

**QUEENSLAND FLOODS
COMMISSION OF INQUIRY**

STATEMENT OF TIMOTHY PEISKER

I, **TIMOTHY PEISKER**, of c/- 80 Albert Street Brisbane in the State of Queensland, Executive Director, Infrastructure Planning and Development Branch, Sport and Recreation Services, Department of Communities, solemnly and sincerely affirm and declare:

Requirement from Queensland Floods Commission of Inquiry

1. I have seen a copy of the letter dated 29 August 2011 from the Commissioner, Queensland Floods Commission of Inquiry to me requiring a sworn statement which is Attachment **TP-01** and which details the topics my statement should cover.

Role

2. I am the Executive Director, Infrastructure Planning and Development Branch, Sport and Recreation Services, Department of Communities (DOC).
3. I have held the position of Executive Director, and prior to that the position of Director, Business Development Branch in Sport and Recreation Services in DOC, in Sport and Recreation Queensland (SRQ) in the Department of Local Government, Sport and Recreation (DLGSR), in the Department of Local Government, Planning, Sport and Recreation (DLGPSR) and in the Department of Innovation and Information Economy Sport and Recreation Queensland (DIIESRQ), since I joined DIIESRQ in 2003.
4. As Executive Director, I am responsible for working with government agencies, community organisations, councils, state sport and recreation organisations and peak industry bodies to encourage more Queenslanders to lead an active and healthy lifestyle. This involves the provision of advice, funding support and providing advice on and managing facilities which are targeted at increasing the physical activity level of communities.
5. Before joining DIIESRQ, I was Director, Special Projects, Office of Energy in Queensland Treasury (QT). Prior to that I was Deputy Director, Queensland Electricity Reform Unit. Prior to that I held senior positions in the Department of Mines and Energy, the Office of the Cabinet in the Department of the Premier and Cabinet (DPC) and the Department of Primary Industries.

Item 1. A detailed chronology of the involvement of the State of Queensland in the Mirvac development at Tennyson, including:

6. A summary of the chronology of the Queensland Government's (the State) involvement in the Mirvac development at Tennyson is Attachment **TP-02**.

1a. how the State of Queensland became aware of the potential to develop the Tennyson development site

7. The State has been aware of the potential to develop the Tennyson Power Station (TPS) site for some time.
8. In May 1996, the Department of Natural Resources (DNR) commissioned Connell Wagner to undertake a land use study of the TPS site (Attachment **TP-03**). The study involved a historical analysis, site assessment, opportunities and constraints analysis, option identification and evaluation and community consultation.
9. The study examined a range of land use options for the site including corporate headquarters, warehouse, light industry, residential, open space and cultural, recreational and institutional activities. The study reported that community consultation indicated a strong preference for cultural, recreational and institutional activities.
10. The study concluded that: future use of the site is limited by poor road access, contamination from previous activities required further investigation, drainage was poor and significant fill would be required in the south-eastern area to bring it up to the required flood immunity level for development.
11. The study identified the preferred access to a redeveloped TPS site is from Fairfield Road via the adjoining Animal Research Institute (ARIS) site, although a secondary access to Tennyson Memorial Avenue or Softstone Street will also be required.
12. The TPS site was identified as an intent precinct in the Stephens District Local Plan released as part of the Brisbane City Plan 2000 (Attachment **TP-04**). The plan noted:
- residential development that maximised the use of existing rail access and provided community parkland would be preferred;
 - due to the site's considerable physical constraints non-residential uses with minimal impact on residential areas may be supported; and
 - development on the site may not adversely affect water quality of the Brisbane River and must provide public access to the waterfront and a cycle way through the site.
13. In 2002, Tennis Queensland (TQ) identified the TPS site as a potential location for a new tennis headquarters in Brisbane. In September 2002, TQ advised the State of the potential to develop a tennis centre precinct on the TPS site (refer details below).

