

In the Planning and Environment Court

No 2916/24

Held at: Brisbane.

Between: **David Manteit**

Appellant

And: **Brisbane City Council**

Respondent

NOTICE OF APPEAL

Filed on **19 NOV 2024**

Filed by David Manteit

Service address: 82 Rowe Tce Darra 4076

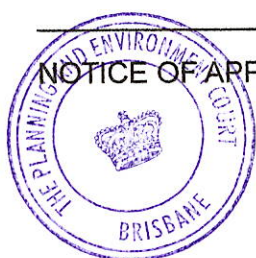
Phone: 0424 739 923

Email: davidmanteit@hotmail.com

I, David Manteit of 82 Rowe Tce Darra 4076 appeals to the Planning and Environment Court at Brisbane against the decision made by Brisbane City Council on 25/9/24 of AOO6565555 and seeks the following orders set out on the following pages 3-21.



Appellant



NOTICE OF APPEAL

Name: David Manteit
Service address: 82 Rowe Tce Darra 4076
Phone number: 0424 739 923
Email: davidmanteit@hotmail.com

If you are named as a respondent in this notice of appeal and wish to be heard in this appeal you must:

(a) within 10 business days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this notice of appeal was filed or where the court file is kept; and

(b) serve a copy of the Entry of Appearance on each other party. The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

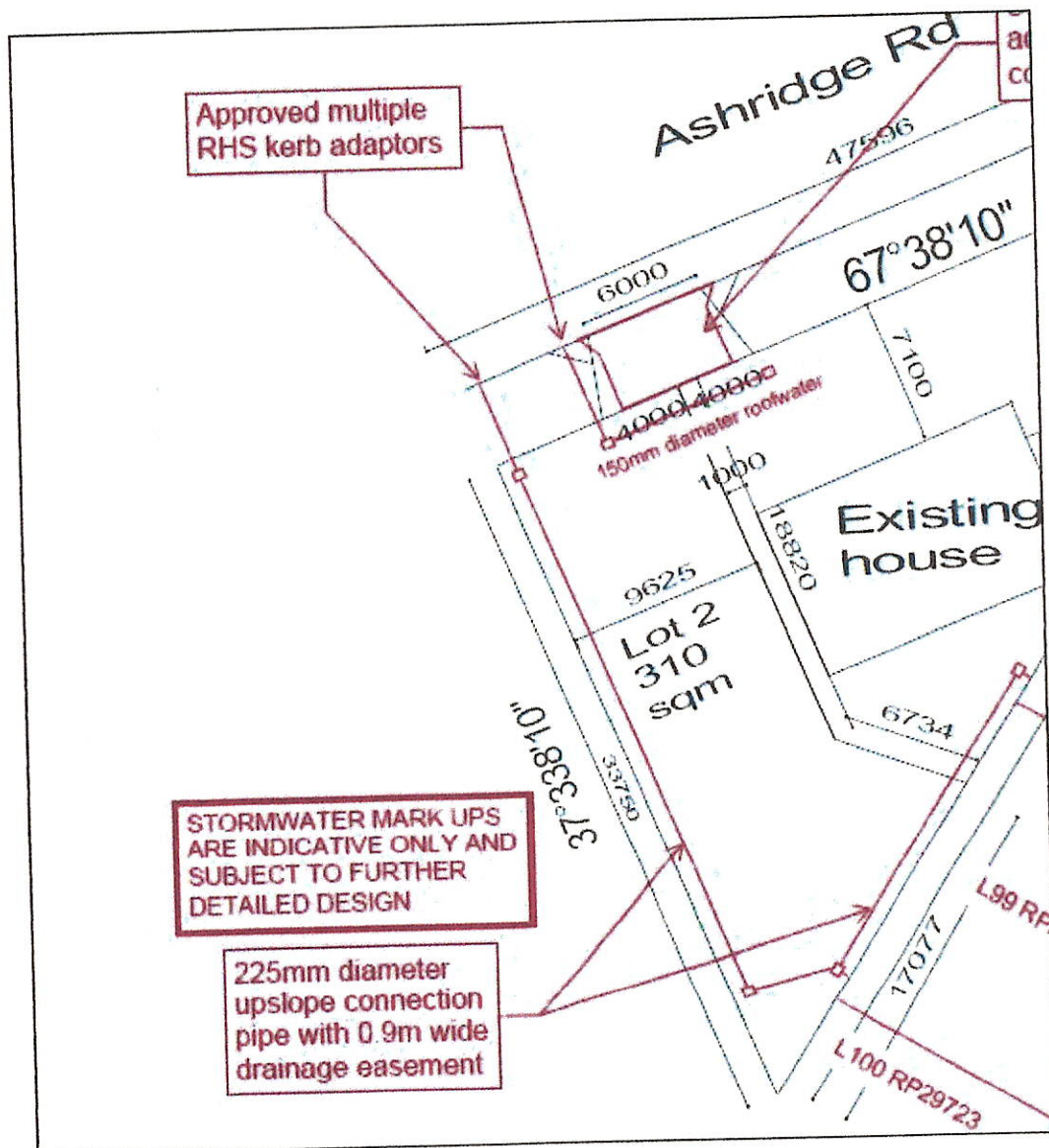
(a) within 10 business days of receipt of this Notice of Appeal, file a Notice of Election in the Registry where this Notice of Appeal was filed or where the court file is kept; and

(b) serve a copy of the Notice of Election on each other party.

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.

