

**QUEENSLAND FLOODS**  
**COMMISSION OF INQUIRY**

**STATEMENT OF JONATHAN (JON) CHRISTIE WOMERSLEY**

I, **JONATHAN (JON) CHRISTIE WOMERSLEY**, of c/- [REDACTED],  
Brisbane in the State of Queensland, Director, Regulatory Practice, Operations,  
Environment and Natural Resource Regulation division, Department of Environment  
and Resource Management, make oath and state as follows:-

**Requirement from Queensland Floods Commission of Inquiry**

1. I have seen a copy of a letter dated 8 September 2011 from the Commissioner, Queensland Floods Commission of Inquiry (Commission) to me requiring a written statement under oath or affirmation, which is Attachment **JCW-01** (Requirement) and which details the topics my statement should cover.

**Role**

2. I am currently Director, Regulatory Practice, Operations Branch, Environment and Natural Resource Regulation Division, Operations and Environmental Regulator Business Group, Department of Environment and Resource Management (DERM); in which role I have responsibility for the review and preparation of guidance materials used externally and internally to the organisation for the administration of the *Environmental Protection Act 1994* (EP Act).
3. In my current position, I report directly to the General Manager, Operations Branch, Environment and Natural Resource Regulation Division, Operations and Environmental Regulator Business Group of DERM.
4. I have been employed by DERM, and its preceding units of government, in various senior roles, and in several parts of the state of Queensland for a period of more than 19 years.
5. I have variously and from time to time worked in the following roles:-
  - a. Director, Cultural Heritage [Department for Environment and Heritage (DEH)];
  - b. Director, Queensland National Parks and Wildlife Service (DEH);
  - c. Director, Conservation Strategy (DEH);
  - d. Regional Service Director, Far North Region (DEH); and
  - e. Regional Service Director, Central Region [Environmental Protection Agency (EPA)].

6. Since 1 October 2010 I have been on leave or acted in higher duties as follows;

a. Leave – I was on leave for the following periods:-

18 October 2010 to 19 October 2010

27 December 2010 to 3 January 2011

21 January 2011

28 February 2011 to 29 April 2011

b. Higher Duties – I have not acted in a more senior position from 1 October 2010 to the date of this statement. However, I will be acting in the more senior position of General Manager, Operations branch, Environment and Natural Resource Regulation division, Operations and Environmental Regulator business unit during the period 19 September 2011 to 30 September 2011.

### **Qualifications**

7. I am the holder of a Bachelor of Applied Science degree majoring in natural resource management from the University of Canberra (previously known as Canberra CAE), a Diploma in Agriculture from the University of Adelaide (previously known as Roseworthy Agricultural College), and a Diploma in Teaching from the University of South Australia (previously known as Adelaide Teachers College).

8. I confirm that I am not a lawyer, and that the following interpretation of the legislation referred to herein is my own.

**Item 1: The types of environmentally relevant activity or activities (ERA) the Department of Environment and Resource Management (the Department) assesses and the types of ERAs that the Department devolves to local governments for assessment;**

### **Environmentally Relevant Activities**

9. The stated object of the EP Act, which is contained in section 3, is “to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development)”.

10. Environmentally relevant activities (ERAs) are activities that will, or have the potential to, release contaminants into the environment and may cause environmental harm. Section 18 of the EP Act defines four types of ERAs. These are:

- a. an agricultural ERA as defined under section 75 of the Act (Chapter 4A ERA);
- b. a mining activity as defined under section 147 of the Act (Chapter 5 ERA);
- c. a chapter 5A activity as defined under section 309A of the Act (Chapter 5A ERA); and
- d. another activity prescribed under section 19 of the Act as an ERA.