- 1b. the proposal to develop the Tennyson development site made by Mirvac to the State of Queensland before the tender process run by the State of Queensland was announced**
14. In 1999, TQ sold the Milton Tennis Centre, Frew Park, Milton which had served as the home of tennis in Queensland since 1915. The centre hosted a range of Australian Championships/Opens and Davis Cup ties as well as entertainment events. The last major tennis event was held at the centre in 2004, after which its wooden grandstand seating was closed down. The centre court stadium experienced two fires and was demolished in 2002.
 15. In 2001, TQ produced a Strategic Facilities Plan aimed at reinvigorating the sport of tennis in Queensland which identified the need for additional tennis courts to be constructed to replace those lost through urban development and the need for a new tennis headquarters.
 16. On 11 June 2002, TQ submitted a proposal to the State for the development of a new state tennis headquarters. Through the proposal, TQ was seeking assistance with the allocation of a four to five hectare site and capital contribution of \$5 million towards the development.
 17. In response, DIIESRQ advised that SRQ would work with TQ to explore alternative options for the State Tennis Centre (STC), including the development of a multipurpose stadium to cover for a range of sports.
 18. TQ investigated a range of potential sites for the development of new tennis headquarters in Brisbane including the Boondall Entertainment Centre, Sleeman Centre, ANZ Stadium, former Milton Tennis Centre, Boggo Road Goal, RNA Showgrounds and TPS site.
 19. TQ's investigations concluded that the TPS site was the most attractive site to locate a new STC in Brisbane.
 20. On 2 September 2002, TQ wrote to Mirvac Queensland Pty Ltd (Mircvac) advising it granted Mirvac a mandate to operate exclusively with TQ to secure the TPS site and to proceed with all planning acquisition and final development for the Tennyson Precinct Project (Attachment **TP-05**).
 21. In September 2002, TQ presented a proposal to the State for a Tennyson Tennis Centre (Attachment **TP-06**). The proposal advised that TQ had sought the assistance of Mirvac as an experienced property developer to consider the analysis and investigations required for the development of a STC on the TPS site.
 22. The proposal advised that TQ, Mirvac and Tennis Australia (TA) identified the STC would be a 22 court facility comprising a centre court with a 4,000 seat show court, six clay courts, parking, clubhouse, tennis proshop, tennis hall of fame and TQ administration and offices.

23. The proposal stated that TQ's vision was for a world class facility capable of accommodating the requirements of tennis and TQ while maximising the use of the otherwise constrained TPS site. TQ's analysis noted that tennis courts have the advantage of being able to be built over easements and below the Q100 flood line, thereby maximising site utilisation.
24. In September 2002, Mirvac developed a concept plan for the Tennyson Tennis Centre comprising an international standard STC and mixed use residential and retail development on the TPS site (Attachment **TP-07**).
25. TQ's proposal recommended that the State offer TQ and Mirvac nine months to explore the feasibility of establishing a STC facility on the TPS site and should this prove feasible, Enertrade (which owned the TPS site land on behalf of the State) would sell the site to TQ/Mirvac on agreed terms.

Item 1c. the whole of the tender process run by the State of Queensland

26. The State did not support TQ's recommendation to make the TPS site available to TQ and Mirvac. This was because, should the State make land available to the private sector for a development of this nature, it would seek to maximise value for money, minimise risks to the State and secure the best development outcome through a market based competitive bid process. This position was communicated to TQ and Mirvac.
27. On 25 February 2003, TQ wrote to the State identifying the TPS site as its preferred location for a STC. TQ considered this site best met its requirements as it was:
 - centrally accessible to the population density of South East Queensland;
 - well serviced by transport infrastructure;
 - capable of accommodating at least 22 tennis courts;
 - not competing with existing tennis facilities; and
 - compatible with the urban environment and considered low impact.
28. The State conducted preliminary due diligence on the TPS site which indicated it had adequate space to accommodate a new STC based on the concept articulated by TQ but had a number of site constraints including the decommissioned TPS, electricity easements, transport access issues and low lying areas which were subject to flooding.
29. The State also identified the development of a STC and associated developments on the TPS site would require a material change of use and development approval permit from Brisbane City Council (BCC).
30. In April 2003, the State established a project management framework to progress consideration of the Tennyson Riverside Development (TRD) involving coordination of the TRD project through a two stage competitive bid process – Stage 1 Expressions of Interest (EOIs) and Stage 2 Detailed Development Proposals (DDPs).

