

# **BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE**

**David Smith**

**Third Witness Statement**

**Prepared for the purpose of a Board of Inquiry**

**11 June 2025**

### THIRD WITNESS STATEMENT OF DAVID SMITH

**Name:** David Smith  
**Address:** 2 Queen Street, Mornington  
**Occupation:** Director – Assets & Infrastructure  
**Date:** 11 June 2025

1. I have previously provided two witness statements to the Board. My first witness statement is dated 17 April 2025 (**My First Statement**) and my second witness statement is dated 30 April 2025 (**My Second Statement**).
2. I make this third witness statement in response to the Fifth Request to Produce a Witness Statement dated 27 May 2025 (**Notice**). This statement has been prepared with the assistance of lawyers and Shire officers. Terms defined in My First Statement and My Second Statement are used in this statement unless otherwise stated.
3. This statement is true and correct to the best of my knowledge and belief. I make this statement based on matters within my knowledge and documents and records of the Shire that I have reviewed. I have also used and relied upon data and information produced or provided to me by officers within the Shire.
4. I address the questions in the Notice from the perspective of my role as the Director – Assets & Infrastructure at the Shire.

#### Question 1

**Prior to the 5 January 2025 Landslide, was the Shire aware of a water main bursting on or around 14 November 2022 in the vicinity of 23 Coburn Avenue, McCrae? If so, describe:**

- (a) when and how the Shire first became aware of the water main burst;
- (b) what steps (if any) it took in relation to the water main burst; and
- (c) whether the Shire considered the extent to which the water main burst may have contributed in some way to the November 2022 Landslide.

5. No. Prior to the 5 January 2025 Landslide, the Shire was not aware that a water main had burst on or around 14 November 2022 in the vicinity of 23 Coburn Avenue, McCrae.

6. On or about 1 December 2022, the Shire was informed by SEW, via a 'Road Openings Report', that road and reinstatement works were undertaken by SEW on the roadway at 26 Coburn Avenue, McCrae on 22 November 2022. The Road Openings Report for the month of November 2022 (**November 2022 Road Openings Report**) and the covering email dated 1 December 2022 to the Shire is at [\[MSC.5064.0001.0001\]](#) and [\[MSC.5064.0001.0002\]](#). The November 2022 Road Openings Report records that road and reinstatement works were commenced by SEW at 26 Coburn Avenue, McCrae on 22 November 2022 at 7:59am and completed the same day at 8:44am. The November 2022 Road Openings Report does not record that the works occurred due to a water main burst.
7. SEW provides 'Road Openings Reports' to the Shire on a monthly basis, beginning in or around December 2019. The purpose of the report is for SEW to inform the Shire of works scheduled to occur or that have occurred on roadways and footpaths of the Council. It is my understanding that the reports specifically concern works within the roadway or footpath that involve either asphalt reinstatement or concrete.
8. The Road Openings Reports are usually received by the Shire on the first business day of the following month. The Road Openings Reports are received by the Shire's Asset Protection Admin email account, which is a shared inbox. A number of members within the Asset and Infrastructure division have access to the shared inbox.
9. In November 2022, The Asset Protection Team reported to Manager - Community Safety & Compliance, within the Community Strengthening division. The Asset Protection Team started reporting to the Manager Infrastructure Projects from January 2023.

#### **Question 6**

**Provide an overview of how the Shire controls, operates, manages and maintains the stormwater drainage network in the McCrae area, including by reference to any relevant policies, procedures or requirements.**

10. The Shire is responsible for an extensive network of stormwater infrastructure, including 60,490 stormwater pits and 1,497km of stormwater pipes.
11. The general framework for the control, operation, management and maintenance of the Shire's stormwater drainage network, including in the McCrae area, is established by the Shire's Asset Management Policy dated 26 August 2024 (**Policy**) [\[MSC.5051.0001.0795\]](#) and Asset Management Strategy 2020-2030 (**Strategy**) [\[MSC.5057.0001.0770\]](#). The Policy provides for a clear and consistent approach to asset management across the Shire, and the Strategy gives effect to the Policy. Stormwater assets are expressly referred to in both

the Policy and the Strategy as one of four major asset classes managed by the Shire in accordance with the principles set out in those documents.

