

## Statement by Barry Kevin Dennien, sworn on 3 February 2012

I, Barry Kevin Dennien of Level 15, 53 Albert Street, Brisbane, Queensland, the Chief Executive Officer of the South East Queensland Water Grid Manager (**Water Grid Manager**) state the following on oath.

- 1 In this statement to the Queensland Floods Commission of Inquiry (**Commission**), as required in the letter to me dated 2 February 2012 (**Letter**), I have:
  - (a) provided all the information in my possession and identified the source or sources of that information; and
  - (b) made commentary and provided opinions I am qualified to give as to the appropriateness of particular actions or decisions on the basis of that commentary or opinion,in relation to the matters outlined in topics 1 to 5 in the Letter.
- 2 I provide this statement only in respect of the topics listed in the Letter. I address each of those topics separately below.
- 3 As is apparent from this statement and the documents annexed to it, I was assisted in the tasks of retaining and instructing Mr Brian Cooper by the Water Grid Manager's Director of Governance and Regulatory Compliance, Ms Elaina Smouha.
- 4 For the purposes of preparing this statement, I have consulted with Ms Smouha as to discussions which she had concerning these matters, and set out her account of those matters. I also annex to this statement copies of emails sent and received by Ms Smouha relating to this matter.
- 5 I have previously given two statements to the Commission, which were sworn on 5 April 2011 (**First Statement**) and on 1 February 2012 (**Second Statement**). Those statements

Signed

Barry Kevin Dennien

Taken by

[Justice of the Peace/Solicitor]

annexed large volumes of material. In accordance with the direction given in the Letter, if any records relating to topics 1 to 5 in the Letter are already before the Commission, whether as an exhibit or otherwise, I have identified (as far as possible, having regard to the time available) where the record is contained by reference to an exhibit, page and/or annexure number.

**Topic 1: The circumstances which led to the engagement of Mr Brian Cooper to conduct an independent review of the operation of Wivenhoe Dam (including controlled releases) for compliance against The Manual of Operational Procedures for Flood Mitigation at Wivenhoe and Somerset Dam (Revision 7)**

- 6 The following is my recollection of the circumstances which led to the engagement of Mr Cooper.
- 7 I was scheduled to attend a meeting of the State Disaster Management Group (**SDMG**) at Kedron at 8.00am on Tuesday, 11 January 2011. Prior to that meeting, at 7.17am on 11 January, I received from Mr Dan Spiller, the Director of Operations of the Water Grid Manager, a copy of Technical Situation Report (**TSR**) W38, which had been issued at 6.30am that morning by Mr Robert Drury, the Dam Operations Manager of Seqwater. A copy of that TSR is annexed at page 199 of my Second Statement. That TSR was significant, in that it noted that the level of Wivenhoe Dam was 73.51 AHD and rising at about 25mm per hour. Releases from the dam had been held at a rate of 2,750m<sup>3</sup>/s since 7.30pm the previous evening. The TSR noted that radial gates of the dam were open at the time and still releasing about 2,750m<sup>3</sup>/s and that at that stage, the dam would reach just over 74.0 AHD that evening. At above that level, the objective for the dam operations would be to maintain the security of the dam and to minimise downstream flows if possible.
- 8 I subsequently attended the meeting of the SDMG. Among the attendees were the Premier and the then Director General of the Department of Premier and Cabinet, Mr Ken Smith. During the meeting, I briefed the attendees on TSR38.

Signed

Barry Kevin Dennien

Taken by:

[Justice of the Peace/Solicitor]

- 9 Following the SDMG meeting, I had a separate meeting with the Premier and Mr Smith. I told them (reiterating comments made by Mr Borrows, the Chief Executive Officer of Seqwater, at a meeting the previous day) that Wivenhoe Dam had never experienced an event as big as the current event. While I commented that I had no personal reason to suspect that the dam operations were not appropriate, our discussion concerned the importance of ensuring public confidence in the operation of the dam. That was especially so following the releases from the dam which had been occurring at different times since October 2010 and which had been the topic of significant public discussion. With that imperative in mind, it was agreed between the Premier, Mr Smith and me that an expert should be urgently retained to undertake an independent review of the operation of Wivenhoe Dam. I was instructed by the Premier and Mr Smith to immediately arrange the commissioning of an expert to assess how the dam operation was being performed against the requirements of the Flood Mitigation Manual (that is, the Manual of Operational Procedures for Flood Mitigation at Wivenhoe and Somerset Dams). I indicated that I would seek to identify a suitable expert after consultation with the Dam Regulator and Seqwater and then proceed accordingly.
- 10 Following my meeting with the Premier and Mr Smith, I spoke with Mr Borrows who agreed to initiate urgent enquiries to identify a number of possible independent experts who could undertake the review.
- 11 I recall that on returning to my office from the meeting, I spoke with Ms Smouha and told her of the instructions which I had received from the Premier and Mr Smith to engage an independent expert. I did so because Ms Smouha was normally responsible for the documenting of the Water Grid Manager's consultancy arrangements. I instructed Ms Smouha that once the prospective experts were identified, she was to contact them, ascertain their availability and then, after consultation with me, retain the expert agreed upon.

