

BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE

David Smith

Fourth Witness Statement

Prepared for the purpose of a Board of Inquiry

28 July 2025

FOURTH WITNESS STATEMENT OF DAVID SMITH

Name:	David Smith
Address:	2 Queen Street, Mornington
Occupation:	Director – Assets & Infrastructure
Date:	28 July 2025

1. I have previously provided three witness statements to the Board. My first witness statement is dated 17 April 2025 (**My First Statement**), my second witness statement is dated 30 April 2025 (**My Second Statement**) and my third witness statement is dated 11 June 2025 (**My Third Statement**).

2. This statement has been prepared with the assistance of lawyers and Shire officers. 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. Terms defined in My First Statement, My Second Statement and My Third Statement are used in this statement unless otherwise stated.

3. I make this fourth witness statement in response to question 1 of the Fifth Request to Produce a Witness Statement dated 27 May 2025 (**Notice**). In My Third Witness Statement, I gave evidence in response to that same question. In My Third Witness Statement at paragraph 5, I said “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”. My response was based on searches conducted by the Shire:
 - (a) for any notifications by SEW to the Shire's maintenance team of a burst main;
 - (b) of the monthly road opening reports that SEW provides to the Shire's Asset Protection Team; and
 - (c) of its customer request system (called Merit and TechOne which was in place since 1 July 2024) for any request received by the Shire regarding a water main burst on or around 14 November 2022.

4. I am informed by Luke Opai of the Shire's IT team that he conducted the searches to extract information out of the Merit database. Mr Opai informs me that he conducted the searches as follows:
 - (a) Mr Opai first limited the search by the postcode for McCrae being '3938'; and
 - (b) Mr Opai searched the words 'water' OR 'main' OR 'burst' OR 'saturation' and TechOne for the words 'main' OR 'water'.
5. The searches of Merit and TechOne were for:
 - (a) a start date of 1 October 2022 to ensure that any relevant results were captured regarding a burst water main in late 2022 in the vicinity of 23 Coburn Avenue, McCrae; and
 - (b) an end date of 5 January 2025 because the Shire was asked about its knowledge prior to 5 January 2025.
6. I was informed by the Shire's legal representatives, at the time of My First Statement, that the results of the searches did not include a record of the Shire having received notice of a water main burst on or around 14 November 2022 in the vicinity of 23 Coburn Avenue, McCrae. A copy of the original Merit search outcome is exhibited to this statement **[MSC.5081.0001.0331]**. I have now reviewed those search results and they do not include a record of the Shire having received notice of a water main burst on or around 14 November 2022 in the vicinity of 23 Coburn Avenue, McCrae.
7. When I gave evidence on 20 June 2025 counsel appearing for South East Water (**SEW**) informed me that Julian Tully of SEW would give evidence that the 14 November 2022 water main burst was reported to SEW by "Michelle Twaites" at 1.41 on 14 November 2022.
8. I am informed by the Shire's legal representatives that, after I gave evidence before the Board of Inquiry on 20 June 2025:
 - (a) the Shire undertook further searches of its records to ascertain whether the Shire had records responsive to question 1 that had not previously been identified. The searches were conducted by Jacqueline O'Shea, Executive Officer – McCrae Landslide Incident, of the Shire's Merit system and by the Shire's IT department of the emails of Michelle Twaites and Brandon Trebilco for the period that they held an email address with the Shire. Ms Twaites was an employee of the Shire's contractor, DM Roads, in the role of a Customer Service Officer. In that role, Ms Twaites had an email address with DM Roads and the Shire, although she was not an employee of the Shire. Ms

Twaites no longer works for DM Roads or the Shire. Mr Trebilco is no longer employed by the Shire. I am informed by Ms O'Shea that:

- (i) she searched Merit for 'Coburn Ave' for the period 1 October 2022 to 31 January 2023. She used a narrower period since she now knew, from what was said by counsel for SEW on 20 June 2025, that SEW's position was that the Shire reported the November 2022 water main burst to SEW on 14 November 2022. A copy of Ms O'Shea's search of Merit is exhibited to this statement **[MSC.5081.0001.0332]**; and
- (ii) since the Shire now had Ms Twaites' name, the Shire was able to use that name to narrow down its searches; and

(b) as a result of those searches, certain documents were identified which were not previously identified. The documents are listed at Schedule 1.

