recommended amendment)	To the satisfaction of Heritage Victoria, the responsible authority and in consultation with the relevant Council, ensure all new development is responsive to heritage places in terms of height, massing, form, articulation, materials, and in character, appearance and expression. New built form introduced into a heritage place or likely to have impact upon the setting of a heritage place is to be demonstrably a complement to, and in keeping with, the character and appearance of the heritage place to ensure the visual appreciation of the heritage place is conserved.
Ground Movement and vibration GM1-C	Provide for Independent Audit of potential structural impacts on heritage assets due to vibration and ground movement including review of the outcomes of GM1-GM5 and provided for consultation with concerned owners of the heritage assets with the independent auditors. This would particularly be required for the City Baths and for the Melbourne Town Hall.



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28 July 2016

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Dear Mr Briggs

**Melbourne Metro Rail Project
Environment Effects Statement Inquiry
Instructions for expert evidence**

We are assisting the City of Melbourne (CoM) finalise its submission to the Inquiry on the Environment Effects Statement (EES) and the Advisory Committee for the Planning Scheme Amendment (PSA), both in respect of the Melbourne Metro Rail Project.

Thank you for agreeing to prepare and present expert evidence at the joint Inquiry and Advisory Committee for CoM.

What is your evidence about?

CoM requires that you prepare and present expert evidence in relation to consideration of the heritage impacts associated with:

- Aboriginal cultural heritage;
- proposed works (including ground movement) on sites of heritage value;
- relevant permits and approvals;
- measures to ensure compliance with heritage requirements; and
- integrity of and construction impact on critical assets, including:
 - Arden Street Bridge;
 - Swanston Street brick drain;
 - Flinders Street drains;
 - Swanston Street road / footpath pavements;
 - Princes Bridge;
 - Town Hall;
 - City Baths;
 - North Melbourne Baths;
 - JJ Holland Park;
 - Fawkner Park; and
 - Sections of Alexandra Gardens, Queen Victoria Gardens and Kings Domain Gardens.

Timeline

The public hearing of the Inquiry will commence on 22 August 2016, running for approximately six weeks. You will be advised of the venue and the time that you will be required to attend the hearing in order to present your evidence, as soon as CoM receive the indicative timetable.

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INTERLAW.

Page 2
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Any expert evidence to be presented at the Inquiry requires the submission of a detailed written report by **12 August 2016**.

CoM currently expects to call approximately 12 experts in 10 different fields. With the tight timeframes for preparation and submission of the evidence, this process requires considerable coordination to ensure that the legal team has sufficient time to review and comment on all evidence reports before finalisation and submission.

To assist in this process of finalising the evidence reports, **we ask you to have your draft evidence report submitted to us for review by 5pm 9 August 2016** and to be available in the following days to finalise your report.

Your draft report should be emailed in Word format to Karen Snyders Karen.Snyders@melbourne.vic.gov.au and Nick Sissons nsissons@huntvic.com.au as soon as it is ready for review.

What is required?

To assist you in preparing your evidence report we suggest that you review the Planning Panel Victoria's Guide to Expert Evidence (http://www.dtpli.vic.gov.au/_data/assets/word_doc/0017/231263/G2-Guide-to-Expert-Evidence-April-2015.DOCX). This guide provides useful information to assist in preparing evidence reports. Other useful guides from Planning Panels Victoria about the general process are also available online (<http://www.dtpli.vic.gov.au/planning/panels-and-committees/planning-panel-guides>).

Please note that you are being asked to present expert evidence as a professional with suitable experience and qualifications in your field. This means that you must present your professional opinion on the matters that have been advanced by the CoM in its submission on the EES and PSA. You must also ensure that you comment only on matters that are within your field of expertise and matters that are within the EES and PSA. You can reference any existing publicly available material, reports, studies or policy as support or justification for your opinions.

The joint Inquiry and Advisory Committee requires that CoM provide it with copies of any referenced materials in any expert evidence statements. Accordingly, please provide a copy or external web link to any reports, studies or policy that you have referenced so that we can compile a complete list of reference materials for submission to the joint Inquiry and Advisory Committee.

