



Melbourne Metro Rail Project
EES Inquiry & Planning Schemes
Advisory Committee

AUGUST 2016

EXPERT EVIDENCE
PREPARED BY
ROBERT MILNER DIP T&CP LFPIA, FVPELA



Expert Evidence | Strategic Advice | Development Approvals

© 10 Consulting Group Pty Ltd

The information contained in this document is intended solely for the use of the client identified on the report cover for the purpose for which it has been prepared and no representation is made or is to be implied as being made to any third party. Other than for the exclusive use of our client, no part of this report may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying or otherwise, without the prior written permission of 10 Consulting Group Pty Ltd.

Contents

1	INTRODUCTION	5
1.1	Purpose	5
1.2	Background	5
1.3	Scope	5
1.4	Witness Statement.....	6
2	OVERVIEW	7
3	STRATEGIC LAND USE PLANNING POLICY AND THE MMRP.....	9
4	PLAN MELBOURNE, MELBOURNE RAIL LINK AND MMRP	14
4.1.1	Stronger community benefit.....	15
4.1.2	Plan Melbourne Refresh and the identification of specific projects.....	16
5	MMRP AND THE EXPANDED CAPITAL CITY	18
5.1	Arden Macaulay – Proposed urban renewal area	18
5.2	City North	19
5.3	CBD North and South	20
5.4	Domain	20
5.5	Serving the Expanded Capital City	21
6	OPTIONS AND ISSUES	27
6.1	The portals	27
6.1.1	Western portal	27
6.2	Eastern portal	27
6.3	The tunnel	27
6.4	Arden	29
6.5	Parkville	29
6.6	CBD North.....	30
6.7	CBD South.....	31
6.8	Domain	31
7	PLANNING SCHEME AMENDMENTS.....	33
7.1	Introduction.....	33
7.2	Extraordinary circumstances.....	33
7.3	Transparency	35

7.4	The choice of overlay	36
7.4.1	Options and choices.....	36
7.4.2	Suitability for the purpose	37
7.4.3	Objectives	38
7.4.4	Permitted development and permit requirements	38
7.4.5	Implications upon development	38
7.4.6	Referrals and review.....	40
7.5	The Incorporated Document	40
7.5.1	Strengths and shortcomings.....	40
7.5.2	Appropriate information	41
7.5.3	Appropriate consultation	42
7.5.4	Environmental Management Framework (EMF)	44
7.6	Other planning scheme issues.....	44
7.6.1	Land use associated with a station	44
8	<u>CONCLUSIONS</u>	46

Attachments

- 1 Witness Statement
- 2 Curriculum vitae
- 3 Summary of land use planning issues in submissions

1 INTRODUCTION

1.1 Purpose

- 1 Herbert Smith Freehills (**HSF**), lawyers, acting on behalf of the Melbourne Metro Rail Authority (**MMRA**) and Secretary to the Department of Economic Development, Jobs, Transport and Resources (**DEDJTR**) have asked that I prepare land use planning evidence in connection with the Melbourne Metro Rail Project (**MMRP**).
- 2 The evidence is intended to assist the Melbourne Metro Rail Project EES Inquiry and Advisory Committee.
- 3 The Inquiry and Committee were established to report on the terms of reference issued by the Minister for Planning on the 23rd May 2016, as they apply to the EES and the amendments to the *Melbourne, Port Phillip, Stonnington and Maribyrnong Planning Schemes* [GC45].

1.2 Background

- 4 Since December 2015 I have been retained by HSF on behalf of MMRA and DEDJTR to provide a land use planning peer review of the draft EES documentation and the proposed planning scheme amendments that would enable the MMRP.

1.3 Scope

- 5 In this report I address:
 - The beneficial and adverse strategic land use planning and environmental effects of the project within the context of applicable land use planning legislation, policies, strategies and guidelines.
 - The strategic justification and suitability of the proposed planning scheme amendments in facilitating the MMRP.
 - Submissions made to the exhibited EES and planning scheme amendments as they relate to strategic land use and statutory planning issues.
- 6 This evidence assumes that the reader is familiar with:

- The scope and form of the Melbourne Metro Rail Project,
- *Melbourne Metro Rail Project – Environmental Effects Statement Summary Report* (2016)– Melbourne Metro Rail Authority.
- The *Melbourne Metro Planning Rail Project – Land Use Planning Impact Assessment* (April 2016) - AJM,
- The *Strategic Assessment of draft planning scheme amendment GC45* (April 2016) – Melbourne Metro Rail Authority
- *Technical Notes 1-18 and 28* –Melbourne Metro Rail Authority

1.4 Witness Statement

- 7 A witness statement and curriculum vitae are provided at **Attachments 1** and **2**.

2 OVERVIEW

- 8 Rarely is the community presented with a project offering such wide ranging, strategically significant, social and economic benefits, that will have many long term positive consequences for the day to day lives of a high proportion of present and future Victorians, businesses and visitors to the State.
- 9 From a land use-planning perspective that is the appropriate conclusion to draw about the Melbourne Metro Rail Project. The conclusion is based upon a review of the rationale and documentation underpinning the Environmental Effects Statement and an appreciation of the proposed planning scheme amendments.
- 10 Part of the intrinsic 'beauty' of the project lies in its relatively small longer-term physical presence on the 'face' of the city while able to generate substantial positive and diverse contributions to most themes of land use planning policy and local area strategies.
- 11 This is a project that:
- Effectively integrates transport and land use outcomes providing the community with new and improved connections to the higher order services and employment that are only found in the Capital City;
 - Furthers the sustainable development of the city by encouraging and enabling shifts away from the private car to public transport, improved walkability within the city and a reduction in the carbon footprint;
 - Offers benefits and opportunities to the community and business from the suburbs to the Capital City;
 - Responds to the land use and transport challenge of anticipated population and economic growth in the metropolitan area;
 - Facilitates further urban consolidation and opportunities for value capture at important focal points and centres of specialist activity in the Capital City while balancing that with new and additional

transport choices that serve to stabilise or minimise congestion on the roads;

- Comprehensively and effectively embraces all the objectives of the Transport Integration Act and Planning and Environment Act; and
- Enables significant gains and savings in the capacity of existing transport infrastructure.

12 While there are almost 380 submissions to the EES and planning scheme amendment I have no sense that the community challenges the intrinsic strategic planning merit of the project.

13 For the most part the submissions to the EES and the amendments to planning schemes are directed to:

- The absence of station siting and design details;
- Matters of uncertainty regarding details to be developed;
- A call to be consulted in the more detailed design and development planning;
- Doubts about the depth of tunnels and stations and the implications for the wellbeing of personal amenity, property and the attributes of daily life during and post construction; and
- The well being of heritage and vegetation.

14 In so far as there are concerns regarding the terms of the planning scheme amendment these are principally directed to the implications of the proposed controls on the ability to develop land and the exclusion of the community from the development plan approval process.

15 There appears to be no substantive challenge to the selection of statutory tools.

3 STRATEGIC LAND USE PLANNING POLICY AND THE MMRP

- 16 It is evident throughout the EES documentation that all the relevant themes of the State and Local Planning Policy Framework have been reasonably accounted for in the composition, scope and delivery of this project.
- 17 From a **Settlement** perspective the project aligns with those policy themes that are directed at:
- Developing and planning for the network of activity centres including the Capital City;
 - The provision of transport infrastructure to serve urban land supply and growth;
 - The orderly development of urban areas; and
 - The long-term management of open space despite the shorter-term removal of some spaces for construction management purposes.
- 18 The project responds, positively to the expectations of **Environmental and Landscape Values** planning policy.
- The tunnelling approach to the delivery of this infrastructure and the minor surface level presence of stations and emergency access points would ensure that the distinctive character and landscapes of the CAD and the inner city parklands are for all intent and purposes protected in the longer term.
- A substantial number of native and exotic trees are likely to be removed, particular in the short term around Domain Station. While the final detail is to be resolved through the choice of construction techniques and design detail there should be clear evidence, going forward, that the principles of avoidance and minimisation of losses are applied and losses are addressed through replacement and new planting.
- At a strategic level the tunnelling strategy to deliver improved public transport demonstrates a macro level response to

avoidance and minimisation of native vegetation losses and the protection of biodiversity.

- *Biodiversity protection* considerations raised by the project have been assessed, and reasonable strategies advanced to ensure protection.
- The boring under the *Yarra River and Moonee Ponds Creek corridors* demonstrates respect for these significant metropolitan river corridor assets.

19 From an **Environmental Risk** perspective the project has accounted for the following considerations in technical sections of the EES and expert evidence to be provided by others:

- *Flooding and inundation*, particularly at Arden.
- *Soil degradation and potentially contaminated land* encountered through the tunnelling process.
- *Erosion and potential landslip*.
- *Noise, dust and vibration* created during the construction processes, in the longer-term operation of the tunnel and its impact on business and sensitive uses.
- Many submissions challenge the appropriateness of the detail of the design response and the adequacy of the depth of the tunnel to effectively mitigate the consequences of noise and vibration.

This evidence assumes that an appropriate technical response has been established in the proposal or as modified through the EES Inquiry.

20 From a **Natural Resource Management Perspective** the *protection of water catchments* and *water quality*, including ground water, are relevant considerations addressed during and post construction.

21 From a **Built Environment and Heritage** perspective there is clear evidence that:

- The reasonable protection of pre and post settlement heritage and cultural assets has been accounted for and steps taken to protect and or reinstate significant assets. The thorough assessment has considered:
 - Heritage places and buildings;
 - Landscapes and gardens;
 - Archaeological sites;
 - Aboriginal heritage; and
 - Monuments such as the South Africans Soldiers Memorial post construction.
- The EES process has not advanced detailed plans for stations and above ground assets. However the Urban Design Strategy provides a framework for the application of the ten urban design principles advanced in State planning policy.
 - The Urban Design Strategy is a carefully crafted document that sets out principles, guidelines and strategies for the principal places and connections where the MMRP interfaces with city.
 - The contents are a suitable framework against which to develop design and approve plans in a consistent and accountable manner.
 - The Incorporated Document and development plan approvals process provides a planning and review process to ensure that detailed layout and built form complements other relevant planning considerations.
- Sustainable development policy has influenced the project not only through the integration of land use and transport but also by the sustainability principles and approach detailed at Technical Appendix W.
 - It will be necessary for the Environmental Management Framework and associated performance requirements to

consistently apply and further develop these sustainability principles for the project through construction and delivery of final outcomes.

