

BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE

David Smith Witness Statement

Prepared for the purpose of a Board of Inquiry

17 April 2025

WITNESS STATEMENT OF DAVID SMITH

Name: David Smith
Address: 2 Queen Street, Mornington
Occupation: Director – Assets & Infrastructure
Date: 17 April 2025

1. I make this statement in response to the Second Request to Produce a Witness Statement dated 4 April 2025 (**Notice**). This statement has been prepared with the assistance of lawyers and Shire officers.
2. This statement is true and correct to the best of my knowledge and belief. I make this statement based on matters within my knowledge and documents and records of the Council. I have also used and relied upon data and information produced or provided to me by officers within the Shire.

Roles and Responsibilities**Employment history**

3. I have been employed by the Shire for approximately 16 years and 4 months in total and have been back with the Shire for approximately 13 years and 10 months during my current employment period. During my time employed by the Shire I have held the following positions:
 - (a) Director – Assets & Infrastructure, November 2024 to present;
 - (b) Manager – Programs and Project Management Office (PPMO), July 2021 to November 2024;
 - (c) Chief Recovery Manager, January 2021 to June 2021;
 - (d) Executive Manager – Infrastructure Strategy & Climate Change, February 2018 to January 2021;
 - (e) Interim Manager – Buildings and Facilities, March 2017 to February 2018;
 - (f) Manager – Infrastructure Strategy, November 2014 to March 2017;
 - (g) Project Manager – Renewal Planning, July 2013 to November 2014;
 - (h) Senior Asset Management Engineer, July 2011 to July 2013; and

- (i) Traffic and Road Safety Engineer, December 2005 to June 2008.
- 4. In between my employment periods at the Shire, I was:
 - (a) Traffic Manager, Abigroup Contractors, May 2010 to July 2011; and
 - (b) Senior Project Engineer, Downer, June 2008 to May 2010.
- 5. I obtained a Bachelor of Engineering from the University of Melbourne in 2005.

Response to Questions

- 6. This statement responds to question 12 in the Notice.

Question 12

In the Between Landslides Period, for each of Penny Lane, Margaret Street, View Point Road, Prospect Hill Road, Coburn Avenue, Charlesworth Street and the Eyrie, in McCrae, please provide a table which includes:

- 12.1 a description of any:
 - (a) roadworks performed to repair pot holes or other sunken parts of the road or footpath; and
 - (b) stormwater works performed to address any drainage issues;
- 12.2 the location of the works;
- 12.3 the date those works were performed; and
- 12.4 any photographs depicting the location before and after the works were performed.

- 7. My answer to question 12 is based upon records of roadworks and stormwater works undertaken by the Shire that I have been able to access in the time available to prepare this witness statement. I was not personally involved in any of these works.
- 8. A particular limitation in accessing data relevant to question 12 in the time available has been the fact that much of the data is held by third-party contractors:
 - (a) from 1 November 2022 to 30 June 2024, the Shire had a contract with Downer EDI Works Pty Ltd (**Downer**) (and previously Emoleum, a partnership between Emoleum Roads Group Pty Ltd and Emoleum Road Services Pty Ltd, before it was acquired by Downer) for services relating to the maintenance and management of the network of roads in the Shire (**Downer Contract**);

