

## Planning and Environment Court

### David Manteit V Brisbane City Council 2916/2024

#### RESPONSE BY APPELLANT TO RESPONDENT'S LIST OF REASONS WHY DISPUTED CONDITIONS SHOULD BE IMPOSED AND NOTICE OF ANY ALTERNATIVE CONDITIONS

This response statement is paginated pages 1-25.

##### Condition 7

5. The Notice of Appeal does not identify the basis upon which the Appellant alleges that condition 7 is not a lawful development condition.

Extract of reasons above – Respondent

## Condition 7

5. “The Notice of Appeal .....” This is a false statement by the Respondent. The Respondent needs to cease making false statement. Refer the **Notice of Appeal S32** which states below....

32. **Other Easement S 7b.** Council have invented a mythical easement. After 63 days, Joel Wake nor any member if the assessment team have not realised there is no other easement required.

Extract above – Notice of Appeal

“S 7b Council have invented a mythical easement.” Note many letters sent to Council requesting details of the easement, including 1/10/24. No response by Council or the Respondent. There is no “other easement” The Assessment Officer Joel Wake has made a big blunder. So has Counsel.

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#### RESPONSE TO APPELLANTS REASONS

Filed by the Appellant : David Manteit , 82 Rowe Tce Darra 4076. Ph PH 0424 739 923. [davidmanteit@hotmail.com](mailto:davidmanteit@hotmail.com)  
Form PECThe Respondent continues to “play dumb”.

**9) Easement document terms unknown or sighted.**

The terms of the Council proposed easement document are unknown due to Council refusing to supply a copy of since requested on 1/10/24 and the conditions will probably cause the stormwater pipe to conflict with engineering requirements from the sewerage pipe or retaining wall, or Small Lot Code.

Council are to prepare this easement.

Council refuse to provide or discuss the terms of the easement. This is plain dishonest.

The questions have been raised to Council in letter dated 1/10/24.

Action – Council to remove

**Above - Page 41 - Extract of Affidavit Expanded Grounds of Appeal. – “Action – Council to remove”**

**9) Easement document terms unknown or sighted.**

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Action – Council to remove

Deponent  \_\_\_\_\_

Justice of the Peace  \_\_\_\_\_

**Above - Extract of “Expanded Grounds of Appeal”, lodged in conjunction with “Notice of Appeal”**

**Engineering****7) Grant Easements**

Grant the following easement(s) as may be required:

(i) Easements, in favour of Brisbane City Council for:

- Underground drainage and access purposes (no less than 900mm wide) over the drainage infrastructure provided for the upstream lots to preserve the rights of upstream owners

Timing: As part of the plan of subdivision notated by Council, and then to be maintained.

**7(a) Submit Plan of Subdivision and Documentation (Council Easement in Gross)**

Submit to, and obtain approval from, Development Services a plan of subdivision showing the easement and a request for Council to prepare the necessary easement documentation to demonstrate compliance with the requirements of this condition.

Note: Easements in favour of the Brisbane City Council must have the necessary easement documentation prepared by the Brisbane City Council, free of cost to Council.

Timing: Prior to submission of the request pursuant to Schedule 18 of the Planning Regulation 2017 for Council's notation on the plan of subdivision necessary to comply with this condition or give effect to this approval.

**Action – Council to remove S7 , S 7(a)**

**Above - Extract of “Expanded Grounds of Appeal, lodged in conjunction with Notice of Appeal”**

**8) Other Easement**

**There is no other easement.**

**7(b) Submit Plan of Subdivision and Documentation (other Easement)**

Submit to, and obtain approval from, Development Services, a plan of subdivision showing the easement and the necessary easement documentation to demonstrate compliance with the requirements of this condition.

Note: Easements not in favour of the Brisbane City Council must have the necessary documentation prepared by the applicant's private solicitors.

Timing: As part of the submission of the request pursuant to Schedule 18 of the Planning Regulation 2017 for Council's notation on the plan of subdivision necessary to comply with this condition or give effect to this approval.

**Easements “not in favour of the Brisbane City Council”.**

**Letter dated 1/10/24 from David Manteit to Brisbane City Council**

**Above - Extract of “Expanded Grounds of Appeal, lodged in conjunction with Notice of Appeal”**

**Easement document.**

- 1) Please provide proposed **surface levels and invert levels** of the 225mm stormwater pipe.
- 2) Please provide **cover distance above, below, left and right** of the 225 stormwater pipe. Note any requirements below that may affect this cover distance.
- 3) Is there restriction for **other stormwater pipes**, besides the BCC pipe, such as house stormwater pipes. If there are no restrictions
- 4) Is there restrictions in the easement document for **other services** such as NBN, power, water supply copper pipes.
- 5) Is there restriction for **existing retaining wall above ground** as to the component inside the boundary.
- 6) Is there restriction for **existing retaining retaining wall footings below ground** as to the component inside the boundary.
- 7) Is there restriction for any **future retaining wall** above ground as to the component inside the boundary.
- 8) Is there restriction for around 300mm **drainage gravel** required by retaining wall engineered design.
- 9) Is there restriction for a **fence above retaining wall** in relation to that part inside the boundary
- 10) Is there a restriction for **vegetation** to be planted in the easement.
- 11) Is there a restriction for a **concrete slab pathway** in the easement. Note that the design for this may not be possible as it would be regarded as a floating slab for engineering purposes.

I request that BCC respond to my request to the following in relation to S 7 of the approval dated 25-9-24 (not yet received by me from an assessment manager).

**Council** never gave myself, as applicant, an information request requiring myself as applicant to design a stormwater pipe. **Council** has taken it upon themselves to provide a half baked red line on a plan of subdivision, without any details. You designed it. I did not.

**Council** did not provide this plan as prepared by them prior to final approval.

I contend that is laziness and incompetence by the **Council**.

This action has reduced and eliminated the time afforded by the applicant to respond with the timely analysis and response by private RPEQ consultants.

The **Council** has already defaulted in not providing the decision on or prior to 35 business days. You had all this time but still couldn't be bothered to provide an information request. A monetary compensation will be vigorously pursued by myself in the coming days.

The Planning Court will see BCC actions as lazy and incompetent.