Signed

Barry Kevin Dennien

Taken by:

[Justice of the Peace/Solicitor]



12 I recall that at about that time, Mr Borrows had been attempting to forward to me an email that he had received from Mr Peter Allen, the Director, Dam Safety (Water Supply), in the office of Water Supply Regulator within the Department of Environment and Resource Management. The email identified four possible experts, together with their contact details. I finally received that email at 10.54am.

13 I am informed by Ms Smouha and believe:

- (a) that at about the same time as I received Mr Borrows' email, he had had a separate discussion with her, in which he read to her the list of prospective experts and gave her their contact details;
- (b) she then telephoned, or attempted to speak with, each of the nominated experts; and
- (c) she identified Mr Cooper as the expert who was best placed to undertake the engagement as a matter of urgency.

14 After undertaking her enquiries, Ms Smouha discussed Mr Cooper's proposed appointment with me. I agreed to his appointment.

15 Following our discussion, at 11.42am Ms Smouha sent an email to Mr Smith, attaching Mr Cooper's CV and notifying him that the Water Grid Manager intended to engage Mr Cooper to undertake the independent review.

## **Topic 2: The engagement of Mr Cooper**

16 Mr Cooper was engaged by email on the afternoon on 11 January 2011.

17 At 4.08pm on 11 January 2011, Ms Smouha sent an email to Mr Cooper providing him with a draft Consultancy Agreement for his consideration. He subsequently accepted that agreement.

Signed:

Barry Kevin Dennien

Taken by:

[Justice of the Peace/Solicitor]

- 18 Mr Cooper was asked to provide a written preliminary advice by 9.00am on 12 January 2011 and a formal written report by 4.00pm on the same day.

**Topic 3: All instructions given to Mr Cooper**

- 19 The scope of work set out in the Consultancy Agreement stated that Mr Cooper was engaged by the Water Grid Manager to:
- (a) review the operation of Wivenhoe Dam, including controlled releases, for compliance against the Flood Mitigation Manual for the period commencing on or about 13 December 2010 to 11 January 2011 (**Flood Event**); and
  - (b) advise on whether the decisions and actions taken during the Flood Event regarding the operation of Wivenhoe Dam were prudent and appropriate in light of the Flood Mitigation Manual's requirements and the circumstances of the Flood Event.
- 20 The scope of work expressly excluded a review of the sufficiency or adequacy of the Flood Mitigation Manual itself.
- 21 Mr Cooper's advice was requested to be given in the context of:
- (a) the Flood Mitigation Manual's requirements; and
  - (b) the facts, matters and circumstances of the Flood Event.

**Topic 4: The material provided to Mr Cooper**

- 22 Material provided to Mr Cooper for the purpose of his review included:
- (a) a link to Seqwater's website containing historical dam storage data;
  - (b) a copy of the Flood Mitigation Manual;
  - (c) a copy of the TSRs for December 2010;
  - (d) a copy of the TSRs to date for January 2011;

Signed

Barry Kevin Dennien

Taken by

[Justice of the Peace/Solicitor]

- (e) a link to the Bureau of Meteorology's website which contained summary tables rainfall information for 2010 and 2011;
- (f) a copy of the draft Protocol for the Communication of Flooding Information for the Brisbane River Catchment – including Floodwater Releases from Wivenhoe and Somerset Dams; and
- (g) a document titled *Seqwater Dam Operations January 2011* containing information in respect of flood peaks volumes and hydrographs.

23 Copies of all documentation referred to in topic 4 are either contained as part of **Annexure A** to this statement or cross-referenced in the index to that annexure.

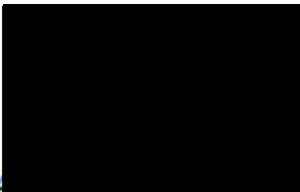
24 In addition, I participated in an initial teleconference with Mr Cooper and Ms Smouha at 12.30pm on 11 January 2011, during which a general overview of the engagement was provided. Mr Allen also participated in that teleconference. During the teleconference, the invitation was made to Mr Cooper to make any additional enquiries of Mr Allen. I have no direct knowledge as to whether Mr Cooper made further enquiries of Mr Allen, although it appears from the face of his report that he may have.

