

BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE

David Smith

Second Witness Statement

Prepared for the purpose of a Board of Inquiry

30 April 2025

SECOND WITNESS STATEMENT OF DAVID SMITH

Name: David Smith
Address: 2 Queen Street, Mornington
Occupation: Director – Assets & Infrastructure
Date: 30 April 2025

1. I have previously provided a witness statement dated 17 April 2025 (**My First Statement**).
2. I make this second witness statement in response to the Third Request to Produce a Witness Statement dated 16 April 2025 (**Notice**). This statement has been prepared with the assistance of lawyers and Shire officers. Terms defined in My First 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. I have also used and relied upon data and information produced or provided to me by officers within the Shire.

Question 1

For the period from 14 January 2019 to date, identify the entity or entities (whether the Shire or otherwise) that control, operate, manage and/or maintain infrastructure or assets in McCrae Landslide Area for the management of:

- 1.1 stormwater;
- 1.2 sewage;
- 1.3 water mains and plumbed water mains, including leaks from same;
- 1.4 groundwater; and
- 1.5 natural springs, to the extent not already captured by the request above relating to groundwater.

4. In respect of question 1.1 (stormwater), stormwater assets are managed by several different agencies depending on the location and purpose of the assets. Within the McCrae Landslide Area, the agencies include the Shire, VicRoads (i.e., the Department of Transport and Planning), Melbourne Water and private persons or entities, as depicted in the colour coded image at Q1.1-A.

5. In respect of question 1.2 (sewage), it is my understanding based on the information that the Shire has available to it that South East Water manages all sewage assets within the McCrae Landslide Area other than assets within private property where the responsibility is held by the private landowner.
6. In respect of question 1.3 (water mains and plumbed mains, including leaks), it is my understanding based on the information that the Shire has available to it that South East Water manages all water supply assets in the McCrae Landslide Area, other than assets within private property where the responsibility is held by the private landowner. The Shire is not responsible for any water supply assets in the McCrae Landslide Area.
7. In respect of question 1.4 (groundwater) and question 1.5 (natural springs not already captured by groundwater) it is my understanding that the Shire is not responsible for the management of groundwater or natural springs. However, it is also my understanding that the Shire has taken steps in the McCrae Landslide Area to mitigate the impact of water saturation on roads for which the Shire is responsible for maintaining, as I further detail in response to question 4.5 below. The works to which I refer in my answer to question 4.5 exemplify the Shire's practice, which is to take appropriate action (including repairs) when water saturation is identified to be impacting Shire managed infrastructure.

Question 2

To the extent the Shire is responsible for the management of any of the services and issues listed in 1.1 to 1.5 above (**tasks**), give a general description of how those tasks are managed by the Shire, including the relevant groups or teams and reporting lines.

8. The Shire's Roads & Drainage Team sits within the Infrastructure Services Unit. The Roads & Drainage Team is managed by Luke Jackson, with whom I have conferred in preparing my answers to this witness statement. The Infrastructure Services Unit is managed by Tom Haines-Sutherland, with whom I have also conferred in the course of preparing my answers to this witness statement. Mr Haines-Sutherland reports to me.
9. The Roads & Drainage Team is responsible for the management of the Shire's Roads Corridor Contract (**Fulton Contract**), which is a contract between the Shire and Fulton Hogan which I refer to at paragraph 8(b) of My First Witness Statement. Under the Fulton Contract **[MSC.5022.001.001]**, Fulton Hogan are obliged to undertake inspections and maintenance of Shire-managed stormwater infrastructure pits, shire roads and footpaths on a scheduled basis. Fulton Hogan also undertake inspections of stormwater pipes on a reactive basis as directed by the Shire. During inspections Fulton Hogan is required to identify defects and conduct repairs.