31. On 17 September 2003, SRQ met with TQ to discuss the minimum specifications for development of a STC. SRQ advised that the minimum specifications had been revised to include a centre court with 3,000 permanent covered seats and the ability to provide up to an additional 4,000 temporary seats for major events, 22 match and training courts, with 16 of hard court surface, two Davis Cup standard and up to six of the match and training courts to have an alternate surface (Attachment **TP-08**).
32. On 26 August 2003, the State appointed Minter Ellison as Legal Advisors for the TRD project. A Legal Advisor was sought to provide advice on the development of the TRD documentation and process, to conduct a vendor's due diligence and assist with a risk assessment for the process.
33. On 26 August 2003, the State appointed Argyle Capital Pty Ltd as Probity Auditor for the TRD. The Probity Auditor was engaged to ensure the competitive bid process was conducted in an appropriate and transparent manner, including development of a probity plan and guidelines, provision of regular probity reports and provision of a final probity report on the competitive bid process.
34. On 26 September 2003, the Cabinet Budget Review Committee (CBRC) considered a submission on the TRD and approved DIIESRQ undertaking a two-stage competitive bid process to identify a preferred developer for the TRD on the TPS site. CBRC noted a number of issues would need to be resolved during the first stage of the competitive bid process including consultation with BCC, due diligence on the site and consultation with other parties impacted by the proposal. At the same time, CBRC approved the release of the Stage 1 - EOI document.
35. The EOI document was released in October 2003 (copy included at Attachment **TP-09**).
36. Interested parties were invited to submit a proposal for the design, construction and financing of the TRD and the operation of the associated development, which could include infrastructure such as residential accommodation, commercial, recreational and sporting, food and beverage, transport or supporting retail facilities. The document stated that the successful proponent will need to obtain all required planning approvals for the project.
37. On 10 November 2003, DIIESRQ facilitated a site inspection of the TPS for parties interested in lodging EOIs. This included a tour of the TPS site and the decommissioned power station (Attachment **TP-10**).
38. On 29 October 2003, the State established governance arrangements for the TRD including a project timetable, probity plan and Chief Executive Officer Steering Committee (Steering Committee) to oversight the project and provide the necessary approvals. The Steering Committee comprised representatives of DIIESRQ (Chair), QT and DPC.

39. Seven EOIs were received by the closing date of 14 November 2003, from:
- Walker Corporation Pty Ltd;
 - Citta Property Group, Babcock & Brown Pty Ltd and Abigroup Limited;
 - Stockland Development Pty Ltd (Stockland), Barclay Mowlem, Next Generation Clubs Australia Pty Ltd and Pat Rafter (Project Champion);
 - Lend Lease Development Pty Ltd;
 - Ariadne Australia Ltd, Watpac Limited and Abacus Property Group;
 - Devine Limited (Devine), ABN AMRO and Multiplex; and
 - Mirvac.
40. On 25 November 2003, the TRD Project Office Evaluation Committee (Evaluation Committee), which I chaired, completed its evaluation of the EOIs (Evaluation Report included at Attachment **TP-11**).
41. The Evaluation Committee recommended three proponents, Devine, Mirvac and Stockland be shortlisted and invited to prepared DDPs.
42. On 16 December 2003, CBRC approved three proponents being shortlisted for Stage 2 of the competitive bid process and approved vehicular, pedestrian and bike access for the TRD site through the adjoining ARI site.
43. On 8 January 2004, the State announced Devine, Mirvac and Stockland had been shortlisted and invited to develop DDPs for the TRD.
44. In May 2004, CBRC approved commencement of Stage 2 of the competitive bid process for the TRD. This included approval to release the request for DDPs, the Development Agreement and the State Tennis Centre Project Brief that detailed the State's requirements for the STC to the three shortlisted proponents.
45. On 9 June 2004, DLGPSR released the Request for DDPs. This included the Request for DDP document (Attachment **TP-12**), the State Tennis Centre Project Brief (Attachment **TP-13**) and the Development Agreement (Attachment **TP-14**).
46. The Request for DDPs document provided an overview of the project, including the Government's project objectives, information to be provided by proponents, the process and timeframes for selection of a preferred developer. The document advised that the TRD would be subject to environmental, planning, building and regulatory requirements of the Commonwealth, State and BCC and that the preferred developer would be required to obtain all necessary approvals for the project.
47. The State Tennis Centre Project Brief detailed the Government's requirements for the STC and covered aspects for this venue such as site planning, transport and access arrangements, facilities, fit-out and handover. The brief included a requirement that all functional facilities be designed within the STC site to withstand the adverse impact from storms up to a minimum 100 year flood event or other such event as may be required by relevant acts and codes.

48. The Development Agreement outlined the contractual framework under which the project was to be undertaken and specified the rights and obligations of the State and the developer. In addition, the Development Agreement provided that:
- the Government had approved vehicular, pedestrian and bicycle access to the TRD could occur through the adjoining ARIS site; and
 - the developer would be required to provide public access to the Brisbane River frontage.
49. Shortlisted proponents were also required to arrange a pre-lodgement assessment meeting with BCC on their development concept with preliminary advice provided by BCC to be submitted as part of the DDP.
50. On 23 August 2004, the State received DDPs from the three shortlisted proponents.
51. The Stage 2 Evaluation of DDPs was completed in December 2004 (evaluation report included at Attachment **TP-15**). The Evaluation Committee found two of the proposals were non-conforming and could not be assessed. Both proponents proposed associated development on the TPS site and location of the STC on alternate sites - Devine on the Goprint site at Woollongabba and Stockland on the ARIS site.
52. A preliminary review of Mirvac's DDP by the Evaluation Committee found that it was conforming on the basis it offered a STC and associated development predominately on the TPS site and could be assessed against the Stage 2 documents. Detailed evaluation by the Evaluation Committee concluded that Mirvac could not be appointed preferred proponent based on its DDP, however its DDP was capable of being adapted to be an effective proposal if a number of threshold issues were addressed (Attachment TP-15).
53. The Evaluation Committee recommended a negotiating framework to work collaboratively with Mirvac to modify its proposal to meet the State's requirements in order to identify if it could be appointed as preferred proponent and subsequently preferred developer for the TRD.