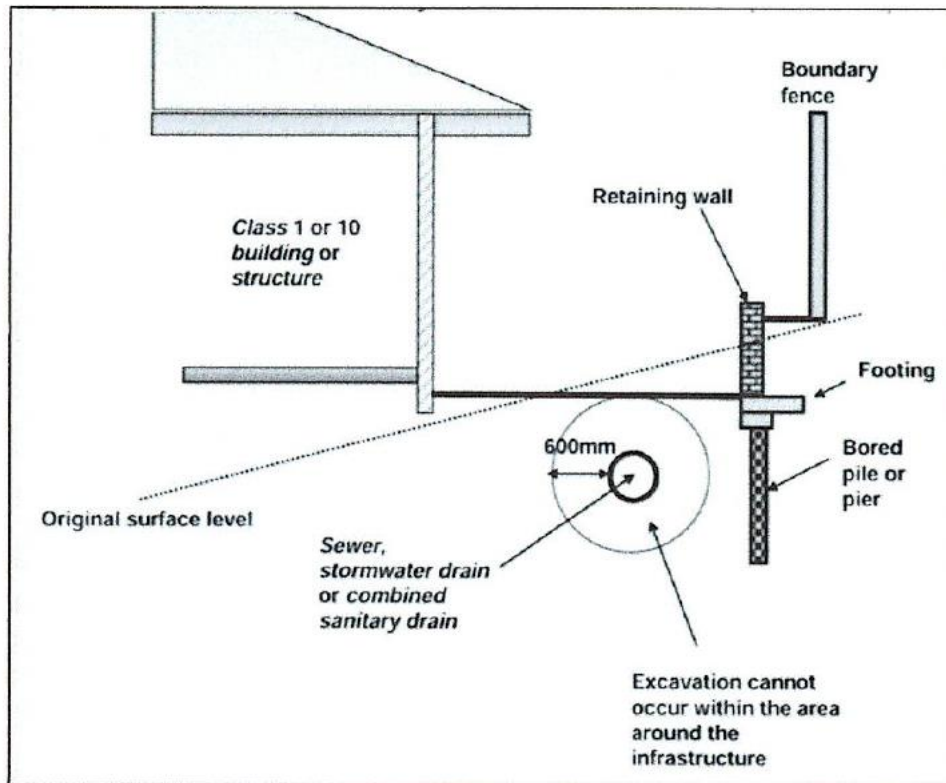
My initial assessment of the BCC designed stormwater plan is that -

- **Council** stormwater plan does not work, for many reasons. This shall be revealed after you provide answers to the following questions.
  - There are no "upstream lots" or "upstream owners" to the subject site. In addition, there is no terms in the **City** Plan 2014 of these descriptions.
- Council** have invented and designed the stormwater pipe and prepared the plan themselves, so the onus is on BCC to provide answers to the following questions.

I request BCC provide the answers by 12pm, tomorrow, 2-10-24

**Above - Extract of "Expanded Grounds of Appeal", lodged in conjunction with "Notice of Appeal"**





Above - Extract of “Expanded Grounds of Appeal”, lodged in conjunction with “Notice of Appeal”

- 12) Is there a requirement in the easement for good **maintenance** by BCC or the owner.
  - 13) What hours of the day can BCC **inspect** their easement.
  - 14) What is the proposed **type of surface** of the easement. This needs to be impervious.
  - 15) Please provide **engineered drawings** for the top impervious surface of the easement.
    - Please advise how **thick** this surface would be.
    - Please provide what **material** the surface is. If this is proposed to be concrete, please provide what MPA.
    - Please provide what size **mesh** to be used, if one or two layers, F62 or F72,
    - Design of **spoon drain** to carry water away from the impervious surface and legal point of discharge for the impervious surface.
  - 16) Please provide **depth of spoon drain**.
    - Please provide minimum **slope** of impervious surface both in direction of travel and across.
- Please provide crosssection of the above, for clarity. This information affects surface levels and invert levels.
- 17) Please provide any **restrictions** of the easement in any way, shape or form.
  - 18) Please provide any other requirements of any restriction.

Above - Extract of “Expanded Grounds of Appeal”, lodged in conjunction with “Notice of Appeal”

19) Is there a **guarantee** that the **Council** will repair a broken stormwater pipe that could cause water under the house slab, cracking of the house slab, and perhaps an inhabitable house.

20) Does the easement document provide for solutions under the **Queensland Development Code**.

21) Can the easement be used by the occupant for **fire escape purposes** as part of a fire safety management plan.

22) Is a fence required for the easement.

23) Can a carport without footings in the easement be built over stormwater easement.

24) Does the easement allow for a toe footing as per BCC standard footings design.

25) Is a stormwater maintenance hole required. This will affect invert level heights.

26) Does the easement restrict distances to retaining walls and houses. See Queensland Development Code example.

27) Please respond as to what "other easement" means. Is this BCC incompetence ?

The above list is not an exhaustive list. There will be more questions.

**If you refuse to respond to these questions on "YOUR DESIGNED RED LINE" then I encourage the court to consider this action and to take into account any costs of the case.**

It is stated in the approval that **Council** will prepare the easement document. This is your responsibility, not mine.

**Please provide by 5pm today responses to the above questions and the following -**

- wording and
- all plan view and
- cross sections front, back, left, right that take onto account all of the above.

**Above - extract of letter to Council 1/10/24**

Council have erroneously included this condition in the approval.

**Action – Council to remove S7, S 7(a).**

**Action – Council to remove Condition 7 (c).**

**Above Extract of “Expanded Grounds of Appeal”, lodged in conjunction with “Notice of Appeal”**

“Action – Council to remove,,,,,S 7, 7(a).... 7(c).”

The Respondent’s statement is a false statement. Full details of why S7, S7(a) and S7(c) should be deleted and have have been filed in Court on 19/11/24, in the Expanded Grounds of Appeal lodged in conjunction with the Notice of Appeal dated 19/11/24

This response by the Respondent demonstrates that the solicitor who wrote these reasons spent maximum 60 seconds on the reviewing of the Notice of Appeal.

vided for the upstream lots to preserve the rights of upstream owners

Above – Extract of Condition 7 (Easement) There is no word “Upstream” in City Plan.  
Condition 18 should be deleted.

“Any proposed works contravening the drainage easement terms”

#### 7.4.7 Building near or over underground stormwater infrastructure

- (1) For underground stormwater facilities with or without drainage easements and where pipes or conduits are greater than or equal to 225mm in diameter or width, building over/near stormwater requirements will be applicable if the site is subject to any 1 or more of the following conditions:
- (a) any proposed works contravening the drainage easement terms;
  - (b) any earthworks (filling or excavation) proposed directly over or adjacent to the stormwater drainage or maintenance holes that will result in changes to surface levels or loading conditions over these stormwater facilities;
  - (c) any building work proposed over the stormwater drainage or maintenance holes;
  - (d) any proposed works that will affect the structural integrity of the drainage or its trench;
  - (e) proposed changes to the loading conditions on an existing maintenance hole cover, for example, changing the use of a non-vehicular trafficable area to a vehicular trafficable area;
  - (f) proposed use of rock bolts or ground anchors within 2m of the stormwater drainage;
  - (g) proposed property access width of less than 2m from the front entrance or access road to any maintenance hole or property connection located on site;
  - (h) proposed driveways or concrete pavements over maintenance holes or property connections;

Note Councils own S 7.4.7 conflicts with building near or ove underground stormwater infrastucture

Above – Extract of Expanded grounds of appeal, (Easement) lodged on same day as Notice of Appeal.

Note – “any proposed works contravenng the drainage easement terms.” Council and the Respondent and City Legal refuse to supply the easement terms. It is therefore physically impossible to place an easement on the property since Council will not supply a site specific easement , as their duty, described in S7. S7 should be deleted on that basis.

It is impossible for any private or Council RPEQ to be an expert witness without siting the easement document.

### Easement width

225mm diameter  
upslope connection  
pipe with 0.9m wide  
drainage easement

#### 7) Grant Easements

Grant the following easement(s) as may be required:

(i) Easements, in favour of Brisbane City Council for:

- Underground drainage and access purposes (no less than 900mm wide) ove

Timing: As part of the plan of subdivision notated by Council, and then to be maintained.

