

BOARD OF INQUIRY INTO THE MCCRAE LANDSLIDE

Statement of Brett Phillips Cooper

I, Brett Phillips Cooper of 5 Waller Place, McCrae in the State of Victoria 3938, Mechanical Contractor, say as follows:

1. I am one of the registered owners of the property located at 5 Waller Place, McCrae in the State of Victoria (**Property**). I own the Property jointly with my wife, and it has been our primary residence since April 2008. I currently live at the Property with my wife and children.
2. The Property is located approximately 250 metres inland from Point Nepean Road. The rear of the Property backs onto the Mornington Peninsula Freeway, which runs parallel to Point Nepean Road. It is situated two streets back from the top of the escarpment, and approximately 200 metres away from the site of the landslide that occurred in McCrae on 14 January 2025.
3. I make this statement to provide the Board of Inquiry with my recollections of the events that occurred prior to and around the time of the landslide on 14 January 2025 and in the following months.

Observations in November and December 2024

4. On average, I drive through the intersection of Charlesworth Street and Waller Place several times per day and, in around early November 2024, I began to notice issues with the road surface at the intersection. Specifically, I saw that the road was beginning to rise and swell, such that cracks were appearing in the road surface. I noticed that water began to leak from those cracks (**First Leak**).
5. Throughout November and early December 2024, as each day passed, I saw that the cracks in the road surface were growing wider and a larger amount of water was leaking from those cracks. I did not know where the water was coming from, but I thought there may have been a leak in the underground water main in that area. I knew that water main to be around 300 to 400 millimetres in diameter, and to run from in or around the Boulevard Reserve which is located on the other side of the Mornington Peninsula Freeway behind my Property (**the Water Main**).

6. In or around late morning on 11 December 2024, I drove through the intersection of Charlesworth Street and Waller Place as I was returning from an appointment with my daughter. I noticed that the section of road where I had seen cracks and water leaking from those cracks, appeared to have been repaired. That is, there was around half a square meter of surface area where the cracks appeared to have been filled with asphalt. I did not see any holes in the ground or any excavators in or around the location, which indicated to me that no excavation works had occurred. I would have expected excavation works to have been undertaken so that the source of the leak could be identified and / or repaired. I did not know who undertook the repairs, though my assumption was that it was workers for the Mornington Peninsula Shire Council (**the Council**).
7. For approximately the next seven days, I did not see any water leaking from the First Leak site. However, by on or about 21 December 2024, I noticed that the cracks that had been filled with asphalt were beginning to reopen and water was starting to seep through those cracks again.
8. Between around 11 December 2024 and 21 December 2024, I also:
 - (a) saw that the nature strip in front of the property located at 34 Coburn Avenue, McCrae, had become saturated with water, to the extent that water was leaking from the nature strip into the gutter (**Second Leak**). 34 Coburn Avenue is located at the intersection of Coburn Avenue and Charlesworth Street, approximately 50 to 100 metres and three houses away from the First Leak at the Charlesworth Street and Waller Place intersection. I thought this was strange as there had been no rain in the area in the preceding days and I had never seen water leak from a nature strip in the area in all the time I had lived at the Property. Initially, given the amount of water visible in the nature strip, I thought somebody may have left a hose running. However, when I realised the water was not receding, I began to wonder if the Second Leak may have been related to the First Leak and issues with the Water Main. I also recall that in the days leading up to Christmas, cracks began to appear in the asphalt on Coburn Avenue, and water began to seep out of those cracks.

(b) noticed water was leaking from the nature strip in front of the property located at 1 Waller Place, McCrae, and travelling across the road, into a stormwater drain located in front of the property at 4 Waller Place, McCrae (**Waller Stormwater Drain**) (**Third Leak**). 4 Waller Place is located approximately 50 to 100 metres from the Charlesworth Street and Waller Place intersection and on a 90-degree angle to 34 Coburn Avenue. The flow of water from the Third Leak appeared to increase in the days that followed and, around one week before Christmas, I saw that a vehicle had become bogged in front of 1 Waller Place as a result of the soaked nature strip. I also heard water rushing through the Waller Stormwater Drain. By this point, I was certain that the First Leak, Second Leak and Third Leak had to be related, but I did not know how. I still suspected there to be some issue with the Water Main, because I knew the Water Main to be in close proximity to the Waller Stormwater Drain.

