

# Transcript of Proceedings

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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

BRISBANE

..DATE 21/09/2011

..DAY 34

THE COMMISSION RESUMED AT 10.02 A.M.

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COMMISSIONER: Yes Ms Mellifont.

MS MELLIFONT: Good morning. I might formally announce my appearance for the record, it's Mellifont, initials K A, and I appear together with Ms Kefford of counsel.

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The first witness this morning is Mr Kenneth Graham Smith. He is a resident of an aged care facility at Yeronga, which was inundated during the floods.

Can I tender, please, a PD on-line map which has an aerial view, including the location of the Yeronga Aged Care facility. It's been depicted by cross hatching and more particularly by a yellow circle with a red cross.

COMMISSIONER: That will be exhibit 564.

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ADMITTED AND MARKED "EXHIBIT 564"

MS MELLIFONT: Can I also please tender a second PD on-line map which has coloured overlay in terms of its zoning, and again the area is depicted by a cross hatch with a yellow circle and a red cross.

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COMMISSIONER: Sorry, what's the difference between this one and the first one?

MS MELLIFONT: The first one is generally an overlay - is generally a map of the contouring. The second has the zoning depicted by colour.

COMMISSIONER: It will be 565.

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ADMITTED AND MARKED "EXHIBIT 565"

MS McLEOD: If the Commission pleases, could I just ask Ms Mellifont to bring the microphone a little closer.

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COMMISSIONER: Sure.

MS McLEOD: I'm having trouble hearing back here.

COMMISSIONER: All right. You've got your witness ready?

MS MELLIFONT: Yes. I'm sorry, the third exhibit is-----

COMMISSIONER: I'm sorry.

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MS MELLIFONT: -----a Queensland reconstruction aerial photograph taken of the location which depicts the flooding in January 2011 floods.

COMMISSIONER: 566.

ADMITTED AND MARKED "EXHIBIT 566"

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MS MELLIFONT: Thank you. I call Kenneth Graham Smith.

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KENNETH GRAHAM SMITH, ON AFFIRMATION, EXAMINED:

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COMMISSIONER: Thanks, Mr Smith, if you would take a seat.

MS MELLIFONT: Thank you. Mr Smith, is your full name Kenneth Graham Smith?-- Yes.

And are you a 79 year old man currently residing at The Village Retirement complex at Yeronga?-- Yes.

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And you are indeed Dr Kenneth Smith given your educational qualification?-- Well, if you so desire, yes.

The Village is a multi-storey complex, it's a retirement complex; is that correct?-- Yes.

And it has three main buildings?-- Two at the moment. The third one is under construction. There is an associated nursing home which is not - nearly ready to be opened.

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All right. And in respect of the two buildings, they house approximately 100 people in each?-- Yes.

The facility itself is located approximately 500 metres south of the Brisbane River?-- Roughly, yes.

And it's surrounded by sporting fields, factories and residential developments?-- Yes.

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Now you've lived in that complex since approximately 2009?-- Yes.

Now on Tuesday the 11th of January 2011 did you attend a meeting that the management of that complex had convened about the imminent flooding?-- Yes. It was called just before lunch, yes.

All right. And was it the case that management advised you that police had instructed that all residents should be evacuated from the building due to the likelihood of flooding?-- Yes.

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Were you told to retrieve just your medication and some clothes and to begin evacuation?-- At that stage it was suspected we'd just be out for a few days, yes.

All right. And that evacuation having commenced, did it run smoothly?-- Yes.

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The evacuation itself, were there any difficulties experienced in that process?-- The evacuation was a rather messy business because there was - the basement was a carpark, everybody had their cars stored there. There's only one exit from the carpark. So it was - nearly 90 units occupied - it was a bit congested trying to get out.

And did the complex itself flood the next day?-- The-----

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That is the Wednesday, the 12th?-- Now that was the Tuesday. The flood actually peaked some time on the Thursday, yes. But we were out - we weren't allowed back at all until the flood had resided the following week.

So were you outside the vicinity of the complex, that is you had left the vicinity of the complex by the time the river had broken its banks?-- By the time the river come up, yes, we were in the - by the time the river came up we would have been staying at our daughter's place at Camp Hill. First we went to the emergency centre at Yeronga school. We then went to the pastor of our church's place to spend Tuesday night. On Wednesday we moved to you our daughter's place.

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Insofar as the complex was affected by flood, is it the case that the entire underground basement was flooded to approximately 1 metre?-- Yes, the entire basement and roughly one metre in the ground floor level, which was all the offices, community facilities and all that sort of stuff, yes.

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Right. And so the basement contained all of the electrical switchboards and other essential infrastructure?-- The utilities, the air conditioning for the main part of the building and all sorts of things like that, but it was the electricity supply that was the main problem.

All right. So that was effectively disabled in the flood and for a period thereafter?-- Yes, until - well, I'm not sure when the electricity supply was restored, but we weren't allowed back until they had checked that one lift in each building was fully operational.

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So approximately a fortnight after the flood you still weren't able to return to live in the complex because the electricity was still out?-- Well, about a fortnight after the flood we were allowed back from time to time to collect extra clothes because we'd only taken a small number of clothes, extra clothes, other sorts of things, reading matter, books, DVDs for playing, or something or other, but we had to - they only let in people who were fit enough to climb the fire escape stairs up and down, two way. So now three flights was a - well, we were fit enough but there were a number of people in the village who weren't.

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All right. And it was not until the 14th of March 2011 that you were able to move back in; is that correct?-- Yes.

Thank you. That's the evidence of this witness.

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MS McLEOD: Nothing, thank you, Commissioner.

COMMISSIONER: Mr Porter.

MR PORTER: Just one brief thing.

MR PORTER: Mr Smith, my name is Porter, I appear for the Brisbane City Council?-- Could you speak up a bit, please.

My name is Porter, I appear for the Brisbane City Council?-- Yes.

I just have a couple of questions for you?-- Yes.

In your statement you refer to having made some research about areas flooded by the Brisbane River after the flood occurred; that's correct?-- Yes.

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Were you familiar with the expression "Q100" before the flood event?-- No. I was not aware of the Q100 line before the flood event. What I did do for that research was to dig out a copy of the map which was produced after the 1974 flood. Now that was essentially based on the 1930 flood map and it didn't show Cansdale Street on it because Cansdale Street was some time post 1930.

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So is - the answer to my question, I take it, is, no, you weren't familiar with that expression before the 2011 flood?-- Yes. Well, at the meeting I had, I said to the manager, "If we get a repeat of 1974 I expect there to be about that much water on the ground floor".

Yes?-- Now I wasn't far off in that estimate.

And that was on the basis of your estimates about inquiries you made about the height of the water in '74?-- Yes.

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So you weren't-----?-- I believe a whole lot of people did the same - a whole lot of developers scattered all over Brisbane did the same sort of thing about the Q100 line.

Nothing further. Thank you, Commissioner.

COMMISSIONER: Ms McLeod.

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MS McLEOD: I have no questions, your Honour, thank you.

COMMISSIONER: Ms Mellifont, I don't think you've actually tendered Dr Smith's statement.

MS MELLIFONT: Yes. I apologies for that. I formally tender Mr Smith's statement, and might Mr Smith then be excused?

COMMISSIONER: Yes.

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MS MELLIFONT: Dr Smith, is that a copy of your statement that you've signed in preparation for these proceedings?-- It says it has been edited to remove various-----

There are some blacked out parts in that statement?-- Yes. I'll just check my signature is on the bottom. Yes, and then we have various attachments. Yes.

That's your statement, Dr Smith?-- That's me statement, yes. 1

Thank you. I tender that statement.

COMMISSIONER: Yes, it is exhibit 567.

ADMITTED AND MARKED "EXHIBIT 567" 10

COMMISSIONER: Dr Smith, thank you very much for your attendance. You are excused. Those are all the questions so you're free to go.

MS MELLIFONT: You can now leave?-- Can I make just one comment about this Q100 line which has been raised? Since I made that statement I've been looking at a number of reports and all of these mention the average recurrence interval for flood events specifically. Now this - in this morning's Courier Mail we have a report of one of yesterday's witnesses who said in reference to the Riverwalk, "It was built to withstand between a 1 in 100 year and 1 in 2000 year flood event". Now I want to know how people estimate the probability or likelihood or extent of a 1 in 2000 year flood event when for Brisbane we've only got records for barely 150 years. 20

COMMISSIONER: Well, I think the witness acknowledged there were some difficulties being precise?-- Yes. Now can I suggest that the Commission in its final report make some comment about where did this come from, because a whole lot of the reports that have been presented to the Commission have mentioned these very rare events, one in 1000 years, once in 5000 years I saw at one stage. There is no data on which to base these. 30

All right. Thank you?-- I'll leave it with the Commission to think about that one. 40

Thanks for your point, Doctor?-- Thank you.

I take it nobody had a question arising out of that?

MS MELLIFONT: I don't. Thank you.

COMMISSIONER: Thank you. Thanks very much. 50

WITNESS EXCUSED

MS MELLIFONT: I understand Mr Dunning has a couple of matters he wishes to raise before we call the next witness.

MR DUNNING: Commissioner, there are two issues that I would like to raise. The first relates to the production of documents by the Brisbane City Council. You will recollect yesterday that I took an objection during the course of Mr Reason's cross-examination by counsel assisting regarding production of particular documents, there was an exchange between your Honour and myself. I don't want to revisit the ruling your Honour made, naturally enough, but having reflected on it and read the transcript overnight it seems appropriate that I do tender the correspondence to which I referred to, to make the transcript coherent. Can I pass up, please, three bundles of the correspondence in question. I can take you to the relevant passages of it, but for present purposes I'm content simply to tender it so that if this issue ever arises-----

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COMMISSIONER: Is it likely to, now that Mr Reason has been and gone?

MR DUNNING: Your Honour, the whole topic, frankly, remains something of a mystery on our side as to the interest in these historical flood studies, so I'd like to say, no, it won't, in fact-----

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COMMISSIONER: All right. Well, we have the correspondence now which I will make exhibit 568.

ADMITTED AND MARKED "EXHIBIT 568"

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MR DUNNING: And, Commissioner, I'd like to make crystal clear in a way that I, perhaps, didn't make adequately yesterday, that the flood studies in question that Mr Reason was asked about were not in his statement, but these three things explain it well:

One, we were told by Commission staff that there was no interest in these flood studies initially.

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COMMISSIONER: This is in the correspondence somewhere?

MR DUNNING: It is. Secondly, in exhibit MJR 15, at pages 26 and 27 to Reason's affidavit, the flood studies in question are identified. So there was never any mystery about their existence or any suggestion that we were not producing or not identifying these documents.

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COMMISSIONER: But if they are actually mentioned in an exhibit it makes it odder that they weren't actually produced; doesn't it?

MR DUNNING: Not really, because there is an extensive report that refers to those, amongst others. They are not the only things the report refers to of this independent panel.



And, finally, we received a specific request from the Commission for these documents which request was later withdrawn, which is why it came as such a source of curiosity to us.

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Now we don't want to revisit unnecessarily a sterile topic, but we do want to make it crystal clear we have taken seriously the obligation to produce to the Commission and to the extent that those documents were not produced, it was not as a result of any delinquency on the council's part.

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COMMISSIONER: All right. Thanks Mr Dunning.

MR DUNNING: Thanks, Commissioner. There's a second issue, your Honour, and that is a Ms Cassandra Sun, we were told to have available today. Ms Sun is a planner. Naturally we would want to meet the Commission's convenience where we could and we understand the real issues that our learned friends have in ordering witnesses. Ms Sun is presently quite heavily pregnant with twins and on her doctor's advice she's finishing work next Thursday.

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COMMISSIONER: Is that not tomorrow but the Thursday after?

MR DUNNING: Correct. She is here and available. We would prefer to give evidence today, but certainly by next Thursday, and in that regard, in our respectful submission, the topic upon which she has been asked to give evidence is relatively tangential, it's this issue about whether - this issue about penetrations in basement carparks causing flooding of those carparks via the void around EnergX conduits.

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COMMISSIONER: Sorry, when you say "here and available", do you mean physically here?

MR DUNNING: Physically outside, yes.

COMMISSIONER: I see. I have no idea whether that's going to be feasible or not. I see that she is not actually on the list.

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MR DUNNING: Yes. Well, can we ask if she is not required - if she can't be accommodated between now and next Thursday, that the requirement for Ms Sun be discharged and we can return to that topic if and when we ever need to.

COMMISSIONER: All right. When did you let the Commission staff know that she was pregnant and these things were an issue?

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MR DUNNING: Last night. We only found out yesterday she was required yesterday.

COMMISSIONER: I see.

MR DUNNING: And made arrangements for her to be here. We understand these difficulties and we want to cooperate in every possible way. On the other hand, the request, in our

respectful submission, is a reasonable one, particularly given this issue of penetrations, or the void around the EnergyX conduits, one wonders whether it's really a topic that is going to occupy the Commission much at all. We don't, for example, have in the complete evidence that that is the source of the water. We have some eye witness accounts saying, "I saw the water coming through". One can see the rational connection. But we don't for example, have any expert evidence that says, "The volume of water was about this and, yes, it conceivably could have passed through that void over that time". And, in any event, we didn't make the penetration. We can understand why the Commission may have some, albeit fairly tangential interest in what a council planner might have to say on that.

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COMMISSIONER: All right. Well, anyway, we seem to be taking up a bit of time on it. I'm just not quite clear why she is here, she is not on the list.

MR DUNNING: She was on the list yesterday and we got notice last night that she was then not required.

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COMMISSIONER: She has turned up anyway?

MR DUNNING: She has, yes. She is only down the street.

COMMISSIONER: I see. All right. Well, the best we can do, I think, is just ask the Commission staff to sort something out with her. What's the easiest way of doing it? Will your solicitors talk to Commission staff, or would it be better for somebody just to contact - Ms Sun, is it?

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MR DUNNING: Sun, yes.

COMMISSIONER: -----direct to find out what suits her?

MR DUNNING: We can find that out immediately, but really if it's beyond Thursday of next week-----

COMMISSIONER: All right.

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MR DUNNING: Yes, we would ask that the, if nothing else, the requirement that she give evidence be discharged if it's - if she's not asked to answer it between now and next Thursday.

COMMISSIONER: Nobody is going to ask anything irrational of her, Mr Dunning, I am sure it can be sorted out.

MR DUNNING: Thank you, Commissioner.

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COMMISSIONER: Thank you.

MS MELLIFONT: Thank you, Madam Commissioner, I might indicate that email communication was sent to the council's solicitors about Ms Sun this morning and her availability asked of and we now have that, so I am sure suitable arrangements can be made. Ms Sun won't be called today.

COMMISSIONER: All right.