- 22 From a **Housing** perspective the project does not directly contribute to *diversity or affordability policy* but it provides a new transport spine upon which to *locate greater supply, density and diversity of housing* reinforcing the intent of policy to build synergies between transport corridors, higher densities of living and employment.
- 23 From an **Economic Development** perspective the project will positively contribute to encouraging:
- Further growth and diversity of *business and commercial facilities* particularly through the opportunities presented by the co-location of stations and proximate development sites. This is particularly important as the project provides for new stations to be located in parts of the Capital City where local planning policy and structure planning provides for urban renewal and growth in the housing and employment sectors.
 - Growth and development of *tourism* and tourism facilities in metropolitan Melbourne, while complementing the higher usage of public transport by visitors.
- 24 From a **Transport** perspective the project positively delivers upon the full spectrum of relevant policy expectations:
- Creating a *safer and more sustainable system*,
 - Better *integrating transport and land use*,
 - Providing greater *coordination between transport modes* and a comprehensive network,
 - Enabling *more sustainable transport* options at personal and mass transit levels.
 - Upgrading and developing the *principal public transport network*.
 - Positively contributing to the use and capacity of the *road network*.

25 From an **Infrastructure** perspective the project positively contributes to:

- The community's access to health, educational and cultural facilities;
- The management of stormwater; and
- The orderly extension of telecommunications.

4 PLAN MELBOURNE, MELBOURNE RAIL LINK AND MMRP

- 26 Throughout my earlier peer review a discrepancy was apparent between the MMRP advanced in the EES documentation and the rail system envisaged in the current metropolitan development strategy – *Plan Melbourne* (2014).
- 27 The *Melbourne Rail Link* (*Plan Melbourne*) (Figure 1) and the *Melbourne Metro Rail Project* share similar transport intentions but rely upon a different alignment and number of new stations, with a quite different land use implication.
- 28 The transport rational of *Plan Melbourne* was aligned with:
- *Direction 3 - A More Connected Melbourne;*
 - *Directive 3.1 – Transforming the transport system to support a more productive Central City;* and
 - *Initiative 3.1.2 – A move towards a metro-style rail system starting with the Melbourne Rail Link.*
- 29 The October 2013 draft of *Plan Melbourne* had Melbourne Metro as the centrepiece of the ‘*Expanded Capital City Transport Strategy*’ to 2050.
- 30 However in the final version of *Plan Melbourne* (2014) this was changed by the government of the day to the *Melbourne Rail Link*.
- 31 The Melbourne Rail Link sought to:
- “Significantly expand the metropolitan passenger rail network and increase services to Melbourne’s growth areas in the north, west and south east. This will bring major productivity gains to the Central city from increased job density and access to workers, attracting firms that would otherwise locate outside Victoria.”* (*Plan Melbourne*, p.88)
- 32 The intended final alignment of *Melbourne Rail Link* was not set in *Plan Melbourne* but its key points of difference from the MMRP was that apart for a new station at Domain the only other station nominated on the Rail Link was Fisherman’s Bend / Montague (Figure 1).

33 There are sound strategic land use planning reasons why the MMRP should be favoured and that the strategy relying upon *Melbourne Rail Link* (MRL) as outlined in *Plan Melbourne* is not a policy impediment.

4.1.1 Stronger community benefit

34 MRL provided only one new station in a location at the eastern end of Fisherman's Bend that would have served the proposed, but as yet unrealised Fisherman's Bend urban renewal area.

35 The MRL would have been proximate to the Exhibition Centre and an intended focus of high-density housing and employment opportunities. The Yarra River and City Link would have separated MRL from the Central City and Southbank.

36 The planning rationale and the urban development outcomes for Fisherman's Bend are now under comprehensive review. The recently released *Fisherman's Bend Advisory Committee Report 1* (October 2015) foreshadows a major revision to the form, structure and delivery of the urban renewal area.

37 A rail link to the area would have been a positive outcome but the service of the broader urban renewal area remained dependent upon the delivery of a further, future, light rail corridor.

38 The move to the MMRP replaces, at least for the time being, a heavy rail project serving part of the Fisherman's Bend Urban Renewal Area. Its proposed alignment with two additional stations in the Central City and others at Arden and Parkville offers a range of significantly greater benefits to a broader range of the community that seek access to:

- Higher order retail, health, tertiary education and cultural facilities;
- The existing and growing concentration of jobs;
- The tourism opportunities of the Capital City;
- The diversity of established and new housing opportunities around the CAD and city fringe; and

- The connections with the more diverse and richer choice of public transport connections.

39 A sustainable transport strategy will be a necessary outcome of the Fisherman's Bend review but strategically for the foreseeable future the better net community benefit rests with MMRP.

40 I understand that the design of the MMRP has 'future proofed' the later option to provide integrated rail services to Fisherman's Bend.

4.1.2 Plan Melbourne Refresh and the identification of specific projects.

41 *Plan Melbourne Refresh - Discussion* (2015) has foreshadowed that *Plan Melbourne 2016* will advance a long term enduring strategy and incorporate transport commitments and priorities including MMRP.

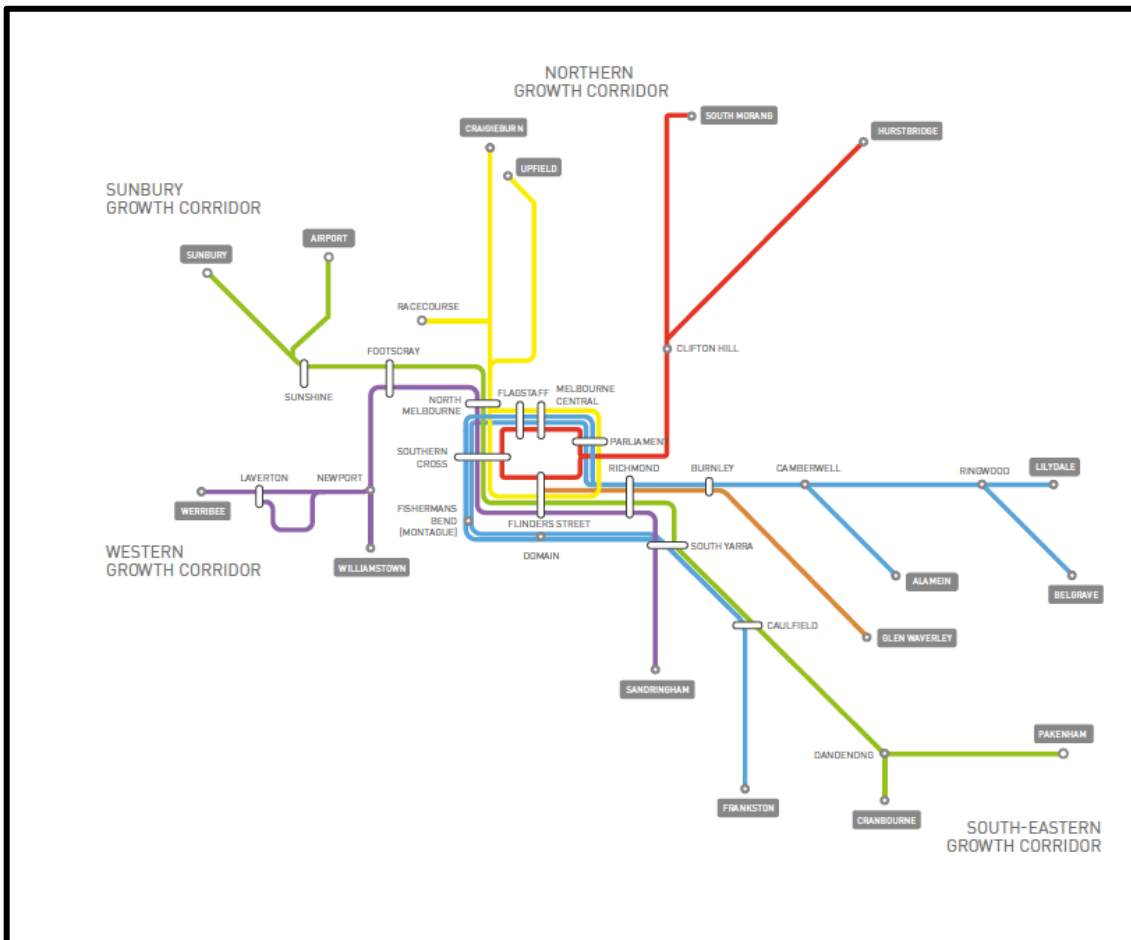


Figure 1: Metropolitan Rail Network at Completion of Melbourne Rail Link (Plan Melbourne, 2014)

5 MMRP AND THE EXPANDED CAPITAL CITY

- 42 Metropolitan development strategy has established the framework for the further growth of jobs and housing in the *Expanded Capital City* (Figure 2).
- 43 That strategy and the local policies of the Cities of Melbourne, Port Phillip and Stonnington have identified the building blocks upon which that growth will be achieved.
- 44 It is appropriate that the alignment of the tunnel and the location of stations reinforces and consolidates that spatial land use and development policy.