- (b) from 1 July 2024 to 14 January 2025, the Shire had a contract with Fulton Hogan Industries Pty Ltd (**Fulton**) for services relating to the maintenance and management of the network of roads in the Shire. A copy of the Roads Corridor Contract No 2635 between the Shire and Fulton Hogan dated 15 December 2023 is at [\[MSC.5022.0001.0001\]](#) (**Fulton Contract**).
9. On 14 April 2025 at 12:03pm, the Shire requested from Downer access to records relevant to question 12, requesting that any information be provided by 5:00pm on 15 April 2025 (a copy of the email from the Shire to Downer dated 15 April 2025 is at [\[MSC.5016.0001.0874\]](#)). In its request, the Shire relied on (primarily) clause 23 of the Downer Contract, which provides that: "[t]he Contractor must report in writing to the Service Management Team on any aspect of the Services when requested to do so". Under the Downer Contract, "[t]he Contractor" is defined as Emoleum, and the "Service Management Team" is defined as the team identified in clause 9, which includes employees of the Shire (clause 9.4A and Annexure 1 of the Downer Contract; Sch 1 of the Deed of Extension and Variation dated 4 May 2023).
10. On 15 April 2025, Downer advised the Shire that, due to the short response timeframe, it had not been able to undertake a comprehensive review of the potential material available. However, relevantly to the present question it provided a spreadsheet containing details of activities performed during the period 1 November 2022 to 14 January 2025 on Penny Lane, Margaret Street, View Point Road, Prospect Hill Road, Coburn Avenue, Charlesworth Street and The Eyrie in the suburb of McCrae, as well as photographs relating to some of those works (a copy of the letter from Downer to the Shire dated 15 April 2025 is at [\[MSC.5016.0001.1965\]](#), and a copy of the spreadsheet provided by Downer is at [\[MSC.5016.0001.1915\]](#)).
11. As well as the information provided on 15 April 2025 by Downer, my response below draws on the information provided by Downer on 9 April 2025, specifically:
- (a) a spreadsheet containing details of activities performed on Penny Lane, Margaret Street, View Point Road, Prospect Hill Road and The Eyrie in the suburb of McCrae;
 - (b) an email from Tristan Bunting (TDG Environmental) to Andrew Taylor (DM Roads) dated 12 September 2023 [MSC.5026.0001.0054](#) with the attachments 929094 – 962658 at [MSC.5026.0001.0063](#) and 964409 – 962658 at [MSC.5026.0001.0059](#);
 - (c) a spreadsheet showing invoices for activities performed on View Point Road (a copy of the two spreadsheets provided by Downer is at [\[MSC.5027.0001.0002\]](#) and [\[MSC.5014.0001.1160\]](#)).
 - (d) an email chain between Tony Medina (the Shire) Tomas Lacy (the Shire) and Courtney Verhagen (DM Roads) dated 12 April 2023 at [MSC.5016.0001.0768](#); and

- (e) an email from Nilanka Hewa (the Shire) to Tom Haines-Sutherland (the Shire) and Robert Stevenson (the Shire) dated 10 April 2025 with attached images at [MSC.5016.0001.0115](#).
12. On 15 April 2025 at 12:52pm, the Shire requested from Fulton access to records relevant to question 12, requesting that any information be provided by 12:00pm on 16 April 2025 (a copy of the email from the Shire to Fulton dated 15 April 2025 is at [MSC.5018.0001.0640](#)).
13. On 16 April 2025, Fulton responded to the Shire's request providing information detailing works performed on Penny Lane, Margaret Street, View Point Road, Prospect Hill Road and The Eyrie in the suburb of McCrae between 1 November 2022 and 14 January 2025. Fulton also provided before and after photographs for those works (a copy of two emails sent from Fulton to the Shire dated 16 April 2025 are at [MSC.5018.0001.0640](#) and [MSC.5018.0001.0021](#)).
14. In addition to the above, the Shire has conducted searches of its own records in the time available, which have returned the following data:
- (a) records from the Shire's Geomedia Smart Client System (a copy of which is at [MSC.5006.0001.0744](#));
 - (b) records from the Shire's TechOne system, which is the system currently used (since 1 July 2024), including for works completed by the new third-party contractor, Fulton (a copy of which is at [MSC.5016.0001.1915](#)); and
 - (c) records from data transferred to the Shire from Downer at the end of the Contract (a copy of which is at [MSC.5014.0001.1161](#) and [MSC.5016.0001.0330](#)).
15. Due to the issues with access to records identified above, there may be records that have not been picked up in the searches able to be conducted and which otherwise bear on question 12. If additional records relevant to this question are identified by the Shire, I understand they will be provided to the Board of Inquiry as soon as possible.
16. Further, searches conducted in relation to this question have returned a number of photographs of roadworks and stormwater works. In the limited time available to prepare this statement, only a portion of those photographs have been able to be connected with particular works set out in the table below. However, enquiries are continuing to determine whether any of the other photographs are of the works set out in the table below, and any further relevant photographs that are identified in that process will be provided to the Board of Inquiry as soon as possible.
17. A further limitation on my response is the brevity of the information contained in the records I have accessed. These records are primarily created by employees of the relevant third-party

contractor during the performance of works, and contain only brief notes on those works. I understand that these records represent the only information that the Shire holds on these contracted roadworks and stormwater works.

