MELBOURNE METRO RAIL PROJECT
ENVIRONMENT EFFECTS STATEMENT

1-39 HOBSONS ROAD KENSINGTON

STATEMENT OF EVIDENCE BY ANDREW CLARKE
ON PLANNING ISSUES

Prepared for Hobsons Pty Ltd and Karoke Pty Ltd

SEPTEMBER 2016

Matrix Planning Australia Pty Ltd
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1 INTRODUCTION: PRACTICE NOTE – EXPERT EVIDENCE

Name and Address of Expert

Andrew Clarke
Director
Matrix Planning Australia
2nd Floor, 50 Budd Street
Collingwood Vic 3066.

Qualifications of Expert

Bachelor of Town and Regional Planning (Hons), University of Melbourne, 1982
Member, Planning Institute of Australia
Refer Curriculum Vitae at Attachment 1.

Any Private or Business Relationship between the Expert Witness and the Party for Whom
the Report is Prepared

None.

Instructions

Written instructions from Tisher Liner FC Law dated 17 August 2016 as follows:

“Our client requests you provide your opinion by way of expert report on
the following matters:

1. Under the Alternative Design for the Western Portal Precinct (Option B), what is the potential loss of housing stock in our client’s
development by having the High Voltage Transmission tower located
in the intended location set out in Technical Note Number 22 and
having the existing easement widened?

2. Under the Concept Design for the Western Portal Precinct (Option A),
what impact is likely on the development of the Property by having the
High Voltage Transmission tower located in the intended location set
out in the Technical Note Number 22 as opposed to having it remain at
the corner of Childers Street. Is there likely to be a pecuniary loss to
the developer/land owner.”

Facts, Matters and Assumptions

Facts, matters and assumptions on which opinions expressed in the report are based are set
out in the report.

Documents and Materials Taken Into Account

The documents and any literature or other materials taken into account in preparing the
report are identified in the report.
Examinations, Tests and Investigations

All examinations, tests and investigations have been undertaken by me.

Summary of Opinion

A summary of opinion is included in the Conclusion.

Provisional Opinion

There are no provisional opinions.

Relevant Questions Outside of Expertise

There are no matters of relevance outside of my expertise.

Whether the report is incomplete or inaccurate in any respect

As far as I am aware the report is not incomplete or inaccurate in any respect.

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

2 SUBJECT SITE

The subject site, 1-39 Hobsons Road, Kensington comprises approximately 1.965 ha in a triangular shaped block adjacent to the Sunbury railway line (refer Aerial Photograph below).
The site is a former industrial site with some remnant buildings.

3 THE PROPOSALS

3.1 TEMPORARY OCCUPATION OF THE SUBJECT SITE AS A CONSTRUCTION WORK SITE

The EES identifies that the subject site will be used as a construction work site for approximately three years (EES page 9-21 and Land Use and Planning Impact Assessment pages xii and 85). I am not asked to comment on that.

3.2 TRANSMISSION TOWER DIMENSIONS

The Land Use and Planning Report goes on to state:

“Early works include the relocation of three transmission towers within the Western Portal precinct. It is estimated that each relocated high voltage tower would require land of approximately 10 x 10 m², with a 37 m wide easement (13 m either side of the tower) at each tower. The towers would be relocated to public land (VicTrack) to the south of the rail corridor.” (page 196).

The EES Map Book depicts two alternative options. Option A is Concept Design – Construction (Environmental and Planning Precincts – Construction Map 1 of 15). Option B is Alternative Design Option – Construction (Environmental and Planning Precincts Map 1A – Alternative Design Option). One of the differences between the two plans is that under Option A 9 dwellings at the eastern end of the precinct are earmarked as part of a proposed temporary construction work site. Under Option B 2 dwellings are so delineated. It is unclear whether they are temporary or permanent housing losses.

3.3 TRANSMISSION TOWER LOCATIONS

MMRA Technical Note 22 sets out in greater detail the two transmission line relocation options.

The Technical Note confirms the transmission lines are 220 kV lines. One difference between both options concerns Tower 33. Existing Tower 33 is located in the railway reserve on the south-east corner of Kensington Road and Childers Street, separated from the subject site by Kensington Road. It has an existing easement which extends approximately 7 metres (it varies slightly) along the southern boundary of the subject site.
Technical Note 22 identifies under Option A Tower E33 will be temporarily relocated to within the south-east corner of the subject site. Figure 3 of the Technical Note depicts the temporary Tower 33 indicative location as being over the site of a shed which is on the southern property boundary of the subject site. The exact location would be determined through final design, so for the time being I have adopted the indicative location shown.