10. Fulton Hogan are also required to respond to customer requests where a customer identifies an issue or defect which is required to be investigated and repaired by Fulton Hogan within the scope of the Fulton Contract. In practice, when a customer contacts the Shire with a concern that falls within the scope of Fulton Hogan's responsibilities under the Fulton Contract, Fulton Hogan 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 Fulton Hogan in response. Fulton Hogan is also responsible for undertaking those works, in accordance with the Fulton Contract.
11. Separately, the Roads & Drainage Team also receive and respond to customer requests and undertake investigations regarding drainage and flooding issues arising across the Shire where they are outside of the scope of the Fulton Contract or are complex in nature.
12. The Shire also has a Water & Coasts Team. The Water & Coasts Team sits within the Climate Change & Sustainability Unit, which is managed by Melissa Burrage. Melissa Burrage reports to David Simon, Acting Director – Planning and Environment. The Water & Coasts Team has a Stormwater Strategy Officer who is responsible for investigating and procuring feasibility studies and designs for larger scale upgrade projects to the Shire's stormwater managed assets, including seeking funding through the Shire's capital works budget for these projects.

Question 3

Describe any agreement, protocol or memorandum of understanding between the Shire and any other entity responsible for performance of any task or tasks.

13. As set out in my answer to Question 2, the Shire has a contract with Fulton Hogan (the **Fulton Contract**). Under the Fulton Contract, Fulton Hogan are obliged to undertake inspections and maintenance of Shire managed stormwater infrastructure, roads and footpaths.

Question 4

The Board of Inquiry is investigating the potential influence on the 5 January 2025 Landslide and McCrae Landslide of a Burst Water Main that occurred near the corner of Bayview Rd and Outlook Rd in McCrae, around the end of 2024 or the start of 2025. Please describe:

- 4.1 when and how the Shire first became aware of the Burst Water Main;
- 4.2 the extent of the Shire's responsibility for the Burst Water Main or the effects arising therefrom;
- 4.3 the Shire's knowledge or understanding of the paths on or through which water leaked from the Burst Water Main, including whether it travelled along one or more of the following pathways (irrespective of who owned and controlled them):
 - (i) spoon drains;
 - (ii) stormwater infrastructure;
 - (iii) sewer infrastructure;
 - (iv) mains water infrastructure;
- 4.4 where water from the Burst Water Main returned to ground level (**Surfaced Water**);
- 4.5 the effects of any Surfaced Water on public infrastructure, land or private property;
- 4.6 works performed by the Shire or South East Water or any other person to repair the cause of the Burst Water Main, damage it caused, or to prevent water from it flowing to landslide prone areas; and
- 4.7 any analysis or reports held by the Shire concerning the foregoing.

Question 4.1

- 14. In response to **question 4.1** (when and how the Shire first became aware of the Burst Water Main), based on the information available to me it is my belief that the Shire did not become aware of there being a burst water main until on or about 2 January 2025. I set out in more detail the events leading up to this below.

CRM Searches and results

- 15. In preparing this witness statement I have caused to be undertaken a search of the Shire's customer record management (**CRM**) system for the period leading up to about the time the Shire became aware of the Burst Water Main. I then caused the Shire's lawyers to prepare a

table of the results of those searches, to the extent that those results could potentially relate to the Burst Water Main, setting out the customer inquiry or issue raised, and then the responsive action that is recorded on the CRM system to the extent the Shire has been able to identify any such information in the time available. The table is at **Q4.1-A**. Further, the table includes Annexures, which are screen shots of the “summary page” of each CRM system entry, to the extent that they have been able to be prepared in the time available. I understand that the Shire and the Shire’s lawyers will continue to work on this table and will provide an updated version of the table and any further relevant information in relation to that table to the Board of Inquiry as soon as possible.

Shire’s response to CRM system recorded issues regarding water and contact with South East Water

