

Transcript of Proceedings

Issued subject to correction upon revision.

THE HONOURABLE JUSTICE C HOLMES, Commissioner

MR JAMES O'SULLIVAN AC, Deputy Commissioner

MR PHILLIP CUMMINS, Deputy Commissioner

MR P CALLAGHAN SC, Counsel Assisting

MS E WILSON, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2011

QUEENSLAND FLOODS COMMISSION OF INQUIRY

EMERALD

..DATE 29/09/2011

..DAY 39

THE COMMISSION RESUMED AT 10.07 A.M. IN EMERALD

COMMISSIONER: Yes, Mr Callaghan? I might just see who the appearances are.

MR CALLAGHAN: Yes.

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COMMISSIONER: Mr Ure, you are appearing for?

MR URE: The Local Government Association of Queensland on behalf of the Central Highlands Regional Council.

COMMISSIONER: Thanks, and Mr MacSporran for the Crown.

MR MacSPORRAN: Thank you.

COMMISSIONER: Mr Holyoak?

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MR HOLYOAK: For Suncorp and AAMI.

COMMISSIONER: Thank you. It is hard to find people here.

Ms McLeod for the Commonwealth.

MS McLEOD: For the Commonwealth, yes.

COMMISSIONER: That's it? All right. Thank you.

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MR CALLAGHAN: Madam Commissioner, yesterday when we were in Brisbane, we began to hear evidence concerning issues of relevance to the people of Emerald.

Apart from Brisbane and Ipswich, Emerald is the only location in which this Commission will sit more than once. Our return is indicative of the importance that the Commission attaches to addressing the concerns of Regional Queensland and this area is significant for a number of reasons.

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As I announced last week, the Commission is examining, in the course of its hearings, the manner in which authorities must balance the essential interests of mining companies against equally essential environmental concerns during times of flood. Although this topic will not be the subject of evidence today, we are aware of the interests shown in this subject by residents of towns such as Emerald and our work in this area will continue during the weeks ahead.

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Emerald also stands out as one of the most dramatically affected areas by the floods of last wet season. When we look at a map such as Exhibit 540, we can see at a glance the extent to which the town itself was inundated.

When viewed against the background of a map such as that, the significance of our inquiries into land use planning is self evident.

Some relevant concerns about planning decisions were aired in Brisbane yesterday and we will hear more from local residents today.

We will also hear from witnesses such as Craig Edmonston, a former Mayor of the Emerald Shire Council; from the council's Chief Executive Officer, Mr Bryan Ottone; and from the current Mayor, Mr Peter Maguire.

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To these witnesses we will address questions relevant to the past and future development of Emerald, and, in particular, about flood studies and the impact of flooding in residential and industrial areas of the town.

We are aware that the management and maintenance of the LN1 drain is an issue of continuing concern to the people of Emerald. Again, we heard some evidence about that only yesterday.

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The Commission has required the owner and operator, SunWater, to provide a response to certain questions regarding that drain. We now have statements from a Mr Robert Keogh and from Mr Robert Ayre, the contents of which address these issues. These statements are comprehensive and at this stage there is no plan to call either gentlemen as a witness, but I will take the opportunity while we are here, to tender both of those statements.

COMMISSIONER: Mr Keogh's statement will be Exhibit 671.

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ADMITTED AND MARKED "EXHIBIT 671"

COMMISSIONER: Mr Ayre's, Exhibit 672.

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ADMITTED AND MARKED "EXHIBIT 672"

MR CALLAGHAN: The construction and regulation of levee banks is also a subject of continuing interest in this area.

Mr Robert Anderson has made a submission to the Commission as to the effect that certain agricultural levee banks have had on his property in times of flood. We shall hear from Mr Anderson, and also from Mr Phillip Brumley, who has been the Chief Executive Officer of the Nogoa River Floodplain Board.

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There has been a major development in this area in that the board has voted to dissolve itself, and we shall take this opportunity to let Mr Brumley explain the reasons behind that

decision, and question him generally as to the future management of the floodplain area.

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There is another local resident who has expressed opinions on some of the issues I have mentioned, Ms Cresta Richardson, and Ms Richardson has also raised concerns relevant to the topic of insurance.

As I announced in Brisbane, we have a particular focus for this aspect of our inquiry and it includes issues such as the adequacy of communications between insured and insurance company.

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Now, many of the events in this region occurred before the resources of insurance companies were stretched as a result of events elsewhere. And, indeed, yesterday we heard some evidence of a very positive nature about the manner in which insurance responsibilities were discharged.

Nevertheless, there is, in the statement of Ms Richardson, some relevant concerns, and we will explore those while we are here.

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In fact, we propose to hear from her after a short adjournment, if it please the Commission.

COMMISSIONER: We will adjourn for five minutes or so, however long you need.

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THE COMMISSION ADJOURNED AT 10.14 A.M.

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THE COMMISSION RESUMED AT 10.20 A.M.

COMMISSIONER: Yes, Mr Callaghan?

MR CALLAGHAN: I call Cresta Richardson.

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CRESTA LEE RICHARDSON, ON AFFIRMATION, EXAMINED:

MR CALLAGHAN: Your full name is Cresta Lee Richardson?--
Yep.

Ms Richardson, you've prepared a statement for the purposes of
the Commission, is that correct?-- Yes.

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I will get that shown to you. That's a copy of your
statement?-- Yes, I have one here also.

Thank you. I tender that.

COMMISSIONER: Exhibit 673.

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ADMITTED AND MARKED "EXHIBIT 673"

MR CALLAGHAN: I might at this stage, for convenience, tender
a statement of James Joseph Higgins and accompanying exhibits.

COMMISSIONER: 674.

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ADMITTED AND MARKED "EXHIBIT 674"

MR CALLAGHAN: Ms Richardson, we might, as in the order of
your statement, deal with the issue of insurance first?--
Yep.

And the first thing I might do is just clarify with you - if I
can take you to paragraph 4 of your statement?-- Yes.

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Should that be 31 December rather than 31 January?-- Yes. I
believe the new documentation has 31 December on it.

That's been amended, all right, thank you?-- Yeah.

If people are working from old copies that can be corrected?--

Yes, it was 31 December.

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Yes. And you outline in that earlier part of your statement the nature of the damage to your place and the fact that you made the claim to Suncorp?-- Yes.

Is it the case that you made this statement on the 15th of September 2011?-- This statement?

The statement that we just tendered?-- Yes.

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It is only a recent?-- Yes, recent.

Yes. And you were, I take it, casting your mind back to events that happened in December/January of last year?-- Yes.

And I ask you that because you've seen - since you made your statement you've seen, just recently, I think, the statement from Mr Higgins, is that correct?-- Yes. Read it with interest.

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Okay. Well, I will ask you about your interest in a moment?-- Uh-huh.

Can I just as a starting point refer to paragraph 8 of his statement-----?-- Yep.

-----where there is a summary of contact between yourself and Suncorp? Do you have a copy of that there?-- Yeah.

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COMMISSIONER: Mr Callaghan, just before you go on, are there hardcopies of these statements? We don't have them electronically?

MR CALLAGHAN: I think we've got some hardcopies. I understand we've got some difficulty with the technology for another hour or so.

COMMISSIONER: All right, thank you.

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MR CALLAGHAN: So we won't be able to get it up on the screens. But there are copies for the Commissioners.

COMMISSIONER: Thank you.

MR CALLAGHAN: And I had just taken Ms Richardson to paragraph 8 of Mr Higgins' statement where there is a table of communications.

Given, Ms Richardson, that it would seem that this table is compiled by reference to notes that were made at the time-----?-- Yes.

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-----and given that you were at the considerable disadvantage of turning your mind back some nine months or something-----?-- Mmm.

-----when you made your statement-----?-- Yeah.

-----would you accept that the table is at least an accurate reflection of the number of calls?-- Since - since we have moved over to Chris Young and both Ashley Bailey, I would assume that, yes, and I would agree with that, but initially I was given information - and I think it says there - on the 4th of the 1st to ring the case manager. Unfortunately, I think it is the only call I missed in, like, a five-day period. And so I got home - I was at my folks' place at the time - I got back and I rang Emma Ging, who was our case manager at the time, and from then I tried to ring her. Now, I did try to ring her over 100 times but I didn't leave 100 messages.

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Right. I was going to ask you about that because in your statement, if you could go to paragraph 11-----?-- Yep.

-----and we can tell by reference to Mr Higgins' statement that this is so, there has been some considerable communications-----?-- Yes.

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-----and disputes about the actual repairs and the process of repairs, and I don't want to necessarily go over that?-- Uh-huh.

But I was going to ask you when you say in paragraph 10 - or you make that reference to 100 unanswered calls-----?-- Mmm.

-----whether that was overall, like in the period through to September or whether you are-----?-- No.

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-----talking about that-----?-- No, I am talking about the period from - when I initially received the phone call from Suncorp on the 4th of January, through to when I spoke - when I spoke to the supervisor, which I think was the 7th of January, Angela - oh, hang on-----

By all means refer to Mr Higgins' table if you need to?-- I am sorry - her name's not there. The supervisor of Emma Ging at that point. So that was Friday the 7th of January. I think.

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All right?-- If that was a Friday. It was Friday afternoon.

I suppose, just to tie off on this, in paragraph 7 when you say "Suncorp did not contact us, we did all of the contacting", would you accept that Mr Higgins' table does indicate that at least some calls were made to you by Suncorp, even perhaps even just returning-----?-- Yes, I would certainly agree with that. I probably - I don't know how but I must have missed them and I don't have any record on my phone that I actually received them, but there must have been some. What I would like to say, though, was at the time of lodging our claim, the lady was extremely helpful, but I only gave her our mobile phone numbers, and a number of times in the response from Suncorp it indicates - and through the information here - it indicates that they rang our landline. Our landline was inaccessible at the time, so I don't understand why, in any case or form, there were phone calls

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being made to our landline when I haven't given them those contact details at that point.

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All right. Well, I am sure you will be asked some further questions about that by Suncorp-----?-- And I am happy to answer those.

We might leave that-----?-- Yep.

-----for the moment and turn to the land planning issues which you raise in paragraph 13 and following. And can I take you to paragraph 14 where you refer to the Kinhill report?-- Yes.

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Which you say you have browsed?-- Yes.

What do you understand that to be, the Kinhill report?-- Well, I-----

Sorry, I will interrupt. Let's start from the beginning?-- Uh-huh.

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Where did you see it, or how did you come to know about it?-- How did I come to know about it? I was looking initially for more information for our statement, and we have a box full of stuff from our initial land planning application to the council. So I browsed and perused our original owner's copy, and in there it mentions the Kinhill report and the bit there in italics where it says "in addition floor level to be 300 millimetres above the crown of the road or the back of the kerb whichever is highest."

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COMMISSIONER: Ms Richardson, can I get you to go slowly, because if you see the lady next to you, she is actually taking every word down, and especially when you are reading something you need to do the odd pause so she can catch it all?-- Sorry.

So you got to the end of your quote. Go on from there?-- Did you get all that bit? Thank you. Then it mentions that the date and reference, I assume is the Kinhill report 1993. And then it talks about flood level, 176.8 AHD, floor level 177.10 AHD. Now, I have no idea what those numbers mean, but I did think that it was interesting that the council put that in our original planning as obviously something to refer to regarding flooding.

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MR CALLAGHAN: What - when you say it was in the original planning, which actual documents was it in, can you-----?-- It was in - I - from memory - and I could be a little bit sketchy with this, but I think it was our owner's copy that came back approved from the council. So our original development application for the house.

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Right. And when you say you have browsed the Kinhill report-----?-- Mmm.

-----what have you done in that regard?-- Well, it's, I think, an 80 page document, or something like that, so I

looked at the pictures, because pictures are a little bit easier sometimes, so I was looking at the mapping of the Gosford area, so the Kinhill report refers to flooding in Gosford in 1992, '93 or so, and the council had, from my understanding, commissioned the report from the Kinhill Group.

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Where did you get a copy - did you have a copy of the report itself?-- No, I browsed it online.

Online?-- Got to love Google.

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You say that the issues mentioned by the respondents from Kidd Street are covered in the report, and you have probably developed those in the subsequent paragraphs of your statement?-- Uh-huh.

Would you like to take the opportunity to express the concerns that you have about the planning issues involved?-- Yeah, you know, like, we bought a northern industrial estate and - in 2008 the water came into our yard, and at that point we thought, "Oh, gee, that's a bit of a bugger", and hoped that it would never happen again, as I think a lot of people in town did. There are planning applications - sorry, development applications in for a high impact industrial building to be built about 60 metres away from our homes.

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Is this the batching - the concrete batching plant?-- Mmm. In my objection letter last year, I mentioned if that business was to go ahead, or any other high impact thing with the environmental impacts of those materials going into the flood zone, should there be another flood, where would they go. And I think the LN1 drain doesn't get maintained as well as it should. I know the council put something in the paper early in September saying that they were going to do some burn-off but due to weather or something, I don't believe that it happened on our side of the town. So I just think that we need to do something about that drain because it tends to back up, but I also think that we need to be wary of approving high impact industrial businesses within that industrial estate as well.

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Because of the drainage issues?-- Because of the drainage issues. I think I've said it in my statement, there have been two businesses approved and they have had to be built up, and that's fine, but has that had an impact on our houses in Kidd Street in the flood event of December/January. I think that question has to be asked.

All right. In paragraph 22 you have some suggestions about what can be done to minimise the adverse effect of flooding?-- Uh-huh.

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Are these - and I don't mean to challenge you but do you have any expertise-----?-- No.

-----or are these just things you've-----?-- No, none at all. Just - I am just a resident of the town and it's happened twice in a small period of time. So you have a bit of a

browse around and have a look and you think, "Well, gee, there is a 90 degree turn in that drain there, that doesn't seem right. You know, doesn't seem like a very good solution." You go to the community meeting, people are talking about the pipes on the other side of the highway, they're small pipes. Everybody heard it at the community meeting in March.

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That was my next question, really. If you don't have expertise, are you drawing upon discussions that you've had with others-----?-- Definitely.

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-----and do you understand the bullet points that you've got in that paragraph to reflect some community opinions?-- Yeah, I think I understand them. The second last point in particular was a question that I asked at the community meeting in March; you know, was water or the council consider either maintaining, deepening and widening the LN1 drain or establish a different drain that will allow the water to drain off further north.

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So, in summary, your two major concerns are the issue of further building approvals and the drainage consequences-----?-- Definitely.

-----that they might have, and that is building approvals in the industrial estate?-- I don't want to be here again in three years' time saying the same thing. I think that's probably where it comes from.

All right. And the maintenance of the LN1 drain is the other major concern that you have?-- Definitely.

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All right. Thank you. I think some others may have some questions.

COMMISSIONER: Mr Ure?

MR URE: I have nothing, thank you.

COMMISSIONER: Mr MacSporran?

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MR MacSPORRAN: I have nothing, thank you.

COMMISSIONER: Mr Holyoak?

MR HOLYOAK: Yes, thank you, your Honour.

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MR HOLYOAK: Ms Richardson, I wish to ask you some questions about the insurance parts of your statement?-- Yep.

Now, you are insured with Suncorp as your insurer since 2004, is that correct?-- At the property we're at now, yes, and we were insured with Suncorp prior to that as well.

And so that's the reference to the Kidd Street

property-----?-- Yes.

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-----from 2004?-- Yes.

And you were insured with Suncorp at another location prior to that?-- Yep.

Your property was flooded in 2008?-- No.

Didn't flood?-- No. Our - well, the property - yes, sorry, I apologise. The property did, but not our house.

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The house didn't, thank you. And obviously you renewed your cover with Suncorp in 2009?-- Yes.

2010?-- Yes.

And the 2011 year?-- Yes.

And the policy is renewed in June of each of those years?-- Yes.

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The December 2010 flood event fell within the policy period ending 16 June 2011?-- Yes.

And you contacted Suncorp to make the claim on 31 December 2010 by telephone?-- Yes.

That was a Friday, do you recall?-- No, I don't actually recall the day but I - 31st, I haven't written it down.

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That was new year's eve, as it happened?-- Yes. Fairly memorable date.

Unfortunately-----?-- I am sorry, I can't remember the day but that was the date.

All right. Well, do you accept from me that it was a Friday, Friday, 31st of December 2010?-- Well, I am hoping so.

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Right?-- Because then if we talk about something and it is Saturday, I am going to look silly, aren't I?

You have got - if I could take you, please - have you got Mr Higgins' statement?-- I have, yes. Is that the 15-page document from Suncorp I have received?

That's right?-- Yes.

If you could go to annexure one, do you have that handy?-- Yes.

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If you could look at that?-- Sorry, where do you want me to go?

Annexure one?-- Oh, yes.

That's the Suncorp filenotes?-- Is this the contact?

This is the series of filenotes, yes. The contacts between yourself or your partner, Jeffrey Carlman?-- Yes, there we go, I've got it.

And with Suncorp. Have you got that?-- Thank you, yes, I do.

Thank you. The second entry there, do you see 31 December 2010?-- I do.

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It mentions "major loss"?-- Yes.

Okay. "FNOL", which means "first notification of loss"?-- Right.

That was the first occasion which you phoned Suncorp about the flood event?-- Yes.

And you were given an insured claim number?-- I was.

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You were told about your excess?-- Yes.

And then you were advised an assessor will be in contact, and that means three working days?-- I gathered that but I wasn't actually told three working days at the time.

You weren't?-- No. Well, if she said it, I didn't hear "working days"; I heard "three days", and that's why I made a follow-up phone call on the Monday wondering why I hadn't heard from somebody.

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All right. Well, I will come to that phone call momentarily?-- Happy to do that.

You were also told "a claims manager", CM-----?-- Yes.

-----"appointed to claim contact" - SLO means Suncorp loss assessor - "in two working days"?-- Uh-huh.

Do you recall that?-- No.

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Right. But you recall being told about a - by the claims manager that a claims manager would be appointed and they - a contact would be made with a Suncorp loss assessor?-- I believe so, yes.

You just don't recall it was - two working days was mentioned?-- No, I don't recall there that two working days was mentioned but I do recall above that I was told three days, not three working days.

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Is that your recollection you were told-----?-- That's my recollection and I possibly - I have some notes written down at home.

You were advised of the limits up to your sum insured?-- Yes.

Could I then take you to the next day-----?-- Yes.

-----which is-----?-- The 1st.

New Year's day?-- Uh-huh.

Which is a Saturday?-- Uh-huh.

And there was a call received from you?-- Yes.

"Received call from Cresta"?-- Yeah.

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"Requesting information on damaged items and clean up"?--
Uh-huh. Yep.

And that was an incoming call from you?-- Yes.

And you were told some things there about your carpet. You were advised with respect to carpet that if it is damaged to move it, but to keep a sample to show the assessor?-- Yes. We still have that.

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You were also advised to keep a list of damaged goods noting the quantity, make, model and age?-- Yes. That was good information.

That's right. And if you go to page 5 of your statement. Do you have your statement there?-- I do. I will just shuffle over the paper. Excuse me. Page 5?

Yes. Sorry, paragraph 5 I meant to say. My mistake?-- Now I have shuffled paper and misplaced it. Back to front, trying to be helpful. Yep.

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Have a brief read of what you've said there at paragraph 5?-- Yes.

You have looked at that?-- Yeah.

Would you agree that broadly accords with the file record of the 1st of January 2011?-- Yeah.

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So-----?-- And those are all the things that we did.

Yes. So what you're speaking of there is reflected in the filenote of paragraph 5 is reflected in the filenote of 1st January-----?-- Yeah.

-----2011. Thank you. The 2nd of January 2011 was a Sunday?-- Uh-huh. Yes.

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The 3rd - the Monday was the New Year's Day public holiday, do you recall?-- I suppose I do now, yes. Thank you for reminding me.

The next working day was the 4th of January 2011?-- Yeah.

There was a telephone call on the 4th of January?-- Yes.

And that was an outbound call to you?-- Yeah.

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You were told that - confirmed that the notification of the new claim had been received?-- Yeah.

That a claim's manager had been assigned?-- Yes.

Do you recall that? It is being recorded?-- Yes, I do recall that it was left on a message.

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That's right. Because there are other details there about the history and the excess. Then it says "phoned insured. No answer on either home or mobile." So both numbers were called?-- Yes, and I don't know why the landline was called, and I did indicate before that I missed that mobile call.

Yes. "Left message on mobile for insured to contact the case manager"?-- Uh-huh.

And you were told in that conversation that the case manager was Emma Ging?-- I was, and it wasn't a conversation, it was a message.

