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25 November 2024

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Attention: Elle Harrington

Pedestrian Link on Crown Land Adjoining 675 Victoria Street, Abbotsford - Cultural Heritage Advice

EG Funds Pty. Ltd. (EG) proposes to construct a north-south pedestrian link on Crown land adjoining 675 Victoria Street, Abbotsford. The purpose of the link would be to connect the existing Capital City Trail along the Yarra River with Victoria Street. The part of the link on Crown land requires construction of a set of stairs. Appended to this advice is a concept plan of the proposed Crown land development.

As part of the planning process for construction of the proposed stairs, Tract on behalf of EG asked Heritage Advisor Dr. Tim Stone to provide cultural heritage advice including whether the proposed works would impact any cultural heritage places or items.

Aboriginal cultural heritage

The Victorian Aboriginal Heritage Register (VAHR) does not list any registered Aboriginal cultural heritage places in close proximity to this part of the Capital City Trail. The closest known Aboriginal site is an isolated artefact located ~360 m east of the proposed stairs in Hawthorn. The proposed development will not impact this site.

The potential for unrecorded Aboriginal cultural heritage on the Crown land at the rear of 675 Victoria Street is very low because the Yarra River bank has been cut by construction of the Capital City Trail. Any Aboriginal cultural heritage that might have been present would be difficult to identify and probably destroyed.

The *Aboriginal Heritage Act* 2006 and its *Aboriginal Heritage Regulations* 2018 are of particular relevance to the proposed works. A core component of this Act is the preparation of Cultural Heritage Management Plans (CHMPs), which may be required under certain circumstances prior to works.

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Under Regulation 7 of the *Aboriginal Heritage Regulations* 2018, a CHMP is required for a proposed activity, if:

(a) all or part of the activity area for the activity is an area of cultural heritage sensitivity; **AND**

(b) all or part of the activity is a high impact activity.

According to Regulation 26, any land within 200 metres of a waterway is an area of cultural heritage sensitivity. The Victorian government Aboriginal Heritage Planning Tool identifies land within 200 m of the Yarra River as an area of cultural heritage sensitivity. This land includes the Crown land adjoining 675 Victoria Street, Abbotsford.

If an area of cultural heritage sensitivity has been subject to significant ground disturbance (SGD), the disturbed part is no longer an area of cultural heritage sensitivity. SGD is defined by the *Aboriginal Heritage Regulations* 2018 as disturbance of:

(a) the topsoil or surface rock layer of the ground; or

(b) a waterway-

by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

Under Regulation 26(2), if part of a waterway or part of the land within 200 metres of a waterway has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

A formal SGD assessment undertaken by Stone (2022) for 675 Victoria Street, Abbotsford concluded that the rear of the property overlooking the Yarra River had been completely levelled and further modified by deep excavation required to form the Capital City Trail. This land includes the Crown land proposed for a set of stairs. Therefore, this land has been subject to SGD as defined above and is not an area of cultural heritage sensitivity, in accordance with Regulation 26(2). Therefore, the first prerequisite (a) for a CHMP under Regulation 7 is NOT met.

The second prerequisite (b) for a CHMP would be met if the proposed pedestrian link was a high impact activity. Division 5 of the regulations specifies high impact activities for the purposes of the *Aboriginal Heritage Act* 2006. Under Regulation 47(1):

The construction of any one or more of the following is a high impact activity if the construction would result in significant ground disturbance –

(b) bicycle track with a length exceeding 500 metres;

(g) a walking track with a length exceeding 500 metres.

The proposed pedestrian link is well under 500 m in length and therefore not a high impact activity, in accordance with Regulation 47(1). Furthermore, stairs are not specified in

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Division 5 as a high impact activity. Therefore, the second prerequisite (b) for a CHMP under Regulation 7 is NOT met.

Accordingly, a CHMP under Section 46 of the *Aboriginal Heritage Act 2006* is not required prior to construction of the proposed pedestrian link. Put simply, it is not a high impact activity in an area of cultural heritage sensitivity.

A final consideration is the possibility that Aboriginal cultural heritage may be harmed by the proposed works notwithstanding their low level of impact. Under Section 28 of the *Aboriginal Heritage Act 2006*:

A person must not do an act that harms or is likely to harm Aboriginal cultural heritage.

Under Section 29 of the *Aboriginal Heritage Act 2006*, Aboriginal cultural heritage cannot be harmed unless:

- (a) the person is acting –
 - (i) in accordance with a cultural heritage permit or approved cultural heritage management plan that applies to the Aboriginal cultural heritage.

Construction of the proposed pedestrian link will not harm any known Aboriginal cultural heritage and the likelihood of any unknown Aboriginal cultural heritage being harmed by the proposed work is low because the Crown land and adjoining areas have been heavily modified by previous development.

Historic cultural heritage

The *Heritage Act 2017* provides for the protection of all Victorian historic sites, places and objects which are at least 75 years old. Historic sites may be listed on Heritage Victoria's Heritage Register (VHR) or on the Heritage Inventory.

No part of the proposed pedestrian link is included on the VHR or Heritage Inventory. Accordingly, there is no requirement for detailed historic assessment.

The City of Yarra also aims to protect sites of local historical interest by application of heritage overlays to selected properties under its local planning scheme. However, no part of the proposed pedestrian link has a heritage overlay.