18. The tables below set out the data extracted from the records described above and refer to photographs which can be found at [TBC].

Penny Lane – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Grading unsealed road with gravel patch (adding crushed rock) to repair pothole, where defect exceeded 35mm in depth for >30 percentage of area of formation (ie road block of 100m).	Penny Lane west	30/11/2022	N/A	N/A
Grading unsealed road to remove holes, where defect exceeded 35mm in depth for >30 percentage of area of formation (ie road block of 100m).	Penny Lane, from the start at the Point Nepean Road intersection along the straight to the right angle bend to the left	15/06/2023	N/A	MSC.5016.001.1075
Grading unsealed road to cut, add rock and gravel to repair low points in lane, where defect exceeded 35mm in depth for >30 percentage of area of formation (ie road block of 100m).	Penny Lane west	15/07/2023	N/A	MSC.5016.001.0005
Repair of four potholes	Outside 5a Penny Lane	03/10/2024	N/A	N/A

Margaret Street – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Grading unsealed road to repair potholes, where defect exceeded 35mm in depth for >30 percentage of area of formation (ie road block of 100m).	Margaret Street, whole road, right up to the concrete driveway at the end to the left	07/12/2022	N/A	MSC.5016.001.0052
Grading unsealed road to repair potholes, where defect exceeded 35mm in depth for >30 percentage of area of formation (ie road block of 100m).	Margaret Street, mainly at the intersection of Point Nepean Road	15/07/2023	N/A	MSC.5016.001.0028

View Point Road – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Installation of new 300mm drainage pipe and kerb and channel renewal works	Prospect Road to end of View Point Road	Approx. 03/05/2023- 18/08/2023	MSC.5016.0 001.0118	MSC.5016.0 001.0116 MSC.5016.0 001.0124 MSC.5016.0 001.0117
300mm pipe repair.	1 View Point Road	Approx. 29/08/2023- 30/08/2023	N/A	MSC.5026.0 001.0054 MSC.5026.0 001.0059
Stormwater drainage concern arising from blocked pits reported already entered on a previous work order as a defect and awaiting approval and programming.	18-20 View Point Road	22/11/2024	N/A	N/A
Stormwater drainage concern addressed by vacuuming two pits and jetting two lines.	18-20 View Point Road	26/11/2024	MSC.5018.0 001.0647	MSC.5018.0 001.0645
Works to vacuum two blocked pits and jet two lines.	Opposite 10 View Point Road and throat at end of cul de sac	02/12/2024	MSC.5016.0 001.1726 MSC.5016.0 001.1943	MSC.5016.0 001.0340 MSC.5016.0 001.2343 MSC.5016.0 001.2315

Prospect Hill Road – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Repair pothole in broken asphalt of depth >50mm or lateral dimension >200mm (bike lanes >20mm).	In front of 1 Prospect Hill Road	03/01/2023	N/A	MSC.5016.0 001.0363
Clean previous pothole and redo repair of pothole of depth >50mm or lateral dimension >200mm (bike lanes >20mm).	1 Prospect Hill Road	03/02/2023	N/A	MSC.5016.0 001.1429
300mm pipe repair.	7 Prospect Hill Road	Approx. 29/08/2023- 30/08/2023	N/A	MSC.5026.0 001.0054 MSC.5026.0 001.0063