Item 1d. the assessment and decision to award the tender to Mirvac, including any cabinet considerations

54. On 21 December 2004, DIIESRQ wrote to Mirvac (Attachment **TP-16**) to outline the outcomes of the evaluation process and a proposed negotiation process to determine whether Mirvac could be appointed preferred proponent and subsequently preferred developer for the TRD. The letter advised that Mirvac could not be appointed preferred proponent for the TRD based on its DDP as a number of Stage 2 requirements were not met. The letter sought Mirvac's commitment to meet a number of threshold issues. These included a commitment to redesign its site plan to ensure the six training courts were constructed above the 1:100 year flood level and appropriate flood mitigation measures were implemented in the design of the centre court.

55. On 13 January 2005, Mirvac wrote to SRQ (Attachment **TP-17**) to advise it was willing to negotiate the threshold issues identified by the State through its DDP evaluation. These included site layout and flooding risk, the design and seating capacity requirements for the STC, tennis court warranties, transport and access arrangements and project timing and approvals.
56. On 29 April 2005, Mirvac submitted its revised DDP. In doing so, Mirvac advised it was not prepared to manage all cost risks associated with the STC and transport and access works and sought a mechanism to share these risks with the State.
57. On 3 May 2005, the Evaluation Committee completed a preliminary evaluation of Mirvac's revised DDP. In this evaluation Mirvac scored strongly on the STC, transport and access and project management elements but lower on impacts on the State.
58. Through these negotiations, Mirvac verbally advised the State that its sensitivity analysis showed that it required a financial contribution from the State of around \$10 million to increase the commercial viability of the project. Independent analysis was undertaken by the Queensland Treasury Corporation in relation to this request.
59. On 13 May 2005, the State wrote to Mirvac advising that it was prepared to consider contributing financial support to the TRD of up to \$10 million capped, with the financial assistance to be paid at the time of completion of the STC. SRQ also advised that if the financial position of the TRD is more favourable than the Mirvac forecast, the State would expect its contribution be reduced accordingly.
60. On 20 May 2005, Mirvac wrote to the State advising that its Board of Directors had endorsed a financial offer for the TRD which included an estimated cost for the STC of \$60 million, a profit share arrangement and 385 residential units representing an increase of 67 units from Mirvac's original DDP.
61. On 3 June 2005, the Steering Committee endorsed the Evaluation Committee's report on the assessment of Mirvac's revised DDP.
62. On 16 June 2005, DLGPSR wrote to Mirvac to advise it had been appointed preferred developer for the TRD. This was subject to a number of conditions with regard to financial contributions, meeting the State Tennis Centre Project Brief requirements and ensuring that the TRD Development Agreement were finalised for execution by 29 July 2005 (Attachment **TP-18**).
63. On 24 June 2005, Mirvac wrote to DLGPSR to acknowledge the letter of 16 June 2005 and the conditions of appointment as preferred developer.
64. On 27 June 2005, the Government announced Mirvac as the preferred developer for the TRD. The aim was for a landmark development for tennis in Queensland complemented by associated development including 385

high-quality residential apartments and a gymnasium and the opening up of the riverfront to the community.

65. On 9 September 2005, CBRC noted that Mirvac had been appointed as preferred developer for the TRD on 16 June 2005.
66. On 29 September 2005, the State and Mirvac executed a Development Agreement and an Early Works Agreement to deliver the TRD by 1 December 2008.

Item 1e. any involvement of the State of Queensland in the development application processes to the Brisbane City Council for the preliminary approval overriding the planning scheme and development permit

67. Under the Development Agreement, Mirvac was required to obtain development approval for the TRD from BCC. This was to include a material change of use application to permit the development to proceed.
68. As the TPS site owner, the State through DIIESRQ and subsequently DLGPSR, consented to Mirvac lodging its development application and variations to the development application for the TRD with BCC.
69. On 6 September 2005, SRQ contacted the Department of Primary Industries and Fisheries (DPIF) to advise of the status of the project, noting that the State had agreed to establish a group with membership drawn from Government agencies to assist in facilitation of the development approval process for the TRD. The contact also sought advice on the options for Mirvac's application for removal of marine plants to be lodged and assessed by DPIF in advance of lodgement of its development application for the project (Attachment TP-19).
70. On 16 November 2005, Mirvac lodged its application for development approval for the TRD with BCC.
71. In November 2005, as part of its community consultation strategy, Mirvac and its public relations consultant, Promedia, hosted focus group meetings with local residents and stakeholders about the TRD. This provided local residents and businesses the opportunity to receive information on and ask questions about the TRD and the planning approval process.
72. Under the *Integrated Planning Act 1997* (the Act), DLGPSR was responsible for referral coordination for Mirvac's TRD development application. DLGPSR consolidated all requests for information on the application that were provided by the BCC and State referral and concurrence agencies, and forwarded the information request to Mirvac on 1 February 2006.
73. On 7 April 2006, Mirvac responded to the information request about its development application.