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Message, correct. On that message you were told it was Emma Ging?-- Yes, I was, and I believe it was a direct line for Emma.

Yes. You were left a direct number?-- Thank you.

Direct contact number. Now, the next contact that's recorded from you is on Thursday the 6th of January 2011. Do you see that there in annexure 1?-- Yes.

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And you called?-- Uh-huh.

It says, "Cresta called for an update on claim as she needs to leave tomorrow"?-- Mmm.

Were you going away, were you?-- I was at Sunshine Coast, as I indicated before, and I was coming up here to help with the clean-up.

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So you were away at that stage, were you?-- Yes, I was. I was down with my family, and Geoff had come back to go back to work and didn't make it back to work because our house flooded.

And so you were at your house at Kidd Street and wanting to leave?-- No, I was coming to Emerald.

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You were coming to Emerald?-- Mmm.

Thank you. And you asked there that you would really appreciate if the assessor could meet you and your husband, it says?-- Yes.

The property before you leave?-- Yes.

You still have a lot of content items, you are still preparing a contents list?-- Yes, we were still taking photos at that point.

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Still taking photos, next line. You were not game enough to throw things out before the assessor sees everything?-- Mmm.

You were told by the lady you spoke to, a Julie Kelliher-----?-- Uh-huh.

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-----that it was okay to throw the items out that were damaged beyond repair and you were asked to make a detailed list of the items?-- Yes.

You agree?-- Yes, I do agree.

And you were told again that an assessor had been appointed to the claim?-- Mmm. I don't recall that.

Would you look at the last sentence of the note?-- Yes.

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Do you recall that now?-- No.

And that you couldn't be promised that the assessor could be there tomorrow?-- Fair enough. At the time, there is a thousand million things going through your head, I think I have done pretty well recalling most of the conversation. I may not have remembered - I may not be able to recall that they said that. Doesn't mean to say it didn't happen because I know that these things do go like that, however there are a hundred million things going on and I was trying to communicate regularly just so that we didn't do anything wrong.

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Yes, I appreciate that. The next - well, now, in fact, Suncorp had been unable to get assessors to Emerald until the 5th of January because of access difficulty due to the floods?-- Yes, I understand that now and in subsequent - from the conversation with Angela-----

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Yes?-- -----Emma Ging's supervisor, I understand that.

And that, however, Suncorp managed to get five or six assessors to reach Emerald on the 5th of January 2011?-- Yep.

And then Suncorp managed to deploy another 11 assessors in Emerald on the 9th of January?-- Yes. We were seen on the 10th.

You were seen in that second tranche of assessors-----?-- Yes.

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-----that were able to - to be able to manage to actually reach Emerald-----?-- Yes, I confirm that.

-----by the 9th. The assessors work 14 hours a day, seven days a week, is that right? Do you know?-- I would assume so, in a natural disaster.

And that was in order to try and complete the assessments as quickly as possible?-- Yeah, and we were very pleased with the service that we got from our assessor at the time.

Between the 5th and 6th of January, two days, 35 assessments were done, about five to seven assessments per assessor?-- Mmm.

COMMISSIONER: How is this witness supposed to know that? Why are you asking her? If you want to make a submission at some stage, I am sure you can, Mr Holyoak, but don't try and make the witness agree with it.

MR HOLYOAK: Yes, Your Honour.

Your property at Kidd Street was assessed on the 10th of January?-- Yep.

And that was in, as I mentioned, the second tranche of assessors that were able to visit Emerald?-- Yes.

Ms Richardson, now you've had the opportunity to consider the sequence of events, would you agree that Suncorp assessed your property as quickly as the circumstances reasonably permitted?-- If I'm allowed to add a comment at the end of that.

Sure?-- Yes, I am. However, my main concern, and the one that I attended to in the statement, was that we were given - I put the claim in on the 31st. It took 10 days for the client manager to ring us. In the meantime, I had her supervisor tell us that she was on sick leave and she returns from leave to tell me that, "No, no, I was on annual leave.", and then in that subsequent conversation didn't want to listen to anything that I was saying. All I received from her at that point was, "Oh, well" - you know, excuses - "I'm sorry I wasn't available", blah, blah, blah, "I've been on holidays, I've been this, and I'm not going to deal with your claim anyway because I'm moving to another job." So that is my concern, and that is the statement where I'm talking about pathetic and disorganised.

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All right. Well, we'll come to that but that's-----?-- Good.

-----a phone call that's shortly emerging in the notes?-- Good.

In relation to the assessment taking place on the 10th, in light of the circumstances as you now know them-----?-- Mmm-hmm.

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-----and that Suncorp attended to it as reasonably - sorry, as quickly as reasonably possible, you'd accept, wouldn't you, that the assessment wasn't as a result of heaps of pressure from you?-- Well, I - I felt at the time, with the contact that was with Suncorp and myself, it felt like pressure from me. Maybe it wasn't just related to the assessor, maybe it was related to the situation as well. However, you know, the assessor was talked about on more than one occasion. So I do feel that - that, you know, ringing and making contact with Suncorp did assist with that.

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Under the Suncorp system was it explained to you that a case manager - if a case manager is unavailable, another claims manager is able to assist-----?-- No.

-----the management of your claim?-- No.

All right. So you weren't aware that's what happened-----?-- No.

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-----on the 1st and the 6th of January?-- No. No, I wasn't, and I got the name Emma Ging so I thought rock on.

On the 7th of January-----?-- Mmm-hmm.

-----which was a Friday-----?-- Mmm-hmm.

-----you made a call to Suncorp?-- Yep.

And that appears in those file notes?-- Yes, it does.

Do you have them there?-- Yes, I do.

You indicated that you were angry you hadn't been called by the claims manager?-- Mmm-hmm, I was.

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You were anxious there had been no direction?-- From the claims manager?

Yes?-- Yes.

You wanted to discuss with the claims manager what was going to happen about the assessment?-- Yep.

And you stated there that you'd left plenty of messages, but your calls had not been returned?-- I believe I stated that I had rung many times but that I didn't leave messages, and I did mention with Angela at that point that I had rung over a hundred times, and that - and that those calls were at many times of the day. You know, I was hoping to catch her early in the morning, late in the afternoon, if she still happened to be there, up until 9 o'clock at night, and - and I see that that's not indicated there.

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No. At that stage you're speaking to somebody by the name of Jackie Knight; do you see that?-- Yes, yes, I do. I do remember speaking with Jackie.

30

Yes, and advised that - you advised there that you left many messages with the claims manager?-- I think I did leave many messages.

Yes. And that you tried to contact the claims manager-----?-- Mmm-hmm.

-----but she was unavailable?-- Yep.

40

It was explained to you that the claims managers were very busy at the moment due to the floods?-- Well, of course.

Yes. That was explained to you?-- Yes.

All right?-- And I think that, you know, I was trying to be reasonable about - about the whole thing.

You said you understood they were busy but you were unhappy with the service?-- Mmm-hmm, yes, from the client manager.

50

From the client manager?-- Thank you.

And you asked if you could not contact the claims manager you'd like to speak to the supervisor?-- Yes, I did.

That's right. And then you'll see there-----?-- Yeah.

-----there's some internal notes that the supervisor is actually called a technical services officer?-- Yes.

And you were told that they were busy, that you asked still to speak to one?-- Mmm-hmm, I did.

And you were transferred to one, Angela Peters?-- I was.

10

Is that correct?-- Yes. I couldn't remember her surname, but, yes, thank you.

And you'll see there that's the very next entry?-- Yeah.

It's incoming - inbound call, "IBC"?-- Yeah.

And received a call from a customer claims consultant within Suncorp, Kristy?-- Yes.

20

Wanting to advise that the claims manager had not returned the calls; is that right?-- Yes.

And the technical service officer, Angela Peters, spoke with you?-- Mmm-hmm.

And advised that she would send an email to the assessor to have the assessor assigned?-- Yes.

Asked for a copy of the contents list?-- Yes.

30

And an email was sent to a Christopher who subsequently became a Christopher Young; do you recall that?-- Yes, I do, he was very helpful.

Yes. And you were advised by the TSO, Angela Peters-----?-- Mmm.

-----to look for some temporary accommodation-----?-- Mmm-hmm.

40

-----and to send her some quotes; do you recall that?-- Yes.

Thank you. Now, could I ask you to return to your statement momentarily?-- Yep.

And paragraph 9?-- Yes.

Right. And if you wouldn't mind referring to paragraph 9, and have you had the chance to have a brief look at that again?-- Yeah, I've had a brief look, yeah.

50

Thank you. Now, there in that paragraph you refer to - you state to there being three days after the call to the general call centre?-- Yeah.

That appears to have been on the 4th of January?-- Yes, must have been.

Advising - and that was advising you of Emma Ging's appointment?-- Yes.

Which would place paragraph 9 - if we follow three days to the 7th, but in fact it looks like it was probably the 6th of January, wasn't it?-- Must have been.

All right?-- And, as I said before, I had a hundred million things going on. I don't have records of every call. 10

All I'm trying to do is just correlate them, that's all?-- Yeah. No, and I'm happy to help you do that.

Yes. So paragraph 9 probably relates to the 6th of January 2011?-- I'd say so.

And the file note of the 6th of January 2011 accords with your recollection of the entire conversation?-- Yes. Yes, I agree with that. 20

Now, paragraph 10 of your statement-----?-- Yep.

-----it's a bit longer. Would you mind having the opportunity looking at that?-- And so we've agreed that the 6th is probably the 7th.

Paragraph 9-----?-- Yeah. 30

-----probably refers to the 6th?-- That the 10th is probably January the 7th, not January the 6th.

Yes, that was going-----?-- Yes.

Going to ask you that?-- Yes.

That relates to the conversation on the 7th?-- I concur with that. 40

All right. And the notes - there's two notes, you'll see, of the 7th?-- Mmm-hmm.

Do you agree that those file notes accord with your recollection of those conversations also?-- I would say that there was probably more information in the conversation with Angela Peters.

All right. Is there anything in particular you say that ought be added there?-- Well, I was wondering why at that point I hadn't had confirmation or a conversation with our client manager, and I told her I was unhappy with that, that I had been trying to contact. As I indicated before, there were a hundred calls, not a hundred messages, and that I was trying to be reasonable, but I didn't think that that was reasonable. I think - I think the entry there is the crux of the conversation, but I think the conversation was rather more in depth than that. 50

After you received the message on the 4th of January 2011-----?-- Yep.

-----until you spoke on the 6th of January 2011-----?-- Yep.

-----with Suncorp-----?-- Yep.

-----did you try and ring Suncorp after that, after the 6th, and before you spoke to Suncorp again on the 7th?-- Yeah. Yeah, I did. I kept trying. From when I received the initial information on the 4th - we're agreed, it's the 4th-----

10

Mmm-hmm?-- -----to when I rang on the 7th, I kept trying Emma Ging's phone with no luck.

The next time you spoke to somebody at Suncorp though was this conversation that's recorded in the two diary notes of the 7th?-- Yeah, the next time I spoke with someone. I actually think that I left message in between then, but I'm not going to get a bit persnickety about that.

20

All right. You see, because it's already occurred to you, hasn't it, the note does not record you mentioning that there were over 100 unanswered calls?-- No, it doesn't, but I made them.

The note-----?-- I didn't leave a hundred messages, but I made a hundred calls to Emma Ging's phone line, direct line.

30

We've agreed, haven't we, otherwise that the notes of the 7th of January 2011 are otherwise in accordance with your recollection though?-- I made over a hundred calls to that line.

And the period in which over 100 unanswered calls were made-----?-- Mmm-hmm.

-----starts from the 4th of January?-- Yep.

40

And concludes on the morning of the 7th of January?-- Yes. I would agree with that.

And do you say that there were voice messages left?-- Yes.

To Emma Ging?-- Yeah.

All right?-- And more than one. Like, not - not like 20, but more than one, less than 15.

50

See, I suggest to you that it's most unlikely that you made over 100 unanswered calls in that period?-- Good on you, because I counted them before I rang on the 7th and there were over 100 calls made. So you can suppose that. I counted them before I made that call on the 7th, which was one of the reasons why I was so frustrated in that phone call.

If you look at the next entry on the 10th of January 2011-----?-- Yes, I got to speak with Emma. That was wonderful.

And it says, "Received voicemail from insured"?-- Mmm.

Right. So voicemails go to the-----?-- Mmm. I'm aware of that.

10

-----to the relevant claims managers?-- I don't know where my voicemails went, because I did ring and leave messages.

Right. And you left messages 100 - over 100 times in voicemails that were unanswered?-- No.

No?-- It went to message bank, asked to leave a message, I didn't always leave a message, but I did leave a significant number.

20

How many messages do you allege you left?-- Well, if I were going lowbrow, I'd probably say six, if I were going highbrow, I would say 14.

All right. Now, on the 10th you received an outbound customer call from Emma?-- Yep.

Emma Ging?-- I did.

And you were advised that - you advised that the assessor was there that day?-- Yep, thanks to Angela Peters following up with that on the Friday.

30

You were upset you hadn't been called?-- Yep.

And you wanted regular contact?-- Yep. Isn't that a person's entitlement with an insurance company when your whole life is up in the air and you don't know what's going on?

You had been contacted though, hadn't you-----?-- Not by Emma Ging.

40

Not by Emma Ging?-- And that - that was my concern in the reflection of the statement, is that she's our client manager, and in a 10 day period I had had no contact from her. I had spoken to people in the call centre, they were helpful, I spoke with Angela, she was helpful. However, the client manager who we had been given did not contact us until the 10th when she returned from leave, which I had been told was sick leave, but apparently was annual leave, and she rang us that morning in response to a message I had left.

50

You had spoken to other people who provided you with advice on the 1st and the 4th?-- Yeah.

Is that correct?-- They were call centre people as far as I know. They weren't my client manager who I had been appointed.

Right?-- And that's the person I wanted to have contact with.

They weren't your client manager, but if they were other client managers that were able to assist you as they did, that was providing you assistance, wasn't it?-- I wanted contact from the client manager. If you're going to appoint a client manager, I think it's reasonable that the insured gets a call from that person in a reasonable time, and I don't think that 10 days is reasonable.

10

Well, Ms Richardson, it's not quite accurate to say that you didn't have contact within the 10 days, as I've just put to you again-----?-- I didn't have contact with a client manager-----

Not from Emma Ging?-- -----my client manager in 10 days.

Not from Emma Ging, but you were given advice on the 1st and the 4th and the 6th; isn't that correct?-- I believed that those people were from the call centre.

20

Right. But you were given advice-----?-- Yeah.

-----how to handle your claim-----?-- But not from my client manager, which was what I was after.

But you were given advice, were you not, on how to handle your claim, and you acted on that advice?-- I think I've answered your question and you're-----

30

COMMISSIONER: I think she has too, actually-----

WITNESS: Yeah.

COMMISSIONER: -----Mr Holyoak-----

WITNESS: Thank you.

40

COMMISSIONER: -----a couple of times.

WITNESS: More than once.

MR HOLYOAK: On the same day, on the 10th, you were advised as to timeframes?-- Yes, I was.

And the - for reviewing the reports and for the Suncorp loss assessors to review the documents?-- Yeah, I believe so.

50

You were told that Emma Ging was being moved to another department, you'd have a new claims manager appointed to you?-- Yes, which he was.

And she can request they contact - she requested they contacted you and touch base-----?-- Yeah.

-----to discuss the claim?-- And he did.

That's right, and you were happy with that?-- I was, very, as is indicated in the information. Because he contacted me when I asked him to.

That was - the next time - the next phone call was with the gentleman Christopher Young?-- Yeah.

And that was an outbound call?-- From him?

10

That is it's from him to you?-- Yeah.

And he told you that the - he had been the claims manager-----?-- Yes.

-----assigned?-- Yes.

You were extremely happy that he got in touch with you quickly?-- Yes, I was.

20

He advised the new claims manager details?-- Mmm-hmm.

You were told you were waiting on the assessor's report?-- Yeah.

And that your partner's work were paying for the temporary accommodation?-- Yes.

And you were contacted again by Mr Young on the 21st?-- I was, also pleased with that.

30

He'd uploaded the claim?-- Mmm-hmm.

And indeed you'd been upgraded in the claims response to a major loss?-- Yes, and that's when he said that because of that I would be going to - that our claim would be going to Ashley Bailey.

That's right?-- Mmm-hmm.

40

And the transfer was because of an upgrade of the management of your claim to a major loss to Ashley Bailey?-- Yeah, I agree.

Yes. You were told then you needed the rental or tenancy agreement-----?-- Yes.

-----in order for them to process the claim for the rental?-- Yeah.

50

And the assessor's report had been received?-- By Suncorp, yes.

Yes, by Suncorp?-- Not by us, but Suncorp, yes.

And that you needed to make the electrical safe, to have an electrician do it and send the invoice to Suncorp?-- Yes.

Mr Bailey spoke to you again on the 28th?-- Mr Bailey?

Yes?-- Ms Bailey?

Sorry, Ms Ashley Bailey, yes?-- Yes, Ms Bailey.

Ms Bailey?-- Yes.

10

Spoke to you again on - spoke to you for the first time, I should say, on the 28th?-- Yes, I - if that's the date, I would concur with that. I don't really remember.

Again it was a Suncorp initiated call?-- Yep.

On this occasion relevantly you were told that-----?--
Mmm-hmm.

-----the claim had been assigned to Ashley?-- Yes, I was.

20

Report had been reviewed, to send through a contents list; do you recall that?-- Yes.

And that an email had been sent to building coordinators for a builder to be appointed; do you recall that?-- No, I don't. There was a lot of information in that call, though. So again I may not have heard it, which is possible, but I think remembering most of that conversation is pretty good actually.

30

And do you recall that the coordinator was a firm by the name of Cunningham Lindsay?-- No, I didn't receive that information - well, if I received it it was in an email a couple of weeks later from Ashley, but it wasn't in a phone conversation that I received that information.

The landlord - you explained the landlord was going to be charging \$230 a week and there was a bond required?-- Yeah.

COMMISSIONER: Does all of this really matter, Mr Holyoak?

40

WITNESS: I don't think so.

MR HOLYOAK: Well, your Honour, it depends-----

COMMISSIONER: It's between me and Mr Holyoak, actually, but I'm just wondering do you need to go in this level of detail when this doesn't seem to be an area of contention.

MR HOLYOAK: I was trying to work out, your Honour, as we're going where the areas of contention are because-----

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WITNESS: Well, we should probably skip now to the areas of contention which would be the end.

MR HOLYOAK: I'm just speaking to her Honour at the moment.

WITNESS: Sorry, your Honour.

COMMISSIONER: Well, you see, I don't see anything in the statement about this - this period. So I'm assuming that Ms Richards wasn't raising anything about this - Ms Richardson, sorry, wasn't raising anything about this time period.

WITNESS: You're correct, your Honour.

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MR HOLYOAK: Your Honour, I was a bit uncertain about that because of paragraph 11.

COMMISSIONER: But that seems to be-----

WITNESS: That's the end.

MR HOLYOAK: The paragraph - yes, but there's a reason.

COMMISSIONER: All right. Well, if there's something in these notes that assists with paragraph 11, by all means.

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MR HOLYOAK: Yes, the final sentence of paragraph 11, your Honour.

WITNESS: Final sentence, paragraph 11, yep. Would you like me to elaborate?

MR HOLYOAK: No, it's all right. I'll ask the questions. On the 31st, if we skip over the next one, and go to the 31st of January-----?-- Yeah.

30

-----you'll see that - you wanted to know the timeframe-----?-- Yeah.

-----on the contents list to be sent?-- Yes, I wasn't sure if there was a timeframe for it to have to go in, so I was just trying to clarify that information with Ashley at that time.

And you were advised there the Cunningham report on the 29th?-- I don't remember receiving that then. I - as I said just before, I thought I got it in an email subsequently.

40

Now, do you recall that a Mr Des Dowdy attended your home on the 7th of February 2011?-- We did meet with Des in February, yes.

All right. And you then had subsequent meetings with Cunninghams-----?-- Yes.

50

-----or people from-----?-- Yes.

-----local people from Cunninghams on the 11th of February 2011?-- I believe so, yes. But they also rang our landline, which had only been reconnected that day. Isn't that wonderful?

Now, if we head to the 25th of February 2011 in the file

notes?-- 25th of February you said, sorry?

Yes, 25th of February?-- I'm just flicking to March. Yes, I see that.

A new issue had arisen, hadn't it?-- Yes. Yes.

You telephoned because termites had been found in the cavities of the doors and windows?-- Yeah, yes.

10

And you wanted to know what to do?-- Yes.