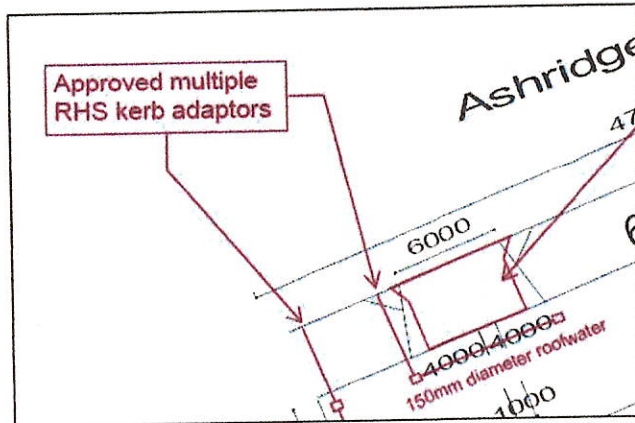
Orders sought:

1. The entirety of S18 to be deleted.
2. Red lines and pits and kerb connection on approved plan in reference to stormwater pipe to upslope properties be deleted. Red box and words "Approved multiple RHS kerb adaptors" to be deleted.



3. Re approved plan - "150mm diameter roofwater" red words and line to kerb to be deleted.

Red stamp and words "Approved multiple RHS kerb adaptors" Below to be removed.



4. Re Approved Plan – Remove red stamp and words "Stormwater Markups are Indicative Only and subject to further detailed design." To be removed.

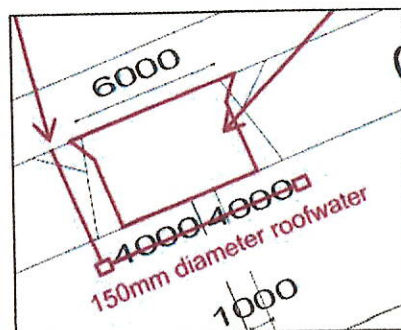
Remover red stamp "225mm diameter upslope connection pipe with .9m wide drainage easement."



5. The entirety of S 7 to be deleted.

6. S 24

Red line/s amendment/s on plan below to be removed.



7. Condition 24 to be changed from –

24) Permanent Driveway Crossover

Provide a 6.0 metre wide Residential Type shared permanent driveway crossover to the Ashridge Road frontage(s) of the site in accordance with the relevant Brisbane Planning Scheme Codes and located as shown on the approved DRAWINGS AND DOCUMENTS.

Written consent must be obtained from Program, Planning and Integration Arboriculture (PPI Arb) prior to any works occurring that will either impact on or require removal of a street tree (this includes pruning, excavation or fill within the root zone/canopy of the tree)

At all times during construction of the crossover, safe pedestrian access along the site frontage must be maintained.

Note: No further driveway permit is required however additional footway permits or lane closure permits may be required for footpath/verge closures and/or lane closures. These permits must be obtained prior to construction of the crossover.

To be replaced with -

24) Permanent Driveway Crossover

Provide a 6.0 metre wide Residential Type shared permanent driveway crossover to the Ashridge Road frontage(s) of the site in accordance with the relevant Brisbane Planning Scheme Codes and located as shown on the approved DRAWINGS AND DOCUMENTS. **as lodged not amended in red.**

Written consent must be obtained from Program, Planning and Integration Arboriculture (PPI Arb) prior to any works occurring that will either impact on or require removal of a street tree (this includes pruning, excavation or fill within the root zone/canopy of the tree)

At all times during construction of the crossover, safe pedestrian access along the site frontage must be maintained

Note: No further driveway permit is required however additional footway permits or lane closure permits may be required for footpath/verge closures and/or lane closures. These permits must be obtained prior to construction of the crossover

8. S 17 to be changed from -

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 and generally as 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 usable building pad for proposed Lot 2 and to achieve a lawful point of discharge via gravity to the kerb and channel. A charged system does not achieve an acceptable lawful point of discharge.

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 2000m² 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 Councils 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.

S7 to be replaced with -

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 2000m² 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-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.

9. S12 to be changed from -**12) Filling and/or Excavation**

All earthworks must be carried out in accordance with the relevant Brisbane Planning Scheme Codes.

12(a) Submit Earthworks Drawings

Submit to, and obtain approval from, Development Services earthworks drawings prepared and certified by a Registered Professional Engineer Queensland in accordance with the relevant Brisbane Planning Scheme Codes.

The Earthworks Drawings must include the following:

- The creation of a usable building pad for proposed Lot 2 and any associated earthworks to enable lawful point of discharge for the proposed lots to Ashridge Road kerb and channel and the provision of a stormwater drainage connection for upslope properties in accordance with the conditions of this approval.
- Details of existing retaining walls including their current condition and if they require repair or replacement to remain structurally sound and able to support the loading of earthworks and future dwelling construction. If existing walls require repair or replacement and are within neighbouring properties written permission must be sought from the affected property owner.
- The location of any cut and/or fill;
- The quantity of fill to be deposited and finished fill levels;
- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary;
- The existing and future finished levels in reference to the Australian Height Datum (including cross-sections or long sections into the adjacent properties);
- Preservation of all drainage structures from the effects of structural loading generated by the earthworks;
- Protection of adjoining properties and roads from adverse impacts as a result of the works;
- That all vehicles exiting from the site will be cleaned and treated so as to prevent material being tracked or deposited on public roads.

Note:

- If the earthworks impact on the road reserve, the Developer must obtain applicable footpath and road permits prior to commencing any works. Such impacts may include footpath occupation, road closures, re-profiling, ground anchors and/or relocation of services. If the excavation has to be stabilised using ground anchors or similar, then the submitted plans must show the location of these in relation to all services. The cost of moving services, utilities and assets is the responsibility of the Developer. The permission of the service/utility/asset owner is required.
- Irrespective of final earthworks, it is the responsibility of the RPEQ to manage any staged works associated with Erosion & Sediment Control.

Timing: Prior to site/operational work commencing.

12(b) Fill Material, Placement, Compaction and Testing

All fill material placed on the site must comprise only natural earth and rock and must be free of contaminants (as defined by Part 3, Division 2, Subdivision 2 Environmental contamination, Section 11 of the *Environmental Protection Act 1994*) and noxious, hazardous, deleterious and organic materials.

Fill material, placement, compaction and testing must comply with the requirements of Australian Standard - AS 3798, Guidelines on Earthworks for Commercial and Residential Developments.

