

VCAT Victoria
Application P768 / 2014

Applicant
Mirvac Victoria Pty Ltd

Evidence Prepared at the Request of
Norton Rose Fulbright

Relevant Permit Application Summary
Application STA/2001/000714B to vary existing permit STA/ 2001/000714
to retain a powerline above ground but on a revised alignment

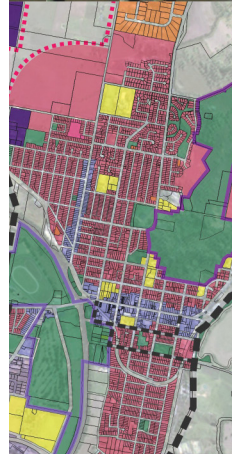
Subject Land
Waverley Park Victoria

Responsible / Planning Authority
Minister for Planning

Hearing Date
25 August 2014 commencement

Town Planning Report Prepared By
Michael Collie
BTRP, LFPIA

8 August 2014



Waverley Park
Town Planning Report to VCAT
VCAT P768 / 2014
Application STA/2001/000714B to revise Planning Permit STA/2001/000714

13 August 2014

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Appendices

Appendix A Response: Practice Note PNVCAT2 - Expert Evidence

Appendix B Panel Report Extract (page 110)



1 Introduction

This planning report has been prepared by Michael Collie (refer Appendix A: Response to Practice Note PNVCAT2 - Expert Evidence) at the request of Norton Rose Fulbright and relates to the proposal by the applicant to amend planning permit STA/2001/000714 to enable the existing high voltage powerline to remain above ground.

1.1 Subject Land

The subject land is located south of Wellington Road, north of the Monash Freeway and west of Jacksons Road, in Mulgrave. The site is indicated on the zoning extract map in Figure 1.1 below.