16. In the time available, other than what is recorded in the table and Annexures at **Q4.1-A**, I have not been able to ascertain every step or action taken by the Shire in response to each customer inquiry contained in that table. However, in the time available to prepare my answers to this witness statement, I have been able to ascertain the following key points about the Shire’s response to reports of water in the Charlesworth Street and Waller Place area, and discovery of the Burst Water Main. I set out below the basis upon which I have formed my belief. Where the Shire has identified relevant documents or records and I have reviewed those documents or records, I set that out below and include those documents or records as annexures. Where I have formed my belief based on verbal instructions from Shire officers, I have set out who those Shire officers are.
17. Based the information available to me, I believe that initially, in relation to CRM 2024-099104 (i.e., the first reported sink hole on Charlesworth Street, on about 28 November 2024), to the extent the reported issue concerned damage to a Shire road, management of the issue was allocated to Fulton Hogan (i.e., the Roads Corridor Service Provider). My belief is based on Luke Jackson’s review of the CRM system where the allocation of CRM 2024-099104 can be identified as being made to the Roads Corridor Service Provider.
18. It is my understanding that the allocation of this responsibility to Fulton Hogan was in accordance with the Shire’s standard practice to responding to requests submitted about damaged road infrastructure.
19. In the course of preparing this witness statement I have caused Shire officers to contact Fulton Hogan and request information about Fulton Hogan’s response to CRM 2024-099104 and other reports of water in the Charlesworth Street and Waller Place area in late 2024. Should additional information be provided by Fulton Hogan relevant to this issue, I understand that the Shire’s lawyers will provide that information to the Board of Inquiry.

20. At the time of preparing this witness statement, Shire officers have been able to identify two work orders submitted to the Shire by Fulton Hogan relevant to question 4.1. I have reviewed those two work orders. Those work orders record that:
- (a) On or about 28 November 2024, Fulton Hogan attended 3 Charlesworth Street. The relevant work order records: *"erected traffic hazard signs and cone in road as we waited for south east water to arrive."* A copy of this work order is at **Q4.1-A1**.
 - (b) On or about 31 December 2024 and then again on or about 3 January 2025 Fulton Hogan inspected 1 Waller Place concerning reports of water egress at Waller Place and Charlesworth Street. The relevant work order records: *"IG inspected on 31/12/24. Communicated with CST that due to pressurised water coming through road this will be a SEW issue. Follow up 3/11 TT, inspected municipal drainage system at this location. All pits inspected clear and flowing, no blockages or pipes holding water. [...] Spoke with 'Water detection' crew on site, there [sic] take was the water has been tested and there is no detection of sewerage and no detection that it is drinking water. Means no burst sewer and/or water mains by S/E waters investigation. There is history here apparently of these properties being built on an old spring. Not sure who is responsible for Springs. This could be issue? Area has been made safe till issue resolved."* A copy of this work order is at **Q4.1-A2**.
21. Separately, I have reviewed the table and the Annexures to the table at **Q4.1-A** and note the following with respect to recorded interactions that reference South East Water:
- (a) In respect of CRM number 2024-099104 (28 November 2024) the table at p 2 records that on 20 December 2024 the customer contacted the Shire and informed the Shire that she had contacted South East Water regarding their reference #1290137 and stated that she wasn't sure if they intended to do anything.
 - (b) In respect of CRM number 2024-104759 (14 December 2024) the table at page 3 summarises that CRM system record. The CRM summary at Annexure F records against the date 16 December 2024 *"Relevant department has inspected sight [sic] and deemed all Mornington Peninsula Shire assets are operating as intended. It is expected it may be a South east water asset that has been damaged. If you would like to speak to them or report this issue, please call them on 13 28 12."*
 - (c) In respect of CRM number 2024-106738 (20 December 2024) the table at page 3 summarises that CRM system record. The CRM summary at Annexure H records against the date 31 December 2024 *"Resolved by Contractor"* with the details *"Roads Corridor Team attended 1 Charlesworth St McCrae on 20th December & made area safe. No shire assets at location. South East Water has been contacted via phone for re-inspection of pipes."* Tom Haines-Sutherland and Luke Jackson have advised me,

and I believe, that the references to "Contractor" and to "Roads Corridor Team" are references to Fulton Hogan.