And there was some communication with Suncorp?-- Yes, there was.

And they indicated that they had at that stage no internal assessors left in Emerald?-- Yeah.

They'd need a detailed report to explain how the termites got there, for how long, whether it was pre-flood or post-flood?-- Yep.

20

Do you recall that?-- Yes, I do recall that.

Then you were contacted again and it was a Suncorp initiated call on the 15th of March?-- Yep.

You were followed up because the rental agreement hadn't been received, to process the-----?-- I thought - sorry to interrupt you there, sir, but, however, I thought that I sent through the payslip and the rental tenancy agreement at the same time, faxed through. I thought they both went through at the same time.

30

All right. But, in any event, Suncorp indicated they didn't have it then?-- Yes, and then I refaxed it.

COMMISSIONER: Is something going to turn on this tenancy agreement?

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WITNESS: No.

COMMISSIONER: I am asking Mr Holyoak actually.

MR HOLYOAK: Sorry, your Honour, I didn't hear you.

COMMISSIONER: Is something going to turn on this tenancy agreement?

50

MR HOLYOAK: No, your Honour. There is something turning on the building progress, coming to - to do with the termites. Now, do you recall that you had your contents policy or contents paid on the 25th of March 2011, or at least approved, I should say?-- Yes, yes, and the next bit after that.

That's right?-- Hang on, where are we now? 25th?

25th, that's right?-- Mmm-hmm.

And that was paid?-- Yep.

Then you were contacted again on the 5th of May 2011?-- Yes.

And followed up for the pest report?-- Yes.

Then you were followed up again asking if you had any repairs or concerns on the subsequent days; do you see that?-- What date are we now? 10

The subsequent days are from the 20 - from the 5th through to the 26th onwards.

COMMISSIONER: What was the question, whether there were concerns with the repairs?

MR HOLYOAK: Whether there were concerns with the repairs?-- Not at that point, because at that point the house had been stripped out, which was fine, and sanitised, I believe, and repairs had only sort of really just begun at that point. So I wasn't really happy or unhappy because not a lot had happened to be unhappy or happy about. 20

And does that reflect the conversation on the 27th of May 2011 in the file note?-- Yeah.

At that stage, Ms Richardson - excuse me one moment - had you indicated - sorry, I withdraw that. Had there been some concerns - there had been some concerns with what's described as a Hebel - some Hebel blockwork; do you recall that?-- Yep. 30

And there'd been some concerns expressed about the integrity of that blockwork after the floods?-- Yep.

And that Suncorp had commissioned an-----?-- Yes.

-----engineer's report?-- Yes. 40

Do you recall?-- Yeah.

And that was a firm by the name of Opus International Consulting?-- Don't recall the name.

Right. But that you were not happy with the recommendations outlined in the engineer's report?-- We still had concerns.

And those discussions regarding your concerns continued with the builder until mid-August?-- No. I know that that's what your records say, and when I read that in your - in the statement from the person----- 50

Mr Higgins?-- Yeah, thank you, from Mr Higgins, I was really surprised.

Do you recall also that you requested joinery work to be

ordered through a local cabinet maker?-- Yes, and that was who IRS had already engaged anyhow.

Right. Was that Allen Cabinets?-- Yes.

And they had an eight week lead time?-- I wasn't made aware of that.

Right. Also do you recall that you wished to make changes to your home that were not covered by the insurance?-- Yes, I do. They don't take three weeks though to get done. They were done within a day.

10

They included some plumbing changes; do you recall?-- Yes, I do.

That was including the removal of the spa and changing of pipes?-- Yes, my partner removed the spa.

20

Right. And changing certain pipes from copper to plastic; do you recall that?-- Yes. No, sorry. Copper to plastic?

Mmm-hmm?-- No, we asked for some pipe work to be sealed off.

Mmm-hmm?-- And then we asked for the spa plumbing to be moved back into the wall, because that's where we were going to move the cabinet to, but I don't - I never made, and I don't believe we ever made, a specific request for plastic to copper.

30

You had to use a specialised plumber which you engaged yourself?-- Yes, because IRS didn't have the materials to be able to do that job.

It wasn't covered by the insurance?-- No, and we were happy to pay for that. And that took two hours on one afternoon.

And IRS had to wait for those works to be completed or schedule them into the works to allow other trades to complete their works?-- Oh, what, so - so they rang me in the morning at 9 o'clock and it was done by 8 p.m. that evening, so that - that allows for a two month delay?

40

You also had some electrical work undertaken about an electrician you engaged?-- No. We have had work done via the electrician who IRS have engaged. So he's done some additional stuff for us.

That was removal of light switches from main bedrooms to en suites, for example?-- Can I just give a little visual on that one?

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Well, is that the case?-- Well, it was on this wall, and we asked for it to be moved to this wall, like, you know, the other side of the cavity. That's what we asked for.

And there was some installation of some new power points?--

Yes.

Additional lights in the kitchen?-- Yes, two.

Additional lights in the en suite?-- Two.

Additional lights in the en suite?-- Two.

All right. And that work also had to be scheduled into the other work that was being undertaken by IRS, the builder?-- I don't do the scheduling, but what I saw when I got a phone call from the foreman was that there were like three or four different trades people and groups working at that time, and that that additional work that we were requesting was just added in at that point. So I am not aware of the scheduling, because that's not my job. So we've tried to stay ahead and communicate with IRS the things that we wanted.

10

Now, could I ask you then to move forward?-- Yep.

20

Sorry, to go back to the-----?-- Can I get some water?

-----28th of July 2011?-- 28th of July. Yes. Yes.

Right. You were attempted to be contacted on that day and were successfully contacted the next day to be told that the termite damage couldn't be covered?-- Yeah.

And you were also given a customer dispute resolution brochure on that day, or, sorry, it was sent to you that day; do you recall that?-- I - I - yeah, now that you say that, I do remember receiving something like that, but, yeah, it's not in the forefront of my mind, yes, but I believe Ashley did send that through.

30

And that was a document that explained to you that if you disagreed with that, you could dispute it?-- Mmm-hmm.

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Thank you?-- And we didn't.

I will ask you to move forward to 14 September 2011?-- Yep 14th, got it.

Yes. This was a call where you made a call?-- To Ashley.

To Ashley inbound?-- Yes.

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Inbound customer call?-- Yes.

You said you were not happy with the builder IRS or CL's, Cunningham's Lindsay?-- Yes.

You said that you weren't happy with communication?-- With Suncorp?

No, from IRS to you?-- Could you repeat that, please?

20

Yes. The next sentence says that you were not happy with communication, or there was no communication from IRS to you?-- Yes.

You asked for IRS to ask for you to attend the property immediately, meaning you had to leave work?-- Yes.

See that there?-- Yep.

You were concerned about your home being unlocked?-- Yes.

30

And that people from the project manager, IRS, seemed to be disinterested. Do you see that?-- Yes, I would like to clarify that, though, if you don't mind.

Yes?-- Are you happy for me to do that now?

Yes?-- Thank you. The 12th of September was the third date that we were given for completion of works from IRS. As you can see, if I'm ringing on the 14th, it is not complete and it is still not complete. So even given everything else that you've said, all of the work that we wanted done, and, you know, bad weather and all that sort of stuff, of which I don't believe there's been any, I don't understand how the project manager can delay the project by eight to 10 weeks. That's the concern that I have. There are a couple of works concerns, but by the 14th I had had enough of still being out of our house when we were told "it will be the 12th Cresta, it would be the 12th. Handover date is the 12th, Cresta. We'll have everybody here on that weekend", and that didn't happen, and handover didn't happen on the 12th. So now I have to tell my children again that we still can't move back into our house.

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And, Ms Richardson-----?-- Yes.

-----you have read Mr Higgins' statement, and I put to you the reasons for the delay, including the communications about the

Hebel block wall?-- And I put to you that I disagree with that because I felt that we had resolved that back when we signed the contract, because now - and Des Dowdy from Zirgon said that they would be putting in expansion joint. So as far as I knew, that was the end of that conversation. I am really surprised because I don't actually even get what that one is about. Some of them I look at and I think, "oh, yeah, okay, that might be about that one", but that particular statement blew me away. Because I thought we weren't still negotiating Hebel working. What we were talking to them about and letting them know that we were unhappy with was the patch job on the Hebel and the render, but that's not negotiation about the extent of the works.

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Now, do you see at the end of that note that - that page, I should say, rather than the end of the note?-- Yep.

That you did not want the claims manager, Ashley?-- Yep.

To contact Des from Cunningham Lindsay?-- Yes.

20

Regarding your concerns?-- Yes.

That's correct, is it?-- Yes, it is.

And what Ashley then did was speak to you about something called a customer liaison officer?-- Yes.

Do you recall that?-- Yes, I do.

30

And a customer liaison officer is a person, as was explained to you, that is an experienced Suncorp internal assessor who mediates disputes and concerns raised by customers-----?-- Mmm.

-----around repairs?-- That's how she explained it, yes.

And the role of the CLO, as they refer to it, is to resolve issues to the satisfaction of both the customer and the builder?-- Yes.

40

And there was a supervisor was then involved and-----?-- Yes.

-----you were asked if you wanted a CLO to attend, and Des would have to be contacted to discuss that, do you recall?-- I recall the conversation.

Right. It is true to say, isn't it, Ms Richardson, that that offer of utilising a CLO wasn't taken up?-- Not at this point, no.

50

Right?-- I have actually been trying to celebrate my father's 70th birthday with him, and our son had some football commitments out of town. So we've actually taken the opportunity to leave town for a few days. So we left on the 16th and we arrived back yesterday. So I haven't actually had the opportunity to undertake that yet.

And it is also true to say then that - sorry, I withdraw that?-- Thank you.

1

If you go to the 15th of July 2011 - sorry, 15th of September, my mistake?-- Yes, yes.

It is the last note on that page. Do you see it?-- Yep.

A call to you?-- Yes, yes.

10

You were asked to provide a list of all your concerns?-- Yes. I haven't been back to the house since then to get an opportunity to do that.

Suncorp is yet to receive any specific list of concerns from you?-- Agreed. I have been out of town since the day after that.

And your statement to the commission was on the 15th of September also, is that correct?-- I believe so.

20

You recall also, don't you, it having been explained to you, that Suncorp gives a lifetime guarantee of the work that's performed?-- Yes.

Repair work that's performed?-- Yes, and Ashley clarified that on that conversation.

And you understand that to mean that Suncorp will back the repairs that are performed to your house for the lifetime of those repairs?-- Yes.

30

You have also renewed your policy with Suncorp in June of this year, haven't you?-- Yeah. Generally we're quite happy with Suncorp. It was just the beginning and this ending bit. It is just going on and on. We're happy to be insured with Suncorp for the - you know, most of our insurance policies are with Suncorp and we're happy to keep them there, but I just want to point out to you that at the beginning I was dissatisfied, and I think fair enough, too, you know, with the response from Emma Ging. It was not a good response. And just trying to finalise things at the end, you know, we're still another two months out of our house after completion date. I take into account what you've said. I don't think that accounts for the house standing still for three weeks after the tiler's touched it, or another three weeks after the painter's touched it. Me, as a layperson and not a builder, I don't get that.

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Thank you. Thank you, your Honour.

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MS McLEOD: No questions, thank you.

COMMISSIONER: Mr Callaghan?

MR CALLAGHAN: No. May Ms Richardson be excused?

WITNESS: Oh, wonderful. Thank you.

COMMISSIONER: Thanks, Ms Richardson, you are excused?--
Thank you. Have a good day, everybody.

WITNESS EXCUSED

MR CALLAGHAN: I call Robert Anderson. I might inquire, Madam
Commissioner, through you or your associate, as to whether the
visuals are - no?

COMMISSIONER: Is it any use taking a morning break to see if
it can be fixed? Do you want to do that or not?

MR CALLAGHAN: I am getting an affirmative response to that.

COMMISSIONER: Sorry, Mr Anderson, we're just going to take a
break briefly to see if we can fix a few things up. So I will
just hold you up for the moment.

We will adjourn for 10 or 15 minutes.

THE COMMISSION ADJOURNED AT 11.20 A.M.

THE COMMISSION RESUMED AT 11.42 A.M.

COMMISSIONER: I gather there hasn't been much luck with the technical side of things, Mr Callaghan?

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MR CALLAGHAN: No, we will do it the old fashioned way and we will try again with the witness.

ROBERT GORDON ANDERSON, ON AFFIRMATION, EXAMINED:

MR CALLAGHAN: Your full name is Robert Gordon Anderson?-- That's right.

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And you reside at a property at 1258 Wills Road?-- That's right.

Mr Anderson, your main industry at the property is cotton production?-- That's right.

You've got about 500 acres of land under farming with cotton, is that right?-- That's right, yeah.

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Now, you have prepared a statement for the purposes of the Commission, a statement dated 18 August 2011?-- Yes.

I might just get a copy of that shown to you. I will get you to have a look at that first. That's your statement?-- That's it.

I tender that.

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COMMISSIONER: Exhibit 675.

ADMITTED AND MARKED "EXHIBIT 675"

MR CALLAGHAN: There were some photographs attached to that, too, is that right-----?-- That's right, yeah.

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-----to your statement?-- Yeah.

But, importantly, the statement referred to - or you earlier made a submission to the Commission which contained some photographs and a map, too, is that right?-- Several maps, yep, yep.

Yeah. I think we should tender that submission, too, Madam Commissioner.

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COMMISSIONER: 676.

ADMITTED AND MARKED "EXHIBIT 676"

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MR CALLAGHAN: Now, Mr Anderson, the concern you've expressed principally relates to some agricultural levee banks, is that correct?-- Yeah, that's right.

And we can read what's in your statement, but what might be helpful while you're here is if we get a visual understanding of what you're talking about. There is another map I am about to show you which has just been supplied to us this morning. It is slightly larger, I think, than the ones that you've provided us with, but it depicts, or incorporates, at least, the same area. Have you familiarised yourself with that map?-- Yeah, it is right.

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I might tender that now?-- Yes.

COMMISSIONER: Exhibit 677.

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ADMITTED AND MARKED "EXHIBIT 677"

MR CALLAGHAN: But ask for the witness to be given a copy. And I hoped to be able to do this on the bigger screen but perhaps we could get that held up so that both you could see it and the rest of us can see it?-- Yes.

The greenish lines on that map - and this is the one that has just been tendered?-- Yeah.

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Can you tell us what they represent the borders of?-- The green line is the border of the Emerald Floodplain Board, and it passes adjacent to my farm and through the farm that is a complaint.

This is the Nogoia River floodplain?-- That's right, yeah.

And the floodplain that we're concerned with is in between the two lines, is that right?-- That's right, yes.

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Okay?-- On the western end, I guess you'd call it, right on the western end.

That you're talking about; your property is right on the western end?-- That's right, yeah.

Can I get you to point to that, and then perhaps you could even mark that exhibit with an "RGA"-----?-- On my block?

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I might get you to do it in a red pen so that it stands out, if you don't mind. If I can get just the Commissioners shown that. I will get it handed back to you but held up so that everyone can see it. Now, as you point out, you are just outside of the Nogoia River floodplain area, is that right?-- That's right.

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So, therefore, not part of the - what was the Nogoia River Floodplain Board's concern?-- That's right, but when it was originally formed - I don't know, 15 years ago or something like that - we were approached as to where the boundary would be. It was subsequently changed and we were told at that time that anything that happened within that boundary and affected farms outside that boundary would be able to be fixed, and the reverse would apply, too. If something happened outside that affected inside the boundary, it would be fixed. It was only a line on the map, it is not a - it is not a strict law or anything like that.

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As far as you were concerned, is that the way it played out?-- No, no.

Can you tell us why?-- Well, now, since I've had problems, I've been to the floodplain board and they were quite helpful but couldn't produce any evidence or help to assist me, told me to go to DERM and DERM said it was outside their jurisdiction. So both of them appeared like pockets in a singlet. They were, you know, useless.

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I might just get you to have a look at a couple of photographs. I think photographs 3, 4 and 5 from your statement would probably be the most helpful ones, but, again, we might get that held up. Just explain, by reference to those photos, what you're actually talking about. Again, would you mind just holding that up?-- The photo's taken in September last year, September '10, that's last year. Indicate a minor rainfall event that we had. And because of the - you cannot see it there, you have to go to another photo later, but because of the effects of the floodplain, all the water is stopped from going across the floodplain, which is this developed area here now.

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You are just indicating the top right-hand corner of that photo, is that right?-- Yeah, that's the floodplain that has been developed. The water is now diverted off that into what I call a new floodplain which just happens to be my farm.

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You say that's diverted as a result of the levee banks?-- Of the levee bank, yeah.

To which you refer?-- That's right.

We might just take a look at the next one?-- The next one.

Tell us what's depicted in that?-- Righto. This is actually

in the December floods.

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Yes?-- That is the levee bank across here. You can see it is busted there.

I will just stop you. You are pointing to the line that runs pretty well parallel to the bottom of the page across the middle of the photo, is that right?-- That's right. Pretty well from one side of the floodplain to the other.

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Yes?-- Part of that levee bank moulds into a big storage dam which is eight metres high. The levee bank itself is lower but because the dam is in the lowest part of the floodplain, it has a magnified effect on the flow of the water. And that just indicates the flow of the water down the floodplain where it hasn't been affected till it hits the levee banks, but it is not - you will see another photo later on - but it is not really descriptive of what happens because the levee banks have burst.

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And that one -----?-- And this one.

-----there is just so much water in that one-----?-- That's right, yeah.

-----it is not really representing your concern?-- Yeah. Before that burst, it was forced to the highest point ever on my farm, and when that burst - it burst in the middle of the night and we saw a drop of what - I call it two feet but I have no idea if it is two feet or what - but it dropped about two feet immediately that bank burst.

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Just confirming, if you didn't already know, that it was the back-up that was affecting your property?-- That's right, it is the back-up, excess back-up now from the levee banks.

All right. We might just have-----

COMMISSIONER: Can we just get Mr Anderson to just show the Commissioners on the photo the levee bank that he is talking about?-- Oh, sorry.

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That's all right.

MR CALLAGHAN: Can you just point that out again, that line?-- Actually, I only pointed this section of levee bank here, going across the floodplain, but, actually, the levee bank is constructed right down the side of Retreat Creek here and down the side of Ford Creek here. There are photos which show it. It is a three-sided levee bank on the whole development there.

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COMMISSIONER: Thank you.

MR CALLAGHAN: We might just look at one more. I was going to take you to photo 5, but if you think there is another one that is-----?-- That's the one I am looking for.

It was, okay?-- That was taken in September last year in a

minor flood, and you can see the effect of the levee bank there has diverted - all the creeks flowing through the floodplain have hit the levee bank and flowed around the dam into my property. 1

And we see the tracks of the creeks-----?-- That's right.

-----from the flood going from the bottom of the photo towards the top, is that right?-- Yeah, yeah. That's right. There were creeks through that floodplain that have been removed with the development. If you have got a good eye, you can pick up the----- 10

Original?-- -----remnants of the creek, yes.

COMMISSIONER: Again, can I get you to do that process?-- Yes. There is that same levee bank we were talking about there before. This is the undeveloped part of the floodplain. Water, in that small flood we had in September last year, flows as far as the levee bank and then diverts - goes - well, whatever direction that is, I can't think - goes there and around the dam and into my property just down here. 20

I see, thanks.

MR CALLAGHAN: All right. Thank you. I think in conjunction with your written statements, that gives us a pretty good idea of what you're talking about. Can I ask you this, though: you are aware that the Nogoa River Floodplain Board has voted to dissolve itself?-- Yes. 30

And I gather - well, I think we pick up on your opinions about the way in which things have been done thus far?-- Yeah.

But what we'd be interested to know from you is whether you've got suggestions as to the way forward; if this is going to become a State Government responsibility now, how would you like to see things handled from this point on?-- Well, I think it is something that we've got to move on from. The floodplain board was a toothless tiger, along with DERM. Neither of them would do anything by themselves or in conjunction, anything like that. Floodplain Board tried to get information out of DERM, they - I don't know if it ever come, but I know they had a hell of a battle to get it. To move on, I think it is probably not a bad move, but they must be given teeth and they must - the new body must be given teeth, and they must try to protect the likes of me. This could be the end of my farm, you know. I am like that. So it is something that's got to be stopped and I know - I believe there are plenty of other cases like me. So----- 40 50

How would you like to see the local point of view represented - if this is to become a State government responsibility, I mean how would you like to see your concerns listened to?-- Yeah, well, I don't know too much about that sort of stuff, but it has got to be something there has got a bit of teeth, that's the main thing, and effective. As it is now - and unrelated to the area, I would say. As it is now,

it appears there may be friends of friends that don't like to see things happen, or taken down, or anything like that, and it is very hard to get anything done.

