

Personal information removed at
request of individual.

21 March 2011

The Honourable Justice Catherine Holmes
Queensland Floods Commission of Inquiry
GPO Box 1738
Brisbane Qld 4001

Dear Justice Holmes

Re: Queensland Flood Inquiry

As a concerned citizen and in the interest of public health and safety, I wish to make a submission to the Queensland Flood Inquiry. The contribution I wish to make relates to land use planning through local and regional planning systems to minimise infrastructure and property impacts from floods.

Firstly, I believe the scope within the Terms of Reference is too limited with private insurers only and the Inquiry should be extended to include public insurers. A statement addressing same will be included in the later part of my submission.

Planning

Since our home flooded with sewage on 6 February 2008, I began investigating the cause and learned of our inadequate stormwater and sewerage infrastructure. My numerous complaints to State government departments and the Queensland Ombudsman achieved nothing whatsoever.

From a Right to Information application, it was divulged that the Queensland Ombudsman has received 3,797 formal complaints or inquiries against Brisbane City Council over the 14 year period from 1996 to 2010. The database printout obtained, included numerous complaints relating to development approvals that were non-compliant. As a result of my personal experience, I would encourage the Inquiry to review the Queensland Ombudsman's investigations for a selection of relevant complaints. The Inquiry should examine and report on the initial complaint made, the Ombudsman's final decision and whether relevant recommendations were made in the interest of public safety.

For your convenience, I have enclosed:

- Memorandum dated 1 April 1992 from Mr [REDACTED] As I understand, [REDACTED] is presently, Manager Infrastructure Planning, with Queensland Urban Utilities;
- letter dated 31 August 2009 from Queensland Local Government Mutual Liability Pool;
- limited list compiled from database printout obtained under Right to Information; and
- letter dated 27 October 2010 from Queensland Ombudsman's office to Office of the Information Commissioner.

On 14 July 2010 Brisbane City Council advised the approval of Development Application A002434858; being 33 units at [Personal information removed at request of individual]. The Development Application is non-compliant with Performance Criteria of the Brisbane City Plan 2000. The land is zoned Low-medium Density Residential Areas and the proposed development is comparable to high density residential areas.

When Councils approve non-compliant developments, it is extremely costly and unfair to the community to have matters rectified. The legislation needs to be amended to protect the community. Appellants should have the opportunity to claim costs.

The current legislation is *Sustainable Planning Act 2009* (Qld) Section 457 Costs.

The recently repealed legislation was: *Integrated Planning Act 1997* (Qld) Section 4.1.23 Costs.

Neither of the above provides a fair and just remedy to the community when Councils are negligent in approving development applications.

The Constitution of Queensland details the responsibilities of the State and Ministers with regard to Local Government.

A new Queensland Cabinet was sworn in by the Governor of Queensland on 21 February 2011. The Department of Infrastructure and Planning no longer exists. The previous Minister for Local Government has resigned. The changes in the state government restructure should not exclude the Inquiry from investigating the former departments and their Ministers with respect to the handling of relevant complaints against non-compliant developments.

Insurance

Submissions to the Queensland flood inquiry include private insurers and local government self-insurance schemes have been excluded.

The *Local Government Act 2009* (Qld) s107 covers insurance and that is limited to:

- ☐ public liability insurance;
- ☐ professional indemnity insurance;
- ☐ Workcover; and
- ☐ Councillor's roles.

The amount of insurance is covered under *Local Government (Finance, Plans and Reporting) Regulation 2010* 163 Required amounts for insurances—Act, s 107

- (a) for public liability insurance—\$30,000,000;
- (b) for professional indemnity insurance—\$10,000,000.

The above amounts have not changed from the repealed legislation *Local Government Regulation 2005*.

It would be in the best interest of all Australians if the *Local Government Act 2009* (Qld) was amended to include that any local government insurer must be a member of the Financial Ombudsman Service Ltd. Then all Queenslanders would have a federal independent complaints option.

From my personal experience, I learned that Brisbane City Council's procedures document that private insurers are expected to pay for damage caused by sewage flooding. The community pays through their insurance premiums.