9. In or around the same period in December 2024, I heard what sounded to me like a significant amount of water gushing through a stormwater pipe that runs alongside my Property, which is approximately 500 to 600 millimetres in diameter (**Stormwater Pipe**). I had often heard water running through the Stormwater Pipe, but the flow of water in December 2024 was unusually loud and uncharacteristic for that time period. I had previously only heard water flow to that extent following periods of significant rain. I had never heard water flow to that extent when there had not been any rain.

10. I know, and knew then, that:

- (a) The Stormwater Pipe is connected to and part of the same system as the Waller Stormwater Drain.
- (b) The Water Main runs parallel to the Stormwater Pipe, and in close proximity to the Waller Stormwater Drain.
- (c) The volume of water running through the Stormwater Pipe only increases with heavy rain.
- (d) The Water Main is ordinarily the only pressurised source of water in that area.

11. In those circumstances, and given there had been no rain to increase the flow of water through the Stormwater Pipe at that time, I became more confident that the source of the First, Second and Third Leaks was the Water Main.

Interactions with the Council and South East Water in December 2024

12. Between mid to late December 2024, I saw representatives from the Council and South East Water (**SEW**) attending Charlesworth Street, Waller Place and Coburn Avenue on an almost daily basis to inspect the First, Second and Third Leaks. I knew the representatives were inspecting the Leaks because I saw them standing near the Leaks with acoustic sounding devices. I did not observe any other works being undertaken at that time.
13. I knew the persons attending the Leaks were representatives from the Council and SEW as I had several conversations with some of those representatives during that period and they introduced themselves to me as representatives from either the Council or SEW. The vehicles that the SEW representatives drove were also branded accordingly.
14. I do not recall the specific dates on which I spoke with the Council and SEW representatives, nor the details of each of those conversations. However, I remember telling them that the volume of water flowing through the Waller Stormwater Drain was unusual given the lack of rainfall at the time. I do not know the names of the representatives I spoke with.
15. On 24 December 2024, Christmas Eve, representatives from SEW were walking up and down Waller Place checking the water meters of properties. They had already been to the Property to look at my water meter multiple times. Later in the day, I approached the representatives and asked them to inspect a pit for the Water Main(**Water Main Inspection Pit**) that is located on a patch of land behind my Property line, but in front of the fence that separates that land from the Mornington Peninsula Freeway. The section of land on which the Water Main Inspection Pit is located is not a part of my Property but is only accessible through my Property. I asked the SEW representatives to inspect the Water Main Inspection Pit, because I suspected the source of the First, Second and Third Leaks to be the Water Main.

16. The representatives agreed, and together we walked to the Water Main Inspection Pit. They carried out testing on the Pit using an acoustic sounding device and told me that there were no issues with the Water Main.
17. Following that, I told the representatives that I had heard water rushing through the Stormwater Pipe in the weeks prior. I told them there was also a service pit for the Stormwater Pipe at the rear of my Property, near the back fence line, and approximately 10 to 20 metres from the Water Main Inspection Pit (**Stormwater Service Pit**). We walked over to the Stormwater Service Pit and could hear water roaring through it, even though the sound was slightly muffled by vegetation covering the Pit. The SEW representatives acknowledged they could hear the rushing water and said words to the effect that they needed to find out the source of the water.
18. At that point, I told the SEW representatives that both the Water Main and the Stormwater Pipe travel through the Boulevard Reserve and across the Mornington Peninsula Freeway towards my Property. I said words to the effect that the source of the water causing the First, Second and Third Leaks was likely to be coming from in or around the Boulevard Reserve. I believed the source of the water to be in that vicinity, because, having lived in the area for approximately 17 years, I am familiar with the surroundings. The Property is located downslope from the Boulevard Reserve and I know, and knew then, that prior to the construction of the Mornington Peninsula Freeway, there was a natural valley and a creek that ran from the Boulevard Reserve down to the Property. I also knew there was a patch of land behind the Boulevard Reserve, between Bayview Road and Outlook Road, where there were several service pits that contained openings to the Stormwater Pipe.
19. The SEW representatives told me they would go to the Boulevard Reserve and check the pits in that vicinity. I do not know if the representatives in fact did so on 24 December 2024.
20. Overnight, I became increasingly concerned that the flow of water through the Stormwater Pipe and / or the Water Main could be causing water to leak underneath the Property. The following day, on the morning of 25 December 2024, I walked over to the Boulevard Reserve to check my suspicions about the origin of the water. I wanted to rule out any risk to my Property.