Generally, you have a duty to the joint Inquiry and Advisory Committee to ensure that your report complies with the content and form requirements of Planning Panel Victoria's Guide to Expert Evidence.

Consistency of format for CoM staff expert evidence reports

You should have regard to the CoM submission on the EES and PSA. We ask that you structure your expert evidence in a manner that uses or aligns with the following precincts or subject areas where possible:

1. Fawkner Park and the Domain.
2. Tunnel Alignment and Emergency Access.
3. Western Portal (Kensington).
4. Arden Station Precinct.

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Page 3
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5. Parkville Station Precinct.
6. CBD North Station Precinct.
7. CBD South Station Precinct.
8. Domain Station Precinct.
9. Noise and Vibration.
10. Planning Scheme Amendment.

Within each any given precinct we ask you to you need to then provide an opinion on the any relevant options, the issues and or deficiencies that have been raised in the CoM submission. If you intend to stray from the substance of the CoM submission, please only do so after confirming this with Karen or myself.

There may also be an obligation on witnesses to attend a conclave of like-minded experts in order to help draft a statement setting out where the respective witnesses agree and disagree. We will provide you with further information about this as it comes to hand.

Presentation to joint Inquiry and Advisory Committee

Generally it should be assumed that the joint Inquiry and Advisory Committee members and all other participants have read your statement.

CoM will be strictly limited in its time allocated to present its submission to the joint Inquiry and Advisory Committee.

Accordingly, we ask that you prepare a short 20 minute presentation of the key issues in your statement. If you believe that you need more than this time please see us as soon possible so that we can discuss requirements with you directly. You may wish to use an example to highlight any particular concerns. You will also be asked questions, so please keep your presentation short and concise.

If you intend to use PowerPoint to present your key points at the hearing, please discuss this with us. Any PowerPoint presentation you wish to use must be finalised at the same time as your draft statement of evidence as it will need to be submitted with your statement of evidence.

You should attend the hearing with your statement and all copies of any reference material that you have referenced. All documents will need to be tendered electronically in advance of the hearing.

Further information

You will find links to the documents of the EES and PSA as follows:

EES - <http://metro.tunnel.vic.gov.au/ees>

PSA - <http://metro.tunnel.vic.gov.au/ees/planning-scheme-amendment>

CoM Submission - will be sent by email with this letter.

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3 August 2016

John Briggs
John Briggs Architects Pty Ltd
331a bay Street
Port Melbourne VIC 3207

Our ref: TXR1/NXS
Matter no: 9613710

By email: john@jbarchitects.com.au

Dear Mr Briggs

**Melbourne Metro Rail Project
Environment Effects Statement Inquiry
Expert Evidence – Supplementary Instructions**

We confirm our request for you to provide expert evidence to the forthcoming Inquiry and Advisory Committee (IAC) in relation to the matters addressed in the City of Melbourne Submission to the Environment Effects Statement (**Submission, EES**).

Scope of your evidence

In the preparation of your evidence, please carefully consider the Terms of Reference for the IAC (http://www.dtpli.vic.gov.au/data/assets/pdf_file/0008/297107/Melb-Metro-ToR.pdf).

Your expert evidence should also have regard to the Environmental Performance Requirements (EPRs). The EPRs are located within each section of the EES (<http://metrotunnel.vic.gov.au/ees/documents>). Your expertise may relate to one or more of the sections of the EES and any number of EPRs. Please consider whether any of the matters addressed in the Submission will be adequately dealt with by the proposed EPRs, making recommendations for changes, where appropriate.

Please note that the MMRA has also started to provide "Technical Documents" to the IAC (<http://www.dtpli.vic.gov.au/planning/panels-and-committees/current-panels-and-committees/melbourne-metropolitan-rail-inquiry>). These might be said to vary the EES so it is important you read them carefully and comment on them as appropriate.

However, as the status of these Technical Documents is unclear, please do not assume that matters addressed in the Technical Documents necessarily resolve matters raised in the Submission.