5.1 Arden Macaulay – Proposed urban renewal area

- 45 The role and residential / employment opportunities of Arden – Macaulay have been progressively established by the City of Melbourne, culminating in the adoption and gazettal of the *Arden – Macaulay Structure Plan 2012* as part of Amendment C190 to the *Melbourne Planning Scheme*, and the recognition of the area as a proposed urban renewal area at Clause 21.14-2 and as an urban renewal opportunity, including significant government land, in *Plan Melbourne* (Figure 3).
- 46 The strategic redevelopment opportunity presented by the redevelopment of the southern, second stage, of Arden Macaulay and its integration with the rail network and the MMRP is clearly articulated in Figure 4.
- 47 The urban renewal area will be generously served by four different stations providing a high level of accessibility and a real incentive for reliance upon sustainable transport options including walking and cycling in a part of the city that is recognised for its frequently congested road network.
- 48 The station will occupy a minor portion of the 14ha government owned industrial land.
- 49 However the co-location of the station and the strategic redevelopment opportunities presented by this site provide the context for immediate and substantial potential in housing growth, additional jobs and a broader range of local services as a result of the careful integration of new rail

infrastructure and identification of publically owned and underdeveloped urban land.

- 50 This confluence of opportunities should translate into a model transport orientated urban design outcome with significant social and economic benefits as well providing the incentive for environmental benefits arising from any remediation of land contaminated by its former and current industrial use.
- 51 A cost of the project will be the progressive displacement of a series of existing industrial leases and businesses. Many of these businesses are land extensive, low employment uses, relying on older building stock and in some cases having off site amenity impacts.
- 52 Off setting this cost is the prospect of both a greater diversity and density of uses including employment and improved local environmental conditions.

5.2 City North

- 53 The *City North Urban Renewal Area* (MPS Clause 21.14-1 and Figure 4) is also known as the *Parkville Employment Cluster* (*Plan Melbourne*) (Figure 5).
- 54 The *City North Structure Plan 2012* is guiding the urban renewal areas more intense and diverse use and development.
- 55 The concentration and ‘critical mass’ of many of the city’s major tertiary education and health facilities and their associated jobs: its reputation as a centre of research and innovation and the other employment and residential opportunities makes it a strong candidate and a preferred location for more sustainable transport, a station and access to the MMRP.
- 56 The area is already generously served by tram and bus services but rail brings a missing further dimension and a greater catchment to the integration of transport and land use around these important activities.
- 57 The strength and accessibility of the location might be further enhanced in the event a rail line were to connect Parkville with Fisherman’s Bend in the south west and the South Morang / Hurstbridge Lines, as previously mooted in the 2013 draft of *Plan Melbourne*.

58 I share the view expressed in the EES that there are sound strategic planning reasons why there should continue to be an uplift in the density and mix of land uses in and around the Parkville Station despite the constraints presented by the heritage overlays conserving parts of Parkville and Carlton.

5.3 CBD North and South

59 CBD North and South would deliver greater access, and choice of transport options to the broader community in the heart of the city.

60 In and around these two proposed stations the retail core meets the centre of visitation and some of the city's major tourist attractions.

61 CBD North not only complements the significant recent mixed-use redevelopment that has characterised the northern part of the City Centre but captures the southern extent of the education precinct.

62 Between 800 and 900 metres separates Parkville and CBD North providing the rail dependant users of this locality with excellent, comfortable, walkability to the new public transport.

63 The embedded strength of CBD South is its range of proposed and potential station entrances and their relationship to the major land uses, city attractions and alternative means of public transport.

5.4 Domain

64 Domain addresses a shortcoming in the capability to efficiently and effective access by rail, the body of workplaces and more recently the growth and concentration of living along the St Kilda Road corridor.

65 Domain is already recognised as an important junction of tram services serving St Kilda Road.

66 For outer suburban residents, not living proximate to the southern tram network that passes through Domain, the journey to work has been hampered by the need to combine rail and tram trips.

67 The appropriateness of development densities in the St Kilda Road North Precinct has been the subject of the recently gazetted Amendment C107 to the *Port Phillip Planning Scheme*.

- 68 Further growth is provided for in the St Kilda Road / Queens Road / Albert Road locality and complements the benefits that arise from bringing rail services to the core of the St Kilda Road corridor and its links to a range of tram routes serving the suburbs and the western end of the city.
- 69 I accept the observation made in submissions that one of the more recent trends has seen a move towards the conversion and or redevelopment of some commercial properties for apartment living.
- 70 However the introduction of rail with connections to more distant suburbs might also be seen as reinvigorating the locality's role for further commercial growth.
- 71 The justification for a station at Domain has a strong base.
- It would be strategically placed in the longest stretch of tunnel between the Central City and South Yarra and would improve the choices of transport in this location and the beneficial return on this major public investment.
 - It would be able to serve a diverse range of users and land uses.
 - It endows the location with a direct metropolitan public transport catchment and accessibility.
 - It offers the potential to relieve some of the congestion in the St Kilda Road transport corridor.
 - It significantly improves the metropolitan community's access to Albert Park, the Shrine and the Botanical Gardens.
 - It delivers a strong integration with many tram services.
- 72 An important issue is to recognise that some of Melbourne's most valued and used parkland and heritage bounds the eastern side of St Kilda Road and the impact of the project upon those assets should be avoided and if unavoidable, minimised.

5.5 Serving the Expanded Capital City

- 73 The choice of rail corridor, tunnel alignment and stations optimises the potential land use benefits of the project.

- 74 With the exception of the afore mentioned issues regarding the delivery of public transport to Fisherman’s Bend the MMRP aligns with the primary urban renewal and expanded capital city expectations of *Plan Melbourne* bringing fixed heavy rail services to locations that are access poor to that form of public transportation.
- 75 It is suggested in some submissions, including by the City of Stonnington (MM257) and earlier commentary that an additional ‘interchange’ station should be provided at South Yarra.
- 76 From a land use planning perspective the existing presence of rail and tram services in the locality of South Yarra suggest such an outcome would duplicate an existing asset rather than create a new opportunity, while acknowledging that users of the Cranbourne/Pakenham line cannot access rail services at South Yarra.
- 77 The development potential of Forest Hill has already been substantially realised and justified on the basis of the existing transport services.
- 78 The potential for further significant redevelopment and intensification in this locality is constrained by the established land use and built form context. However I share the views as to the opportunity identified by Stonnington City Council and other submitters (MM065) that the South Yarra Siding Reserve could be better connected to Toorak Road.

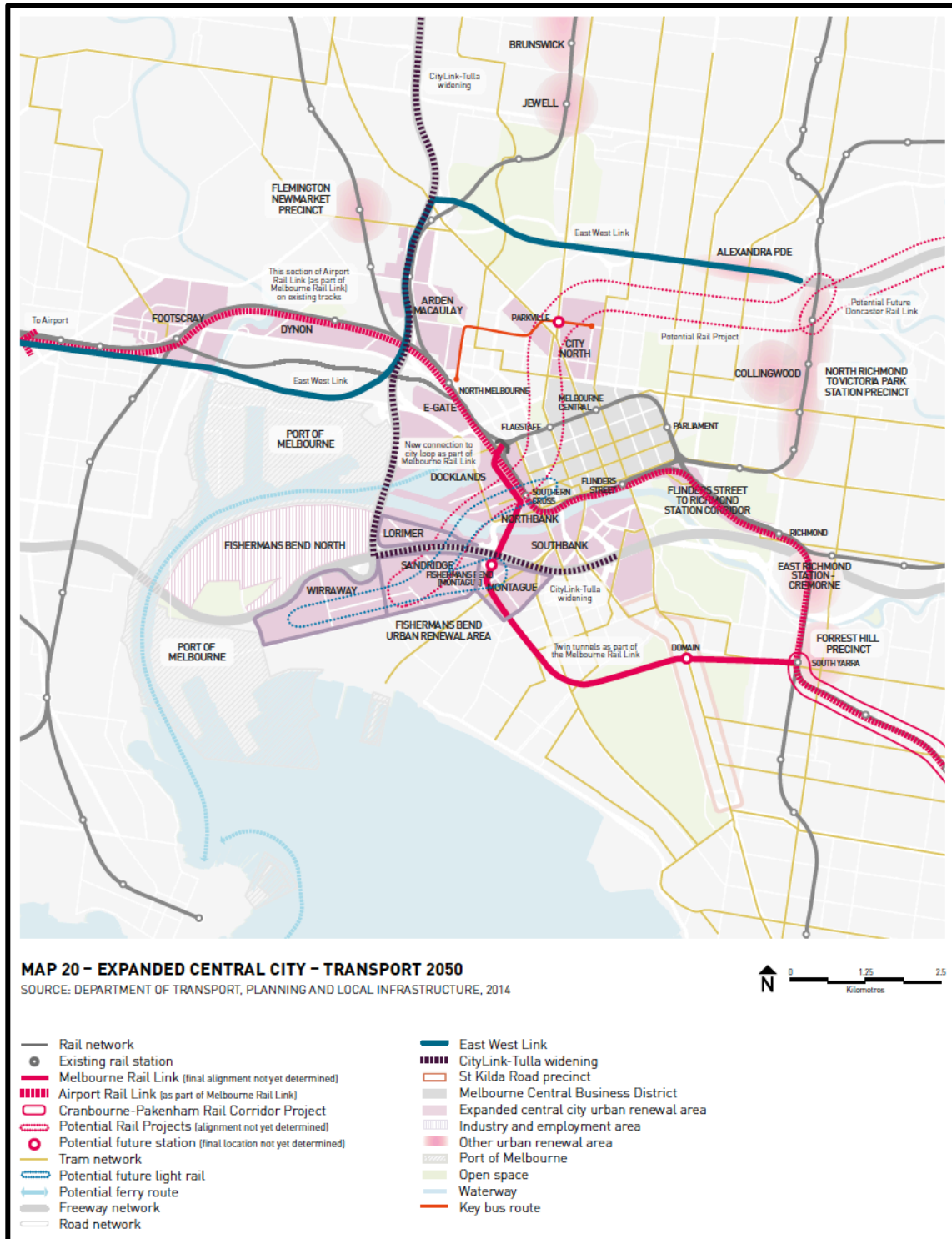


Figure 2: Expanded Central City – Transport 2050 (Plan Melbourne, 2014)