Coburn Avenue – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Rapid Response Team for the northern peninsula made safe an unspecified hazard with stake and tape.	10 Coburn Avenue	07/11/2022	N/A	N/A
Pit/drainage structure repair to removal and reinstate sunken junction pit, reconnect property outlet back into the pit, and reinstate road reserve	24 Coburn Avenue	24/11/2022	N/A	N/A
Reset pit lid to make safe.	38 Coburn Avenue	21/02/2023	N/A	N/A
Repair two potholes.	On Coburn Avenue, 30m in from Point Nepean Road	25/02/2023	N/A	N/A
Repair pothole of depth >50mm diameter >200mm (bike lanes >20mm).	Outside 9 Coburn Avenue	27/02/2023	N/A	MSC.5016.0 001.0200
Repair three potholes of depth >50mm diameter >200mm (bike lanes >20mm).	On Coburn Avenue, 50m in from Point Nepean Road	27/02/2023	N/A	MSC.5016.0 001.1280
Replace pit lintel.	10 Coburn Avenue, opposite 11 Coburn Avenue	11/07/2023	N/A	N/A
Clearing pit throat	Outside 4 Coburn Avenue	21/08/2023	N/A	MSC.5016.0 001.0113
Replace pit lintel	11 Coburn Avenue	25/08/2023	N/A	N/A
Unspecified	7 Coburn Avenue	25/08/2023	N/A	N/A
Repair sunken area of depth >50mm diameter >200mm (bike lanes >20mm).	Outside 15 Coburn Avenue	28/08/2023	N/A	MSC.5016.0 001.1995
Repair pothole	On Coburn Avenue, 50m in from Point Nepean Road	21/02/2024	MSC.5016.0 001.1064 (appears to be a photograph before the works)	N/A
Replace pit lid	4 Coburn Avenue	30/04/2024	N/A	N/A
Paveline required to repair cracking. Marked (78m x 3m)	On Coburn Avenue outside and between 637 Point Nepean Road and 639 Coburn Avenue	08/05/2024	N/A	N/A
Paveline required to repair cracking. Marked (15m x 2.9m)	Outside the driveway area of 3A Coburn Avenue	08/05/2024	N/A	N/A
Paveline required to repair cracking. Marked (34m x 3.1m)	Outside the driveway area of 1 Coburn Avenue	08/05/2024	N/A	N/A

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Sweep loose rock from reseal works. 400m area.	3 Coburn Avenue	29/05/2024	N/A	N/A
Lifted gatic lid reset into place	38 Coburn Avenue	18/07/2024	MSC.5018.0 001.0648	MSC.5018.0 001.0646

Charlesworth Street – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Hazard signage/bollards installed and monitored. Repair of sinkhole with the diameter of a dinner plate and leaking with water.	3 Charlesworth Street	28/11/2024	MSC.5018.0 001.0650	MSC.5016.0 001.1431 MSC.5016.0 001.0114 MSC.5016.0 001.0658 MSC.5018.0 001.0649
Pothole repaired with hot mix, emulsion and dust.	Charlesworth Street	29/11/2024	MSC.5018.0 001.0033	MSC.5018.0 001.0026
Bollards and tape erected around area where groundwater was streaming out of the road, which was not a burst main and could be unstable ground.	1 Charlesworth Street	20/12/2024	MSC.5018.0 001.0032	MSC.5016.0 001.1076 MSC.5018.0 001.0034
Cleared pits and pipes minor debris, submitted investigation findings	Charlesworth Street	09/01/2025	MSC.5018.0 001.0028	MSC.5018.0 001.0028

The Eyrie – 1 November 2022 to 14 January 2025

Works performed (roadworks or stormwater with description)	Location of works	Date of works	Photos of location prior to works	Photos of location after works
Rapid Response Team for the southern peninsula made safe a pit/drainage structure with stake and tape.	17 The Eyrie	26/10/2023	N/A	MSC.5016.0 001.1782
Stormwater drainage concern addressed by replacing pit lid insert	13 The Eyrie (17 the Eyrie is recorded in the Shire's records)	06/08/2024	MSC.5018.0 001.0035	MSC.5018.0 001.0027

Personal Information

Signed by David Smith

on 17 April 2025

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