11. Chapter 4A ERAs are agricultural activities which involve the application of fertilisers on cane and cattle farms in key catchments affecting the Great Barrier Reef.
12. Chapter 5 ERAs are mining activities including exploration, extraction, rehabilitation and similar activities that are authorised under the *Mineral Resources Act 1989*.
13. Chapter 5A ERAs are petroleum and gas activities that are authorised under the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum (Submerged Lands) Act 1982*, and greenhouse gas storage activities authorised under the *Greenhouse Gas Storage Act 2009*.
14. Under section 19 a regulation may prescribe an activity, other than a Chapter 4A, 5 or 5A activity, as an ERA if the Governor in Council is satisfied that a contaminant will or may be released into the environment when the activity is carried out, and the release of the contaminant will or may cause environmental harm.
15. In addition to the ERAs defined under section 18, the EP Act also defines a Chapter 4 Activity as an ERA. Schedule 2 of the *Environmental Protection Regulation 2008* (the EP Regulations) prescribes a range of activities as ERAs for the purposes of Chapter 4 of the EP Act. Chapter 4 ERAs are generally industrial or commercial activities, (activities other than mining or petroleum or gas projects) and also include a limited number of intensive animal husbandry activities.
16. A Chapter 4 ERA requires development approval under the *Sustainable Planning Act 2009* (SPA).

### **Administering authorities**

17. The administering authority under the EP Act (which is currently DERM but before March 2009 was other units of government) is responsible for the administration and enforcement of ERAs, except where the ERA has been devolved to local government.
18. The EP Act is administered through co-regulatory arrangements with local governments, and under delegation to the Department of Employment, Economic Development and Innovation (DEEDI). This is prescribed in Chapter 11 of the EP Act which provides for the administration and enforcement of ERAs under the EP Act to be:-
  - devolved by regulation to local government; or
  - delegated to local governments; or
  - delegated to other agencies, authorised persons or public service officers.

19. Local governments have been devolved the administration and enforcement of the EP Act in relation to particular Chapter 4 activities by the provisions of Chapter 7 of the EP Regulations, specifically section 101.
20. The local government that becomes responsible for the devolved activity will be the local government for the local government area where the activity is, or is to be, carried out.
21. Upon commencement of the regulation (the EP Regulations) devolving the administration and enforcement of the EP Act to the local government:-
  - a. a local government becomes the administering authority for the devolved matter;
  - b. a local government's chief executive officer becomes the administering executive for the devolved matter; and
  - c. the administration and enforcement of the devolved matter is a function of the local government to be performed by the local government for the area.
22. A local government may make a local law (not inconsistent with the EP Act) about any matter for which it is necessary or convenient to make provision for carrying out or giving effect to a devolved matter.

#### **ERAs Assessed by DERM**

23. DERM may, depending on the circumstances, assess any of the ERAs listed in Schedules 2, 5 and 6 of the EP Regulations.
24. Where an ERA that is ordinarily devolved to local government, is:-
  - a. an activity that includes an environmentally relevant activity administered by the State at the same place (section 108 of the EP Regulations);
  - b. carried out by a local government or an instrumentality of the state (section 106 of the EP Regulations); or
  - c. conducted as mobile and temporary activities across more than one local government area (section 107 of the EP Regulations),

DERM is the administering authority and therefore responsible for its assessment.

25. DERM assesses all Chapter 4A (agricultural) ERAs.
26. DERM assesses all Chapter 5 (mining) ERAs.
27. DERM assesses all Chapter 5A (petroleum and gas) ERAs.

#### **ERAs Assessed by DEEDI**

28. DEEDI holds a delegation from DERM to administer the provisions of the EP Act as they relate to the following ERAs in Schedule 2 of the EP Regulations:-

- a. ERA 2 – Intensive animal feedlotting; and
  - b. ERA 3 – Pig keeping.
29. A copy of the delegation is at Attachment **JCW-02**.
30. Applications for development approvals relating to these ERAs are received, assessed and decided by DEEDI without reference to DERM pursuant to its delegated powers under s27A of the *Acts Interpretation Act 1954*.