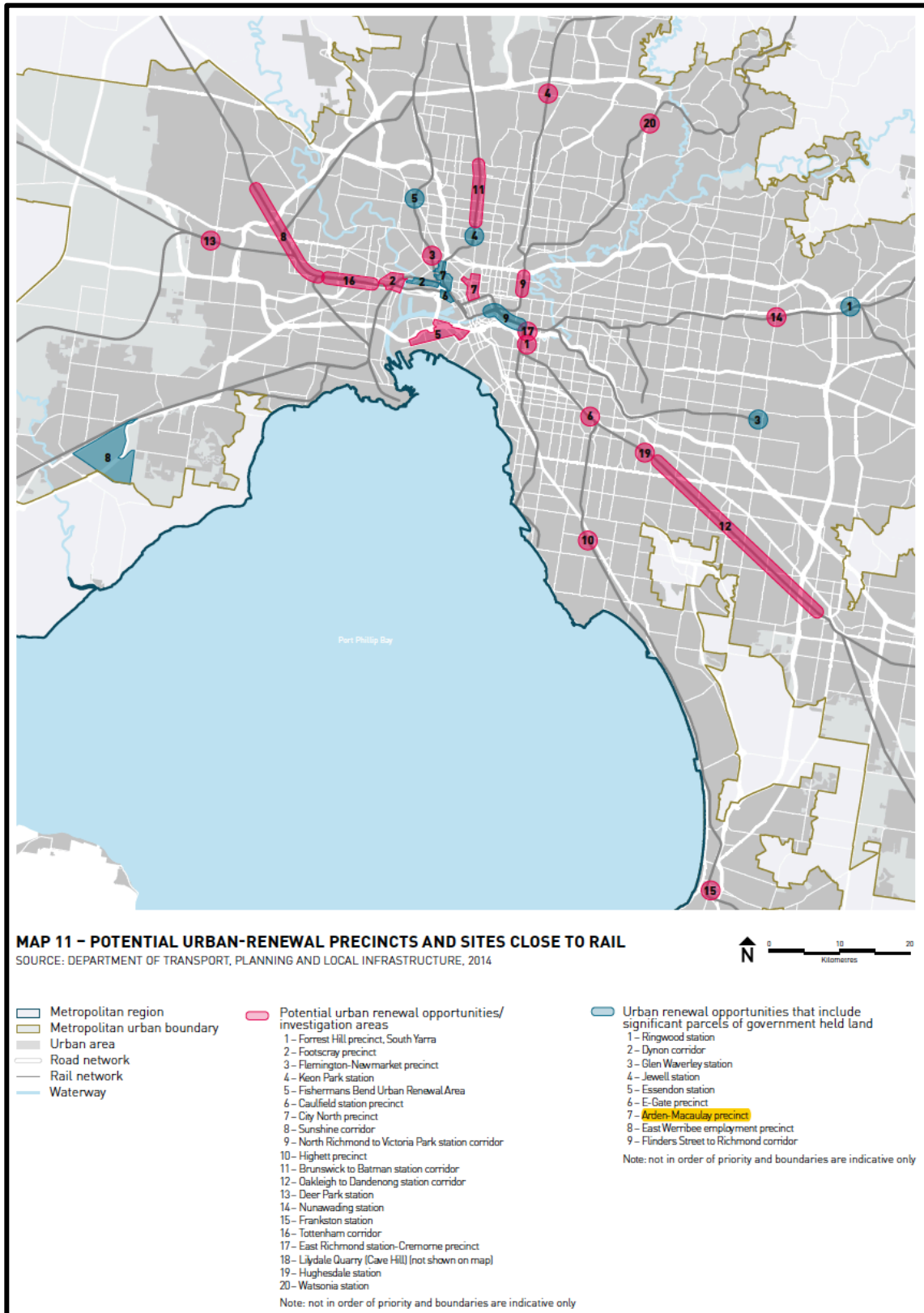


Figure 3: Potential Urban-renewal precincts and sites close to rail (Plan Melbourne, 2014)

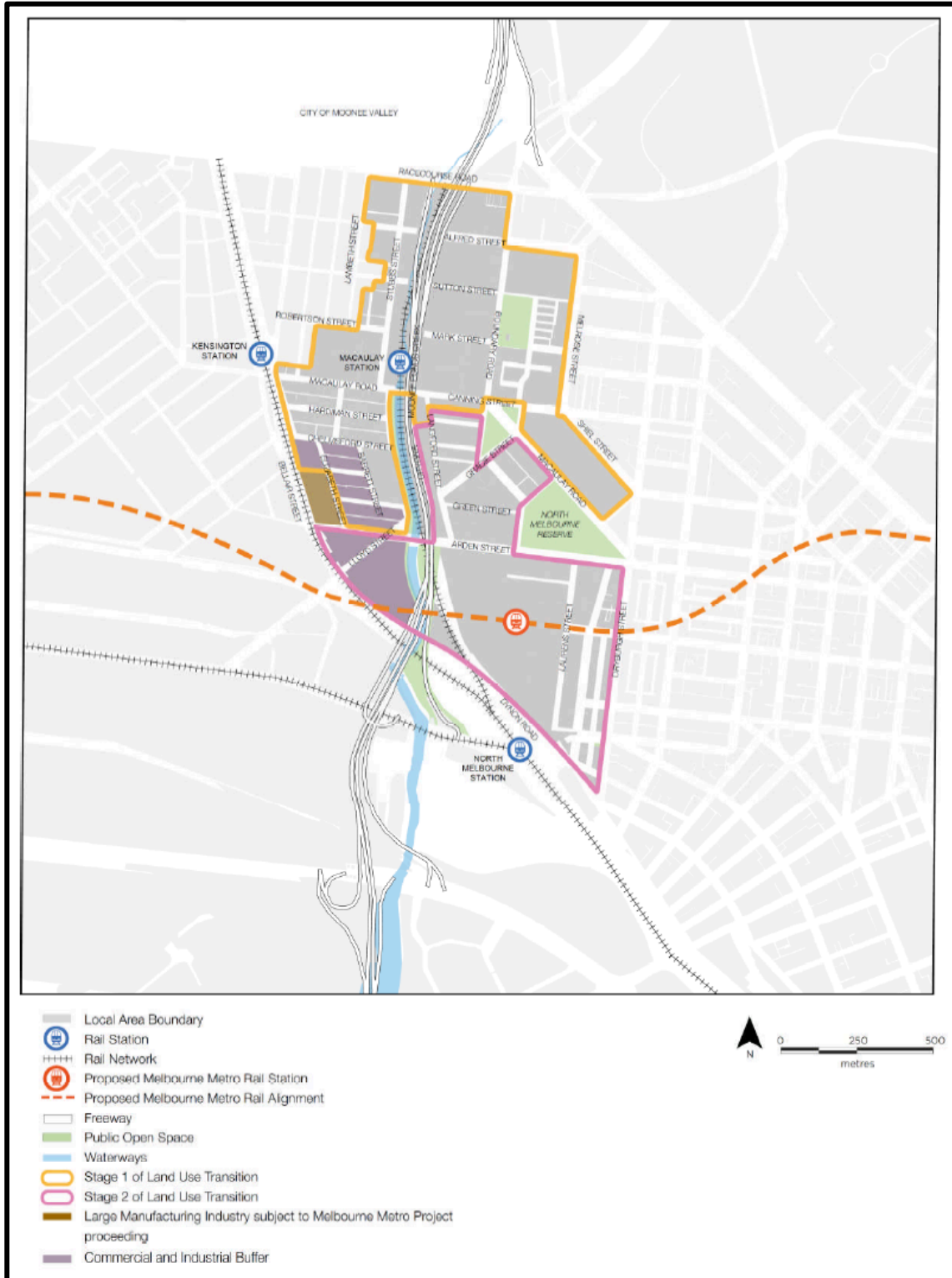


Figure 4: Arden-Macaulay (MPS, Municipal Strategic Statement, Clause 21.14)

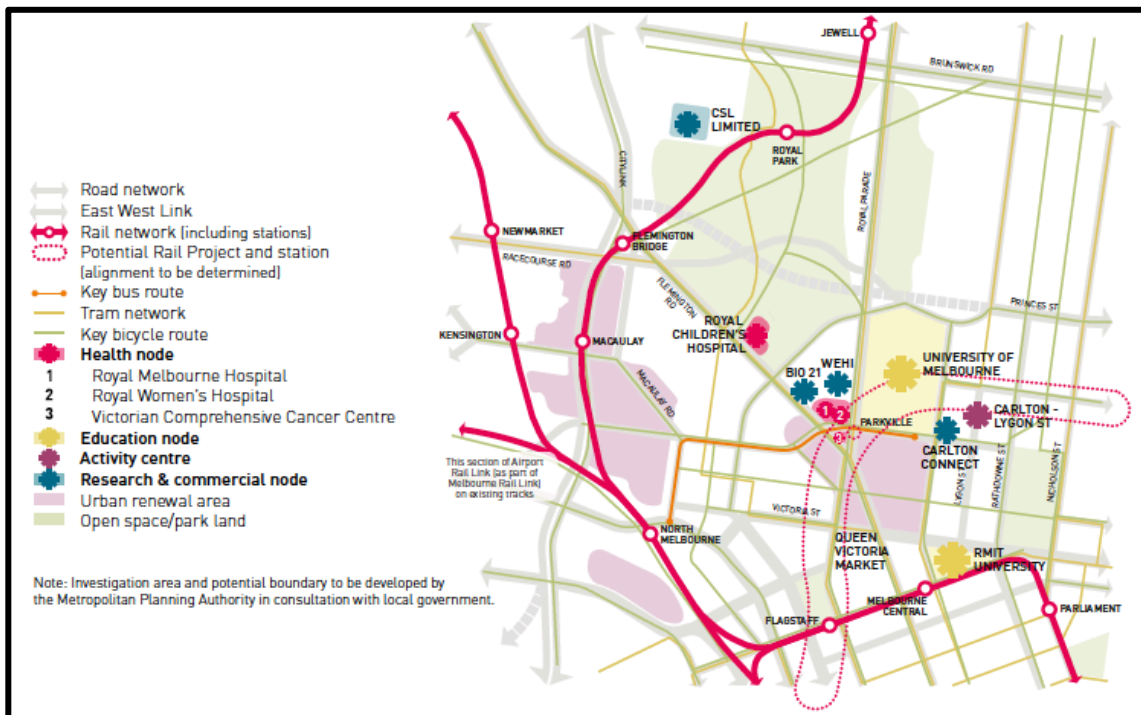


Figure 5: Parkville Employment Cluster (Plan Melbourne, 2014)

6 OPTIONS AND ISSUES

- 79 The EES retains select options for the siting of various parts of the infrastructure.
- 80 These options and various submissions to the EES, summarised at **Attachment 3**, raise land use planning issues that warrant comment.