The red stamp above on the amended plan in red shows **(exactly)" .9m wide drainage easement."** Condition states "no less than 900mm wide." These two requirements are mutually exclusive. S 7 should be deleted on that basis.

Council and/or DTS members allegedly have performed **"Unsatisfactory professional conduct"** under schedule 2 of the professional engineers Act 2002, as follows -

**"Conduct that is of a lesser standard than which might reasonable be expected of the registered professional engineer by the public or the engineer's professional peers"**

Engineers should make specific requirements in their engineering, Council have not been specific, but contradictory.

**"Conduct that demonstrates, or a lack of adequate knowledge, skill, judgement or care, in the practice of engineering."**

**Council doesn't know if the easement should be 900 mm or minimum 900 mm**

Council easement is greater than 600mm from the boundary and therefore unlawful as per BSD 8111

S 7 should be deleted on that basis.

"unsatisfactory professional conduct" , for a registered professional engineer, includes the following—

- (a) conduct that is of a lesser standard than that which might reasonably be expected of the registered professional engineer by the public or the engineer's professional peers;
- (b) conduct that demonstrates incompetence, or a lack of adequate knowledge, skill, judgement or care, in the practice of engineering;
- (c) misconduct in a professional respect;
- (d) fraudulent or dishonest behaviour in the practice of engineering;
- (e) other improper or unethical conduct.

The easement shown on the plan BSD 8111 shows an easement is placed further away than 900mm from the boundary.

11

C	Min. Pipe sizes Added to Detail, <u>Easement Width Updated</u> , Notes 1, 2, 3 & 4 Revised	NOV '18	APR '19	APR '19
B	Note 5 Amended - SN6 changed to SN8	FEB '16	JUL '16	JUL '16
A	Drawing Converted from UMS Series April 2014	APR '14	APR '14	APR '14
ISSUE	AMENDMENT*	DRAWN DATE	CHK'D DATE	APPR'D DATE



## DESIGN CRITERIA FOR REAR OF ALLOTMENT DRAINAGE SYSTEM

EASEMENT WIDTH (m)	NOMINAL PIPE DIAMETER (mm)	MINIMUM PIPE SLOPE (%)	FLOW (L/s) - NOTE 4							
			PIPE GRADIENT % - NOTE 6							
			0.5	1.0	1.5	2.0	2.5	3.0	4.0	5.0
NOT REQUIRED - NOTE 3	150	1.0	N/A	18	23	26	30	33	38	42
0.9	225	0.5	38	56	67	78	87	96	110	125
0.9	300	0.5	84	120	146	170	190	210	N/A	N/A

Extracts of BSD 8111 above. Easement width .9m. Updated by Council November 18, April 19, April 19

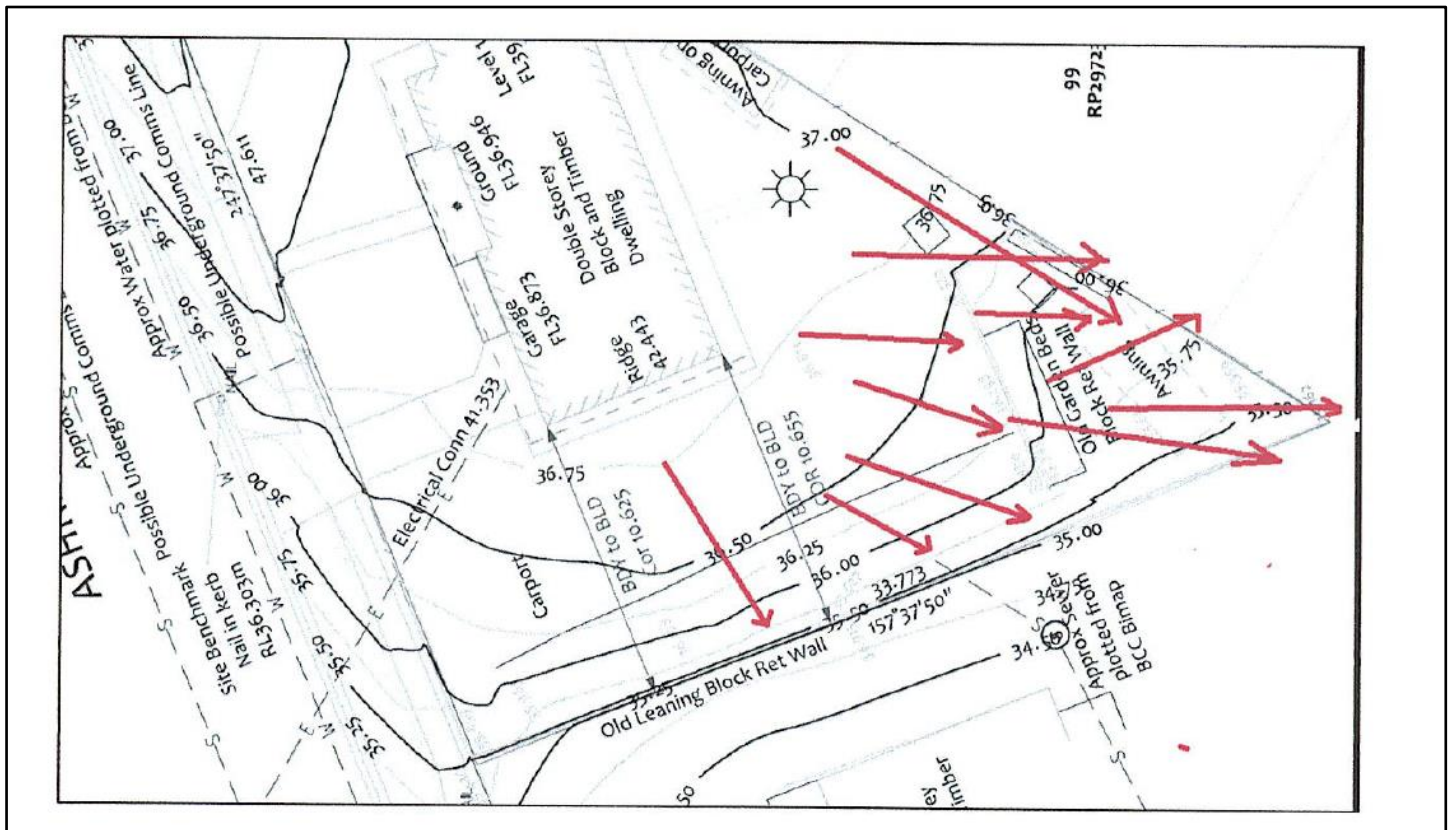
## Condition 18

11. Otherwise, condition 18 is a lawful condition which should be imposed because:
- (a) the condition seeks to, inter alia, impose a requirement for a stormwater drainage connection to be provided to the Upslope Lots;
  - (b) the Upslope Lots are upslope to the Land and stormwater will drain down slope towards the Land;
  - (c) the Upslope Lots are within the LMR3 Low-medium density residential (up to 3 storeys) zone in the City Plan and may be re-developed in the future with increased density;