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So you would like to see some transparency in the process?-- Yes, that's right.

Is that what you are saying?-- The thing is, too, it appears that now you can do what you like. If you want to put a levee bank up, you can do it. There is nobody says, "Hey, it has got to be this high or that high", how it is built, or anything like that. And if I might, I might just - one of the DERM officers that looked at this levee bank, if you excuse my French, too, his words were, when he saw the levee bank - he said, "That's bloody big." So there had been no control and it is just getting done.

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So whatever the way forward is, you would like to ensure that concerns of people such as yourself whose properties are affected like yours-----?-- That's right, I am one of five properties that were affected. I am the worst. There is another fellow who is almost as bad. The other three have minor damage. I can't speak for them but I am just saying, you know, there is five of us were affected.

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Okay. Thanks, Mr Anderson?-- Thank you.

There may be some other questions for you.

COMMISSIONER: Mr Ure?

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MR URE: Yes, thank you. May I please see Exhibit 677, the plan of the marking of Mr Anderson's property?

WITNESS: That's this one here, is it?

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Thank you. The levee bank you are talking about, Mr Anderson, I see in paragraph 2 of your statement you say, I think, that it is on portion 87 and 88, original lot numbers?-- That's right, yeah.

The levee bank you are talking about, is that to the east of your property, or to the west?-- To the west and north-west probably. It is a fairly long construction. It is probably four or five kilometres long.

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And that is, in fact, outside the green area which is the area of responsibility of the Nogoa River Floodplain Board; it is to the west of it?-- Most of it is.

Yes, thank you.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: No, thank you, Commissioner.

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COMMISSIONER: Ms McLeod?

MS McLEOD: No questions, thank you.

COMMISSIONER: Mr Callaghan, anything further?

MR CALLAGHAN: No. May Mr Anderson be excused?

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COMMISSIONER: Yes. Thanks very much for your time, Mr Anderson. You're excused?-- Thank you.

WITNESS EXCUSED

COMMISSIONER: Yes, Ms Wilson?

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MS WILSON: Thank you, Madam Commissioner. I call Graham Spackman.

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GRAHAM BRUCE SPACKMAN, ON AFFIRMATION, EXAMINED:

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MS WILSON: Is your full name Graham Bruce Spackman?-- That's correct.

And have you provided a statement with some attachments to the Queensland Floods Commission of Inquiry?-- That's correct.

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Can you have a look at this document, please? And that's your statement, with those attachments?-- That's correct, yes.

Madam Commissioner, I tender that statement with attachments.

COMMISSIONER: Exhibit 687.

ADMITTED AND MARKED "EXHIBIT 687"

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MS WILSON: Now, you've got a copy of that statement just in front of you, and if I can take you to some of the matters that you raise in that statement. You live at - you currently live at Gray Street in Emerald?-- That's correct.

And as a result of the 2010/2011 floods, your residence suffered some damage?-- Yes, we did.

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And what was that damage, if you could tell us?-- Well, we were quite fortunate that after the 2008 flood - we'd suffered a lot of damage then - we raised our home. This time the water level got just high enough to - to seep underneath the flooring where the carpets were and we lost all our carpets. Other than that, there was just a lot of mess around the yard and mud and stuff through everything, so-----

And - sorry, I-----?-- So the extent of damage was comparatively small compared to most other places.

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And in 2008, did your residence suffer damage from the floods?-- Yes, we did. We had 30 centimetres of water over the floorboards through the home and across the premises. So there was quite major damage in 2008.

And because of the 2008 floods you decided to raise your house?-- Yes.

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Okay. I'm interested to know how you determined the flood levels, firstly in 2008, what - when you constructed your house, at what level should you build the house at?-- Well, we knew where - we lived right on the - on the river, and we knew there was - there was a flood risk. We sought the best information we could get. I think - I think I recall at the time the council regulations were that you weren't allowed to build below what was the 177 metre flood level, which ran

across the front portion of our - of our block. So we decided we'd build a metre above that, I think it might have been closer to 1.2 metres floor height above that. We also got information from one of the local surveyors that gave us the best information that he had which was some various flood levels based on previous floods. So we considered that we were probably around about a metre above the one in a hundred year flood line, and we thought at the time that that was - that would be enough.

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In the floods of 2010/2011, in paragraph 10, you refer to the source of the flooding?-- Yes.

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Can you explain to us today where you believe the source of the flooding came from in relation to your property?-- Well, it was basically overflows from Fairbairn Dam, and the flooding occurred because of the major rainfall events in the catchment of the dam. So it was effectively all - all from the river, which was - which was flooding from the overflow of Fairbairn Dam.

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And it was a slow rising flood?-- Yes. Oh, yes, we had plenty of time.

It took - it was rising gradually over three to four days?-- That's correct, yes.

You've provided some suggestions in your statement about what can be done to minimise flood risks in the area, and they're contained in paragraph 17, and if I can just take you through some of them that relate to some land planning issues. The first is the council needs to clear drains in the northern part of town to improve drainage. The LN1 drain is one case in point. Can you give any further information about that?-- Not really. It's - I suppose the - my feelings were that anything that we could do to improve the flow of water through town and prevent water from backing up would reduce flooding. Now, LN1 is not an area of immediate concern to me because it's on the other end of town, but that was just based on feedback that I'd had from many other people and my views that it was probably something that was making our flood situation worse simply because water wasn't being able to get away.

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And you also suggest removing impediments to water flow currently caused by the levee bank that the rail line sits on?-- That's correct.

Can you tell us about that?-- Well, my understanding was that many years ago there was a lot more - many places along the railway line that have been basically filled in with the levee bank, whereas before the rail line used to sit on pylons or bridges, and basically now a lot of the railway line acts as a levee bank which holds the water back. In 2008 there was - there was evidence that on the upstream side of the railway line the water was 80 centimetres higher than what it was on the downstream side of it, which indicated, you know, to me fairly significant damming back of the water. I believe there were similar experiences in this last flood, 2011 flood.

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As part of your suggestions you also refer to a second outlet from the Fairbairn Dam into the Sandhurst Creek, Comet River catchments?-- Yes. I guess this particular area is quite unique. Many areas don't have an opportunity like this. When you look at the maps of Fairbairn Dam it's - there are creeks along the eastern - the eastern fringes of Fairbairn Dam that run to the east into the Sandhurst Creek system. It bypasses Emerald and basically comes back into the - into the river at the junction of the Comet and Nogoia Rivers to form the Mackenzie, and my view is that when water is very - at a high level running over Emerald spillway, it would be - it would not be a major engineering exercise to potentially construct a bywash that would allow some of that high flow water to flow into that alternate creek system and therefore bypass Emerald, and therefore reduce the amount of water flowing through Emerald in those extremely high floods, and to my way of thinking, that - that could potentially greatly reduce the flood - the risk from high level floods in Emerald itself. Now, I'm - I know a fair bit about irrigation and that sort of thing with the type of work I do, but I'm not an engineer, I'm not a hydrologist, so obviously studies would need to be done to look at that, and other people have proposed other - other things such as building floodgates on the dam wall and raising the dam wall and those sort of things, but that was a view that I had, that a study should at least be conducted to investigate that possibility.

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And, finally, in relation to your insurance, you - you at the time of the 2010/2011 flood events, you were insured with AMP for home and contents?-- That's correct, yes.

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And in 2011 you made a claim for damages from the flood event of around \$15,000?-- That's correct.

And that was fully paid?-- Yes.

And you describe the - your insurer's performance as excellent?-- Yeah, that was probably a little bit generous, but it was very good. It was very good. We - we - compared to many other people, we got our claim settled quickly. In fact, we didn't actually replace our carpets for quite some months - because we didn't want to go and get another flood - until the summer was finished, but other than minor - minor delays contacting people, they were really quite minor, we couldn't complain really.

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And you were kept informed by the insurer with SMS messages approximately each week. Can you tell us about those?-- Once we started getting contact with our case manager and, yeah, they would send us SMS messages letting us know where our claim was up to and what was going to be paid when and it was - it was really quite good.

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So you found those SMS messages helpful to know where your claim was in the system?-- Certainly, yes.

Thank you, Mr Spackman. I have no further questions.

COMMISSIONER: Mr Ure.

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MR URE: I have nothing, thank you.

COMMISSIONER: Mr MacSporran.

MR MacSPORRAN: Nothing, thank you, Commissioner.

COMMISSIONER: Ms McLeod.

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MS McLEOD: No, thank you.

COMMISSIONER: Ms Wilson, have you any-----

MS WILSON: May Mr Spackman be excused?

COMMISSIONER: Thanks very much for your time, Mr Spackman.
You're excused.

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WITNESS EXCUSED

MS WILSON: Madam Commissioner, I call Craig Edmonston.

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CRAIG WILLIAM EDMONSTON, SWORN AND EXAMINED:

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COMMISSIONER: Take a seat, thanks, Mr Edmonston.

MS WILSON: Is your full name Craig William Edmonston?-- Yes.

And you're a registered surveyor?-- Yes.

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And you've made a statement to the Queensland Floods Commission of Inquiry?-- Yes.

Can you have a look at this document, please? Is that your statement?-- Yes.

Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 679.

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ADMITTED AND MARKED "EXHIBIT 679"

MS WILSON: You also served as Mayor of the Emerald Shire Council during the periods 1979 to '82 and then again in 1985 to 1989?-- Yes.

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Now, your statement addresses a number of matters relating to flooding in this area. Your statement is in evidence, so can I just take you to some of those matters that you raise?-- Yes.

If we can firstly go to paragraph 29 in your statement where you refer to the council planning policy?-- Yes.

I am interested in the first sentence where you refer to that, "In light of the recent floods it should be apparent to council that future flooding will be more a consequence of a combination of events rather than a single rainfall event." Can you explain that to me?-- Prior to the construction of Fairbairn Dam, when it rained, we had a flood in the river, and there's a lot of history and a lot of evidence of what happened with that - that - whichever particular flood it was, and we go back to the highest recorded flood of 1950, everything was clean, the river was a lot cleaner, the water got through town, got around town without it being influenced by man pretty much. It was - everything was still in its natural state. With the construction of the Fairbairn Dam, what we know now as SunWater - used to be Irrigation Water Supply Commission - they released information to tell us that the - because of the dam there and the spillway, puts a restriction on the water that flows. So the water coming through the dam is not as quick as it would have. So less water comes down, so it took a - an amount of water off the top of the flood in Emerald, and they worked out various

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scenarios for the various previous floods that we had. So, for example, the 1950 flood they told us would be four foot three lower if it flooded when the dam was full of water. What we never ever considered and weren't told at the time, what would happen if the dam was already in flood, when we had a significant rain event, which is what we had in 2010. We had a rain event that wasn't going to cause a major flood on its own, but the dam was already approximately two metres over the spillway. So this complicates things now in that, you know, we have to know how much water is in the dam, whether it's flowing over, when we have a rain event to calculate what the end result is going to be.

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And you refer to the fact that the old Q100 or Q50 rules do not apply in Emerald anymore?-- No.

So, in your view, how should a flood line or flood mapping be determined?-- Well, we need a very thorough and extensive study on, firstly, mapping the flood plain to get the base data accurate. That's been changed with filling and the LN1 drain that we're hearing about, all that sort of stuff. Then we have to consider all of the variations of - for example, in 2008 the dam was only 35 per cent full when we had a major rain event, and as a consequence of the dam only being 35 per cent full then, we didn't have the flood that we would have had had the dam been full at the time, and we need to consider those scenarios, including the dam being empty, right through to the dam being - perhaps running four or five metres over the spillway and then getting another rain event on top of that. So we have to try and factor all that in somehow.

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And is it your view that any new flood line for building purposes should attempt to cater for the probable maximum flood or - and certainly above the 2010 flood line - 2010/2011 flood line?-- Yeah, well, the evidence is that we had a flood in 1950 which was actually higher than the 2010 flood on the gauge. So I think that any one in a hundred year event is going to have to be somewhere above the 2010 mark.

If I can - while we're on this subject of flood mapping and flood lines, in paragraph 35 you refer to - that, "The 2008 flood highlighted the critical need to have accurate contour mapping but nothing has been done." Why do you see a need for contour mapping in relation to land planning in Emerald?-- Well, if you haven't got contour mapping, you just don't know where the floodwater is going to go, where things are going to happen. That's just something that you need.

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So you need something more - is your view you need something more than just a one dimensional map showing floods lines, you need to know-----?-- Absolutely.

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-----levels and heights-----?-- Yes.

-----and contours? Back on paragraph 29, you refer to the 2008 flood?-- Yes.

And the putting in place of an updated flood line following

the 2008 flood?-- Yes.

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And from reading from your statement, you have views that this was not done?-- Well, it certainly wasn't done effectively.

Okay. And you provide the example of the Emerald Market Shopping Centre near the Nogoa River?-- Yes.

And you've got a quote there which takes into account the levels that were required by council to build the extension to the Emerald Market Shopping Centre?-- Yes.

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Where did this come from, this quote that you-----?-- A letter - I noticed in the council minutes that the council had approved a level for the extension of the shopping centre that was still below the 2008 flood level, and I thought that was quite silly, and I wrote to the council, and this is in a letter in response to me. They've given me this information.

The - in your statement you refer to the level required was at 177.1 metres AHD?-- Yes.

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And you say that the height of the water on this site in the 2008 flood was 177.3 metres?-- Yes.

Which is higher than the required level-----?-- Yes.

-----required by council. Where did you get the height of the water on this site in the 2008 flood from?-- I measured it.

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And when did you measure it?-- When the flood was at its peak.

And did you measure specifically this property or-----?-- Yes.

-----other properties around town?-- Both sides of that property.

Were you interested to-----?-- Yes.

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Okay. Did you share that information with anyone?-- I can't recall at the time. I just kept on - the results that I'd measured around various spots around town, I just kept that on my file, I think.

Okay?-- For many, many years I've had a file called "Flood File" and anything relating to floods, and I just keep that because I have been interested in floods.

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And so during the 2008 flood, did you take measurements around town to see where certain-----?-- Constantly monitored-----

-----levels were?-- I monitored the river for the whole duration of that flood, yes.

And did you do that again for the 2010/2011 flood?-- No, wasn't - I wasn't here.

And have you provided those measurements that you've got to the council for them to assist in any land planning developments ahead?-- No, I think the only contact was that I queried that and-----

Okay?-- -----got that response.

You do say that when the shopping centre was built in the first place all the old-timers thought the council was mad. What do you mean by that?-- Well, every - all the old-timers can remember when the water was many feet over that land, several floods. 10

Any floods in particular that you can refer to that you observed water over that land?-- I came to Emerald in 1973. The highest flood around since then was '78 and again in '84 or '83. There was water over that land then, but the 1950 floods are all recorded as being higher than those floods. 20

Okay. So you may not have observed it, but you can certainly - you saw it in the records?-- There's plenty of records, yes.

Another aspect that you raise is that planning approvals over the years - is it as the development moved north the land was generally filled to fit the flood lines of the time?-- Yes.

Can you tell us about that?-- Well, in 1980 we produced a flood map, and the original flood contour map had a flood line for a 25 year return period and a 50 year return period. Subsequent to the production of the first map, which was done by consulting engineers, Blain Bremner & Williams, we - the council adopted a one in 30 year flood line for building. That was the land had to be built up to the one in 30 year flood line, which was considered appropriate at the time, and then floors had to be 300 mil above that one in 30 year flood line. So that - there was accurate mapping done then that was - the 30 year flood line I think was established in 1982, and all the development - there wasn't much development in Emerald in those days, but the development then had to comply with that, and a second set of maps actually drew lines all over the whole town that showed people what the flood line was for a particular property. 30 40

What about the aspect of the land being generally filled to fit the flood lines of the times?-- Well, development since the - mainly around about 1990 on, the town really sort of got going, and then the land to the north and sort of northwest of the CBD was developed, and a lot of that land had to be filled, some only two or three hundred mils, some probably up to a metre. 50

And it's been filled to fit the flood lines of the times, being-----?-- Yes.

-----that as - it doesn't take into account probable maximum floods or greater floods than the flood line at the time; is

that your view?-- Well, I think, like, with developers doing that sort of work, I don't think they would have got overgenerous and go past what they had to go past, you know. People with history would put a house on high blocks and say, "Well, you know, I need a bit more than that." But most people just develop - if it - if the level was 177 metres, that's what they'd fill the land to, 177 metres.

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If we can now go to paragraph 63 of your statement, and there you provide some suggestions for flood prevention for Emerald for the future?-- Yes.

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And you refer to a public meeting held in Emerald on the 28th of March?-- That's correct.

And is that - that's this year?-- Yeah.

And at that meeting the possibility of discharging water from Fairbairn Dam to the east during large floods was raised; is that the case?-- Yes.

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And if this discharge could occur, what would the consequences on Emerald be?-- Well, first of all, this - this has been an idea that's been around for a long time. It's not something that's new and got first raised in that March meeting, but, as Mr Spackman said, the Fairbairn Dam on the eastern side is not far from the catchment that goes down into that Sandhurst Creek, and the idea is if the - a channel was built connecting the Fairbairn Dam to that eastern catchment, it would mean maybe a canal system or a - you know, building an open floodway somehow that could be made to work, that - for example, a 3.5 metre flood in - over the Fairbairn Dam won't impact much on Emerald, but the 5.5 metre flood had a massive impact. If we could stop the dam from discharging above 3.5 metre level, we would have no flood in Emerald.

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Another matter that you raise is the possibility of protecting Emerald from flooding by constructing levees and a bypass channel around the western side of the town. Can you tell us about that?-- Again I'm not a hydrologist, I'm not an engineer, I'm a surveyor, but I do know that levees work in other areas. I also do know that levees can be not so good if everything is not right about them. I've had a look at levees in New Orleans twice now since Katrina went through there and I've seen the worst and the best of what can happen with levees. I believe the State Government are now spending a lot of money - 13 million I think got mentioned the other day - to improve and upgrade the levees around Charleville. There's levees being built out at Jericho, and maybe - well, what I really recommend is that a thorough engineering investigation should be carried out as a matter of priority to see if there are some things that we can do with levees. There has been engineering recommendations before to build a levee to stop the water that runs through the middle of town. I think that would be quite simple, but that doesn't stop the water from coming around town. So maybe it might stop the water going through town, but it doesn't solve the problem. But unless we do a thorough study of what can and what can't be done, and

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how much it will cost, no-one will ever know, but I just think that if we can flood-proof Emerald, we should do everything we can to do that because we will have more floods.

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Thank you, Mr Edmonston. I have no further questions.

MR URE: I-----

COMMISSIONER: Can I just ask you - sorry, Mr Ure, but can I just ask you, when you talk of this possibility of a channel on the eastern side into the creek catchment on that side, what's there? What is there in the way of agricultural properties and so on?-- Just farmland.

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Just?-- Farmland. Bit of grazing and agriculture.

How intensive? Can you give me any idea?-- Unfortunately it's some of the good country that we've got out here, but when you weigh up the - you know, when the exercise is done, and you weigh up the pros and cons of it, I'd be surprised if it didn't stack up and become a realistic objective. I think the only thing that would stop it would be money and that's obviously got to come from the Government.

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When you spoke of SunWater dismissing the idea, do you know on what basis? Was it just not a feasible thing to construct, or was it concerns about the expense of acquiring property or any idea?-- I think they mentioned expense, but I'm not aware whether they've actually looked at this in the past or not. I couldn't say.

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All right. Thank you. Mr Ure.

MR URE: I have nothing, thank you.

COMMISSIONER: Mr MacSporran.

MR MacSPORRAN: Nothing, thank you, Commissioner.

COMMISSIONER: Ms McLeod.

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MS McLEOD: No.

COMMISSIONER: Ms Wilson.

MS WILSON: May Mr Edmonston be excused?

COMMISSIONER: Yes. Thank you very much for your time, Mr Edmonston. You're excused.

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WITNESS EXCUSED

MR CALLAGHAN: I call Mr Phillip Brumley.

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PHILLIP ARTHUR BROMLEY, SWORN AND EXAMINED:

MR CALLAGHAN: Your full name is Phillip Arthur Brumley, is that right?-- Correct.

Mr Brumley, you've had a role as Chief Executive Officer of the Nogoa River Floodplain Board, is that correct?-- Yes.

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Previously, though, you've had different positions with the Emerald Shire Council?-- Yes, and I still have with the Central Highlands Regional Council.