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MS MELLIFONT: And insofar as a response to the Mr Reason issues, is required, if any, I will leave that to Mr Callaghan of senior counsel.

COMMISSIONER: Thank you.

MS MELLIFONT: The next witness is Julie Louise Savage. She is an owner of a unit in the Mirvac Tennyson Reach Development. Her unit is in a building called Lushington in that complex, which is next to a building called Softstone. Those building were inundated in the January 2011 floods. I tender a PD on-line contour map which has again marked on it the location of the Softstone and Lushington building and I also tender as a second exhibit a second PD on-line map which has the zoning marked in colour.

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COMMISSIONER: They will be 569 and 570 respectively.

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ADMITTED AND MARKED "EXHIBIT 569"

ADMITTED AND MARKED "EXHIBIT 570"

MS MELLIFONT: I also tender two aerial Near Map photographs which were provided to the Commission in the submission of Mr Cameron Pearson who is the CEO of Tennis Queensland.

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Before calling Ms Savage if I could just ask that they be briefly displayed, they are with flooding and without flooding aerial shots of the area.

COMMISSIONER: They will be exhibit 571.

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ADMITTED AND MARKED "EXHIBIT 571"

MS MELLIFONT: The one that is up on the screen now is obviously the flood affected photograph. And the one which was previously just shown is the area when not in flood.

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COMMISSIONER: Are you going to find out from the witness which building is which or are you going to tell us what's-----

MS MELLIFONT: Yes, I can point out which - yes, in terms of the two buildings, the Lushington building is the one on the right-hand side as we view that picture, and the Softstone is the one on the left.

COMMISSIONER: Thank you.

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MS MELLIFONT: I call Julie Louise Savage. I'm sorry, we have swapped out buildings, it's the other way around.

COMMISSIONER: So just remind me.

MS MELLIFONT: Lushington on the left and Softstone on the right.

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COMMISSIONER: As we look at it?

MS MELLIFONT: As we look at it.

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JULIE LOUISE SAVAGE, ON AFFIRMATION, EXAMINED:

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MS MELLIFONT: Thank you. Is your full name Julie Louise Savage?-- Yes.

And do you reside at a unit at King Arthur Terrace, Tennyson?-- Yes.

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Is that part of the Mirvac Tennyson Reach Development?-- Yes.

And which building in that development is your unit?-- In Lushington.

Have you prepared a statement in respect of this Commission?-- Yes.

Can I ask that Ms Savage been shown a copy of that statement. In paragraph 1 of that statement - do you have any amendments you wish to make?-- I have noticed them in handwriting this morning, is that what you mean?

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Yes. So would you like to amend that first line to read that you are a 50 year old woman and that you are the mother of two teenagers?-- That's right.

Rather than, "I'm a 50 year old single mother of two children"; is that correct?-- Yes.

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And can I take you, please, to paragraph 11 of that statement. In the second line do you wish to amend that statement so that it now reads, "A unit had been made available on a higher level for us to put our belongings in"?-- Yes.

And the next line, "At around 3 p.m. I decided to move my possessions from my apartment"?-- Yes, thank you.

Now apart from those amendments we've just noted, is your statement true and correct?-- Yes.

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All right. I tender a copy of that statement, please.

COMMISSIONER: 572.

ADMITTED AND MARKED "EXHIBIT 572"

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MS MELLIFONT: Did you decide to purchase an apartment in the complex in 2009?-- Yes, in 2008.

All right. And did you move into that apartment in approximately July 2009?-- It would be three years next year, so, yes.

All right, that's fine. There is a basement in the Lushington building; is there?-- Yes.

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All right. And do you have a four car garage there where you stored your vehicle and various personal effects prior to the flood?-- That's correct, yes.

If I can take you to the time of floods in 2011. I take it some concern was raised by Tuesday the 11th of January that there might be some flooding to the complex?-- Yes.

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And were you, yourself, monitoring the levels of the Brisbane River, that is by looking at it?-- Yes. It's fairly close so you could see what was happening and you could look out and watch from what they call the courtyard verandah.

All right.

COMMISSIONER: Can you speak up a bit, Ms Savage?-- Yes. You can see from the courtroom verandah of the apartment, the water is quite near so you can see what's happening.

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MS MELLIFONT: All right. So you were watching it, I take it, you were watching it getting higher?-- Yes, and watching the tide times and trying to listen to what was being said on the news or whatever.

All right. And you, yourself, noticed that flooding started to commence by flooding the bike path between the river and the building?-- Yes. By the afternoon it was over my end of the bike path where the land is a bit lower.

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Right?-- There is a platform on the rest of it.

And you were, yourself, observing the rise of the river and estimating it by reference to some wire petitions in the path fence?-- Yes. That was later that evening because there's a wire fence that has 10 centimetre gaps, so you could monitor it quite clearly there.

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And so far as your observations went, how quickly was it rising in the river there?-- I think it was at 10 centimetres an hour at one point because we were trying to - the high tide was going to be at 3 a.m. and we were hoping that there was some recession of the water when the tide was ebbing, which there wasn't, it was just coming at about 10 centimetres an hour.

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At some point that day did you start moving your car and other items from the basement up to a higher level?-- Yes, I had moved the car quite early and taken to it high ground in St Lucia and got some torches and all that sort of stuff, and we had started to move the things from the basement but then it became more important to move the things from the apartment, so we had to abandon that.

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How many levels are there in the basement in your building?-- There's two, there's B1, which is the immediate first level, and then there's B2 and I was down - I'm down at B2.

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Was the basement flooded?-- Yes, it was flooded for two weeks.

Right. So, B2 was flooded?-- Yes, entirely.

Entirely, and was B1 in flood?-- Yes, it was. Yes, it was - ended up being entirely flooded as well, I believe, yeah.

20

Where is the power and services to the building located?-- It's at the entrance to the basement. As you drive down the driveway it's on the right.

Right. And to your knowledge, were those services such as power disabled as a consequence of flooding?-- Yes.

So, at 3 a.m. on the Wednesday you yourself inspected the basement and saw that the water was about two steps below the halfway point from the staircase from B2 to B1?-- From B1 to B2.

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To the ground?-- Yeah. So, the whole bottom level was covered by that point and nearly to half of the next level by 3 a.m. on the Wednesday morning.

Where else within the complex was flooded at that point in time?-- Sort of the outdoor areas, there's quite a hollow at the front of it, like where you - where you are looking at that picture when you said, "Is it on the left or the right?"

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When you speak of the front of it, are you speaking of the riverside or the roadside?-- I am talking about the roadside where the front door is or the entryways are versus the riverside.

Okay. So, you have flooding on the roadside?-- Yes.

At that - by that point in time as well as flooding on the riverside?-- That's right.

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Okay. And by about 7 or 8 a.m. on the Wednesday you decided to evacuate?-- That's right.

Now, by that stage, where was the water in relation to your apartment veranda?-- My best recollection is it was probably about 12 centimetres under the courtyard balustrade.

And when you sought to evacuate at that time, what was the road condition?-- There was water across the road and I think we would have been one of the last cars out. A lady came to get me in her SUV, and as we left it got unstable sort of thing.

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All right. So, can you estimate how far up the SUV the water was at that point in time?-- Well, it must have been up - you know, near the wheels, top of the wheels, I suppose, somewhere in one part of it.

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Right?-- She'd come in and parked and then part of the road going out to Fairfield Road was obviously maybe lower.

Now, you have attached some photographs to your statement in respect of flooding. Can I ask, please, that we see annexure B on the screen? Is this the basement area?-- That's B2, my basement, and that's - you can see a number on the floor there, 4212, that's almost opposite my four car garage, you can't see the entrance to my garage, but you can see one similar to it, the next one up with that square boundary.

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And did you take a photograph or was it taken by another resident?-- No, someone else took it, not me.

Was that Mr Millichip?-- Actually I think it was Mrs Millichip, Stephanie Millichip.

Do you know at what point in time that photograph was taken?-- That's on the Tuesday and I believe it's on the Tuesday morning.

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Can you have a look at the next photo, please, in annexure B? What's this photograph?-- I'm not sure - I think that's in B2 as well, and that's some time during the Tuesday, but later than the other one obviously but I had not gone down - I was too busy moving things from the ground floor at that point.

Okay. The next photograph, please, what's this a photograph of?-- This is the entrance to the basement and I'm not entirely sure on the timing of that, but this is probably Wednesday, I think.

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The next photograph?-- I think that's Tuesday again, Tuesday middle of the day.

Is that B1 or B2?-- I think it is B2.

And the next photo in that series?-- That's my kitchen.

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This is annexure C of your statement. What's this photograph of?-- That's the kitchen in my apartment, looking back towards the road.

So, this is obviously a photo taken after the floods-----?-- Yes.



-----at the time that's - work was being done on the apartment, I take it?-- Yes.

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The walls within that apartment we see have been ripped out. Were they comprised of Gyprock?-- Yes, except on the outer walls, they're block, as you can see on the left there. All the interior walls are Gyprock and there's Gyprock over the block walls.

Looking to the left-hand side of that photograph, you can see how far the wall's been removed. Is that the level of the inundation or was it lower but the walls had to be removed to that extent?-- It was lower than that, it was .65 and because of the measure of a piece of Gyprock, I believe, is that measurement.

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Thank you. That's the evidence of Ms Savage, thank you.

COMMISSIONER: Mr MacSporran?

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MR MacSPORRAN: Nothing, thank you.

COMMISSIONER: Mr Dunning?

MR DUNNING: No questions, thank you, Commissioner.

MS McLEOD: No questions, thank you.

COMMISSIONER: Thanks very much. You don't require Ms Savage any more?

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MS MELLIFONT: I don't. Thank you.

COMMISSIONER: Thanks, you are excused.

WITNESS EXCUSED

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MS MELLIFONT: Mr Paul Rees is the next witness. He owns a unit at the Regatta Apartments in Duncan Street, West End. That property was flooded in the January floods. Again I tender two POnline maps, the first being a contour map which depicts the location of the Regatta Apartments, and the second being a zoning map, again depicting the location of the Regatta Apartments.

COMMISSIONER: The first will be Exhibit 573, the second will be Exhibit 574.

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ADMITTED AND MARKED "EXHIBIT 573 AND 574"

MS MELLIFONT: I also tender a Queensland Reconstruction Authority aerial view as representation of the flooding of the area.

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COMMISSIONER: Exhibit 575.

ADMITTED AND MARKED "EXHIBIT 575"

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MS MELLIFONT: Now, on that map, the area of the Regatta Apartments has been circled with a black Nikko - sorry, there's a rectangle around it with black Nikko in approximately the centre just to the left.

COMMISSIONER: Circled or squared?

MS MELLIFONT: It's a - well, square or rectangle.

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COMMISSIONER: Rectangle, I think. Thank you. That's Exhibit 575.

ADMITTED AND MARKED "EXHIBIT 575"

MS MELLIFONT: Thank you. Mr Rees is in the witness box now.

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PAUL RICHARD REES, ON AFFIRMATION, EXAMINED:

MS MELLIFONT: Good morning, Mr Rees. Is your full name Paul Rees?-- Paul Richard Rees.

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Thank you. And do you reside at the Regatta Apartments at Duncan Street, West End?-- Yes.

Have you prepared a statement in respect of this Commission?-- Yes.

May Mr Rees be shown a copy of that statement, please? You have had a look at that statement?-- Yes.

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You confirm the contents of it are true and correct?-- Yes.

I tender that statement, please.

COMMISSIONER: Exhibit 576.

ADMITTED AND MARKED "EXHIBIT 576"

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MS MELLIFONT: Now, the Regatta Apartments is a unit complex comprised of 59 units; is that correct?-- That's right.

And it has five two storey townhouses and 54 units in a six storey block?-- That's right.

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You are the chair of the body corporate of the Regatta Apartments?-- Yes.

And those apartments were inundated during the January floods?-- The basement was, yes.

The complex itself was a constructed about eight years ago?-- That's right.

And it was one of - it was the first of new apartment buildings in the old industrial area of the riverside precinct?-- Yes, that's right.

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The complex is bounded by riverside to the west and is located a quite short distance from the river?-- Yes.

And the surrounding area consists of residential blocks of - industry of varying sorts, parklands and, of course, the river?-- That's right.

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Now, when was the basement car park flooded?-- Would have been about 3 a.m. on the Wednesday morning.

So, 12th of January 2011?-- Yes.

And by what means did the water enter the basement, so far as you're able to observe?-- The water came up the road from the river as the river rose, and then it flowed down through the - through the driveway entrance into the basement car park.

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All right. And to what extent was the basement flooded?-- It was completely filled with water.

And about how high?-- Well, it's - I'd say probably be about two and a half metres high and then the water level was above the top of the basement.

Right. Now, the ground floor apartments themselves are raised approximately one and a half metres off the ground towards the river?-- Yeah.

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And approximately one metre off the ground in the opposite side of the complex?-- Yes.

And they themselves were not inundated during the floods?-- No, there was probably less than an inch of water - less than an inch above the high water mark.

Can I take you, please, to some photographs? These are photographs you have taken at the time of the floods?-- I didn't take the photos, but other people in the complex did.

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All right. Can I take you, please, first to annexure P? That should come up on the screen. All right. What are we seeing in annexure P?-- That's taken from the third floor of the Regatta.

From what direction?-- It's looking back along Kurilpa Street East towards Montague Road and the cross street is Duncan Street.

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Do you know approximately when that photograph was taken?-- I would say that would have been taken before 8 a.m. on the Wednesday morning.

I take you, please, to photograph at annexure N, and what view is depicted here?-- That photograph is taken near the front of the complex from unit 4 and it's taken back towards the river looking down Kurilpa Street towards the river.

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And approximately when?-- I'd say that that would have been around the same time, we got the order to evacuate around about 8 a.m., and I think that would have been taken shortly before then. This is taken from - almost the same spot as that previous photograph, that's looking back up Kurilpa Street towards Montague Road.

And you are speaking here of annexure N to your statement, which is now on the screen?-- Yes.

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I take you now, please, to annexure Q?-- Okay. That's the entrance, the main entrance to the building. That would have been taken about the same time on the Wednesday morning.

And annexure D?-- Okay. That's the junk from the clean-up. That would have been taken probably on the Sunday.

Is that junk from the clean-up at the Regatta Apartments or from surrounding areas as well?-- That's taken in Kurilpa Street straight in front of Regatta Apartments. The house you can see on the other side is called Rose Cottage and it's directly across from the Regatta. The junk there would have been a combination of stuff from underneath Rose Cottage and stuff from the basement of Regatta.

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Can I take you, please, to annexure K?

COMMISSIONER: Just before you do, just to get it clear, when you say "junk" was it junk before the flood?-- No, it's - they were all people's belongings.

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Right. Thank you.