### **ERAs Assessed by Local Governments**

31. Section 101(a) of the EP Regulations devolves the following ERAs to local governments for administration:
- a. ERA 4 – Poultry farming
  - b. ERA 6 – Asphalt manufacturing
  - c. ERA 12 – Plastic product manufacturing
  - d. ERA 17 – Abrasive blasting
  - e. ERA 18 – Boilermaking or engineering
  - f. ERA 19 – Metal forming
  - g. ERA 21 - Motor vehicle workshop operation
  - h. ERA 37 – Printing
  - i. ERA 43 – Concrete batching
32. Section 101(b) of the EP Regulations devolves the following ERAs to local governments for administration when the ERA is conducted at a specified threshold:
- a. ERA 8 – Chemical storage [for storing 10m<sup>3</sup> to 500 m<sup>3</sup> of chemicals of class C1 or C2 combustible liquids under AS 1940 or dangerous goods class 3]
  - b. ERA 20 – Metal recovery [for recovering less than 100t of metal in a day, or recovering without using a fragmentiser, 100t or more of metal in a day or 10,000t or more of metal in a year]
  - c. ERA 38 – Surface coating [for anodising, electroplating, enamelling or galvanising using 1t to 100t of surface coating materials in a year; or coating, painting or powder coating using 1t to 100t of surface coating materials in a year]

- d. ERA 48 – Wooden and laminated product manufacturing  
[for manufacturing 100t or more of wooden products in a year]
- e. ERA 49 – Boat maintenance or repair  
[but only to the extent the activity is, or is to be, carried out at a boat maintenance or repair facility]
- f. ERA 61 – Waste incineration and thermal treatment  
[for incinerating waste vegetation, clean paper or cardboard]

**Item 2: The process undertaken by the Department when assessing a development application for an ERA proposed to be undertaken on land subject to flooding;**

#### **Assessment Processes**

- 33. Notwithstanding the broad interpretation given to the term ERA under the EP Act and the various applications that can be made under that Act, I have interpreted this question as referring to a development application that is made for an ERA that is regulated under Chapter 4 of the EP Act.
- 34. The interpretation of the term “development application” applied by DERM is an application made under the IDAS procedures of SPA for an approval in relation to a Chapter 4 ERA.
- 35. The process undertaken by DERM in assessing development applications for a Chapter 4 ERA follows the requirements set out in SPA and the EP Act.
- 36. In a limited number of circumstances DERM may be a contributor as an advice agency to the environmental impact assessment of a State Significant Project declared under the provisions of the *State Development and Public Works Organisation Act 1971*.
- 37. Where the project being assessed includes ERAs that will subsequently be assessed under SPA and the EP Act, the assessment by the Coordinator-General must be taken into account in deciding a development approval.

#### ***Sustainable Planning Act 2009***

- 38. A development approval is required for activities that are classed as assessable development under SPA. A development application for a Chapter 4 ERA is defined to be assessable development under Schedule 3 of the SP Regulations.
- 39. DERM generally receives applications made under the Integrated Development Assessment System (IDAS) set out in SPA as a referral agency.

40. Applications are received through a single point of receipt, where they are checked to ensure that they are validly made applications before being sent to the relevant regional service delivery area for assessment and decision. Applications for development approvals relating to Chapter 4 ERAs are generally assessed by officers in a regional office close to the location of the proposed development. DERM's Information Sheet (JCW-03) sets out the information to be provided with an application for a development approval for an ERA.
41. DERM as a referral agency will assess an application that involves a Chapter 4 ERA and provide an integrated concurrence agency response to the assessment manager. While DERM has a number of jurisdictions under which it must assess an application, it is the jurisdiction under the EP Act that relates to the assessment of an application involving one or more Chapter 4 ERAs. DERM is a concurrence agency for the purposes of exercising this jurisdiction.
42. DERM must to the extent relevant to the development and within the limits of its jurisdiction, assess the application having regard to the matters set out in SPA, an extract of which is Attachment JCW-04.
43. DERM will be the assessment manager, as distinct from a referral agency, when the development to be carried out involves one or more ERAs that are not triggered for assessment by the relevant local government planning scheme. Examples may include ERAs carried out by local governments where the ERA is the only assessable development, mobile and temporary ERAs carried out across more than one local government area and developments involving ERA 16, - Extraction and Screening or ERA 50 – Bulk Materials Handling.
44. In these circumstances, as assessment manager, DERM will assess the part of the application that is relevant to its jurisdiction and is code assessable. For the purposes of assessing a development involving a Chapter 4 ERA the relevant code is the EP Act.
45. SPA, an extract of which is Attachment JCW-05, sets out the matters that must be considered by DERM when assessing a development application for a Chapter 4 ERA as the assessment manager.

