NORTH EAST LINK ADVISORY COMMITTEE

4 BANKSIA STREET, HEIDELBERG

SUBMITTER: BARRY TEESE, GREENERY GARDEN AND LEISURE CENTRE PTY LTD
(SUBMITTER NO. 429)

COMMENCING: 2:15PM ON TUESDAY 10 SEPTEMBER 2019

PLACE: VENETO CLUB, 191 BULLEEN ROAD, BULLEEN

SUBMISSIONS ON BEHALF OF BARRY TEESE
(SUBMITTER #429)

BEST HOOPER LAWYERS
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Ref: DS:150917
1. The submission of Mr Teese is essentially set out in my firm’s correspondence to the North East Link Advisory Committee of 6 June 2019. In addition to those submissions, I am instructed to observe and recommend as follows.

2. 4 Bansokia Street, Heidelberg is a parcel of land outside of the area the subject of the Environment Effects Statement ("EES") but is land the Committee should recommend a be included within it. Relevantly, the IAC has power to recommend any changes to the draft Planning Scheme Amendment that it considers necessary pursuant to Clause 2(c) of the terms of reference for North East Link Project – Enquiry and Advisory Committee:

"The IAC is appointed as an advisory committee under Section 151 of the P & E Act to:

(a) Review the draft planning scheme amendment (draft PSA) which has been prepared to facilitate to Project, along with any submissions received in relation to the draft PSA.

(b) Provide a report to the Minister for Planning as to whether the draft PSA contains provisions and controls that are appropriate for the Project.

(c) Recommend any changes to the draft PSA that it considers necessary."

3. It is submitted 4 Banksia Street is an ideal site for a depot for construction vehicles during the course of development of the North East Link Project. It is level surfaced land with existing vehicular access comprising 2.4498 hectares. It is submitted the IAC should recommend that the PSA boundaries be altered to include it and that it be acquired for the purposes of a depot during construction of the North East Link Project.

4. It is submitted that after completion of the Project, the land would ideally be suited for public open space given its Yarra River abuttal.

5. In addition, I note my client has made submissions to the Yarra River – Bulleen Precinct Advisory Committee which has been established to provide strategic and statutory planning advice to the Minister for Planning on the future of the Yarra River – Bulleen Precinct. The submission to that Committee was that the site could accommodate the acquisition of a bicycle/pedestrian link along the river edge and removal of the balance of land from the Public Acquisition Overlay.
6. Whereas, it is submitted the IAC could consider this site for bicycle/pedestrian path linkages across the Yarra River once this site is no longer required as a depot, together with the balance of the land for public open space.

Date: 10 September 2019

BEST HOOPER Lawyers for
and on behalf of Barry Teese, Greenery Garden and Leisure Centre Pty Ltd (Submitted #429)
SCHEDULE OF DOCUMENTS ATTACHED

1. Best Hooper letter to Yarra River – Bulleen Precinct Advisory Committee of 6 June 2019;
2. Certificate of Title Volume 8385 Folio 479 and Title Plan 323968L;
3. Kearney Tyrell Surveying Pty Ltd (Surveyor’s Reference 12740 Version 5 18/5/06);
4. The Greenery Heidelberg Main Rail Trial Realignment draft (September 2007);
5. Cadastral Plan;
6. Aerial photograph; and
6 June 2019

The Panel Chair
Yarra River – Bulleen Precinct Advisory Committee
Via online portal

Dear Sir/Madam,

Yarra River – Bulleen Precinct Advisory Committee
4 Banksia Street, Heidelberg

We act on behalf of Mr Barry Teese, the land owner of 4 Banksia Street, Heidelberg ("the subject site").

Our client has instructed us to make a submission to the Yarra River – Bulleen Precinct Advisory Committee. We are instructed that the Advisory Committee has been established to provide strategic and statutory planning advice to the Minister for Planning on the future of the Yarra River - Bulleen Precinct.

**Executive summary**

In summary, our client supports the preparation of the Yarra River – Bulleen Precinct Land Use Framework Plan. However, aspects of the plan should be revised to provide greater certainty in respect to:

1. The future intended land use of the subject site.

2. Public Acquisition Overlay 2 Schedule, and whether it is required having regard to current strategic planning policy.

3. The implementation of the recommendations of the Yarra River – Bulleen Precinct Land Use Framework Plan.

It is submitted that it is open to the Committee to make recommendations in respect to the above matters, having regard to its terms of reference.

We outline these submissions in detail below.

**Submissions**

On behalf of our client, we request that the Committee consider the following submissions:

1. Our client is the land owner of 4 Banksia Street, Heidelberg ("the subject site"). Our client has owned the property since 1973.
2. The Yarra River surrounds the site on its north and east boundaries. The Main Yarra Trail abuts the site on its south boundary.