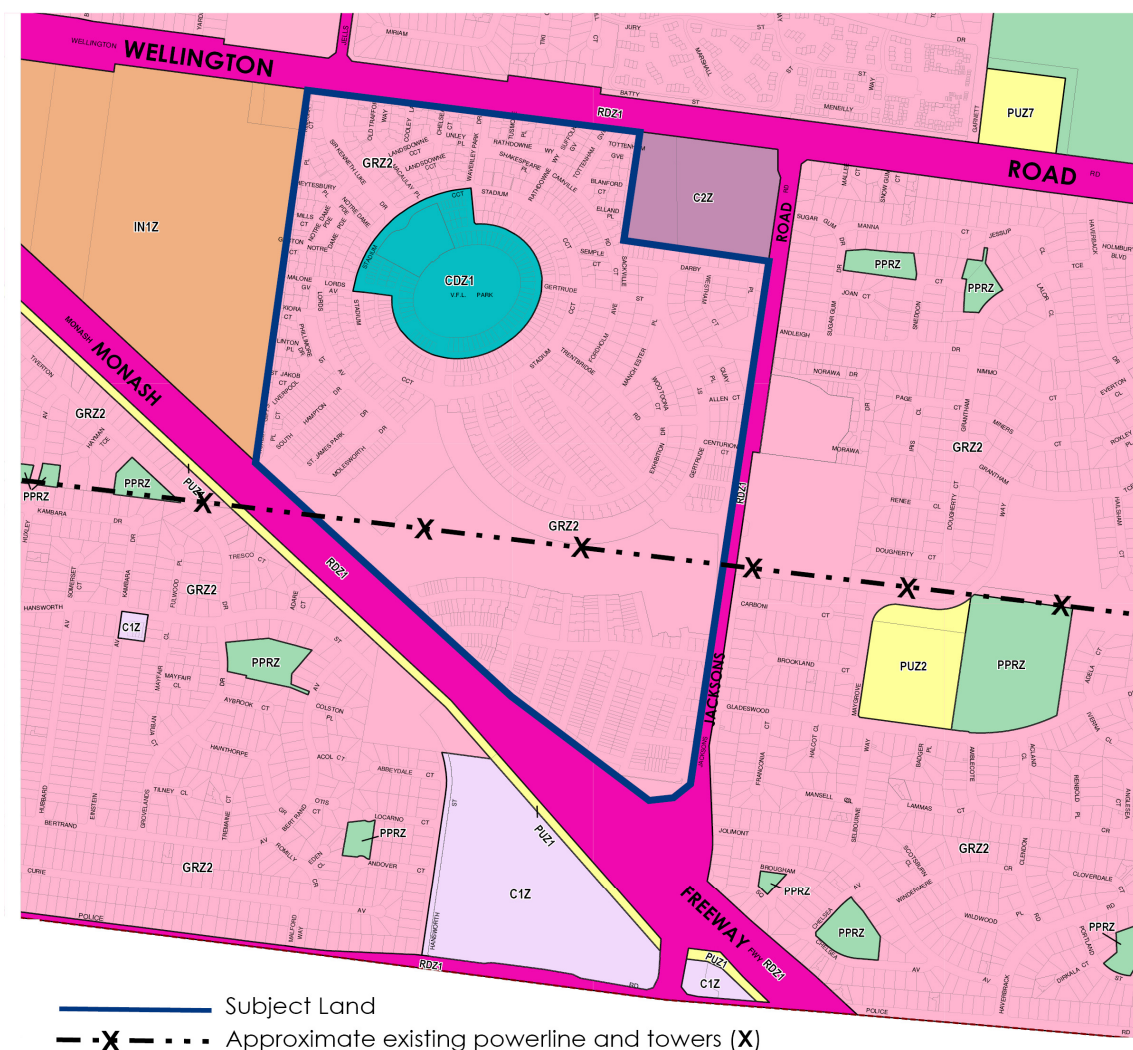


Figure 1.1 Subject Land

The subject land contains about 80 hectares.

Running generally east-west through the site and in its south portion, is an existing above ground high voltage powerline. There are two lattice towers on the land (one at the west end near the Monash Freeway and the second more central but closer to Jacksons Road) with a third further east on the east side of Jacksons Road.

1.2 The Issue

The original (and current) planning permit (STA/2001/000714) for the development of Waverley Park resulted from a Panel hearing and report in response to an amendment / section 96A application.

At the Panel hearing, there was considerable discussion about the Mirvac idea of placement underground of the high voltage powerline (refer Figure 1.1) subject to more detailed investigations.

The Panel recommended nevertheless, the inclusion of a new condition 50 in the permit but acknowledged that if circumstances changed, the permit and masterplan would need to be amended.

Based on extensive continuing investigations, the applicant has reached a position where it believes the placement underground of the powerline is no longer the appropriate solution and has sought a variation of the permit to allow the powerline to be re-aligned, to be retained above ground and to include new 'monopoles'.

The planning application (STA/2001/000714B) to enable this revised approach was advertised and approximately 150 submissions were received by the responsible authority. Subsequently, the application was refused and the applicant has sought the review (P768/2014) of that decision before VCAT, which has resulted in the present hearing.

1.3 The Applicant

The applicant is Mirvac who is the developer of Waverley Park and was the applicant for the original planning permit.

1.4 My Role

My role in the Waverley Park project is that Collie Pty Ltd (with me as its key representative) was appointed by Mirvac in 2001 as its planning consultant. In this role, I have assisted Mirvac in a variety of planning aspects of the project. Of particular relevance to this hearing has been my role in assisting with the preparation of various documents:

- Waverley Park Principles of Development March 2002;
- Waverley Park Preferred Neighbourhood Character Report March 2002;
- Waverley Park Planning and Development March 2002;
- Waverley Park Neighbourhood and Site Description March 2002;
- Amendment C20 statutory documents including Schedule 1 to the Neighbourhood Character Overlay, Schedule 1 to the Comprehensive Development Zone, the Waverley Park Comprehensive Development Plan and changes to the Local Provisions;
- Waverley Park Concept Plan August 2002;
- proposed conditions for the original section 96A planning permit application;
- the STA/2001/000714B planning permit application package.



I have also been involved in Mirvac project team meetings from time to time during the planning and development of Waverley Park. These meetings have sometimes included discussion of the powerline and issues associated with it being placed underground however, I have not been involved in the technical meetings about the issue.

2 Relevant History

2.1 Section 96A Application

The amendment / section 96A (Planning and Environment Act 1987) application that resulted in the approval of Monash Planning Scheme Amendment C20 (MAmC20) and planning permit STA/2001/000714, was exhibited up until 26 April 2002.

My recollection at the time was that Mirvac was interested in placing the high voltage powerline underground and was exploring this opportunity in terms of its cost and technical requirements.

The key exhibition documents included the following proposed amendments (to the Monash Planning Scheme (Scheme) unless otherwise stated).

2.1.1 Clause 21.02 Key Influences

The amendment proposed to vary clause 21.02-8 to acknowledge the demise of Waverley Park as an Australian Football League (AFL) playing venue and its potential as a new residential area to be designed on an integrated basis. There was no reference to the high voltage powerline.