MS MELLIFONT: And annexure K, please?-- Okay. That's stairs taken - that go down to the basement on Duncan Street just around the corner from the entrance to the Regatta Apartments.

Those stairs go down to the basement, and you can see the high water mark, it's fairly clearly visible on the right-hand side of the photograph. That photo would have been taken on the - I would say some time on Friday, it would have been pumping out for some time, I'd say. 1

So you are pumping out for some time on?-- We started pumping out on Friday, and pumped out all day Friday and all day Saturday, but just looking at that, that level, it - I think that there would have been - it's not just the level of the flood had receded because the basement remained full once the flood had gone down, we had to then pump it out, and I think we would have done some pumping when that photo was taken. 10

Annexure G, please?-- Okay. That was taken some time after about 3 a.m. on the Wednesday morning. That's the water flooding down the - down the driveway into basement. So, that's from Kurilpa Street down into the basement.

And finally as far as photographs is concerned, annexure L?-- Okay. That would have been taken, I'd say, on the Saturday afternoon, because the basement's now been pumped out, but that was one of the two cars that was - couldn't get out. It was completely submerged, as you can see. 20

"Pretty submerged as you can see", is that what you said?-- Completely.

Completely?-- Yes. 30

Was there any reason for not being able to get those two vehicles out?-- Yeah, the owners of these cars - this car was on holiday in Vietnam and we couldn't contact them. We did have access to their unit, we went in there looking for a car key but we couldn't find it, so unfortunately we - we didn't have permission to move it, and we couldn't get it out in time.

Your experience of the events post the flood is one example of where the community banded together in order to assist each other with the clean-up method - processes?-- Yeah, I think that's fair to say, the community within Regatta Apartments apartments but also the wider community. 40

Now, as a result of the flood, there was significant damage to the electrics located in the basement; is that correct?-- That's right, the electrics for the stuff in the basement, so you have got the lighting, the security system, the electric gates and the air-conditioners for half of the complex were located down in the basement for the bottom half of the complex, and the top half of the complex the air-conditioning units were on the roof of the complex. 50

All right. Exhaust fans as well-----?-- Yes.

-----were destroyed?-- Yes.

The security system for the apartment was also destroyed?--

Yes.

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And the complex's two lifts mechanisms were in the basement?-- Yes, one lift was left on the ground floor and the other lift when the power went out was on the fourth floor, so it wasn't damaged, but the one that was on the ground floor, its - its equipment hung down in the lift well, down below the water level, so it was all destroyed.

So far as you understand there may be a proposal by the Brisbane City Council for an extra 25,000 residents and 55,000 workers within that West End region?-- Yes.

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And you have some concerns if this comes to pass; is that correct?-- Yeah, I do. Those numbers are from the council's South Brisbane West End Neighbourhood Plan that was approved fairly recently.

And your particular - one particular concern you harbour is that even with the amount of people that were there in January 2011 the evacuation attempts were chaotic?-- Yeah, on the Tuesday morning, mid-morning when it was clear that we were going to have a flood, a lot of people returned home to try to get their possessions out and also the people in the businesses there were trying to - trying to leave the area, maybe to go to their homes or whatever, the streets were all clogged, it was quite difficult to get out on to Montague Road, and that's with - you know, a very small redevelopment of the area, so I think if - you know, if the full redevelopment happened as is planned, I can't see how you'd get all of the cars and people out of there, it would be very difficult indeed.

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In terms of your observations of the flooding in January 2011 in West End, was it your observation that the worst flooding appeared to be not simply the riverfront but rather the area halfway back to Montague Road?-- Yeah, that's right. Along the river, the land is actually higher and then it slopes away, it's sort of not the way you would think it is, but as you move away from the river towards Montague Road, the ground actually drops down a fair way so that the warehouses in the middle section, say across - say halfway back to Montague Road, they were flooded up - up to the awning level, whereas at - where we were it was - you know, like right on our built up ground level, and all of the warehouses down in Bailey Street, which is a little bit further back, they were - they were quite flooded through there too.

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And did you also make some observations of the flood damage to riverside parkland in the area?-- Yeah, that's right. There was - there's roads, there's bollards, there's exercise equipment, things like that, were all damaged in the flood, and damaged in the clean-up too, I should say. I think because a lot of it was covered in mud that it may have been damaged when the council brought in excavators to get the mud out of there.

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Right. Now, there's a drive known as Riverside Drive in the

area?-- Yes.

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Where is that?-- That's along the riverside, it's between Regatta Apartments and the river.

And was the road surface to Riverside Drive damaged during the floods, so far as you observed?-- Yes.

In what respect?-- There were large sections of the surface gone, potholes were just gone, and I don't know whether that happened in the flood or as a result of a clean-up, but once the mud was removed it was - you know, the road surface was quite damaged.

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And your concern about Riverside Drive is perhaps that it should be closed so as to avoid - to avoid danger and potential fall?-- Riverside Drive is not a gazetted road, it's supposed to be park, and the redevelopment of the area does have that reverting to parkland and the council apparently has approved that - for that to happen and we think that should happen sooner rather than later for safety reasons, but also not to waste money repairing the damage for something that is supposed to go in the near future anyway.

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No further questions, thank you.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: Nothing, your Honour.

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COMMISSIONER: Mr Dunning?

MR DUNNING: No questions, thank you, Commission.

MS McLEOD: No questions, thank you.

COMMISSIONER: Did you want Mr Rees excused?

MS MELLIFONT: Yes, please.

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COMMISSIONER: Thanks very much for your time, Mr Rees.

WITNESS EXCUSED

MS MELLIFONT: The next witness is Mr Joseph Bannan, who is the manager of the Asset Management Branch of Brisbane City Council.

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Before calling Mr Bannan, can I please tender a report under the hand of Trevor Johnson? Mr Johnson is an engineer and he had prepared a report with respect to flooding issues related to stormwater management.

COMMISSIONER: That will be Exhibit 577.

ADMITTED AND MARKED "EXHIBIT 577"

JOSEPH JOHN BANNAN, SWORN AND EXAMINED:

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MS MELLIFONT: Is your full name Joseph John Bannan?-- It is.

And are you the manager of the Asset Management Branch of Brisbane City Council?-- I am.

You prepared a statement in response to a requirement issued by the Commission?-- I have.

Can Mr Bannan please be shown a copy of his statement? Is that a copy of your statement, Mr Bannan?-- It is, yes.

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Thank you. I tender a copy of that statement.

COMMISSIONER: Exhibit 578.

ADMITTED AND MARKED "EXHIBIT 578"

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MS MELLIFONT: Mr Bannan, can I start by asking you what the Asset Management Branch is of the Brisbane City Council, what's its role?-- The Asset Management Branch is a strategic asset knowledge type branch for Brisbane City Council. Its role is to understand the life cycle of its assets and to assist the other areas of council as well to understand the appropriate investment strategies that we should be imposing for the organisation.

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I will need to get you to speak up a little?-- Yes.

So, in short it's about the management and control of the assets?-- Yes.

All right.

COMMISSIONER: What sort of assets are you talking about?-- Civil assets, so our roads, our drains, our buildings, our parklands.

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MS MELLIFONT: Now, you hold a Master of Engineering Science, a Bachelor of Engineering and an Associate Diploma in Civil Engineering?-- Yes.

And you are a registered professional engineer in Queensland?-- Yes.



You have held your current position as manager of the Asset Management Branch since January 2011?-- Yes.

And prior to that you were employed by the Moreton Bay Regional Council as manager of its Asset Management Branch, and then prior to that you were employed in a number of engineering roles by the Pine Rivers and Caboolture Shire Councils?-- Yes.

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Now, insofar as the notice to you, it covered a range of issues relating to stormwater network design and operation?-- Yes.

Insofar as the council's division of responsibility various departments share responsibility under that grouping?-- That's correct.

So, in respect of design capacity standards, that's guided by the Water Resources Branch?-- Yes.

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Insofar as policy with respect to planning and development, that's guided by Water Resources Branch?-- Yes.

And who is that headed up by?-- Julie McLellan.

COMMISSIONER: How do you spell that?-- M-C - I am not sure, I'd have to look it up.

She's going to be pleased with you.

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MS MELLIFONT: Is it McLellan?-- McLellan.

Okay. Insofar as the application of the planning and development policies relating to stormwater and sewerage, that's the province of the Development Assessment Branch?-- Correct.

Which is not your branch?-- No.

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And who heads that up?-- I am just trying to think. That would be Andrea Kanafake, I believe, Kanafake.

Spell it? Best guess?-- K-A-N-A-F-A-K-E.

Insofar as the policy for long-term planning for the stormwater network is guided, that is the Water Resources Branch?-- Yes.

Can I ask you whether the division of responsibilities between various divisions of the council insofar as stormwater network design and operation is concerned, does that division create challenges in terms of mitigating flood effects in respect of stormwater issues and if so what are they?-- It doesn't really. The professionals exists within different parts of the organisation that work in this area and they all seem to work fairly well together.

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Are there formalised methods of liaison as between each of these departments?-- Yes.

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Now, your particular branch works closely with the Field Services Group, doesn't it?-- Yes.

So they're the on the ground people-----?-- Yes.

-----who are looking after the maintenance and rehabilitation of defects in the stormwater system?-- Yes.

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If you can deal with some introductory general definitions, "stormwater infrastructure" refers to infrastructure for which the primary purpose is the collection and the conveyance of stormwater?-- Yes.

Now-----

COMMISSIONER: Do you mean pipes and drains or - let's get this as basic as possible?-- Yes, pipes and drains.

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All right. Thank you.

MS MELLIFONT: Now, the stormwater infrastructure which manages stormwater flow can have a flood mitigation function?-- It can.

But if you have stormwater infrastructure whose purpose is solely directed towards managing water quality, then it doesn't have a flood mitigation function; is that correct?-- Yes.

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Insofar as stormwater infrastructure - and I will confine my questions to stormwater infrastructure with flood mitigation functions, if I can preface all of my questions on that basis, stormwater infrastructure refers to items of civil works built or created for stormwater collections and conveyance?-- Yes.

So pipes and drains-----?-- Yes.

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-----are examples. But that infrastructure is only part of the over all stormwater network?-- Correct.

Because in addition to that built infrastructure other means of moving stormwater includes overland flow paths and channels?-- Yes.

Channels might be naturally occurring or they can be partially or fully the result of man-made intervention?-- Yes.

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COMMISSIONER: Can you explain about overland flow paths? Is that just where the water ends up going whether you want it to or not or-----?-- Yes-----

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-----what is that?-- -----that's pretty correct. So overland flow typically is naturally occurring depressions in the ground that water generally just accumulates and flows at that point.

Thank you.

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MS MELLIFONT: Now, when you're planning stormwater management for the city you have to look the whole stormwater network and how it works-----?-- Yes.

-----in its entirety and in the way in which it interacts within its various components?-- Yes.

There are also non-infrastructure components of stormwater - of a stormwater network-----?-- Yes.

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-----is that correct? Now, we've spoken of overland flow paths already. How are they in terms of their effectiveness in conveying stormwater?-- They're part of the overall network, they're essential. As far as effectiveness, they're as effective as each case allows, so site specific, you'd have to talk in that sort of nature.

Right. There's no cost involved, I take it, in overland flow paths which are naturally occurring?-- Correct.

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And in so far as those would have to be the product of man-made intervention in terms of cost-effectiveness it's quite good?-- Yes. There's ongoing maintenance activities, of course, to both, and when you talk about "naturally-occurring", there could be a cost associated with retaining a naturally-occurring flow path in light of a future development.

All right. So an example, please, of a naturally-occurring overland flow path and its associated maintenance?-- Would be at the very least mowing the grass that may exist within an overland flow path.

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So if we could start with what an example of an overland flow path might be. Are you speaking, perhaps, of a parkland?-- Yes, yeah. So a - like I was saying, a - the low point in a land area that allows water to travel, and water always flows downhill so it hits that low point. An overland flow path would typically be grassed. It might flow through a park or property.

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All right. And overland flow paths, I take it, are affected by diversion of water due to development?-- Yes.

Well, has the Council undertaken mapping of overland flow paths in the city?-- I'm not aware.

Right. Can I take you to paragraph 14 of your statement, please?-- Yep.

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Which is page 3. You speak there, starting at the last line on paragraph 14, of Council having undertaken extensive mapping in overflow paths in the city and major overland flow paths are containing flood flag maps which are available to the public by Internet search?-- Yes.

Do I take it that you don't have personal knowledge of this mapping of the overland flow paths process?-- I'm aware of - of the area in Council that does it-----

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The geographical areas?-- The - sorry, the section within - the branch within Council that is responsible for it.

Who is that?-- That would be our GIS area.

Your?-- GIS. Geographical Information Section, and Water Resources would have a large part to play in that.

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And in so far as your inquiries were concerned preparing this statement, do you know how long ago that mapping was undertaken?-- No.

Are you able to speak to the means of the mapping, the accuracy or the currency of the mapping or is that the province of someone else within Council?-- It's the province of someone else, yes.

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And is that person likely to be the manager of the GIS area or the manager of Water Resources?-- I would talk to the manager, Water Resources.

All right. In so far as the sewerage network is concerned, is it the case that since July 2010, due to legislation, namely the South East Queensland Water Distribution and Retail Restructuring Act, that responsibility has now been transferred to Queensland Urban Utilities?-- Yes.

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Before moving off sewerage can I ask you some brief questions. The sewerage network is in fact separate from the stormwater network?-- Correct.

And that's intentionally so so as to keep them divided?-- Yes.

The sewerage system does, though, have allowance to carry additional water flow?-- Yes.

And this is so as to provide a contingency in the effect that there are overflows from blockages or leakage of stormwater into the sewerage network?-- Yes.

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All right. How does that happen? That is, how - what is the mechanism by which the stormwater network impacts upon the sewerage network?-- Okay. So during a rainfall event water is ponding on the ground and seeping through the ground and quite often stormwater will - as it seeps into the ground it

will find flow paths underground and travel around pipes, if that's at all possible, but breakages or damage to the sewerage network can allow water to break into the sewerage pipes. Other times you can have, where a flooding event occurs, the stormwater can infiltrate through manholes at pump stations and so forth and then get into the sewerage network.

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All right. And in respect of those mechanisms can they contribute to, cause or exacerbate flooding?-- Yes.

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And what can be done about that in terms of preventing or mitigating that effect?-- Well, you always look for - as a sewerage operator you will be looking to ensure there are no breakages in the sewerage line and you would - you would try to ensure that manhole lids and the like are waterproof.

In so far as illegal connection from roof water downpipes or landscaping into the sewerage network is concerned, that too can cause overflows; is that right?-- Correct.

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And does the Council retain any regulatory or enforcement role in that respect or is that outside your province?-- That's outside my province.