6.1 The portals

6.1.1 Western portal

- 81 Two options are advanced for the Western portal and the TBM retrieval box.
- 82 Each option has varying impacts upon the environs of JJ Holland Park and the number of residential and business properties to be acquired or displaced during construction.
- 83 From a land use planning and development perspective I share the view of many submitters that the preferable outcome should be the one that minimise disturbance to the local community, loss of housing stock, displacement of business and incursion into JJ Holland Reserve.
- 84 The option that locates the tunnel entrance/ exit further to the west would have the greater net benefit and alignment with planning policy.
- 85 It would also have the least environmental impacts, with less disruption during construction because the tunnel entrance would be further removed from proximate dwellings.

6.2 Eastern portal

- 86 The land use planning implications of the eastern portal amount to a small loss of open space contained between the existing confluence of rail lines.

6.3 The tunnel

- 87 I have presumed for the purposes of this evidence that:

- The noise and vibration associated with the preferred tunnel alignment can be appropriately managed to protect the reasonable amenity expectations of existing land uses and development.
 - The depth of the tunnel and method of construction are satisfactory to enable the proper protection of existing property both during and post construction.
- 88 Within that context the alignment and depth of the tunnel may have influence upon the intensity and form of development, as necessary measures are established to protect the integrity and physical well being of the tunnel and station infrastructure.
- 89 The loading and siting of development either over or immediately adjacent to the tunnels will have to be appropriately managed. This may have a particular bearing on the appropriateness of deeper basements and footings / foundations and may have consequences for the design, layout, composition and form of some higher density development projects or the emerging popularity of 'iceberg' developments, in which below ground rooms and living space is created in order to protect the above ground attributes of heritage areas and properties.
- 90 The course of the tunnel provides an efficient connection between stations and for large sections would wholly or partially follow under the alignment of roads, or rail corridors or below parkland where land use change and development is not to be expected.
- 91 Despite the above, the following sections of the tunnel will lie below private land with various opportunities for further and more intense development:
- Arden and Parkville;
 - Parkville and CBD North; and
 - South Yarra, east of Punt Road and south of Toorak Road to the South Yarra siding.
- 92 The tunnel underlays these sections, at depths between approximately 10 metres and 35 metres, with the South Yarra and Arden / Parkville sections having the shallower cover.

- 93 The shallowness of these sections has evoked concerns among many submitters about the wellbeing of property and property values and the impact upon amenity.
- 94 Many submissions call for an alignment of the tunnel to show a stronger co-location with road reservations and the removal of the tunnel and the proposed Design and Development Overlay (DDO) from their properties.
- 95 If the location of proposed stations and portals is accepted as appropriate and necessary then the ability and justification to change the course of the route of the tunnel between Parkville and CBD and Toorak Road and South Yarra Siding is minimal.
- 96 Submissions have suggested that the tunnel between Arden and Parkville should be realigned along the alignment of Arden Street, as one example.
- 97 While this would remove the constraint and presence of the tunnel from some properties it would move it to others, as the width of the protection zone, as defined by the DDO, would include properties either side of the road reservations. The revised alignment would be marginally longer and potentially affect a greater number of properties.
- 98 I am not satisfied that there is a land use planning and development justification to vary the alignment.
- 99 I return to this topic and the implications of the DDO in Section 7 of this evidence.

6.4 Arden

- 100 The issues raised in submissions regarding Arden Station principally involve construction period consequences on adjoining and adjacent land rather than substantive land planning issues.
- 101 I leave it to others, more appropriately qualified to respond to those submissions.

6.5 Parkville

- 102 The principal land use planning issues raised with regard to this station are matters of pedestrian access and constraints upon development due

to proximity of major development sites in the locality of the tunnel / station. The latter I have addressed above.

- 103 The pedestrian access issues goes to matters of convenience, safety, efficient delivery of stations and the connections of land uses and development.
- 104 In particular there is concern that a station entrance is not provided on the south side of Grattan Street presumably opposite the proposed station.
- 105 The location of University Square and a range of University faculties south of Grattan Street establishes reasons and a body of potential beneficiaries from a station connection.
- 106 However virtually at the same point of the connection is a signalised crossing of Grattan Street that would safely connect potential rail users with the prime station entrance and the main entrance to the University.
- 107 An underground entrance to the station, directly from the south, is not essential.
- 108 On the other hand the location of station entrances at the south west corner of Grattan Street and Royal Parade can be justified to more safely and conveniently connect the 'health precinct' to the station and remove the constraints presented by the greater width and broader range of transport roles of Royal Parade and the constraints of manoeuvre across two legs of that intersection.

6.6 CBD North

- 109 The principal issues raised in submissions with regard to CBD North are matters to do with the road closures (A' Beckett and Franklin Street, east of Swanston Street); engineering impacts during and post construction and the operation of the DDO (addressed in Section 7).
- 110 RMIT and The City of Melbourne appropriately seek to achieve the best overall outcomes relative to their responsibilities many of which go to design and layout detail of access and circulation which are appropriately addressed in transport evidence.

6.7 CBD South

- 111 The structural, amenity and operational implications for established uses as a result of construction activity are the principal matters to be addressed by others as they apply to CBD South.
- 112 While a submission (MM326) is made regarding the broader structure planning for the area around the new station the submitter rightly appreciates that the MMRP project and the planning scheme amendments are not the place to also resolve this outstanding and necessary work.
- 113 Submissions on behalf of the Owners of the Westin Residential Apartments (MM310) criticise the Incorporated Document and DDO for the absence of community engagement during the approvals process. Section 7 responds to this concern.

6.8 Domain

- 114 Aside from questioning the rationale for a station at Domain, that I have addressed earlier, the submissions regarding Domain Station seek a review of:
- The location and depth of the station;
 - The diversity of traffic, amenity and operational considerations associated with the construction period;
 - The loss of 223 trees; and
 - The displacement of the South African Soldiers Memorial.
- 115 In summary it is put that the complexity of disruptive impacts on the road network, amenity of near neighbours, operations of proximate school and business activity and loss and displacement of trees and heritage features is such that an alternative station location should be preferred to the north of Park Street and under the western slope of the Shrine of Remembrance.
- 116 I am not qualified to comment upon the technical feasibility or the actual costs / benefits of that scenario but from a land use planning and transport integration perspective make the following observations:

- The rail station would be more divorced from and not as well integrated with Domain tram services.
- Depending upon the depth of the tunnel and the station, the methods of construction, and the design of the station and its entrances the station could have a significant impact upon parkland, vegetation and the environs and appearance of the Shrine of Remembrance.

7 PLANNING SCHEME AMENDMENTS

7.1 Introduction

- 117 The EES is supported by proposed amendments to four planning schemes.
- 118 For the sake of brevity I rely upon the Melbourne Metro Rail Authority – Strategic Assessment of Draft Planning Scheme Amendment GC45 – 20th April 2016 and the amendment documentation to detail the terms of the rationale and the proposed amendments.
- 119 The documents, in their draft form, were part of my earlier Peer Review and with the exception of the observations made below I formed the view that they represented an appropriate response and justification to how the legislative framework and planning schemes in particular should be employed to give effect to the project.
- 120 As a general observation, based upon a review of submissions, there appears to be broad acceptance of the proposed planning scheme techniques to be relied upon.
- 121 The principal concerns and recommendations that are expressed in submissions reflect matters of detail in the operation of proposed tools and techniques rather than the selection and reliance upon the tool or technique.
- 122 I identified some issues raised in submissions as warranting further consideration as part of my peer review in April 2016.

7.2 Extraordinary circumstances

- 123 The documentation accompanying the project and the opening observations to this evidence draws attention to MMRP as a project of ‘*extraordinary circumstances*’ and of considerable significance to the State and the metropolitan community.
- 124 The project is distinguished as representing ‘*extraordinary circumstances*’ by virtue of:
- The scale and cost of the investment;

- Its effect upon so many properties, lives and businesses;
- Its span over jurisdictions, authorities and municipalities;
- The enormity and breadth of long term community benefits; and
- Its complexity and the need for clear coordination, governance, accountability and integration between disciplines and agencies in decision-making.

- 125 These are the manner of ‘*extraordinary circumstances*’ that warrant specific planning controls designed to achieve the particular land use and development outcome envisaged by Clause 52.03 of the *Victorian Planning Provisions* and which appears in each of the *Melbourne, Port Phillip, Stonnington* and *Maribyrnong Planning Schemes*.
- 126 They are the type of ‘*extraordinary circumstances*’ that justify the concentration of decision-making at a high and central level of government and under the stewardship of a Minister.
- 127 MMRP will have a substantial effect on the achievement of State and metropolitan planning objectives and will have a significant effect beyond its immediate physical locality.
- 128 It is appropriate that it be accorded project specific, customised governance and control provisions and the opportunities afforded by Clause 52.03 are applied to the project.
- 129 However within that context there is also unusual circumstance associated with the project.
- 130 Approval of the EES and planning scheme amendments (in their current or a modified form) leaves considerable development planning and design detail to be undertaken and accepted, the implications of which will impact on the community at large and more particularly property owners directly affected by the project and the planning provisions.
- 131 With this absence of detail there is understandable concern expressed through multiple submissions about the ability to comment and contribute in the next stages of development planning, station design and decision-making.