Timing: While site/operational work is occurring.

12(c) Implement Approved Earthworks Drawings

Construct and maintain the earthworks in accordance with the requirements of AS3798 and the approved earthworks drawings.

Timing: While site/operational work is occurring and then to be maintained.

12(d) Submit As Constructed Drawings

Submit to Development Services As Constructed drawings prepared by a Registered Surveyor (Qld).

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

12(e) Submit Certification

Submit to Development Services certification from a Registered Professional Engineer Queensland, confirming that the works have been completed in accordance with the approved earthworks drawings.

Submit to Development Services certification from a Registered Professional Engineer Queensland, confirming that all fill material used complies with the quality requirements of this condition and that placement, compaction and testing has been carried out in accordance with AS3798.

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

To be replaced with:

12(a) Submit Earthworks Drawings

Submit to, and obtain approval from, Development Services earthworks drawings prepared and certified by a Registered Professional Engineer Queensland in accordance with the relevant Brisbane Planning Scheme Codes.

The Earthworks Drawings must include the following:

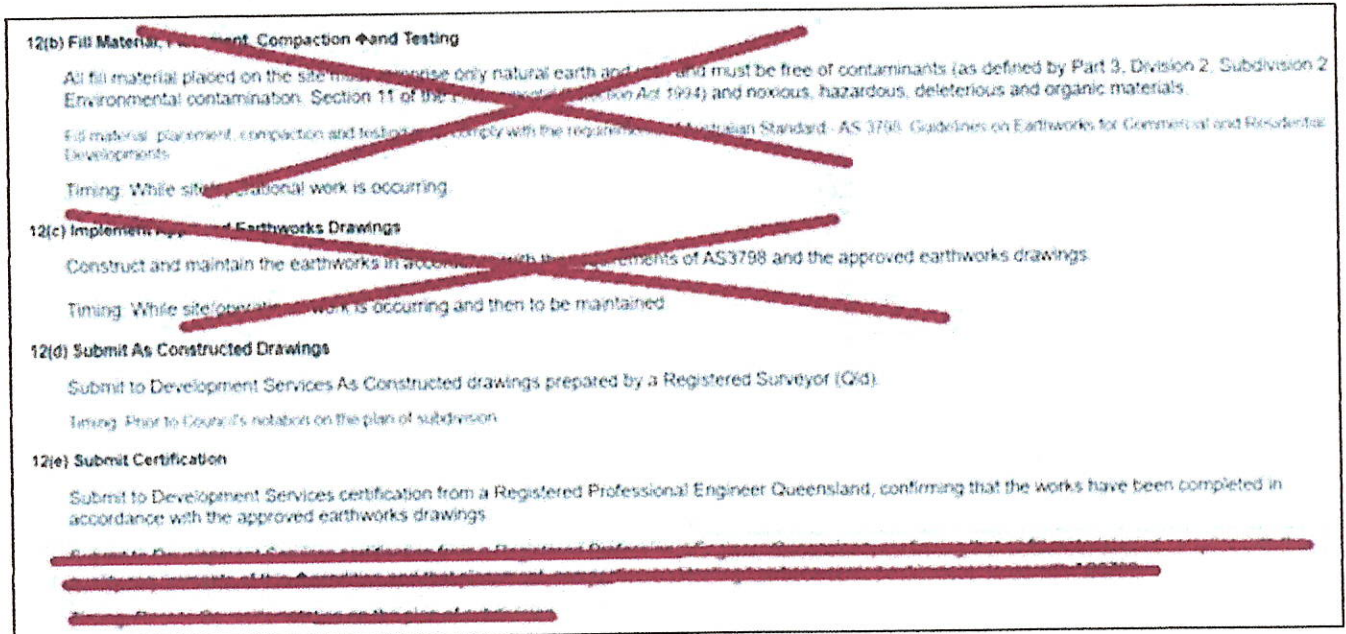
- The creation of a usable building pad for proposed Lot 2 ~~and any associated earthworks to enable lawful point of discharge for the proposed lots to Ashridge Road kerb and channel and the provision of a stormwater drainage connection for upslope properties in accordance with the conditions of this approval.~~
- Details of existing retaining walls including their current condition and if they require repair or replacement to remain structurally sound and able to support the loading of earthworks and future dwelling construction. If existing walls require repair or replacement and are within neighbouring properties written permission must be sought from the affected property owner.
- The location of any cut and/or fill;
- The quantity of fill to be deposited and finished fill levels;
- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary;
- The existing and future finished levels in reference to the Australian Height Datum (including cross-sections or long sections into the adjacent properties);
- Preservation of all drainage structures from the effects of structural loading generated by the earthworks;
- Protection of adjoining properties and roads from adverse impacts as a result of the works;
- That all vehicles exiting from the site will be cleaned and treated so as to prevent material being tracked or deposited on public roads.

Note:

- If the earthworks impact on the road reserve, the Developer must obtain applicable footpath and road permits prior to commencing any works. Such impacts may include footpath occupation, road closures, re-profiling, ground anchors and/or relocation of services. If the excavation has to be stabilised using ground anchors or similar, then the submitted plans must show the location of these in relation to all services. The cost of moving services, utilities and assets is the responsibility of the Developer. The permission of the service/utility/asset owner is required.

- Irrespective of final earthworks, it is the responsibility of the RPEQ to manage any staged works associated with Erosion & Sediment Control.

Timing: Prior to site/operational work commencing.



10. Question of unlicensed hydraulic design.

A QBCC licence check reveals that the Council has no QBCC licence to draw hydraulic plans.