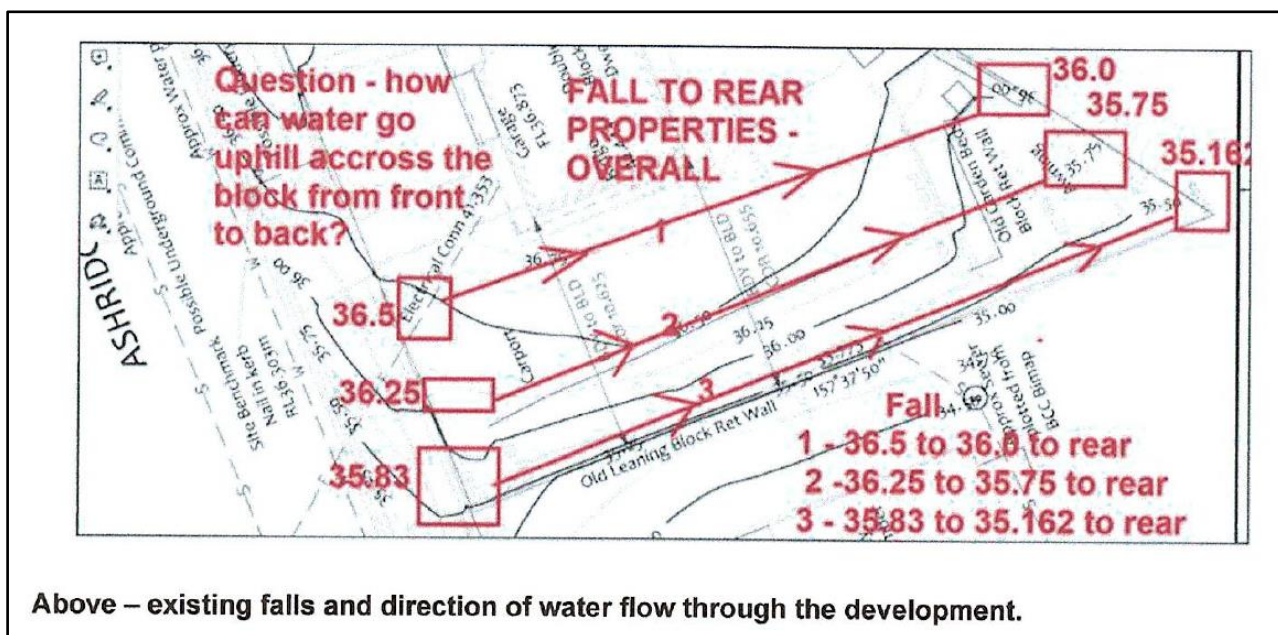
### Above Extract of Appellant Response

**“The upslope lots are upslope to the Land and stormwater will drain down slope towards the land.”**

As stated in the Expanded Grounds of Appeal, this is a false statement by the Respondent. The Respondent has no evidence of the rear lots being Upslope to the Ashridge Rd lot.



Extract of Expanded Grounds of Appeal lodged 19/11/24.



Above – existing falls and direction of water flow through the development.

### Above – Extract of Expanded Grounds of Appeal

The Respondent has not provided evidence whatsoever of what particular part of rear lots 98, 99 are “Upslope.”

The Appellant stated in the Expanded Grounds of Appeal that the rear topography is a valley, and that the land falls from front to rear and right.

**The Appellant’s position has not changed.**

**The bottom of the Valley** is in the 3 rear lots, 98, 99, 100.

**Therefore 128 Ashridge Rd is the Upslope lot at the boundary not the rear Lots 98, 99.100**

In the Expanded grounds of Appeal the Appellant stated AHD of contours at the location of the respective pits of Lot 98, 99 and In front of Lot 100, right rear.

Recent Survey levels taken by ONF in the rear lots close to the rear lot boundary will confirm levels as follows:

	128 Ashridge Rd	Rear Neighbour
Pit 1 – Lot 98	37.000	36.798 <sup>1</sup> <b>Lower</b>
Contour	36.020	35.899 <sup>1</sup> <b>Lower</b>
Pit 2 – Lot 99	35.500	35.100 <sup>1</sup> <b>Lower</b>
Rear right corner	35.162	35.099 <sup>1</sup> <b>Lower</b>

All rear lot levels in the rear lots close to the boundary are lower than 128 Ashridge Rd.

1. To be confirmed by the Appellant and provided to the Respondent by 19/2/25.

This table proves that in 4 locations, that the rear lots to not drain down to the land. 128 Ashridge Rd Darra drains down to the rear lots.

**Based on the Respondent’ argument of “stormwater will drain down slope to the land”, Condition 18 should be deleted. End of argument. Full stop.**

As a backup, S 7.6.5 requires “That part of the lot that would drain through the development “(the development being the subject lot development.)

As demonstrated in the Expanded Grounds of Appreal, 19/11/24, Council pipe is charged.

**Scenario 1 - 300 pipe, 450 cover and .5 degree fall as per BSD 8111 requirements**  
**Calculations done against red line shown on BCC approved plan.**  
**Based on fully developed 4 houses = 60 litres/second, 300 pipe, 83 litres/second**  
**100\*75 RHS pipes across verge.**

Pit	1	2	3	4	5	Cross check
Pipe Length		16.370	6.060	29.500	3.750	55.680
SL at boundary	36.700	35.650	35.162	35.859		
Fall of natural ground - rear neighbour or Ashridge Rd	Rear neighbour	Rear neighbour				
(A) SL used for Pit	37.000	35.750	35.200	35.859	35.250	36.250
New start of line invert level brought forward		36.250	35.000	34.450	34.303	
(B) Min depth - pipe 300 and and cover 450	0.750					
(C) Min Invert level depth	36.250					
Fall .5% on property, 1% at verge		0.082	0.030	0.148	0.038	-0.297
(D) Invert level end of line after fall		36.168	34.970	34.303	34.266	
(E) Prima facie depth (needs to be +.750 or .15 at kerb)		-0.418	0.230	1.557	0.985	
Distance the pipe needs to be lowered by for min cover		1.168	0.520			-1.688
Adopted Min invert level with 300 pipe and 450 cover carried forward		35.000	34.450	34.303	34.266	34.265
Invert level at kerb					35.100	
<b>BCC charged system malfunction in metres</b>					<b>-0.834</b>	

Above - BSD 8111 calculations below, including sham triangle.  
 300 pipe, 450 cover, fall .5 % on property, fall 1% on verge.

## Above - Extract of Expanded Grounds of Appeal

### 7.6.5 Provision of drainage for future upslope development of a neighbouring property

1. Provision must be made for the future orderly development of adjacent properties with respect to stormwater drainage where at least part of those upslope properties would drain through the development, or the most feasible location for stormwater drainage infrastructure to service those properties is within the development.
2. If a piped drainage connection is provided for up-slope development, the drainage infrastructure must fully extend to the boundary of the up-slope site to ensure that the up-slope property owner does not have to undertake works in the down-slope property to connect to this stormwater infrastructure.
3. Where a pipe is used to facilitate an up-slope stormwater connection (now or in future) the minimum pipe size is 225mm nominal diameter for any development. This stormwater pipe must be connected to a lawful point of discharge.
4. The development is to design any up-slope stormwater connection for fully developed catchment flows.