74. On 5 May 2006, Mirvac advised the State that BCC had informally advised it was satisfied with the information provided by Mirvac in response to its development application.
75. In June 2006, SRQ, in consultation with the Office of the Coordinator General, Sustainable Planning, DLGPSR and Mirvac investigated options under the Act to secure development approval for the TRD by 1 November 2006 should this be required to deliver the STC by 1 December 2008. This was because Mirvac identified 1 November 2006 as the critical development approval date to ensure delivery of the STC by 1 December 2008. The Deed of Variation associated with the STC design changes (refer below for information on the reasons for and nature of these changes) provided for the State to assist Mirvac to obtain development approval if it became apparent it would not be secured from BCC by 1 November 2006.
76. These options were not progressed and the development application proceeded through the standard BCC development approval process.
77. The application for development approval lodged by Mirvac with BCC on 16 November 2005 was superseded as a result of the design changes required for the centre court stadium of the STC approved by CBRC on 9 June 2006. Mirvac submitted an amended development application to the BCC on 31 July 2006.
78. On 1 August 2006, the Office of the Coordinator General and Sustainable Planning, DLGSR arranged for Mirvac to brief State referral and concurrence agencies on the changed development application and sought their assistance to expedite the information responses to timeframes that would assist in achievement of development approval by 1 November 2006.
79. On 9 October 2006, BCC issued a negotiated decision notice for development application for the TRD. Mirvac advised that no submitters' appeals were lodged and development approval had taken effect on 15 November 2006.
80. On 28 February 2007, DLGPSR provided owner's consent to an application to BCC for a minor amendment to Mirvac's development approval to accommodate the revised roof height of the STC (Attachment TP-20).

Item 1f. all substantive meetings, dealings and agreements with Mirvac or any officer of it regarding the Tennyson Reach development, including any relaxation to any development control

81. The State's initial contact with Mirvac on the Tennyson development was in relation to the proposal from TQ and Mirvac for the development of the Tennyson Tennis Centre on the TPS site. As indicated above, this proposal was not supported by the State. These contacts occurred around 2002.
82. The State, particularly through DIIESRQ and DLGPSR, conducted a number of processes including detailed negotiations with Mirvac throughout the TRD competitive bid process. These included in relation to receipt and assessment of

Mirvac's EOI, receipt and assessment of Mirvac's DDP, the establishment and negotiation of a framework to address threshold issues with Mirvac's DDP, receipt and assessment of Mirvac's revised DPP and the assessment and appointment of Mirvac as preferred proponent, preferred developer and developer for the TRD. These processes occurred from late 2003 to late 2005.

83. In July 2005, under the Development Agreement, the State appointed a representative of the Department of Public Works (DPW), Project Services as the State's Representative for the TRD.
84. The State's Representative served as the State's interface with Mirvac with respect to all aspects for the performance of the works (ie the STC, the associated development and the transport and access works required for the TRD).
85. Also under the Development Agreement, the State established a Project Control Group for the TRD to provide a forum for interaction between the State, Mirvac and other parties invited to attend and to provide a consistent overview of the project. The Group maintained a log of issues relevant to the successful delivery of the project.
86. On 4 December 2006, DPW, Project Services assumed responsibility for administration of the TRD agreements from DLGPSR. DLGPSR retained responsibility for establishing the ownership and operating arrangements for the STC, making payments to DPW from the TRD funding based on achievement of key milestones and participating on the TRD Project Control Group.
87. On 29 June 2007, CBRC approved the transfer of responsibility for the STC to the Major Sports Facility Authority (MSFA), with novation of the TRD Development Agreements and relevant project funding for the STC from DLGPSR to MSFA. MSFA became known as Stadiums Queensland in 2008.
88. On 26 April 2006, the State endorsed Mirvac's recommendation to appoint Roselund Contractors Pty Ltd to undertake early works on the TPS site. The contract was executed on 4 May 2006 and works commenced on site on the same day. Early works comprised demolition of the TPS and remediation of the TPS site.
89. These works, which were not impact assessable under the Act, needed to commence ahead of the TRD receiving development approval to ensure the STC would be constructed by 1 December 2008. The early works agreement between the State and Mirvac stated that irrespective of whether or not Mirvac satisfied the conditions precedent to the development agreement for the TRD to proceed, the State required the decommissioned power station to be demolished and the site remediated.
90. Mirvac's interest was to ensure the early works were conducted in a timely and safe manner and that materials from the demolition process to be used in the TRD (eg crushed bricks from the decommissioned power station) were stored

appropriately and where utilised compacted to specifications required for the TRD.