132 Submitters might accept the purpose of the proposed planning provisions but they seek a role and greater understanding of the detailed implications as they might impact on their property, lives and businesses.

133 These issues and an appropriate response are discussed below.

7.3 Transparency

134 The appropriate land use planning provisions need to perform two roles.

135 The first is to enable the appropriate delivery of the project.

136 The second is to ensure that the presence and implications of the MMRP are clearly apparent to any party seeking to acquire, dispose or develop land.

137 The land affected in these two stages is not entirely the same as illustrated by the '*Project land*', which is an attachment to the proposed Incorporated Document and the environs of the long term physical assets that are shown in the proposed *Design and Development Overlay* (DDO).

138 The boundaries of the DDO were identified through technical studies as the appropriate extent of land for which it is necessary that proposed future development is assessed and reviewed in order to ensure the tunnel infrastructure is protected.

139 The mapping of affected property and the use of an overlay are the most effective and appropriate way to ensure that the appropriate level of awareness is easily accessible to the community and transparency is provided.

140 Even if the project were to be facilitated by legislation, such as reliance upon the *Transport (Compliance and Miscellaneous) Act 1983*, there would remain a compelling case that mapping be provided upon a cadastral base identifying the affected land in an easily accessible public document.

141 Anyone seeking to develop land should reference the relevant planning scheme.

142 The presence of an overlay is also made apparent to anyone acquiring or disposing of an interest in land.

- 143 The proposed DDO mapping provides the appropriate level of short and long-term transparency for parties affected by being located within the environs of stations and the tunnel.
- 144 The parties whose land is only required or affected by works during the construction period till 2028 (unless other wise extended by the Minister) can access that information through the plan accompanying the Incorporated Document or will have received notice as part of the project establishment.

7.4 The choice of overlay

7.4.1 Options and choices

- 145 The DDO is the appropriate tool for this project.
- 146 In forming that view I was asked to consider whether it was necessary or appropriate to create a new, site specific or generic overlay for inclusion in the VPPs and relevant planning schemes.
- 147 It has been my experience that there has been a resistance by government to include new planning scheme provisions when existing tools and provisions in the planning scheme can fulfil the role. The underlying emphasis is upon streamlining rather than building a larger planning scheme.
- 148 In this instance the purpose of the overlay is directed at protecting the physical form and integrity of the tunnel and the stations. It is to be achieved by a new schedule to the DDO that manages and potentially limits development and works in proximity to the strategically important infrastructure.
- 149 It is not the first time that overlays in the planning scheme have been used to perform that role. The constraints presented by the *Airport Environs Overlay* upon land use and development density within the flight path of an airport in effect limit the intensity and form of development, and in that case creates a discretion on specified land uses.
- 150 The application of the *Special Building Overlay* can have the effect of controlling the height of floor levels above natural ground and limiting the amount of works below nominated flood levels.

151 During my peer review I was asked to consider the merit of a new overlay that would protect potentially a broad range of strategically important transport infrastructure. The suggestion was that the proposed control would have many of the attributes of the proposed DDO in so far as it identifies the area for and the form of protection but that it might also create a control over land use, a limitation of the DDO.

152 I have not established a reason or justification why the use of land should be further regulated or changed in order to protect the proposed tunnel and stations. The additional control is sought to manage only the form and intensity of development.

7.4.2 Suitability for the purpose

153 The DDO is suitable for the proposed purpose.

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas which are affected by specific requirements relating to the design and form of new development.*

154 It is not unusual to find the DDO being applied to place boundaries and limitations on the siting and form of buildings to achieve a range of above ground objectives, including stipulating preferred or mandatory controls on heights and building setbacks in order to achieve urban character and public realm objectives and limit the yield and intensity of development to complement the capacity of a location to absorb growth.

155 There is nothing in the construction of the DDO provisions that prevents its application to below ground development considerations.

156 Rather, both the *Permit Requirements* and *Decision Guidelines* of Clause 43.02 provide the opportunity to use the provisions in the schedule to nominate specific requirements for the form of new development and to advance decision guidelines that address the specific issues presented by the schedule to the overlay.

7.4.3 Objectives

157 The purposes of the proposed schedules to the DDO are confined to protection of the transport asset and are entirely appropriate in the circumstances.

7.4.4 Permitted development and permit requirements

158 The DDO does not prohibit development but in essence requires approval for any basement, works below two metres, a change in the natural surface level by one metre, a swimming pool below surface level or development above two storeys.

159 Within those parameters any previously permitted development would not be affected by the additional requirements.

160 Development exceeding those requirements would be subject to a permit and would require the documentation and technical analysis listed under the *Application Requirements* to be submitted.

161 While accepting that these provisions raise new and additional obligations and potentially greater costs regarding the documentation to accompany a permit application this is an accepted outcome arising from the application of any new overlay where a decision needs to be informed by specialist advice.

7.4.5 Implications upon development

162 The land use and development planning implications in terms of the impact upon the form, siting and type of development that might have otherwise been permitted are addressed in Appendix J ('Future Development Loading report') to EES Technical Appendix E.

163 In my earlier peer review I highlighted this area of uncertainty as a matter that landowners and applicants would benefit from greater information and guidelines on how the applications for permits would be evaluated.

164 The control as written might turn out to be prohibitive, onerous or have marginal or manageable impact upon the form and cost of development.

165 There are many variables that will come into play including the soil and geological conditions, the depth of the tunnel, the siting of the proposed

buildings and works, the proposed type and depth of foundations, the number of storeys and the loading of the development on to the ground.

166 Affected parties would be assisted by two documents that provide more fulsome information about the implications of the DDO and the application of its requirements:

- A **Planning Practice Note** that can inform a range of relevant parties and explain:
 - The role and purposes of the DDO;
 - The implications for development;
 - The processes for assessment and approval of works;
 - The scope of detailed guidelines and how they apply to different sections of the tunnel; and
 - The location of other relevant information.
- **Technical guidelines** for use by proponents for development that detail:
 - The limitations and considerations for different sections of the tunnel;
 - Checklists for essential and discretionary information to be submitted with applications for development;
 - The detailed processes and referrals that will apply;
 - Relevant time frames; and
 - Rights of review.

167 These notes and guidelines will inform site-specific development and broader land use planning implications.

168 They will enhance the ability of a responsible authority to be able to give meaningful pre-application advice on planning applications for

development as sought by the City of Port Phillip in its submission (MM133).

7.4.6 Referrals and review

- 169 The amendment provides at the schedule to Clause 66.04 for the Secretary of DEDJTR to be the determining referral authority for applications permits made under Schedule 67 of the DDO.
- 170 It is appropriate that there be review to VCAT where there is disagreement about decisions made under the overlay.
- 171 It is equally appropriate that there is no requirement to give notice of an application made under the provisions of the schedule, given the technical nature of the information to be addresses and absence of off site implications for third parties.
- 172 There may be reason, by virtue of other planning provisions, why third party notice may need to be given.

7.5 The Incorporated Document

7.5.1 Strengths and shortcomings

- 173 The earlier commentary has addressed why the use of Clause 52.03 – *Specific sites and exclusions* - is an appropriate planning tool to facilitate an extraordinary project.
- 174 For a project of this scale and duration it is a sensible use of community resources and a risk management strategy to stage the approvals processes.
- 175 Once agreement and approval for the strategic components of the project has been established through the EES process it is timely and appropriate to progress to a further level of detail and documentation.
- 176 The detailed approval is proposed to be managed by a Development Plan process with plans required for various stations and structures nominated in Clause 5 of the *Incorporated Document*.
- 177 The *Incorporated Document* requires the approval of an *Environmental Management Framework* including *Environmental Performance*

Requirements, connecting the EES processes into the planning approvals process.

- 178 Further the *Incorporated Document* explicitly specifies that a planning permit (and as a consequence the permit approvals process) does not apply to the specified works required to deliver the project within the '*Project Land*'.
- 179 The consequences of this approach has implications for:
- The scope and content of documentation required for a development plan appropriate for endorsement;
 - The referrals and consultation that is required prior to approval; and
 - Who approves a Development Plan.

7.5.2 Appropriate information

- 180 The EES and planning scheme amendment process has been noteworthy for the considerable quantity, quality and diversity of comprehensive documentation and justification of the project and its environmental implications.
- 181 The work, to date, has also been noteworthy for the extent and depth of community engagement.
- 182 By way of contrast the next stage of planning approvals, post gazettal of the amendments, is distinguished by a relatively short, high-level statement, of a few matters that the Development Plan must include and a summary report of the outcome of consultation with specified government agencies.
- 183 The City of Port Phillip (MM133) has noted that the range of information required to support a Development Plan needs to be responsive to the particular circumstances presented by the location of a station or other above ground infrastructure and more detailed subject specific plans, for example transport and heritage plans, may be required.
- 184 The *Incorporated Document*, at Clause 5.1, stipulates the form of plans to be included in a Development Plan. These plans would describe the

proposal(s) with justification for the merits of the plans being a response to the *Urban Design Strategy*.

185 Provided that the *Urban Design Strategy* response addresses the *Context, Aims and Objectives* for 'Key Directions for Melbourne Metro' and the relevant precinct specific design issues, the concerns of the submitter would be addressed.

186 The level of detail shown in Development Plans might be similar to the requirements for a development permit and include scaled drawings.