21. Once I arrived at the Boulevard Reserve, I walked towards the patch of land behind it, at the intersection of Bayview Road and Outlook Road. I knew there to be two pits, in particular, that contained openings to the Stormwater Pipe in that vicinity – one which was a lidded pit and one which was a grated pit. The lidded pit was visible around 8 to 10 years ago, but I saw that the vegetation had become so overgrown that I was unable to locate it. I walked further northwest of the intersection towards where I thought the grated pit was until I could hear running water. I did not find the grated pit, but I noticed that the ground was completely saturated, so much so, that I found my shoes sinking into it. At this point, and given how wet the ground was, I thought it was likely that there was a burst water pipe in the vicinity. I did not know where the burst was or whether it was in the Stormwater Pipe or the Water Main.
22. When I left the Boulevard Reserve, I walked down to the beach via a set of stairs located on View Point Road which leads to Margaret Street. I knew there was an outfall for the Stormwater Pipe at the base of the stairs on the beach. When I arrived at the base of the stairs, I saw that the volume of water coming from the outfall was washing a deep trench into that section of the beach. I had previously seen similar trenches in that area form as a result of large volumes of water coming out of the outfall in winter, when there had been significant rain events or after a prolonged period of rain. However, I found it very unusual that this volume of water was coming from the outfall in December, in circumstances where there had been very limited rain in the preceding weeks.
23. I then started walking back up the stairs to return home. Around halfway up the staircase, I looked down into a small valley that exists below the staircase, and I saw a significant flow of water coming from another outfall there and pooling in that area. The water appeared to be brown and muddy. This indicated to me that the water was not stormwater, which is ordinarily clear.
24. Given my observations of the saturated section in the patch of land behind the Boulevard Reserve, I believed the significant outfall at the beach and the outfall in this valley were connected to a burst pipe in that patch of land. I did not make any further report to SEW because I had told the representative and leak detector from SEW on 24 December 2024, that I suspected the Boulevard Reserve to be the site of the source of the water the day before, and

they had told me they would inspect that area. I was confident, based on what I had seen, that I had pointed the SEW representatives in the right direction.

25. In the days that followed 25 December 2024, I saw a representative of SEW leaning over my front gate. I thought he was trying to look into a drain located there. He told me that a 150 millimetre pipe had ruptured in the vicinity of the patch of land located between Bayview Road and Outlook Road, near the Boulevard Reserve, and that SEW had repaired it (**Burst Water Pipe**). I do not recall the details of this conversation or the name of the representative I spoke with.

January 2025

26. In the first two weeks of January 2025, I saw that the water that had been leaking from the road and nature strips on Waller Place had started to dry up. There was still water leaking at the intersection of Charlesworth Street and Waller Place, but it appeared to be reducing in volume. I thought this was likely a result of the Burst Water Pipe having been repaired. I continued to see SEW representatives coming and going from the sites of the First, Second and Third Leaks in that period.

14 January 2025

27. At approximately 8:30 am on 14 January 2025, I was travelling in the car with my daughter on the way to Spotlight when I turned right onto Point Nepean Road from Coburn Avenue and saw a pile of rubble with dust emanating from the area where the property located at 3 Penny Lane had been. I realised, almost immediately, that the house had fallen down the escarpment. It was very clear to me that there had been a landslide, and I was in complete shock. I received a phone call from my mother at the same time, who said words to the effect of "*a house is on fire*". She told me she could see the rubble and dust from where she was, but could not see what had occurred. I told her, "*that's not a fire. A house has fallen down the hill*". I then immediately phoned my wife and told her that there appeared to have been a landslide and a house on Penny Lane had fallen down the hill. I saw that emergency services, including police and other first responders, were already near the landslide site, and so I continued on to Spotlight with my daughter.

28. I did not receive any formal notification from the Council or any other authority about a landslide having occurred on 14 January 2025.