#### ***Environmental Protection Act 1994***

46. The requirements for assessing an application for development approval of an ERA are set out in Chapter 4 of the EP Act.
47. If the development application is:-
  - a. for a Chapter 4 ERA listed in Schedule 2 of the EP Regulations; and
  - b. not devolved to local government or delegated to DEEDI; and
  - c. made under the IDAS provisions of SPA,

DERM follows the requirements set out in SPA, and in providing its concurrence requirements follows the requirements of the EP Act.

48. In assessing a development application for a Chapter 4 ERA, DERM must comply with any regulatory requirements, and subject to the regulatory requirements, must also consider the standard criteria and any additional information given in relation to the application.
49. In addition if the application is for an increase in the scale or intensity of a Chapter 4 ERA, the administering authority must assess the application in regard to:
  - a. the proposed activity;
  - b. its relation to the existing activity; and
  - c. the total likely potential environmental harm the activity may cause.

### ***Regulatory Requirements***

50. The regulatory requirements are set out in Chapter 4 of the EP Regulations. The regulatory requirements apply to the making of environmental management decisions, which are simply decisions under the EP Act in the making of which the administering authority is required to comply with the regulatory requirements.
51. Chapter 4 of the EP Regulations includes the general regulatory requirements to be considered, as well as certain defined matters that relate to the impacts of carrying out an ERA, which must be considered by the administering authority.
52. The administering authority must consider whether to impose conditions about the matters listed in section 52 of the EP Regulations, which is Attachment **JCW-06**.
53. The administering authority must also consider whether to impose conditions about monitoring the release of contaminants to the environment. Section 53 of the EP Regulations states the matters to be taken into consideration by the administering authority when making such a determination, which is Attachment **JCW-07**. The administering authority has wide scope in framing the specific requirements of a monitoring condition.
54. Chapter 4, Part 3 of the EP Regulations, which is Attachment **JCW-08**, contains additional regulatory requirements for particular environmental management decisions. These requirements follow a similar form to the general requirements, setting out matters that the administering authority must consider in making an environmental management decision about a particular activity, and conditions that the administering authority must consider imposing.
55. The following specific activities have additional regulatory requirements which are detailed in Chapter 4, Part 3 of the EP Regulations. These additional requirements must be complied with by the administering authority in addition to the provisions contained in Chapter 4, Part 2 of the EP Regulations.



- a. Release of water or waste to land;
  - b. Release of water, other than stormwater, to surface water;
  - c. Release of stormwater;
  - d. Release of water or waste to particular wetlands for treatment;
  - e. Activity involving berthing, docking or mooring a boat;
  - f. Activity involving storing or moving bulk material;
  - g. Activity involving acid sulphate soil;
  - h. Activity involving acid-producing rock;
  - i. Activity involving the direct release of waste to groundwater; and
  - j. Activity involving indirect release of contaminants to groundwater.
56. When assessing an application for development approval in relation to a Chapter 4 ERA that involves the release of water or waste to land, the administering authority must consider the topography of the land where the activity is to be undertaken including any flooding potential associated with the land. Apart from the requirements of section 73AA of the EP Act which relates to development in relation to Wild River Areas, this is the only specific reference to the term “flooding”, of which I am aware of, contained in the EP Act and EP Regulations that directs the administering authority to give consideration to this matter in the assessment process.
57. To the best of my knowledge there are no specific examples given in the explanatory notes to the EP Regulations, of the kinds of releases of water or waste to land in relation to section 55. However from my practical experience of ERAs, section 55 may, depending on the circumstances and the way in which an activity is conducted, apply to a development application for waste disposal facilities, sewage treatment plants with areas used to irrigate treated sewage effluent, and the land application of treated waste in the form of liquids and sludge from meat processing and tanning activities.