Do you know whose province that is?-- That would be either in Water Resources, and QUU would definitely know.

So Queensland Urban Utilities-----?-- Yes.

-----and, again, Water Resources?-- Yes.

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If I can then come to, again, some general terms in terms of - in respect of flood mitigation stormwater infrastructure. There are stormwater pipes and drains we've spoken of. There are also culverts?-- Yes.

Now, what's a "culvert"?-- A "culvert" is a short length of conduit that would be open at both ends.

And it's - and generally they are paths under roads with the purpose of allowing stormwater to flow from one side to the other?-- Yes.

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And away?-- Yes.

Another means of infrastructure are detention basins?-- Yes.

And these are specifically designed to catch and hold stormwater in a rain event to allow release of stormwater at a controlled rate?-- Yes.

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COMMISSIONER: How does that work? How do they allow - I don't know much about detention basins, could you just give me an overall picture?-- If you can imagine a depression in the ground, it would be a constructed depression but it would still probably be - it can be a variety of things but if you imagine a grassed depression in the ground, that would have a small diameter pipe allowing water to leave. So as rain falls

the depression in the ground would fill but it would only allow water to flow at the flow that that pipe allows it to be released at.

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Well that was the bit I was interested in, really. The control rate is just the dimensions of the pipe, is it?-- Typically. It would - you might find that they have spillways, little spillways as well that if they were to overtop they would allow to go, but they would have a defined capacity and would release water in that way.

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And so when they do overtop I suppose it could be nasty?-- It depends on the capacity of the detention basin. If they were extremely large detention basins then they would have a lot of capacity and it really - it really depends on the rainfall event because it's not - it's not releasing everything that is already existing in the detention basin, it's only then allowing water to flow as if the detention basin didn't exist.

And are there many about in the city?-- I'm not sure of the number but there would be quite a few. I'd say-----

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Give me an idea?-- -----less than a hundred.

Mmm?-- Maybe even less than 50.

And do you usually find them in parks or where would they be?-- They - they would - you would find them in parks, yes. You would find them in - if a developer was required to install them as part of a development you would normally see them in low-lying areas of land that they were going to donate as park as part of their development.

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Thanks for that.

MS MELLIFONT: In so far as the size of the detention basins, they can take up quite a deal of space, can't they?-- Yes.

And so in terms of a practical means of stormwater mitigation - flood mitigation, they're more practically adopted in non-CBD areas?-- I think there - well, yes, yes.

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So they're obviously better used as a stormwater mitigation measure where there's enough room-----?-- Yes.

-----to use them, essentially? In so far as costliness of them, how do they compare with other stormwater mitigation measures?-- Again they're important part of - they're an important of the stormwater network. The cost of them is really the cost of the land and the work required to construct them. Maintenance of the asset normally would involve again things like mowing and regular inspection, so they're just another asset that you have to look after.

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And Council from time to time includes as conditions in its development approvals that stormwater basins are included as-----?-- It would.

-----part of the development? Another type of flood mitigation infrastructure are backflow prevention devices?-- Yes.

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These are also known as one-way or non-return valves; is that correct?-- Yes.

An example of them we see is at Breakfast Creek where there's a flap-type arrangement at the end of the stormwater pipes?-- Yes.

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I want to take you later on in more detail to backflow detention devices - prevention devices, but moving on for the time being, another means of infrastructure are gullies and inlets?-- Yes.

They allow stormwater to enter into the pipe network?-- Yes.

Okay. And so when you are speaking about a "gully", you are talking about the grilled box inlets that we often see in suburban streets?-- Typically, yes.

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And when you speak about "inlets" you are talking about an opening in a park or an open area?-- Yes.

And the final example of infrastructure is kerbing and channeling?-- Yes.

Which, of course, catches stormwater flow from urban roads and provides capacity on the road surface to convey that overland flow?-- Yes.

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And, of course, we've also spoken about the naturally-occurring or constructed channels and overland flow paths as part of the infrastructure?-- Yes.

Can I take you, please, to page 9 of your statement. You've set out there, at paragraph 23, a table which shows the number of culverts in the relevant suburbs, and by "relevant suburbs" we're talking about those which are set out in the notice to you. You'll see when we look at that table that areas such as Bellbowrie, Fig Tree Pocket, Oxley and Rocklea seem to have quite a greater number of culverts than the other suburbs listed. Is there any particular reason for that?-- There would have been a need in that area.

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There would be a need in that area?-- Yeah.

And how do you assess the need for culverts?-- If - if - as a treatment. So first you would establish that there's a problem. The problem might be that water is being ponded somewhere and it can't be released because of a road or some other structure that's in its way and the - in these cases the construction of a culvert under a road or as a road was being built was the appropriate treatment.

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All right. And a culvert's generally retrofitted or is the need for them able to be discerned by future planning?--

They're - they would be normally - normally they would be constructed as another asset was being built. So the road, for instance, or the development of a road might generate the need to consider stormwater flow and the construction of that road may in its own right prevent water from flowing because of the new structure so culverts would be considered, or pipes to the whole stormwater network would be considered as part of the design of that road.

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So who in Council are looking at those things?-- We would have design engineers, when considering a road project would consider stormwater as part of every project.

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And are those design engineers part of the Asset Management Branch or are they part of another branch?-- They're part of a different branch.

"Part of"?-- They're part of a different branch.

Which are who?-- City Projects Office now.

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Right. And in terms of assessing the impact of developments generally, and the need, for example, adopting culverts as a mechanism, who looks at those things?-- The Development Assessment area would consider stormwater issues as part of the submission of the development application and the engineering drawings.

And who do they seek advice from within the Council on that topic, or even outside the Council on that topic?-- In the first instance the developer and the engineers on behalf of the developer would prepare engineering drawings to - to address these issues, and RPQ is normally involved on behalf of the developer and would be signing plans demonstrating that they're achieving the requirements of the design of the - to achieve the requirements of the Subdivision Development Guideline. On Council's behalf its own engineers would review plans or designs and would consider if they're appropriate or not.

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And to be fair to you, the people who are doing these things you're speaking of, that is processing the development applications, that's another division?-- It is.

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Do they ask you for help?-- They don't ask me for help, no.

Do they ask your section for help?-- No.

So in respect of the engineers you speak of-----?-- Yes.

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-----that they are seeking advice from, where are they in the Council structure?-- If their own branch in Development Assessment don't have capacity, their resources are stretched or what have you, so first they would use their own resource, they might engage our design office in City Projects Office or they would maybe seek advice externally.



Can I take you, please, now to page 10 of your statement, paragraph 25. This shows the backflow prevention devices which are currently in place in the relevant suburbs. Do you know where the two are at New Farm?-- I'm - without looking at a map I'm not sure.

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All right. We can see, though, from the maps that you've attached to your statements, we can discern the precise locations of these backflow devices?-- Yes.

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All right. At paragraphs 30 through 49 of your statement you give an overview of the maintenance of the stormwater network so far as it applies in the Brisbane City Council region. If I can touch firstly on maintenance of the pipe network. Now, as I understand it, a pipe survey is conducted with the intention to inspect all pipes every 14 to 20 years in the first 60 years of life?-- Yes.

And thereafter every seven to 10 years until they're replaced or rehabilitated?-- Yes.

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So Council are surveying about 60 to 80 kilometres of pipe every year?-- Yes.

And under that current regime the pipe network is reinspected every 60 to 80 years?-- Yes.

Is that often enough?-- The - it's hard to say. It really depends on how well the asset is constructed and the potential risk of pipes silting up as well. So you would like to be out looking at these things all the time but they're a hidden asset under the ground, there's a large cost in inspecting the pipe network and we manage with what we've got. I would like to inspect more.

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And with that ability it might be that potential sources or causes of flooding might be more - or might be earlier detected and remedied?-- Yes, but the type of - the type of potential flooding that you're talking about would be through pipe breakage or collapse of a pipe or through siltation, but siltation itself is only reducing part of the capacity of the line and would typically flush away in a heavy event, or that would be the desire, so you're looking for pipe breakage.

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Do you have any particular suggestions about how there might be a sufficiently early means of detection of, say, pipe breakage or silt buildup which would have an effect of causing or exacerbating flooding?-- Can you ask that again?

I'm asking you whether you have any recommendations for change in terms of the way the Council are looking at their maintenance of the pipes, particularly these issues of, say, pipe breakage or silt buildup which could have an effect of causing or exacerbating floods?-- I think the practice that we use of inspection, the method of inspection, it's changing with technology. Our - what we should be doing is embracing those changes in technology and using them as we have been. Our practice is sound, the only - the only thing I would

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change is the frequency of inspection.

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COMMISSIONER: What's the technology, how has that changed? What can you do now that you couldn't before?-- Well, now you can drive with remote-controlled vehicles, camera-mounted vehicles up and down the pipe network. A long time ago it would have just been visual, maybe using mirrors and torches or maybe having to climb down in the pipe itself. So now with the little vehicles and cameras that we use you can accurately track the distance from a point to where a defect might be. The video images themselves have moved to digital technology and file - it's easier to store information now and then quickly deal with a defect when it turns up.

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MS MELLIFONT: Is the Council embracing that new technology?-- Yes.

All right. I take it part of the difficulties in so far as the stormwater network is concerned that in times past the pipes were smaller which make it very difficult to inspect. That makes it very difficult to inspect?-- The pipe's size is always determined on the quantity of water you want it to carry, so there always would have been small pipes and big pipes. But, yes, a smaller pipe is - requires use of a camera-mounted type device and a large pipe would allow a person or - to inspect visually.

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And with this new technology, does that mean that inspection of storm - the smaller stormwater pipes which previously had difficulty having access to them will now be able to be inspected more readily?-- Yes.

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And is that happening-----?-- Compared to years ago, I guess, is what I'm trying to say-----

Yes?-- -----it's not - new technology hasn't just happened, it's been gradually increasing over many years. We have been inspecting with the technology we're using, we have for some time now, and every time there's a little enhancement to what's been a developing industry, we'll try and encourage the use of that as well.

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So how long have these remote devices been in place for?-- Since the 90s.

And how long has Brisbane City Council been using them for?-- Since the 90s.

COMMISSIONER: Would that be a convenient time for morning break?

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MS MELLIFONT: Yes, thank you.

COMMISSIONER: We will come back at 20 to.

THE COMMISSION ADJOURNED AT 11.25 A.M.

THE COMMISSION RESUMED AT 11.42 A.M.

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JOSEPH JOHN BANNAN, CONTINUING:

MS MELLIFONT: Mr Bannan, can I take you to paragraph 32 of your statement which is at page 12. In it you list criteria which is used for determining the priority for dealing with maintenance issues in respect of the pipes network and one of those criteria is recent infrastructure and residential developments. How is that feature taken into account when assessing the priority of maintenance works?-- The criteria that exists there are the criteria taken into account for making decisions around what pipes to inspect. So that criteria is used to help us understand what a developer has just recently installed, to become comfortable ourselves that the pipes that have been installed are adequate and are in good condition.

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Right. So in terms of the adequacy, are you speaking about design specifications, or are you talking about an actual physical observation of the pipe to make sure it looks right?-- Yes.

The latter?-- The latter.

Now who is doing the assessment of the priority?-- Our maintenance team use criteria that have been put together each year. So if there is a change in focus then a different criteria might be added, but our maintenance team use the criteria that exist to help identify what pipes we would like to inspect.

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Who reviews and develops the criteria?-- That would be a combination of the maintenance teams who are in field services, my team who are interested in the condition of the pipe network, and water resources.

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And by what mechanism is it reviewed?-- That would be a revision of a previous year's tool and discussion amongst staff.

So what are you looking at when you are deciding whether it should be changed and how it should be changed?-- You're considering events that may have happened over the previous year, and if the previous year's inspection showed a particular type of issue, you might decide to concentrate a bit more on that area.

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All right. Now when making assessments in terms of prioritising the maintenance, how, if at all, do you consider the cumulative impacts of development in the relevant area?-- When we talk about maintenance, we talk about - one part of maintenance is cleaning, so cleaning the pipe that might be silted up happens regardless of development. We try and keep

our pipes, particularly when we have inspected them and find there's a problem, we will clean them regardless of development that may have been happening around the area. If the inspection identifies a damaged pipe, we would - the treatment to correct that would be to fix the defect or replace the pipe that is in damage, and in that regard you would consider, because it's then part of a bigger list of damaged pipes or works that need to happen, you would then consider it along with all of the issues of the rest of the list and, and the importance or the criticality of that piece of the network may come into play and that would consider the land use around it.

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All right. So that would consider recent development in the area including the amount of it, so you'd get a sense of the real cumulative impact?-- Yes.

Is that correct?-- Yes.

Can I take you, please, to paragraph 36 of your statement in which you state that the January 2011 flood event resulted in the pipe survey plan being overtaken by events. What do you mean by that?-- Well, when the flood happened - so we would have had a - pardon me. We would have had a plan to go in and survey many pipes that were listed prior to the flood. When the flood happened we expected that there would be a quantity of silt either washed down from - and you could see the mud all over the roads - that went down into the stormwater lines. Or - we assumed that there would - probably come up the stormwater line as well from the rising flood water, so we considered the impact of that and decided that we should inspect and desilt-----

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All right?-- -----those flood pipes.

So there was a new prioritisation in accordance the with flood affected areas in the 2011 floods?-- Yes.

You also say in your statement that the process about the post event inspection is shown in Asset Services situation reports and you've attached those to your statement as exhibit 6. From those reports and your own knowledge which areas of Brisbane in the council's stormwater network is in the most need of maintenance and upgrade so far as stormwater is concerned?-- I'm not sure if the sit reps give a location. Let me just reflect. I'm looking at sit rep number 26 which was dated the 3rd of August and the - in that document we refer to sectors, so we've broken suburbs into sectors for the ease of reporting and tracking maintenance.

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Can I ask you, Mr Bannan, would you be more comfortable answering this question in terms of ensuring the accuracy of the answer if you have more time to review the council records?-- Yes.

All right. Well, I might ask you to do that subsequent to your evidence today, thank you.

MR PORTER: Commissioner, just before my learned friend continues, perhaps she could make clear exactly which question it was she wanted Mr Bannan to address because - and come back to her about it. It wasn't entirely clear, I think.

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COMMISSIONER: All right.

MS MELLIFONT: I'm certainly able to clarify the question. The statement itself reflects that the process with respect to post event inspection is shown in the Asset Services situation reports which are attachment six to Mr Bannan's statement, and the question was in terms: From the situation reports and his own knowledge, in which areas of Brisbane is the council's stormwater network in the most need of maintenance or upgrade?

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COMMISSIONER: Thank you.