The Queensland Local Government Mutual Liability Pool is not a member of the Financial Ombudsman Service Ltd. What this means is that compensation can be sought from local governments; however, when denied the only option is a claim through the Courts.

Our justice system is confusing, complex and expensive. In Queensland claims against government start in the Magistrates Court - depending on the value of the claim. In Victoria, the Victorian Civil and Administrative Tribunal (VCAT) also deals with disputes between people and government (State/Local). Queensland Civil and Administrative Tribunal (QCAT) does not deal with disputes between people and government.

I trust the above will be considered by the Inquiry.

Yours faithfully

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DEPARTMENT OF WATER SUPPLY AND SEWERAGE

BWH:GC

MEMORANDUM:

Director
Sewerage Operations Branch

FROM:

Engineer-in-Charge
Sewer Maintenance

DATE:

1 April 1992

SUBJECT:

DEVELOPMENT ENQUIRY AND SURCHARGE
COMPLAINT, [REDACTED]
MORNINGSIDE

As requested by yourself, the following report is supplied on [REDACTED]

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This 225mm diameter catchment was investigated in October/November last year. An hydraulic analysis (PC-Pipe) showed that the sewers serving [REDACTED] would need 17 times ADWF to surcharge. An extensive smoke test upstream revealed some inflow sources which have been rectified.

It was considered the inflow sources found would not explain the magnitude required to surcharge [REDACTED]

The hydraulic analysis downstream showed that Backup effects from the Norman Creek Interceptor Sewer would not influence the surcharge greatly.

[REDACTED] home is a Brick Veneer 'Slab on Ground' construction situated on a perched flood plain. Inadequate stormwater sewers have collapsed in neighbouring properties under peak flow conditions. Lawson Street also has flooded to a depth of 500mm in severe wet weather.

In such a situation, with an undersized stormwater system, "Band Aid" measures such as an "In Line" reflux valve will be necessary in the short term. [REDACTED] has spoken with [REDACTED] concerning the need to maintain such a device. [REDACTED] is aware of its inadequacies.

In the long term, this micro catchment should be considered for Manhole Sealing and Joint Sealing renovation.

A draft Lord Mayors letter is attached for your consideration.

NOT SURE WHETHER THIS REPORT WAS SENT

1/4/92



QUEENSLAND LOCAL GOVERNMENT
Mutual Liability Pool
ABN 48 871 511 808

31 August 2009

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of individual.

Direct +61 (0)7 [REDACTED]
Fax +61 (0)7 3000 5550
[REDACTED]

Dear [REDACTED],

Claimant: [REDACTED]
Member: Brisbane City Council
Our Reference: 18754/LGM/NP
Your Reference: N/A

We refer to our previous correspondence and advise that our investigations into this matter are now complete.

These investigations have established the following:

- At the time of building certification in 1987 there was at least one compliant ORG. Due to work undertaken privately it has not been possible for Council to determine if the second ORG was compliant as at 1987.
- It is the home owners responsibility to ensure plumbing, including ORG's, remain compliant and functional
- GAB Robins are not authorised to make any comment regarding liability or the probable outcome of any claim
- The sewerage overflow was caused by the reduced capacity of Council pipes from an influx of stormwater and from partial blockages caused by fat deposits
- In severe rainfall events such as the event in February 2008 it is expected that some stormwater may enter the sewerage system. Council cannot prevent this, apart from significantly upgrading all existing drainage infrastructure. This action is not financially viable.
- Council have determined that the fat deposits in the sewerage pipes were a result of improper food disposal by nearby businesses, not as a result of any lack of maintenance by Council

Based on these findings, we do not feel that the damage to your property has been caused by any act or omission of Brisbane City Council.

Document3

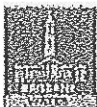


Accordingly, we do not believe that our client, the Brisbane City Council has been negligent and advise that liability is denied.