### ***Standard Criteria***

58. Having considered the regulatory requirements the administering authority must also consider the “standard criteria” which is a term defined in Schedule 4 of the EP Act. The standard criteria are defined to be as follows:-
- a. *the principles of ecologically sustainable development as set out in the ‘National Strategy for Ecologically Sustainable Development’; and*
  - b. *any applicable environmental protection policy; and*
  - c. *any applicable Commonwealth, State or local government plans, standards, agreements or requirements; and*
  - d. *any applicable environmental impact study, assessment or report;*
  - e. *the character, resilience and values of the receiving environment;*
  - f. *all submissions made by the applicant and submitters; and*

- g. *the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—*
  - (i) *an environmental authority;*
  - (ii) *a transitional environmental program;*
  - (iii) *an environmental protection order;*
  - (iv) *a disposal permit;*
  - (v) *a development approval; and*
- h. *the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and*
- i. *the public interest; and*
- j. *any applicable site management plan; and*
- k. *any relevant integrated environmental management system or proposed integrated environmental management system; and*
- l. *any other matter prescribed under a regulation.*

59. While there may be elements of the standard criteria that could relate to land that is subject to flooding, there are no specific requirements.

60. One aspect of the standard criteria where consideration may be given to impacts that could arise from an activity to be undertaken on land that is subject to flooding is through the consideration of standard criteria (c) *any applicable Commonwealth, State or local government plans, standards, agreements or requirements*. Where the State or a local government has prepared a formal plan that describes the land that is subject to flooding, and prescribes particular actions that must be taken in respect of decisions about activities that may be located on that land, its content could be considered by the administering authority when making a decision that required it to consider the standard criteria.

61. Another way such impacts may be taken into consideration is standard criteria (d) *any applicable environmental impact study, assessment or report*. Where an environmental impact study has been undertaken, and the terms of reference for the study required the impact of an activity on land subject to flooding to be assessed. The findings and recommendations of that study could be considered by the administering authority when making a decision that required it to consider the standard criteria.

### ***Wild River Areas***

62. There are special provisions contained in Section 73AA of the EP Act relating to development applications for Chapter 4 ERAs that are proposed to be located in a declared Wild River Area. Wild River Areas are declared under the *Wild Rivers Act 2005* (the Wild Rivers Act), and parts of a Wild River Area may be declared to be a wild river high preservation area, a floodplain management area or a special floodplain management area.

63. Section 73AA of the EP Act excludes prohibited development from consideration, and requires that a decision of an assessment manager and a concurrence agency must comply with the code mentioned in a relevant wild rivers declaration. Prohibited development is defined in Schedule 3 of SPA and generally means development mentioned in Schedule 1 of SPA.
64. Schedule 1 of SPA prohibits an extraction ERA in waters in a wild river area unless the application is accompanied by an allocation notice.
65. Schedule 1 of SPA also prohibits ERAs in wild river high preservation areas or wild river special floodplain management areas other than for the following:-
- a. a sewage ERA;
  - b. a water treatment ERA;
  - c. a dredging ERA;
  - d. an extraction ERA, if the activity is a low impact activity carried out outside waters and is for specified works, or residential complexes, or another commercial, industrial or residential purpose in a designated urban area, in the area;
  - e. a screening ERA, if the activity is carried out outside waters and is for specified works, or residential complexes, in the area;
  - f. a crude oil or petroleum product storage ERA, if the activity is for residential complexes in the area and is carried out outside a designated urban area; and
  - g. an exempt ERA as defined in s73AA (4) of the EP Act in a designated urban area.
66. An extraction ERA is also prohibited in a wild river flood plain management area, other than if the activity is a low impact activity carried out outside waters and is for specified works, residential complexes, or industrial or residential purposes in a designated urban area, in the area.
67. Where an application, other than an application for a sewage ERA, water treatment ERA, or an exempt environmentally relevant activity, in a designated urban area is in a wild river high preservation area, the administering authority's decision must comply with the applicable code mentioned in the wild river declaration for the area.
68. For applications that are a sewage ERA, water treatment ERA, or an exempt environmentally relevant activity, in a designated urban area in a wild river high preservation area, the administering authority and any concurrence agency must be satisfied there is no viable location for the development outside the wild river high preservation area.
69. The provisions of the EP Act, SPA and the Wild Rivers Act in relation to wild river areas and special floodplain management areas is one of the few specific references to the term "floodplain" in the context of the criteria that are applied in

the assessment process. The definition for “floodplain” is found in the Wild Rivers Act as follows:-