WITNESS: What I can say to that, if I may, is that the flooding and the pipes that were affected by the rising flood water and the possibility of silt being pushed down into the stormwater network by the dirty roads that existed above, was every one of those suburbs listed in the sit rep. There was over 450 kilometres of underground pipe network that we flagged as being affected and we treat each one of them with equal value. It's all part of the stormwater network and our plan is to inspect and clean every one of those.

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MS MELLIFONT: That is an ongoing process; is it?-- As a result of the flood, yes.

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COMMISSIONER: I think there was some coverage on the news last night or the night before of the sludge being pushed out and-----?-- Yes.

-----and what a long drawn out process it was?-- It's a very long drawn out process.

MS MELLIFONT: Now if I can now turn to the notion of back flow prevention devices. It's correct, isn't it, that currently within Brisbane there are a number of back flow prevention devices already in place?-- Yes.

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There are four pipes with tide gates at Yeronga; is that correct?-- Yes.

And in each of New Farm, Newstead and West End there are tide gates at the end of a pipe outlet?-- Yes.

And the intention of these are to reduce the impact of flooding on nearby properties and roads from water flowing back up the pipe from high tides?-- Yes.

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All right. If I can start, please, with some background questions in terms of flooding caused by back flow. Now it's correct, isn't it, that a significant cause of inundation experienced in some of Brisbane's suburbs such as Milton, New Farm and the CBD, appear to be as a consequence, at least in part, of back flow through the stormwater drainage network?--

In part.

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And, again, in a general sense back flow is generally the initial source of flooding in those respects, but in a majority of instances higher flood levels were caused by surface inundation once the river actually broke its banks?-- Yes.

Can I ask you, please, to be shown page 2 of Mr Johnson's report which was tendered this morning. Now I'll just take you to that picture which is actually a Brisbane City Council picture and if you could explain how it is that back flow flooding does occur?-- Okay. So in a tidal event where the river is rising the - a pipe, a stormwater pipe as it comes down through its network and it discharges into a, into the river or an outlet, as tide rises the water can then flow, as it goes above the height of the outlet, can flow up the pipe, and if the tide or, in this case, the flood is high enough, the water will flow up to the height of the flooding event. So if that takes it all the way up to and out of the gullies that exist in the urban area, then that's how the flooding happens.

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All right. So back flow flooding only occurs where there is a stormwater or other pipe connection between a source of flooding, say the river, and an area of land which is lower than the bank level of the watercourse?-- Yes.

Now the relevant document so far as stormwater management and design is the Queensland Urban Drainage Manual?-- Yes.

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A document produced by the Department of Natural Resources and Water; is that correct?-- Yes.

And it requires underground drainage systems to be designed to convey the discharge for the designed minor storm with road flow limited to the point where it does not pose a risk to pedestrians?-- Yes.

All right. So, in essence, the maximum depth of flow in the roadway during a minor event shouldn't exceed the kerb level?-- Yes.

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And the occurrence interval of the minor storm adopted by the manual is between 2 and 10 years?-- Yes.

Depending upon the degree of urbanisation of the catchment?-- Yes.

Now in Queensland including - well, sorry, I'll direct my question only to Brisbane. In some of the older sections of Brisbane the existing systems don't comply with that current design requirement; is that correct?-- Yes.

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And why is that?-- Because they existed prior to the development of the document to start with, and standards of the day would have required less insofar as capacity design is concerned.

All right. In terms of developments now and in the future, they are assessed by reference to the drainage manual?-- They are.

So what the manual directs itself to is an intention to manage a minor storm event without causing inundation of allotments or building floors, but allowing some inundation of roadways?-- Yes.

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Now if I can just take you back to that illustration which is still up on the screen. If a flood level in the waterway exceeds a bank or levy level, the connection via the stormwater pipe system becomes irrelevant in a sense because the flooding will occur by surface inundation anyway?-- That's correct.

Now if you have a circumstance where you have consistently higher land as between the river and the affected property, that is there's no surface connection at a lower level, back flooding can become an issue for smaller rainfall events; do you agree with that proposition?-- Yes, that's fair to say.

20

I want to ask you a series of questions which do relate to the extent to which council is taking into account predicted climate change, but if I can start with some general propositions. Back flow flooding will continue to be a problem in some areas of Brisbane and would become significantly exacerbated if climate change predictions for sea level rise become reality?-- That's fair to say.

30

Okay. So just speaking of those climate change predictions, are you aware that Queensland government has determined through its draft Southeast Queensland Climate Change Management Plan produced by the Department of Local Government and Planning in 2009, their predictions are that current sea levels will rise by approximately .3 metres by the year 2050 and .8 metres by 2100?-- I've heard that, yes.

Okay. Now if those predictions prove to be correct, that is likely to bring the highest astronomical tide for Brisbane to 2.34 metres, if I can ask you to accept the maths for the time being?-- I do.

40

And if I can ask you also to accept that significant parts of Brisbane, particularly New Farm, Milton and Rosalie have ground levels lower than that?-- Yes.

All right. Acting on those two assumptions, if those climate change predictions become reality, those areas would become subject to increasing tidal inundation as sea level rises?-- Yes.

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Do you accept also the proposition that the rise in sea level will also increase flood levels, although generally by a lesser amount than the .8 metres predicted so far as static water level rise?-- Yes.

And in consequence those areas I've just spoken of are far more prone to inundation than occurs currently if those predictions become reality?-- Yes.

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Now even if steps were taken to prevent surface run off inundation, for example, building low banks or levies along the river, even if those steps were taken, uncontrolled stormwater drainage system would allow back flow to occur?-- Yes.

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Okay?-- Depending on the outlet height, though, yes.

Okay. And how does the outlet height affect the proposition?-- Well, the outlet, if it's lower than the bank - so, yes, for those areas that are lower, and the outlet enters the river at a point lower than the high tide, then that's when the flooding would occur.

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Now, can I speak about some examples of what backflow prevention - sorry, examples of backflow prevention devices so we understand what we're talking about? Can I ask you, please, to be shown on the screen page 5 of Mr Johnson's report? Now, essentially a backflow control valve is one where water can only go in one direction?-- Yes.

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Is that right?-- Yes.

Okay. And we see there a picture of some flood gates. That's an example of a backflow control valve; is that correct?-- Yes.

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Known as a flap gate?-- Yes.

So, it has a hinged connection?-- Yes.

In terms of choices for backflow control valves, it's fairly inexpensive comparatively. Is that within your realms of knowledge?-- They're - they're still not cheap, but in comparison to other devices, they are pretty cheap. They still have a maintenance cost, so the purchase cost is only part of it, and the life of the asset, how often you need to renew it, but also the maintenance activities that come into play with it, so when you talk about cost we really should consider-----

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Purchase and maintenance?-- Yes.

All right. So, the initial purchase price of these flaps by comparison to other backflow control valves is relatively at the lower end?-- Yes.

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But they do have an ongoing maintenance cost?-- Yes.

Particularly where the outlet is lower than the water force into which they're emptying?-- Everywhere, it really doesn't matter, everywhere.

So what are the maintenance issues with them?-- The maintenance issues with the flap gates are - would include silting up and them not being able to close. It would be also debris getting caught in the gate and not allowing it to close, and so the maintenance activities are regular cleaning that need to happen and also ensuring that the hinge is constantly working.

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Okay. And if the outlets are below highest astronomical tide level, that is that sometimes they're submerged in the tidal cycle, they're also prone to be being failed by intertidal marine organism such as barnacles?-- Yes.

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And that can prevent a watertight seal from forming?-- Yes.

And the other difficulty or other issue to consider with these flap gates is that there are some head losses in the stormwater system?-- Yes.

So, what do we mean by "head loss in the stormwater system"?--  
 Okay. So, when a stormwater pipe network is designed or any  
 part of the stormwater network is designed it considers losses  
 in the flow of water. Anything getting in its way slows the  
 flow of water down, so you design to account for those losses.  
 In the instance of retrofitting a flood flap on to an existing  
 stormwater pipe, in the design of that pipe network that  
 obstruction, which is the gate which requires a fair bit of  
 force to - it may require a fair bit of force to open, would  
 introduce a loss which would result in water backing up and  
 just not flowing as quick as you would like it to, and,  
 therefore, we introduce some backing up of the stormwater.

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So we're talking about reducing the capacity of the pipe in a  
 sense and potentially increasing upstream water levels?--  
 Yes.

Can I ask that page 6 be shown, please? We see here a second  
 example of a back water device. Is that called a duckbill  
 check valve?-- Yes.

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And it's a rubber system?-- Yes.

Which is fitted to the outlet end of the stormwater system?--  
 Yes.

It has a vertical slot which is both flexible and stiff, so  
 that it is closed in its relaxed position?-- Yes.

And it's designed to open and close under relatively low  
 pressures?-- Yes.

30

So this means that the comparative head loss might be smaller  
 than, say, for example, the flap gate we just looked at?--  
 Yes. If it's easy to open, it will have less head loss.

Are they sometimes not easy to open?-- It depends, I think  
 you'd find, on the age and condition of the device, how it's  
 been maintained, other obstacles around it.

40

So, what are the maintenance issues with these types of  
 valves?-- Very similar to the other flap gates. They are  
 prone to sticking open with debris getting caught in the flap,  
 you could end up with silt problems holding it open as well,  
 but there's no hinge, of course.

These types of valves can be treated to prevent failing by  
 marine animals?-- We would buy them that way, yes.

They're purchased pretreated, are they?-- Yes.

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Okay. They're more expensive than the flap gates in terms of  
 initial purchase?-- I understand they're more expensive, yes.

There are some other types of backflow valves. One is a  
 mechanical and electrically actuated check valve; is that  
 correct?-- Mechanically operated valve, yes.

Now, do they generally either rely on direct human intervention to close the valve during a high water event?-- I have seen one that does require a manual intervention, yes.

1

So some do?-- Yes.

And those that do obviously have the disadvantage of needing continuous manpower?-- Yes.

Some don't?-- I have never seen one though.

10

Okay. And perhaps to state the obvious, the ones that don't, if they are power operated, cease to work if power is lost?-- Yes.

So that's a potential disadvantage of that type of valve?-- Yes.

And are you able to speak to the comparative cost in terms of purchase and maintenance of those types of valves to, say, the flap gate or the duckbill?-- All I can say is that they're more expensive and I would expect also in the whole of life cost as well in insuring that the mechanical - the mechanism constantly works.

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Okay. Do you accept as a general proposition that backflow prevention devices are effective to prevent or reduce inundation from backflow events?-- Yes.

But they do have disadvantages?-- Yes.

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One of those disadvantages, and perhaps the major one, is that they can tend to increase the level of flooding from local rainfall events?-- Yes.

Why does that happen?-- So that comes back to the head loss issue we were talking about before, that where you require a certain amount of force or flow of water to open the valve, the gate, and, therefore, water would build up behind it until it gets to that pressure to open the gate, so - and in a higher flow of water, higher flow of stormwater or a higher intensity of rain, the speed at which the stormwater can discharge is reduced so, therefore, you would get a back up of water, but it really depends on the situation.

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So, before a local council such as the Brisbane City Council were to decide to retrofit a backwater flow valve, you would want to undertake a thorough risk assessment to see what the potential advantages and disadvantages of the retrofitting of that device is or are?-- You would, you would, and you'd want to make sure it's going to work too.

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And that would be part of the process in deciding whether to put one in?-- Yes.

All right. When you're looking at whether or not they're going to work, what are the type of criteria against which you'd assess that?-- You want to make sure that the - the

area you are trying to protect is - is - is lower than the bank to start with, so the - a flood event going over the bank anyway and flooding this thing - these devices aren't going to achieve anything. 1

And you can do that kind of analysis as a desktop analysis, I take it, from existing records, or do you need to go out and do proper surveys?-- I think you would go out and do onsite surveys. As a rough exercise you could - you could do a desktop, but it should be followed up with a detailed on-site survey to ensure that what you're basing your assumptions on is correct. 10

What would you do after that?-- You would - well, you would also have to look at even though you have got a levy or a bank that is higher than the land behind it that it would protect the area, you'd have to make sure you go through and you - you'd plug every other orifice that might exist in that bank, because remember that underground is - is many other surfaces apart from the stormwater, so a telecommunications conduit could also carry water and would - maybe it's a slower flow of water because it's a smaller orifice, but it would - it would still allow water to get through to that area and flood. You would need to consider the type of device, the capacity of the outlet as well, and - and whether the installation of the gate valve would - would be better or worse for the area. 20

So, in that respect you would be looking at the capacity of the relevant stormwater network to sustain the type of head losses that backflow valve might create?-- Yes. Another thing you'd have to consider is - is that if a river was to continue - so, if you were successful in putting a device in and a flood happened in the river or somewhere and it was working, these gates were working, if the rainfall event was intense and we were going to see the river actually break the bank anyway and, therefore, that area would eventually flood, at some point when that water breaks the bank or flows over the bank you can see that that can be quite aggressive as well, the flow of water, -because it will just come up quite quickly, the flow of the water would eat away at the land or the infrastructure that exists on top of or the other side of the bank, and that can be catastrophic as well. 30 40

In deciding whether or not to install a valve-----?-- Yes.

-----would that also involve a cost benefit analysis in terms of the cost of undertaking the process of interrupting amenity in order to put that water flow valve in with any other attendant costs and the potential benefits to the community?-- I expect it should. 50

Is that sort of thing undertaken by the Brisbane City Council?-- We do consider the benefit costs of some projects that we deliver, yes.

All right. If, for example, you have an area of Brisbane which was extremely adversely affected by flooding to the extent that it impacted upon - to a great degree on the

economy and the general operation of the City - I am talking here of the Brisbane CBD - that might be an area that the Brisbane City Council might consider looking at to see whether a stormwater mitigation device such as a valve might be appropriate; you agree with that proposition?-- Yes.

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Is that being undertaken?-- Yes.

Okay. Can you tell the Commission what's being undertaken in that respect?-- Council has engaged a consultant to investigate the - the use of backflow prevention devices in particular situations.

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And that - is that due to come to a report by May of next year?-- I am not sure of the date.

Is that a report being prepared by Mr Max Winders?-- Yes.

And to your understanding, is the first stage of the report or a draft due for production on the 30th of September of this year?-- I'm not sure, I'm sorry.

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Can I take you, please, to paragraph 55 of your statement? There you state that you aren't familiar with the detail of planning scheme policies relating to sewerage and stormwater infrastructure or as to the development assessment process in terms of its operation. Who do we ask from the council about those issues?-- That would be our DA, our Development Assessment Branch.

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Page 18 paragraph 59, please - sorry, my apologies, page 19 paragraph 63, do you know who within council would have direct knowledge with respect to the applicable standards relevant to property owners or developers seeking to connect to a council stormwater drain and sewerage - or sewerage infrastructure owned by QUU? Who do we ask?-- By QUU I would talk to QUU.