2.1.2 Clause 21.03 Strategic Framework Plan

The amendment proposed to vary clause 21.03 to reference a new sixth (Waverley Park) residential character type area in the Municipality and to refer to the Waverley Park Preferred Neighbourhood Character Report, March 2002. There was no reference to the high voltage powerline.

2.1.3 Clause 21.04 Residential

The amendment proposed to vary clause 21.04 to add residential character "Type F" (Waverley Park) and proposed that the strategies would be implemented by adding reference to applying "the Comprehensive Development ZoneNeighbourhood Character Overlay to identify specific neighbourhood character objectives for special areas". There was no reference to the high voltage powerline.

The Waverley Park Preferred Neighbourhood Character Report, March 2002 was listed as a reference document.

In the exhibited Waverley Park Preferred Neighbourhood Character Report, March 2002:

- section 1.4 on page 2 described the "Waverley Park Preferred Neighbourhood Character" and listed eleven elements that the preferred neighbourhood character "incorporates" - and none of these eleven mentioned the placement underground of the powerline;
- section 2 ("Neighbourhood and Site Description") on page 3 noted the existence of the easement and high voltage powerline;
- section 3.7 on page 6, on the other hand, referred to "overhead powerlines" including the high voltage powerline and powerlines in Wellington Road and Jacksons Road and stated that the "opportunity exists for the visual amenity of Waverley Park and the adjoining roads to be improved by the placement of all of these powerlines underground as part of the redevelopment";
- similarly, under section 4.1 Design Philosophy on page 9, the Report referred to 'positive urban design outcomes' and the penultimate of these was "Relocation of the high-

voltage powerlines underground and the conversion of the associated easement into a high amenity open space";

- under section 4.3.5 on page 15, it was stated that it "is the intent of Mirvac to re-align and underground the overhead high voltage lines which traverse the site . . .".

2.1.4 Clause 22 Local Planning Policies

The amendment proposed to vary clause 22 by adding the detail to the proposed new residential character type F (Waverley Park) via:

- a "Current character statement" - that made no reference to the powerline;
- a "Contributory elements" section that listed "elements that contribute to the current character" with the list including "Overhead high voltage powerlines";
- a "Desired future character statement" that listed twelve incorporated elements (none of which included the placement underground of the powerline) and the provision that "All future development will be consistent with the documented desired neighbourhood character".

2.1.5 Clause 43.05 Neighbourhood Character Overlay

The amendment added the Neighbourhood Character Overlay (NCO) from the Victoria Planning Provisions and a new schedule 1 to that NCO. Schedule 1 contained:

- a "Statement of neighbourhood character" that specified that the "preferred neighbourhood character of Waverley Park incorporates" twelve elements none of which refer to the placement underground of the powerline but which included the provision that "All future development will be consistent with the documented preferred neighbourhood character" - which in my opinion would be the case with the powerline retained above ground;
- a "Neighbourhood character objective" that made no reference to the placement underground of the powerline;
- reference to the Waverley Park Principles of Development Report, March 2002 as a document to be considered by the responsible authority in determining planning permit applications - a document that makes no reference to the placement underground of the powerline;
- no other provisions that refer to the powerline.

2.1.6 The Proposed Planning Permit

The exhibited proposed planning permit contained no condition proposing / requiring that the powerline be placed underground. This reflected the fact that Mirvac had not confirmed the feasibility of such an action and therefore was not proposing it.

It is interesting to note that the only documents at the time that referred to opportunities to place the powerline underground were those prepared by hpa architects (Mircvac architects) including Waverley Park Preferred Neighbourhood Character Report, March 2002; Waverley Park Planning and Development, March 2002 report; and Waverley Park Neighbourhood and Site Description, March 2002 report. None of the proposed direct statutory provisions (and particularly clause 21.04 and the schedule to the NCO) proposed or even mentioned such an action / outcome. This was because the statutory documents (excluding one of the hpa reports) were drafted with no commitment to the placement underground of the powerline.

2.1.7 The Panel Hearing and Recommendations

The exhibition of the proposal resulted in a Panel hearing that commenced on 3 June 2002 and proceeded over thirteen days.

The Panel report (August 2002) with recommendations was provided to the responsible authority. The Panel report states (page 110)(refer extract in Appendix B), in terms of the powerline, as follows.