187 Before any Development Plan can be submitted the Minister must endorse an urban design strategy.

188 I have assumed that the *Urban Design Strategy* exhibited as part of the EES process may form the basis of such approval. As noted earlier I consider that document to be sufficiently developed in its scope and content to fulfil that purpose and be approved.

7.5.3 Appropriate consultation

189 The approval of development plans constitutes the final and only form of land use planning approval required prior to construction.

190 I consider it appropriate that on a project of this scale an efficient and effective approvals process is established so that the infrastructure can be delivered to the benefit of Victorians at an early date.

191 Nonetheless the matters to be approved through the Development Plan process are the places, structures and connections that will be the face of the community's daily experience of the MMRP.

192 There is therefore an understandable wish by submitters to be informed about and able to contribute to the design and development approvals processes.

193 While government agencies and municipalities have an important role to inform these design and development decisions each comes with a special discipline or sectoral interest reason for being consulted.

194 The resident, business and institutional community have valid reasons to be interested and engaged in major changes to their locality.

- 195 It would not be appropriate to expose a project of this nature and significance to a planning process that requires the formal advertising of development plans to all parties in the locality or the protection of third party rights of review to VCAT.
- 196 However it would be appropriate that Development Plans are informed by a broader commentary.
- 197 Having regard to the detail advanced in the EES and the content of the *Urban Design Strategy* the next stage of design development will be a further refinement of the broad framework of proposals already advanced.
- 198 It would be inappropriate to create an expectation that the development plan process might be used to make fundamental changes in the design direction or unduly delay the project to complete full community engagement strategies.
- 199 The relevant Councils could capture appropriate community input as they form their own opinions and make decisions on the merits of the development plans.
- 200 The broader framework of information, engagement and feedback already established by the MMRA could also provide a forum for the community and affected parties to contribute to the detailed design and development plans.
- 201 I recommend that the Incorporated Document should be amended to insert a requirement at Clause 5.1 – *Development Plans* - requiring that:
- A Development Plan should be exhibited concurrently with its referral to relevant authorities, giving the community a minimum of two weeks to provide any comment or feedback to either their relevant municipality or to the MMRA.
 - That a municipality may seek public comments upon the Development Plan prior to detailing its comments on the plan.
 - A summary report on any community submissions received must accompany the development plan submitted for endorsement by the Minister.

- The summary report should detail how the Development Plan responds to the issues raised.

- 202 The need to follow such a procedure for the approval of amendments to the Development Plan warrants discretion.
- 203 Provided that the amendments do not materially change the layout and design of stations and their access I do not consider that further exhibition of plans is necessary.
- 204 If an amendment is not to be further exhibited the amended plan submitted for endorsement should include a statement detailing why the plan does not warrant exhibition.

7.5.4 Environmental Management Framework (EMF)

- 205 The Incorporated Document requires an EMF, including Environmental Performance Requirements and more detailed construction, environment and transport plans be prepared and approved by the Minister prior to the commencement of buildings and works.
- 206 The City of Port Phillip (MM133) has recommended that the EPR and the *Urban Design Strategy* form appendices to the Incorporated Document.
- 207 Given that these requirements are to approved at a later date and may be amended this recommendation is impractical, although the 'Key Directions for Melbourne Metro' contained in the *Urban Design Strategy* could be approved and form part of or be referred to in the Incorporated Document as part of the approval of GC45.

7.6 Other planning scheme issues

7.6.1 Land use associated with a station

- 208 I accept the observation made in submissions that the nature of uses permitted as part of stations should be clarified.
- 209 The Planning Scheme definition of a Railway Station is:

Land used to assemble and distribute goods and passengers and includes facilities to park and manoeuvre vehicles. It may include the selling of food, drinks and other convenience goods and services.

- 210 Any use not captured by this definition and not contained in the area of the station boundaries should be subject to the provisions of the relevant planning scheme.

8 CONCLUSIONS

- 211 From a land use planning perspective the EES and planning scheme amendments for the MMRP are, in the broad, well considered proposals with strategic justification that have minimised land use based environmental costs and risks and will result in a high level of alignment with the relevant planning framework and deliver substantial community benefits.
- 212 There is a range of complex environmental issues to be addressed as part of the project construction and this evidence accepts that details may vary the proposal, although this is unlikely to affect the overall land use planning merit.
- 213 This report recommends improvements that should be made to the *Incorporated Document* and recognises that additional guidelines need to inform the implications and requirements of the proposed DDO.



Robert Milner
12th August 2016

Attachment

1 Witness Statement

Expert Witness Statement

The name and address of the expert

Robert Milner, Director of 10 Consulting Group Pty Ltd, 3/2 Yarra Street, South Melbourne, Victoria, 3205.

The expert's qualifications and experience

Robert Milner holds an Honours Diploma in Town and Country Planning from Liverpool Polytechnic. He is a Life Fellow of the Planning Institute of Australia and a Fellow of the Victorian Planning and Environmental Law Association.

A Curriculum Vitae is included at Attachment 2.

The expert's area of expertise to make this report

Robert has a broad range of expertise in planning and development matters enabling him to comment on a wide spectrum of urban and rural, statutory and strategic planning issues and processes.

Other significant contributors to the report

Not applicable.

Instructions that define the scope of the report

Robert Milner has been instructed by Herbert Smith Freehills, lawyers, to prepare expert evidence on behalf of the Melbourne Metro Rail Authority and Secretary to the Department of Economic Development, Jobs, Transport and Resources.

The identity of any person who carried out tests or experiments upon which the expert has relied on and the qualifications of that person

Not applicable.

The facts, matters and all assumptions upon which this report proceeds

There are no other facts, matters or assumptions upon which the report relies other than those explicitly stated in the report.

Documents and other materials the expert has been instructed to consider or take into account in preparing his report, and the literature or other material used in making the report

Rob Milner has reviewed relevant material as referenced in the body of this report

A summary of the opinion or the opinions of the expert

A summary of Robert Milner's opinions are provided within the body of the report.

Any provisions or opinions that are not fully researched for any reason

Not applicable.

Questions falling outside the expert's expertise and completeness of the report

Robert Milner has not been instructed to answer any questions falling outside his area of expertise. The report is complete.

Expert declaration

I have made all 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 Inquiry and Advisory Committee.



Robert Milner
August 2016

Attachment

2 Curriculum vitae

ROBERT MILNER – DIRECTOR

Qualifications and Positions

- Director 10 Consulting Group Pty Ltd and The Milner Group Pty Ltd
- Diploma in Town and Country Planning (First Class Honours) Liverpool Polytechnic
- Life Fellow Planning Institute of Australia
- Fellow of the Victoria Planning and Environmental Law Association
- Former State and National President of the Planning Institute of Australia
- Member, Planning and Local Government Advisory Council (1994 – 1999)
- Deputy Chairman, Future Farming Expert Advisory Group (2009)

Employment History

2010 – Current	Director 10 Consulting Group Pty Ltd
1999 – 2010	General Manager, Senior Principal and Adjunct Senior Planning Counsel – Planning, CPG Australia Pty Ltd (Formerly the Coomes Consulting Group)
1994 – 1999	Director, Rob Milner Planning Pty Ltd and Savage Milner
1991 - 1994	Project Director, Collie Planning and Development Services
1988 – 1991	General Manager, Town Planning, Jones Lang Wootton
1980 - 1988	City Planner, City of Box Hill
1977 – 1980	Planner, Perrott Lyon Mathieson, Architects and Planners
1976 – 1977	Planner, Kirklees Metropolitan Borough Council

Career Overview

Rob Milner is a respected strategic and statutory planner. He is equally competent in urban and regional practice.

He is recognised as a leader of the planning profession in Victoria. He has had a high profile career spanning 40 years with extended periods of experience working for local government and private practice.

Until 2010 he worked with CPG Australia building that planning team to be one of the larger and most respected strategic and statutory practices in Victoria. The team was twice awarded planning consultant of the year in Victoria.

He now directs 10 Consulting Group, as a small boutique consultancy offering the highest level of advice and service to clients wanting the benefit of Rob's considerable experience, knowledge and understanding of planning in Victoria.

He is regularly retained to provide expert evidence to courts, panels and tribunals on the broadest range of land use and development planning issues. He is usually involved in 4 or 5 different matters monthly and has a reputation for objectivity, an original style of evidence and for providing clear and fearless advice. Particular expertise is in complex and controversial projects, gaming matters, acquisitions and compensation and restrictive covenants.

He is an acknowledged advocate and negotiator and is regularly engaged in development approval and rezoning projects where process and relationships need to be carefully nurtured to ensure a viable and timely outcome.

His ability to communicate effectively among a broad range of stakeholders means that he is regularly engaged to facilitate workshops, conferences, consultation and other situations where leadership and engagement of groups is required.

His clients have included many State government agencies (including planning, community development, justice, roads, growth areas and regional development), municipalities throughout metropolitan Melbourne and regional Victoria, as well as a broad range of corporate and other private sector interests.

Robert Milner brings a high level of integrity to his work, choosing to participate on those projects that accord with his professional opinion.

Areas of Expertise and Experience

Strategic studies, policy development and statutory implementation

Rob is widely acknowledged for his capacity to take a strategic perspective to urban and regional and planning challenges and provide direction and leadership that is responsive, creative and thoughtful in its strategic intent and detail.

When combined with his depth of experience with strategic policy based planning schemes he is powerfully equipped to deliver sound advice on the spectrum of land use and development planning issues.

His strategic planning skills are ground in work experience at the State, regional, local and site specific levels dealing with the issues that affect a town or sub region or examining themes or subjects that span geographical areas.

While working for CPG Australia he lead multi disciplinary planning teams that worked for clients that included DPCD, Department of Justice, Department of Innovation, Industry and Regional Development, and many municipal councils in metropolitan Melbourne and regional Victoria.

In 1994 he lead the planning consultancy that recommended the model for the Victorian Planning Provisions, the strategic policy driven planning scheme that is now consistently used throughout Victoria.