All right. You were at one stage acting Chief Executive Officer of the Emerald Shire Council?-- In the lead-up to the amalgamations when the - when Bryan Ottone had to stand aside from that role, yes.

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In particular, in October of 2007 you would have held that role?-- Mmm.

We'll come to the Floodplain Board issues in a moment but I did just want to show you a document which has been taken from a development application file. I will place that in front of you. It is a decision notice approval from the 3rd of October 2007 relating to shop 29 Centro Emerald Shopping centre in Egerton Street, is that - you recognise the form of the document?-- I certainly - I have seen these before, yes.

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Yes. This one has been signed by you, I think, is that right?-- Yes.

I just wanted to take you to the fifth page of the document. Look, I appreciate you probably signed many such documents in your capacity as acting CEO-----?-- Yeah.

-----relying on the advice of the manager for building services-----?-- Yes.

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-----who has also signed the document, would that be right?-- Yes.

But the topic of interest in this one is on that page - you see there is a heading "floor height flood"?-- Yes.

And it says, "A registered surveyor is to certify that the habitable floor height is not less than 300 millimetres above the Q100 flood height"?-- Yes.

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"The designated Q100 flood height for this application is"-----?-- Yep.

-----"is (what is the designated flood height NAHD?)"?-- Yes.

That would appear, perhaps, that that's a draft that's been sent out-----?-- Yes.

-----by mistake, so that's just a slip?-- Yes.

But what I'm interested in is in the status of the Q100 flood height in relation to development applications such as this at that time, what was the story?-- Oh, look, I really can't answer that. You know, I don't recall the information at the - from now at the time that came through and I certainly don't now recall any information in relation to that height at all.

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You can't recall whether a Q100 was ever being used?-- Well, exactly right. Whether it was used at that time and I can't recall what the height would have been.

No, I am not asking you what the height would have been, it is just whether there was a Q100 or-----?-- I am saying I can't recall that.

All right. Okay, I will tender that document and we'll show it to-----

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COMMISSIONER: What about Mr Brumley's statements. Do you want to tender them?

MR CALLAGHAN: Yes, if I haven't tendered that already, I will also tender - Mr Brumley, you prepared a-----

COMMISSIONER: Two statements, I think?-- Correct.

MR CALLAGHAN: A statement and-----

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COMMISSIONER: A statement of 6 September and another of the 22nd of September.

MR CALLAGHAN: I have the 22nd. All right, I tender both of those.

COMMISSIONER: The first will be Exhibit 680.

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ADMITTED AND MARKED "EXHIBIT 680"

COMMISSIONER: And the second, Exhibit 681.

ADMITTED AND MARKED "EXHIBIT 681"

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COMMISSIONER: The third thing you want to tender is the decision notice, is it?

MR CALLAGHAN: Yes.

COMMISSIONER: That will be Exhibit 682.

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ADMITTED AND MARKED "EXHIBIT 682"

MR CALLAGHAN: Can I turn then to your work on the floodplain board, and just so we can understand the manner in which some of the issues in this district have developed, can you just talk us through the means by which a levee bank has been approved, if it has been approved in this area historically? I appreciate the situation is changing, but can we just get a bit of perspective-----?-- I guess, I can qualify in the sense that ever since I have been in the position as the CEO, there's only been two organisations who have put levee bank applications forward, one being Ensham and the other one being Primac. So I really can't offer you, I guess, any definitive advice on how previous applications would have been made. But in the way that we have received them since, you simply receive a written application to approve a levee bank, that will have the information that's normally required in terms of hydraulic assessments, and where it is going to be located, and things like that.

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Okay. You were here when Mr Anderson gave evidence, I think, were you?-- Yes.

And you appreciate his concern-----?-- Yes.

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-----about the effects that he says levee banks have had on his property. How have those effects, or the potential for such effects - let's speak in general terms - how have those been taken into account by the board?-- His in particular?

No, just generally?-- Oh, well, I think the study that you get, the reports you get, the submissions you receive, if you like, need to address those particular things; the impact it will have on neighbouring properties, the impact it will have on stream flow-----

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Those-----?-- -----and the amount of water that will be on neighbouring properties, things like that.

Whether those properties are within the specific floodplain or not?-- Well, the applications I have received have only ever been in relation to properties that are inside the floodplain.

You are not able to help us with the way it might have been done previously?-- No, I really haven't gone back and looked, for example, at the applications that come in in the late 90s to see how they might have been assessed.

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So I think you anticipated that I might have asked you specifically about Mr Anderson's property, but you are not able to-----?-- Well, no. Mr Anderson - I have certainly been to see Mr Anderson's property with Kevin Bickoff, who is

a former engineer for council, but also for the board, and, you know, it is not hard when you see where he is to understand the impacts upon his property. And, you know, it is quite unfortunate that has occurred. But certainly from the point of view of the board, you know, it is outside our area, and for us to, therefore, be, you know, offering advice - and certainly not me, not being a hydrologist or an engineer - but it is not appropriate, I think, for us for us to get drawn into levees that have been obviously approved by other organisations.

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COMMISSIONER: Can I just ask is no part of that levee in your area?-- My understanding is not, and certainly not the levee that is causing the problems for Mr Anderson, that particular levee that runs north-west.

MR CALLAGHAN: He did seem to suggest that at least part of it was in the board's jurisdiction?-- Yeah, I - look, to be perfectly honest, again, I am not sure of whether the far eastern edge, if you like, might be in our property or not, I am not aware of that. When I've spoken with the secretary who looks after the Floodplain Board matters, her response was it is not in our property and it has not been in our records.

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Mmm. All right. You are not able to help us - again, just from a historical perspective - about what if someone like Mr Anderson, someone whose property was outside of the area with which the board was concerned, how their interests were taken into account?-- No. I'm sorry.

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What if they wanted to build a levee - someone outside of the board's jurisdiction, what if they wanted to build a levee? Do you know what they did?-- Well, no, I am presuming, which is not a smart thing to be doing, but I would presume they would have to apply to DERM, who would obviously have authority over these sort of areas, and perhaps to the council with their local laws.

Well, Mr - we've gathered that the board has voted to dissolve itself, is that right?-- Yes.

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I understand council has just recently voted to accept that recommendation?-- One of the councils has.

Just one of them?-- Central Highlands Regional Council has endorsed that. We've written to the Isaac Regional Council and we're awaiting for a response from them.

Okay. Well, what do you understand will be the process from this point on? Just by way of background, I've seen a media article in which the mayor is quoted as saying that the best people in the world are on the board, presumably meaning the best qualified people to discharge those functions. I'm not asking you to agree or disagree with that. Presumably you won't disagree?-- I certainly wouldn't be agreeing either.

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You don't agree that-----?-- No, I think, you know, what you've got is people on the board, you've got some council

representatives and you've got myself who are doing the job that they can in the time they have available-----

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Yes?-- -----with their other responsibilities.

To be fair, I think that's what the Mayor was probably getting at?-- The difficulty the board has is we don't have the qualified engineering expertise at our beck and call, and we don't employ anyone.

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Mmm?-- So we're totally reliant, you know, on - in this case we've always used SunWater with Rob Ayre. Obviously we have the greatest respect for his abilities and his advice. But that's about the extent of the support, if you like, that the board has. So it has very limited resources.

And the impression we get from the materials is that the issues now, especially in relation to mining and industry, are now bigger than they have been previously, and more an authority with more resources than you've had is now required to do the job, is that right?-- Well, that is certainly the view that I put to the board and they obviously accepted when they passed the resolution. I think - as I have said in the statement, I think there is two key points: (1) is that not just do we now have large mining industries on the plain, and perhaps more to come upstream, but those are issues of State and national significance. The Floodplain Board was only ever really set up to work as a cooperative arrangement, more than anything else, with the local farmers.

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Yes. It is on that local level that I would like to focus for a moment, because whilst we can understand that the issues are now bigger than they were-----?-- Yes.

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-----and there is a need for something bigger, would you agree there is also a concern or a need that those local interests and that local expertise should still form a part of the decision-making process?-- Very important.

And so, looking forward, how do you see that happening? Is there any agreement on that or has that been the subject of any discussions?-- No, it hasn't been the subject of any discussions. I think from my personal point of view there are probably two options, and one is, in my view, there is no reason why any government body set up could not have representatives of the rural community on that body. But, secondly, there is no reason why you wouldn't have council as a referral agency. So if the government was going to make a decision it would simply say, "We want council's input on that", and council presumably would continue to represent the people who live in this area.

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Mmm. The board, was it more representative than just the council, though, or more-----?-- I think the board has always seen that its primary focus is on providing the best outcomes for those who are actually using the floodplain, which is primarily the farmers.

A slightly different perspective from the council as a whole?-- Indeed.

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I appreciate it might overlap?-- Indeed, yes.

And I suppose the question is whether that perspective is going to continue to be represented. If you just deferred the whole thing or said that the council could be a referral agency-----?-- Yes, I agree.

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-----that you might lose that perspective, is that correct?-- It is certainly a concern of the farmers. You know, when we've had discussions in the past when they have been appealing against board decisions, and they have expressed a real concern if the board did not continue - this is back in 2008/2009 area - that they would lose their voice if, in fact, it was handed back to the State Government.

So to come back to my question and just to help us out in terms of what we might be looking at here, what is the - and this might be just an opinion of your own -----?-- Yes.

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-----but it would still be valued - what is the best way forward?-- I still think to have either the members of the - or representatives of this rural community, the floodplain area, on a government body or have the council as a referral agency. I appreciate that, you know, you can have some distance between a council and people on a floodplain. I happen to believe this is a particularly good council, in terms of seeking advice from its residents, and acting in their best interests. So I, you know, as an employee of council, would be quite comfortable in suggesting that would probably work well.

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Okay. That's all I have, thank you.

COMMISSIONER: Mr Ure?

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MR URE: Just a couple of matters, thanks. Mr Brumley, you helpfully this morning provided the base map, which has become Exhibit 677 before the Commission?-- Yes.

That's the map of the Nogoia River Floodplain Board area. Do you have a copy of that with you?-- Yes.

Well, can you take it out? Just a couple of questions so it is clear to us all?-- I think you might have mine, actually.

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Take this copy, please. Thank you. The area within which the board has control -----?-- Yes.

-----is outlined in green?-- Yes.

The local government boundaries are outlined in red, correct?-- Yes.

So we can see that the board's area of influence straddles the boundary between the former Peak Downs Shire and the former Emerald Shire?-- Yes.

And to the east we have Duaringa, Broadsound and Bauhinia somewhere - yeah, Bauhinia to the south?-- Bauhinia south, yes.

The notation that Mr Anderson made-----?-- Yes.

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-----on the Court copy, Exhibit 677, was that his property was to the west of the - the southern portion of the board's area-----?-- Mmm.

-----straddling the boundary between Peak Downs and Emerald. I have put that rather clumsily, but do you see the-----?-- Yes.

-----almost vertically dashed line?-- Yes.

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His property was to the west of that?-- Yes.

And then the levee he told us about was - I thought he said to the west and the north-west-----?-- Yes.

-----of his property?-- Yes.

If there is an application for - or if somebody wishes to construct a levee outside of the board's area, are you aware whether or not either Peak Downs or Emerald Shires had local laws which facilitated applications to be made?-- I understand they did.

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So one would expect that if there was an application sought to be made for a levee outside the board area, it would be made to the respective shire in which the property-----?-- Yes.

-----and the proposed levee was situated?-- Yes.

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All right. A couple of other matters. You were asked some questions about what was your state of knowledge about whether or not a Q100, or some other ARI flood line was imposed back in the 90s when there was a development approval-----?-- Yes.

-----that you were shown. I just want to show you a copy of Mr Lankowski's statement before the Commission, which is Exhibit 670. This may refresh your memory, or it may not. But if you could just look for me, please, at two parts of it. I will take out attachment 3, which is entitled "Emerald Interim Flood Levels Map to determine floor level", and the narrative part of the statement is paragraph 3.2. So if I could invite you, Mr Brumley, please, to read paragraph 3.2, and for - it commences, "Since 2006 council has utilised a map entitled Emerald Interim Flood Levels Map to determine floor level to establish a minimum floor level above the flood level, attachment 3"?-- Uh-huh.

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And attachment 3 is the plan -----?-- Yes.

-----that bears that name. Are you familiar with that document?-- I seem to recall seeing it.

No more than that?-- No more than that.

Okay. We will ask somebody else. May that be returned, please?

I have nothing further.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: Nothing, thank you.

MS McLEOD: No questions, thank you.

COMMISSIONER: Mr Callaghan?

MR CALLAGHAN: May Mr Brumley be excused?

COMMISSIONER: Yes. Thanks very much for your time, Mr Brumley?-- Thank you.

WITNESS EXCUSED

MS WILSON: Madam Commissioner, I call Bryan Ottone.

BRYAN ALFIO OTTONE, SWORN AND EXAMINED:

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MS WILSON: Have a seat, Mr Ottone. Would you tell us your full name, please?-- Bryan Alfio Ottone.

You are the Chief Executive Officer of the Central Highlands Regional Council?-- I am.

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You have provided two statements to the Queensland Floods Commission of Inquiry. Can I ask you to look at these documents? The first statement you provided is signed on the 6th of September. I will just show you this document. That's a statement that you provided?-- Yes, that is, yes.

That's dated the 6th of September?-- Yes.

Attached to that statement were also some exhibits?-- Yes.

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Okay. Can I show you this document? There is the exhibits. Is that attached - they are attached to the statements that are signed the 27th of September? Is that-----?-- Not the ones attached to the 27th of September, sorry.

Okay. The document you have in your hand, is that the statement that is dated the 6th of September?-- Yes.

And there are some exhibits attached to that?-- Yes.

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Madam Commissioner, I tender that document.

COMMISSIONER: 683.

ADMITTED AND MARKED "EXHIBIT 683"

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MS WILSON: The other statement you've got there, that's the one that's dated the 27th of September?-- Yes, that's the one.

Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 684.

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ADMITTED AND MARKED "EXHIBIT 684"

MS WILSON: Mr Ottone, I appreciate that you are the Chief Executive Officer and not a planner, but I am going to ask you some questions, and if you could assist us, that would be greatly appreciated. If I am straying outside your expertise,

no doubt you will tell me?-- Certainly.

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In terms of the Central Highlands Regional Council's compliance with SPP103 in relation to their planning schemes. Can you - I would like to take you to a document which is attached to Gary Mahon's statement, which is Exhibit 534. The document that I'm taking you to is exhibit GLM34. Now, you are aware that the Central Highlands Regional Council administers floor planning schemes?-- I am, yes.

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Are you aware that none of them comply with SPP103?-- I can't say that I'm aware, no.

Okay. Well, if you could go to that document? If you could go to the last page of that document - and this is a State Interest Check, and you will see that there is three columns, and the second column provides a comment, and the third comment provides a solution to be able to best achieve compliance with SPP103. Do you see that?-- Yes.

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The Department of Emergency Services, we can see in that second column, is aware that council undertook a Natural Disaster Risk Management Study, which included flood investigations for the shire, and the council adopted this report on the 25th of June 2002. Were you aware of that?-- Yes, yes.

In the comment that is provided is, "Results of this report should have informed the development of the Emerald IPA planning scheme, particularly in relation to flood issues." Now, can you tell us since 2009 - sorry, since 2006 what action has been done by the Central Highlands Regional Council to further the efforts to comply with SPP103?-- Well, to the flood - to the flood lines, which I think part of it was, in 2006 we had - we had a consultant put together all of the flood studies that had been commissioned around the Emerald area, put them together into a document that was mentioned a moment ago, which was the Emerald Interim Flood Level Map to determine floor levels.

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And can you just - the document that you referred to, that's an exhibit to Mr Lankowski's statement, but can you just give us the title of that document so we know which document you are referring to?-- "Emerald Interim Flood Levels Map to determine flood level".

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What's the date of that?-- The 2nd of August 2006.

Okay. So you are referring to a map of the 2nd of August 2006?-- Yes.

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Is there anything else that the council has done to seek compliance with the SPP103?-- On that side, I think that was the major exercise we did there, but I think efforts are being made to comply wherever possible.

That map is dated 2006. Emerald and the region suffered some flooding in 2008?-- That's correct.

Are you aware whether the council undertook any steps since 2008 to accelerate compliance with SPP103?-- Immediately after 2008 the - during the proceedings of our flood recovery committee, lots of recommendations came from that. And then, of course, the amalgamation of councils came upon us and, of course, that's when the four town planning schemes came together. And then there was - there were regulations in place that those schemes would become the scheme of the council, even though individual schemes, and then, of course, the SPA has come along, and at the moment we are actually working very activity towards a new town planning scheme for the whole of the Central Highlands Regional Council, which includes flood studies.

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And that will take into account the four schemes?-- That will take into account the four schemes, and we will have the one scheme for the new council area.

What would be the hopeful due date for that consolidated planning scheme to come into play?-- My hope would be in 12 months' time - but practically I am not sure if we're going to get that target - but we are looking to do everything in our power to try and move it along as quick as we can.

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Okay. If I can take you to your first statement - that is the statement that you've got some attachments to - I wish to take you to some of those attachments. Attached to your statement is a copy of resolutions that the Central Highlands Regional Council has passed in relation to planning processes. Can I take you to that attachment, please? Have you got that, Mr Ottone?-- Is there a date on that one?

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Yes. I will take you through and I will give you the dates I am going to refer to. 24 January 2011?-- Yes.

Have you got that one there?-- I have got it here.

Okay. There are several parts that I wish to take you to in relation to this document. You will see that the first matter dealt with in that council meeting minutes dated the 24th of January relates to a council decision "to defer a decision on a reconfiguration of lot application subject to council obtaining information of flood levels from the 2010/2011 floods"?-- Yes.

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In relation to this, has that information now been obtained, are you aware?-- On-----

You can see that "Councillor Rolfe moved and Councillor Nixon seconded that the applicant, Paul James Kelly be advised that his application" - and then it goes on that it should be "deferred to a later meeting subject to council obtaining information on flood levels?-- Yes.

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So has that information been obtained?-- Yes, I believe - Mr Kelly has provided council with information that it acted on, yes.

And so has this application now been decided?-- Yes, I believe so.

And was - can you tell us what the decision was?-- I might just have to - I might have to-----

Okay, if you haven't?-- I am not 100 per cent on that one.

If you haven't got the material, we'll just move on?-- Yes.

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The second item that stated there is that "the councillor issued advisory notices to all properties subject to a previous development application that were inundated during the 2010/2011 flood event recommending a revised flood height of at least 300 mm above the known level of this event." Was this carried out? Was this carried out in practice, are you aware?-- I understand that it was.

Do you know whether it applied to all properties that had existing development approvals, or just those that were not yet determined?-- I believe that ones that were not yet determined, or if inquiries were made.

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Okay. Just finally on this page, there was an emergency resolution in relation to flooding, and the resolution was that "the council authorise the Mayor and Chief Executive Officer to approve the establishment of temporary premises for the relocation of residents and businesses affected by the 2010 floods." Do you see that?-- Yes.

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It goes on: "temporarily overriding those relevant requirements of the Sustainable Planning Act 2009 planning schemes and other relevant statutes due to these exceptional circumstances." Do you see that?-- Yes.

Now, it is intended that this resolution itself has effect to override the Sustainable Planning Act requirements. Is that the case?-- Yes, in an emergency situation, yes.

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Did you - so this council resolution will override State statute?-- Well, legally - legally not, yeah, but-----

But that's how-----?-- We were looking at an emergency - if an emergency arose, yeah.

Yes. And was that done, that the council would ignore the Sustainable Planning Act?-- No, this resolution has come through since - since the floods.

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Okay. So was it - can you-----?-- I am sorry-----

At any time-----?-- -----I will go back. It was partly to allow people also who were going - who have been flooded or going through, you know, the situation, and they had nowhere else to go, it was deemed that they might have been able to move back into their premises - and it appears safe to do so - that we would allow those things to happen.

Okay. How long did the council allow for the Sustainable Planning Act to be ignored - or overridden, is the better word?-- Look, this was a case-by-case basis. Most of our efforts was put in to trying to find alternate, you know, proper and safe accommodation for people, and in lots of cases they were able to stay with friends and neighbours, or people in areas away from the affected areas, and I think - and we're still ongoing with our flood recovery unit, which is fully staffed, and my understanding is there'd be very little - there weren't a lot of people who were in this situation.

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Okay.

COMMISSIONER: Ms Wilson, have you got a line of questioning you would like to-----

MS WILSON: I have got a line of questioning, yes, Madam Commissioner. Would that be a suitable time?

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COMMISSIONER: Yes. How are we going with progress of witnesses? Should we truncate the lunch break? What do you think?