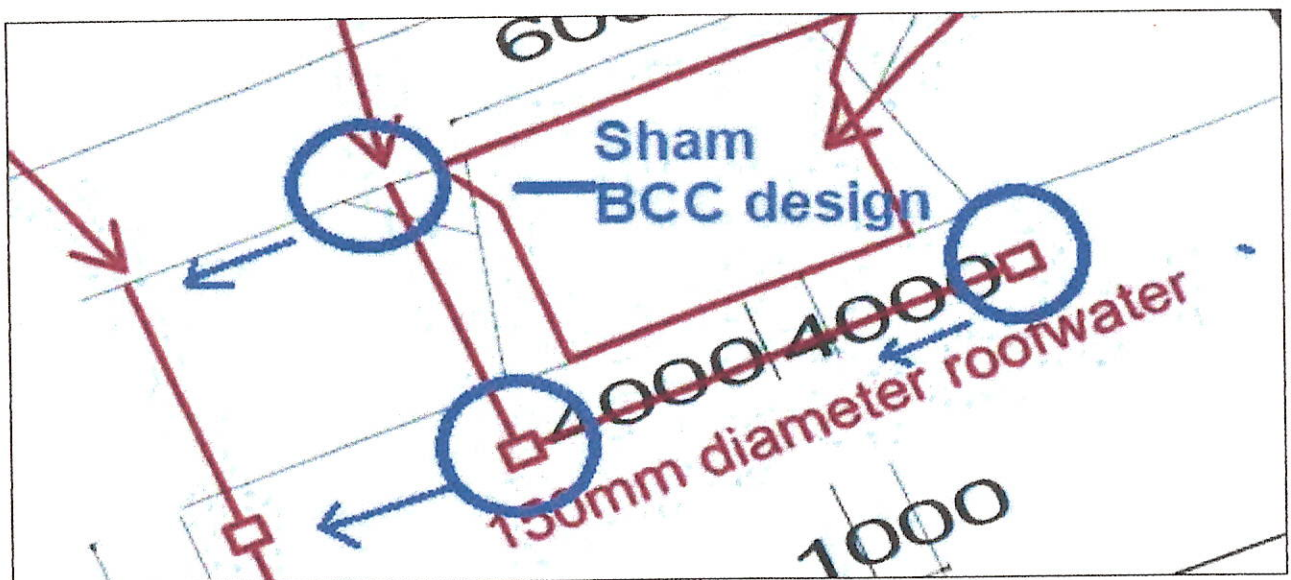
An RPEQ search reveals that Ms Lucy Ting, Development Assessment Officer is an RPEQ engineer,

An RPEQ search reveals that there is no evidence that Mr Tom Gibbs is an RPEQ engineer.

An audit by David Manteit of around 500 cases of approved reconfigure a lot cases decided by Brisbane City Council from 1/1/24 to 12/11/24 found that there was only one case in which Council designed a hydraulic plan.

The results of this audit are in another affidavit provided by Mr Manteit.

This Council prepared hydraulic plan "amended in red" is shown on the approved plan in the subject case.



This "amended in red" line and pits is evidence of poor design by Council in the above extract regarding internal roowater design.

The Council proposed location of internal pits some 4.9m and 4m from the right boundaries of the respective lots plus the location of the kerb crossing i4.9m from the right boundary indicate a lower than kindergarten ability to prepare hydraulic plans.

Identified -

No surface levels.

No invert levels.

Therefore no proof that the system works.

Just a red brushstroke like your kindergarten child brings home to you. If I was the author of the internal plan I would be ashamed to publicly produce this tripe.

Indeed, Council in the approved conditions requires the applicant to prepare plans prepared by a licenced hydraulic person or RPEQ, so one should not expect any less from Council when they prepare the only one plan in 500 reconfigure a lot cases this calendar year. All Council needed to do was get one and one case only, correct.

You either design properly or you don't design at all and If you do not design , you should make an information request to the applicant to design.

I have been a licenced Income Taxation agent with the Australian Taxation Office. I spent four years at Price Waterhouse in the Business Services and Taxation section. I state that I never half prepared a half baked Income Tax return in my life.

As a Council Development Team Assessment Manager or member you shouldn't refuse to answer questions from the applicant regarding your kindergarten brushstrokes standard of hydraulic design.

Council should have made an information request to the applicant. But they didn't

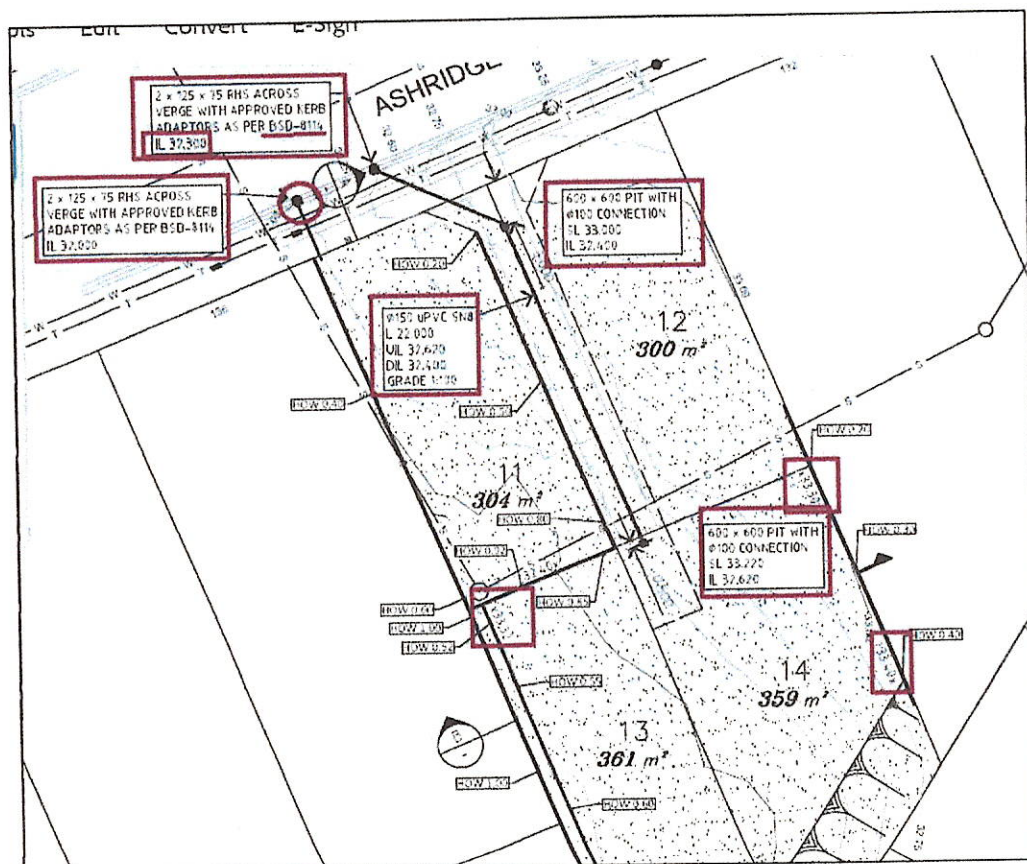
By following this approach of making an information request the Council would have averted all questions of liability.