12. The Shire also has in place a specific Stormwater Asset Management Plan dated September 2020 (Plan) [\[MSC.5051.0001.0804\]](#), which aligns with the asset management principles set out in the Policy and the Strategy, and has a planning horizon of 10 years. The Plan covers all stormwater assets owned and/or managed by the Shire, including catchment drainage, drainage structures and water sensitive urban design (WSUD). Catchment drainage and drainage structures are the primary assets involved in the management of stormwater within the Shire, and WSUD consists of assets to address the pollutants found in stormwater in an environmentally and economically sustainable manner.
13. The Shire's policy framework, including the Plan and the Shire's Flood and Stormwater Strategy dated May 2022 [\[MSC.5057.0001.1410\]](#), identifies the importance of ensuring that stormwater infrastructure is maintained, renewed, and upgraded. The stormwater drainage network can only function effectively if it is free of blockages and the integrity of the pipes is preserved. Accordingly, the Shire has in place a maintenance, renewal and upgrade program for its stormwater assets.
14. The main Shire officers with responsibilities relating to stormwater assets are the Manager – Infrastructure Services, Mr Tom Haines-Sutherland, and the Manager – Climate Change and Sustainability, Ms Melissa Burrage. The Manager – Infrastructure Services is responsible for the management of stormwater assets, while the Manager – Climate Change and Sustainability is responsible for strategic planning in relation to stormwater assets. In 2024, the Shire established a Stormwater Assets Working Group, whose membership consists of Asset Management Engineer (Chair), Team Leader – Asset Management, Team Leader – Traffic and Transport, Team Leader – Climate Change, Team Leader – Project Delivery (North), Team Leader – Water & Coasts, Team Leader – Roads & Drainage, Civil Engineer Drainage (Roads & Drainage Team), Stormwater Strategy Officer, Team Leader – Capital Program Management, Coordinator - Asset Strategy, and Coordinator - Asset Systems. That group is responsible for guiding the management of the Shire's stormwater assets, including review and development of the Plan, input into methods of performance monitoring and modelling of assets, and development of long-term capital program priorities for stormwater assets and stormwater-related assets. The teams within the Shire responsible for stormwater operations and strategy include Roads & Drainage, Project Delivery, and Water & Coasts.
15. The operation and maintenance activities for the Shire's stormwater assets are undertaken primarily by contractors. The management of the contracts for these services is the



responsibility of Shire's Roads & Drainage Team, within the Infrastructure Services Unit and the Assets & Infrastructure Division.

16. From July 2006 to June 2024, operation and maintenance activities for stormwater assets were performed by Emoleum/ Downer (which trades under the business name DM Roads) pursuant to the Safer Local Roads Contract (CN 1218) dated 30 June 2006 [\[MSC.5014.0001.0725\]](#) (as varied and extended by a Deed of Novation, Variation and Extension dated 30 June 2021 [\[MSC.5014.0001.0676\]](#) and a Deed of Extension and Variation dated 4 May 2023 [\[MSC.5014.0001.0707\]](#)) and the Cleansing & Drainage Cleaning Contract (CN 2328) dated 1 December 2018 [\[MSC.5051.0001.1343\]](#). Since 1 July 2024, these services have been undertaken by Fulton Hogan pursuant to the Roads Corridor Contract dated 15 December 2023 (CN 2635) [\[MSC.5022.0001.0001\]](#). Each contract contains in Annexure 4 a list of the operation and maintenance activities to be carried out on the Shire's stormwater assets, including performance criteria, activity/performance standards and response times (Annexure 4 to Roads Corridor Contract is [\[MSC.5006.0001.0172\]](#)). These activities include:
  - (a) clearing culverts, pipes and pits;
  - (b) maintaining gross pollutant traps;
  - (c) maintaining soak pits;
  - (d) maintaining WSUD infrastructure;
  - (e) repair of pits and pipes;
  - (f) clearing open drains;
  - (g) maintaining retarding basins; and
  - (h) validation of drainage assets.
17. As referred to at paragraph 9 of My Second Statement, pursuant to each of these contracts, the contractor is obliged to undertake inspections and maintenance of Shire-managed stormwater infrastructure and pits on a scheduled basis. The contractor also undertakes inspections of stormwater pipes on a reactive basis as directed by the Shire.
18. As such, the operation and maintenance activities performed by the contractor have proactive and reactive components. Proactive activities include pit inspections and street sweeping, which are preventative actions required to operate and provide stormwater services, as well as inspections of pits. Reactive activities include CCTV inspections, and cleaning and repair of stormwater pits and pipes. At the time of undertaking proactive activities such as pit inspections, the contractor is required to identify defects and conduct repairs either immediately or in accordance with the response times set out in the activity specification in Annexure 4 of each of the contracts identified above.

