

Between: **DAVID MANTEIT** Applicant
And: **BRISBANE CITY COUNCIL** Respondent

AFFIDAVIT

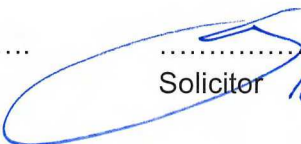
Filed on: 24 April 2025

I, **SARAH JANE MCCABE**, of City Legal, Brisbane City Council, 266 George Street, Brisbane, in the State of Queensland, being under oath say:

1. I am a Senior Legal Counsel at City Legal and I have carriage of the appeal on behalf of the Respondent, Brisbane City Council.
2. This is my 4th affidavit in this proceeding.
3. A table has been prepared by the Respondent to identify the disputed conditions in the form imposed by the Respondent's decision notice dated 25 September 2024 and sought at the hearing of the appeal.
4. A copy of the table appears at pages 3 to 17 of Exhibit SJM-4

Sworn by **SARAH JANE MCCABE** on this 24th day of April 2025 at **Brisbane** in the presence of:


.....
Deponent


.....
Solicitor *Robyn Horsley*

In the Planning and Environment Court
Held at: Brisbane

Application No. 2916 of 2024

Between: **DAVID MANTEIT**

Applicant

And: **BRISBANE CITY COUNCIL**

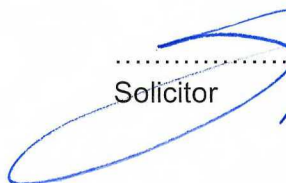
Respondent

CERTIFICATE OF EXHIBIT

Attached hereto are the exhibits to the Affidavit of **SARAH JANE MCCABE** sworn on this 24th day of April 2025, as set out in the following table:

No.	Document description	Date	Page
1.	Table of conditions contended by Respondent.	24.04.2025	3 – 17


.....
Deponent


.....
Solicitor *Patrick Horsley*

In the Planning and Environment Court
Held at: Brisbane

No. 2916 of 2024

Between: **DAVID MANTEIT**

Appellant

And: **BRISBANE CITY COUNCIL**

Respondent

CONDITIONS CONTENTED BY RESPONDENT

1. The Appellant challenges conditions 7, 12, 17, 18 and 24 (**Disputed Conditions**) of the Respondent's decision notice dated 25 September 2024 (**Decision Notice**).
2. The below depicts the Disputed Conditions, as identified in the Decision Notice, and any amendments to the Disputed Conditions contended for by the Respondent.

Decision Notice Condition	Amended condition ¹
7) Grant Easements <i>Grant the following easement(s) as may be required:</i> <i>(i) Easements, in favour of Brisbane City Council for:</i>	No changes proposed.

¹ Additions are underlined and deletions are shown in strikethrough.

**CONDITIONS CONTENTED FOR BY
RESPONDENT**

Filed on behalf of the Respondent

CITY LEGAL - BRISBANE CITY COUNCIL
Level 20, 266 George Street
BRISBANE QLD 4000
Phone: 07 3178 5581
Fax: 07 3334 0058
Email: sarah.mccabe2@brisbane.qld.gov.au

Decision Notice Condition	Amended condition ¹
- 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 <i>Timing: As part of the plan of subdivision notated by Council, and then to be maintained.</i> 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. <i>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.</i> <i>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.</i> 7(b) Submit Plan of Subdivision and Documentation (other Easement)	

Decision Notice Condition	Amended condition ¹
<i>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.</i> <i>Note: Easements not in favour of the Brisbane City Council must have the necessary documentation prepared by the applicant's private solicitors.</i> <i>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.</i> 7(c) Lodge Notated Plan and Documentation <i>Lodge the plan of subdivision notated by Council pursuant to Schedule 18 of the Planning Regulation 2017 and the necessary easement documentation with the Registrar of Titles for the relevant Queensland State Government Authority.</i> <i>Timing: As part of the registration of the plan of subdivision notated by Council.</i> PROOF OF FULFILMENT	

Decision Notice Condition	Amended condition ¹
<i>Evidence of the registration of the necessary easement documentation. Timing: Within one month of the registration of the easement documentation.</i>	
12) Filling and/or Excavation <i>All earthworks must be carried out in accordance with the relevant Brisbane Planning Scheme Codes.</i> 12(a) Submit Earthworks Drawings <i>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.</i> <i>The Earthworks Drawings must include the following:</i> - <i>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.</i>	Deletion of entire condition.