"Removal of the overhead high voltage power lines is referred to in the Waverley Park Preferred Neighbourhood Character report but is not shown on the actual masterplan. If the undergrounding of the power lines does not proceed, the masterplan will require amendment because the proposed layout would be inappropriate with the power line easement in its present position. The planning permit should be subject to a condition requiring the removal of the easement and the undergrounding of the powerlines. In fact the undergrounding is so integral to the overall design that the Panel considers agreements should be entered for these works within five years, otherwise an amendment to the permit and Waverley Park Concept Plan must be sought.

The Panel recommends that The Waverley Park Concept Plan should be modified to make it clear that the overhead high voltage lines will be undergrounded and if not, the masterplan will be amended. A condition should be included in the permit requiring agreements to be entered for the undergrounding works within five years, otherwise and amendment to the permit and the Waverley Park Concept Plan must be sought " [Panel emphasis]

In my opinion, this conclusion makes it clear that the Panel allowed for the possibility that the placement underground of the powerline may be reconsidered in the future.

2.1.8 Approval of MAmC20 and Permit

The amendment was gazetted on 14 August 2002 and permit STA/2001/000714 issued dated 14 August 2002 with changes from the exhibited version reflecting various adopted Panel recommendations and other changes determined by the responsible authority.

Relevant for this application, the changes in the final permit when compared with the exhibited version included:

- the addition in the preamble of the need for the permissible uses and development to be generally in accordance with the Waverley Park Preferred Neighbourhood Character Report, March 2002 as modified by recommendations from the Panel;

- a new permit condition 1 requiring a subdivision masterplan generally in accordance with the Waverley Park Preferred Neighbourhood Character Report, March 2002 as modified by recommendations from the Panel, to the satisfaction of the responsible authority;
- addition of a new permit condition 50 that requires the removal of the existing powerline easement and the placement underground of the powerline in a location to the satisfaction of the relevant electricity authority.

2.2 Mirvac Preferred Character for Waverley Park

The Mirvac preferred character for the re-development of Waverley Park was as reflected in the NCO as exhibited as part of MAmC20 and incorporated:

- comprehensive built form and lot layout planning and development incorporating integrated architectural design to ensure compatibility of building styles, interrelationships and texture, colours and finishes;
- buildings and lots designed and constructed providing residents with high levels of amenity while incorporating extensive lengths of walls on boundaries, two and three storey walls on some boundaries, higher site coverage and balconies, verandahs, porches and other building features protruding into setbacks, all as part of the design and implementation of a planned intensive high density urban form;
- buildings generally at about three metres setback from street frontages and 1.5 metres from sideages but in some situations (to meet specific design intentions such as to provide strong visually distinct borders to important vistas, 'statement' buildings at intersections and hard edges to public spaces) with buildings built to one or more street boundaries;
- the scale and juxtaposition of dwellings composed within each streetscape and ranging from one to three levels (excluding the apartment buildings), based on particular site location and massing arrangements;
- the retention and promotion of significant views and vistas within the site;
- a generally concentric (based on the oval) main road pattern reminiscent of the previous radial street layout;
- precincts based on structured open spaces and clearly delineated circulation paths that provide permeability, passive surveillance of public areas and greater safety;
- retention of the oval;
- re-use of the retained portion of grandstand for administrative, commercial, sporting and community purposes such as a convenience shop, gymnasium, sports clubrooms, offices and associated facilities;
- the remainder of the stands removed but with the mounding adapted to include a ring of apartment buildings to a maximum height of RL104 metres (up to about four storeys excluding basements) except for either side of the remaining grandstand in which case the apartment buildings will be to a maximum height of RL 121.1 metres (up to about seven storeys excluding basements);
- beyond the apartment buildings, townhouses and 'terraces' stepping down the slope to medium density dwellings that will be developed on the remainder of the site and include about 1250 dwellings;

- provision of a lake as a main water feature and sited generally in the area of the existing lake.

The preferred neighbourhood character was based on a vision to meet heritage element protection requirements, a layout that recognised significant views and vistas, built form variety but with a clear theme, and a permeable and structured open space / landscape.

The preferred neighbourhood character did not include the placement underground of the powerline although a revised alignment was envisaged.

Mirvac was interested in the visual amenity to be gained by undergrounding the powerline (as reflected in 'opportunities' noted in its Waverley Park Preferred Neighbourhood Character Report, March 2002) but there was at the time no clear indication of what this would involve and thus whether it was feasible. It was not a critical element of the preferred neighbourhood character and was not proposed in any of the exhibited direct statutory documents or the exhibited proposed planning permit.