MS WILSON: No, we should be able to meet our 4.30 finish time. Madam Commissioner, there is a witness who is leaving his work to come and give evidence at the Commission at 2.30. Would it be possible to interpose him, because he is leaving his work and closing his business to come to here. He will only be a very short witness.

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COMMISSIONER: Yes, by all means. All right then, we will adjourn until 2.30, thank you.

THE COURT ADJOURNED AT 1.03 P.M. TILL 2.30 P.M.

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THE COMMISSION RESUMED AT 2.30 P.M.

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COMMISSIONER: Yes, Ms Wilson.

MS WILSON: Thank you, Madam Commissioner. Mr Jago is here. Could we interpose him now?

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COMMISSIONER: Yes.

GEOFFREY WILLIAM JAGO, ON AFFIRMATION, EXAMINED:

MS WILSON: Is your name Geoffrey William - full name Geoffrey William Jago?-- Yes.

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And you've provided a statement to the Queensland Floods Commission of Inquiry?-- Yes.

Can you have a look at this document, please?-- Yep, that's-----

Is that your statement?-- Yep.

Madam Commissioner, I tender that statement.

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COMMISSIONER: Exhibit 685.

ADMITTED AND MARKED "EXHIBIT 685"

MS WILSON: Mr Jago, we will give a copy of the statement to you so you can look at it. You are the manager of Emerald Exhaust and Suspension?-- Yes.

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And that's located at Hospital Road, Emerald?-- Yes.

And you moved there in about July this year?-- March, April.

Okay?-- Yeah.

And where was Emerald Exhaust and Suspension previously located, before you moved to-----?-- 3 Egerton Street here in town.

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Okay. And during the 2008 floods, where was that business located - your business located?-- 3 Egerton Street.

Okay. And during the 2008 floods did any floodwaters cause any damage to your premises at Egerton Street?-- 2008?

Yes?-- No. It was about 600 mil lower.

Okay. And in the 2010/2011 floods, can you tell us if any floodwaters entered your premises?-- It entered the back section of the building but it was basically level with the floor for the rest of the building.

Okay. And where was the source of this water coming from?-- It came down through the drain at the back of the - through the railway crossing above us. 10

And you didn't suffer any property damage?-- No property damage, no.

And that's because you'd put all your equipment off the ground and the walls and floors are Besser brick and concrete?-- Yes.

So after - could you just wash down the floors - did you?-- Yeah, we just Gernied out the back section, that was it. 20

You went on the 1st of January for a walk to the railway line?-- Yes.

And this railway line runs parallel to the Capricorn Highway?-- Yes.

And what could you see about water levels at the railway line?-- Well, the - what do you call it - southern side of the railway line was a lot higher than the downstream side of it and the northern side. 30

And did you take a measurement at all at any stage?-- Roughly it was my knee length deep. It was probably about 600 mil difference.

Between - and which was the higher side again?-- The southern side. 40

Than the-----?-- Upstream side.

And the northern side was 600 mil lower?-- Mmm, yeah.

Okay. As we spoke previously, you've moved your premises now to Hospital Road?-- Mmm-hmm.

And that's part of an industrial estate, is it?-- Yeah.

And at the rear of the premises is the LN1 drain?-- Yep. 50

Do you have any knowledge whether the premises that you're presently in now, whether that got flooded during the 2010/2011 floods?-- It had about 300 mil through it.

And do you - have you been told where that water came from?-- Well, it's just from all the flood and that, but a lot of it came out through - from down the LN1 drain, because it - we're

right on the bend of the drain. It overflowed towards the end of our sheds. 1

Okay. Now, you've also provided some suggestions to the Commission for the future. The first one is that the railway line needs more openings to allow the water to flow through naturally. Is that - do you provide that suggestion from what you saw that day when you went down and had a look?-- Yeah, the morning the flood peaked, we walked back, checked the shop here in town, the old building, and then walked on down to the river, to see what was doing there. 10

You also make a suggestion about the LN1 drain?-- From where our shed is now, the natural drain is a lot wider behind us than it is on the other side of the highway. During the flood that drain - the crossing - what do you call it - Hospital Road crossing washed out which obviously caused - it's a venturi effect, it's all gouged out. If that was opened up - even in May there was a three inch storm that trashed - it runs a bank with just sort of a three inch storm. 20

And are you suggesting some more culverts there, are you?-- It has to be opened up, let it flow - let a natural flow happen.

And if it did get opened up and a natural flow happened, where would that flow go?-- It goes back into the river.

Another issue that you raise is culverts at the drainage channel crossing with roads such as where the LN1 meets the Gregory Highway?-- That's what I was just talking about. 30

Okay?-- That drain crossing there.

So the ultimate solution for you is to open it up, not just culverts?-- You need - like you need a road across it, because it's a major thoroughfare, but it needs to be - it's got three pylons in the middle of it, and even after storms you see that it just blocks up, it can't handle the capacity, and right behind it there's a foot crossing, which is lower again, which is just natural damming effect. 40

And, finally, you suggest that the construction of buildings should be so that they are resistant to floods?-- You won't build anything resistant to floods. You've just got to let a natural flow happen. Like, it's a tunnel effect. It opens up wide and it just keeps getting narrower and narrower, and if the drain was V'd out to allow natural flow to happen and capacity, where it's not allowed to - capacity to flow through it at the moment. 50

In your statement you refer to material such as Besser brick are not effected by water and just require cleaning afterwards?-- Mmm.

I assume that you're using the example of your previous premises?-- Our previous shed was Besser brick and Trimdek sheetings. Like industrial sheds it's fine.

Yes?-- But it was easy to clean out.

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Thank you very much, Mr Jago, for coming down today and giving evidence. I have no further questions.

COMMISSIONER: Mr Ure.

MR URE: I have nothing, thank you.

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COMMISSIONER: Mr MacSporran.

MR MacSPORRAN: Nothing, thank you.

COMMISSIONER: Ms McLeod.

MS McLEOD: I have no questions.

COMMISSIONER: All right.

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MS WILSON: May Mr Jago be excused, Madam Commissioner?

COMMISSIONER: Yes. Thanks a lot for making the time, Mr Jago. You're excused.

WITNESS EXCUSED

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MS WILSON: I recall Mr Ottone.

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BRYAN ALFIO OTTONE, CONTINUING:

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MS WILSON: Mr Ottone, before lunch we were discussing the emergency resolution about - that was temporarily - was temporarily going to override the relevant requirements of the Sustainable Planning Act?-- Yes.

And that is referred to in the minutes of Monday, the 24th of January 2011. Have you got that document in front of you?-- That's correct, yes.

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Now, when you talked about wanting to override the relevant requirements of the Sustainable Planning Act, what were you actually wanting to be able to do?-- Look, the - it - this was worded at a council meeting. Whilst it wasn't a report that was taken, it was done on the spot. So some of the wording, you know, probably could have been tailored better under other circumstances, but what it was about was an emergency situation for people who want to go back to their premise and live there because they've got nowhere else to go, they haven't got friends, relatives or other places available, they might want to pitch a tent there, put a caravan there, but - and we're saying there providing they've got the minimum standards, you know, like, probably reticulated water and plumbing and toilet and what have you that we would allow that to happen, however, we'd review it in six months' time if it was still happening, and of course - and that was done as a practical solution using commonsense. I mean, we could have done it without putting, I suppose, in hindsight, all other - we might have done it without putting it on the books, but council wanted to be proactive and let the community know, look, we're here to try and help.

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Okay. Now, can we just put those resolutions to one side for the moment, and we can go back to your first statement, and if I can take you to item 4 of your first statement. That's the larger statement, Mr Ottone. And I think you'll find item 4 is addressed at page 3 of that statement. Have you got that?-- I think so.

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And that addresses how information about flood risk was - for specific properties is made available, and any process for obtaining this information, and you've addressed various criteria, for example, members of the public, insurance company and prospective developers and their representatives, how this information is provided to these categories of people; do you see that-----?-- Yes.

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-----in your statement?-- Yes.

If I could take you to some matters raised here. In relation to members of the public, residents have been advised by front counter staff to log onto the QRA website. Do you know what on the QRA website residents are told to look at?-- Yeah. Well, initially - initially, you know, after the floodwaters went down and people wanted to have a bit of an idea how

things looked, I think it was DERM actually put some information on the QR - the Queensland Reconstruction Authority website where you could actually go in and it gave an indication of whether there was water on the property, and where it may have gone.

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Have you seen the recent mapping that the QRA has done in relation to Emerald, in relation to flood zones?-- Yes, the-----

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Can I show you these maps and then we can be sure we're talking about the same document? Now, what's that one? If I can just - if you could just assist me, Mr Ottone. You have been provided two. Can you just look at the one below that first? See the one below?-- That - sorry.

Yes?-- Yep.

Which one - what is that - the name that is given to that map?-- Interim Flood Plain Assessment Overlay Emerald 2.

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Have you seen that map before?-- I can't categorically say I have. I've seen lots of maps. We had people from the QRA up here a couple of weeks ago showing maps and doing studies. So possibly - I can't say for sure, but probably have.

Do you have any understanding how the Central Highlands Regional Council are going to use maps like this, or if they are?-- What the Central Highlands Regional Council has done, since that early part, that's where people were identified to look at that website, we've done a lot of work since then. We've actually mapped - people who come in now, we can actually show them where the water has gone, with the heights. We've also - on top of that-----

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Can I just pause there? With the heights, you make special reference to with the points. Why is that important?-- Well, with heights on the - so, for instance, if there was some water inundation on a particular parcel of land, it will show you the height that that water is at, and - so you can work out the height - the AHD height on that parcel of land.

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And why is that important, in your view, for people to know that information?-- Well, that's important because a lot of - and it's been happening - a lot of people are looking at buying properties. Now that the water has gone down, people don't know where the water really went or whether it actually entered premises in a lot of - some cases it didn't. They're very interested to know if they want to purchase that property where the water in fact did go, and whether it did enter the property.

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Now, Mr Ottone, I interrupted you. You were talking about the QRA maps, and my question was how the council is going to use them, or if they are going to use them?-- Well, I go back to what - the studies that council is doing. We're doing these studies. We've also got consultants doing studies from the dam wall down to Emerald. That C & R Consulting, we're about

- probably within the week or so, at the next council meeting, I understand that we will have the report of that - the final report of those studies. In addition to that, we have some other studies happening around town which is looking at every floor height of every building in Emerald, whereas in the future if there's a flooding event on - and as we know that the heights of the river and dam as it is, we - from this information we're gathering, we are able to determine which areas, if any - well, if it's going to be a flood - which areas and in which sequence that we need to evacuate. Now - and I might add that all of these studies we're doing council is funding. So we're funding hundreds of thousands of dollars. We haven't had any assistance for that. So the council has wanted to get on with this to make sure we have got the best information available for future planning, and in addition to that with the new Town Planning Scheme we're doing a flood plain management study for the whole of the Shire as well. So with all of this information put together, I believe that we'll have the information necessary for future planning - present and future planning.

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And the QRA maps?-- Well, the QRA maps, they will be of assistance if they - if - I'd have to get our experts, because I'm not a hydrologist and - but - and we do have a couple of people on council who are able to interpret that.

Okay. If we can go back to your statement where you've just set out how the council provides information to these various categories, underneath the last point that we looked at, that is residents being advised to log onto the QRA website, it also states that the public has been advised of the latter flood height request form in some instances. Can you tell me about that?-- Yes. Probably more so initially people are interested in buying a property or even want to know on their - on their own property just as a process there is a form they could fill out, but what we're trying to do now, if someone comes in and we've got the staff available at the time to assist them, we will just assist them straightaway, you know, not putting them through the rigours of having to fill out forms and that, if we've got the time available and the resources there at the time, we do that, and since that, of course, with, say, referring people to that, we now prefer to give them the information of - and we do have the maps in the foyer of the council also that the - that citizens and public and anyone, developers, can go and have a look at, and we will also generally now just send the information to people as - if they request it.

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Okay. Can we now go back to the resolutions that you provided that are attached to your statement?-- Yes.

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And can we go to the third page in, where you will see Monday, the 21st of February 2011?-- Yes.

And if you can see the second recommendation there-----?-- Yes.

-----on that page?-- Yes. Yeah, and-----

Just - if you just pause so we can go through it in sequence. "As a consequence of the recent flooding events and the overall State flood crisis council not provide any flood information, historic or current, to any person or entity except in response to an application made under the Right to Information Act or some other lawful process"; you can see that there?-- Yes, I can.

How does that fit into the matters that you've set out in item 4 of your statement?-- What happened right at that time, council was just going through its mapping processes and doing all the work, and it wasn't in a position to give people - well, it didn't have the information to give people flood heights and things. So it was probably a - just some sort of a slowdown tactic, but-----

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Well, where are we at-----?-- -----the minute-----

Where are we at now with the slowdown tactic?-- So that - the minute - as I've said now, we don't - we just - if people come in, we will show them, assist them, send them the information, yeah. So that was - we were concerned that if we gave someone wrong information that it - you know, it's wrong to them and it could affect others.

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If we keep on moving through this bundle of resolutions, and if I can take you to page 6 of that, which is again the 4th of - sorry, it's the 18th of April 2011 meeting, and there's a resolution that the applicant, Emerald Concrete Pty Ltd, be advised of a development application for a material change of use high impact industry?-- Yes.

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That's the concrete batch plant on the land at Cameron Road and Munro Road be deferred-----?-- Yes.

-----subject to the following grounds?-- Yes.

Can you tell us where that is at at the moment? Is it still being deferred, or is it-----?-- Yes.

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-----working towards-----?-- It's actually been deferred three times. The third time was the council meeting of this week, which was last Monday, where council said - the decision was that it be deferred until such time that we have the flood - the report of C & R Consulting, which I mentioned before is - we will probably have it in by the next - for the next council meeting.

It was deferred on the grounds of - that further information had to be provided?-- Yes, on that occasion.

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Flood impact report, acoustic report and environmental water quality report?-- Yes.

And that the reports must also address the onsite fuel storage?-- Yes.

Why was the onsite fuel storage of concern to the council?-- Well, it would have been assessed that they're going to have to build up the land, build up - to put the storage on, and there'd be concerns about the - you know, the height of buildup and what have you.

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Council has also considered to defer the consideration of all applications within flood prone - known flood prone areas until further information is provided, that the information is available from the studies that you have been referring, that is the KBR and CR studies. Is that still the present case, that all applications within known flood prone areas have been deferred?-- Well, council - they put through another - they put through another couple of resolutions, and basically it is - if it's in a known flood area, and for certain - for certain applications they might be low risk or what have you, if they do a study, present a study back to council, which can demonstrate that it - by doing what they plan to do does not affect the overall strategy of the flood plain, including their neighbours, that council may consider the application, and recently they actually did one, and it was one for a - an off-street car parking station.

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Okay. If we can go to the third last page of this bundle. I am not too sure if I have the most recent resolution, but that is on the 4th of July this year, and that was deferring consideration of development applications, and then gives some exceptions, and that is where the applicant has provided a flood study; do you see that?-- Yeah, yeah, that's the one I was talking about then.

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Is that the one you were talking about?-- That's the one I was referring to, yes.

So the exceptions are where the applicant has provided a flood study prepared by a hydrologist - and I'm just summarising the exceptions - and where low risk development is proposed?-- Yes.

And can you give us any idea what - low risk is set out there, but can you tell us what low risk is, what you were referring to looking at low risk?-- Whilst it mentioned those, but - and one of the - one of the examples was an off-street car parking where wanting to get one of the mines who - get their cars off various parts around town onto a - onto a confined off-street parking area, and this one happened to be in the industrial area of Emerald, and provided they could give us a hydro - you know, hydrological studies that said that by building up the land a fraction that it would provide that service which was felt as a low risk thing, and not affect the neighbouring properties that council would approve it.

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Okay?-- Provided they were happy, you know, to approve it.

If we can go back to your first statement now, and if we can go to item 3 which is on the second page, and that's where you set out the resolution for the temporary local planning instrument. Sorry, the first statement, Mr Ottone. The first

statement. Have you got your first statement just there?--
Sorry.

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Yes, there?-- Yes.

The second page of that, and you refer to the
resolution-----?-- Yes, for the temporary-----

-----for the temporary local planning instrument?-- Yes, yes.

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Where are you up to in relation to that?-- We're just
awaiting - just awaiting the finalisation of the mapping. The
fellow who has been doing the mapping for us, one of our staff
members, is actually on leave at the moment. He's due back
just to - I believe he's done - finished the mapping, he's
just got to proof it. As soon as that's ticked off, we're
ready for a resolution to go to council and then go on with
the process. So we're fairly close.

Now, have you got your second statement there? That's the
smaller of your statements?-- Oh, is it on the - on the-----

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Should just be in front of you?-- The one on the levee banks?

That's the one, yes?-- I've got it somewhere.

We can get you another copy?-- Yeah, I've got it somewhere
here.

No, we'll-----?-- Here it is.

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We've got a copy. Have you got it?-- Here it is. Yes.

Okay. And if I can just take you to paragraph 7 and 8 of that
statement. Was this statement prepared before the Nogoia River
- before the board voted to dissolve itself?-- Yeah - yes,
this here?

Yes?-- I actually prepared this.

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Yes?-- But it's been talked about for quite a while about -
about who - you know, who should really manage flood plains,
and with the amount of mining and big mining, and particularly
applications over flood plains and everything, in my view,
it's - and I believe council's view - it's starting to get out
of the realms of our resources and ability to manage that sort
of development.

And you express your view in paragraph 8 where - that it
should be a State responsibility?-- I believe so, and I think
flood plain management is probably going to be a very big
issue, not only for this Shire, but the neighbouring Shires,
and all of those Shires that's been affected, and probably if
it was controlled on a whole of State basis from the one
agency, I think - and who can have the resources and the
expertise available, I think there will be better outcomes.

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Is it necessary that local issues are understood and

appreciated in this-----?-- Yes.

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-----flood plain management?-- I believe that part of the process, if set up, which I hope it is set up, that the council and possibly others would become referral - some sort of a referral mechanism or a referral agency.

Okay. Now, Mr Ottone, if I can take you to a statement by Robert Keogh, and, Madam Commissioner, this is Exhibit 671. Have you seen that statement before-----?-- No, I haven't.

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-----Mr Ottone?-- No, I haven't.

If I can just take you to some matters that are set out in the statement, and if you can assist us that would be good, but if it is beyond your knowledge-----?-- Mmm-hmm.

-----please tell us. Paragraph 4 of that statement - and this talks about - this statement refers to the LN1 drain which we've heard a lot about?-- Yes.

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Sorry, page 4 on paragraph 23. And there it is set out the design of the drain did not include provision to storm - to drain stormwater from the town of Emerald as it existed the time the drain was constructed. Is that your - was that your understanding of the original design of the drain?-- No, I don't - I got to say, I can't be confident with an answer on that one.

Okay?-- Yeah.

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Do you have any knowledge of the agreement that the Commissioner of Water Resources executed with the Central Highlands Regional Council - then the Emerald Shire Council - in 1989 for a term of 20 years to pay drainage rates?-- Yes, I was - I am aware of that document.

Okay. And that 20 years is up. So where is it - what's the status of the drain at the moment?-- We are endeavouring to negotiate with SunWater, and we have had some in-house meetings with SunWater not only over that but, you know, talking about other areas that we might be able - we would like to look at, you know, where we can get better outcomes from the recent flooding.

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Okay?-- And hopefully some of that - there might be some recommendations from the C & R Consultants' report, once it comes out, that we might be in a better position to have some areas we can discuss further.

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Some of the involvement that SunWater has had in relation to the use of that drain of stormwater run-off is reflected in paragraphs 43 and onwards, and it might be convenient to go to those paragraphs now. And that you can find at page 9 of your statement - of the statement. Mr Keogh sets out there that if SunWater is notified of a DA, a development application, then SunWater makes it very clear in all of its responses that no stormwater from the proposed development site is to be discharged into the SunWater drainage or channel systems. Is that your understanding of the situation?-- Of a recent application I am aware that that was the case, yes.

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Okay. And you're not aware of previous applications?-- No.

Okay. And is it the case that there is stormwater run-off into that drain from adjacent developments? You are aware of that?-- I would assume - I would assume, yeah, with the nature of our landscape, and what have you, that that would happen.

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Okay. If I can take you to a couple of responses that the council has given to SunWater, if we can go to paragraph - subparagraph (h), which you will find at page 10, and this is a letter that summarises, in effect, a letter that the Central Highlands Regional Council wrote to SunWater to state that it was not seeking SunWater's permission for the discharge of stormwater but, rather, providing SunWater an opportunity to apply conditions. Is that your understanding of the relationship?-- I don't recall that.