**Above – S 7.6.5 of the Infrastructure Policy. Provision of drainage for future upslope development of a neighbouring property.**

## Above – Extract of Expanded Grounds of Appeal

It must be stated, to be clear -

**“Up-slope Development”** means future development in the rear properties. Lot 98, 99

**“The development”** means the subject land development. 128 Ashridge Rd Darra

**“Development”** means the subject land development, 128 Ashridge Rd Darra

Council Upstream Drainage amended plans in red are non-compliant with their own laws, being Brisbane Planning Scheme Policy S7.6.5. Further reasons stated in notes below on S18.6.

**128 Ashridge Rd is the Upslope property**

**The overall downslope of 128 Ashridge Rd is -**

37.000 on the Ashridge Rd lot to 35.099 on the rear lot 100.



**There is 1.91 meters fall downslope from land in 128 Ashridge Rd Darra to inside the boundary of rear lot 100, which is the lowest point.**

Water may very well want to travel downslope over the boundary, but water also wants to travel to the rear right properties.

The rear properties will need to access a property to their right side, downslope of them.

The subject property is overall 1.91 higher than the rear properties.

**Again, for this reason, 128 Ashridge Rd is the Upslope property, not the rear lots, quite clearly.**

Notations in red on approved plan

14. The notations identified in red on the Approved Plan:

- (a) are administrative in nature (for example, the identification of the plan and drawing number); or
- (b) as indicated, they are "indicative" only and represent one way, but not the only way, that compliance can be achieved with the Disputed Conditions; and
- (c) ought to be included on the Approval Plan in any approval of the Development Application.

**There are many other factors that determine that Condition 18 should be deleted, as covered in the Notice of Appeal and Expanded Grounds of Appeal and other affidavits, but not limited to -**

Pipe is charged

Refusal to supply easement document

Zone of influence - pipe clashing with stormwater pipe

No Build over sewer approval

Clash of retaining wall engineering, sewer pipe, private drain.

Contradictory pipe specification undersized 225 mm

Unlawful rear triangle non-compliant with Council laws.

## Condition 17

The reasons and statements by the Respondent are meaningless.

Everyone on the planet is aware that every new block of land needs Onsite Drainage.

See report and affidavit by David Manteit, 20-12-25, filed in Court.

All 412 approved cases require Onsite Drainage.

outcomes PO1<sup>7</sup>, PO2<sup>8</sup>, PO3<sup>9</sup> and PO4<sup>10</sup>;

(f) If condition 17 was removed the proposed development would not achieve compliance with these assessment benchmarks; and

(g) is supported by the planning purpose of ensuring that an appropriate standard of

### Respondent advice above

The Appellant **did not request that the condition be removed**. The Appellant requested that the sham unlawful design by Council DST staff be removed.

#### 17) On Site Drainage - Minor

Provide a stormwater connection to all new or existing allotments and provide drainage infrastructure to ensure stormwater run-off from all roof and developed surface areas will be collected internally and piped in accordance with the relevant Brisbane Planning Scheme Codes to the existing kerb and channel in Ashridge Road.

#### NOTE:

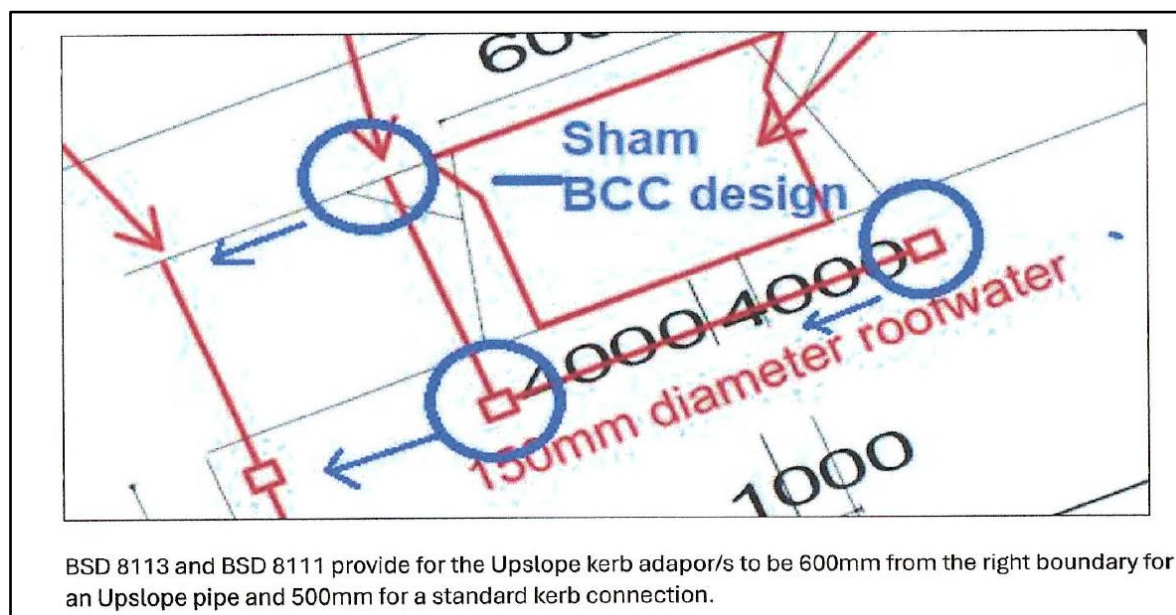
- Guidance for the preparation of drawings and/or documents to comply with this condition is provided in the Brisbane Planning Scheme Policies
- Queensland Building and Construction Commission licensed hydraulic consultants may design the stormwater system for sites less than 2000m<sup>2</sup> with an upstream catchment servicing no more than 4 residential lots.
- Where external works are required and infrastructure will be handed over to Council (e.g. Stormwater pipes 375mm or greater and/or manholes within the road reserve, etc), the applicant will be required to request a Pre-Start with Council and ensure all future owned Council assets follow the On/Off Maintenance process in accordance with Council's Infrastructure Installation & Construction Requirements Manual.
- Guidance for requesting a pre-start and co-ordinating the On/Off Maintenance process can be found on Council's website (<https://www.brisbane.qld.gov.au/planning-and-building/applying-and-post-approval/on-and-off-maintenance-approvals>)

#### 17(a) Submit As Constructed Drawings

Submit to Development Services As Constructed drawings prepared and certified by a Registered Professional Engineer Queensland or a Queensland Building and Construction Commission licensed hydraulic consultant (where applicable).

Timing: Prior to Council's notation on the plan of subdivision.

### Extract of Notice of Appeal in relation to S 17



### **Extract of Expanded Grounds of Appeal filed 19/11/24**

The above Council plan is 100% evidence that the Appellant has absolutely no knowledge whatsoever of Council Lawful Point of Discharge requirements and is just plucking at straws. Pure demonstration of incompetence.