2.3 Underground Powerline History

I have reviewed the Collie Pty Ltd files from June 2001 when Collie first became involved in the Waverley Park project. Those files include meeting notes from 29 August 2001 where the possibility of the powerline being placed underground was first raised as an idea at a meeting I attended.

Subsequent references in my meeting notes reflect, on my part at least, an understanding that there was an interest in placing the powerline underground subject to more information on the cost and the technical issues associated with it. For example, my notes from a meeting on 18 February 2002 include that advice had been sought from the relevant authority on the cost of undergrounding the powerline.

My recollection is that it was assumed the powerline (in whatever form) would be in an easement that could be accommodated in a widened road reserve and that masterplanning could continue on this basis.

My further recollection is that in the vision / masterplanning, the undergrounding of the powerline was not a key theme but was an idea that was considered worth further investigation. It was assumed an alignment could be accommodated whatever the outcome of further investigations.

The estimate of cost provided at the time of the Panel hearing was \$12 million (assuming any transition enclosures would be on Waverley Park) and I understand this was based on advice provided by SPI PowerNet.

I recollect that the idea of undergrounding seemed to me to be the Mirvac intention until some years later when continuing investigations had raised significant concerns about the technical requirements / uncertainties and had significantly increased the cost estimates from those available at the time of the Panel hearing.

2.4 Powerline Investigations

I understand that the powerline investigations have been relatively continuous since the start and have seen new information / requirements emerging during this period, to the point that in recent years the technical requirements / operational risks / costs have significantly changed the understandings that existed at the time of the Panel hearing.

Others with the relevant involvement / expertise will provide the details in this regard.

3 The Proposal

3.1 Proposal Summary

The application the subject of this VCAT hearing is generally to retain the powerline above ground but vary its alignment, increase the height of the line to meet clearances required above the Monash Freeway acoustic wall and vary the structures from lattice towers to 'monopoles'. The application seeks to amend condition 50, to add two new related conditions and to vary the endorsed plans under the original permit.

More specific details of the proposal are set out in the planning report that accompanied application STA/2001/000714B and in reports to be provided to VCAT by others.

3.2 Issues Emerging

Over recent years, I understand that details that have become available to Mirvac from the relevant authorities and experts on undergrounding of the powerline, have firstly questioned and later confirmed that the idea is much more complex than ever anticipated and thus would be much more expensive than ever envisaged or originally predicted.

Advice received and included in the planning report accompanying application STA/2001/000714B is that the significant new information that was not available at the time of the Panel hearing has resulted from continuing investigations including for example that:

- the estimated cost has increased from \$12 million to in excess of \$45 million (2012 estimate by SP AusNet) - whereas a typical (such as used in development contributions plans costing) indexation over the period of 2002 to 2014 would see a cost increase to about \$17 million;
- the need for two large transition enclosures where the line transfers from above ground to underground at each side of Waverley Park;
- other associated impacts to be addressed by relevant experts.

3.3 Planning Assessment

Throughout the urban area a number of above ground high voltage powerlines exist, the closest being the subject powerline either side of Waverley Park.

I have been involved in the masterplanning of various new communities in which such powerlines have been part of the existing conditions. In my experience, none of the masterplans / development plans / precinct structure plans or planning permits, have required the placement underground of such powerlines.

For many years, it has been planning policy / permit requirement that all lower voltage reticulated electricity to new lots in new estates be via underground wiring but this has never, in my experience, been extended to requiring the replacement of a high voltage powerline such as that at Waverley Park, with an underground powerline. Mirvac nevertheless, was interested in doing this based on the advice / knowledge at the time. It was only at the Panel that the idea became a requirement.

Now, after years of continuing investigation, Mirvac has been advised that the requirements / costs in 2014 are so very different from those anticipated in 2002 that it is no longer reasonable / feasible

to place the powerline underground. In my opinion this change of intent should not be, in a planning sense, a reason to refuse to vary the permit.

The proposed change is not at odds with the normal interpretation of any relevant planning policy and the result would be entirely consistent with the treatment of similar powerlines throughout the urban area of Melbourne.

I know of no other case where a land developer has been directed to place underground such an existing portion of such a high voltage powerline.

In terms of visual amenity, I defer to the evidence of Messrs Barlow and Murphy. I note however, that if there were no transition enclosures, the underground option would result in a better visual amenity and 'out of sight; out of mind' may lessen concerns about other issues. The transition enclosures, in my opinion turn to negative any amenity advantage of undergrounding in the general vicinity of the enclosures but not to the central area removed from the enclosures.