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Okay?-- But - but I could see that that could have happened.

Okay. And (j) is another letter that Central Highlands Regional Council wrote to SunWater stating that it was not council's intention to give SunWater a means to impede development?-- No, seemingly I don't recall that.

Okay. If we go on on that page, paragraph 46 - and I am not

too sure whether you have knowledge of this or not - but
Mr Keogh recommended to Central Highlands Regional Council
staff that SunWater gift the LNI drainage system to council.
Is this something that's - something that's being considered
on the part of Central Highlands Regional Council?-- SunWater
has approached council officers on that matter but it has not
been formally discussed by council at this point in time but
no doubt there will be further discussions about it.

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Okay. And that would - that's as far as you can take it?--
That's as far at this point in time, yes.

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Okay.

COMMISSIONER: That was September 2010. That's a year ago?--
Yeah, that's just September last year, yes.

Well, a year ago. So why would it take so long to consider?--
Well, SunWater just spoke with one of the - well, a couple of
council officers. It wasn't a formal - I don't think it was a
formal thing; I think it was a discussion amongst officers and
it hadn't got - and it was in more recent times that we -
well, certainly I discovered that those discussions had taken
place. I had had an approach from SunWater, just a one-on-one
approach from someone probably a year - just over a year ago
with a similar saying, "Look, if you take over the drain", you
know, council, you can manage it and what have you. But
that's just a one-on-one, it wasn't in writing, and there was
no further dialogue on it.

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Did you suggest they put it in writing?-- I think it is a
discussion that council has to have with SunWater over - I
will go back a step. Once the recommendations of the C & R
report come out, I am preempting that there might be some
recommendations on those drains, and if there are, that I
think that that's dialogue we then have with SunWater.

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You are just being careful, effectively, to take on something
that you haven't-----?-- Yes. My view is that council
wouldn't rush into taking on - they were designed as
agricultural drains in the one in 20 - for a one in 20 event.

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MS WILSON: In a similar vein, Mr Keogh also refers to a
second option that was proposed; that is, that the agreement
to be renewed and refreshed. Is that second option at the
same status as the first option?-- Yeah, the - discussions
will be - discussions will be ongoing now about the renewal of
that present arrangement, yeah. Well, we're hoping that there
will be certainly an outcome for us.

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Since September 2010 can you outline what the discussions have
been to date?-- Whilst I was - just more recent times was
aware there was discussions, I can't say it was exactly that
date, but certainly last year, council - we had a - you could
say a closed-session meeting with SunWater fairly recently
just to talk about lots of issues and look - and where we may
be requesting some assistance with some studies.

And you talked about lots of issues. Was the LN1 drain one of those issues?-- Well, the discussions we had didn't focus on the drain at that point in time - on those discussions, but-----

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It is a yes or no answer. Was it brought up? Was that discussed at the most recent meeting?-- It may have been raised but it wasn't - it wasn't focussed on for discussion. It may have been just said, look, the drains and other things, but we were focussing on what are the things we need to do - are there areas where we can mitigate, and, of course, we have to wait until some of these studies are finished, and also we were talking about looking at doing a few other studies.

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And when was that, Mr Ottone? That most recent discussion?-- I would say probably within the last two months.

Okay. Thank you, Mr Ottone. I have no further questions.

COMMISSIONER: Mr Ure?

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MR URE: Thank you.

Just a few matters, Mr Ottone. You were asked some questions about the minutes which are attachments to Exhibit 683, your first statement. Do you recall that?-- Yes.

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And you told the Commission in one context that an application for the batching plant had been deferred three times, as recently as last week, I think you said?-- Yeah, this week, yes.

This week, all right. I don't know if the screen facility's working.

MS WILSON: No, it doesn't-----

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MR URE: I am told it is not. I am just going to refer you to a statement of a Mr McCullough, which has become Exhibit 665 before the Commission. Mr McCullough gave evidence, I think, yesterday. I will just hand this to you. Can you please read - look, I will read it out, might be easier. This is paragraph 29. Mr McCullough's statement. "There is a larger block on Munro Road which was part of 195, which is now owned by Mal Pratt. The council seems to be pushing it so that he can start filling it and build a concrete batching plant. That concerns me because I think it is paramount that this should be put on hold whilst the Flood Commission is looking at all of these things because the filling of that area is making the flooding of these houses worse. But the council have okayed it to change the zoning. This bloke has bought it and now he wants to put a batching plant there." Is that the parcel of land that's referred to in the attachments to your statement where the decision on the application has been

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deferred three times?-- I believe so, yes.

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Is it correct, in your view, to say that the council have okayed it to change the zoning?-- No. At the present time council has not made a decision. But just another point in there, the zoning of that land is industrial as well. It was industrial when the application was made.

All right. Now, you told the Commission a little while ago that one of the studies that was being carried out by the council in Emerald is that the floor height of every building in Emerald is being measured. How is that being done?-- Actually, it is some technology. I don't understand the technology but-----

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Is it a vehicle that's-----?-- I think it is a vehicle, yes, yeah, but I don't understand how they do it.

Would Mr Maguire be better to ask with respect to that?-- He may.

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I am not really interested in the science behind it?-- Oh, I see.

How physically is it being done?-- It is a vehicle that runs around.

All right?-- But I don't understand the mechanism that - yeah, the-----

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Thank you. Now, you were asked some questions about the - I will use the word "compliance" or "compatibility" of the scheme with State Planning Policy 103 mitigation of - and I am talking about flood particularly. Do you recall that at the beginning of your evidence?-- Yes, yes.

Would you go, please - and you were shown exhibit GM34, I think, from an affidavit of Mr Mahon, which was some of the issues that the State had dealt with about whether or not the State Planning Policy was properly or appropriately reflected in the planning scheme. Do you recall that?-- Yes.

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Can you go, please, to your first statement, Exhibit 683? Would you look, please, at paragraph 2? GM34 suggested that it was the mapping was deficient and that was one of the reasons why the State Planning Policy couldn't be said to be appropriately reflected in the scheme. Are the matters set out in paragraph 2 some of the matters the council is undertaking to fully inform themselves with respect to the mapping of flood in the Central Highlands Regional Council area? Are those matters in paragraph 2 matters that the council is undertaking to have a better understanding of the flooding in the shire?-- That is correct, and we've also - as well as the studies underway, we're also designing the floodplain study that we're doing for our new Town Planning Scheme. So that will be ready to be called.

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Now, in your second statement, Exhibit 684 before the

Commission, you were taken to paragraphs 6 and 7 which deal with the - which is the most appropriate level of government to regulate levee banks and why. Do you recall that?-- Yes.

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And you gave some evidence with respect to it being, in a sense, beyond the capacity of the council's resources given the fact that some of the levees that we are now considering are the levees associated with the large open-cut mines?-- Yes.

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Would you look, please, at this document? Is that a press release that you have seen from a Member of Parliament, Vaughan Johnson, the Member for Gregory, that sets out some of the history with respect to the original reason for the existence of the boards, which were dealing with farmers' levees with a sort of 1 in 20 ARI flood model?-- Yes, yes, I believe that - I have seen this release and I believe that that's right, what you say, yes.

Mr Johnson goes on to say that the - in a sense, "The times are changing", and the last sentence in the third paragraph he said - or said, "The local floodplain boards do not have the financial or professional resources to do this." He then goes on to discuss major projects where coal mines are being built in the flood plains. Without understanding, necessarily, the technical features, in the second paragraph he says that the boards are now having to scrutinise levees not with respect to one in 20 year flood models, but one in 2,000 year flood models. Do you see that?-- Yes.

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Do you agree with the matters that Mr Johnson discusses in here as being some of the reasons why it is no longer appropriate for the local boards, the council boards, to manage flood plains in the circumstances that pertain today?-- Yes, yes, certainly agree with that.

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I tender that press release.

COMMISSIONER: Exhibit 686.

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ADMITTED AND MARKED "EXHIBIT 686"

MR URE: One final matter. Have you seen a statement of Mr Anderson which has become Exhibit 675 before the Commission?-- Yes.

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I will just hand you my copy just for convenience sake. If I can just ask you to peruse paragraph 2 of that? That's where Mr Anderson talks about the levee banks that there has been some discussion about which are having an impact upon his property. Do you see that?-- Yes.

Now, are you familiar with the RP descriptions or the properties that he refers to in that paragraph? You know

where they are?-- Yes, I know where they are on the map, yes. 1

Are they within or without the Nogoia Floodplain Board area of responsibility? Are they inside or outside the board's area?-- I think they are outside.

Have you looked to see whether in the records of the former Emerald Shire Council or the current Central Highlands Regional Council there are any approvals for levees on those parcels of land issued by those - either by the former Emerald Shire on the current Central Highlands Regional Council?-- No, there is no current approvals, no. 10

Have there been any applications made with respect to those parcels of land to either the Emerald Shire on the Central Highlands Regional Council with respect to the construction of those levees?-- There was - there was an application made in 1996 for the construction of a levee bank, and-----

What happened to that application?-- When it was made, the fees weren't paid and around about the time of the submission and discussion with council, it sort of - it lapsed. The fees weren't paid, it lapsed, and I understand - and it mightn't have been all that much time later that that property changed hands. 20

Was that application - sorry, to which entity was that application made?-- That - that was to the property owned by - I understand owned by the Elstones. 30

Was that made to the Emerald Shire Council?-- Sorry, the application was made to the Emerald Shire Council as a levee bank application, not the floodplain board.

As we see from your statement, probably the second statement - yes, Exhibit 684, in paragraph 1 that, "The Central Highlands Regional Council currently administers two local laws that regulate levee banks. They are the Peak Downs Shire Council local law and the Emerald Shire Council local law." Are they holdovers, if I can put it that way, from the unamalgamated shires that have formed Central Highlands Regional Council?-- Yes, that's correct. 40

There has been some discussion that DERM plays a role in this. Do the other councils that form now part of the Central Highlands Regional Council - that's Bauhinia, Broadsound and Duaringa, did they have local laws or not, do you know?-- The only ones that were in it, it was - the four shires were Emerald - the former Emerald, Peak, Duaringa and Bauhinia. The only two local laws that we had were those two that are mentioned there on the levee banks. 50

Thank you.

COMMISSIONER: Mr Ottone, I haven't looked at your local laws. Do they contain any provision for what's to happen in the event that a levee bank is illegally built?-- They more or less go into the application of how you go about getting your

permit to put the levee banks in. It talks more about getting the applications, you know, making application to actually build one.

1

All right. You don't think it contains any provision for penalty or enforcement where a bank's built without permission?-- I-----

Do you know whether the council has ever done anything about that situation?-- I only discovered - just in the last week I have just discovered that application was made there.

10

Mmm?-- I've been at the - I was at the former Emerald Shire Council and then this council, I've been there for ten years, and to my knowledge I don't think any were made, and to my knowledge there were no - this is to the council on the levee bank local law. To my knowledge there were no objections to anyone with levee banks during that period. So it was a piece of legislation that basically wasn't being used or utilised.

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MR URE: Had you finished? Do you recall whether or not one of the clauses in the local law - and we can turn it up readily - was the creation of an offence in the sense that there was a provision that a person may not construct a levee bank other than in accordance with a permit issued pursuant to the local law? Does that sound familiar? Do you have a copy of the Emerald local law there?-- Yes.

May I please see that? Would you have a look at clause 5. If they are common-----?-- Clause 5, sorry, yes. The application for permit?

30

Yes. There is clause 5(1), so "a person must not construct or cause to be constructed a levee bank on any land other than pursuant to a permit"?-- Yes.

Would it be convenient, albeit it is probably subordinate legislation, to tender it anyway?

COMMISSIONER: I think it is an attachment somewhere.

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MR URE: Oh, is it?

COMMISSIONER: It is just I haven't actually sat and read it.

WITNESS: It was sent in as an attachment.

MR URE: Thank you.

COMMISSIONER: Thank you for that. That's drawn my attention to the bit I was interested in.

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MR URE: I think you may have answered this while I was hurriedly looking for that. When did this come to you or the council's attention - your or the council's attention?-- Well-----

The fact of the levee bank that's occasioning the problems to

Mr Anderson?-- I became aware of it, you know, since the flood had happened.

1

Since the floods?-- Post flood.

COMMISSIONER: And is it likely the council will take some steps about it?-- Nothing - nothing has happened at this point in time about it, no.

Does that make it likely or unlikely that anything will?-- My view is we will - we would - we have got an obligation to have a look at it, yes.

10

MR URE: Thank you.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: Commissioner, I have nothing with Mr Ottone directly. Can we reserve our right to respond if necessary to those matters raised in Mr Johnson's press release? It might not arise. I haven't seen it until just now. We can do it by way of evidence be given in subsequent hearings or possibly even by way of submission. It might not be necessary.

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COMMISSIONER: I have only glanced at it, but I would have thought it was a matter of submission probably. Anyway, we can leave it on that basis.

MR MacSPORRAN: I just wanted to reserve our right.

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COMMISSIONER: Ms O'Gorman?

MS McLEOD: No questions, Commissioner.

COMMISSIONER: Ms Wilson, anything further?

MS WILSON: Yes, Madam Commissioner.

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Mr Ottone, if we can go to that first statement of yours, which has attached the local law levee banks? It is the second statement, I apologise, the local law levee banks. You were drawn to 5 in relation to that. The application for permit. Have you got that document in front of you?-- I have. Section 5, yes.

Your attention was drawn to that. In relation to the issue that you were discussing, if I can take you to section 17, which you will find at the back of that document - fairly near the back of that document?-- Yes.

50

That's the order to demolish a levee bank?-- Yes.

Have the council considered using section 17?-- At this point in time we haven't, which I mentioned - which I mentioned before we haven't had applications for levee banks, we

haven't had complaints about levee banks, but we became aware of this one since - post flood. So no doubt we will have to-----

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Consider?-- -----consider.

Consider matters that are raised in that regulation?-- Yes.

Madam Commissioner, finally, I should tender the QRA Interim Floodplain Assessment Overlay 1 and 2. Probably could be the same tender.

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COMMISSIONER: All right, thank you. Exhibit 687.

ADMITTED AND MARKED "EXHIBIT 687"

COMMISSIONER: Thank you very much, Mr Ottone. You are excused?-- Thank you.

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WITNESS EXCUSED

MR CALLAGHAN: I call Peter Maguire.

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PETER JOHN ERIC MAGUIRE, SWORN AND EXAMINED:

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MR CALLAGHAN: Your full name's Peter John Eric Maguire?--
That's correct.

You are the Mayor of the Central Highlands Regional Council?--
I am, yep.

10

Mr Maguire, of course, you gave evidence to this Commission on
25th of May this year?-- Whatever the date was, yep.

For reference, it is at page 2581 to 2604 of the transcript,
and the statement which you've prepared for the Commission is
now Exhibit 478. There was, of course, much material in that
statement which was covered with you last time you were here.
But for current purposes I think we're probably focussing on
paragraphs 5, 6 and 7 of that statement. Have you got a copy
there?-- Yeah, I have, yeah, just of those 5, 6 and 7. I
don't have any attachments, I have got to tell you.

20

We will be able to draw your attention to those if we need to.
If we look at perhaps paragraph 6A, "Land Planning Past", and
you say there that "previously no specific flood heights were
identified because insufficient information was available at
the time of the creation of those schemes", is that right?--
That's what it says there, yep.

Can I just ask you, because we've heard some reference to it
this morning even, about the Kinhill report. Do you know what
I'm talking about?-- Um, no, no. I mean, sorry, I have been
on the council since 1988. So I am probably - I was on the
council probably when some of these things were happening, but
I don't recall the reports necessarily.

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All right. Your attention hasn't been drawn to references to
such a report in the course of evidence here?-- Sorry, today?

Yes, or in statements that people have made to the
Commission?-- No, sorry, no.

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That's all right. Well, look, as long as we're looking at the
history and in the past - the way in which development has
been handled in the past, we might look at one particular
issue. I know you were busy with another engagement this
morning. I am not sure whether you were here when
Mr Edmonston gave evidence?-- No, I haven't been here at all
until this afternoon, sorry.

50

I see. He gave some evidence relating to the Emerald Market.
Is that the same thing as the Coles Centro development?--
Yeah, Emerald Market Plaza or Coles Centro - Coles Centro,
yeah.

You were formerly chair of the Emerald Shire Council Town
Planning Committee at the time this site was developed, were

you not?-- What was the date of the development? I just
can't recall, but I was certainly - I have been on the council
since '88, so town planning committee for a number of years
before I became Mayor, and we haven't had committees basically
since then. So I suggest I probably was on the town planning
committee and have been the Chairman as well, but I am not
sure of my exact dates, I can tell you.

1

About 1995 we're talking about?-- Yes.

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Is that-----?-- I was on the council.

-----consistent?-- I was on the council and I would have been
on the town planning committee, I suggest.

I have seen a press clipping - we don't need to look at it - I
have seen a press clipping featuring you, describing you as
chair of that town planning committee as at that time, a press
clipping specifically relating to that development. That's
why-----?-- Okay, yeah.

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-----I thought that?-- Yeah.

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All right. Well, I might show you a letter which was received by the council in the course of - I will just let you familiarise yourself with that while we're getting a copy for-----?-- Yeah, I've had a brief look through it, yeah.

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Okay?-- I don't recall the letter, I got to say.

No, I understand. I'll take you to paragraph 16-----?-- Yep.

-----there. What we're looking at there is a letter from a town planning consultants firm; is that correct?-- Yeah, from Victor Feros, yes.

10

Yes?-- That's right.

In a letter I think prepared for the purposes of objecting to the development; is that right?-- Yep. Well, that's what - that's what he's doing, yeah. Objection to application, yeah.

And in paragraph 16 there, there is information from the town planning consultants concerned stating to the effect that the land in question was flood prone?-- That's what he says, yep, yep.

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And if - picking up on evidence from Mr Edmonston, who's been here since 1973, and he gave evidence this morning about having seen floods in 1978 and '83 and '84, the impression being consistent with that which is reflected in that letter, namely, that this was generally known to be a flood prone site, and the question is how that sort of information has been treated historically by the council?-- Well, I don't recall the application and dealing with it at all, and I honestly can't tell you that - you know, how that was dealt with, but I would have assumed that people would have said there's a flood - we get reports from engineers and town planners and say there's a one in a hundred flood line, and, you know, if it's - probably they would have said build it up to whatever level, and we may well have accepted that recommendation to approve it. So I - but I really can't remember that application, to be honest with you.

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40

All right. Well, you used the phrase "a one in a hundred flood line". Has there ever been such a thing for Emerald?-- Well, we've got some interim - we've got an interim map out at the moment from 2006 I think that talks about some flood levels. I don't know whether it says one in a hundred but, you know, there's been other figures used. I think over the years one in 20, one in 30 I think was some of the things early days, but I'm not - you know, haven't got all that information with me now.

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No, but you've been around for a while. I asked that question because of another document which I showed to Mr Brumley this morning which was tendered as exhibit - I'm just not sure what exhibit number it was.

COMMISSIONER: Was it the decision notice?

MR CALLAGHAN: Yes.

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COMMISSIONER: That was 682.

MR CALLAGHAN: I might ask Mr Maguire just to have a look at that.

COMMISSIONER: Just while that is being looked for, Mr Maguire, didn't this matter go all the way to the Court of Appeal, the approval of that site, not to do with any flooding issues?-- The Centro site?

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Yes. I thought it did, but I might be wrong?-- We've had - we've had a number of town planning cases, but honestly I can't - I can't recall it, your Honour. I just - because I know there was a lot of concern about the way we were developing the CBD at the time, so, you know, it's a sort of a - it's a boomerang shape, I guess, and there was concerns about, you know, putting that centre there and there's one centre up this end of town which was already there, and there's this centre getting built. There was concern at the time about pulling the CBD apart basically, I suppose you'd say, and you've got two shopping centres at either end and the problems - the likelihood that businesses within the closer CBD, I suppose you would call it, may be impacted because of those - that second centre.

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All right. Well, don't worry about that?-- Yeah, sorry.

You've got the decision notice now I think?-- Okay.

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MR CALLAGHAN: If you go to page 4 - the fourth page - I don't think they're numbered, but fourth page of that?-- Fourth page of this?

There's a heading "Floor Height Flood". Sorry, take your time to familiarise yourself with the document?-- No, you're right. On the fourth page? Fourth page.