### **The respondent solicitor demonstrates incompetence and total lack of knowledge of the process of approval and construction of the Lawful Point of discharge for Onsite Drainage**

In the report by David Manteit 20-1-25 it was demonstrated every DA approved subdivision had a condition issued for lawful point of discharge, Onsite Drainage. In most cases, Council issued a standard condition. Sometimes the applicant RPEQ engineered the design at the DA stage and this design became a condition of the approval.

Either way, the applicant is still required to provide As Constructed Drawings prior to Plan Sealing.

In the report, it was found that in only one case of 412 cases where **Council became engineers and engineered Onsite Drainage**.

That case is the subject case, 128 Ashridge Rd Darra

### **The process of Approval for an Hydraulic Engineer**

The applicant RPEQ must, prior to Plan Sealing, provide to Council "As Constructed Drawings".

**Note Council require the RPEQ "As Constructed Drawings", to Council after the system is constructed, not provide drawings before the system is constructed. The applicant must prepare for construction purposes but not to be approved by Council.**

There is no Council approval process of the Onsite drainage system, and Upstream Drainage system, prior to the stormwater Pipes and pits system being constructed.

Should Council issue a standard condition, for Onsite Drainage, then the RPEQ has **free reign** to design the system, as long as it is in accordance with Brisbane Planning Scheme Policies, not only in general law, but specifically as directed by condition 17.

<p><b>17) On Site Drainage - Minor</b></p> <p>Provide a stormwater connection to all new or existing allotments and provide drainage infrastructure to ensure stormwater run-off and piped in accordance with the relevant Brisbane Planning Scheme Codes to the existing kerb and channel in Ashridge Road as received 10 JUL 2024 and as amended in red. The development site must be filled to create a usable building pad for proposed L and channel. A charged system does not achieve an acceptable lawful point of discharge.</p> <p>NOTE:</p> <p>- Guidance for the preparation of drawings and/or documents to comply with this condition is provided in the Brisbane Planning Scheme Policies.</p> <p>- Queensland Building and Construction Commission licensed hydraulic consultants may design the stormwater system for sites 1</p>
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### Above – extract of Condition 17

Brisbane Planning Scheme Policies S.7.2.3 and S 7.6.3.1 directs that **Brisbane Standard Drawings** must be followed:

BSD 8111, 8112, 8113, 8114.

<p><b>7.2.3 Collection of roof water run-off</b></p> <ol style="list-style-type: none"> <li>(1) Refer to <a href="#">QUDM 7.13</a> and <a href="#">AS/NZS 3500.3:2003 Plumbing and drainage Stormwater drainage</a>.</li> <li>(2) Gutters and downpipes are to be designed to ensure no overflows for up to the 5% AEP storm of 5-minute duration.</li> <li>(3) Roof-water collection for low density residential subdivisions is to be in accordance with <a href="#">BSD-8111</a>.</li> </ol> <p>Schedule 6 – Planning Scheme Policies (Infrastructure Design – Chapter 7 Stormwater Drainage) <span style="float: right;">Effective 3 July 2017</span></p>
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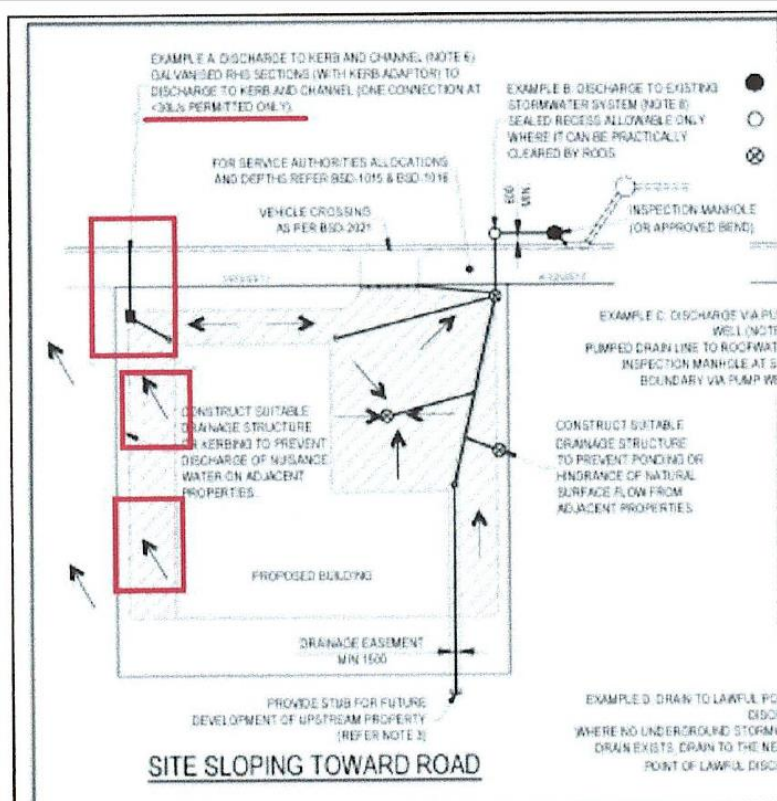
### Above – Extract from City Plan S 7.2.3

In the case of 128 Ashridge Rd Darra, Council have engineered and designed which limits the way that the RPEQ can design.

**Onsite Drainage - Council DTS staff engineering – Unlawful Council non-compliant aspects.**



## Council unlawful and charged Kerb Crossing



Above – BSD 8113 showing rough distance of 500mm from alignment with boundary at kerb for standard crossing.

This standard drawing advises that land is to fall away from the house/usable pad

## Extract of Expanded Grounds of Appeal 19/11/24 lodged in conjunction with Notice of Appeal,

Kerb adaptor in middle of block, 5.1, away from the lowest part of the kerb. Non compliant with Brisbane Planning Scheme Policies S 7.2.3, S7.6.2, S 7.6.3.1, BSD 8111, BSD 8112, BSD 8113, BSD 8114.

S84 of Building Act 1975 means that a house may not be built.

Pits around 4 metres from the lot boundary. Non-compliant with BSD 8111.

Pipe 150 . Non-compliant with BSD 8111. Should be minimum 150.

No surface levels or invert levels provided by Council.

In addition, the kerb adaptor location will cost the developer an extra \$172,000, caused by the unlawful Council engineered designed kerb adaptor being 5.1m away from the low side of the kerb.

In addition, it is estimated to cost an additional \$50,000 to relocate pits, pipes and kerb adaptors.

Possible damages actions from future owners for unlawful engineering design.

Possible claim against RPEQ professional indemnity insurance.

In accordance with Brisbane Planning Scheme Policies and Brisbane Standard Drawings. Kerb adaptor 500mm away from the low side of the kerb. No suggestion of offences of unsatisfactory professional conduct, under Schedule 2 of the Engineers Act. No damages actions from future owners.

*In addition, a certifier for a new home or carport will be bound by S84 of the Building Act 1975 to connect into the DA approved kerb adaptor, as advertised on Development I, and not connect to a secret, non-publicly available "As Constructed kerb adaptor".*

No RPEQ cannot finalise design lawfully because they are limited to the unlawful Council engineering design.