91. On 9 June 2006, CBRC approved implementation of design changes to the STC aimed at repositioning the STC to attract and host international hard court tennis championships and a compensation package for Mirvac for accelerated works to secure delivery of the STC by 1 December 2008. The acceleration package for Mirvac was required due to the time taken by TQ, TA and the State in considering the design changes and the additional works required to install a fixed roof over the centre court stadium.
92. On 9 June 2006, DLGPSR wrote to Mirvac confirming the State supported the incorporation of design changes to the STC in order to secure an international sanctioned tournament to be hosted at the STC from January 2009 and that the State was prepared to consider reasonable compensation for Mirvac, subject to the execution of a Deed of Variation and the STC and transport and access infrastructure being available by 1 December 2008.
93. On 15 August 2006, the Deed of Variation with Mirvac to implement the design changes to the STC was executed.

Item 1g. all substantive meetings, dealings and agreements with the Brisbane City Council, or any Councillor, or the Lord Mayor, or any employee or representative of the Council regarding the Tennyson Reach development, including any relaxation to any development control

94. SRQ met with BCC on a number of occasions during the planning and early delivery stages of the TRD project. The aim was to brief BCC on the proposed project, seek advice from BCC on information to include in the TRD competitive bid documents, seek BCC's support for pre-assessment meetings to be held with shortlisted TRD proponents and to ascertain the likely timeframes for BCC's assessment of a development application for the TRD.
95. On 18 June 2003, officers from SRQ met with representative from BCC to discuss potential planning and development controls for the TPS site (Attachment TP-21). In that meeting flooding issues were discussed, however council advised it could not comment specifically until the nature of the proposed development was known.
96. On 23 February 2004, the Director-General approved for officers from DIIESRQ to consult with BCC about the TRD (Attachment TP-22). The aim was for SRQ to brief BCC on the competitive bid process and to obtain information about the development approval process and any matters BCC considered important to the site and the project.

97. Meetings with BCC about the project were held on a number of occasions throughout the competitive bid process, including on:
- 22 March 2004
 - 2 April 2004
 - 4 June 2004
 - 6 August 2004
 - 17 November 2004
 - 4 November 2005.

These meetings discussed planning and approval issues and requirements for the TRD project.

98. Mirvac's September 2002 concept plan for the STC (Attachment TP-07) noted that discussions had been held with the Lord Mayor of Brisbane who had pledged support for the strategy and specific proposal for the Tennyson site.
99. On 18 June 2003, BCC provided preliminary advice on the TPS site including that it was subject to flooding.
100. On 2 July 2003 Mr Barry Ball, Manager Waterways, BCC provided a memo to Mr Peter Cumming, Manager, City Planning, BCC about information on flooding to the TPS site (Attachment TP-23). The memo noted that 50% of the site would be inundated in the event of a Q100 level flood. It also noted that *"There would be no restrictions for reasons of impact on river flooding due to filling the above site to the required design level. However, any development will need to address the relevant City Plan 2000 Codes such as Filling and Excavation Code, Waterway Code, Stormwater Management Code and River Corridor Planning Scheme Policy"*.

Item 1h. all substantive decisions made by the State of Queensland, Cabinet, any Minister or any Director-General regarding the Tennyson Reach development with respect to flood risk

101. The State's objectives and requirements for the TRD were set out in the Stage 2 Request for DDPs document (Attachment TP-12) released to shortlisted bidders. The State's objectives included seeking innovative private sector proposals to develop the site in a manner which minimises the risks to the State.
102. The State Tennis Centre Project Brief released to shortlisted proponents as part of the Stage 2 Competitive Bid Process stated, in relation to earthworks, that all functional facilities shall be designed within the STC site to withstand the adverse impact from storms up to a minimum 100 year flood event or such other event as may be required by relevant acts or codes.