Once the new transmission tower alignment has been commissioned (expected in 2017) a new permanent Tower 33 would be located on the south side of the common property boundary, so that there would be no compulsory land acquisition.

The location of the temporary Tower 33 on and north of the southern property boundary of the subject site and the permanent Tower 33 on and south of the southern boundary of the subject site is depicted on Figure 3 of the Technical Note (unfortunately the photomaps do not show cadastral boundaries).

Under Option B the temporary Tower 33 location shown in Option A would be the permanent location, that is on and north of the southern property boundary of the subject site.
Temporary Transmission Tower 33 is on the site of the blue building, the left side of which is the subject site’s southern property boundary. The permanent site is the vacant grassed area to the left of the blue building and to the right of the railway embankment.

3.4 TRANSMISSION TOWER EASEMENT WIDTHS

As indicated above, the transmission tower footprint is estimated at 10 x 10 m.

*A Guide to Living with Transmission Line Easements* (Ausnet Services, undated) sets out the easement width for a 220kV transmission line is 40 metres or 20 metres either side of the centre of the (symmetrical) transmission tower.

The current easement extends approximately 7 metres north of the subject site’s southern property boundary. Under Option A the centre point of the permanent Tower 33 would be 5 metres south of the subject site’s southern property boundary and therefore the easement would extend 15 metres north of the southern property boundary. Under Option B the centre point of the permanent Tower 33 would be 5 metres north of the subject site’s southern property boundary and therefore the easement would extend 25 metres north of the southern property boundary.

According to the same document, houses (which I interpret to include all habitable dwelling structures) are not permitted to be built over 220 kV transmission line easements.
4 PLANNING CONTROLS & DEVELOPMENT POTENTIAL OF THE SUBJECT SITE

4.1 PLANNING CONTROLS

The subject site forms part of a wider area that was the subject of a planning scheme amendment in 2010 (Melbourne Planning Scheme Amendment C124). The main purpose of the Amendment was to rezone the site from Business 3 Zone to Mixed Use Zone to enable more intensive residential redevelopment of the site.

As a result of the Amendment the following planning controls now apply to the site:

4.1.1 Mixed Use Zone

Residential use is an as-of-right encouraged use in the Mixed Use Zone, but development of more than one dwelling requires a planning permit.

4.1.2 Incorporated Plan Overlay

The Amendment introduced an Incorporated Plan Overlay (IPO2) over the site and wider area. The approved incorporated plan was the Hobsons Bay Precinct Incorporated Plan – March 2008: Land at 1-89 Hobsons Road, Kensington. The incorporated plan includes a Built Form Framework Plan (reproduced over page) which depicts internal and external access linkages and height control areas. That part of the subject site extending north of the entire southern property boundary for a width of 40 metres is in Height Control Area C (22 metres).

A height of 22 metres would allow a 7 storey building.

In its report, the Panel considering submissions to Amendment C124 concluded:

“A building height of up to 22 metres alongside the railway embankment is appropriate to provide an acoustic screen for the site.

These building heights and the provisions of the IPO2 and the Incorporated Document will ensure a consistency in built form with that of Kensington Banks.” (page 49).

That is, the Panel was supportive of the 22 metres building height over the southern portion of the subject site and that height limit was retained in the approved amendment.

There is capability under the Incorporated Plan Overlay to increase the height above 22 metres. That is the height control is not mandatory. Nevertheless, for the purposes of my assessment I have adopted the base height limit of 22 metres (7 levels).
Plan 1: Incorporated Built Form Framework Plan under IPO2
4.1.3 Heritage Overlay

The site is affected by HO239: 1-39 Hobsons Road Kensington. A planning permit is required for demolition and new buildings and works. The retention of the remaining buildings is not a significant issue and Council has previously issued a planning permit (now expired) for the wholesale demolition of all buildings on the site and for a new commercial/industrial development with building heights similar to those later approved under the Amendment (up to 22 metres along the southern property boundary).

4.1.4 Environmental Audit Overlay

An EAO applies to the entire site. The EAO does not include any direct built form controls.

4.1.5 Land Subject to Inundation Overlay

An LSIO applies to the entire site. It is not a significant constraint to development potential (but may affect the ability to provide basements).