*“Floodplain” means an area of relatively flat land:-*

- a. next to a drainage channel; and*
- b. covered by water when water overflows from the drainage channel.*

### **State Development and Public Works Organisation Act 1971**

- 70. The Coordinator-General, under the *State Development and Public Works Organisation Act 1971* (SDPWO), (which is administered by DEEDI), may declare a particular project to be of State Significance, and as a consequence the project is subject to the environmental impact assessment process set out in SDPWO.
- 71. DERM is, in this process, an advice agency to the Coordinator-General, and provides that advice in relation to both the terms of reference for the environmental impact assessment and the preparation of the report on the assessment of the environmental impact statement produced by the project proponent.
- 72. Where projects involve land that may be subject to flooding, the terms of reference will generally require the environmental impact assessment to deal with the risks and consequences of flooding.
- 73. The report on the assessment of the environmental impact assessment by the Coordinator-General sets conditions for the state’s approval of the project. These conditions must be applied by the relevant administering authority under the EP Act when making its statutory decisions about an ERA that is involved in the project. This requirement does not prevent DERM from including additional conditions within a development approval for an ERA provided they are not inconsistent with the Coordinator-General’s conditions.

### **Additional Comments**

- 74. It is my observation that the EP Act gives the administering authority limited direction as to whether or how it should assess development applications for Chapter 4 ERAs that are proposed to be undertaken on land that is subject to flooding.
- 75. It is my observation that where the EP Act makes reference to the consideration of impacts that may arise from Chapter 4 ERAs proposed to be undertaken on land that is subject to flooding, it does so in a way that does not prescribe any specific tests or criteria relating to the acceptability or otherwise of any impacts. That is a judgement left to the administering authority having considered the matters it is required to consider within the scope and purpose of the EP Act.
- 76. It is my observation that information about the location of land subject to flooding and the characteristics of likely flooding events and the consequences of

those events is not readily available, and must be requested of applicants for development approvals after an application is made. Section 276 of SPA authorises the assessment manager and each concurrence agency to ask the applicant, by way of a written request ("information request"), to give further information needed to assess the application.

77. It is my observation that when such information is provided, it is difficult to evaluate in the context of an application for development approval, because the primary decision about the appropriateness of the use of land is made, not by the administering authority, but by the relevant local government in its capacity as the planning authority. Further it is my understanding that the decisions about the appropriate use of land for a particular purpose are generally the responsibility of local governments as they administer the planning provisions of SPA. At best the information becomes the basis for the administering authority to condition a development approval for the Chapter 4 ERA to mitigate any potential environmental consequences of the activity arising from a flood event.
78. There is an expectation that when considering a development application for a Chapter 4 ERA, the primary question of whether the land on which the activity is to be operated is suitable for that purpose and is appropriately classified under the planning scheme for the local government area, is one for the local government in its capacity as the assessment manager under SPA.

**Item 3: The criteria for assessment of ERAs that local governments must use when deciding an application for an ERA;**

79. I have interpreted this question as applying to the criteria that local governments must use in deciding a development application for a Chapter 4 ERA, the administration of which has been devolved to local governments.
80. Under the EP Act where the administration and enforcement of a matter has been devolved to local government the administering authority is the local government.
81. When acting as the administering authority under the EP Act local governments are required to follow the same decision making construction as DERM. Accordingly the criteria are the same as those that have been described in my response to Question 2.
82. Under Chapter 11 of the EP Act a local government may make a local law (not inconsistent with the EP Act) about any matter for which it is necessary or convenient to make provision for carrying out or giving effect to a devolved matter.
83. The local government would be unable to make a local law that would alter the decision making construction under the EP Act.