**Topic 5: All communications involving Mr Dennien or any other employee of the South East Queensland Water Grid Manager – whether with Mr Cooper or any other person – about:**

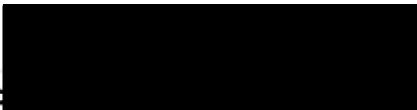
**5.1 The engagement of Mr Brian Cooper**

25 Copies of all emails and documentation relevant to the engagement of Mr Cooper are either contained as part of **Annexure A** to this statement or cross-referenced in the index to that annexure.

Signed:

  
Barry Kevin Dennien

Taken by:

  
[Justice of the Peace/Solicitor]

## 5.2 Mr Cooper's report/s, including the use to be made of his reports

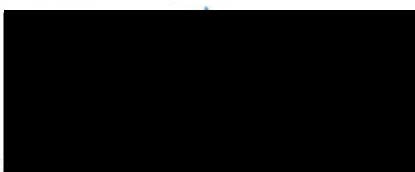
### 12 January 2011

- 26 At 9.12am on 12 January 2011, I received an email from Mr Cooper providing his initial report regarding the operations of Wivenhoe and Somerset Dams (**Preliminary Report**).
- 27 At 9.24am, I requested, via email, that the Water Grid Manager's Director of Operations, Mr Dan Spiller, and Mr Borrowes proof check the Preliminary Report.
- 28 At 9.36pm I received a response email from Mr Borrowes confirming that the Preliminary Report 'OK' by him.
- 29 At 9.47am, I sent an email to Honourable Stephen Robertson (the then Minister for Natural Resources, Mines and Energy and Minister for Trade) providing him with a copy of the Preliminary Report.
- 30 At 11.03am Ms Smouha forwarded a copy of the Preliminary Report to Mr Allen and Mr Borrowes.
- 31 At 2.15pm, Ms Smouha forwarded a copy of the Preliminary Report to Mr Bradley, Mr Timothy Watts, a Ministerial advisor and others informing them that the final report was due by close of business that day.
- 32 At 3.31pm, Mr Cooper emailed Ms Smouha providing his final report (**Final Report**), as requested.

### 13 January 2011

- 33 At 9.27am on 13 January 2011, I sent an email to Mr John Bradley, the then Director General of the Department of Environment and Resource Management, providing him with a copy of the Preliminary Report.

Signed:



Barry Kevin Dennien

Taken by:

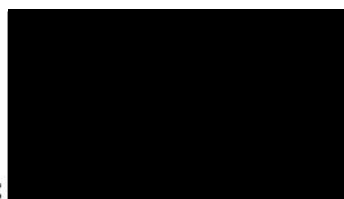


[Justice of the Peace/Solicitor]




- 34 At 4.45pm on 13 January 2011, Ms Smouha sent the Final Report, via email, to Mr Watts at Minister Robertson's office, copied to Mr Smith and Mr Bradley. The email also attached my covering letter to Minister Robertson of the same date, together with a briefing note from Seqwater on the development of the Flood Mitigation Manual.
- 35 At 5.25pm on 14 January 2011, Ms Smouha re-sent to Mr Smith, the email referred to in the preceding paragraph.
- 36 At 1.42pm on 15 January 2011, Ms Smouha sent an email to Mr Bradley regarding a 2.00pm teleconference in respect of the following Monday's Emergency Cabinet meeting. The talking points attached to Ms Smouha's email mentioned a review requirement under the Flood Mitigation Manual as well as the prospect of obtaining a more comprehensive report from Mr Cooper.
- 37 At approximately 2.00pm that day I took part in a teleconference in relation to the Ministerial Briefing Note dated 16 January 2011.
- 38 Information concerning the preparation of the Ministerial Briefing Note and my involvement with it is set out in paragraphs 35 to 37 in my Second Statement.
- 39 On 17 January 2011 at 8.53am, I received an email from Ms Smouha informing me that she had received a telephone call from Toni Lake, Legal Counsel, Seqwater, requesting that Mr Ken Sedgwick, Assistant Under Treasurer, Queensland Treasury, be provided with a similar update as that provided to Minister Robertson.
- 40 At 11.54am on 17 January 2011, I was copied into an email that one of my staff members sent to Ms Smouha informing her that this was done.

Signed:



Barry Kevin Dennien

Taken by: ....

  
[Justice of the Peace/Solicitor]



41 All the facts and circumstances deposed to herein are within my own knowledge, save such as are deposed to from information only, and my means of knowledge and sources of knowledge appear in this my statement to the Commission.

Sworn by Barry Kevin Dennien on 3 February 2012  
in the presence of:

▲ Signature of Barry Kevin Dennien

▲ Signature of witness

Cindy Jane Hulsey

▲ Name of witness (print)