Decision Notice Condition	Amended condition ¹
- 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;	

Decision Notice Condition	Amended condition ¹
- 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 footprint and road permits prior to commencing any works. Such impacts may include footprint 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. 12(b) Fill Material, Placement, Compaction and Testing	

Decision Notice Condition	Amended condition ¹
<i>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.</i> <i>Fill material, placement, compaction and testing must comply with the requirements of Australian Standard - AS 3798, Guidelines on Earthworks for Commercial and Residential Developments.</i> 12(c) Implement Approved Earthworks Drawings <i>Construct and maintain the earthworks in accordance with the requirements of AS3798 and the approved earthworks drawings.</i> 12(d) Submit As Constructed Drawings <i>Submit to Development Services As Constructed drawings prepared by a Registered Surveyor (Qld).</i> 12(e) Submit Certification <i>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.</i>	

Decision Notice Condition	Amended condition ¹
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.	
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:	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. The lawful point of discharge to the kerb and channel must be achieved via gravity. NOTE:

Decision Notice Condition	Amended condition ¹
- Guidance for the preparation of drawings and/or documents to comply with this condition is provided in the <i>Brisbane Planning Scheme Policies</i>. - 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)	- Guidance for the preparation of drawings and/or documents to comply with this condition is provided in the <i>Brisbane Planning Scheme Policies</i>. - 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)

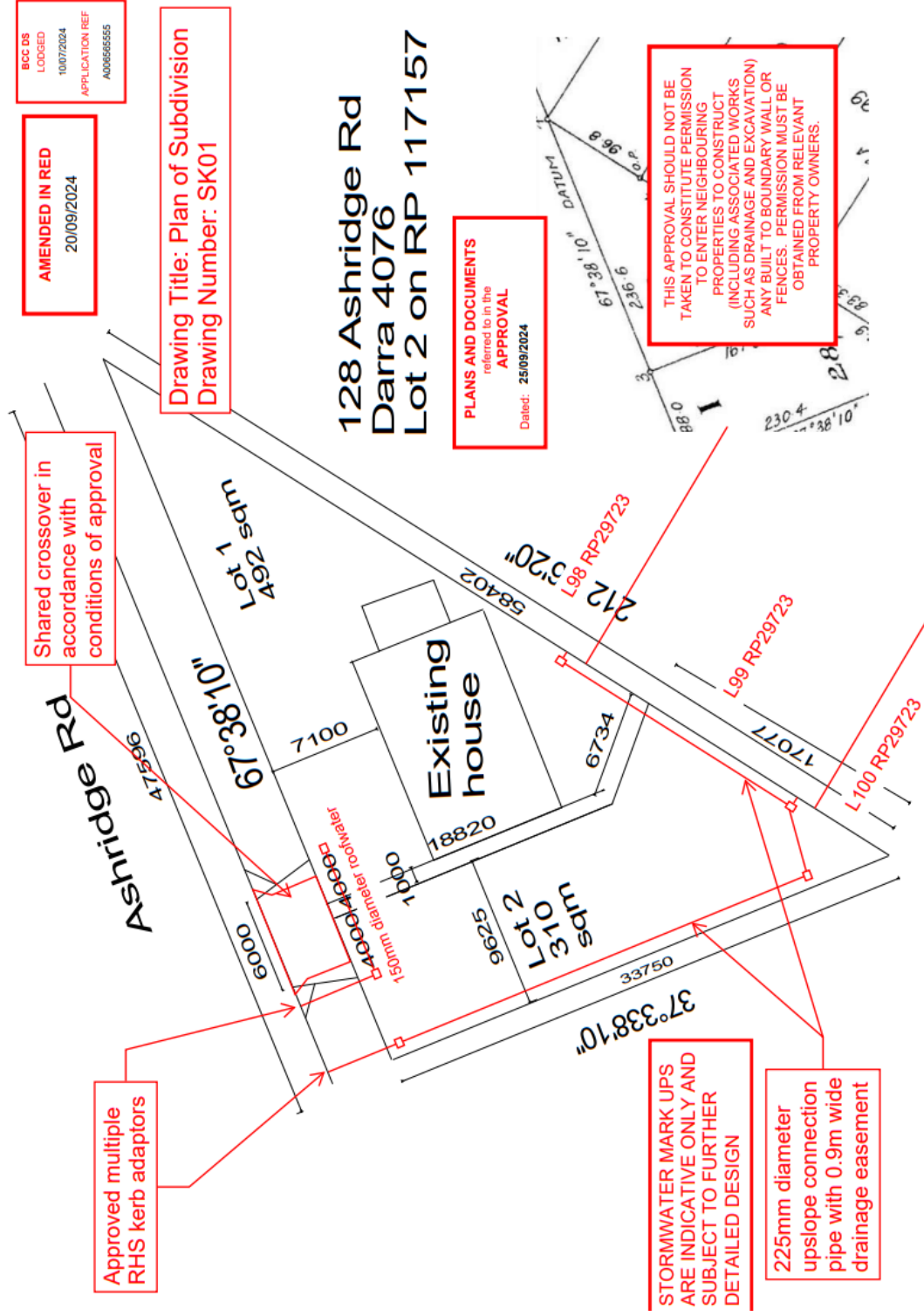
Decision Notice Condition	Amended condition ¹
17(a) Submit As Constructed Drawings Submit to Development Services As Constructed drawings prepared and certified by a Registered Professional Engineer Queensland or a Queensland Building and Construction Commission licensed hydraulic consultant (where applicable). Timing: Prior to Council's notation on the plan of subdivision.	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.
'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.	'18) Up Stream Stormwater Drainage Connection – Minor Provide a stormwater drainage connection for Lot(s) 97, 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. <u>The lawful point of discharge to the kerb and channel must be achieved via gravity.</u> Note: All upslope stormwater connection to existing private properties must extend to the property boundary of the