4.1.1 Conclusions on Planning Controls

The site forms part of a wider area that was specifically rezoned to accommodate intensive residential/mixed use development.

Use of the Incorporated Plan Overlay is unusual for residential infill proposals and “locks in” a high degree of development certainty because the development parameters under the approved incorporated plan cannot be altered without a further planning scheme amendment. It also exempts a permit application under any provision of the scheme from third party, decision and review rights.

4.2 Development Potential of the Site

Whilst there is no current planning permit for the site there would be a high level of confidence that a 7-storey residential apartment or mixed use development proposal would be approved over the southern portion of the site.

I have been provided with a draft development proposal for the subject site which depicts 5 x 7 level residential/mixed use apartment buildings along the southern boundary of the subject site. Ground floor comprises car parking (rather than a basement in response to flooding and contamination issues) with a small amount of office floorspace but predominantly apartments proposed.
Each building is separated by a minimum of 9 metres balcony to balcony to maintain privacy between apartment buildings. The buildings are setback 8.2 metres from the southern property boundary to accommodate the existing transmission line easement.

I am instructed the proposal has been formally presented to a Melbourne City Council planning officer for comment in early 2015 whose comments on the proposal were very positive but they would require greater detail in a formal application.

The draft proposal has been prepared by experienced architects who frequently prepare plans for apartment proposals that obtain planning permission.

In short, although it is preliminary, the draft design appears to me to form the basis of a design that I expect could obtain planning approval.

5  PLANNING CONSIDERATIONS

5.1  DIRECT IMPACT ON THE DEVELOPMENT APARTMENT PROPOSAL

5.1.1 Impact of Option B

The impact of Option B would be that the powerline easement would increase from approximately 7 metres to 25 metres from the subject site’s southern property boundary.

The draft development plans make provision for the existing easement.

By drafting a line 25 metres from and parallel to the southern property boundary I have calculated the approximate number of dwellings that would be lost from that development as a result of the new easement location under Option B. The exercise has involved a degree of estimation and rounding depending on the number and proportion of dwellings affected, however it is not the exact number of dwellings, but rather the scale of the number of affected dwellings that is the critical issue. I have calculated that the total number of dwellings that would be impacted (lost) by the easement under Option B would be 205 dwellings (123 x 2BR and 82 x 1BR). The additional site area of the easement is approximately 4,500 m² representing a development density of approximately 22 m of site area per apartment dwelling or 455 dwellings/ha which seems a reasonable density level for a series of 6 levels of apartments.

5.1.2 Impact of Option A

By drafting a line 15 metres from and parallel to the southern property boundary I have calculated the approximate number of dwellings that would be lost from that development as a result of the new easement location under Option A. Again, the exercise has involved a degree of estimation and rounding depending on the number and proportion of dwellings
affected, however it is not the exact number of dwellings, but rather the scale of the number of affected dwellings that is the critical issue. I have calculated that the total number of dwellings that would be impacted (lost) by the easement under Option A would be 108 dwellings (70 x 2BR and 38 x 1BR). The additional site area of the easement is approximately 2,000 m² representing a development density of approximately 19 m of site area per apartment dwelling or 540 dwellings/ha which seems a reasonable density level for a series of 6 levels of apartments.

5.2 ALTERNATIVE THEORETICAL METHODOLOGY

A criticism of my methodology in Section 5.1 above is that a design response for a 15 or 25 metre wide easement would be different to that for the existing approximate 7 metre wide easement width, so that the losses calculated above may be overly inflated. That is, development yield losses might be minimised in response to the new easement location under either option.

Therefore, it is appropriate to undertake a theoretical assessment or “sanity check” based on a number of development assumptions. A theoretical “back of the envelope” density calculation could contain the following assumptions:

- 7 level buildings with ground floor used for car parking and 6 apartment levels above;
- 2BR apartments comprise a minimum 70m²; 1 BR apartments comprise a minimum of 50m²; the ratio of 2 BR apartments to 1 BR apartments is say 2:1. Including circulation space, lifts, etc that are not part of individual dwellings gives say, an average gross floorspace of 100m² per apartment in each building;
- A conservatively low site coverage of 60% possible outside of the easement; this equates to a plot ratio of 3.6 over 6 residential floors;

This equates to an apartment density of (3.6 x 10,000) ÷ 100 = 360 dwellings/ha.

With an additional easement area of approximately 4,500 m² under Option B the number of potential apartments lost is (4,500 ÷ 10,000) x 360 = 162 potential apartments lost.