- (d) In respect of CRM number 2024-107126 (21 December 2024) the table at page 4 summarises that CRM system record. The CRM summary at Annexure I records against the date 23 December 2024 *"Resolved by Contractor" with the details "3 Charlesworth St McCrae water leak is being maintained by SEW. Please refer to reference number 129509/00123 for further updates. Thank you for your request."* Tom Haines-Sutherland and Luke Jackson have advised me, and I believe, that the reference to "Contractor" is a reference to Fulton Hogan.
 - (e) In respect of CRM number 2024-107408 (23 December 2024) the table at page 4 summarises that CRM record. The CRM summary at Annexure J records against the date 23 December 2024 *"Resolved by Contractor" with the details "3 Charlesworth St McCrae water leak is being maintained by SEW. Please refer to reference number 129509/00123 for further updates. Thank you for your request."*
 - (f) In respect of CRM number 2024-109083 (31 December 2024) I note that the table on page 5 summarises on 31 December 2024 a customer from 1 Charlesworth Street reported *"a large pothole at [sic] caused by a burst water pipe at the corner of Charlesworth Street and Coburn Avenue, was causing the road to become a hazard. He reported that he had notified SEW and stated that Council needed to attend the location to ensure that it was safe to the public"*.
22. In the course of preparing this witness statement I have caused Shire officers to request from Fulton Hogan any information about any engagement Fulton Hogan had with South East Water about the Burst Water Main and/or reports of water saturation or water rising to the surface at Charlesworth Street and the surrounding area. At the time of preparing this witness statement, Fulton Hogan have so far provided one document to Shire officers, which I believe was prepared by Jenna Kirk, Customer Engagement and Response Coordinator at Fulton Hogan. A copy of that document and the covering email is at **Q4.1-B [MSC.5033.0001.0002; MSC.5033.0001.0003]**. Based on my review of that document, it is my understanding that as of 31 December 2024, Jenna Kirk has recorded that she was advised by South East Water that there had been a Burst Water Main at Outlook Road and the Boulevard in McCrae. Further, that between late December 2024 and early January 2025, Jenna Kirk has recorded in that document that she was advised by South East Water that:
- (a) South East Water was managing customer issues with respect to groundwater reports on Charlesworth Street; and
 - (b) South East Water confirmed that a stent had not stopped the flow of water and that South East Water was still investigating.

23. In the course of preparing this witness statement, I have caused Shire officers to conduct searches for records of interactions with Fulton Hogan in late 2024 and early 2025 concerning water saturation in the Charlesworth Street and Waller Place area, and the Burst Water Main. As a result of those searches, I have reviewed an email sent by Jenna Kirk of Fulton Hogan to Shire officers on 2 January 2025, a copy of which is at **Q4.1BAA [MSC.5033.0001.0001]**. I note that email states (relevantly):

"[...] Please be advised the ongoing water issues at Charlesworth, Waller & now Coburn Avenue are under the management of South East Water.

Fulton Hogan have liaised with SEW supervisor over the last few weeks to advocate on getting prompt action out here given the impact to both private property and MPS assets. SEW have identified a burst water main and shut water off 31.12.24, however there is still water flowing.

SEW have confirmed given the amount of water (flowing now for nearly 6 weeks) it is not an MPS storm water concern. Recent update as of 2.01.25 is that another leak detection team are heading down to further investigate. An update is also being provided as we speak to the SEW Customer team to be sure to advise residents that the issue is under the management of SEW. [...]"

24. Luke Jackson has advised me, and I believe, that the Shire's electronic system that records the progress of customer inquiries raised with the Shire denotes that on or about 4 January 2025 Fulton Hogan reassigned CRM number 2024-099104 to Shire officers on the basis that it required further investigation with the assistance of Shire officers.
25. Further, in the course of preparing this witness statement I have caused Luke Jackson to review his interactions with Fulton Hogan in late 2024 and early 2025 concerning water saturation in the Charlesworth Street and Waller Place area. Mr Jackson has identified an interaction between himself and Jenna Kirk of Fulton Hogan on 6 January 2025, a copy of which is at **Q4.1-BA**. I have reviewed that record. Mr Jackson has advised me, and I believe, that his message to Jenna Kirk on 6 January 2025 at 11.52am was sent in reference to the landslide on 5 January 2025. I note, however, that the record shows Jenna Kirk to have replied on 6 January 2025 at 11:53am stating: *"No idea sorry, I just messaged a supervisor at SEW to see how their investigation was going with nearby excessive water flow and he advised of the landslide"*.
26. Luke Jackson has advised me, and I believe, that on 8 January 2025, Shire officers from his team attended Charlesworth Street and the surrounding area. Luke Jackson has advised me, and I believe, that this attendance of Shire officers was in response to Fulton Hogan's reassignment of CRM number 2024-099104 to the Shire as referred to above, as well as several reports of observations of water saturation or water rising to the surface in the Charlesworth Street area. Luke Jackson has advised me, and I believe, that Shire officers attended in an attempt to find the source of the water causing the significant saturation and substantial damage to Charlesworth Street.