What about council?-- Development Assessment.

Okay?-- And you could also talk to Water Resources.

40

The managers of each of those two?-- Yes.

Paragraph 68, in terms of the incorporation into the planning scheme but more particularly the operation of those planning schemes relevant to subdivision and development guidelines, who do we speak to? Whose province is that?-- Water Resources.

Again, the manager there?-- Yes.

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Paragraph 97 on page 27 is directed to the council's regulatory role in relation to property owners or developers who seek to connect to sewerage infrastructure owned by Queensland Urban Utilities. Who within the council do we direct our queries? Whose province is it?-- Development Assessment.

And again the manager?-- Yes.

1

Can I take you, please, to page 14 of your statement? At paragraph 42 you say that, "Council is in the process of preparing asset maintenance management plans for the detention basins in the City, first focussing on the larger assets." Did that process commence after the floods or has it been ongoing?-- It's been ongoing.

All right. For a number of years or-----?-- I am not sure how long it's been going before I started.

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All right. So that's an ongoing process?-- Yes.

Yes. And is it prioritised in any particular way?-- I'm not aware.

There is currently no asset maintenance management plans for any of the four detention basins which are currently in the relevant suburbs. Is there any reason for that?-- Just haven't got around to those ones yet.

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Is there a proposal for such plans to be done for those detention basins?-- Yes.

Do we know when?-- Either - I'm sorry, either directly though or depending on the type of device it could be an engineering plan that covers a number of devices.

So, what, done by style of device?-- Yes.

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Okay. And if not generic, what do you have to do to be in - sorry, what sort of detention basin deserve its own specific asset management?-- Something that's different to the others.

All right. Can you give me an example?-- If a device - maybe a cage attached to the end of it to try and catch rubbish may have a specific cleaning technique. That plan for that device may be different to one that might - you might have a similar device for many and, therefore, one plan can cover four versus one plan that's specifically needed for a particular location.

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All right. In respect of the four detention basins in the relevant suburbs, do they warrant a specific plan or can they come within the generalised plan?-- I'm not sure.

Who do we ask about that, or is that something you can find out given more time?-- Yes.

Are you able to say whether any of the four detention basins seem to have any impact in terms of causing or exacerbating flooding during the January 2011 flooding events?-- I'm not aware specifically.

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Do you know if anybody within council has looked at that?-- No, I don't know. They're not designed to exacerbate though.

They are designed to mitigate?-- Yes.

But if there are problems with maintenance, do they have the capacity then to exacerbate if they're not properly maintained?-- Well, they - they just wouldn't function, so it would be like they weren't there.

Okay. They become neutral, in a sense?-- Yes.

Now, do you have any specific knowledge as to the development and application of local stormwater management plans?-- I have become aware of the local stormwater management plans that we have.

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Okay. Do you know what triggers the preparation of one?-- The local stormwater management plans would have been developed some time ago. Council used to undertake relief works either through knowing that there were localised flooding issues or finding out about it through reports from the community that there was a drainage problem, and council would do ad hoc relief drainage exercises to try and fix those and I can't - I can't tell you when but at some stage in the past council decided to be proactive about it and undertook the development of these local stormwater management plans which in a catchment by catchment basis consider the - those local stormwater issues and identify works.

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Which division within the council?-- Water Resources.

Look after that. Water Resources. Thank you. Now, at paragraph 61 of your statement you refer to council having further plans for stormwater infrastructure in the relevant suburbs?-- Yes.

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And the first category of those plans is the work that was completed in the 2011 financial year?-- Yes.

You say in your statement, "It might be that not all of this work has as yet been included in council's relevant databases." By what means are we able to obtain a comprehensive list?-- Well, the list of plans attached should be complete. The only way to go back and confirm that that is a list of, in fact, everything that was done from last year would be to go and interrogate a number of staff that were involved in putting that program together and delivering that program.

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All right. Is there a means of checks and balances to ensure that the programs have, in fact, been carried out?-- Yes, our Water Resources Branch regularly meet with our field services area who are delivering the works and ensure that the projects are being delivered.

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So, again, that's Water Resources?-- Yep.

Can I take, you, please, to 22 of your statement? Now, we have touched on the fact that there are many parts in Brisbane's current stormwater network which doesn't meet - doesn't perform the current design capacity standard?-- Yes.

You have spoken of that already and to some extent why that is so. In addition to that, the features include that the first stormwater infrastructure in Brisbane was constructed in 1860-----?-- Yes.

-----when the population was about 5,000 people?-- Yes.

And now we're dealing with a population in excess of 1 million?-- Yes.

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And that drainage in most of the old areas of Brisbane were constructed prior to the introduction of the modern design standards?-- Yes.

And the consequence is that in some of the older areas of Brisbane residents suffer nuisance flooding which varies from yard pondage to flooding of low-lying utility areas?-- Yes.

And you recognise that many of those areas have stormwater flooding issues which need to be addressed?-- Yes.

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And stormwater management plans have been prepared for a number of prioritised catchments?-- Yes.

And you have identified those in your statement and it's your view that the total cost of carrying out all of the upgrading works identified by the process of investigation the council has undertaken exceeds an impossible capacity of the council?-- To fund, yes.

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And so what the council has sought to do is to prioritise by adopting a methodology which you set out in your statement?-- Yes.

All right. And is it your experience that that prioritisation process has been, in fact, utilised?-- Yes.

No further questions.

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COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: I have nothing, thank you.

COMMISSIONER: Mr Dunning - sorry, Mr Dunning, I will come to you last. Ms McLeod?

MS McLEOD: I have nothing, thank you.

COMMISSIONER: Mr Porter, is it?

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MR PORTER: Yes.

COMMISSIONER: Thank you.



MR PORTER: Just brief matters, Commissioner. Can you turn to paragraph 35 of your statement, please, Mr Bannan?-- Yes.

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Just have a look at the last sentence there?-- Yes.

Now, if it was a misunderstanding - by all means confirm it wasn't - but I think my learned friend put the proposition to you that at the rate the pipe survey was operating it would get around to the whole system every 60 to 80 years, I think she suggested to you, and you agreed with that. I see that the last sentence suggests 30 to 40 years. Did you misunderstand what she asked you or were you mistaken in paragraph 38?-- I misunderstood the question. That figure that exists in the statement of - on paragraph 35-----

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Yes?-- -----is - was inserted after discussion with - with staff in the organisation.

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Yeah?-- I'm sorry, I apologise for that.

Now, nonetheless, you said that obviously as an asset manager you would probably like to have your pipes surveyed every year, that it's not done as quickly that you would like, I take it that's still your view?-- Yes.

10

Are there any constraints, technical or financial, on the extent to which you can cause the pipe survey to cover areas of pipe each year? Perhaps, are there any technical constraints?-- The technical constraints are around the current technology that I was talking about.

Yeah?-- It allows us to move - at the moment we are moving a lot faster than we would have been 20 years ago-----

Yes?-- -----so as technology advances we will see an increase in the rate of - of that inspection.

20

All right. And when we're talking about using this technology, is it specialised technology? Can just anyone do it or are specialised staff required for it?-- Staff are trained-----

Yes?-- -----to do it.

And is there limits on the number of staff available to you to do that sort of work?-- We use consultants or contractors to do this work for us-----

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All right?-- -----and there most certainly is a limit at the moment in the industry as to how many you can get.

Yes. And even if there wasn't that limit, are there any financial constraints on the funds available to you to cause the pipe survey to accelerate?-- Yes.

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And what are they?-- Well, just that the available funding only allows you to do so much.

Yes. Because, as you say in your statement, there's many other drainage commitments and improvements Council would like to make as well?-- Yes.

And other resources available to do all of those as well?-- Yes.

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So the question for you is that you've got limited resources, and is it right to say the pipe survey progresses as quickly as you can with the resources you've got?-- Yes.

Can I just turn to a different topic briefly. My learned friend asked you about the pipe network. How important is the pipe network to flood mitigation when you're dealing with a major river flood of the kind which occurred in January 2011?

Does it have any importance or some importance or a lot of importance?-- Yes.

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Yes. How so?-- The - the network - the pipe network is designed to allow the discharge of water from catchments.

Yes?-- The river flood came from - from a different source. It - it really didn't use the pipe network to flood the city-----

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Yes?-- -----except for those - maybe those blackflow-type issues.

Yes?-- The heavy rainfall that happened at the same time was certainly carrying the flow of water from the catchments to the river at the same time-----

Yes?-- -----using those pipes.

And is it right to say that where you've got a very heavy rainfall event the underground pipe network is not usually designed to be able to convey that away in any event?-- Can you ask that again?

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Where you have a very heavy rainfall event the underground pipe network is only graded to a certain kind of ARI event?-- That's correct.

So where you have a very heavy rainfall event you are looking to other parts of the network to convey a very heavy rainfall event?-- That's correct.

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Nothing further, Commissioner. May Mr Bannan be excused?

COMMISSIONER: Yes. You have no further questions, I take it?

MS MELLIFONT: I have no further questions. I don't envisage Mr Bannan will be required to come back but given that there are further queries - inquiries to be undertaken might I ask he be stood down rather than excused?

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COMMISSIONER: You are stood down, thanks, Mr Bannan.

MR PORTER: Just as Mr Bannan does that, Commissioner, can I just clarify, when he was asked to provide that information about maintenance and upgrading, can I just clarify that that's in response to the particular flood event, because the Commission - sorry, the Council, of course, has a very large number of accrued upgrading plans so it's not really responsive to the flood, so can I just confirm that we're talking about maintenance responses to the flood event?

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COMMISSIONER: I imagine we're talking in the parameters of 2010/2011 flooding?

MS MELLIFONT: Yes, that's so.

COMMISSIONER: Our terms of reference.

MR PORTER: Thank you, Commissioner.

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COMMISSIONER: Thank you.

MS MELLIFONT: That's right.

COMMISSIONER: Thanks, Mr Bannan.

WITNESS STOOD DOWN

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MS MELLIFONT: Ms Wilson will be taking the next witness.  
Might I be excused?

COMMISSIONER: Yes.

MS WILSON: Thank you, Madam Commissioner. I call Paul  
Eagles.

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PAUL ANDREW EAGLES, SWORN AND EXAMINED:

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MS WILSON: Thank you. Is your full name Paul Andrew Eagles?-- Yes, it is

And are you the chief executive officer for the Urban Land Development Authority?-- I am.

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And you provided and signed a statement with exhibits to the Queensland's Flood Commission of Inquiry?-- I did.

And have you got your statement with you?-- I do.

Madam Commissioner, I tender that statement.

COMMISSIONER: Exhibit 579.

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ADMITTED AND MARKED "EXHIBIT 579"

MS WILSON: Mr Eagles, the Urban Land Development Authority operates under the Urban Land Development Act?-- That's correct

And the Urban Land Development Act is a separate planning regime that sits outside the operation of the Sustainable Planning Act 2009?-- The Urban Land Development Act says that we are the planning manager for urban development areas and the Sustainable Planning Act does not apply in those urban development areas.

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And the Urban Land Development Authority does not have to by legislation consider the State Planning Policy 1/03?-- I haven't got the Act with me but I think it says that we must consider it but we're not bound by it.

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Which Act is that?-- The ULDA Act. I don't have the copy here so I can't - that's my recollection.

And - okay. Well, we will come to that at some-----?-- Sure.

-----later stage. Your statement addresses how the Urban Land Development Authority addresses flooding issues? And if I can take you through some of those matters. In relation to investigating sites to be declared urban development areas and selecting the boundaries of the urban development area you can - that follows on from paragraph 6 onwards, one of the matters that you address is that for UDAs, and that's the urban development area, which may have the potential for flood risk, "the typical processes the ULDA undertakes," and then you set them out. I'm interested in the word "typical" because that is a word that appears often in your statement about the typical processes the ULD sets out. Now, that is processes

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that the ULDA have decided to undertake; is that the case?--  
 Before - to answer that to put it in context, the declaration  
 of an urban development area is not our responsibility. In  
 fact, we don't have any powers under the ULDA Act until a UDA  
 is declared, but the practice is, is that we assist the  
 Department in terms of getting ready for declaration. So in  
 terms of how we assist the Department, I'm not aware of any  
 written formal process that we must follow, so the use of the  
 word here "typical" is the processes that we employ, have  
 done, been involved in, over the last three and a half years.  
 I must have say, though, that the first three UDAs were  
 declared in very early 2008 and they were predominantly  
 undertaken by the Department because we were only created in  
 2007.

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And when you say "the Department", which department are you  
 referring to?-- Department of Local Government and Planning.

Well, then, perhaps then if we can continue to move on through  
 your statement. You address the processes that the ULDA  
 undertake when preparing an ILUP, and an ILUP is an Interim  
 Land Use Plan, and at paragraph 9 you set out those processes.  
 And, again, if we go to paragraph 9C, "the ULDA would  
 typically," you say, "identify potentially early development  
 areas, areas subject to flooding or potential flooding would  
 not typically be identified as early development areas"?--  
 Correct.

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So this process, is this is a process that the ULD undertakes  
 on - in a general sense but is not mandated in any way?-- The  
 Interim Land Use Plan is prepared at the same time as the  
 declaration, in fact comes into force upon declaration, so it  
 is a part of the process that, you know, the Department of  
 Local Government and Planning is responsible for, and, again,  
 our role in that is informing, assisting the Department in the  
 preparation of the Interim Land Use Plan. So, again, it's  
 like my comment before, it's not a mandated statutory process,  
 this is the practice that we undertake for these sorts of  
 processes.

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It's a practice that you undertake in offering assistance?--  
 Correct.

Is that the case? Then, "areas subject to flooding or  
 potential flooding would not typically be identified". Who  
 identifies this, whether those areas are subject to flooding  
 or potential flooding?-- Okay. To provide context to the  
 question, the "early release area" is a terminology that we  
 have used ourselves and in conjunction with the Department to  
 identify in the Interim Land Use Plan areas of the UDA where a  
 development application may be lodged prior to the completion  
 of the development scheme. So these are sites or parts of the  
 UDA typically - "typically" - where previous planning  
 applications, previous investigations by Council have  
 indicated that the use in this area is well known or expected.  
 So they're called an "early release area", it's not a term  
 under the Act, it's a phrase that we use, and those areas are  
 only identified as early release areas if they are well clear

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of all constraints, including flooding.

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Your statement sets out the processes that the ULD undertakes when preparing a proposed development scheme for a urban development area. Now, if I can take you to page 4 of your statement. Now, the previous examples that we've been talking about, you are not mandated by any legislation to do any of that but that's just offering assistance to the Department. Now, is this the case, that when - it's at this stage that section 24 of the Act requires the ULDA to do some things?-- That is correct. The Act requires the ULDA to prepare a development scheme in accordance with the Act's requirements.