| Add Filter | | | | | | | | |
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| _id | RPEQ N... | Full Name | Company | Address 1 | Address 2 | Address 3 | City | Stat |
| 6535 | 14832 | Ms Lucy Ting | Brisbane... | 110 | Victoria | Avenue | BRISBANE | OLD |

Above – RPEQ search

In order to prove my statement one only has to audit the internal hydraulica plan of 134 Ashridge Rd Darra for comparison. This was approved by Council in June 2024.

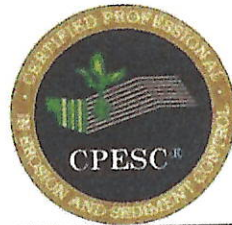
Identified - 150 pipe, 450 cover, 1:100 fall. Surface levels provided. Invert levels provided. AEP proper ground fall in addiiton to correct design. Spot levels to prove AEP. Design as per BSD 8111 exactly. Kerb crossing 500mm fromt right boundary as per BSD 8113. BSD 8114 kerb adaptors. An RPEQ designed the system.



Above – approved plan of 134 Ashridge Rd Darra showing 150 pipe, 450 cover, 1:100 fall. Spot Marks to indicate evidence of AEP 1% compliance, , compliance with BSD 8111, 8BSD 8113 and BSD 8114.

Our specialist accreditations include:

- Registered Professional Engineer in Queensland (RPEQ 8181)
- Certified Professional in Erosion and Sediment Control (CPESC 7931)
- Endorsed Consultant with Queensland Urban Utilities (UU) for water and sewer connections



Extract from Lenecon website showing RPEQ

Whilst the appellant has made an initial complaint to the QBCC the appellant requests that order is made -

- The Planning and Environment Court to make a QBCC investigation of unlicensed hydraulic design.
- Council to supply the specific name of the person that prepared both the upslope stormwater plan and the internal piping plan.

Note aside from this case, Council's Stormwater Code requires an RPEQ to prepare an overland flow report and calculation for Q50.

If -

- the design by Council or their nominee of the hydraulic design of the stormline red lines and pits is found by his honour to be incorrect or incompetent, or not designed by a QBCC licenced Hydraulic Consultant or RPEQ engineer.
- the use of the wording of S 12, 17 and 18 in relation of requiring or designing the applicant to fill three times is found to be incorrect, unnecessary or incompetent,
- there has been unnecessary refusal to answer questions verbally or in writing from David Mantel by the Development Services Team in relation to their design of Upslope stormwater pipe and Fill requirements.
- the action of designing red lines and pits on plan, and design/wording of unknown fill requirements without an information request to the applicant makes the Council and Development Services Team liable at law to the applicant for the implications from this action/approach.

Then -

A statement of these findings is to be made by his honour of same, following the result of orders accepted or refused. The statement shall state the names of the licenced person (or none) and the Team Leader plus the five Development Services team for this development approval case.

END OF CONDITIONS AND PLAN CHANGES

The grounds of appeal are:

Note – In this affidavit, “Respondent” temporarily replaced by the word “Council” for ease of reading.

1. S 7.6.5 Provision of drainage for future upslope development of a neighbouring property.

Firstly, for clarification, it is assumed that the word “development” above in the heading is not the same “development” as in “would drain through the development”

“Drain through” means drain through the subject block/blocks, not through the rear site development.

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 Provision of drainage for future upslope development of a neighbouring property.

It is my view that no part of any rear property currently drains through the subject property and in addition, would not drain in future through the subject property development, ie, the Ashridge Rd lots, after reconfiguring the lot.

I prove both cases – current and future.

2. It is not usual for Council to **design stormwater red lines, and 4 stormwater pits, kerb and chanel and sham triangles.**

It is my assertion that the design is non-compliant with Council guidelines of BSD 8111, BSD 8113 and BSD 8114. Council does so at their own peril, since they have responsibility to the owner, in law by designing, as opposed to making an information request to the applicant.

In a separate affidavit, the appellant has carried out an audit on 500 Council reconfigure a lot approved and decided cases this calendar year from 1/1/24 to 12/11/24.

In that treport here are around 18 upslope stormwater cases. In addition , David Manteit supplied information on two other upslope stormwater cases he personally had knowledge of.

To David Manteit’s knowledge, the only case that Council has designed red lines on plan for stormwater pipes, pits, and kerb connection on the approved plan for Upslope stormwater this calendar year is the subject site, 124 Ashridge Rd Darra.

To David Manteit’s knowledge, there are no cases that Council have requested conditions to fill a site for lawful point of discharge in 500 reconfigure a lot cases with or without upslope stormwater upslope requirements this calendar year.

Council has two options –

(a) Council design a stormwater red line and pits, or fill requirements/design without an information request, then Council must be legally responsible for any damages in other courts and generally to the owner should that design be found to be faulty, incorrect or incompetent.