Might be the fifth page?-- Yeah, "Floor Height Flood", then talks about, "A registered surveyor is to certify that the habitable floor height is not less than 300 millimetres above the Q100 flood height. The designated Q100 flood height for this application is" - and then there's a question in there, "What is the designated flood height and AHD?" That's-----

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Now, the question is probably a slip. I mean, the fact that the question is there is probably just a slip. This is probably a draft that's just been sent out?-- It doesn't say it's a draft, I've got to say, but still I can't answer the-----

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But, no, the question - my question though is this, that this is a document going out from the council, and it's referring to a requirement about the Q100 flood height. I am just wondering what that was doing in - or where - whether that was in fact set for the purposes of applications such as this?-- I mean, a lot of these things are delegated approvals and I

don't think - this was - this is for EB Games, so they must have been doing some sort of - building works it says here, so councillors wouldn't even see this.

1

No?-- Is that what-----

And it's not specific. I'm just showing you this to indicate that council or at least the corporate entity of council-----?-- Yeah, the council, yeah, no, I understand.

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-----was talking in terms of Q100 in these sorts of things?-- Yeah, yeah.

Now, I know that there was an interim flood map done. Was that 2006?-- 2006, I think, yeah, June or August or something 2006, yeah.

But was that - was that so much Q100 as different-----?-- I'd have to get-----

20

-----advisory heights I think you've-----?-- Yeah, probably advisory heights. I can't remember the terminology we used.

All right?-- And I haven't got - I don't refer to the map, like, rely on staff to do that but-----

I understand?-- -----there was - yeah.

Well, that interim flood map was just that. What was the plan - if it was interim, when was there going to be a final one?-- Well, I guess that's - it's one thing that's been deficient in the whole process for us.

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Right?-- So, I mean, it needs to - you know, we need to address those things, and there's been a - as people know, you know, a flood in 2008, and probably set, in some cases, new benchmarks, and the latest one, if you call it a benchmark, but the latest one has set further benchmarks. So, you know, we've had a couple of significant floods in three years-----

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Well-----?-- -----and I can't give any reason of why stuff hasn't been done, but, you know, there's clearly a lot of work needs to be done and we've started that process this time to try and make sure that we get the planning stuff correct for future expansion in the town.

Well, you say you can't give any reason why stuff hasn't been done. I appreciate some of it may not be straightforward, but, for example, you had the floods in 2008?-- That's correct, yep.

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And we heard Mr Ottone give evidence on this, may have even been before lunch, before you got here, but it did seem - well, he didn't volunteer much, put it that way, in terms of anything being done between 2008 and 2010. I got the impression, rightly or wrongly, that the fact of amalgamation might have had something to do with that?-- And - and I said that, I think, in my statement, if you - in part of my

statement. I think I referred to the fact that, you know, we got - after the 2008 flood, we dealt with that, we got amalgamated, and then there's been a lot of turnover - and this is - look, I could make all the excuses in the world, but, you know, there's been a high turnover of staff, in some cases we didn't even have registered engineers. So, you know, there's been all those issues, but - but, you know, I think the effort is being made now to make sure that we try and rectify some of the deficiencies in the whole process.

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And I do want to focus on that, please, and I don't want to dwell on this?-- No, no.

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But in order to understand the way forward we do just have to work out what has gone wrong, and I think you are frankly conceding there are deficiencies to this point?-- Well, I think what I'm saying is that, you know, we've had two significant floods in three years.

Yes?-- You know, if this is the - and people debate whether this was the largest flood. Well, all the records indicate this was just the largest flood. There's been other large floods as well, and I am not going to debate what year is the biggest so-----

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I am just going to ask you to pause for a moment?-- Yeah.

Because I really don't want to dwell on the historical stuff?-- Okay, righto.

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I do want to look forward, but before we do you volunteered-----?-- I think we're trying to look forward too.

Sorry, just a minute?-- Yeah.

You volunteered - or amalgamation is one reason?-- Yes, yes, staffing.

You suggested high turnover of staff?-- Yeah, in some cases.

40

That may be another contributor?-- Yeah.

We just want to make sure we know all of the contributing factors so that if we recommend something for the future we are not overlooking a problem that is already there which has stopped things happening in the past, you see?-- Yeah.

So were there or are there other things to which you might point which might explain the lack of action in this area in the past?-- Well, they're just a couple that come to mind, and, I mean-----

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And that's what I'm asking you-----?-- -----that's - yeah, yeah.

I really do want to wipe the slate-----?-- Yeah, and there's-----

-----and move forward, but I want to make sure we know everything that's been a problem up until now?-- And I'd say they're the - in my mind, they're the couple of main reasons. 1

Okay. But are there any others?-- I haven't really thought about it, but, I mean, I think we've got - well, nowadays we've got - so you don't want to look at the - why we haven't done it? Don't know, can't really say any more. I really can't think of any at this time. There are a couple of reasons that I would suggest that it didn't happen since 2008. That's what you're asking. 10

Well, that's the most recent event?-- Following the 2008 event, yeah.

That's the most recent example, I suppose, yes?-- Yep, yep, yep.

The area has grown phenomenally, hasn't it?-- The area has been growing since about 1980s when the mine - mining resources sector started, and, you know, hindsight is a wonderful thing, you know. I say to people maybe we - our forbearers shouldn't have crossed the river, come to this side. We should have stayed on the other side of the river. Fact is we're over here now----- 20

Yes?-- -----And we're trying to address the situation now with these studies we're trying to get done and look ahead.

Are there resource issues there because the place has grown so quickly?-- With staff? 30

Yes?-- At the moment I think we're pretty well caught up with planners - the planners can have 100 applications live at any one stage in our system. Engineers we're sort of starting to get on top of. We've just done an organisational restructure. That's going to fall into place in mid-October. So there's a lot of things changing. Then we've got these studies that are happening as a lot of people have mentioned, you know, that are going on at the moment. So, you know, hopefully - they're - they're a financial resourcing issue but we've decided that we don't want to wait for anyone else to try and help fund them, that we're just going to go ahead and get these things done, and they are costing hundreds of thousands of dollars. 40

Well, let's move onto that then, and, as you say, you've already spent a lot of money. I think the point was made that there was no assistance - that you've had no assistance for that process?-- No, and I don't want to dwell on it, because in my mind the people out there in the street don't care about the money side, they want to know what are the mitigation efforts that ourselves, SunWater, Queensland Rail, Department of Transport and Main Roads can do to try and help stop flooding that we've had in the last three years. 50

Well, there's the question of stopping flooding?-- Mitigate the incident.

That might be a challenge, but, well, I mean, there might be things that you might-----?-- Yes.

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-----be able to do by way of levees or whatever?-- Maybe, yep.

But let's stick with the issue of the mapping and so on that you're doing at the moment?-- Yes.

And you've, from what we understand, been quite energetic in that regard?-- Well, what-----

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You, the council?-- Yeah, and we said we're going to have a report I think in - by December, the C & R Consulting report, as Bryan mentioned, I think, before, will be out in about a week or so. So that will be the first part of it, and the other planning stuff is still happening with KBR through the planning scheme - the new planning scheme stuff as well. So there will be a number of recommendations for some of those organisations I mentioned before in that C & R report for us to look at.

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And I understand that's going to be quite detailed information - you hope it is?-- I hope it is, and I think - like I said, you know, we get - it is costing a considerable amount of money. So I would hope that, you know, we get something out of it, and, you know, we want to try and - you know, when we get it, go to the community, go to the organisations that get named and tell people what's in the report, and, you know, people hear - Geoff mentioned - Geoff Jago before mentioned a couple of things that he thought could happen. You know, they will probably get a mention in the report, you know.

10

In the light of all the work you are doing, can I ask you about the QRA maps that have been discussed?-- And you asked Bryan before and I don't think I have seen them before.

Okay?-- So are they new?

Yes?-- Okay, I have been away for two weeks till this week, for two weeks previous, and I think Bryan said the QRA people were up. Well, I wasn't at that session.

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You weren't - all right?-- Sorry.

You haven't been around to see-----?-- I haven't looked at them. I didn't know there was new maps. We have had some concerns about the maps, I have got to tell you, because, you know, we supplied information, and then, you know, the maps - those blue - those maps there that we've done up with the blue on them-----

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Yes?-- -----one of the concerns we've had is that people look at it and they say all those places flooded, but they didn't, that's where the water was, and that's why we've got to be clear about what information's on the map as to - it indicates there was water there, not necessarily water through every house that's covered in the blue, if you know what I mean.

So you're concerned about the fact that a map like that might be misinterpreted-----?-- By people.

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-----and cause unnecessary concern?-- And I think that's one of the things that - when someone asked Bryan earlier about the map situation, I think, that was one of the concerns we had about letting them go out and people misreading them, using them for commercial gain or loss, is one of the concerns I had.

Or even just personal awareness-----?-- Yeah, exactly.

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-----might be misleading?-- You know, because on those maps that we've done, the blue maps Bryan said we've got up in the council, you know, it looks awful, and it is awful, flood in a thousand houses is not nice and all the industrial area, but it does not - those maps don't indicate that water went through all the places where it was around.

No, no. Without some indication of depth, it is not much

assistance?-- That's right, and that's what I think we're trying to do now is - sorry, the stuff's been done, I think, and our staff - as I think Bryan said before, one bloke's away and we've just got to get those levels. Now, there is a lot of stuff happening, and it is taking time, but, you know, it is stuff we need to do.

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If you were to accept from me that the maps which we've seen from the QRA don't actually indicate anything about the depth either-----?-- Okay.

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-----would the same concerns apply?-- Well, I think people need to be aware that it is showing water around a house, you know what I'm saying, and not in it, necessarily. Not how much water went in it.

Or where it might have been once in a previous flood?-- Well, maybe because every flood is different, everyone keeps saying.

I will let you peruse the QRA maps?-- Sorry, and they are on the website, are they?

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Yes. With the sort of work that you have done, is it the sort of thing that you think DERM might have given you some assistance with, or been able to do for you?-- Probably they have got people. That's why we're saying we don't want the floodplain board stuff. There has got to be people better - but, I mean, we're - you know, I'm still happy enough, the progress we're making doing it ourselves to get some stuff done.

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And, look, I am sure your action is to be commended, but, as you say, it is costing you money?-- It is. Well, it is costing the ratepayers money.

Yeah. All right. Were you here this afternoon when Mr Ottone was being asked about the emergency resolution of the council which was said to override the Sustainable Planning Act?-- Yeah, I was.

40

And in that regard I think the concern would be what council thought that the Sustainable Planning Act might prevent them from doing, or whether you were concerned that you needed some emergency power. No-one is arguing with what you were trying to achieve?-- No, I think clearly we can't override the Sustainable Planning Act, and councillors did the resolution in all good faith because in town when you have a thousand houses flooded, not everyone's going to be able to find accommodation or emergency accommodation, so we wanted to set - we didn't want anyone to ring up the council and say, you know, "I want to put a caravan out the back", and someone gets told, "You have got to make an application under the Sustainable Planning Act." That's - that doesn't happen. It won't happen.

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All right?-- So that was sort of to cover that. And there are still people not in their houses today, so, you know - but that was part of that end. We did another resolution about

allowing ratepayers to go and repair roads in rural areas, which strictly is not - but, you know, we did ring up some lawyers and get a bit of advice. So we did a couple of things that probably are out of the box, so to speak, but, you know, we were just trying to make people aware that, you know, we understood that there is going to be temporary facilities, people need - as Bryan said, people need to make use of showers, toilets, whatever they could, they needed to sleep in a caravan, or have a caravan, or have a demountable down the back, they could.

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All right. So you were giving effect to a sentiment rather than trying to create a legal-----?-- Yeah, we weren't trying to create a legal minefield or break the law.

No. But did you feel that there were aspects of the law which you needed to address or that there was some-----?-- Just the concern that if someone got told they should make an application under the Act, and that process can take months.

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You were here this afternoon when Mr Keogh's statement - Mr Keogh from SunWater-----?-- Yes.

-----was being discussed with Mr Ottone. And you were taken - or you were here when he was taken to parts of correspondence, for example, where the council says to SunWater, "Well, you know, we're not giving you the chance to impede development here." You know what I'm talking about?-- And the concern is that we're trying to develop the community, and so we don't need to have, you know, people out there - and they have got a job to do, too, don't get me wrong, so we don't need to be, you know - we want to try and make things happen and not have that as a gun - held as a gun to our head, I suppose you would say.

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You are sort of getting straight to the point which I want to put to you is a fairly crude sort of a proposition, and that is that if you want the control or the power, if you like, over development in Emerald, and if you want to be responsible for development in Emerald, then doesn't that also involve a need to exercise power over and be responsible for the LN1 drain at the same time? Can I put that to you as a very broad proposition?-- And there is a number of drains that SunWater mentioned to us the other week when they were there that I am aware of, and as was mentioned they previously wrote to it, and I think, you know, if someone comes to me - one of the officers comes to me and says, "What do you want to do about this?", I said, "Mate, honestly, we just don't need it." Like - sorry, they have been to us about that issue, about - and this is not related to the flooding, but that issue, plus taking over the running of the gardens at the Fairbairn Dam, the picnic area.

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Sorry to interrupt you, and let's just stick with the LN1 drain?-- Yeah, okay.

The proposition I am putting to you is this an issue of power - of you wanting power without responsibility, because how can

you really in Emerald, from what we have learned, how can you separate the LN1 drain from the concept of future development, if you are talking about flood or perhaps many other matters as well?-- I guess we can't, but, you know, what I see it as as well is this is a State agency wanting to pass something else down to us.

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Well-----?-- The control, the maintenance, the upgrade - and we work with them now to clean out those drains now. So, you know, there is - we have just done a burnout - burn-off again in the last few weeks on the LN1 drain, right, and we worked with them on cleaning up as well. So there is some things have already happened-----

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But we can't get hung up, can we, on State/local responsibilities. I mean, you have just passed the floodplain board up to the State?-- They haven't accepted it, I have got to say.

All right, but it is your sentiments?-- They pass everything down to us, so we just thought we'd try it the other way.

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Well-----?-- It is a good try.

This is the point, though. Is this realistically-----?-- Look, I think you can-----

-----something you can pass up?-- We're going to need to have a serious discussion with them about the operation, maintenance and the control of those drains. There are people out there that will tell you we should not touch them, including some irrigators, that, you know, are involved in the whole process, because they do get charged by SunWater - and I don't know what all the figures are, so much, whatever - you know, for those - you know, to have their water going through the drains, I suppose you would say.

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You say we're going to have to have a serious discussion with them. You have been having it for a year or so, haven't you?-- We haven't. Sorry, I haven't. Staff apparently have had it passed on, and, like I said, my thing would be, well, we really don't - we need it but, you know, the responsibility and all that is probably, you know, great as well. Same as the floodplain stuff in a different way, you know, same sort of issue.

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All right?-- This is a personal opinion of mine I'm expressing, not the view of the whole council, I have got to say.

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COMMISSIONER: What are the downsides?-- Well, the cost. Once again it comes back to the cost.

Yeah. What are the costs?-- I don't know. See, they maintain-----

I didn't mean literally in figure terms, but what would you anticipate costing money about it?-- Well, keep it -

maintaining them.

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But you are doing a bit of that now?-- Yeah, we do that on particular parts but the system is a lot bigger, so there is another couple of other drains involved. But I would say it would be in the hundreds of thousands of dollars.

That's just the maintaining?-- I would have thought so, but, like I said, I have never seen the-----

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Yeah. I just wanted to get a rough idea. Now, there has been talk about widening, upgrading, and so on. So you wouldn't be keen on that?-- I think - I think some of that will come out of the C & R study next week, and we will have to sit down and talk to them and see if we can look at some of those.

What other problems do you see?-- It is probably the responsibility. Like, you know, it is not just - it wouldn't just be the irrigators - you know, their water goes down it. But, look, we would have to sit down and have a proper discussion about it, but I haven't really thought about it.

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Is there any scope for your assuming responsibility once it hits the town boundary, as opposed to the agricultural parts of it?-- Yeah, that would be the proposition. I don't think there would be any intention for us to take over the stuff in the agricultural land from them anyway, because they have gates and all sorts of stuff.

Okay.

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MR CALLAGHAN: Just finally, because we have just touched on it a moment ago, about the future or lack thereof of the Nogoa River Floodplain Board - and we've canvassed this already before you got here today with Mr Brumley and others - and we understand the reasons why what's proposed should happen?-- Yeah.

We have also seen a press release from you saying, I think, that you had the best people in the world on the board - best people for that job?-- Well, that's-----

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Presumably because of their local knowledge and expertise?-- That's myself, councillor Hayes, and then we also had also-----

I don't know who you were talking about?-- I don't know whether I did - did I say that?

You were quoted in the press as saying that, which is something entirely different?-- Okay, so what I was getting at - and then we have our own local people, plus we're able - we have to refer the applications to a hydrologist, so Rob Keogh or Rob Ayres, or somebody each time that-----

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I can probably cut you short. What I've asked others, and what I'm asking you, is how best, if this is going to be a State Government responsibility from now on-----?-- Yep.

-----what is the best way of ensuring that the local input
-----?-- Yeah.

-----is still heard in the course of any decision-making?
Now, Mr Brumley, I think, suggested that it might be two ways;
one is council could still be a referral agency-----?-- Yeah.

-----or that some sorts of people who are on the board at the
moment might form part of a new body, a new State Government
body?-- And I think some landholders should be part of it,
part of the process.

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Yes?-- There probably should be local government input, but I
think landholders and, you know, people that have got a
knowledge of basic water, what happens on - in a floodplain
area. So, you know, some of those sort of people. And I
really think that it is probably an issue for the Department
of Environment and Resource Management to try and handle in
their system. They - when you make an application now, we
process it through our system but DERM also look at it as
well. So, you know, the levee extension that was just -
sorry, the levee height approval that was just done down at
Ensham mine, a couple of years ago, whatever it was, since the
2008 flood, was actually approved by DERM, not by us, as far
as I recall.

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All right?-- Sorry, it was done - sorry, it was done through the State to speed up the process I think from my recollection, but I probably should check on some of that, but-----

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It's okay. What you've said would suggest that the means of maintaining local input might be something other than just having the council as a referral agency-----?-- Yes, I think - I think-----

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-----but if you wanted to incorporate representatives at least of landholders and so on-----?-- Landholders and that, yep.

-----you'd want a permanent presence?-- And-----

-----in a-----?-- Preferably landholders that are on the flood plain even.

Yes, you'd want their presence in a committee or something which was consulted?-- Yeah, and a mining company as well-----

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Yes?-- -----because the mines are involved in the process as well, so.

Yes. All right.

COMMISSIONER: So what about the council as a referral agency as well or not?-- Oh, yeah. No, I think so, but, I mean, certainly we could form part of that - you know, if there's a - you know, a community group that looks at it, you know, but I think-----

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Well, I don't think you can be both, you can't be the-----?-- I think-----

-----on the decision making board and the referral agency?-- No, not the decision making group, but a referral group, yeah, community referral group, sorry, yeah.

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MR CALLAGHAN: That's all I have, thank you.

COMMISSIONER: Mr Ure.

MR URE: Just a couple of matters, thank you. The Ensham project that went to the State Government, was it a designated project?-- That might have been what it was called but, like I said, I'd have to check my facts, but I think it might have been - because of their flooding in 2008, I think the process was then given to the State to process things, but I'd have to just check on that.

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COMMISSIONER: I think the Commission has looked at it, Mr Maguire. I think we know what the situation is?-- Yeah, okay, yeah.

MR URE: One final matter. This may be outside your field of expertise, please say so, but does the council have any appreciation of the utility of channels that were designed for the delivery and the recovery of irrigation water, and designed to a Q20 level of the utility of those channels for flood mitigation purposes in Q100 or greater events?-- I don't think - I wouldn't be able to answer that, sorry, Mr Ure, sorry.

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Thank you, Mr Maguire.

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COMMISSIONER: Mr MacSporran.

MR MacSPORRAN: Nothing, thank you, Commissioner.

COMMISSIONER: Ms McLeod.

MS McLEOD: No.

COMMISSIONER: Mr Callaghan, anything?

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MR CALLAGHAN: May Mr Maguire be excused?

COMMISSIONER: Yes. Thanks, Mr Maguire. You're excused?-- Thank you.

WITNESS EXCUSED

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MR CALLAGHAN: That concludes the witnesses that we propose to call in Emerald, Madam Commissioner.

COMMISSIONER: We will adjourn back to Brisbane at 10 a.m. on Monday.

THE COMMISSION ADJOURNED AT 4.05 P.M. TILL 10.00 A.M. ON MONDAY, 3RD OF OCTOBER 2011 IN BRISBANE

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