The proposed change to monopoles from lattice towers in the above ground proposal, is likely to be a visual amenity improvement due to the more slender appearance of the monopoles - but I acknowledge this is subjective.

I accept that for a person living in Waverley Park in the vicinity of the powerline alignment but removed from the transition enclosures, the underground option would offer a visual benefit but in my opinion, any such benefit must be considered more broadly. If the cost of placement underground of the powerline in 2012 was estimated to be in excess of \$45 million (and presumably it is this or more today), then in the long run the community as a whole pays for this and I do not see the merit of this action; or to put it another way, I do not expect that developers of all future estates with such powerlines running through them will be required to place those powerlines underground. The cost is just prohibitive.

The difference between what Mirvac is now proposing to spend associated with retaining the powerline above ground and the latest estimated cost, is \$23 million. This difference would be funded by the equivalent of an extra \$15,333 per lot across the whole (1500 lots) of Waverley Park. Based on this equation and the lessening of any local visual benefit as lots are more removed from the powerline and transition enclosures, I do not see the merit it spending this money in this way.

3.4 Submissions and Responses

In response formally to application STA/2001/000714B (but also to Mirvac advices to residents over several years), there has been concern from some residents about the possible retention above ground of the existing powerline.

These concerns have been expressed by approximately 150 submitters opposing the granting of application STA/2001/000714B and my brief summary of their key concerns and my response is in tabular form below.



Concern Summarised	My Comments / Suggestions
<p>1 Reversal of previous promises and representations that powerline would be placed underground / breach of contractual obligations.</p>	<p>I am unaware of the details of the basis of this concern but nevertheless do not believe it is a relevant planning ground for refusing the application.</p>
<p>2 Would allow Mirvac to avoid meeting a cost that it has already charged to property owners. If the works had been done earlier the costs would have been less and thus Mirvac only has itself to blame.</p>	<p>My understanding is that Mirvac had been advised in 2001 of a \$12 million cost for the placement underground of the powerline and that it understood this would be the anticipated cost in the implementation of condition 50.</p> <p>It seems to me that, consistent with the approach for example with development contributions, it is reasonable to expect that this 'agreed' figure would be indexed over time until the undergrounding was completed. My rudimentary calculation of \$12 million indexed at 3 per cent from 2001 to 2014 results in the \$12 million figure increasing to about \$17 million.</p> <p>Although there may be differing opinions on whether the indexed amount should be transferred to other projects (and which) if the undergrounding were not to proceed, in my opinion it is not reasonable to expect that the undergrounding should proceed where the cost is now (2012) estimated at \$45 million. This is nearly four times the original estimate or equivalent to indexation at about 12 per cent per annum.</p> <p>Mirvac is proposing to retain the powerline above ground on a revised alignment and with monopoles replacing lattice towers, to increase public open space, to spend more on enhancement of public open space and to provide a 'community benefits package', all at a cost of \$22 million which is well above the figure that would result from the reasonable indexation of the original \$12 million figure.</p> <p>In my opinion therefore, it is wrong to say that Mirvac is proposing to avoid the cost of placing the powerline underground.</p>
<p>3 The re-development of Waverley Park has proceeded under a permit that includes condition 50 and thus it should be met.</p>	<p>At the time of the June 2002 Panel hearing, Mirvac had the desire to place the powerline underground but there was no certainty that it was feasible. The available estimate of cost in 2001 from the relevant authority was \$12 million.</p> <p>The Panel report makes clear that in the future, there could be a point reached where the masterplan / permit would need to be amended if the powerline was no longer to be placed</p>