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And when preparing a development scheme, at paragraph 11, refers to that the "ULDA would typically"?-- Yes.

Again, it's a process that the ULDA undertakes as a case but not-----?-- Yes.

-----mandated in any way or form?-- That is correct. The ULDA Act indicates what must be included in a development scheme in terms of its land use plan, infrastructure plan and implementation strategy. The Act does not then go to say the form or content of those elements, and in terms of our preparation there are a number of - well, one in particular that I can recall the Act requires is that we must consult with the local government, and there's also a statutory consultation period with the public, but apart from that there is not a defined process in the Act or policy from government written that we do it in a certain way. So again this is the process that we have built up and it followed over the last three and a half years.

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On all cases? In all cases?-- I must say that because of the scale and variety and nature of our urban development areas vary tremendously they do - our process for development of the development scheme does vary. There are 14, now 15 UDAs that have been declared. Ten of those have gone through to development scheme, four are in the current submitted development scheme. They vary in size from about 10 hectares, for the Woolloongabba UDA, up to, oh, 7,000 hectares for Greater Flagstone UDA. They vary from single-ownership to hundreds of owners. They vary from sites which are completely cleared and on top of a hill, for example Roma, to sites which have creek lines and other natural features which need analysis. So, consequently, the process of preparing a development scheme, for example the Roma, which is fully cleared on the top of a hill, is different than preparing a development scheme for a 7,000-hectare, you know, new master-planned community with hundreds of owners. So, yes, why - why I use the word "typically", these are the sorts of things that we do for each of the UDAs but the extent and detail of how much we go into each one of them does depend on the circumstance.

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Is there a checklist that the ULDA follows? For example, undertake a "detailed site evaluation and assessment of flood impacts". As your previous answer said, for some sites that

may not be relevant or as relevant as for other sites. Is there a process that ensures that the ULDA at least considers whether it is relevant for each individual site?-- We certainly do have a process written for us to follow internally. If it's actually in form of a checklist I can't tell you that, I don't know, but there is a process for - of what we do as we go through preparing it on the scheme.

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And does that process include undertaking "a detailed site evaluation and assessment of flood impacts"?-- It would do because it requires - all of our UDAs require an assessment of the natural characteristics of the site.

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And under that that's where-----?-- Correct.

-----the flood assessment would come in?-- Correct.

COMMISSIONER: Can you say "yes"? Not that I'm telling you you must say "yes" but just so we get it on the record?-- Sorry, "yes", sorry.

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Sometimes you just nod?-- Yes.

MS WILSON: There is presently a draft ULD guideline, and if we can go to PE-2, which is the attachment where you have attached that draft guideline. The - this draft guideline is dated August of this year?-- That's correct.

So can you tell us what the status of this draft guideline is? Where is it at?-- It's - it is one of a suite of guidelines that we've prepared. It's of the order - as you see it's numbered "15". I think there's currently about 16. There are about 12 of those which are in a draft form. They were prepared predominantly associated with the four large Greenfield UDAs that were declared last October. So Ripley, Greater Flagstone, Yarrabilba and Caloundra South. And the suite of guidelines are to address a wide range of development activities within those UDAs. So they cover things such as flooding, roads, road design, affordable housing, housing design, and the aspects that go into or would be required to be considered in terms of future development applications in those UDAs.

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At paragraph - sorry, at page 7 of this draft guideline it states that the ULDA "adopts the Queensland Government policy position set out in SPP 1/03". Now, this draft guideline, is made very clear on the front, that it's draft for consultation and not government policy. When do we expect this to be government policy?-- Well, in relation to when will it be ULDA policy, it will be in conjunction with the finalisation of the Greenfields UDAs and the Gazettal of those which, according to the current program, is likely to be in October.

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Now, the matters to be considered in making a decision are those spelt out in section 57 of the Urban Land Development Authority Act. We'll get that up on your screen so you can see it. Fifty-seven - section 57 - and are you familiar with section 57?-- Yes, I know of it.



So are you comfortable to answer questions in relation to it?-- Yes, I am.

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Section 57 sets out the matters to be taken into account. The matters to be taken into account do not include reference to an Urban Land Development Authority Guideline, do they?-- No, they reference the development scheme and the development schemes, some of them actually reference this guideline.

So what actual status, legislative status will this guideline have in relation to decisions made by the ULDA?-- It's - all of the guidelines from one through to about 16 represent our view on how land should be developed and it is our expectation that applicants would reference these guidelines in preparation of their development applications.

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So should it be the case that to take into account ULDA guidelines should be included in the Act as a matter to be taken - a matter to be considered?-- No, I don't think so. The approach that we've taken with the guidelines are these are - represent, in our view, best practice, in terms of various aspects, so, say, housing, for example, housing design. There are changes over time in terms of things of that nature, road widths, for example. So to actually incorporate them into the Act would be - lead to inflexibility, which I think would be un - inadvisable.

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What about incorporating the SPP 1/03 and the considerations to be taken into account in that policy in the Act that - and I'll continue, if I may, to give you the context I'm looking at, before you talked about that the authority must consider but is not bound by, and that is found in section 23 of the Act, bound by a requirement under any or the following relevant to the area, a plan, policy or code made under the Sustainable Planning Act or another Act. Is that the section that you were referring to when you answered my question previously?-- I believe so.

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So the ULDA must consider but is not bound by-----?-- Mmm.

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-----the State Planning Policy; is that the case?-- That's how the Act is stated but I - to explain to you, I can provide you the context of practice, if that was of - would be helpful.

Yes?-- The preparation of ultimately the development scheme goes through three phases where there are government, intergovernment agency checks, reviews and input. The first one is, in fact, a preparation of the declaration process of the Interim Land Use Plan. All of the processes that we've been involved in, each of those proposed interim land use plans is reviewed by and commented on by intergovernment agencies, including the agencies responsible for SPP 1/03. And because the government policy in terms of declarations of UDAs and also Gazettal of development schemes requires a Cabinet decision, ultimately we need to ensure, whether it's us or the Department, each of the agencies is satisfied we've incorporated their requirements, including things in relation

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to SPP 1/03 prior to even a UDA being declared, so that's the first phase. The second phase is, when we've prepared a development scheme, and it's in a draft form, even before it goes on public display we again have rounds of discussions with government agencies. We will set up working groups, reference groups, where again we work through with all of the agencies to ensure their requirements are incorporated in the development scheme, whatever they might be. Whether they are roads, in terms of the Department of Transport and Main Roads, whether it's koala protection measures or flooding, landslip, bushfire in terms of SPP 1/03. So that's the second phase. And again if we haven't satisfied the agencies at that point they will, and can do, make submissions in relation to the draft scheme when it goes through the display process. The third phase of government agencies' involvement relates to the actual Cabinet approval process prior to the development scheme finally ultimately being Gazetted, and again it is a process whereby we go through and need to satisfy each of the agencies' requirements or requests prior to it going into the Cabinet room, and, you know, quite often we will respond and need to respond to requests and agencies in terms of specific matters. And I know from personal experience that SP 1/03 is a matter that's of - dear to the heart of the Department of Local Government, our Minister and the agencies, and this has been discussed through each of those phases at various times and each of the UDAs to make sure that they are adequately addressed in the development schemes.

The Department of Community Services, their roles and responsibilities pursuant - in the SPP 1/03-----

COMMISSIONER: It would be Community Safety, wouldn't it?

MS WILSON: Community Safety, "reviews draft planning schemes to determine whether the State Planning Policy has been appropriately reflected thereby achieving the State's interest in respect to natural hazard management". Are you aware of that?-- Yes.

So do you - does the ULDA work with the Department of Community Safety to ensure that the Department of Community Safety is achieving the State's interest in respect of natural hazard management?-- Yes, we certainly do.

On all cases of the developments that go through?-- My view would be on all of the development schemes that we've been involved in, which is predominantly, you know, all of them, except for the first three, we get involved in that process and we involve them in that process.

And is that a formalised process that is part of the ULDA's process to move these developments through?-- Yes, it's as I described in my statement, that is part of that process.

I'm directing your attention to working with the Department of Community Safety in relation to SPP 1/03?-- Yes, we set up working groups which include representatives from that Department, as does other departments, to ensure our documents

fully include government agencies' requirements in the development schemes.

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And so what you have explained to us here today in your view does not mean that - does not mean there needs to be legislative change to ensure that the ULDA is bound by the State Planning Policy 1/03?-- I certainly don't believe so. I think the practices are such that we do in fact what's called "frontload government agencies' requirements", so my personal view would be no.

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The - your statement goes through various developments. At page 10 of your statement, Oonoomba - and am I pronouncing that correctly?-- Yes.

At Townsville?-- Yes.

And that sets out - this table sets out the development, the urban development area and the development constraints that have been put in place in relation to flooding, and you reference those in relation to those urban development areas. Now, Oonoomba, Townsville, was subject to flooding in 2010/2011?-- I don't believe so. I don't think it was subject to flooding over the December/January period.

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Was that subject to flooding in Cyclone Yasi?-- I don't have that knowledge with me.

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Is the ULDA doing some work to address flooding issues in Oonoonba?-- Yes. Just perhaps to provide a context for this.

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Yes?-- When we prepared the Oonoonba development scheme in 2010 we undertook an assessment of flooding via a - in fact, the consultant team was that council's consultants who had the model for the Ross River which abuts the Oonoonba site. We adopted for reference for the design flood event the 100 year ARI. In Townsville at that point in time it was a 50 year ARI. And we choose for the Oonoonba development scheme that that would, in fact, be the situation. And the development scheme was prepared on that basis and, in fact, references the 100 year ARI.

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COMMISSIONER: It's 1 o'clock, Ms Wilson, I think we will take the break and come back at 2.30.

THE COMMISSION ADJOURNED AT 1.00 P.M.

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THE COMMISSION RESUMED AT 2.33 P.M.

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COMMISSIONER: Ms Wilson, I understand you're interposing Dr Prado and he's on the line.

MS WILSON: That is so, yes.

COMMISSIONER: All right. We will proceed, thanks.

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LUIS MANUEL PRADO, SWORN AND EXAMINED VIA TELEPHONE LINK:

MS WILSON: Dr Prado, my name is Elizabeth Wilson and I am a counsel assisting with the Queensland Floods Commission of Inquiry. Can you hear me?-- Yes, I can. Thank you.

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Is your full name Luis Prado?-- My full name is Lewis Manuel Prado.

And you're the Director of Medical Services at the Wesley Hospital?-- That's correct.

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

And have you got that statement with you?-- Yes, I do.

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Madam Commissioner, I tender that statement.

COMMISSIONER: That will be exhibit 580.

ADMITTED AND MARKED "EXHIBIT 580"

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MS WILSON: Doctor, Wesley Hospital is at 451 Coronation Drive, Auchenflower?-- That's correct.

And together with your statement there is an attachment dated 11 February 2011 that you prepared concerning the effect of the January flood event on the Wesley Hospital; is that the case?-- That's correct.

And have you got that attachment with you?-- Yes, I do.

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In that report, that attachment you talk about the steps taken by the Wesley Hospital executive?-- Yes.

Dr Prado, are you one of those members of the Wesley Hospital executive?-- Yes, I am.

And you say the executive reviewed the 1974 flood maps in

October 2010?-- That's right. That was part of an executive  
- one of our regular executive meetings.

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And why did you take that step?-- In fact, I tabled it - I actually asked that it be put on the agenda for that meeting because I'd been listening to the reports, some of them coming from the council, the Brisbane City Council and the Lord Mayor at the time of potential problems that could face Brisbane in the next month, and there was a number of discussions in the media, and as a result I thought it was prudent since Wesley was not at that site in 1974, because it was built in 1976, to look at what the circumstances of the area that it was built on in '74, notwithstanding that there had been a considerable amount of work done in the area, particularly with regards to Coronation Drive. So we thought that it was best to have a look at what we may be facing if the situation was as grave as it could be predicted.

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And what did those maps show in relation to Wesley Hospital itself?-- Well, the Wesley wasn't on the site but Moreland House, which is the traditional building on the land, or the oldest building on the land that was there, and the maps showed that whilst - because of the hill the Wesley is built on it would be very unlikely that the hospital itself would be affected, as in the buildings, other than potentially some water in the basements of some of the newer buildings, but it did indicate that - we were concerned about the hospital itself being isolated from street access on the basis that it would appear that the area the Wesley was on, is in would be potentially surrounded by water, but we - I'm not absolutely sure who - directly where the inquiries were made, but our Director of Support Services advised that the information with regards to the changes in both the Coronation Drive and the Brisbane River would mean that the access, particularly of Coronation Drive would not be affected, or not likely to be affected, hence we felt that there was still the possibility but we were confident that the hospital itself internally would not have water, or flood water through it.

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The advice that you got that Coronation Drive would not be affected and likely to remain open, when did you receive that advice?-- I can't say specifically because I didn't see the actual advice. We were advised at the executive by one of the other executives who had made some form of inquiry that there was less concern because Coronation Drive had been built up so much since 1974.

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And do you know who you received that advice from?-- No, I am afraid I can't - I don't know where the advice specifically came.

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The executive team commenced it emergency preparedness as the disaster in Toowoomba and the Lockyer Valley unfolded; is that the case?-- That's right, yes.

It became apparent to you that Coronation Drive may flood?-- That's correct.

And when did that become apparent to you?-- It became  
apparent to me around lunch-time, around 12 o'clock on the  
Tuesday. We we were watching the press very closely and I  
guess on the previous weekend I'd been - I have a role for  
Uniting Care Health as Director of Clinical Governance and I  
was in contact with out St Stephens Hopsital in Maryborough  
and they had been isolated for a period of time as well.

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COMMISSIONER: I'm sorry. Dr Prado?-- Yes.

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Doctor, we will have to get you to slow down because we  
actually have a shorthand reporter?-- I beg your pardon. I  
didn't realise it was shorthand reporter.

So if you can take that step by step and more slowly?-- No  
problems. My apologies. What was apparent on Tuesday at  
around lunch time was that following the press information  
that we were hearing, that there was a likelihood that the  
waters would be such that Coronation Drive and access around  
the streets of the Wesley would become compromised and  
following our experience on the weekend with our sister  
hospital in Maryborough, St Stephens, I, as the Director of  
Clinical Governance for the Uniting Care Group, which owns St  
Stephens and the Wesley, I then contacted that hospital and  
they described their circumstances of being isolated for  
periods of time. And on Tuesday it occurred to me that if the  
information coming through proved to be correct, that the  
Wesley itself would have greater and greater difficulty with  
access as early as during the middle of the night the next  
day. So, as a result, we called the executive emergency team  
together. The general manager at the time himself was not  
able to come into the hospital, he had concerns about his own  
accommodation, and as a result I made the decision to cancel  
elective surgery for that day and ongoing for the rest of the  
week, to advise the patients and their families over the PA  
system of the difficulties that we were expecting as regards  
access, and that where it was possible and reasonable and  
appropriate, for people to leave the hospital, which most did,  
and then we progressively looked at patients who could be  
discharged safely home and advised them to do so before the  
hospital itself had the risk of being isolated, which as it  
subsequently occurred essentially did happen.