27. Further, Luke Jackson has advised me, and I believe, that on 8 January 2025 Shire officers attended Charlesworth Street and Waller Place and the surrounding area, and also attended the site of the Burst Water Main which is up-hill of Charlesworth Street and Waller Place. I have reviewed photos that Luke Jackson has advised me, and I believe, were taken by Shire officers on 8 January 2025 at the site of the Burst Water Main. Copies of those photos are at **Q4.1-C**. On the basis of my review of those photos, and on the basis of Luke Jackson's advice to me, I believe that on 8 January 2025 Shire officers at the site of the Burst Water Main identified signs of burst water main repairs, stakes and a taped off area, and evidence of erosion in the area caused by water.
28. Further, Luke Jackson has advised me, and I believe, that Shire officers also attended Charlesworth Street and the surrounding area on 9 January 2025, at which time contractors for South East Water were also present conducting their own investigations around Charlesworth Street. Luke Jackson has advised me, and I believe, that on this day South East Water contractors confirmed to Shire officers in attendance that South East Water had recently conducted repairs to the Burst Water Main. The Shire is still unaware of the date of these repairs (as set out below).
29. Tom Haines-Sutherland and Luke Jackson have advised me, and I believe, that on 21 and 22 January 2025 they also inspected Charlesworth Street, Waller Place and the surrounding area, and the site of the Burst Water Main, as part of their inspections as to the source of the water causing saturation. The results of these inspections are set out in more detail below. Tom Haines-Sutherland has advised me, and I believe, that the images at **Q4.1-D [MSC.5033.0001.0014, MSC.5033.0001.0015, MSC.5033.0001.0013 and MSC.5033.0001.0012]** were taken by Tom Haines-Sutherland on about 21 January 2025 and depict the Burst Water Main area. Tom Haines-Sutherland and Luke Jackson have advised me, and I believe, that during their inspection at the Burst Water Main site during this period, they saw the following: that parts of a nearby fence had come down; some trees in the area had come down; part of the fence appeared to have been cut to enable access to the site; there were remnants of high flows of water at the location and in nearby bushland areas; there were stakes in the ground and a taped off area; and evidence of erosion in the area they considered to have been caused by water.

Question 4.2

30. In response to **question 4.2**, as set out in my answer to question 1.3, the Shire is not responsible for any water mains and plumbed water mains, and leaks therefrom, in the McCrae Landslide Area.

Question 4.3(i)

31. On the basis of searches I caused to be undertaken in preparation for this witness statement, I note that CRM number 2024-105410 records that on 16 December 2024 a resident of 2 Penny Lane reported to the Shire: "spoon drains at the end of Penny lane once again full of water; we have had little rain." A copy of the summary of CRM number 2024-105410 is at **Q4.3(i) [MSC.5020.0001.0179]**.
32. On the basis of enquiries I have caused to be undertaken within the Shire in the limited time available for the preparation for this witness statement, I have not identified any other knowledge or understanding of the matters enquired of by question 4.3(i) (regarding spoon drains).