15 January 2025

29. At approximately 11:30 am on 15 January 2025, I noticed that representatives from the Council and SEW were undertaking works on Charlesworth Street with an excavator. I knew them to be Council and SEW representatives as I had seen a number of these individuals on Waller Place, Charlesworth Street and Coburn Avenue in December 2024. I walked over to the representatives and asked what they were doing. One of the representatives told me that they were trying to work out where the water leak in the road was coming from, and that they thought it may actually have been from an underground spring. I do not know the name of the representative I spoke with and I do not otherwise remember details of the conversation, save for the following:

- (a) The representative told me that a buffer wall was going to be installed underground, on Coburn Avenue, to try to stem the water flow and force it into an agricultural pipe. I do not know whether the wall was intended to be installed by the Council or by SEW.
- (b) I said words to the effect of "*it took a house falling down the hill for you to address these water issues*". I do not recall whether the Council representative responded to this comment.

30. Annexed to this Statement and marked "BC-1" is a photograph taken by me at 11:57 am on 15 January 2025 of the workers and excavator on Charlesworth Street.
31. In the days that followed the 14 January 2025 landslide, I learned, from general discussions with neighbours, that there had been a smaller landslide that occurred in the same area of the landslide site, on 5 January 2025. I do not recall the details of those conversations.

17 January 2025 onwards

32. On 17 January 2025, I received a flyer in the mail from SEW, titled 'Community Update – Supporting our Customers in McCrae'. The flyer provided a brief update on the investigation

SEW had undertaken to determine the source of the water leaks in the McCrae area and the landslide that occurred on 14 January 2025. The flyer noted that SEW had been taking water samples to determine the source of the water and stated, "*preliminary data from our tests indicate that the water is not from South East Water's network*". I was not convinced that statement was accurate, as in the weeks prior to the 14 January 2025 landslide, I had seen SEW representatives taking water samples from the sites of the First, Second and Third Leaks. I knew that if the water was in fact from the Burst Water Pipe, it had likely travelled approximately 200 to 300 metres before it was taken from the sites of the Leaks for testing. I did not think the water testing could be accurate in those circumstances.

33. Annexed to this Statement and marked "BC-2" is a copy of the flyer issued by SEW on 17 January 2025.

34. On 22 January 2025, I sent two emails, identical in substance, to Sam Groth MP, the State Member for Nepean, and Max Patton from the Council. In my emails, I informed Mr Groth and Councillor Patton that:

- (a) Water had been leaking out of the ground in Waller Place and Charlesworth Street for "a significant time".
- (b) There was a "pipe" running along the side of my Property, which originated in the Boulevard Reserve, behind the Mornington Peninsula Freeway, where a natural valley existed.

35. I stated:

I discussed with them [SEW representatives] the drain and the water running through it being way more than normal you could easily here [sic] it at the rear of my property as an open grate exists on the freeway side of the fence, following this discussion the gentleman said they better checkout what's on the other side of the freeway. Shortly after a 150mm water pipe was found ruptured in the region of the aforementioned boulevard basin area at outlook st, the storm water drain a former creek and the asset trenches all cross under the freeway at this point.

It is extremely hard to imagine that this is not a major contributing factor and I'm aware that SEW testing doesn't indicate it's there [sic] water BUT is the testing reliable given the distance that the water has traveled through the ground, could the fluoride and chlorine have been naturally filtered out

36. On 23 January 2025, I received a response from Andrew Brick, Team Leader – Community Resilience and Emergency Management for the Council, to the email I had sent to Councillor Patton. Mr Brick confirmed he would pass on my email to the team investigating "these matters". Copies of my email to Councillor Patton and Mr Brick's response to me are annexed to this Statement and marked "BC-3".
37. On the same date, I also received a response from Barry Fay from the office of Mr Groth MP, stating, "we have contacted SEW about this matter". He confirmed the office would contact me once they received SEW's response. Copies of my email to Mr Groth and the response I received from Mr Fay are annexed to this Statement and marked "BC-4".
38. I did not receive any further correspondence from Mr Brick or Councillor Patton, though I did receive a response from Mr Groth's office in February 2025, which I discuss in more detail below.
39. On 24 January 2025, I saw works being conducted on the corner of Charlesworth Street and Waller Place by representatives from the Council and SEW. I walked over to the representatives and asked them what they were doing. One of the representatives told me they were digging a pit to take water samples from the site. I told the representative that I thought the water had originated from the patch of land behind the Boulevard Reserve and that the area had started to dry up following the repair of the Burst Water Pipe that had been located in that vicinity. I do not know the name of the person I spoke with and I do not recall what response he provided, if any.
40. Annexed to this Statement and marked "BC-5" is a photograph taken by me on 24 January 2025 at 4:25 pm of the works being undertaken by SEW representatives.