9. I am informed that enquiries have been made of Mr Opai who conducted the Merit search referred to at paragraph 4 above for an explanation of why that search did not identify Merit Requests 2505098 and 2505648 identified in **[MSC.5081.0001.0332]** which, as outlined below, relate to a water main burst on or around 14 November 2022 in the vicinity of 23 Coburn Avenue, McCrae. I am informed by Mr Opai that:

- (a) due to the broad nature of a postcode search in Merit, requests need a valid address linked for the postcode to match with the Request – ie if the Request was not linked to a valid customer address in McCrae then Mr Opai's postcode search would not return that request. An explanation is provided below in relation to linking to a valid address;
- (b) Requests 2505098 and 2505648 did not have a valid customer address linked to the Requests and accordingly did not turn up in Mr Opai's searches referred to at paragraph 4 above; and
- (c) the address linked for the customer in Request 2505225 did not have the McCrae postcode of '3938'.

10. I understand from Ms O'Shea that when a Request is entered into Merit the person entering the Request is required to select a customer address to link to the request. The Merit system has a linked address for each address in the Shire. Sometimes the person entering the Request will not select the correct linked address and so the customer address selected is not valid. As a result, whilst the Request may refer to the correct address within the text of

the Request, since the customer address was not correctly linked in Merit it is not captured by the postcode search.

11. I have been provided with the documents returned by these further searches and give a revised response to question 1.

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.**

12. Yes. Prior to the 5 January 2025 Landslide, the Shire was aware that a water main had burst on or around 14 November 2022 in the vicinity of 23 Coburn Avenue, McCrae.

(a) *when and how the Shire first became aware of the water main burst*

13. Based on my review of the documents returned by the further searches of the Shire's records described above, I understand that the Shire first became aware of the water main burst near 23 Coburn Avenue, McCrae at approximately 11:46am on 14 November 2022. The record for Merit Request 2505225 **[MSC.5081.0001.0313]** states that at approximately 11:46am on 14 November 2022, Kaylene Cook, a Senior Customer Service Officer at the Shire, received a telephone call from Keith Boyd reporting "[w]ater spurting out of Coburn Ave just near the Prospect Hill Rd. intersection" and "the bitumen has been broken and the road is in danger of washing away". The report recorded the approximate location of the issue as 26 Coburn Avenue, McCrae.

14. I have also been provided with three other merit request records which record reports of water issues in the vicinity of Coburn Avenue on 14 November 2022, being:

- (a) Merit Request 2505098 – received at received at 10:18am concerning a sinkhole on the nature reserve between 23 Coburn Avenue and 22 Prospect Hill Road **[MSC.5081.0001.0317]**. Merit Request 2505098 was the subject of a follow-up request, Merit Request 2505648, on 14 November 2022 at 7:59pm, **[MSC.5081.0001.0315]**; and

(b) Merit Request 2505165 – received at 10:46am concerning a blocked storm water pit near 22 Prospect Hill Road and flooding **[MSC.5081.0001.0215]** **[MSC.5081.0001.0311]** and **[MSC.5081.0001.0312]**.

15. Merit Request 2505165 and Merit Request 2505098 record that they were “linked” to Merit Request 2505225 by Michelle Twaites in December 2022 with the stated reason being that the requests concern the “same issue”.

(b) what steps (if any) it took in relation to the water main burst; and

16. Based on the documents returned by the further searches conducted by the Shire described above, I understand that on 14 November 2022:

(a) in the morning, the area near 23 Coburn Avenue inspected by employees of the Shire’s contractor, DM Roads, Mark Venturin and Kyri Mathiesen: [Merit Request 2505225 – **MSC.5081.0001.0313**]; [Merit Request 2505165 – **MSC.5081.0001.0215**]. The time of inspection is unclear to me on the records. I am informed that Mr Venturin and Mr Mathiesen no longer work at DM Roads;

(b) Mr Venturin and Mr Mathiesen determined that the issue concerned a South East Water (**SEW**) asset, the area was made safe, and the issue was reported back to Chris Sykes, the Maintenance Supervisor at DM Roads, and SEW as set out below: [Merit Request 2505165 - **MSC.5081.0001.0215**] [Merit Request 2505098 - **MSC.5081.0001.0317**].