Concern Summarised	My Comments / Suggestions
	<p>underground. That point has been reached in the view of Mirvac and hence this application.</p> <p>The redevelopment of Waverley Park proceeded on the basis of the permit and rezoning considered and reported on by the Panel. Irrespective of the planning system allowing for review of permits, in my opinion it is unreasonable to refer to condition 50 without acknowledging the significant changes that have occurred since it was written.</p> <p>I believe that a fair and reasonable cost to placement underground of the powerline is one thing but that it is not reasonable to do so where it is not done elsewhere, is certainly not done for the same powerline either side of Waverley Park and where the cost has multiplied well beyond the expectations of Mirvac or any reasonable person.</p>
<p>4 The cost of placement underground of the powerline should have been assessed before commencing the permitted development and use.</p>	<p>I understand that Mirvac made considerable efforts to assess the requirements and associated costs and has continued to do so but those requirements were neither agreed nor clear (in large part presumably because they involve infrastructure owned and operated by a third party) and the estimates of cost from the relevant authority have increased well beyond what might be considered reasonable in similar planning situations.</p> <p>Mirvac is not trying to avoid expenditure that was anticipated at the time condition 50 was included in the permit but is proposing to meet those costs including more than what might be considered 'normal' indexation of those costs.</p>
<p>5 Detrimental to the visual character / aesthetics of the area and amenity of residents.</p>	<p>I defer to the evidence of Messrs Barlow and Murphy. Overhead high voltage powerlines are a characteristic of many existing and new urban areas and the land under them has been treated in different ways ranging from retention in lots, to attractive and well-used public open space to 'leftover' land.</p> <p>I accept that in an ideal world all such powerlines would be out of sight but the cost of doing so overrides meeting that ideal. Certainly in this case, Mirvac wished to reach the ideal but the technical requirements and costs that have emerged over time have meant it is not feasible and thus no longer reasonable.</p>
<p>6 Detrimental to the development and use of public open space.</p>	<p>I defer to the evidence of Messrs Barlow and Murphy. There are many examples of well used and attractive public open space associated with such powerlines.</p>
<p>7 The community benefits package compensation</p>	<p>I believe the total proposed expenditure by Mirvac in lieu of that reasonably estimated (with indexation to today) at the time of the</p>

Concern Summarised	My Comments / Suggestions
payment is deficient.	granting of permit STA/2001/000714 is acceptable when compared with the typical approach to development contributions.
8 Reduction in property value.	This is not a valid planning ground.
9 The above ground powerline area and associated facilities would not be safe to use or their usefulness would be diminished.	I defer to the evidence of Messrs Barlow and Murphy. Refer to 5 and 6 above.

In addition, there were submissions in support of the application, that were based on not moving the powerline closer to their home; the benefit of funding diverted from undergrounding to enhancements; the disadvantages of the "transition structures"; that powerlines above ground are commonplace and other points.

4 Waverley Park Today

Waverley Park is being developed generally in accordance with the preferred neighbourhood character.

For example, I believe:

- the internal street pattern has picked up the required reflection of the original car park access lanes, has provided a prominence to the mural required to be retained, has retained and promoted the key original access points and has protected identified vistas to the oval and grandstand;
- the housing has been developed in accordance with the preferred neighbourhood character and reflecting integrated architectural design;
- the oval homes are a good interpretation of the intent to 'reproduce' the original stadium surrounding the oval in that they provide the 'fence' and edge to that oval and a raised built form reminiscent of the stadium tiers while ensuring a good outlook onto the oval from the homes;
- the redevelopment and re-use of the retained portion of the grandstand seems to me to have also responded well to the original intent while implementing the heritage requirement and has reflected the Mirvac design interests by doubling the size of the required retention portion to give it a better proportion and potential usefulness.

5 Conclusion

In my opinion based on my involvement in the Mirvac Waverley Park re-development project from the outset:

- the idea for the placement underground of the high voltage power line was a Mirvac idea and not a response to any planning policy or requirement but was acknowledged at the time as needing further investigation in respect of its feasibility for implementation;
- leading into the original amendment / section 96A planning permit and Panel hearing, the idea remained just that as reflected in the exhibited direct statutory documents and the exhibited proposed planning permit;
- nevertheless, the then most recent investigations had indicated a cost of the works of \$12 million, which was acceptable to Mirvac;
- despite reservations about the feasibility of the works even at the original Panel hearing, the Panel report recommended the inclusion of condition 50 in the permit requiring the placement underground of the powerline;
- the Panel acknowledged however, that further investigations of the proposed works may lead to a finding that it was not feasible to place the powerline underground and in such an event, the permit and masterplan would need to be amended.

I believe that continuing investigations have now identified that the placement underground of the powerline is not feasible and is not a reasonable planning requirement in these new circumstances.

I accept also however, that the expenditure by Mirvac of the costs (with appropriate indexing) anticipated for the powerline works is reasonable to be re-directed to projects in Waverley Park that provide a community benefit.

I believe therefore, that the changes sought in planning permit application STA/2001/000714B are reasonable on planning grounds and should be supported by VCAT.



