

# QUEENSLAND FLOODS COMMISSION OF INQUIRY

## STATEMENT OF PHILIP BRUMLEY

In accordance with section 5 of the *Commissions of Inquiry Act 1950 (Qld)*, I Philip Brumley, Chief Executive Officer of Nogoa River Flood Plain Board make the following statement under oath as required by the Commissioner of Inquiry:

### The function of the Nogoa River Flood Plain Board

1. The Nogoa River Flood Plain Board ("The Board") was created and empowered as a joint local government of the Emerald and Peak Downs local governments under the provisions of the *Local Government Act 1993* on 19 September 1996.
2. Following the creation of a regulation under the *Local Government Act 1993*, the Board became a joint local authority under the Local Government (Areas) Regulation 2005, covering parts of Broadsound Shire Council, Emerald Shire Council and Peak Downs Shire Council.
3. Following further amendments to the *Local Government Act 1993*, the Board became a joint local authority under the Local Government (Areas) Regulation 2008, covering areas of Central Highlands Regional Council and Isaac Regional Council.
4. Following the repeal of the *Local Government Act 1993*, the *Local Government Act 2009* and Local Government Reform Implementation Regulation 2008 preserved the status of the Board as a joint local government.
5. The Board's primary responsibility is to regulate the development and use of works on the Nogoa River Flood Plain.
6. By applying the provisions of the Local Law in regulating the development and use of works on the Nogoa River Flood Plain, the Board seeks to:-
  - a. Optimise the beneficial use of the floodplain and its resources whilst reducing the impact of flooding and flood liability.
  - b. Ensure development on the floodplain occurs in accordance with the principles of sustainable development (economic, social, environmental)
  - c. Provide a platform on which equitable and logical development of the floodplain can take place so as to ensure a sound basis exists for consistent decision making.

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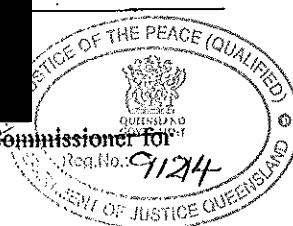
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**The law/s that the Nogoa River Flood Plain Board administers**

7. The Board administers the following laws:

- a. Nogoa River Flood Plain Board – Local Law (Levee Banks) No. 1 1997 (as amended 14/01/2000).
- b. Nogoa River Flood Plain Local Law Policy No. 1 – Levee Banks.

**The area over which the Nogoa River Flood Plain Board has jurisdiction, providing details of the boundaries by reference to a map**

8. The Board has jurisdiction over the area defined as the Nogoa River Flood Plain (map attached).

**The role of the Nogoa River Flood Plain Board in assessing levee banks at or adjoining mine sites within its jurisdiction**

- 9. The role of the Board in assessing mine site levees is the same as for any structure on the flood plain. Independent expert assessment is obtained from SunWater on the hydraulic impact of the levee(s) on adjoining properties.
- 10. Following the inundation of the Ensham mine in the 2008 floods, Ensham's application to extend their levee banks was declared as a "prescribed project" and was then dealt with by the Coordinator General who proceeded to assess and issue permits to Ensham without the further involvement of the Board.

**The role of the Nogoa River Flood Plain Board in assessing levee banks at mine sites outside its jurisdiction that have an impact on waterways within its jurisdiction**

11. Ensham Resources is the only mine site situated on the flood plain. There are no other mine sites outside the Board's jurisdiction that would have an impact on waterways within its jurisdiction.

**Details of river flood plain information, including flood studies, used in the assessment of applications relating to levee banks, and an indication of whether, how and to what extent this information is available to members of the public**

12. The Board seeks independent expert assessment from SunWater (Rob Ayre) (prior to 2002 - Department of Natural Resources) for each and every application it receives for construction of a levee bank on the flood plain. The Board's decision to approve or not approve is based on the recommendation received from SunWater. The information contained in the applications and reports are available to the members of the public on request.

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**A list of all applications and investigations regarding levee banks made to the Nogoa River Flood Plain Board since 1 January 2000**

13. A list of all applications and accompanying reports received by the Board since 2000 are provided as an attachment to this statement.

**Details of all material held by the Nogoa River Flood Plain Board for levee banks constructed on the property owned by Mr Trevor Elsden located at Tyson Road, Emerald, Queensland 4720 and the property owned by Mr Scott Dunbar located at Bertles Road, Emerald Queensland 4720**

14. The Board holds no material for construction of levees on properties owned by Mr Trevor Elsden or Mr Scott Dunbar both of which are situated outside the jurisdiction of the Board. The former owner of Mr Elsden's property, Mr Nigel Hobson, originally made application to the Emerald Shire Council in 1997 but this was not proceeded with and a permit was not issued. Mr Scott Dunbar made an application to the Peak Downs Shire Council in 1998 and was granted an exemption from having to obtain approval for his off stream storage banks as they were below the referable level.

Sworn by Philip Brumley at *Emerald* this *6<sup>th</sup>* day of *September* 2011 in the presence of:

Witness

Solicitor/ Justice of the Peace/ Comm. Sec.