The RPEQ is limited to design "as shown". If the RPEQ deviates and designs a lawful design, this will not be accepted As Constructed by CARS, at Plan Sealing, since the RPEQ lawful design will not be accepted by Council.

No RPEQ can design because they will lose their QBCC licence because RPEQ will be fined by Council for QBCC building work of hydraulic design over \$1,100 that is non-compliant with Council laws, including BSD 8111.

No RPEQ can design because they will lose their RPEQ licence for substandard engineering, by being forced to design a sham hydraulic system that has a kerb adaptor that will not provide the lawful point of discharge at the low side of the kerb.

No RPEQ can design because he will need to claim on his Professional Indemnity insurance one he is taken to Court by the person he designed for, whether or not Council accepted that design by mistake, once the house design cannot be approved by the Building Certifier.

### Council pipe charged

Lawful point of discharge at kerb, 500mm from boundary	35.100	
Fall over verge 1:100 as per BSD 8111	.038	
Min IL at front boundary	35.138	
Pipe diameter as per BSD 8111	.150	
Minimum Cover as per BSD 8111	.450	
Min FSL required at front boundary		35.738
ESL at front boundary as per surveyor	35.859	
Fall pipe 150mm 1:100 over 6 metres from boundary,	.060	
Minimum FSL at 6 metre setback= start of usable pad		35.798
<b>Adopted usable building pad FSL at front</b>		<b>35.798</b>

Above – Affidavit by David Manteit, 19/11/24.

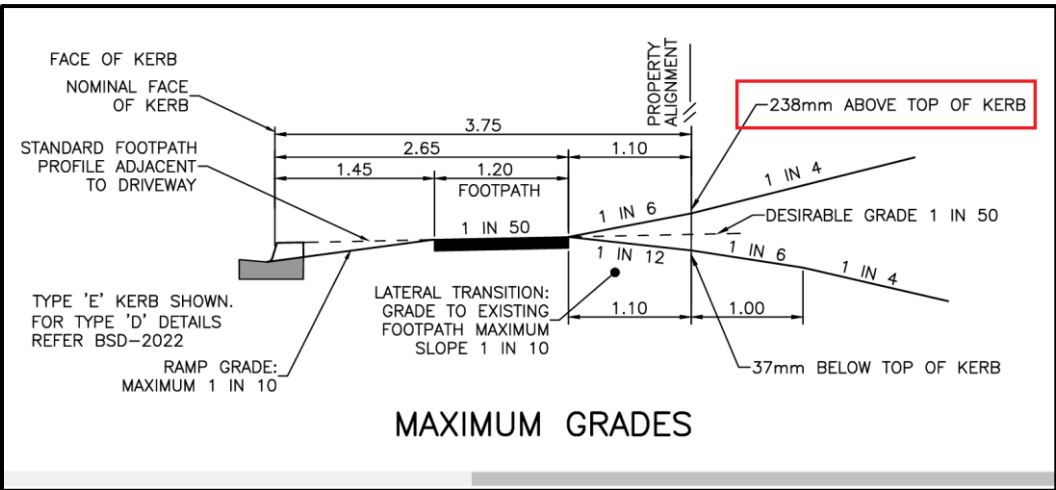
Council DST unlawful lawful point of discharge

The pad level is proposed to be from FSL 35.798 at the front of the house pad. House pad starts at 6 metres setback from the front boundary. 60mm fall has been taken into account for 1% fall from front boundary to start of House Pad.

- Council DTS engineered system is charged as follows:

FSL of rear of proposed pad	35.798
Depth of pipe 450+150	<u>.600</u>
USIL of pipe at from boundary	35.198
Council DST proposed lawful point of discharge	<u>35.453*</u>
Council DST Onsite Drainage system charge pipe of	<u>.255</u>

\* Note – Recent ONF Surveying work to be supplied by the applicant by 19/2/25 to the Respondent



Extract of BSD 2024 requiring maxim 238mm height differential.

Note, it is still the positon of the applicant that not a teaspoon of fill is required For the development.

Note, as mentioned in the Expanded Grounds of Appeal, that storwater compliance of 100 % cover of the building ground after setbacks of the Small Lot Code.

**Council Onsite drainage system is charged and unlawful.**

# **No structure can be built on the lot based on Council lawful point of discharge 5.1m from the low side of the kerb.**

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## **Council Plans amended in red**

The Respondent continues to uphold it's engineering for amended plans in red.

Then it needs to be honest and provide engineering calculations as required in Condition 17 and 18.

"Is one way". "Not the only way"

There is "no way" for S18.

There is "one way" for Condition 17 but this "one way" plan cannot be designed by any private RPEQ since the RPEQ design would be

- lawfully compliant with Council laws, but
- unlawful with Council laws

Any certifier would not accept the private RPEQ design of location of kerb adaptor at 5.1m. It is charged. Council Onsite drainage plan cannot be built.

Whilst S 45 of the Planning Act requires the Respondent to prove, the exception is when a Council becomes an engineer. This has happened in one case of 412 Council approves cases in the whole calendar year of 2024.

Nobody forced Council to perform engineering. Nobody asked David Manteit to perform engineering.

He who performs engineering for the world, eg, Development I, must be responsible for the engineering.

Council has a responsibility to be -

- transparent with their engineering
- not provide drawings and and perform engineering that is unsatisfactory conduct, of a Registered Professional Engineer as per Schedule 2 of the Professional Engineers Act.
- not produce or provide drawings that may be an offence under S115 of the Professional Engineers Act 2002 and The Crime and Corruption Act 2001, being engineering performed by unlicensed or unsupervised persons.

Should Council Plans be found unlawful, the condition must be removed.

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## **STORMWATER ENGINEERING STATEMENT / WITNESS**

**If an applicant REPQ is called for, he will find –**

### **Upstream Drainage**

There is “no way” “or any other way” for the Upstream Drainage to be designed and constructed, physically, and also due to other limiting factors of Council’s non-compliance with Council laws and withholding of information such as easement document.

There is no way to design, since any design would be not “as shown” and would be unlawful by him.

**Council’s plan and any other plan will be charged.**

Pipe size of 225mm is undersized, incorrect and contradictory with condition 18 and all other requirements in Planning Scheme policies and BSD Standard Drawings.

Council’s Plan is unlawful and unsatisfactory professional conduct, of a registered professional engineer.

The engineering standard is a lesser standard than that is expected, of a Professional engineer.

### **Requirements for Upstream Drainage engineer report, prior to engineer statement**

Council’s engineering calculations of the red plan, as per Condition 18 requirements, including surface levels, invert levels of pits and pipes, reasons for sham triangle.

Council’s Easement document

Crosssections of Council’s services plan including zone of influence.

Council’s Proof of rear lots being “Upslope” to 128 Ashridge Rd lot.

Council’s reasons for unlawful rear right triangle pit and easement.

Statutory Declaration that that Council’s Upstream drainage plan is lawful and complies with all Council Laws.

### **Onsite Drainage**

**Council’s plan is charged**

Pits are in the wrong location

Kerb adaptor is in the wrong location

Pipe size to be minimum 150 not 150,

There is another “way” by utilising the legal location of lawful point of discharge, being ESL 35.1  
Pipes and pits need to be redesigned.