19. As referred to at paragraph 10 of My Second Statement, the contractor is also required to respond to customer requests where a customer identifies an issue or defect which is required to be investigated and repaired within the scope of the relevant contract. In practice, when a customer contacts the Shire with a concern that falls within the scope of the contractor's responsibilities under the relevant contract, the contractor is assigned responsibility by the Shire for communicating with that customer about the issue raised and the details of any works to be undertaken by the contractor in response. The contractor is also responsible for undertaking those works, in accordance with the relevant contract.
20. As stated at paragraph 11 of My Second Statement, the Shire's Roads & Drainage Team also receives and responds to customer requests and undertakes investigations regarding drainage and flooding issues arising across the Shire, including in McCrae, where those issues are outside of the scope of the relevant contract or are complex in nature.
21. Projects for the renewal or upgrade of stormwater assets are identified based on customer requests, the operation and inspection of stormwater assets, and the Shire's Flood and Stormwater Strategy. This includes analysing condition audit data (which is currently being collected by the Shire), on-site validation of stormwater assets, and linkages with other capital works projects. These matters are considered by the Stormwater Assets Working Group, which meets approximately quarterly, to make decisions about renewal or upgrade projects and their priority.
22. Larger projects are presented as part of the Shire's capital works budget process and are allocated individual budgets and tenders are sought for the completion of the works. Decision-making as to the priority of such projects is informed by the Shire's Flood and Stormwater Strategy. A primary assessment tool is used to determine the depth of flooding in various annual exceedance probability events. This provides an annual average damage value, which is used to rank the priority of stormwater projects by reference to flood mitigation. Smaller projects are referred to Drainage Renewal Programs for consideration and are prioritised based on the condition of the relevant asset and the available annual budget. Most underground drainage assets within the Shire are less than 50 years old, with an estimated useful life of approximately 100 years.
23. The teams within the Shire responsible for stormwater operations and strategy meet monthly to discuss drainage issues across the Shire. These meetings ensure that challenging cases are identified and escalated and have a pathway to resolution. They also allow for the identification of cases that require additional funding through the capital works budget process.

24. Stormwater drainage is required to be installed in accordance with the Shire's Specification for Road and Drainage Works, in particular Section D – Stormwater Drains and Pits [See <https://www.mornpen.vic.gov.au/Building-Planning/Engineering/Construction-of-Roads-Drains>], and the Civil Engineering Standard Drawings, in particular and Section 4 – Drainage [See <https://www.mornpen.vic.gov.au/Building-Planning/Engineering/Civil-Engineering-Standard-Drawings#section-4>].
25. The Shire is continually updating and refining its approach to its control, operation, management and maintenance of its stormwater assets, including in response to the challenges presented by climate change. As part of updating flood mapping, the Shire is currently undertaking desk-top audits of drainage plans and the pipe network to understand the current state of the pipe network, as well as developing an outfall improvement program to address the adverse effects of rising water levels and the intensity of storm surges on stormwater infrastructure and its ability to mitigate flood risk.

