

## QUEENSLAND FLOODS COMMISSION OF INQUIRY 2011

### STATEMENT

On 16 September 2011, I, **MALCOLM CHARLES SNOW**, care of Level [REDACTED],  
[REDACTED], [REDACTED] in the State of Queensland, make oath and say -

- 1 I am the Chief Executive Officer of South Bank Corporation ("the **Corporation**") and am authorised to make this statement on behalf of the Corporation. Save where otherwise stated, I make this statement from my own knowledge.
- 2 I have seen a copy of a letter dated 9 September 2011 from the Commissioner, Queensland Floods Commission of Inquiry requiring a written statement from me giving my account of certain specified items in relation to development in the South Bank precinct on the Corporation's behalf.
- 3 I have also seen a copy of a letter dated 14 September 2011 from Jane Moynihan, Executive Director, Queensland Floods Commission of Inquiry which amends the items on which I am required to give my account.
- 4 My account of the items listed in the letter dated 14 September is set out below.

*Item 1: how the development plans currently deal with the potential impact of flooding on infrastructure and property*

#### *(a) Background*

- 5 South Bank Corporation is empowered under parts 5, 6 and 7 of the *South Bank Corporation Act 1989* (Qld) ("the **SBC Act**") to administer certain aspects of development within the area defined under that Act as the 'Corporation Area'.
- 6 In accordance with the SBC Act, the Corporation prepared a draft development plan for the Corporation Area in consultation with the Brisbane City Council. The development plan was approved by the relevant Minister in accordance with the SBC Act, and the Minister's approval was gazetted on 28 April 1990 ("**approved development plan**" herein referred to as the "**ADP**").
- 7 The ADP has been amended several times since it was originally approved.
- 8 The Corporation's objects under the SBC Act include the following object : "*to promote, facilitate, carry out and control the development, disposal and management of land and other property within the Corporation Area*".

Malcolm Charles Snow

Witness

- 9 The Corporation's functions under the SBC Act include the following function: "*to promote, undertake, facilitate and control the development of land within the Corporation Area in accordance with the approved development plan*".
- 10 Section 34(4) of the SBC Act provides that all development in the Corporation Area post-dating approval of the development plan shall be in accordance with the ADP.
- 11 The ADP divides the Corporation Area into nine precincts.
- 12 For each precinct, the ADP states the intent of the precinct, and prescribes the preferred development types, applicable urban design principles, and development principles (which includes preferred development intensity).

*(b) Account*

- 13 I understand the following, based on advice from by the Corporation's General Manager, Planning & Projects, Paul Herd:
- (a) that the ADP does not expressly deal with the potential impact of flooding on infrastructure and property for the Corporation Area as a whole; and
  - (b) in respect of development in Precinct Seven - the Melbourne Street Precinct of the Corporation Area, the ADP states that "*all designs must be cognisant of possible 1 in 100 year flood events affecting the site*". Attachment "MCS-1" is a copy of chapter 10.0 of the ADP dated 27 August 1998 plus amendments gazetted 29 April 2005, 17 November 2006 and 2 February 2007.
- 14 Upon receiving the Commission's request for a statement, I instructed a number of the Corporation's employees to review whether flood impacts were taken into account during the preparation of the original ADP in 1989-1990.
- 15 As a result of the review described in the above paragraph, I have been advised by Paul Herd and believe that:
- (a) the Corporation's records of correspondence and documents in relation to the preparation of the original ADP are incomplete; and
  - (b) the documentation that is available for review does not include enough information to enable me to ascertain the full extent to which flood impacts were taken into account during the preparation of the original ADP.