(c) at 11:54am, Ms Twaites sent an email to Mr Mathiesen attaching the record of Merit Request 2505225 **[MSC.5081.0001.0024]**;

(d) at 11:58am, Mr Mathiesen replied to Ms Twaites’ email attaching a photograph of the damage to the roadway on Coburn Avenue caused by the water main burst **[MSC.5081.0001.0026]**.

(e) at 1:41pm, Ms Twaites sent that photograph to the SEW faults reporting email address **[MSC.5081.0001.0030]**.

17. At 11:43am on 15 November 2022, Ms Twaites emailed the SEW requesting a reference number for the report of the burst water main made on the previous day and details for a contact person regarding works done **[MSC.5081.0001.0038]**. A SEW Customer Service Officer replied to Ms Twaites at 11:50am providing a reference number, noting that they did not have details for a contact person to follow up with and that “[w]e still have ongoing works

to get this fully completed, our reinstatement team need to investigate further to see what is needed to have the road repaired” **[MSC.5081.0001.0038]**.

18. In respect of the sinkhole near 23 Coburn Avenue, based on the records that the Shire has been able to identify:
 - (a) on 15 November 2022, resident Mr Easton reported to the Shire that he had spoken to SEW and had been told by SEW that it was a stormwater issue and requested the issue be urgently addressed: Merit Request 2505098 - **[MSC.5081.0001.0317]**;
 - (b) on 15 November 2022, the issue was reported to Chris Sykes who was attending with ‘BT’ [Merit Request 2505098 - **MSC.5081.0001.0317**], who I understand to be Brandon Trebilco, Civil Engineer – Drainage at the Shire, based on subsequent records referred to below;
 - (c) on 15 November 2022, Mr Trebilco attended the site and also liaised with Mr Easton [Email chain – “FW: 23 Coburn Ave, McCrae” – **MSC.5081.0001.0046**];
 - (d) on 16 November 2022, Mr Trebilco inspected the area and spoke to Mr Easton. Mr Trebilco recorded that there was a large sinkhole that had formed, which potentially posed a threat to the house nearby, an investigation by underground specialists was being organised as soon as possible and that the Shire would need to undertake excavation and repair works: **[MSC.5081.0001.0315]**; and
 - (e) between 19 and 24 November 2022, the sinkhole was repaired by employees of DM Roads works (Merit Request 2505165 - **MSC.5081.0001.0215**), and this is also reflected in the spreadsheet from Downer referred to at paragraph 14(c) of My First Statement **[MSC.5016.0001.0330 at row 13]**;
 - (f) additionally, between 19 and 30 November 2022, Mr Trebilco and Mr Easton continued to communicate **[MSC.5081.0001.0175]**.
19. The record for Merit Request 2505648 notes that during an inspection of 23 Coburn Avenue on 30 November 2022 Mr Trebilco observed that the “[c]avity around old drainage system filled with treated sand” and that a meeting was being organised with SEW because “cavities/voids still exist around the water main”. The record notes that the Shire had “done everything on our end” and “now just need SEW to excavate and investigate around the main/trench”. A further note on 2 December 2022 records that, as at that date, all works had been completed by the Shire but further works were expected to be undertaken by SEW. Each of the merit requests was then subsequently closed as being finalised.

20. Mr Trebilco is no longer employed by the Shire.

(c) ***whether the Shire considered the extent to which the water main burst may have contributed in some way to the November 2022 Landslide.***

21. I am informed by Mr Rotter (Director of Landslides) and Mr Flores (Principal Building Surveyor) of the Shire that:

- (a) the Shire did not consider the extent to which the water main burst may have contributed in some way to the November 2022 Landslide; and
- (b) neither Mr Rotter nor Mr Flores were aware prior to the Inquiry that in November 2022 there was a burst water main near 23 Coburn Avenue.