## **Requirements for Onsite Drainage for engineer prior to an engineer statement**

Before any meeting the RPEQ requires:

Council's engineering calculations of the red plan, as per S18 requirements, including surface levels, invert levels of pits and pipes.

Statutory Declaration that the Onsite drainage plan is lawful and complies with all Council Laws.

## **Typographical errors**

The report is undreadable with the typographical errors as it stands.

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## **COURT ORDERS 12/2/25**

### **I shall be seeking Court orders as follows -**

1. The respondent is to retype and reissue the statement of disputed conditions dated 31/1/25 to the Appellant by 19/2/25, to include -

- the removal of typographical errors including the word "Correspondence" and in addition, modify the understruck word

~~"Note".~~

- Reasons of disputed conditions to include references to Brisbane Scheme Policies and Brisbane Standard Drawings, including, but not limited to -

S7.2.3, Table 7.2.3.A, S 7.6.3.1, S 7.4.7, S 7.6.5, BSD 8111, BSD 8112, BSD 8113.

2. The engineer and author of the approved Onsite Drainage and Upstream Drainage plans amended in red, 20/9/24 to provide a filled out template of surface levels and invert levels of Council engineered stormwater pits and pipes, as per the Brisbane Planning Scheme Policies, including S 7.2.3 and BSD 8111, as required by conditions 17 and 18. Template as per "Attachment A"

3. The respondent to provide a copy of the easement documentation referred to in Condition 7 to the Applicant by 19-2-25.

4. The Respondent to provide a detailed list of proposed terms of reference of any expert witness and area of expertise for an expert witness that the Respondent reasonably requires, and the specific reasons why the Respondent requires that expert witness. The author of the red lines is to be the engineering witness and be on that list. The list is to be provided to the Appellant by 19/2/25.

5. Sara McCabe, the author and lodger of the order dated 12/12/24 is to provide an affidavit to the Respondent and this Court, by close of business 12/2/25 for the reasons she refuses to request the Court for the Appellant's name to be changed to the correct name on the order dated 12/12/24.

6. The Appellant is to provide a response to the Respondent of Reasons for disputed Conditions by 26/2/25.

7. The Appellant is to provide a revised surveying report to the Respondent showing (a) further spot marks of rear properties to assist with definition of Upslope Properties and (b) further spot marks of kerb locations demonstrating charged Council Onsite Drainage approved plan.

## Reasons for orders –

Typographical errors make the reasons unreadable.

None of the reasons stated by the Appellant have referred to any Brisbane Planning Scheme Policies or Brisbane Standard Drawings.

The Respondent is forcing of Applicant RPEQ to design unlawfully.

None of the reasons stated by the Appellant have referred to the fact that the amended plans in red are unlawful.

The list of reasons should be revised by the Respondent to include -

### Brisbane Planning Scheme Policies

S 7.2.3

Table 7.2.3 A

S 7.6.2

S 7.6.3.1

S 7.4.7

### Brisbane Standard Drawings

BSD 8111

BSD 8112

BSD 8113

BSD 8114

List of items that are non-complying with the Policies and Standard Drawings

Reasons of how RPEQ can complete design due to unlawful Council design.

Reasons of why a private certifier will not reject the kerb adaptor location.

### Condition 18

#### **'18) Up Stream Stormwater Drainage Connection – Minor**

*Provide a stormwater drainage connection for Lot(s) 98 and 99 on RP29723 designed for ultimate developed catchment conditions and connected to the existing kerb and channel in Ashridge Road being the lawful point of discharge, as generally shown on the APPROVED Plan of Subdivision SK01 received 10 JUL 2024 and as amended in red. ~~The development site must be filled to create a useable pad for proposed Lot 2 and to achieve a lawful point of discharge via gravity to the kerb and channel.~~*

#### **Note:**

*All upslope stormwater connection to existing private properties must extend to the property boundary of the relevant property being ultimately serviced by that connection.*

**None of the reasons stated by the Appellant have referred to any Brisbane Planning Scheme Policies or Brisbane Standard Drawings.**

**None of the reasons stated by the Appellant have referred specifically to the amended plans in red.**

**None of the reasons stated by the Appellant have referred to the fact that the amended plans in red are unlawful.**

The reasons and statements by the Respondent are meaningless and a diversion tactic.

### **Non-compliant items**

The Respondent has not referred to the following non-compliant items -

Sham triangle, non-compliant with BSD 8111, being further away than 600mm from the boundary.

Pipe 225mm in contradiction with minimum 225mm pipe in the condition 18, S 7.6.5, Table 7,2,3A, BSD 8111.

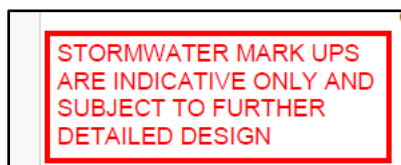
No surface levels or invert levels provided.

S 7.6.5 provides that “that part of the lot would drain through the development”. **Council engineered System is charged by around one metre.** Non-compliant with BSD 8111.

No RPEQ cannot finalise design because they are limited to the unlawful Council engineering design.

No RPEQ can prepare drawings as required in Condition 18.

Note the red stamp -



Council are required to provide the further detailed design as called for the approval.

Certainly, the applicant RPEQ is only required to provide drawings to Council “As constructed”. That means after construction and not before.

So there will be no further design by the Applicant RPEQ until after construction.

### **Council plans unlawful – “As shown”**

No RPEQ will be prepared to provide drawings that are “as shown” because the plans are unlawful.



No RPEQ cannot design because they will lose their licence because RPEQ will be fined by Council for QBCC building work of hydraulic design over \$1,100 that is non-compliant with Council laws, including BSD 8111.

The list of reasons should be revised by the Respondent to include -

Brisbane Planning Scheme Policies

Brisbane Standard Drawings

List of items that are non-complying with the Planning Scheme Policies and Brisbane Standard Drawings

Reasons of how RPEQ can complete design due to unlawful Council design.

Reasons of why a private certifier will not reject the kerb adaptor location.

Reasons why BCMT will not reject the unlawful.

**Late informal advice by a Certifier person to remain nameless.**

Hi David,

I've read your attached letter and can see there's an ongoing matter of appeal. Please take this as informal advice:

Where a DA condition /approved plan requires a stormwater drainage system to be installed in a particular location, then this becomes the legal point of discharge. The National Construction Code (NCC) Vol 2 Part 3.3.5 requires the appropriate authority (the building certifier) to be satisfied with the position and manner of discharge. There is also the point that the building development approval must be consistent with earlier development approvals (in your case the reconfig).

My view is that if I were engaged as the building certifier for a building development application on this site, I would have to go with the council approved location of the stormwater drainage system and not consider an alternative location.

Therefore I'd require a modified DA approval condition to change the approved location of the system before I'd accept it.

Based on this informal advice by an unnamed private certifier, the implications are that any RPEQ is stuck with the Council DA unlawful point of discharge of 5.1 m up from the low part of the kerb.

Therefore nothing can be built on the land as it stands.

More alleged evidence of Council unsatisfactory conduct, of a Registered Professional Engineer.

END