103. DIIESRQ's letter of 21 December 2004 to Mirvac on the outcome of the evaluation of its DDP (Attachment TP-16), stated that the State's position was for Mirvac to commit to redesign its site plan to ensure the STC show, match and training courts are constructed above the 1:100 flood level and that appropriate flood mitigation measures are implemented in the design of the STC centre court.
104. My recollection is that during the revised DDP negotiation process, Mirvac advised that locating the training courts at the 1:100 year flood level for the TPS site would require the courts to be constructed above a car park which would expose the clay courts in particular to wind impacts, increase construction costs and impact the visual amenity of this element of the STC.
105. Following further consultation with TQ, the State agreed for the STC training courts to be located above the 1:20 year level subject to Mirvac contributing up front an amount representing the cost of the additional risk to the State of the courts being located at this level. Based on specialist advice, this contribution was determined to be \$166,000.

Item 2. Any expert or other investigations into the effect of flood on the Tennyson Reach development

106. On 25 March 2004, Currie and Brown provided a report commissioned by DIIESRQ on the State Tennis Centre Project (Attachment TP-24). The report provided an independent review of the STC cost estimates and design and functionality issues. The report noted that Currie and Brown were advised that DPW, Project Services were of the view it would be necessary to construct the Plaza level of the STC above the existing ground level due to potential flooding problems. The report noted the extent of fill that would be required was unknown at that time, however this would impact on the final cost.
107. On 16 February 2005, SRQ met with TQ and TA to discuss a range of issues with regard to Mirvac's DDP (Attachment TP-25). Issues included mitigation of flood risk to centre court and consideration to allow development of the training courts at 1:20 flood levels as outlined in Mirvac's DDP. TQ and TA advised that locating the training courts at 1:20 flood levels would be suitable subject to appropriate design and protection arrangements.
108. At the same meeting, the issue of flooding to the centre court was discussed. The key notes and actions from the meeting show that TQ and TA advised that the centre court would need to comply with 1:100 flood immunity and that subject to the planned mitigation arrangements being effective, they should achieve this from an engineering perspective. The meeting proposed the centre court should incorporate appropriate bunding to minimise the impact of possible flooding to the centre court.
109. As indicated above, the State agreed to Mirvac's proposal to locate the training courts at the 1:20 flood level subject to Mirvac making a contribution of \$166,000 towards a sinking fund in light of the increased risk to the State of locating these courts at this level.

110. Mirvac commissioned GHD Pty Ltd (GHD) to provide advice and analysis on Brisbane River flooding and stormwater quality for the development of the TPS site. Volume 6 of Mirvac's Development Application covered Flooding and Stormwater Quality Management. This included an analysis by GHD about the proposed Brisbane River flood impacts and Brisbane River flow conveyance (Attachment **TP-26**).
111. GHD's report to Mirvac stated that BCC have estimated the 1974 peak flood level (at the site) was 10.8m Australian Height Datum and also estimated that the Wivenhoe Dam had reduced the 100 year Average Recurrence Interval (ARI) river flood level at the site. The report stated that BCC provided a Defined Flood Level (DFL) of 7.9m for the site for planning purposes.
112. GHD's report stated that in order to meet BCC's Urban Management Division Subdivision and Development Guidelines (Part B Design Requirements) in respect of flood immunity, various habitable and non-habitable uses are required to be above flood levels. These were 100 year ARI plus 0.5m for habitable uses, 100 year ARI plus 0.3m for non-habitable uses and 20 year ARI for car parking.
113. Mirvac commissioned Lambert & Rehbein to provide advice and analysis on the proposed engineering servicing of the development. Volume 5 of Mirvac's Development Application covered Engineering Services. This included analysis by Lambert & Rehbein of road works for the development (Attachment **TP-27**).
114. Lambert & Rehbein's report stated that primary access to the development will be from a new signalised intersection to be constructed along Fairfield Road and that a new road would be constructed from the intersection, through the ARIS site to the site. The report stated that this new road would be provided with immunity from the Brisbane River Q50 flood level of RL 6.6.
115. Lambert & Rehbein's report stated secondary access to the site located at the intersection of Softstone Street & King Arthur Terrace will be a 3-leg roundabout and is located above the nominated Brisbane River Q100 flood level of RL 7.9 for the site and will provide flood free access for the site as required by Brisbane City Council Development Guidelines.
116. Lambert & Rehbein's report stated that the existing intersection of Ortive Street and Fairfield Road is to be closed to facilitate the new intersection for the primary access road and that it is proposed to provide access to Ortive Street from the new roundabout on the primary access road. The report stated that the sag point of this access will be located at RL 7.7 which is 200mm below the nominated Brisbane River Q100 flood level of RL 7.9 for the site and that this depth of water is considered acceptable and will still provide for flood free access to the existing residences in Ortive Street as required by Brisbane City Council Development Guidelines.