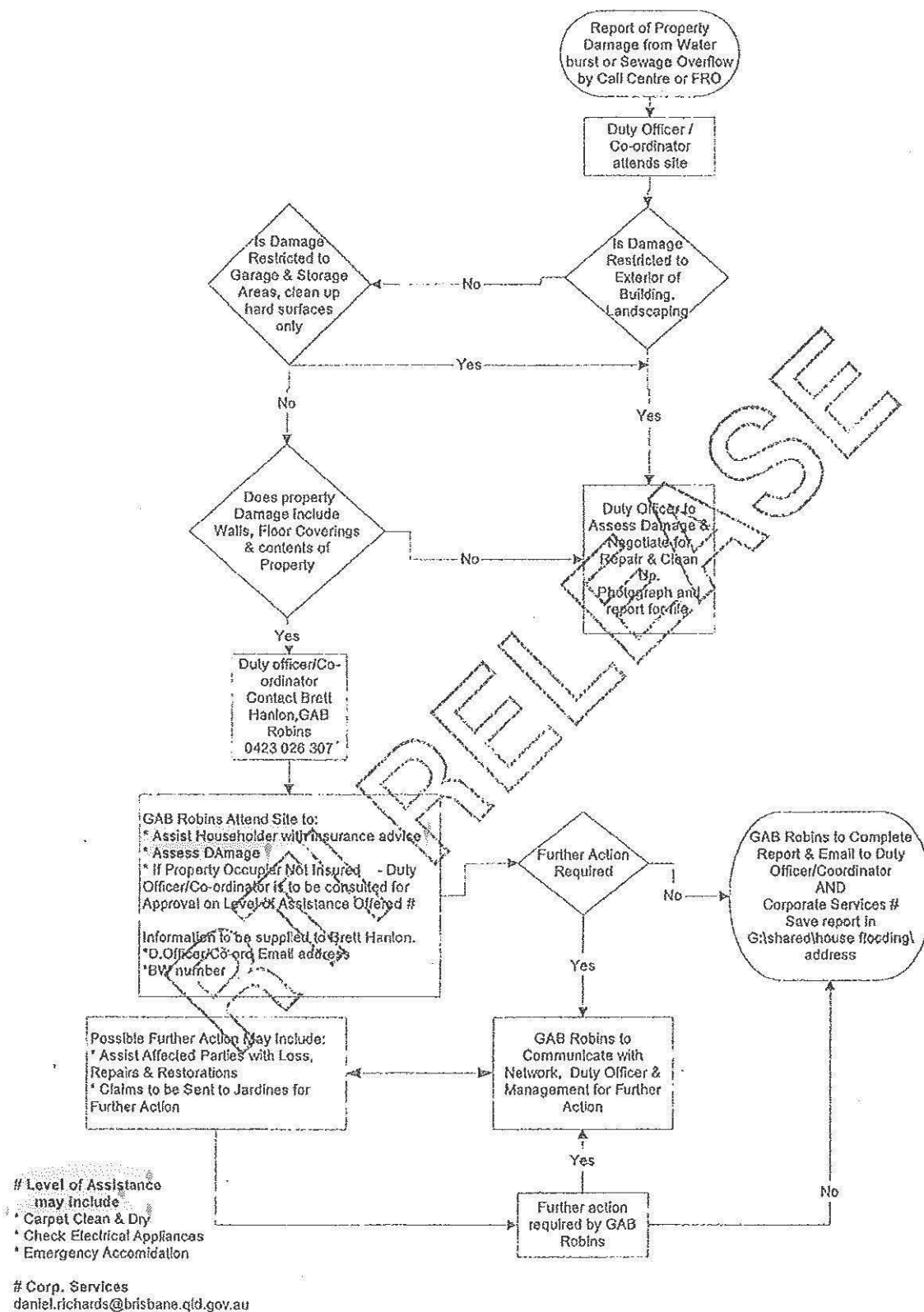
Yours sincerely,

A large black rectangular box redacting the signature of the Claims Officer.

Claims Officer



Procedure for Management & Reporting of House Floodings





ombudsman

Our ref: RTI 10/11 – 001

Your ref: 310378

27 October 2010

[REDACTED]
Acting Assistant Commissioner
Office of the Information Commissioner
PO Box 10143
Adelaide Street
BRISBANE QLD 4000



Dear Ms Peters

Re: [REDACTED] external review application
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I refer to your letter dated 8 October 2010 in relation to [REDACTED] external review application relevant to my RTI decision dated 8 September 2010.
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Your letter sought my response by 22 October 2010 but following a discussion with Rachel Moss on 14 October 2010 that deadline was extended to 29 October 2010.