*Item 2: how the potential impact of flooding on infrastructure and property is taken into account when assessing development applications against approved development plans*

*(a) Background*

- 16 Part 7 of the SBC Act contains a process for the Corporation to assess applications to carry out 'assessable development' in the Corporation Area, and to grant (in whole or part, with conditions), or refuse development approvals.
- 17 It is an offence under the SBC Act to carry out assessable development in the Corporation Area without a development approval.
- 18 'Assessable development' is defined in the SBC Act. It includes all material changes of use and operational works, and some reconfigurations of a lot within the Corporation Area, unless the development is of a kind listed in section 4 of the SBC Act. It does not include building works.
- 19 I am advised by Paul Herd that, 'assessable development' under the SBC Act is assessed using the SBC Act process, and not under the Brisbane City Council CityPlan 2000 ("CityPlan 2000").
- 20 Section 60 of the SBC Act requires the Corporation to consult with the Brisbane City Council in the way the Corporation considers appropriate, in deciding development applications under this process.
- 21 As a matter of practice, consultation with the Brisbane City Council takes place in accordance with a short agreement between the Corporation and the Brisbane City Council dated 28 March 2000. Attachment "MCS-2" is a copy of the letter agreement between the Corporation and the Brisbane City Council.

*(b) Account*

- 22 In a general sense, the Corporation has regard to the applicable preferred development types, urban design principles, and development intensity, as provided in the ADP, for each development application it assesses.
- 23 In relation to flood impacts specifically, my understanding based on advice from Paul Herd is that the Corporation generally imposes conditions in relation to minimum floor levels on the giving of development approval where it regards such conditions as necessary, as part of considering the requirements and aims of the ADP noted above.
- 24 My understanding is that information used by the Corporation to determine appropriate minimal floor level conditions is obtained by the Corporation as a result of general requests made by the Corporation to Brisbane City Council for recommended approval conditions.

Malcolm Charles Snow

Witness

*Item 3: whether the State Planning Policy 1/03 Mitigation the Adverse Impacts of Floods, Bushfires and Landslide, or any other policy, regulation or standard that regulates the mitigation of the adverse impacts of flood, forms any part of the South Bank Corporation's considerations in determining land use*

*(a) SPP 1/03*

25 I understand, based on advice from Paul Herd, that SPP 1/03 does not contemplate unique planning and development controls such as the SBC Act development approval process. This makes the application of SPP 1/03 in respect of the content of planning schemes unclear, as the ADP is not a planning scheme, and the CityPlan 2000 does not apply to the Corporation Area. Planning schemes are created under the *Sustainable Planning Act 2009*, while the ADP is created under the SBC Act. The *Sustainable Planning Act 2009* does not recognise the ADP as a planning scheme, and the SBC Act does not provide for the ADP to be treated as a planning scheme.

26 In respect of the application of SPP 1/03 in relation to the assessment of development applications, the process adopted by the Corporation for development assessment, including consideration of flood mitigation impacts, is set out above.

27 This process includes consultation with Brisbane City Council, and the provision of information by the Brisbane City Council in relation to (among other things) minimum floor levels. It is the Corporation's understanding that the Brisbane City Council is required to take SPP 1/03 into account in its methodology to establish the appropriate minimum floor levels.

28 In my view (based on the advice presented to me by Paul Herd), this is the most appropriate means by which flood impacts should be taken into account in relation to development within the Corporation Area. The Corporation obtains the relevant information from, and consults with, the Brisbane City Council, in respect of setting minimum floor levels in the Corporation Area. The Brisbane City Council, by virtue of its municipal responsibilities, is the organisation best placed to inform planning decisions in relation to minimum floor levels, both in terms of expertise, and data availability. Also, the relatively small size of the Corporation Area in my view, is not conducive to an isolated assessment of flood impacts from and on development in that area.

29 I have been advised by Paul Herd and I believe that all of the Parklands Precinct (Precinct 3 of the ADP) of the Corporation Area was established prior to the commencement of SPP 1/03 and therefore preceded the implementation of SPP 1/03. This precinct was the main Corporation Area precinct substantially impacted upon by the January flood event. Other

Malcolm Charles Snow

Witness

30 I also wish to note that essential services in the Corporation Area are largely owned and managed by other authorities.

31 Paul Herd has advised me that the Corporation is not aware of any other policy, regulation or standard in relation to the mitigation of adverse flood impacts to which the Corporation is required to have regard when assessing development applications under the SBC Act. As such, no further policy, regulation or standard regulates the mitigation of adverse impacts of floods, forms any part of the Corporation's considerations in determining land use.

[illegible]

.....

5

## 10.0 PRECINCT SEVEN – MELBOURNE STREET PRECINCT

### 10.1 Intent

The precinct is intended to be developed as a mixed use precinct that adopts the Corporation's objectives for excellence in design and creating a location that connects socially, physically and economically to the local South Brisbane area and the CBD.