Item 3. Any expert or other investigations into the effect of the Tennyson Reach development on flood

117. GHD's report investigated the impact of the proposed TRD works on the site floodplain storage and concluded that it showed a loss of approximately 36,000 cu m for the total project site and that this storage volume represents a minimal percentage of total available floodplain storage in this reach of the Brisbane River. The report concluded that it is expected that the proposed development will have no measurable adverse impact on flood afflux or peak flood flow rate due to loss of floodplain storage.

Item 4. A brief account of the relationship between the State of Queensland through the Departments administering and assessing the development process at the Tennyson Development Site, including Tennis Queensland, and any ongoing relationship between those parties

118. The State worked closely with and consulted a number of other parties during the TRD project.
119. The State worked closely with TQ and TA in investigating the scope, function and layout of the STC to be constructed as part of the TRD and the subsequent ownership and management arrangements for the venue. These investigations identified the need for the venue to operate in community, training/development and major event mode.
120. In January 2005, SRQ wrote to TQ to advise of the two-stage competitive bid process for the TRD, confirm that TQ was bound by the SRQ confidentiality agreement with regard to the project and noted that SRQ was likely to call on TQ to provide technical advice on a number of issues associated with the STC (Attachment **TP-28**).
121. On 3 October 2003, the State, through SRQ, and TQ entered an agreement to work cooperatively to facilitate the development of a STC (Attachment **TP-29**). The agreement noted the proposal for the State to initiate a competitive bid process for the TRD and that TQ had agreed to establish and authorise a sub-committee to provide specialist advice to the department and to liaise directly with the department on the bid process.
122. On 21 October 2004, SRQ wrote to TQ seeking technical advice on the design and functionality of elements of the STC (Attachment **TP-30**).
123. On 7 November 2004, TQ wrote to SRQ to provide advice on the lifecycle cost for tennis courts (Attachment **TP-31**).
124. The State, predominately through SRQ, and then Mirvac once appointed developer for the TRD, consulted with the local community on the proposed project and the impacts for local residents. SRQ met with the Tennyson Residents Association on a number of occasions to provide project updates and receive feedback on the impacts of the project on the local community. My recollections are that key issues for the local community were transport and

access arrangements, the nature and scope of the residential development and the impact on residents during construction.

125. In April 2006, TQ advised the State that its event attraction strategy for the STC had shifted focus from hosting Davis Cup ties in winter on grass to hosting a major hard court tournament in summer as a key lead in to the Australian Open and that the shift would require design changes to the STC including the construction of a roof to the centre court facility.
126. On 4 April 2006, TQ wrote to SRQ to recommend that the proposed design for the STC be reviewed so the stadium could host an annual summer lead in event to the Australian Open (Attachment TP-32). As indicated above, the State supported design changes to the STC to assist in attracting major tennis events back to Queensland.
127. On 7 July 2006, TA announced a new combined Australian Men's and Women's Hard court Championship event would be held at the STC in Brisbane from January 2009. The inaugural Brisbane International was held in January 2009.
128. The State consulted with Bicycle Queensland about its views on the provision of bicycle access through the TPS and ARIS sites as part of the TPS project. The results were taken into account in developing the transport and access requirements for the TPS.
129. The State received requests for particular facilities to be incorporated into the TRD design and requests to participate in the construction and delivery of the TRD. These requests were onforward to Mirvac once it was appointed developer for the TRD.

Item 5. A detailed account of the involvement of the State of Queensland, if any, in the decision by Mirvac after the January 2011 floods not to proceed with further residential buildings on the Tennyson development site, including:

- 5a. chronology of the involvement of the State of Queensland after 13 January 2011**
- 5b. any advice or information provided by the State of Queensland to Mirvac or the Brisbane City Council with respect to the decision**
130. To the best of my knowledge DOC had no involvement in the decision by Mirvac not to proceed with the further residential development. I became aware of the proposal via an article in the media (Attachment TP-33).
131. Therefore there is no other information to provide in the form of a chronology and to the best of my knowledge DOC did not provide any advice or information to Mirvac or to the BCC with respect to the decision.

Item 6. A detailed account of the involvement of the State of Queensland, if any, in the agreement between the Brisbane City Council and Mirvac for the Brisbane City Council to purchase part of the Tennyson development site to convert into parkland, including:

6a. a chronology of the involvement of the State of Queensland after 13 January 2011

6b. any advice or information provided by the State of Queensland to Mirvac or the Brisbane City Council with respect to the decision

132. To the best of my knowledge DOC played no part in the agreement between Mirvac and BCC in relation to the purchase of part of the TRD site to convert into parkland.

133. Therefore there is no other information to provide in the form of a chronology and to the best of my knowledge DOC did not provide any advice or information to Mirvac or to BCC with respect to the decision.

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

Signed:.....
Timothy Peisker

Taken and declared before me, at Brisbane this 7th day of September 2011

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