Question 4.3(ii)

33. In response to **question 4.3(ii)** (regarding stormwater infrastructure), Luke Jackson has advised me, and I believe, that Shire officers conducted various site observations on 8 and 9 January 2025 at Charlesworth Street and the surrounding areas, and then continued to monitor saturation levels throughout January 2025. Luke Jackson and Tom Haines-Sutherland have advised me, and I believe, that Shire officers conducted daily monitoring of saturation levels after the repairs at Charlesworth Street on 16 January 2025 as detailed further in my answer to question 4.5 below.
34. I have been advised by Luke Jackson, and believe, that on or about 8 January 2025, and also on subsequent visits by Shire officers in January 2025, verbal reports from several residents were made to the Shire's officers by local residents on site. Those reports generally suggested that residents witnessed a high flow of water through the stormwater pipes and pits at the location within the red-circled area on the image at **Q4.3(ii)-A**, and that residents had witnessed this issue for some time prior to early January 2025. I caused the image at **Q4.3(ii)-A** be prepared by Shire officers in the course of preparing this witness statement. Luke Jackson and Tom Haines-Sutherland have advised me, and I believe, that Shire officers considered what they had been told to be unusual, given it was a relatively dry period. I also understand from Luke Jackson's advice to me that this information led Shire officers to suspect that the Burst Water Main may have caused a high volume of water to be released into the Waller Place area.
35. In particular, Luke Jackson has advised me, and I believe, that residents from Waller Place and Charlesworth Street reported to Shire officers hearing water rushing through the storm water pit at 3A Waller Place, which connects to the drain that runs from nearby the site of the Burst Water Main, then under the freeway and then down towards Waller Place.

Question 4.3(iii)

36. In response to **question 4.3(iii)** (regarding sewer infrastructure), I have been advised by Luke Jackson and Tom Haines Sutherland, and I believe, that Shire officers in January 2025 observed that saturation of road pavement and road reserves (i.e., nature strips) appeared to correlate with the locations of sewer lines. Tom Haines-Sutherland advised me, and I believe, that he created a hand-written map on or about 22 January 2025 showing the results of his site observations on 21 and 22 January 2025 and their proximity to the Burst Water Main. A copy of this map, with a legend explaining its markings, is at **Q4.3(iii)-A [MSC.5001.0001.3772]**.
37. Separately, Tom Haines-Sutherland advised me, and I believe, that he also created an electronic record of the hand-written map on or about 22 January 2025. A copy of this map, with a legend explaining its markings, is at **Q4.3(iii)-B**. I understand from reviewing the legend on that map that the brown lines depicted in that image are sewer lines.
38. Further, on or about 22 January 2025, I attended a community meeting at Dromana Community Hall. At that meeting I recall a person who identified themselves as a local plumber stating that water saturation was occurring on the nature strips near the McCrae Landslide Area correlating with the location of sewer lines.

Question 4.3(iv)

39. On the basis of enquiries I have caused to be undertaken within the Shire in preparation for this witness statement, it is my belief that the Shire has no knowledge or understanding of the matters enquired of by question 4.3(iv) (regarding mains water infrastructure).

Question 4.4

40. In response to question 4.4, it is my understanding that the map at **Q4.3(iii)-B** shows the locations on public and private land observed to be saturated or seeping groundwater by Shire officers in January 2025. This is shown by the light green boxes drawn on the map, as set out in the legend to the map.
41. Further, I am advised by Tom Haines-Sutherland that on or about 21 January 2025 he took a number of photographs at the intersection of Coburn Avenue and Charlesworth Street. Copies of those photographs are at **Q4.4-A [MSC.5033.0001.0008, MSC.5033.0001.0007, MSC.5033.0001.0009]**. Having reviewed those photographs in the course of preparing this witness statement, it is my belief that those photographs appear to show water seeping from the nature strip, kerb and road pavement at the intersection of Coburn Avenue and Charlesworth Street.

42. Further, the searches I have caused to be undertaken reveal that residents from private properties reported various observations of water seeping from beneath the road at Charlesworth Street and Waller Place and high levels of saturation in those areas in late 2024 and January 2025 relevant to Question 4.4. Those reports are set out in the table and annexures to the table at **Q4.1-A**.