Circulation of Evidence

We have now been advised that we must print and deliver 20 printed copies of your statement to Planning Panels Victoria Office by 10:00am on 12 August 2016, we will not be able to extend timeframes for circulation of your evidence. **This means that we will need your completed report by COB on 9 August to enable us sufficient time for review, print and circulate your report.**

Please provide your statement in Microsoft Word format for us to convert PDF format for circulation, including an electronic signature.

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Page 2
City of Melbourne



Hearing dates

The City of Melbourne has been allocated the following dates to present its case:

1. 5 September 2016 (10:15 am – 1:00pm and 2:00pm – 4:30pm);
2. 6 September 2016 (10:15 am – 1:00pm and 2:00pm – 4:30pm); and
3. 22 September 2016 (10:15am – 12:30pm).

We will provide you with further information as to when you may be required to attend the hearing to present evidence, but **to the extent that is possible to do so, please keep these dates clear in your diary.** If you have any constraints please contact us immediately.

The hearing will be conducted in the conference room at the Mercure Treasury Gardens, 13 Spring Street, Melbourne.

Expert conclaves

You may also be required to attend a conclave of experts, to be held sometime between **15 August 2016** and before **22 August 2016**.

At a conclave, you may be asked to prepare a statement of matters where you agree or disagree with other expert witnesses. Such statements must be tabled at the hearing on the earlier of: 22 August 2016; or one clear business day prior a relevant witness being called.

Please indicate your availability to attend such a meeting in the week commencing 15 August 2016.

These meetings should be arranged by MMRA's experts, however, we will confirm with you if we are advised of any proposed meeting date and time.

Directions relating to expert reports

The Chair of the IAC has directed that expert witness reports should not refer to individual submitters by name, but by submission number. Please follow this direction if you are making reference to any submitter other than the City of Melbourne.

Please note that expert reports will be available to the public via publication on the Melbourne Metro Rail Project website.

Please do not hesitate to contact Karen Snyders Karen.Snyders@melbourne.vic.gov.au or Nick Sissons nsissons@huntvic.com.au if you require any further information.

Yours faithfully
Hunt & Hunt

A handwritten signature in blue ink, appearing to be 'N. Sissons', written over a horizontal line.

Nick Sissons
Associate

Contact:
Nick Sissons
D +61 3 8602 9357
E nsissons@huntvic.com.au

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11 August 2016

City of Melbourne Expert Witnesses for
Inquiry and Advisory Committee on
Melbourne Metro Rail Project

Our ref: TXR1/NXS
Matter no: 9613710

By email:

Dear Sir/Madam

**Melbourne Metro Rail Project - Environment Effects Statement Inquiry
Expert Evidence – Second Supplementary Instructions – Request to include an
Environmental Performance Requirement (EPR) Summary Table in your evidence**

Thank you for providing your draft expert evidence report to the forthcoming Inquiry and Advisory Committee (IAC) in relation to the matters addressed in the City of Melbourne Submission to the Environment Effects Statement (Submission, EES) on the Melbourne Metro Rail Project.

All reports have been of a consistently high standard. We appreciate the immense effort that has been dedicated to ensuring that these reports were prepared within a very tight timeframe.

To assist the City of Melbourne present a clear and concise summary of its Submission to the IAC and to assist you in delivering a concise summary when called to give evidence to the IAC, we would appreciate if you could please incorporate a brief summary table of your recommendations relating to the EPRs at end of the executive summary of your report.

We have provided the **attached** template table (in a word document) as a suggested format to use for the tables.

This table is really only intended to be a brief and concise summary of the recommendations that you have already made in the body of your report.

Where you have recommended that an entirely new EPR is necessary, please try to have a go at formulating a draft EPR (to the best of your ability) or simply state what the new EPR should try to achieve. If you are experiencing difficulty drafting proposed EPR wording, we are available today to help you edit your recommendations for new EPRs.

Please do not hesitate to contact Nick Sissons nsissons@huntvic.com.au if you require any further information.

Yours faithfully
Hunt & Hunt

Nick Sissons
Associate
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D +61 3 8602 9357
E nsissons@huntvic.com.au

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