#### **Question 7**

**Describe the way in which the Shire interacts (if at all) with other agencies, including VicRoads (i.e., the Department of Transport and Planning) and Melbourne Water, in respect of managing stormwater assets in the McCrae area.**

26. In respect of managing stormwater assets across the Shire, including in the McCrae area, the main agencies with which the Shire interacts are Melbourne Water and the Department of Transport and Planning.
27. The Shire has responsibility for 70 drainage catchments and a significant proportion of the drainage network. Melbourne Water manages major outlets and regional drainage, which includes major riverine outlets and main outfall drains. Collaboration and coordination between the Shire and Melbourne Water is important not least to ensure that the Shire understands and reduces flood risk and support for its communities.
28. The Shire maintains an asset register which identifies stormwater assets and records the agency that is responsible for each asset. The register is publicly available and can be accessed at [<https://www.mornpen.vic.gov.au/About-Us/About-Our-Organisation/Shire-Maintenance/Roads-paths-and-drainage-maintenance/Drainage-maintenance>]. If clarity is required to determine the ownership of or responsibility for a stormwater asset, the Shire collaborates with Melbourne Water to identify the appropriate agency to take responsibility for the relevant flooding and drainage issues.
29. The Shire and Melbourne Water have quarterly meetings to discuss topics of major concern, and are otherwise regularly in contact on a needs basis.

30. In addition, the Shire collaborated with Melbourne Water (and other councils) to develop the Flood Management Strategy Port Phillip and Westernport 2021-2031 and Action Plan 2021-2026, and is currently working with Melbourne Water to update flood mapping across the municipality.
31. The Shire also provides input when Melbourne Water investigates major works on its assets and areas of responsibility within the municipality, such as Coburn Creek, which is the receiving waterway for the local drainage which is managed by the Shire (excluding the stormwater network under the Mornington Peninsula Freeway, which is managed by the Department of Transport and Planning).
32. Managers at the Shire meet with senior representatives from the Department of Transport and Planning from time to time to discuss high priority strategic and operational issues and opportunities, and there are contact points during the periods between such meetings for the escalation of issues.
33. For operational issues, the Shire interacts with Melbourne Water and the Department of Transport and Planning as needed, including when issues are identified the resolution of which requires cooperation and coordination between the agencies. The Shire also interacts with Melbourne Water and the Department of Transport and Planning when works to be carried out by the Shire may impact assets of one or more of the other agencies or require their permission to be performed.

#### **Question 8**

**Describe the stormwater drainage project undertaken by the Shire from May to June 2023 in respect of Prospect Hill Road to the end of View Point Road, McCrae. In particular, identify:**

- (a) the rationale for undertaking the project, including any problem(s) the project was designed to address; and**
- (b) any evaluation or analysis undertaken since the project's completion to assess its effectiveness.**

**Exhibit key documents recording these matters.**

#### **The 2023 stormwater drainage project and its rationale**

34. I was not personally involved in the stormwater drainage project undertaken by the Shire in 2023 in respect of the stretch of road from Prospect Hill Road to the end of View Point Road, McCrae. What follows is based upon materials relating to these works held by the



Shire that I have accessed and information that has been provided to me by officers of the Shire who were involved in those works.