Management options

Based on the results of this assessment, EG has the following options:

- Construction of the proposed pedestrian link may proceed without any further Aboriginal or historic cultural heritage investigation. A CHMP is not required (or mandatory) beforehand.

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- EG has the option of undertaking a *voluntary* CHMP for the proposed works, which may be of benefit in case of any unexpected archaeological discoveries. Should any such discoveries be made, an approved CHMP or Cultural Heritage Permit would be required to continue the works.
- In the event that items of Aboriginal or historic cultural heritage are uncovered during the course of the proposed works, all work must cease and EG, or its contractors, must contact this Heritage Advisor (mob: 0429496607), the Heritage Services Branch of First Peoples-State Relations or Heritage Victoria for advice. It is an offence under the relevant cultural heritage legislation to disturb or destroy ('harm') relics without written authorisation.

Yours faithfully,



Dr. Tim Stone
Heritage Advisor
mob: 0429496607

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Reference

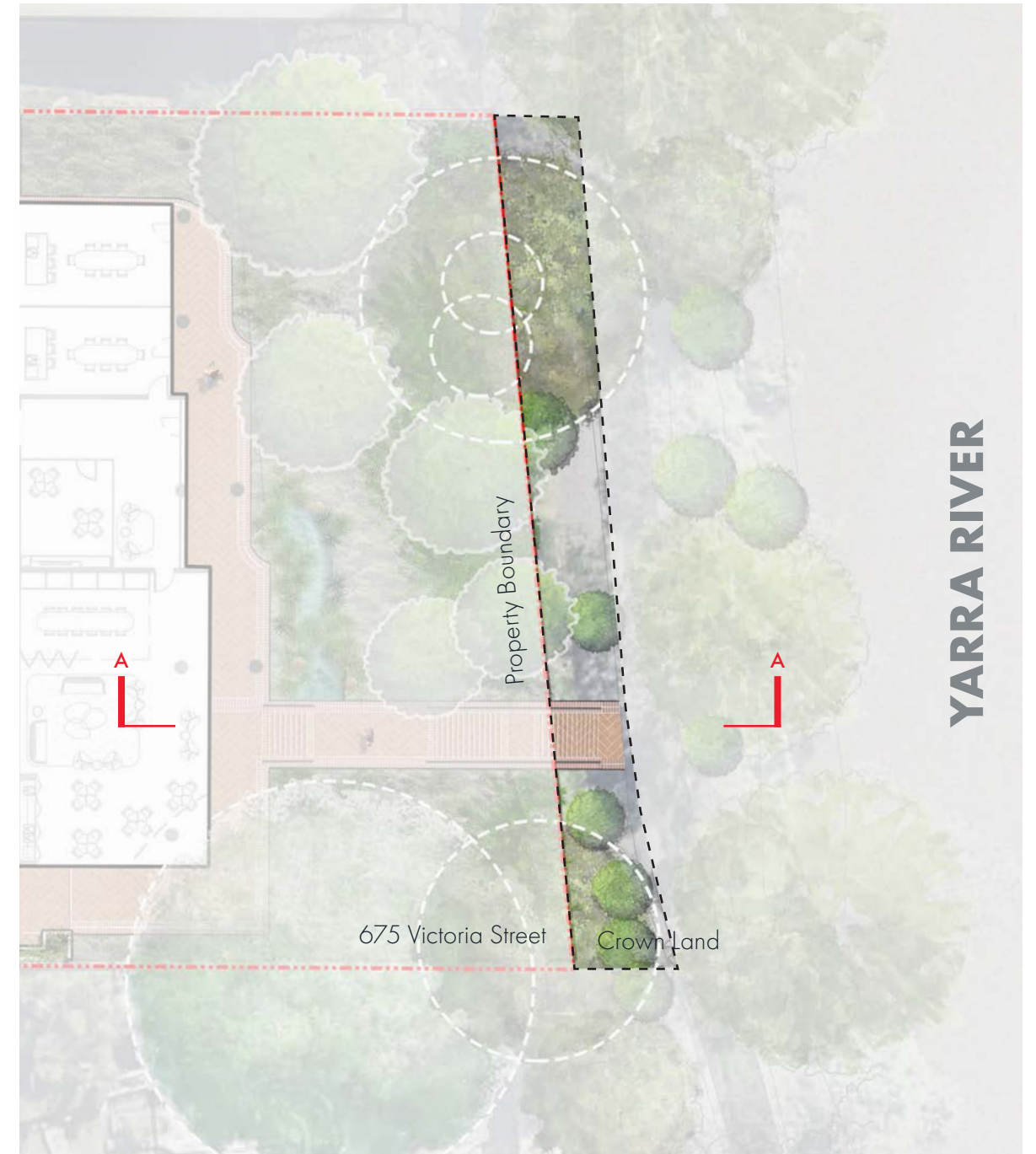
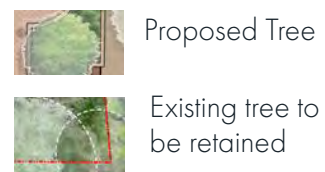
Stone, T. 2022. *675 Victoria Street, Abbotsford: Significant Ground Disturbance Assessment*. Report to EG Funds Management Pty. Ltd.

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Section A - 1:100 @A3



Plan - 1:300 @A3

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