My decision was to disclose all identified documents to [REDACTED], save for some personal information relating to third parties included in the database print outs relevant to parts 4 and 5 of her application.
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I did not consult anyone under s.37 of the RTI Act.

The scope of [REDACTED] access application was clarified in her letter dated 18 August 2010, in the following terms:
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1. a copy of all documentation on your file reference number 2009/14833 – including but not limited to – any documentation that I have provided – ideally bearing a date received stamped. There will also be documentation from state government departments and Brisbane City Council and it's imperative that all documentation on file be provided;
2. all documentation on file that relates to me and [REDACTED] that is not located in the above file;
Personal information removed at request of individual.
3. all initial letters of complaint regarding sewerage overflows between 1 January 2008 and 20 July 2010 relating to Brisbane City Council and the final Ombudsman's report to those complaints. Understandably, I am only seeking copies for finalised matters.
4. Your letter states that a database search of the computer system used by the office between 1996 and 2002 indicated 1249 complaints were received involving

the Council. My application is amended to seek a copy of the database printout showing 1249 complaints against the Brisbane City Council.

5. The computer system from 2002 was Resolve and a search indicates that 2548 complaints or inquiries involving the Council have been received since 2002. My application is amended to seek a copy of the database printout showing 2548 complaints or inquiries against Brisbane City Council since 2002.

Part 1 of the application

In relation to Part 1 of [Personal information removed at request of individual.] access application all documents located on the paper file 2009/14833 were disclosed in full, either as paper copies or on CD.

Part 2 of the application

The identified documents relevant to Part 2 comprise documents located on the 'Resolve' database for file 2009/14833.

The documents located were disclosed in full on CD.

However, I note from [Personal information removed at request of individual.] external review application that a number of records of telephone discussions were apparently not provided to her.

In dealing with the access application after examining the documents contained on the database relevant to the application I made arrangements for the documents to be copied on to CD. It seems that those records were not copied on to the CD. The oversight was mine.

I have enclosed paper copies of the ten records of discussions located that are contained in the Resolve database, as follows:

20 November 2009	Discussion with Contact	1 page
23 November 2009	Discussion with Agency	1 page
6 January 2010	Discussion with Contact	1 page
2 February 2010	Discussion with Agency	1 page
22 February 2010	Discussion with Contact	1 page
24 February 2010	Discussion with Agency	1 page
24 February 2010	Discussion with Agency	1 page
10 April 2010	Discussion with Contact	1 page
12 May 2010	Discussion with Contact	1 page
17 May 2010	Discussion with Agency	1 page

I have no objection to the disclosure of these ten documents to [Personal information removed at request of individual.]

Part 3 of the application

I did not identify any documents within the scope of this part of [Personal information removed at request of individual] application.

As I noted in my decision, I conducted a search of the 'Revolve' database for relevant documents. While I identified a number of cases that concerned sewerage related matters, including plans and approvals, I was unable to identify any finalised case involving sewerage overflows.

Parts 4 and 5 of the application

The documents relevant to Parts 4 and 5 are printouts from two databases 'OSS' and 'Resolve'

These parts of the application relate to information relating to complaints received about the Brisbane City Council for the period 1996 – 2002 and from 2002 until the date of [Personal information removed at request of individual] application.

As I noted in my decision, the database print out included some pre 1996 case references. They are listed in the database for statistical purposes only and no documents were retained electronically prior to 1996.

The printouts were provided to [Personal information removed at request of individual] with only a small amount of information assessed as being private information deleted.

The deleted information contained in the database print out relates to the names or street addresses of individuals who do not have any involvement with [Personal information removed at request of individual] complaint against the Brisbane City Council.

As requested I have enclosed unmarked copies of the printouts from which information was deleted.