Decision Notice Condition	Amended condition ¹
PROOF OF FULFILMENT Certification from a Registered Professional Engineer Queensland or a Queensland Building and Construction Commission licensed hydraulic consultant (where applicable), confirming that the works have been completed in accordance with the above stormwater drawings. ‘18(a) Prepare Stormwater Drawings <i>Prepare stormwater drawings and engineering calculations, certified by a Registered Professional Engineer Queensland in accordance with the relevant Brisbane Planning Scheme Codes.</i> Note: - Queensland Building and Construction Commission licenced 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.	relevant property being ultimately serviced by that connection. PROOF OF FULFILMENT Certification from a Registered Professional Engineer Queensland or a Queensland Building and Construction Commission licensed hydraulic consultant (where applicable), confirming that the works have been completed in accordance with the above stormwater drawings. ‘18(a) Prepare Stormwater Drawings <i>Prepare stormwater drawings and engineering calculations, certified by a Registered Professional Engineer Queensland in accordance with the relevant Brisbane Planning Scheme Codes, and submit to Council for approval.</i> Note: - Queensland Building and Construction Commission licenced 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.

Decision Notice Condition	Amended condition ¹
18(b) Implement Certified Stormwater Drawings Carry out the works in accordance with the above stormwater drawings. Timing: Prior to Council's notation on the plan of subdivision. Prior to Council's notation on the plan of subdivision 18(c) 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). Note: To be submitted via DA-ComplianceEngineering@brisbane.qld.gov.au and include the site address, A00 reference and Condition number in the subject line. Timing: Prior to Council's notation on the plan of subdivision. PROOF OF FULFILMENT Certification from a Registered Professional Engineer Queensland or a Queensland Building and Construction Commission licensed hydraulic consultant (where applicable), confirming that the works	Timing: Prior to site/operational work commencing <u>and after approval is obtained from Council about the stormwater drawings.</u> 18(b) Implement Certified Stormwater Drawings Carry out the works in accordance with the above stormwater drawings. Timing: Prior to Council's notation on the plan of subdivision. Prior to Council's notation on the plan of subdivision 18(c) 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). Note: To be submitted via DA-ComplianceEngineering@brisbane.qld.gov.au and include the site address, A00 reference and Condition number in the subject line. Timing: Prior to Council's notation on the plan of subdivision. PROOF OF FULFILMENT

Decision Notice Condition	Amended condition ¹
have been completed in accordance with the above stormwater drawings.	Certification from a Registered Professional Engineer Queensland or a Queensland Building and Construction Commission licensed hydraulic consultant (where applicable), confirming that the works have been completed in accordance with the above stormwater drawings.
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.	No changes proposed.

Approved Plan – Decision Notice



Approved Plan – Amended

