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to assist us to achieve equity and justice**

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October 19 2009

Attention Mr Sean Coley, Executive Officer, & Mr George Seitz MP, Chair,
Outer Suburban Interface Services & Development Committee

Submission Part 2 – Attachment to original Submission Part 1
Inquiry into impact of the State Government's decision to change the
Urban Growth Boundary

**Thank you for allowing us the extension to October 19 for submitting further
information in support of our Submission Part 1 of October 8. However, we still
wish to be heard and request the hearing dates be extended.**

**Concerning stakeholders of / and below listed properties in the suburb of Diamond Creek,
township of Yarrambat, Shire of Nillumbik Victoria:**

201-219 Ironbark Road, Diamond Creek 3089 (Freeman) 5 acres
175-199 Ironbark Road, Diamond Creek 3089 (Adjungbilly Pty Ltd) ACN 005 236 993
Trustee for the Freeman family 40 acres adjoining -
40-60 Pioneer Road, Yarrambat 3091 (Schnapp) - may have been referred to as
Tanks Corner, Plenty or Diamond Creek in past planning texts 14½ acres approx
(The above three properties are Freeman-related, adjoining each other and distinctive as
a group.)
221-233 Pioneer Road, Yarrambat 3091 (Bennett)
- and, in our opinion, in support of others in both Ironbark Road & Pioneer Road,
Diamond Creek & Yarrambat who have been in the process with us requesting planning
correction.

We fail to see how only allowing 22 'selected' submitters to speak can do justice to this inquiry. We
are disappointed to have been turned down as our issues are most serious and public airing via the
Inquiry may have alerted attention to our plight, finally enabling needed corrective actions. We view
further expansion of the Urban Growth Boundary is unconscionable without first ensuring rightful
inclusion of the above properties. No family that was in this Plenty Growth corridor should be
targeted for exclusion, particularly those like above stakeholders whose lands are known to have had
distinctive attached urban reticulated infrastructure (and full capacity) for residential land use and
development for their total acreage.

The Growth Areas Authority has informed us that the material we have submitted to it is now on its
Website so access this accordingly. Please study these lengthy submissions noting the hard evidence
in support of our claims. We are confident, at last, your expertise in combination with others
appointed to new Planning Panels and Processes, eg, New Residential Zones, Planning & Environment
Act, Melbourne @ 5 Million, etc, will result in the Ministers being correctly briefed on our issues.

"The horror case and nightmare" has to be addressed fairly in accordance with our expectation of
democracy. Please recognise we are lay people and apologise for the repetitive nature of our
submissions. Your own expertise and further investigation should fill in any gaps. We trust the
following will serve as a Brief:

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Outer Suburban Interface Services & Development Committee

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October 19 2009

The above-listed stakeholders hereby draw urgent attention to this Parliamentary Inquiry to the fact that the above lands in the suburb of Diamond Creek and township of Yarrambat were originally in the City of Heidelberg, then Diamond Valley, before becoming part of the Shire of Nillumbik. They were in the legislated Plenty Growth Corridor and not Green Wedge and therefore were wrongly omitted from the new Urban Growth Boundary in approx year 2004. These above previously Urban (not Rural) Residential properties had been back-zoned in error in year 2000 to Environmental Rural (now Rural Conservation, the most restrictive of all zones.) This is a travesty of justice, denying even land sustainability.

The promised closest-fit zone translation should have been Residential One or Township in compliance with the then applicable legislation and preservation of the lands' attached prepaid for distinctive Urban reticulated infrastructure and associated property rights which are being eroded continually with new laws, strategies and policies. The stakeholders' long-term legitimate expectations and certainty need to be realised. Stubbornness, or failure to act equitably in the matter for approx nine years appears to be occurring on the incorrect basis that the lands were never zoned or designated for residential purposes. It has now been proved beyond doubt that this is not the case.

Now with the government's revision of and imminent Parliamentary approval of expansion of Melbourne's Urban Growth Boundary, the stakeholders hereby request this Inquiry draw our serious issues to the urgent attention of the Premier, the Hon John Brumby; Deputy Premier & Attorney General, the Hon Robert Hulls; Minister for Planning, the Hon Justin Madden; Minister for Local Govt, the Hon R Wynn; Minister for Community Development, the Hon Peter Bachelor; Minister for Water, the Hon Tim Holding; and Victorian state government to assist us in the cause of justice and:

- Ensure that the lands are reinstated into the new Urban Growth Boundary or other growth (eg, township/linear expansion) and included in old and new growth servicing strategies.
- Rezone the lands into their year 2000 promised closest-fit zone - Residential One, the equivalent new Residential Substantial Change Zone or Township Zone as applicable irrespective of final site-specific land use.
- Ensure equitable planning corrections for any of the above properties if they were discriminatorily or mistakenly treated different at any time in the past as compared with neighbouring like-lands. Proper process did not occur and stakeholders were not notified if this was the case, thereby being unable to protect their interests.
- For the greater benefit of the community, conservation/green wedge, open space, utility use of or any other old or new aspirations are not legitimate excuses to deny these properties their proper zoning, property rights/entitlements/values as these can still be incorporated by designation of such in the overall development plan of any residential area. Cementing the lands in a green wedge corridor is only taking financial advantage. Please note the infrastructure was tied directly to the value of the lands and thus their development certainty.
- Ensure return of the lands' attached distinctive reticulated infrastructure, its full urban capacity and thus distinctive land capabilities.
- Mediate for compensation or remuneration for damages and losses including value of the lands (between Residential One and Conservation) and loss of distinctive attached urban reticulated infrastructure with associated property rights/entitlements if the above actions are not possible.
- Make planning corrections promptly (a) to prevent further impact by state, federal or local governments' new legislation (including new taxes,) policies and strategies and (b) to ensure an accurate foundation upon which the imminent local Nillumbik Planning Scheme Review can be correctly revised and adjusted. This includes Diamond Creek Twenty 20 and associated new Diamond Creek Major Activity Centre Structure Plan. This Plan is flawed and unbalanced, thus continuing to disenfranchise, disadvantage and materially impact the above stakeholders and others whose lands are also located in original historic Diamond Creek township centre (Chute Street/Precinct One,) its then-associated structure plan and surrounding acreage that was previously the planned growth.
- Please meet with the stakeholders to facilitate the above actions.

Gila Schnapp

Esther Caspi

and others