The future development is to consist of:

- commercial, residential and retail fronting Melbourne Street which is responsive to the Brisbane City Council's initiatives for Melbourne Street;
- medium rise commercial and retail development fronting Russell Street; and
- a fine grain, low rise residential development across the rest of the site providing for single attached housing and terrace houses laid out in a mews style.

Key elements contributing to the Corporation's desired outcomes in the location are:

- excellence in design;
- design and use compatibility within the site and with neighbours;
- design responsiveness to place and surrounds;
- linking West End, Highgate Hill, Woolloongabba and South Bank for future generations;
- vitality and activity;
- a contribution to affordable/social housing.

### 10.2 Development Principles

#### 10.2.1 Development Intensity

A base gross floor area (GFA) for the entire site is set at 50,000m<sup>2</sup>.

An additional 5% GFA may be approved for the site at the sole discretion of the Corporation. This may be granted if the proposal is consistent with the design principles of the site, and displays excellence in architectural design.

#### 10.2.2 Car Parking

The Corporation shall determine the minimum number of car parks for these development components. It will require parking for residents and visitors to the residential precincts; tenants and visitors to the commercial space; and visitors to the Parklands.

#### 10.2.3 Preferred Development

The preferred uses for Precinct Seven include commercial, residential and retail. Uses for individual parcels are described below:

##### Parcel A – Russell Street

The preferred uses for ground level are retail or similar to promote activity. Upper levels are suitable for predominantly office or similar compatible uses including residential.

##### Parcel B & D – Small Lot Housing and Apartments

Attached single small lot housing and apartments are intended.

##### Parcel C – Melbourne Street

At ground level, activity and vitality is to be encouraged by appropriate design and active uses such as retail and restaurants. At upper levels the range of compatible uses includes short or long term accommodation, office, entertainment, education, institution or any compatible but similar use.

The range of preferred and other suitable uses are described in Table 10.2.

Table 10.2

Table of Development – Precinct Seven

Preferred Development	Other Suitable Development
Apartment Building	Child Care
Attached House	Community Dwelling
Business Premises	Educational Establishment
	Market Industry
	Restaurant
	Shop
	Specialist Shop
	Student Housing
	Take away food store

### 10.3 Development Area

#### 10.3.1 Urban Design – Overall Requirements

1. All development in Precinct Seven is to be responsive to the principles of ecological sustainability. Buildings and spaces should be designed for an orientation to achieve solar access and maximise energy efficiency.
2. All designs must be cognisant of possible 1 in 100 year flood events affecting the site.
3. All vehicular gates, garages and car parks must be set back from the cross streets or laneways and designed in such a way so they do not dominate the public domain.
4. Building design should incorporate roofs that are pitched and provide appropriate overhangs, and exterior walls are to be articulated and detailed so as to minimise any adverse visual impact on the local area.
5. Variation in gross floor area, height, plot ratio, materials and design is to occur across the site to add variety and interest to the final development and assist in linking it to the surrounding locality.
6. Site services will be provided via cross streets, the mews or from the external public streets (where appropriate) and be designed to accommodate a possible long-term conversion of Merivale and Cordelia streets to two-way traffic flow.

##### 10.3.1.1 Parcel A – Russell Street

Mixed use office, retail or residential uses at a comparable scale to Parcel C, however at a more intense scale than Parcels B & D fronting Russell Street is preferred.

##### 10.3.1.2 Parcels B & D – Small Lot Housing and Apartments

The preferred design approach is for apartments and small lot housing. The small lot housing is generally attached and developed with common private spaces (mews) serviced by cross streets linking Cordelia and Merivale Streets. Through block connections and permeability is essential.

Design diversity throughout the parcels is strongly encouraged.

Small lot housing is provided with private open space; a minimum of 40m<sup>2</sup> is required. Design affords all dwellings the opportunity for casual surveillance of the mews and cross streets.

### 10.3.1.3 Parcel C – Melbourne Street

This site is to be developed with mid-rise buildings facilitating mixed land uses.