February 2025

41. On 13 February 2025:

- (a) I received an email from Chris Ransom, Local Government Manager at SEW, who informed me that Mr Groth's office had passed on my email to SEW. Mr Ransom stated, *"I can advise that our preliminary investigations do not indicate the presence of drinking water at the surface"*. He stated that information about testing samples and other investigations was available on the SEW website.
- (b) I responded stating, *"I am very keen to know what the limit of the testing is, for example how far can the test site be from the origin site for the results to remain accurate or conclusive"*.
- (c) Mr Ransom sent a response stating that SEW would attempt to provide a response to me within 10 business days.

42. Annexed to this statement and marked "BC-6" are copies of Mr Ransom's email to me dated 13 February 2025 and my response of the same date.

43. On 14 February 2025, I saw two individuals who I did not recognise looking over the gate at the front of my Property. I came outside and they introduced themselves to me as Kevin Hutchings and John Bolch. I asked them what they were doing, and they told me they were trying to look into the drain at the front of my Property, because they were gathering any evidence that could be relevant to the 14 January 2025 landslide. I told Kevin and John about my conversation with SEW representatives on 24 December 2024 and my own investigation into the source of the leaks on 25 December 2024, as set out at paragraphs 15 to 24 above. I also told them that I had reservations about the reliability of the water testing SEW had conducted. Kevin and John told me they had similar reservations about the reliability of those tests and thanked me for the information I had provided to them. They told me they would walk over to the patch of land behind the Boulevard Reserve, though I do not know if they did so on that date. John otherwise told me that he was a commercial plumber and asked if he could come back to my

Property at a later time to look at the Stormwater Service Pit and Water Main Inspection Pit. I confirmed he could.

44. On 20 February 2025, John came to my Property to inspect the Stormwater Service Pit and the Water Main Inspection Pit. He brought with him a series of plans for the area around the Boulevard Reserve, and together, we reviewed the plans to identify pits containing openings to the Stormwater Pipe and Water Main marked on the plans in that vicinity. We then walked through the Boulevard Reserve and through the patch of land behind the Boulevard Reserve that I had walked through on 25 December 2024, to try to locate the pits marked on the plans. The vegetation was too overgrown for us to locate any pits, but it was clear to me that SEW had undertaken works in the area recently, because there was plastic SEW tape sectioning off a small area. I thought it likely the sectioned off area was where the Burst Water Pipe had been.
45. On 21 February 2025, I received an email from Mr Ransom in response to the email I had sent on 13 February 2025, stating:

...

While we appreciate that you have detailed questions to help understand the circumstances of water that has surfaced in the landscape at McCrae, we are unable to pre-empt the forthcoming Board of Inquiry which will likely be better placed to look into these matters. This Inquiry will provide a holistic, independent process to assess a very complex issue.
46. I responded to Mr Ransom's email that afternoon, asking that Mr Ransom respond to my question, and stating that my question did not "pre-empt" the Inquiry. I did not receive any further response from Mr Ransom.
47. Annexed to this statement and marked "BC-7" are copies of Mr Ransom's email to me dated 21 February 2025 and my response of the same date.
48. On 27 February 2025, I met Kevin and John at the patch of land behind the Boulevard Reserve to try to locate the pits that John and I had tried to locate on 20 February 2025. Together, we

were able to locate two pits beyond the basin fence, towards the Mornington Peninsula Freeway. Kevin and John pointed out to me, what they believed to be, the location of the Burst Water Pipe. It was slightly uphill from the two pits we had located that day and the vegetation looked to have been uprooted from around that location. Although the ground appeared to be drying out, there was a lot of dirt visible where vegetation had been. This indicated to me that a significant volume of water had likely flowed through that areamaking it muddy, before it had dried up.

March 2025

49. In or around mid-March 2025, I saw that the site of the First Leak was beginning to dry out. I also noticed that the nature strip in front of 4 Waller Place, the site of the Third Leak, was dry. However, it was not until around late March 2025, that the site of the Second Leak, namely the water seeping through cracks in the asphalt on Coburn Avenue, was completely dry.

Dated:

Brett Phillips Cooper