(b) On the otherhand, if Council did not design the red line, pits, kerb connection or fill design and wording, there is no responsibility to Council.

Council chose method (a) in this subject case.

3. Council refuse to supply name of the licenced hydraulic consultant or RPEQ engineer who designed the red line stormwater system.

4. The mentioning in a red stamp on the approved plan is full admission by Council that in fact, Council had failed in their attempt to fully design the red line. Somehow they designed the red line but also asked the applicant to design in S18. You can't have it both ways.

My project is at a full stop due to Council refusing to supply information of their design.

My holding costs are \$12,000 per month. Damages and specific performance may be the only option to get Council to divulge the information. There may be further proceedings in other courts at the instigation by the applicant.

5. **"Markups are indicitave only"** and **"Subject to further detailed design."** Council refuse to provide both the current design and the said further detailed design.

6. Council never asked the applicant in an information request to design the "Upslope" stormwater pipe, as Joel Wake did in the case of 43 Wakefield St Bald Hills, on 4-4-18. Therefore Council and Joel Wake are exposed to liability and damages to the owner, albeit in other courts.

7. Council have **not designed** the stormwater pipe as per Schedule 6 Planning scheme policies. SC6.16 Infrastructure design planning scheme policy Chapter 7 Stormwater drainage S 7.2.3 which calls for design for low density residential subdivisions is to be **as per BSD 8111**.

Schedules / Schedule 6 Planning scheme policies / SC6.16 Infrastructure design planning scheme policy / Chapter 7 Stormwater drainage

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Reading mode

Search for a keyword

| Development category | Design parameter | Minimum design standard | |
|----------------------|------------------|-------------------------|-------------|
| | | AEP | ARI (years) |

7.2.3

Collection of roof water run-off

1. Refer to QUDM 7.13 and AS/NZS 3500.3:2003 Plumbing and drainage Stormwater drainage.

2. Gutters and downpipes are to be designed to ensure no overflows for up to the 5% AEP storm of 5-minute duration.

3. Roof-water collection for low density residential subdivisions is to be in accordance with BSD-8111.

4. Pipes must be located clear of any driveways and must not cross footpaths in front of adjoining properties.

5. Minimum pipe sizes for roof-water lines applicable to low density residential development are shown in Table 7.2.3.A.

6. The pipes at each property must be sized in accordance with QUDM Level II drainage system, assuming a minimum of 15L/s for each 250m² of roof. For larger roof areas, the flow rate may need to be determined and an appropriately sized pipe provided accordingly.

8. Council have a conflict and problem with their own design. Council request exactly a 225mm pipe on the approved plan, but in the wording of S18 requires 225mm minimum. One is exact, the other is a minimum. This demonstrates Council's incompetence in knowledge of Council's 7.6.5 and incompetence around. There is no other way to describe this conduct.

- Queensland Building and Construction Commission licensed hydraulic consultants may design the stormwater system for sites less than 2000m² with an upstream catchment servicing no more than 4 residential lots.
- Guidance for the preparation of drawings and/or documents to comply with this condition is provided in the Brisbane Planning Scheme Policies
- A 225mm diameter pipe is the minimum size required to service an upstream development of any kind.

Timing: Prior to site/operational work commencing.

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

9. Precedence of around 19 other approved reconfigure a lot "Upslope" stormwater cases this calendar year do not show red stormwater lines designed by Council. This is evidence that it is not normal practice for Council to become the designer.

In addition, BSD 8111 calls for a 300mm pipe, which is 84 l/s. This would cater for 4*15 l/s houses, 60 litres/s fully developed. The correct pipe, 300mm on BSD 8111 is in contrast with a 225mm pipe.

BSD 8111 is grade three mathematics and Council Development Services team have demonstrated incompetence in my view by the sloppy and conflicting stated requirements. Council's calculations, if any, demonstrate a charged stormwater line.

10. My calculations of usable site ESL's, FSL's and IL's are -

| | | |
|---|--------|---------------|
| Lawful point of discharge at kerb, 500mm from boundary. | 35.100 | |
| Fall over boundary 1:100 | .038 | |
| Min IL at front boundary | 35.138 | |
| Pipe minimum 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 |
| Adopted usable pad FSL at front of usable pad | | 35.798 |
| Fall pipe 150mm 1: 100 over 14.8 metres | .148 | |
| usable pad FSL at rear | | 35.946 |
| Adopted usable pad FSL at rear | | 35.946 |

11. Council placement of kerb adaptors of Ashridge Rd Lots at 4.9 metres from the right boundary.

BSD 8113 and BSD 8111 provide for the Upslope kerb adaptor/s to be 600mm from the right boundary. BSD 8113 provides for there to be a space of 500mm from each kerb adaptor in the kerb. This would make the Ashridge Rd lots kerb connector placement to be 1.1 metres from the right boundary, not 4.9 metres from the right boundary.

Council refuse to advise why this is the case.

Note that Council have placed the Ashridge Rd lot's lawful point of discharge red line for the Ashridge Rd lots unnecessarily further up the kerb to around 4.9m, therefore worsening the minimum Lawful point of discharge from 35.1 to 35.5. Council's placement is non-compliant with their own standards.

This tactic is in my opinion incompetent and mischievous by Council. This is treating the reader like a fool. There is no other way to describe this action. Council makes the comment "Multiple Kerb adaptors" But is too lazy to mention anywhere regarding "500mm from the right boundary as per BSD 8111 or BSD 8113" or 4.9 metres from the right boundary as per "????????????????????"

Council have unlawfully placed the Ashridge Rd lots lawful point of discharge in the middle of Lot 2. I have never seen such an obvious bungle like this before. Totally non - compliant with Council's standard drawings.

A licenced hydraulic designer would have had the courtesy to advise why the kerb adaptor was placed in the middle of Lot 2.