With an additional easement area of approximately 2,000 m² under Option A the number of potential apartments lost is (2,000 ÷ 10,000) x 360 = 72 potential apartments lost.

6 CONCLUSIONS

In response to the two questions I have been asked to consider:

1. The potential housing loss under Option B is calculated to be in the order of 162-205 apartment dwellings at 1-39 Hobsons Road Kensington;

2. The potential housing loss under Option A is in the order of 72-108 apartment dwellings at 1-39 Hobsons Road Kensington.

The additional number of existing dwellings lost (presumably on a temporary basis only) at
the eastern end of the temporary construction work site is 2 dwellings under Option B and 9 dwellings under Option A which is inconsequential in the context of the potential loss at 1-39 Hobsons Road.

Both options will result in considerable potential losses of housing stock. From a housing consolidation policy point of view Option A is the preferred option.

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

Andrew Clarke B/TRP (Hons.), MPIA
2 September 2016
ATTACHMENT 1: ANDREW CLARKE CURRICULUM VITAE
CURRICULUM VITAE

ANDREW CLARKE

OCCUPATION: Consultant Town Planner

DATE OF BIRTH: 9th July 1960

NATIONALITY: Australian

ACADEMIC QUALIFICATIONS:

Bachelor of Town and Regional Planning (Hons.), University of Melbourne, 1982

PROFESSIONAL AFFILIATIONS:

Corporate Member, Planning Institute of Australia
Member, Victorian Planning and Environmental Law Association

SUMMARY OF CAREER HISTORY:

- Director, Matrix Planning Australia Pty Ltd, 2001-present
- Planning Manager, Fisher Stewart Pty Ltd, 1995-2001
- Senior Planner, SJB Planning Pty Ltd, 1993-1995
- Senior Planner, Fisher Stewart Pty Ltd, 1992-1993
- Town Planner/Senior Planner/Associate, Wilson Sayer Pty Ltd/Wilson Sayer Core Pty Ltd, 1982-1991

OVERVIEW OF EXPERIENCE AND EXPERTISE

Since 1982, Andrew Clarke has been employed as a consultant town planner, providing advice to private individuals and firms, as well as Commonwealth, State and local government.

The particular expertise of Andrew Clarke has been in the area of planning and development approvals associated with a range of residential, commercial, industrial, recreational and institutional development projects.

Andrew regularly appears as an expert witness in planning panels, tribunals and courts. Between 1988 and 2015, Andrew was regularly appointed by the Minister for Planning to sit on and chair planning panels and enquiries including advisory committees, environment effects statements and planning scheme amendments.

Andrew is a former secretary (1990-91 and 1992-93) and chair (1993-94) of the Australian Association of Planning Consultants (Victoria Division).

Andrew established Matrix Planning Australia Pty Ltd in June 2001 as a town planning consultancy.
Representative projects undertaken by Andrew under the Matrix Planning Australia Pty Ltd banner include:

- Central Creek Grasslands Residential Subdivision and Conservation Project for the Urban and Regional Land Corporation (2001)
- Pharmacy College, Redevelopment, Royal Parade Parkville for the City of Melbourne (2001)
- Watt Road Mornington, Residential Rezoning and 100 Lot Subdivision for private client (2001-2002)
- CSIRO Division of Petroleum Resources, Syndal, Subdivision Development, for CSIRO (2002)
- The Esplanade Hotel, St Kilda Redevelopment for the City of Port Phillip (2002)
- Deakin University Melbourne Campus, Burwood, development control advice for Deakin University (2002)
- Various School Building and Site Extensions for Brighton Grammar School (2004)
- South Melbourne Supermarket and Mixed Use Commercial Development, for private client (2005)
- School Expansion Planning Scheme Amendment and Stage 1 Buildings Permit, for Donvale Christian College (2005-2006) and Plenty Valley Christian College (2008-2009)
- Princes Highway, Traralgon Bypass, for Department of Primary Industries (2007)
- Shaw River Gas Fired Power Station and Gas Pipeline, for Santos Ltd (2009-2010)
- Planning Controls Assessment, Nelson Place, Williamstown for Nelson Place Village Pty Ltd (2011)
- Numerous Licensed Premises Amenity Impact Assessments (ongoing)
- Numerous residential unit and land subdivision proposals for various private clients (ongoing)
- Numerous highest and best use advices and opinions in relation to land acquisition and compensation cases