In 2009 Robert served as the Deputy Chairman on the Future Farming Expert Advisory Group reporting to the Minister for Planning. That work addressed a broad range of issues facing the next three decades of land use and development in regional Victoria.

Expert evidence and advocacy

Rob is regularly called upon to provide expert evidence and reports to clients, courts, Independent Panels and VCAT. He has acted in this capacity or as an advocate in over 1,200 cases during his career.

In a Supreme Court of Victoria – Court of Appeal matter of 2016 ¹ his evidence was singled out for being “*rational, detailed and credible.*”

He is often retained to provide the strategic perspective to planning disputes. He is equally capable in commenting on matters of urban design, and compliance with planning policy and provisions.

The scope of matters that he has addressed in this capacity is extremely diverse and includes:

¹ *Winky Pop Pty Ltd & Anor v Mobil Refining Australia Pty Ltd & Anor* S AP1 2015 0084

- Medium density and high rise residential development,
- Greenfield, master planned communities in growth areas,
- Waste management, quarries and landfill proposals,
- Major shopping centres and mixed use developments,
- Industrial and residential subdivisions,
- Hotels, motels, restaurants and other leisure facilities
- Retirement villages,
- Rail projects,
- Coastal developments,
- Office and CBD projects
- Heritage projects
- Compensation and land acquisition matters,
- Liquor licence and gaming proposal,
- Freeway service centres and petrol stations,
- Agribusiness centres.

Legislative and planning scheme reviews and amendments

Aside from Rob's leadership of the consultant planning team that conceived the model for the Victorian Planning Provisions, he has been associated with many reviews of municipal planning schemes and amendments.

Planning scheme review usually takes the form of comprehensive research examining both the merits of the strategic policies as well as the statutory provisions. Wide ranging consultation is involved in the task.

Work associated with planning scheme amendments usually includes strategic justification of the proposal as well as statutory documentation and management of the process. The provision of expert evidence to independent panels is often involved.

In more recent times Rob has been involved in projects that entail a review of allied legislation as well as amendments to planning schemes. Recent relevant projects have included the following:

Reviews of Victorian planning provisions and allied legislation

- Activity Centre Zone construction and application in Footscray, Doncaster, Knox and Sunshine
- Tramway infrastructure and the VPP's,
- Higher density living adjacent to tramway corridors
- Liquor Licensing legislation and planning provisions
- Gaming (EGM) policy and provisions for Councils
- Review of the Farming and Green Wedge zones for their economic implications

Planning scheme reviews

- Shire of Surf Coast 2007
- Shire of Wellington 2009 -10
- Rural City of Horsham 2010
- Borough of Queenscliff 2011- current

Organisation audits and process reviews

Rob has a long and established career providing reviews of planning documents, teams and processes, particularly in a local government environment.

Trained as a LARP facilitator in 1990 as part of a Commonwealth Government initiative his experience in this area commenced with the development of planning and building specifications for tenders as part of Compulsory Competitive tendering process and the coaching of bid teams.

Since then Rob has developed a specialisation in providing reviews and recommendations to State and Local Government, which audit planning schemes, the performance of planning teams and departments and development approvals processes.

In the last 20 years he has worked with the majority of metropolitan councils and many regional municipalities; he prepared the model audit process for the Department of Sustainability and Environment in 2003 and recently provided a facilitated program for the Department of Planning and Community Development reviewing how it processes planning scheme amendments.

He has worked with Councils in Victoria, New South Wales and South Australia.

He uses a range of audit techniques, extensive consultation with users of the processes and provides detailed strategies on necessary reforms.

His most recent work has been as a major contributor to the VicSmart program.

Attachment

3 Summary of land use planning issues in submissions

Issue	Number	Comments
Impact on Fawkner Park	16	<ul style="list-style-type: none"> • Concern with storage of machinery. • Impact on tram lines. • Impact on property value. • Traffic. • Reduced street parking. • Impact on children's centre (located within the park). • Loss of trees.
Parkville Station / Closure of Grattan Street	2	<ul style="list-style-type: none"> • Impact on business due to restricted access / noise / vibration. • No entrance to station on south side or south/east corner of Grattan Street / Royal Parade. • Station should be at Haymarket roundabout instead of Melbourne University. • Station needs to have regard to heritage value of Royal Parade and Melbourne University. • A Consultation Management Plan should be prepared. • Traffic and parking impacts on Parkville residents.
South Yarra Station	18	<ul style="list-style-type: none"> • Construction impact and acquired land in Arthur Street to be become a public park. • South Yarra station requires urgent upgrade given volumes of people using the station; South Yarra Station should be connected to metro rail link. • Construction impacts, including noise, vibrations, loss of air quality, traffic and parking. • Should be an interchange at South Yarra Station so people on the Frankston and Sandringham lines don't have to go all the way into the city to come back out to Domain. • Impact of re-routing tram 8 for approx. 5 years. • Impacts on Osbourne Street, including noise, vibrations, land value. • Length of construction period and impact on amenity of residents and property values.
Domain Station	42 (plus 59 pro forma)	<ul style="list-style-type: none"> • Loss of trees/ traffic impacts with lane closures / better location edge Fawkner Park. • Impact on access to Alfred Hospital during construction. • Impact on Edmund Herring Oval. • No consideration of alternative alignments. • Impact on bicycle routes. • Concern about cut and cover – should be 'deep cavern' like central city stations and not have structure above. • Should not impact at all on important St Kilda

		<p>Road shrine vistas and trees.</p> <ul style="list-style-type: none"> • Don't accept 'business case' for Domain Station given existing transport. • Impact on the Shrine and heritage. • No benefit for local residents.
Open space	1	<ul style="list-style-type: none"> • Can't find open space master plans and environmental performance measures referenced.
Kensington portal	101	<ul style="list-style-type: none"> • Prefer 'Alternative option' due to less acquisition, less noise to residents; less traffic impact on residential areas; less impact on children's centre / safer; visually more attractive.
Kensington portal	2	<ul style="list-style-type: none"> • Supports option A – concerns with additional rail bridge.
Eastern Portal	2	<ul style="list-style-type: none"> • Traffic impact in Osbourne Street / impact on property values / noise.
Subterranean link between City North and Melbourne central	2	<ul style="list-style-type: none"> • No commitment to whether property will be compulsory acquired. • Should require environmental performance requirement for the design and construction.
Impact / Loss of trees	26	<ul style="list-style-type: none"> • Trees should be transplanted rather than removed and replaced. • Far too many trees are earmarked for removal (approx. 900). • Trees were required to be avoided in Fawkner Park when the Alfred Hospital helipad was built – same should apply.
Finders Street / Flinders lane	3	<ul style="list-style-type: none"> • Impact on access to business in Flinders Street during construction and compensation paid. • Concern in relation to allowable development above future stations and impact on views.
Arden Street / Station	6	<ul style="list-style-type: none"> • Concern in relation to restricted access in Barwise Street and surrounds. • Impacts on North Melbourne Football Club including impact on car parking, traffic, air quality, groundwater, property damage, water table. • Impacts of tunnel including noise vibrations.
Impact on River and Social impact	2	<ul style="list-style-type: none"> • Concern over tunneling under river and social impact of people travelling underground. • Mental health issues associated with noise, disturbance, and loss in property values.
North Melbourne / West Melbourne	30	<ul style="list-style-type: none"> • Impact on trucks going down Anderson Street and other residential areas, should just use Arden Street. Request truck route to be changed. • Impact on businesses in Laurens Street. • Should have deeper tunnel to minimise impacts – most shallow section of the route – ongoing noise

		<p>and vibration impacts. Construction impacts on residents.</p> <ul style="list-style-type: none"> • Objection to truck route 1; routes 2a or 2b are preferable to avoid local roads for truck movements. • EES states route will mainly be beneath roads and crown land – however it is beneath residential areas. • Suggestion for realignment along Arden Street.
Swanston Street / A'beckett Street	12	<ul style="list-style-type: none"> • Construction impacts. • Impacts on business access. • Impact on Bourke and Wills statue – corner of Swanston & Collins Streets. • Noise, dust, parking impacts. • Impact on St Paul's Cathedral. • Impact on McDonalds. • Impact on Young & Jacksons hotel.
St Kilda Road / Kings way / Albert Road / Bowen Crescent	17	<ul style="list-style-type: none"> • Traffic impacts / access to MacRobertson Girls High School. • Impact on apartments with closure of Bowman Street. • Noise impacts. • Loss of trees. • Lack of emergency access to apartments. • Loss of parking outside apartments on St Kilda Road. • Above ground hub should not be considered. • Impacts on operations (emergency access, pedestrian, vehicle access). • Impact on Albert Road Clinic.
Lack of 'turn back' at west Footscray	1	
Cost of relocation and closure of business	1	
Precursor to other road projects, including a link to Tullamarine Airport	1	
Future development above stations, and impacts on views	1	
Introduction of DDO and IPO introduce planning permit triggers and also limit third party rights and opportunities	4	<ul style="list-style-type: none"> • Refer RMIT submission. • DDO will introduce more stringent requirements than current controls with implications for landowners, development opportunities and the cost of approvals.
Alternative routes should be considered	1	
Aboriginal cultural heritage impact	1	<ul style="list-style-type: none"> • Doesn't comply with relevant Acts.

Impact on future development potential - Kensington site	1	<ul style="list-style-type: none"> Refer Submission #261.
University of Melbourne	1	<ul style="list-style-type: none"> Range of issues – some raised elsewhere in this table.
Heritage – 65 Swanston Street should not be demolished; development around Young and Jacksons Hotel	3	<ul style="list-style-type: none"> Demolition of 65 Swanston Street. Relocation of the Victorian Boer War Memorial (aka South African Soldiers Memorial).
Poor environmental performance. Only 20% clean energy.	1	



Expert Evidence | Strategic Advice | Development Approvals