**Item 4: Whether, and how, the risk of flooding is taken into account by the Department when assessing a development application for an ERA proposed to be undertaken on land subject to flooding, including whether the Department**

**seeks advice or information from any other Queensland government department, local government or agency;**

84. DERM provides no specific guidance to officers assessing an application for development approval for a Chapter 4 ERA on land that is subject to flooding, on how that assessment should be made or what weight should be given to the consideration of this characteristic of the land as against the other considerations that an assessing officer must give to the regulatory requirements and the standard criteria.
85. DERM uses a proforma, which was prepared sometime in 2007, for preparing an assessment report for an application for development approval of a Chapter 4 ERA, a copy of which is Attachment JCW-09.
86. Action is currently underway to revise the proforma. It is my understanding that a revised proforma will be available and communicated to all assessment officers by the 30 September 2011.
87. In assessing a development application for a Chapter 4 ERA, and notwithstanding the fact that there are limited statutory requirements or administrative guidance, an assessing officer has wide scope to consider the environmental consequences of that activity through consideration of the provisions of the standard criteria relating to the character, resilience and values of the receiving environment.
88. When taking advice on matters relating to land subject to flooding, an assessing officer is able to access expert advice from the Environment and Resource Science division of DERM on flood modelling and its interpretation. If not available from this source the Environment and Resource Science division will facilitate the provision of advice through a standing offer arrangement with relevant commercial expertise.
89. In reviewing the examples of development applications for Chapter 4 ERAs that I have been asked to supply, it is apparent that there are substantial inconsistencies in approach taken in the assessment of these applications. Some of these inconsistencies are related to the period in which the assessment was undertaken, others relate to the scope of the matters that the assessing officers have reviewed.

**Item 5: In responding to item 4, Mr Womersley is to provide examples of ERA assessments conducted by the Department on properties which are located on land at risk from flooding in the following council areas: Brisbane City Council, Ipswich City Council, Central Highlands Regional Council and Bundaberg Regional council;**

90. I have provided the following examples of assessments conducted by the Department of Environment and Resource Management that involved developments on land at risk of flooding.
91. I have not personally been involved in making the assessments or deciding any of these matters.

92. Copies of the assessment reports and the concurrence conditions or development approvals issued are appended.

### **Brisbane City Council**

93. The following documents have been provided in relation to Brisbane City Council, which is Attachment **JCW-10**:
- a. Assessment report and concurrence agency response for ERA 16 – Extractive and screening activities issued on 16 October 2010.
  - b. Assessment report and concurrence agency response for ERA 7 – Chemical manufacturing (fertiliser) issued on 10 November 2010.
  - c. Assessment report and concurrence agency response for ERA 7 – Chemical manufacturing (paint) issued on 19 October 2010.

### **Ipswich City Council**

94. The following documents have been provided in relation to Ipswich City Council, which is Attachment **JCW-11**:
- a. Assessment report and concurrence agency response for ERA 63 – Sewage treatment and ERA 8 – Chemical storage issued on 23 December 2010.
  - b. Assessment report and concurrence agency response for ERA 63 – Sewage treatment (pumping station) issued on 1 September 2011.

### **Central Highlands Regional Council**

95. The following documents have been provided in relation to Central Highlands Regional Council, which is Attachment **JCW-12**:
- a. Assessment report and Integrated Authority for ERAs covering municipal water treatment, sewage treatment, animal housing, motor vehicle workshop and waste transfer station issued on 30 September 2003.
  - b. Assessment report and concurrence response for ERA 11(b) – Crude oil or petroleum product storing issued on 2 September 2008.

### **Bundaberg Regional Council**

96. The following documents have been provided in relation to Bundaberg Regional Council, which is Attachment **JCW-13**:
- a. Assessment report and concurrence agency response for ERAs covering Crude oil or petroleum product storing, extraction, screening, and motor vehicle workshop issued on 17 July 2006.
  - b. Assessment report and concurrence agency response for ERA 63 – Sewage treatment (pumping station) issued on 2 September 2011.

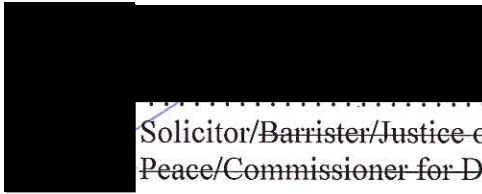
## Other Documents

97. I have also provided an example of an environmental impact assessment conducted by the Coordinator-General under the provisions of the SDPWO, for which DERM was an advisory agency, which is Attachment **JCW-14**.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

Signed   
Jonathan (Jon) Christie Womersley

Taken and declared before me, at Brisbane this 19th day of September 2011

  
.....  
Solicitor/Barrister/Justice of the  
Peace/Commissioner for Declarations