The terms of [Personal information removed at request of individual] access application did not include a request for access to information about the complaint issues relevant to the cases listed in the printouts. However, from the printouts, you will see that a brief description of the complaint issue is included in some of the documents.

Conclusion

Please contact me on telephone [redacted] if you have any questions or require any further information.

[redacted]
RTI Decision maker

Enc:

Summary from Queensland Ombudsman's database search - complaints against Brisbane City Council

Aggrieved about inappropriate conduct by Council over development application

Aggrieved by Brisbane City Council's decision to approve development application and act unethically in approving non compliant components

Aggrieved by Council's development approval including neighbour's stormwater to be connected into complainant's privately costed drainage system

Aggrieved by Council's inaction regarding flooding of property

Allegation of fraudulent registration of subdivision plans based on incorrect statements of heights of retaining walls

Allegation that BCC approving development application when it doesn't conform with character residential zoning if developer makes "donation" to BHC

Building and development process - failure to comply

Building approval - dispute

Building work on adjoining property non-compliant with planning scheme

Collapsed sewerage pipe - caused landslide on riverfront property

Compensation claim for damaged property refused

Council has failed to enforce compliance with development conditions

Council not responding to complaints about drainage and flooding problems

Council not responding to complaints re drainage and flooding problems

Council refuses to pay outstanding invoice for emergency plumbing work that was contracted

Damage to property caused by Council/Main Road infrastructure

Damage to vehicle - refusal to accept liability or reimburse

Decisions Development And Building Controls/i Compliance

Delay - review and investigation of claim for compensation

Delay by Council insurers in finalising insurance claim following further carpet damage from overflowing Council sewage main

Delay in acknowledging compensation claim

Delay in compensation payment as agreed

Delay in progressing settlement of land which was resumed by council 4 years ago

Delay in undertaking inspection of stormwater pipes resulting in water flooding into complainant's property

Demand for reimbursement of plumbing fees

Denial of liability for damage to driveway from burst water main

Summary from Queensland Ombudsman's database search - complaints against Brisbane City Council

Denied insurance claim for water damaged furniture resulting from blocked stormwater drains

Development & Building Controls - failure to consult with community before approving development

Development & Building Controls - process of assessment of Milton development application flawed

Development And Building Application - non compliance of building standards

Development and Building controls - compliance issues

Development and building controls - failure to enforce legislative requirements

Development and Building Controls - non compliance with procedures in consideration of application

Development application - assessment process and investigation of allegation of improper influence

Development application - concerns about process and approval

Development application - suspicion of improper influence in approval process

Development Approval - assessment process flawed and condition of privacy screens not enforced

Development approval conditions unacceptable - \$3M to upgrade sewage infrastructure

Development approval of neighbouring Child Care Centre based on misleading information provided to Council

Development conditions - failure to ensure developer complied with condition of approval

Development conditions - require upgrade of sewerage in the street at cost of \$3 million which is unfair

Discharge of stormwater onto complainants property from neighbouring development

Dispute re non-connection to sewer main

Dissatisfied that council said before he bought land that he could create residential and rural activities. Now they say he can only use 1 acre.

Dissatisfied with Council's insurer LGM - drainage blockage and subsequent bill for damage denied.

Dissatisfied with only partial refund of plumbing costs incurred due to collapse of council drain

Drainage compliance - Failure to ensure neighbour has not installed a drainage system

Drainage easement - dissatisfied with purchase offer

Drainage problems caused by the Council

Engineering Operations - refusal to compensate for surface damage

Excessive account for repair to sewer

Excessive cost of repair to sewer line

Summary from Queensland Ombudsman's database search - complaints against Brisbane City Council

Excessive cost of repairs carried out by Council on a combined drain

Failure by council to address Q 100 flood issue to enable residence to connect to sewerage and therefore be made liveable

Failure by Council to take action against environmental nuisance

Failure of Council to consider residents' concerns about effect of development on neighbourhood prior to approving application

Failure of Council to repair/replace retaining wall - causing damage to contact's property

Failure of Council to require neighbour to divert stormwater into drainage pit to prevent flooding and damage to contact's property

Failure to accept responsibility for flooding of contact's property resulting from stormwater runoff from Macquarie Park estate development