Appendix A

Response: Practice Note PNVCAT2 - Expert Evidence

Practice Note PNVCAT2

Expert Evidence

Name and Address of Expert

- Michael J S Collie
29 Coventry Street
SOUTHBANK VICTORIA 3006

Expert's Qualifications and Experience

- Bachelor of Town and Regional Planning (University of Melbourne).
- Life Fellow, Planning Institute of Australia.
- Past National President, Planning Institute of Australia.
- Past Victoria President, Planning Institute of Australia.
- Director, Collie Pty Ltd (Collie).
- Member, Planning Advisory Board, University of Melbourne.
- Qualified Town Planner and consultant on projects in the Australian Capital Territory, New South Wales, Queensland, Tasmania and Victoria.
- Projects have ranged widely in size, complexity, issues and policies involved, land use types and duration.
- Statutory and strategic planning; development planning; urban design; negotiations and consultation and project management.

Expert's Expertise to Make Report

- Relevant qualifications and experience.
- Involvement over time in urban, rural and transition area planning issues.
- Involvement over time in the intent, drafting and operation of statutory planning controls, development and structure plans, related urban development and development projects.

Relationship with Party for Whom Report Prepared

- Collie Pty Ltd has been a town planning consultant to Mirvac on certain projects since about 2001. Michael Collie has been involved in a number of these projects as the prime representative of Collie Pty Ltd and in particular on the Waverley park project.

Instructions that Defined the Scope of the Report

- Michael Collie, having regard to his history on the project, was requested generally by Norton Rose Fulbright to prepare a report dealing with the relevant planning background to the Waverley Park re-development project and to comment on the degree to which in his opinion it has met the original intentions for the development.
- The detailed scope of this report was left to his discretion.
- He was advised that an independent town planning expert would be called to provide opinion on the merits of the current application.

Facts, Matters and Assumptions upon which the Report Proceeds

- Examination of documents and related material.
- Inspection of the area and surrounding land.
- Review of other relevant known planning controls and policies.

Documents, Materials and Literature used in Making Report

- I was provided with a file of key documents but was given no instructions about the documents, matters or literature to be used in making this report. It was entirely at my discretion to research and utilise any such material I considered relevant. To the best of my ability I have made inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld.
- The materials used are referred to in the report.

Identity and Qualifications of Person Responsible for Tests or Experiments used by Expert in Making the Report

- Not applicable.

Summary of Opinions of Expert

- Refer to relevant sections of the report.

Provisional Opinions Not Fully Researched

- None unless specified in the report.

Questions Outside Expert's Expertise

- None unless specified in the report.

Report Incompleteness or Inaccuracies

- None known.

Declaration

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



19 July 2014

Michael Collie

Appendix B

Panel Report Extract (page 110)

<p>Construction and use of a minor sports and recreation facility, construction and use of a place of assembly</p>	<p>Not agreed. The location is appropriate and should be shown in the Waverley Park Concept Plan. But the lack of detail about the nature of the use and its final form make approval of this use and development premature at this stage for the reasons set out in Section 6.6. A separate planning permit should be issued when these details are known.</p>
<p>Creation and alteration of access to a road in a Road Zone Category 1</p>	<p>Agreed.</p>
<p>Variation of an electricity easement</p>	<p>Agreed. Removal of the overhead high voltage power lines is referred to in the Waverley Park Preferred Neighbourhood Character report but is not shown on the actual masterplan. If the undergrounding of the power lines does not proceed, the masterplan will require amendment because the proposed layout would be inappropriate with the power line easement in its present position. The planning permit should be subject to a condition requiring the removal of the easement and the undergrounding of the powerlines. In fact the undergrounding is so integral to the overall design that the Panel considers agreements should be entered for these works within five years, otherwise an amendment to the permit and Waverley Park Concept Plan must be sought.</p> <p>The Panel recommends that The Waverley Park Concept Plan should be modified to make it clear that the overhead high voltage lines will be undergrounded and if not, the masterplan will be amended. A condition should be included in the permit requiring agreements to be entered for the undergrounding works within five years, otherwise and amendment to the permit and the Waverley Park Concept Plan must be sought.</p>
<p>Removal of vegetation</p>	<p>Agreed. The Panel is satisfied there is no vegetation or habitat of significance that is proposed to be removed. However, in response to the submission by Ms. Ruth Marriott, the Panel recommends that vegetation on areas not currently the subject of staged works (including outfall hydraulic infrastructure) should be left undisturbed until the area is ready for development.</p>
<p>Reduction in the number of car spaces</p>	<p>Not Agreed. This relates to use and development in the Comprehensive Development Zone and possibly to the minor sports and recreation facility and place of assembly. Insufficient information is available about these matters to agree to such a reduction at this stage.</p>