The design is to be compatible with the Melbourne Street boulevard initiatives of Brisbane City Council. A 5metre setback is encouraged for the lower podium levels, designed and landscaped in a manner compatible to this initiative.

Access to the site is preferred off Cordelia or Merivale Street and consideration (in association with Brisbane City Council) should be given to any kerb set down facilities required.

### 10.3.2 Development Criteria

Table 10.3 Development Criteria – Precinct Seven outlines requirements for each parcel for:

- general guidelines;
- land area; and
- height.

**Table 10.3**

#### Development Criteria Precinct Seven

Parcel	Development Guidelines		Height
Parcel A – Russell Street	Mid rise buildings facilitating mixed land uses predominantly of a commercial nature	Land area: 4,700m <sup>2</sup> approx.	A maximum of 8 storeys
Parcel B – Small Lot Housing	Small lot apartment housing generally attached with common private spaces	Land area: 4,800m <sup>2</sup> approx.	3 storeys in height with a sub half level for car parking
Parcel C – Melbourne Street	Mid rise buildings facilitating mixed land uses	Land area: 4,500m <sup>2</sup> approx.	Minimum 5 storeys and maximum of 9
Parcel D – Residential Apartments	Residential apartments attached with private open spaces	Land area: 2,400m <sup>2</sup> approx.	Up to 5 storeys in height (plus loft) with a sub half level for car parking
Total precinct		Land area: 18,300m <sup>2</sup> approx.	

**Notes:**

1. Land area of the whole site includes area of cross streets, mews and lanes
2. Land area for the parcels excludes area of cross streets, mews and lanes"



*Agreement between*

***SOUTH BANK CORPORATION  
And  
BRISBANE CITY COUNCIL***

*March 2000*

The following protocol sets out agreed procedures for consultation between South Bank Corporation and Brisbane City Council, in the spirit of a partnership while acknowledging statutory responsibilities.

The South Bank Corporation (the Corporation) is responsible for the planning, development and administration of the "Corporation Area" as defined by the South Bank Corporation Act, 1989.

The Brisbane City Council (the Council) is responsible for the governance of the City of Brisbane and is a joint stakeholder with the State Government in the South Bank Area.

Under Sections 34 and 35 of the South Bank Act, the Corporation is required to consult with the Council when determining the use of land or assessing an application for development.

In consulting with the Council, the Corporation acknowledges that the "Council" is the elected body of the Council, or its appropriate Delegate(s). Discussion on a day-to-day basis with individual officers is important and useful, but may not be enough in itself to constitute formal consultation.

Accordingly, the parties agree to the following general procedures to ensure adequate consultation occurs and both the spirit as well as the letter of the Act are achieved.

1. Satisfactory day-to-day working relationships will be maintained and enhanced through regular contact and discussion between relevant officers. This will include prelodgement discussions on development proposals to ensure the benefits of the consultation process are maximised.
2. Where a change to the Approved Development Plan is contemplated or a development proposal is being prepared, contact and discussion will be established with the relevant person in Council at the earliest time.

3. When a development application has been received by the Corporation, a copy will be forwarded to the Council with a covering letter within 5 working days requesting comment and providing a reasonable time for reply (up to 20 working days) on the understanding that prelodgement discussions have been held at officer level. A longer period may be agreed, if required.
4. The Corporation will not determine the application and issue a decision, conditional or unconditional, until the formal response from the Council has been received; subject to 3 (above)..
5. Council will make submissions in writing, whenever appropriate and the Corporation will respond in writing giving reasons for any departure from Council's requests.
6. When requested in writing, the Council will notify the Corporation of an appropriate zone for a proposed development within 20 working days.
7. Where the Council raises issues of concern which cannot be readily resolved, a meeting will be convened at the earliest possible time involving the CEO of the South Bank Corporation and the Divisional Manager, Urban Management, together with other appropriate representatives from each organisation as required.
8. For the purposes of this agreement, the principal contact officers are:-
  - for the Council:- Jill McLauchlan  
Telephone: [REDACTED]
  - for the Corporation:- Graham Robinson  
Telephone: [REDACTED]

Signed

[REDACTED]

for the Brisbane City Council

[REDACTED]

for the South Bank Corporation

..... 28/3/2000 .....  
(DATE)

[REDACTED]

[REDACTED]