This tactic by Council would raise the levels required of the site by 4-500mm, therefore causing -

| | |
|---|-----------|
| - Additional fill required around 80 cubic metres. Cost around | \$80,000. |
| - Additional height of retaining wall. Cost around | \$20,000 |
| - Redesign by Engineer Cost around | \$2,000 |
| - Deeper footings of retaining wall. Cost around | \$10,000 |
| - Deeper footings of house foundation. Cost around | \$20,000 |
| - Additional steel and concrete required for additional footings Additional larger diameter of footings and number of footings | \$20,000 |
| - Additional costs of bulking up front boundary stormwater pit on Lot 2, around including crane, 40 mpa after 28 days concrete and manhole cast iron formwork | \$20,000 |

**Potential cost of Council
intentional placement of
Lawful point of discharge**

\$172,000

up the kerb 4.9 metres and .5m higher than required.

In addition -

- Further conflict of Upslope stormwater pipe re Zone of Influence.
- Relocation of proposed power pole.
- Interference of future driveway contours.

Why on earth would you not at least install the 125*75 (or suitable designed RHS) for Ashridge Rd kerb LPD at an angle and line it up side by side with the Council stated "multiple kerb adaptors".

Conclusion – not a teaspoon of fill is required on the site for Lawful Point of Discharge for the Ashridge Rd Lots.

Council has simply not bothered to do fill calculations, or alternatively have demonstrated incompetency.

One thing for sure is that Council refuses to explain their calculations to anyone.

It is my view that if one draws a red hydraulic line the **author must be fully responsible for all liability and legal action against any defects in the design**, including specific performance and damages in other courts.

Time is of the essence and it can cause great unnecessary holding costs and lost profits to the owner and therefore liability for damages against the author.

At the very least Council should have the decency to explain on the telephone some reasoning for the sham stormwater pipe. Council refuse to respond to all methods of enquiry.

There is no other known case of Council designing red stormwater lines. Especially when it is blatantly obvious that the red line is charged by at least .984 metres below the kerb, cannot work with 20,000 tonnes of fill, is non compliant with BSD 8111 and BSD 8113.

12. Council has designed the red line and is therefore the **author of the red line** and therefore has a legal requirement to supply all information on the design of the red line to the applicant.

13. It is not usual for Council to mention "**The Site must be filled**" without advising the reason for same. As such, Council became the **designer of fill** and is responsible for the fill design and plan. Indeed Council have attempted to tie in the mistaken fill for the Ashridge Rd lots with the rear "Upslope" lots".

14. It is unfathomable why the "**site must be filled**" for the alleged "Upslope properties" is called for by Council, if the rear neighbours are already upslope.

The fact is that there is a valley at the rear, between the sites and water wants to travel to the right and rear of the subject site. Council mistakenly think that fill will fix the neighbour's problem.

It makes no general sense to fill the subject site if the subject site is downslope of the rear properties. Council refuse to advise why the need for fill.

15. The site has an adopted usable pad minimum pad level of -

FSL at 6m setback 35.798
FSL at 20.8m setback 35.946

There is **not a teaspoon of dirt required to fill the site**, as requested in S12,17,18.

16. It appears that Council have purposely and mischievously **tied up/connected lawful point of discharge for the Ashridge Rd lots with “The site must be filled”**.

The two principles are totally separate matters.

Council refuse to supply informations for same. Council have had 63 days to process the application with no information request or extension of time request made to the applicant.

17. The stormwater red line **cannot be built** due to many reasons as follows:

18. The stormwater red line cannot be built. Fall over the rear boundary test. The **fall over the rear boundary** is to the rear neighbours, not the subject lot.

Although this test was not applied by Council for 134 Ashridge Rd Darra where the fall at the boundary was from the rear neighbours to the approved lots. The “fall over the rear boundary concept” is only the appellant’s gracious test. It is that water would not drain through the development since it does not traverse the rear boundary.

19. The stormwater red line cannot be built. The overall fall test. There is **overall fall over the block** from Ashridge Rd boundary to the rear neighbours. Water does not currently drain through the development.

There is no way to push water uphill. The applicant has no obligation to cut or fill any ground just to mysteriously prop up a Council sham plan.

20 The stormwater line cannot be built. The contours of the block are such that **water falls to the rear and right of the block**. Water does not currently drain through the development , as mentioned in S 7.6.5 of the policy requirement. Water cannot drain through the development currently nor the future.

21. Precedence of a site 17 metres away, 134 Ashridge Rd Darra, approved June 2024. The stormwater pipe cannot be built , as follows:

The right side spot levels are -

| | 128 Ashridge Rd | 134 Ashridge Rd |
|-------|---------------------------|-----------------|
| Rear | 35.162 | 32.0 |
| Front | 35.250 | 32.0 |
| Fall | .88 uphill to Ashridge Rd | level |

| | | |
|-----------------------------|---|---|
| Days to approve Decision | 63 days Upslope pipe required | 23 days Upslope pipe not required |
|-----------------------------|---|---|

It is noted that around one metre of fall, pipe diameter and cover are around one metre.

So both properties would be charged by around one metre if stormwater pipe was built.

22. The stormwater pipe cannot be built. Council refuse to supply the **easement** they are responsible for. As per Condition S7 Grant easements.

As per Council's own requirements in S 7.6.7 of the Infrastructure Design Policy S 7.

23. Council should have made an **information request** to the applicant by 14 days after 23/7/24, being the Properly Made Date. This would have allowed the applicant to design the alleged Upslope stormwater line, thereby saving the need for Court application. This matter could have been resolved at the information request stage.

It is noted that Joel Wake is the Delegate for the decision. Margaret Orr said in a letter to David Mantel "The delegate took all assessment matters into account"

The strange thing is that Wake has diverted from his policy in the case of 143 Wakefield Rd Bald Hills, where he asked the applicant for

24. Council is responsible for disclosure to the appellant of all engineering information.

- (a) Council refuse to supply surface levels and invert levels of red stormwater line
- (b) Council refuse to supply fall gradient as per BSD 8111 guidelines.
- (c) Council refuse to supply pipe diameter and cover as per BSD 8111 guidelines.