Question 4.5

43. In response to question 4.5 (regarding the effects of any surfaced water on public infrastructure, land or private property) Tom Haines-Sutherland and Luke Jackson have advised me, and I believe, that works were undertaken by Fulton Hogan at the Shire's instruction on Charlesworth Street at the intersection of Waller Place on or about 16 January 2025 (**Charlesworth Street Works**). In preparing this witness statement I have caused an aerial image to be produced, a copy of which is image 1 at **Q.4.5A**. Image 1 depicts two dark patches on Charlesworth Street. Tom Haines-Sutherland has advised me, and I believe, that the large dark patch, beneath the tree, depicts the location of the Charlesworth Street Works. Tom Haines-Sutherland has advised me, and I believe that the smaller dark patch depicts works subsequently undertaken by South East Water or their contractors on or about 24 January 2025, and which are referred to in my answer to question 4.6 below.
44. Tom Haines-Sutherland and Luke Jackson have advised me, and I believe, that the Charlesworth Street Works were required due to saturation causing potholes on Charlesworth Street that were unable to be repaired from the surface. On the basis of Tom Haines-Sutherland's and Luke Jackson's advice to me, it is my belief that the Charlesworth Street Works involved excavating the road base and laying Agi pipes to collect water and drain the pavement into the adjacent drainage pit. A photograph of what I believe to be the Charlesworth Street Works in progress is at image 2 at **Q4.5-A [MSC.5033.0001.0005]**.
45. Further, Tom Haines-Sutherland and Luke Jackson have advised me, and I believe, that the road pavement on Coburn Avenue at the intersection with Charlesworth Street was also impacted by water saturation in January 2025. I believe that impact is depicted in the photographs at image 1 and image 2 at **Q4.5-B**. On the basis of Tom Haines-Sutherland's and Luke Jackson's advice to me, I believe that in response to this damage, once the pavement had dried out, on or about 18 March 2025 Coburn Avenue was patched and repaired (**Coburn Avenue Works**). The Coburn Avenue Works were undertaken by Fulton Hogan at the instruction of the Shire. A photograph of what I believe to be Coburn Avenue Works in progress is at image 3 at **Q4.5-B [MSC.5033.0001.0011]**.

Question 4.6

46. In response to question 4.6 (regarding works performed by the Shire or South East Water or any other person to repair the cause of the Burst Water Main, damage it caused, or to prevent

water from it flowing to landslide prone areas), it is my belief, consistent with my answer to question 1.3, that repair of water mains is a South East Water responsibility.

47. In the course of preparing this witness statement I have reviewed an email chain between the Shire and South East Water that covers the period between 22 January 2025 and 30 January 2025. On the basis of this review, it is my understanding that on 30 January 2025 the Shire wrote to South East Water expressly requesting information on the Burst Water Main including the date of the burst, the date of repair and the estimate of volume of water discharged. To the best of my knowledge I believe that, to date, the Shire has not received the requested information about the Burst Water Main sent on 30 January 2025. A copy of that email chain is at **Q4.6-A [MSC.5031.0001.1289]**.
48. I note that the email chain at Q4.6-A shows that Shire officers met with South East Water officers on 23 January 2025 in relation to Charlesworth Street, and subsequently on 28 January 2025 the Shire provided to South East Water the Shire's analysis that I referred to in my answer to Question 4.3(iii).
49. Separately, Tom Haines-Sutherland has advised me, and I believe, that an inspection pit was excavated by South East Water or its contractors on or about 24 January 2025 adjacent to where the Charlesworth Street Works were completed at the intersection of Waller Place (as described in my answer to question 4.5). Further, Luke Jackson has advised me, and I believe, the purpose of this excavation was to determine if water was present within the sewer trench, consistent with the water that was present closer to the surface impacting the road.

Question 4.7

50. In response to question 4.7 (regarding any analysis or reports held by the Shire concerning the foregoing), based on the enquiries I have caused to be undertaken as set out in this witness statement, I believe that my answers to the above questions set out the extent of the analysis undertaken within the Shire by its officers. Separately, I have caused the Shire's lawyers to write to the Board of Inquiry identifying other documents that might be relevant to Question 4.7, but in the time available I have not had the chance to review those documents.

Personal Information

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Signed by David Smith

on 30 April 2025