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Signed by David Smith

SCHEDULE 1

No	Description	Document ID	Document Date
1.	Email from Michelle Twaites to Kyri Mathiesen and attached Merit 2505225 Subject: 2505225 26 Coburn Ave McCrae	MSC.5081.0001.0024 MSC.5081.0001.0025	14 November 2022; 11.54 am
2.	Email from Kyri Mathiesen to Michelle Twaites with attached image Subject: Re: 2505225 26 Coburn Ave McCrae	MSC.5081.0001.0026 attaching MSC.5081.0001.0029	14 November 2022; 11.58 am
3.	Email from Michelle Twaites to xfaults@sew.com.au with attached image Subject: 26 Coburn Ave McCrae	MSC.5081.0001.0030 MSC.5081.0001.0033	14 November 2022; 1.41 pm
4.	Merit Notification (2505648) to Brandon Trebilco	MSC.5081.0001.0034	15 November 2022; 11.20 am
5.	Email from Michelle Twaites to xfaults@sew.com.au Subject: RE: 26 Coburn Ave McCrae	MSC.5081.0001.0037	15 November 2022; 11.43 am
6.	Email from xfaults@sew.com.au to Michelle Twaites Subject: RE: 26 Coburn Ave McCrae	MSC.5081.0001.0038	15 November 2022; 11.50 am
7.	Email from Michelle Twaites to Chris Sykes copied to Rachel Larsen Subject: FW: 26 Coburn Ave McCrae	MSC.5081.0001.0041	15 November 2022; 2.08 pm
8.	Email from Greg Easton to Brandon Trebilco Subject: RE: 23 Coburn Ave, McCrae	MSC.5081.0001.0043	16 November 2022; 11.17 am
9.	Email from Brandon Trebilco to Jenna Kirk	MSC.5081.0001.0045	17 November 2022; 12.10 pm
10.	Email from Greg Easton to Brandon Trebiclo with attached images	MSC.5081.0001.0046 attaching MSC.5081.0001.0052 and MSC.5081.0001.0053	19 November 2022; 3.15 pm

No	Description	Document ID	Document Date
11.	Email from Kylie Crow to Chris Sykes and attachments Subject: FW: 2505098 23 Coburn Ave McCrae URGENT WEBBING PLEASE	MSC.5081.0001.0071 attaching MSC.5081.0001.0076, MSC.5081.0001.0077, MSC.5081.0001.0078	30 November 2022; 1.13 pm
12.	Email from Brandon Trebilco to Greg Easton Subject: RE: 23 Coburn Ave, McCrae	MSC.5081.0001.0080	30 November 2022; 4.08 pm
13.	Email from Greg Easton to Brandon Trebilco Subject: Re: 23 Coburn Ave, McCrae	MSC.5081.0001.0083	30 November 2022; 4.10 pm
14.	Email from Rachel Larsen to Michelle Twaites and Jane Piotrowski with attachment Subject: FW: 2505225 26 Coburn Ave McCrae	MSC.5081.0001.0152 MSC.5081.0001.0153	13 December 2022; 4.36 pm
15.	Email from Brandon Trebilco to John Phillips Subject: FW: 23 Coburn Ave, McCrae	MSC.5081.0001.0175	16 December 2022; 4.25 pm
16.	Email from Greg Easton to Brandon Trebilco Subject: RE: 23 Coburn Ave, McCrae	MSC.5081.0001.0207	9 January 2023; 12.18 pm
17.	Email from Michelle Twaites to Kyri Mathiesen with attached Merits 25055225, 2505098 and 2505165 Subject: 24(26) Coburn Ave McCrae	MSC.5081.0001.0210 attaching MSC.5081.0001.0211, MSC.5081.0001.0213, MSC.5081.0001.0215	11 January 2023; 2.12 pm
18.	Storyboard for Merit CRM 2505165	MSC.5081.0001.0308	Various
19.	Merit 2505165 – Attachment 1	MSC.5081.0001.0311	Undated
20.	Merit 2505165 – Attachment 2	MSC.5081.0001.0312	Undated
21.	Request 2505225	MSC.5081.0001.0313	Various
22.	Request 2505648	MSC.5081.0001.0315	Various

No	Description	Document ID	Document Date
23.	Request 2505098	MSC.5081.0001.0317	Various
24.	Excel spreadsheet containing search results of Merit and TechOne	MSC.5081.0001.0331	Various
25.	Excel spreadsheet containing search results of merit	MSC.5081.0001.0332	Various