25. Council Infrastructure policy 7.4.7 Building near or over underground stormwater infrastructure.

- The stormwater pipe cannot be built due to all the requirements by Council in this section including –
- "Council or other works to **contravene the easement**". Since Council refuse to supply the **easement**, the stormwater red line cannot be built.
- There will be earthworks including a retaining wall.
- There will be building works such as retaining wall, reinstatement of private drain, capping off private drain, inspection of I/O, Urban Utilities statutory easement right to maintain their sewerage pipe if faulty. This may require digging up the sewerage pipe.
- There will be proposed works that will affect the structural integrity of the trench
- Minimum horizontal clearance of one metre of works near stormwater
- Where a drain is laid next to a footing (eg retaining wall), the trench shall be located beyond a 45 degrees angle from the base of the footing.

7.4.6 Gully inlet capacities

Refer to BSD-8071 to BSD-8082 for the relevant hydraulic capture charts for gully inlets.

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;
 - i. clashing of services or utilities (other than sewers) with the stormwater drain line that may affect the structural integrity of the stormwater drainline or its trench, or sewers larger than 150mm diameter crossing any stormwater drainline.
2. When building over stormwater an adequate buffer zone is required between the edge of foundation system and the edge of the stormwater infrastructure to minimise structural damage during excavation, boring or piling operations.
3. The following minimum horizontal clearances are required where undertaking such works near stormwater infrastructure and may need to be increased if it is anticipated that the pipe bedding will be affected.
 - a. 1m clearance applies to an excavated footing system such as beams and pad footings excavated by backhoe or similar;
 - b. 1m clearance applies to bored piers;
 - c. 6m clearance applies to driven, vibrated or jacked piles.
4. Works shall be carried out in accordance with section 7 2.9 of AS/NZS 3500 3 2003 Plumbing and drainage - Stormwater drainage. Typically, where a drain is laid near to a footing, the trench shall be located beyond a 45° angle from the base of the footing, as shown by Figure 7 4 7 A.
5. When determining the minimum setback from existing stormwater infrastructure, allowance needs to be made for future upgrading of the pipeline to meet Council's design standards where this pipeline is undersized.

26. Conflict of retaining wall engineering. The Form 15 retaining wall plan from STA engineering requires –

- Any building work (eg stormwater pipe) shall be away from the zone of influence.
- Any building work (eg stormwater pipe) shall not cause adverse damage to the retaining wall.

27. The letter from the applicant to Council on 1/10/24 and 14/10/24 describes all the reasons why the stormwater pipe cannot be built. Since the easement document will not be supplied by City Legal, the stormwater pipe cannot be built.

28. The stormwater pipe cannot be built. **Calculations** have been done by the appellant, a suitably qualified person to three different scenarios. All scenarios show the red line to be charged by .834m to 1.249m.

29. The stormwater pipe cannot be built. **Crosssections** have been done by the applicant, a suitably qualified person to three different scenarios. All scenarios show the red line to be charged by .834m to 1.249m.

30. The stormwater pipe cannot be built. **Retaining walls and fill at the rear** will not fix the charged system since the surface levels of rear neighbours cannot be touched and the stubbs must have an invert level of 700mm at the boundary.

31. the stormwater pipe cannot be built. The Zone of influence requirements of the QDC MP 1.4 require the new stormwater pipe, being building work, must stay away a certain distance from the retaining wall, the Sewer Pipe, the private drain, the Inspection Outlet.

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.

Margaret Orr advised the appellant on 3/10/24 the Delegate assessed all matters. Margaret Orr also advised the Appellant that the following Development Services Team assessed the application.

Lucy Ting
Scott Ruhland
Tom Gibbs
Zarndra Piper
Joel Wake

Council refuse to remove this condition. Council refuse to explain.

33. S 24 Driveway flanges red line.

Council provide no reason why the applicant's driveway design is not accepted. Evidence of previous approval at 63 Oateson Skyline Dve Seven Hills of which David Manteit was the applicant, shown on the same District Road designation the same plan approved.

33. Council refuse to supply information in the ordinary course of business. Example Andrew Blake, Senior Stormwater Consultant for Council, in the case of 82 Rowe Tce Darra supplied to David Manteit, the applicant, a surface level from a Council designed stormwater plan of Q 25.7 without an email request from the applicant. Just a telephone call, in 2020.

This was a question in relation to a Council designed plan. It was a question regarding a surface level on that plan. Exactly the same sort of question that David Manteit seeks answers to in this case.


Another Council designed plan in this case. But a mystery regarding surface levels.

I do not wish for Mr Blake to be contacted since he is not the author of the red stormwater line in the subject ase, nor the author of the fill. He was simply kind enough to offer the information in the ordinary course of business in the past, like you wouls'd think would be the standard today. Apparently not.

Based on this proven difference in standards, current Council staff have in my opinion acted dishonestly by being silent, and in direct contrast to other stormwater professional staff. There is no other way that I know of how to describe this behaviour. The proof is there.

In addition Joel Wake , the delegate , has acted differently in this subject case to his past delegate case of 143 Wakefield St Bald Hills. Proof again of different standards. It is my assertion that if Council is the author they risk the possibility of the consequences if their design is wrong.

34. Council hold no licence to perform the work of hydraulic design, as per QBCC search. All of the Development Services Team members refuse to supply the name of the licenced person in hydraulics. RPEQ of Lucy Ting below. She refuses to discuss her sham designs.

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Q lucy ting

| _id | RPEQ N... | Full Name | Company | Address 1 | Address 2 | Address 3 | City | Stat |
|------|-----------|--------------|-------------|-----------|-----------|-----------|----------|------|
| 6535 | 14832 | Ms Lucy Ting | Brisbane... | 110 | Victoria | Avenue | BRISBANE | QLD |


 David Manteit - Appellant

END OF NOTICE TO APPEAL