Failure to act on complaint of stormwater nuisance from neighbouring property

Failure to address concerns of flooding of property from neighbour's downpipes

Failure to address important issues concerning required alternations to development application

Failure to ensure compliance with Building Standards

Failure to ensure compliance with court ruling on development application

Failure to ensure that approved construction works on neighbouring property have adequate provision for stormwater runoff and will not cause damage to

Failure to pay interest on judgment following delay in payment of funds

Failure to properly consider submission made by persons affected by proposed development and failure to ensure that development approval complies with

Failure to rectify broken stormwater pipe resulting in water seeping onto complainant's property

Failure to release report about drainage system

Failure to respond to correspondence about inaction to rectify flooding of property

Failure to take action in respect of developer not complying with conditions of approval

Failure to take action to prevent flooding in the Northgate and Banyo area - house regularly floods

Failure to take any action to mitigate flooding problem

Failure to take any action to mitigate flooding problem - water and sewerage flooding contact's home

Failure to waive parking find and pay for sewerage blockage in Council pipes

Fees and infrastructure charges from 2004 not billed until 2008 and went from \$4,000 to \$13,000 - paid under protest

Flawed development application process - too subjective in that officers can set aside planning requirements

Flood damage from burst water main

Summary from Queensland Ombudsman's database search - complaints against Brisbane City Council

Fraudulent action in releasing information to developer

Legal Services - failure to approve claim for damage to vehicle by Council tree

Mishandled approval of development

No sewerage plans/Failure to enforce sewerage and other conditions

Non-compliance by developer with BCC development conditions

Notification to Council of drainage problems caused by neighbour's stormwater runoff has not been adequately responded to

Objection to approval development application without avenue for objections

Objection to Council approving development application when it doesn't conform with character residential zoning

Objection to Council's approval of development plans

Objection to development

Objection to development application

Objection to development approval - impact on amenity of neighbouring block

Objection to notice to rectify damage to stormwater pipe

Objection to notification to rectify stormwater drain problem

Planning and Development - failure to make plans available for public objection

Planning and Development/Approval of non compliance with Town Plan

Records Management - S50 reports of Ombudsman to CEO of council to be made available to councillors

Refusal by Council to resolve stormwater drainage issue

Refusal by Council to respond to an environmental protection authority licence application

Refusal to install sewer line despite payment of fees in 1995

Refusal to investigate complaint about breach of Code of Conduct by Lord Mayor

Refusal to maintain Sewerage line in local park

Refusal to repair stormwater drain

Response re recently blocked sewerage pipe

Review of Council's process for assessing/approving Development Applications

Refusal by Council to provide compensation for damage to complainants driveway

Summary from Queensland Ombudsman's database search - complaints against Brisbane City Council

Sewerage - demand that contact pay 50% of costs to repair combined sewerage drain damaged by neighbour's tree roots

Sewerage - refusal to pay private plumber's fee when sewerage leak was Council responsibility

Sewerage And Drainage - Objection to exorbitant charges to repair damage

Sewerage and drainage - unreasonable decision to not further inspect drainage problems

Sewerage overflow - house plumbing and drainage non-compliant - blocked sewer

Sewerage and drainage - disputes property inclusion in flood plan

Small Lot Development Code - failure to ensure compliance

Storm water flooding: dissatisfied with response from Councillor

Stormwater - failure to address substantial stormwater run-off flooding residence in heavy downpours

Stormwater - failure to prevent overflow from drain

Stormwater connection non-compliant

Stormwater outlets - seeking proper maintenance and equipment

Unable to build on property as water corridor not disclosed on plans during purchase

Unreasonable charges for repairs to sewer line

Unreasonable decision by Brisbane City Council to approve development application even though code assessment ignored

Unreasonable decision to approve development without considering objections

Unreasonable delay in processing claim

Unreasonable delay in settlement of claim for structural damage to property

Unsatisfactory procedures for development applications

Utility Services/Sewerage - Failure to reimburse additional costs resulting from alleged incorrect sewerage plan designed by BCC

Water from development flooding property - delay

Whistleblower complaint