3. The subject site is zoned Urban Floodway and affected by the following overlays:
   a. Design And Development Overlay - Schedule 2-B ("DDO2-B")
   b. Environmental Significance Overlay - Schedule 1 ("ESO1")
   c. Land Subject To Inundation Overlay Schedule ("LSIO")
   d. Significant Landscape Overlay - Schedule 1 ("SLO1")
   e. Public Acquisition Overlay 2 Schedule ("PAO2") - Melbourne Parks & Waterways (Open Space)

4. The land is currently developed and used for the Greenery, a retail plant nursery.

5. PAO2 has applied to the site since gazetted on 3 December 1975. The Yarra River – Bulleen Precinct Land Use Framework Plan provides the following commentary in respect to this overlay:

   Above: extract of Map 2 - Yarra River – Bulleen Precinct Land Use Framework Plan

6. PAO2 also applies to a number of properties in vicinity of the subject land, including the former Bulleen Drive-Inn. Relevantly, the terms of reference for the Committee include the consideration of the draft Planning Scheme Amendment for this site which proposes to remove the PAO from part of the land.

7. Our client has for some time been in discussions with the Department of Land, Water and Planning to encourage it to pursue the acquisition.

8. To date, Government has pursued the acquisition of the land in part. A final draft Heads of Agreement dated 2015 is now stalled. This is notwithstanding that the overlay has applied to
the land for some 46 years. It is questioned whether the land is indeed required. The site is not identified in Map 4 as being an area of open space:

Above: extract of Map 2 - Yarra River – Bulleen Precinct Land Use Framework Plan

9. It is submitted the description of the land in the Framework Plan, insofar as its use is concerned is unclear. It is submitted that this is likely to give rise to further issues in the future in respect to the use and development of the land.

10. It is clear that this is a strategic context where Government has for some time delayed acting upon statutory tools which have been made available to it. It is unfair and poor planning to sterilise a site for near half a century with a PAO over it.

11. The draft Yarra River – Bulleen Precinct Land Use Framework Plan provides little by way of recommendations for implementation. It is submitted that this is a missed opportunity and one which is a flaw in the current drafting of the Yarra River – Bulleen Precinct Land Use Framework Plan.

12. It is submitted the Committee should recommend an implementation plan be prepared and that one such implementation tool be a review of the PAO controls that apply within the precinct. It is noted that Action 11 of the Yarra Action Plan specifies:

There is to be a moratorium on the reduction of Public Acquisition Overlays (PAOs) or sale of public land along the Yarra River corridor until the Yarra Strategic Plan is finalised. The new Birrarung Council is to provide the Minister with advice on specific exceptional cases until the Yarra Strategic Plan is in place.

a. Review all Crown land reservations, public acquisition overlays and land acquisition opportunities along the river for alignment with the Yarra Strategic Plan.
b. **Align the public land reservations and PAOs with the Yarra Strategic Plan.**

13. It is submitted that the Committee, in context of the Land Use Plan for this precinct should concern itself with whether the PAO's are required to achieve the strategic objectives of the Framework Plan, in particular, on its site.

14. In the event that the Committee considers that the PAO should remain, it is submitted that the subject site should be considered to accommodate a bicycle/pedestrian link as proposed in the draft Terms of Settlement and this process for land acquisition and removal of the PAO from the balance of the land be identified in the Framework Plan as a stated intention for expedited action.

15. In this regard we note that the Yarra River – Bulleen Precinct Land Use Framework Plan contemplates that the bike link will be developed on the north side of the River (as opposed to the subject land). The Framework Plan should identify a link to be co-located along the river’s edge of the subject site.

16. In addition to the above submissions we also make the following comments in respect to the drafting of the Yarra River – Bulleen Precinct Land Use Framework Plan:

a. The subject site is described in a number of Maps as being a "key site". However, the table on page 53 titled "Framework Plan Summary: Key Sites" does not mention the site.

b. It is submitted that the subject site should be listed in the table for a bicycle/pedestrian link.

We request that this submission be referred to the Committee, and that we be invited to present before any public hearings which are scheduled.

Yours faithfully

BEST HOOPER

Dominic Scally
Principal
Victorian Land Titles
REGISTER SEARCH STATEMENT

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REGISTER SEARCH STATEMENT

Security no: 124022621706S

Volume 08385 Folio 479

Produced 19/07/2007 02:14 pm

LAND DESCRIPTION

Lots 1, 2, 3, 4 and 5 on Title Plan 323968L (formerly known as part of Crown Allotment 4 Section 28 Township of Heidelberg, part of Crown Allotment 5 Section 28 Township of Heidelberg, part of Crown Allotment 6 Section 28 Township of Heidelberg, part of Crown Allotment 7 Section 28 Township of Heidelberg, part of Crown Allotment 8 Section 28 Township of Heidelberg Parish of Keelbundora).

PARENT TITLE Volume 03717 Folio 343

Created by instrument B427897 23/05/1962

REGISTERED PROPRIETOR

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Estate Fee Simple
Sole Proprietor
GREENERY GARDEN & LEISURE CENTRE PTY. LTD. OF 4 BANKSIA STREET HEIDELBERG
G988103 02/03/1978

ENCUMBRANCES, CAVEATS AND NOTICES

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MORTGAGE 7677882S 12/05/1995
NATIONAL AUSTRALIA BANK LIMITED

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

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SEE TP323968L FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

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NIL

STATEMENT END