35. As discussed below, the View Point Road stormwater drainage project arose primarily as a result of a condition assessment in 2019 which identified a need for renewal works.
36. As part of its control, operation, management and maintenance of roads within the Shire, the Shire's Asset Management Team conducts a condition assessment of the kerb and channel network every five years. This is provided for in Appendix 1, Table 5 of the Shire's Road Management Plan dated September 2022 [\[MSC.5004.0001.0091\]](#). Because of the extensive network of roads and roadside assets within the Shire, which includes 2,043km of kerb and channel, such assessments are carried out on sections of kerb and channel associated with a road segment identification number, and the left and right sides of the kerb and channel are assessed separately.
37. The process commences once every five years with a condition assessment of the road pavement. Previously, this was carried out by contractors using a vehicle equipped with a high-resolution camera that captures the entire road reserve, including the kerb and channel. The Shire would then engage the same contractor to carry out a condition assessment of the kerb and channel, using the road data collected and applying a 1-5 condition score. From 1 July 2024, these assessments will now be coordinated by the Shire.
38. Each year, the Shire's kerb and channel renewal program is then developed based on such condition assessments, together with visual inspections of relevant sections of kerb and channel that are part of the Shire's sealed road network, within the constraints of a limited annual budget. Sections of kerb and channel are allocated priority for renewal in line with the condition of the kerb and channel, alignment with the road renewal program (to minimise rework), likelihood of ongoing poor condition causing damage to the road or other assets and the funding available for kerb and channel renewal.
39. A survey of the kerb and channel sections along the stretch of road from Prospect Hill Road to the end of View Point Road was conducted in November 2017 by DM Roads. The survey data was then used as the basis for a desktop condition assessment by the Shire in 2019. A copy of that assessment is at [\[MSC.5057.0001.1409\]](#), and the following are photographs taken of the kerb and channel on View Point Road during a site visit in 2019: [\[MSC.5057.0001.2000\]](#), [\[MSC.5057.0001.2001\]](#), [\[MSC.5057.0001.2002\]](#), [\[MSC.5057.0001.2003\]](#), [\[MSC.5057.0001.2004\]](#), and [\[MSC.5057.0001.2005\]](#). The 2019 assessment identified the kerb and channel on View Point Road as needing renewal within the following five years.

40. During the 2019 assessment of the View Point Road kerb and channel, it was also identified that the existing drainage infrastructure in the area did not provide a continuous flow through a connected stormwater network. This was because the underground piped drainage systems from upstream terminated adjacent to 4 View Point Road, and stormwater was surcharged to the surface and directed to flow along the kerb and channel and into the next section of the underground drainage network adjacent to 22 View Point Road. It was observed that water was pooling in the kerb and channel along View Point Road, causing the growth of algae and accelerated deterioration of the kerb and channel.
41. Renewal of the kerb and channel associated with the stretch of road from Prospect Hill Road to the end of View Point Road was proposed for delivery in the 2020-2021 financial year [\[MSC.5057.0001.1440\]](#). A design for the stormwater drainage upgrade was developed in or around May 2021 [\[MSC.5003.0001.0013\]](#).
42. The project was not completed in 2021. Based on information provided to me, I understand that there were delays as a result of adjusting scheduling to meet annual budgets and as a result of the effects of the COVID-19 pandemic. However, I was not directly involved at the time and I do not have a complete understanding of why the projects were not completed in 2021.
43. The View Point Road kerb and channel renewal works and the drainage upgrade works were subsequently scheduled for completion as part of the 2022-2023 Kerb and Channel Renewal Program [\[MSC.5064.0001.0003\]](#). I understand that the drainage pipe installation and kerb and channel renewal were scheduled to be delivered at the same time because it was believed it would minimise disruptions, costs and rework to complete the work simultaneously. A purchase order for the performance of this work by Downer was raised on 24 October 2022 and approved by 26 October 2022 [\[MSC.5003.0001.0020\]](#) and [\[MSC.5003.0001.0021\]](#). The works commenced in May 2023 and were subsequently completed by August 2023.

#### **Post-completion of the project**

44. The Shire generally does not actively monitor the performance of drainage upgrade projects once they are complete, due to the simplicity of the solution and the low likelihood of poor functionality. As such, no specific evaluation or analysis of the View Point Road stormwater drainage project has been undertaken since the project's completion to assess its effectiveness.
45. For completeness, I have caused searches of the Shire's Merit and TechOne databases to be undertaken for customer requests relating to stormwater issues at View Point Road following the completion of the stormwater drainage project in 2023. Those searches



returned records of four customer requests between October 2024 and January 2025 (three of which related to the same issue of a blocked stormwater pit) [\[MSC.5057.0001.0802\]](#). I have also been provided with a stormwater CCTV inspection report for View Point Road that was commissioned by the Shire dated 15 January 2025 [\[MSC.5051.0001.0881\]](#). None of the customer requests, nor the CCTV inspection report, raised issues arising from the 2023 View Point Road stormwater upgrade, and the Shire has found no information to suggest that that stormwater upgrade is not operating effectively.

Personal Information

Signed by David Smith