Ms Kathy Mitchell  
Chair East West Link (Eastern Section) Assessment Committee  
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Dear Madam  

Preliminary Hearing 14 January 2014  
My submission 000315_LEY  

I wish to raise at the Preliminary Hearing a preliminary matter which I believe is of fundamental importance and which arises out of matters referred to in my submission.

The role of this Assessment Committee is, to quote from the opening paragraph of its terms of reference dated 21 October 2013:

"The Assessment Committee has been appointed under sections 35 and 235 of the Major Transport Projects Facilitation Act 2009 (the Act) to assess the Comprehensive Impact Statement (CIS) for the East West Link (Eastern Section) Project (the project), and to make recommendations to the Minister for Planning (the Minister) whether or not to grant any applicable approval required for the project to be developed and if so to recommend appropriate conditions for applicable approvals”

The “Project” is, in the declaration by the Governor in Council on 19 December 2012, defined as:

“the proposed freeway standard link between the Eastern Freeway and the CityLink, generally along Alexandra Parade corridor, with a further southerly connection to the Port of Melbourne area”

The “Project” therefore comprises the whole link from the Eastern Freeway to the Port of Melbourne, not merely that part of it ending at CityLink.

The formal Notice of Public Exhibition of the CIS which was published in October 2013 refers only to the Project as a whole.


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The Victorian Government is proceeding with plans to develop the first stage of the East West Link from the Eastern Freeway to CityLink. Consideration is also being given to a further stage alongside CityLink to the Port of Melbourne area.

Further at http://www.linkingmelbourne.vic.gov.au/pages/east-west-link.asp it is stated:

"Planning is currently underway for the first stage of the East West Link, a six kilometre roadway connecting the Eastern Freeway with CityLink.

The Victorian Government has committed to building the East West Link Stage One, between the Eastern Freeway and CityLink. The formal planning study that we are currently carrying out also includes a connection from CityLink to the Port of Melbourne area.

While there is not currently any commitment to build the connection to the Port, Linking Melbourne Authority will continue to explore opportunities for procuring this section of the project and potential timeframes."

The CIS enthusiastically extols the benefits and glosses over the impacts of the "Project" i.e. the whole.

However you need to read the proponent's website to ascertain that there "is not currently any commitment to build the connection to the Port"

For anyone trying to assess the benefits and the impact of the Project, these sentences on the websites are very significant, but they do not appear in the CIS. How can this be?

I submit that this exposes a fundamental flaw in this CIS process.

The Project which is the subject of the CIS which this committee is asked to assess is, it seems, not the Project which will be built. Part only of a Project is a different Project, having different benefits and impacts.

For example, the first project evaluation objective of the Project as stated in the Scoping Directions is "to improve road based transport connectivity between the east of Melbourne and the Port of Melbourne". How can this be assessed if that part of the Project which was to connect to the Ports is not to be built?

The pros and cons of building a fast train line to Sydney are a little bit irrelevant if you only commit to build the line to Wangaratta.

I submit that issuing the CIS for the whole Project while intending to build only part of it is misleading and arguably contrary to the Act as well as the spirit of it. It enables the proponent to tout the benefits of the whole Project, many of which may not apply if only part of the Project is built.

There must be some doubt in these circumstances about the power of the proponent to proceed with a project which is different from the Project declared by the Governor in Council.

The role of the Committee is compromised as it is being asked to make recommendations about a project which is different to the one which the proponent apparently intends to construct.

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It is requested that the Committee give consideration to exercising its powers under section 57(4) of the Act to require the proponent to address these fundamental matters to the satisfaction of the Committee and if necessary to amend the CIS accordingly.

As an additional matter, I submit that although the Deputy Secretary of the Planning Building and Heritage Department determined on 15 October 2013 that the CIS as submitted by the proponent meets the requirements of the Major Transport Projects Facilitation Act 2009, it must be considered doubtful that it does in fact meet those requirements; which require it amongst other things to comply with the Scoping Directions. The Scoping Directions require for example:

Clause 2.3 The CIS must describe the rationale for the project, including the key strategic drivers that are the basis of the project. The economic as well as community benefits of the project should be described. Further, the CIS is to set out the reasons for the preference of the preferred project description.

Clause 2.6 The CIS must include a description of the practical implications of the project for other transport and land use policy initiatives and projects, including the Western Section of the East West Link and the Melbourne Metro 1 project.

It is submitted that it is strongly arguable that the CIS does not meet these requirements, as well as other particular requirements of the Scoping Directions.

The Committee is requested to give consideration to requiring the proponent to satisfy the Committee in relation to this aspect.

It is my intention to attend the Preliminary Hearing.

Yours faithfully,

Gordon Levy

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