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MS WILSON: And when did you become aware that the Brisbane  
River had breached its banks around Coronation Drive?-- Well,  
I - following that I had heard that the flood - sorry, that  
tide surge was to be around 3 o'clock in the morning and  
again, obviously, 12 hours later. As I had decided to remain  
in the hospital I walked down to Coronation Drive from the  
Wesley about 2.30 in the morning and walked towards the  
Regatta Hotel from the Wesley and there was a lot of  
difficulty, the lights - it was very dark, there was no  
traffic to speak of, and then I walked into the river by  
accident because it had crossed Coronation Drive and literally  
I stepped into water, and then with my mobile phone light I  
was able to see that the water had started reaching and then  
the police started arriving at both ends.

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The water reached the border of Wesley Hospital later on Wednesday the 12th?-- Mmm-hmm.

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What do you mean by reaching the border of the hospital?-- Well, if you are aware of the Wesley, we have Moreland Park on one side of us and the water reached all through Moreland Park and, in fact, within about 10 metres of one of our buildings that face Moreland Park, which is called the Moreland's Wing, and it reached to about 10 metres, although it is up an incline, so it was still at least two to three matters away from a height perspective, but from a distance----

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COMMISSIONER: Take it slowly, please, Dr Prado?-- Sorry. From a height perspective, about two to three metres still to go, but from a distance it was about ten metres away on Moreland Park end, which is right on the border of the hospital.

MS WILSON: Was the hospital's access cut off?-- Over the period of those days by and large the hospital was cut off from all reasonable access.

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Can I stop you there. What do you mean by all reasonable access?-- Well, it was possible if you climbed over - if you took the cross bridge of the Auchenflower station and walked across that, if you could reach the opposite end of the train station from the Wesley, in other words, if you get to that side of Auchenflower station you could stop there and walk across to the Wesley for part of the time, but Coronation Drive towards the Regatta was blocked completely, and then for periods of time Coronation Drive closer to the city was also blocked, and if it wasn't blocked by water it was made inaccessible by the police because of safety issues. Then the other access roads outside of that were all blocked to the Wesley, so the only other way was to walk across the train bridge at Auchenflower station, which is the only access we had for delivery of goods and so forth for most of that time.

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MS WILSON: And can you tell us the time that you only had access via that railway bridge?-- Effectively from the early hours of Wednesday morning when Coronation Drive started to flood until Thursday, late Thursday.

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And when you're talking about no access, are you talking about no access by cars?-- By car.

What about ambulances, no ambulances could get through?-- No. No, the ambulances - we spoke to the ambulance officers in our local stations and contacted them. They were able to get to the train station and then come across the train station themselves to the Wesley by walking over and when we had - we did have to have a patient transferred that way, they were able to take their trolley across, but that was very difficult, as you can imagine, doing that across the train bridge and then all the way back into the Wesley itself downhill.

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So effectively the only way that you could get patients in and



out was across that railway bridge?-- Yes.

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What about helicopters?-- Well, we did consider the issue about helicopters. Wesley itself doesn't have a helicopter pad and because I used to serve in the Australian Army I did actually have my guidelines for creating a landing zone and I looked and scouted the roof of the most recent carpark the Wesley built and thought that that would be inappropriate and unsafe from the point of view of a helicopter, and then went to Coronation Drive, because the actual corner of Coronation Drive and Chasely Street was actually dry because it was a little bit more elevated than the other parts of Coronation Drive, and I think that if it was absolutely necessary that may have been a reasonable option, but it was, it would have still been a somewhat dangerous manoeuvre and we would have only considered that if it was absolutely necessary.

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Since the floods has the Wesley Hospital executive and managers reviewed the access issues that arose during the floods?-- Yes. We've reviewed the access issues and we've also reviewed probably more importantly for us the communication with regards the State Health Emergency Control Centre and the Local District Disaster Management Group. For the access the general manager is considering whether the Wesley can invest in its own helicopter pad, as an example. However, what we believe is probably more pertinent from access is there were conflicting reports on Coronation Drive accessibility through to the city and we did have ongoing discussions with the Queensland Police Service and did find that we were able to make some access through there once it was safe and I think that our lesson that we would have learnt is that we would do that more proactively in those circumstances because probably large vehicle access would have been possible, although you may recall there were concerns about the stability of Coronation Drive at some stage during the flood crisis from the point of view of heavy vehicles, and that may be a better option. So that as well as the communication with regards to essential services to the Wesley, particularly power, and having that discussion at the District Disaster Group earlier, because that was our greatest concern, is that we would lose power, is probably the greatest lesson that the Wesley externally learnt, and internally it's our own communication, obviously, with staff and patients and how we can facilitate the use of new technology such as - not new technology but technology such as SMS through mobile phones to advise people of the circumstances at the hospital.

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Thank you, Dr Prado, I have no further questions for you.

COMMISSIONER: But just hold on, Dr Prado, in case somebody else does. Mr MacSporran?

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MR MacSPORRAN: Nothing, thank you.

MR DUNNING: No questions, thank you, Commissioner.

MS McLEOD: No questions, thank you.

COMMISSIONER: Thanks very much, Dr Prado, for your time. You are excused?-- Thank you very much.

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WITNESS EXCUSED

MS WILSON: Madam Commissioner, can we recall Mr Eagles. Madam Mr Commissioner, Mr Holyoak is at the Bar table and perhaps he would like to announce his appearance.

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COMMISSIONER: Yes.

MR HOLYOAK: May it please the Commission, my name is Holyoak, initials K F, I'm instructed by Messes Corrs Chambers Westgarth and I represent Suncorp-Metway Insurance Limited and Australian Associated Motor Insurance Limited, both of which have leave to appear on the insurance issues.

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COMMISSIONER: Thanks Mr Holyoak. Yes Ms Wilson.

MS WILSON: Thank you, Madam Commissioner.

PAUL ANDREW EAGLES, CONTINUING:

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MS WILSON: We were discussing the development at Oonoonba, Townsville, and we were discussing the issues that would flood at this site. Now as I understand it there were some issues with the flood modelling that you received post the floods; is that the case?-- That is correct.

Can you take me through that?-- Yes. Again to provide some background, the development scheme for Oonoonba was prepared in 2010. We undertook and commissioned a flood analysis by a company called AECOM who at that time we understood was council's consultant for the Ross River and they undertook that study and looked and set levels for the 1 per cent AEP or 100 ARI for the Oonoonba site. They advised us that the information they had in terms of the hydrograph for the Ross River was, supplied by council, was the most up-to-date information at that time. This year we were made aware by council of a draft study, flood study into the Ross River which contained a different hydrograph than what was used in 2010. We obtained that information from council, they provided it to us, and the same consultant firm reran the flood model during this year and that showed quite a considerable increase in the flood hydrograph from about 700 cubic metres a second to about 1300 cubic metres a second and as a consequence of that change of the hydrograph for the Oonoonba site, and quite a number of other properties in Townsville, there was an increase in the predicted, the 100 year ARI. So, unfortunately, my statement was signed off

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prior to those discussions continuing and the study becoming made public last Tuesday.

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And I understand that you are going to preparing an addendum statement for the Commission in relation to this issue?-- We would prefer that, to make sure that it is comprehensively addressed.

Madam Commissioner, I have no further questions.

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COMMISSIONER: Thank you. Will you go last, Mr MacSporran?

MR MacSPORRAN: Yes, thank you.

MR DUNNING: We have no questions, thank you, Commissioner.

MS McLEOD: I have no questions, thank you.

COMMISSIONER: Mr MacSporran.

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MR MacSPORRAN: On that basis I have none as well.

MS WILSON: On the basis that Mr Eagles is prepared an addendum statement, perhaps it would be best if Mr Eagles was stood down rather than excused.

COMMISSIONER: Yes. Thank you, Mr Eagles, you are stood down.

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WITNESS STOOD DOWN

MS WILSON: I call Mark Middendorp.

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MARK ANTHONY MIDDENDORP, ON AFFIRMATION, EXAMINED:

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MS WILSON: Is your full name Mark Anthony Middendorp?-- Yes.

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

Have you got that statement with you?-- Yes.

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Madam Commissioner, I tender that statement.

COMMISSIONER: Exhibit 581.

ADMITTED AND MARKED "EXHIBIT 581"

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MS WILSON: Mr Middendorp, if I can take you to some of the matters that you raise in your statement. You are the owner of two commercial premises located at 152 Baroona Road, Rosalie?-- Correct, yes.

And this building has been in your family since 1974?-- 1973.

And you bought the building from your father ten years ago?-- Yes.

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In the 1974 floods this building was in - your family owned this building?-- Yes.

And consequently so at the time of buying the building you were well aware that the building could flood?-- Correct.

Mr Middendorp, you've going to have to speak up because everything is recorded?-- Sorry.

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Now the premises did flood in 1974?-- Yes.

And you recall going to the premises as a little boy?-- Yeah.

And how old were you?-- Five years old.

And your family has some photographs of the flooding in that area in 1974?-- Yeah.

And have you - can I - we're going to show you some photographs. Now this is a photograph, and perhaps if you can assist me, where was this photograph taken from?-- That photograph's from a house up Baroona Road looking down at the Rosalie shops.

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Yes. And what's it looking over?-- The first brick building you see there is actually what's the Rosalie Market now and then going down, chemist, the barber's shop, my premises and

then the dentist, and you can see the school in the background.

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Now, Mr Middendorp, on your right there is a laser pointer and could you just point that out to and show the Commissioner. So that's the Rosalie Market?-- Yep. And then working down, there's the chemist next to that, a barber's shop, my building, a dentist, and then you can see that that's the Milton Primary School in the background.

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If we could have a look at the next photo, please. Where was this photograph taken from, do you know?-- That would be from the park looking back on to Baroona Road.

Okay. And the next photograph?-- That's at the base of Baroona Road at the intersection of Nash Street and Agar Street.

And is your property to the right?-- You can just see my property just there in the corner.

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You're indicating the building on the right of that photograph?-- Yes.

Can you see the next photograph? This is some people in an old sabot boat on the water. Where was this photograph taken from?-- That would be right in the intersection of Baroona Road, Agar and Nash Street.

And we can see your property there?-- Yeah, you can see there's a sign just right in the centre of the photo.

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Right. And can we see the next photograph? And that is the awning of your property?-- Correct.

Now at the 1974 floods you recall sitting on this awning, don't you?-- Yes.

In fact, you recall sitting on the neighbour's awning?-- It was the barber's awning, is where that photo was taken from.

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And you recall sitting on this awning and dangling your feet in the water?-- Yeah.

Madam Commissioner, I tender those photos.

COMMISSIONER: Exhibit 582.

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ADMITTED AND MARKED "EXHIBIT 582"

MS WILSON: So your premises was clearly flooded in 1974, but since then you're aware that they have also been flooded in smaller flash floods?-- It's been very close and it depends on the time of day as to how much traffic's coming past and

when it rains, as to whether or not water would enter, like, if vehicles are travelling up and down Baroona Road and we've got a large amount of water, often you'll get water come up the footpath.

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But it doesn't enter your premises, but it comes close?-- It comes very close.

And where does this water come from in relation to the flash floods?-- It would be working all the way from Mount Coot-tha basically because Rosalie is the gully to, from Latrobe Terrace, back of Bardon's Stewart Homes School, it all flows down that way and flows through Rosalie through Milton down to the Milton Creek.

10

And can you actually see the water, the flow of the water coming down?-- Yeah, in 2009 there was a huge downpour about 2 o'clock, 3 o'clock in the morning. I actually got up in that downpour and went down and you can see the flow, you can see the flow all the way through Rainworth Park, which it would have moved, I'd be guessing, probably 20, 30 cubic metres of gravel down into the park.

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And during that huge downpour in 2009 did water come into your premises?-- No, but if there was traffic driving, a lot of traffic - at 2 o'clock in the morning there's hardly anything - it definitely would have because there was water covering the whole road.

Gutters, when it rained heavily, would fill up and cover the footpath?-- Yep.

30

And is that a separate issue than the water coming down, as you call it, from Mount Coot-tha?-- It depends on where the rains are coming - where it's generated from and whether the stormwater drains can actually cope with the amount of water flowing. Often it's in a - in just a downpour where the gutters will fill up, it's just because the water can't get away. It will be gone in five minutes. It's just at that particular point in time. 2009 was different, there was a lot of water.

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You talk about a 150 millimetre step up from the street. Can you tell us about that?-- Originally the building had a step from the footpath of 150 millimetres, which is a standard step, and when we wanted to rebuild the building I wanted to reinstate the step but using concrete, and they wouldn't allow me to do that.

1

Because of disability access?-- Yeah, I believe so.

In 2005 when you did the renovation, did you purposely decide to use flood resilient materials?-- Yes.

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Can you tell us about those materials that you used?-- Basically we have used as much block as possible, concrete, and any - any timber would be - was high enough that we believed wouldn't be affected in '74. The walls were an MDF cladding, which is a humidity, moisture resistant fibreboard that - it holds up if it just gets a little bit of water, but a lot of water it just starts to swell.

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Now, if we can go to the 11th of January 2011, you took sandbags down to Rosalie that day?-- Yes.

When you got to Rosalie you were told that Rosalie was going to flood to 1974 levels?-- By the time I got there, yeah, that's what I-----

Who was telling you that?-- That was on the radio when we were travelling that - they were expecting the water level to be higher than '74.

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Now, there's a development at Rosalie that marks the 1974 floods. Are you aware of that?-- Yep.

You have taken some photographs of that?-- Yep.

So, perhaps if we can have a look at that, those photographs? This is the shops where this - where the mark is, is it?-- Yeah, that's on the corner of Elizabeth Street and Nash Street in Rosalie and that building would be three, four years old.

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Okay. Can we have a look at the next photograph, please? Can we zoom in on that photograph? On that building there is a mark that says, "1974 Brisbane River Flood Level."?-- That's actually on the fence, on the boundary fence.

Okay?-- But - yeah.

Now, are you aware that that was not the Brisbane River flood level in 1974?-- The first time I saw that mark on the wall I laughed, I thought they have just got no clue.

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Do you know what level that is depicted?-- I'm guessing that's Q100 level.

And you haven't done any research to determine whether that is or is not Q100 level?-- I know what Q100 level is in - at my shop, which is 900 millimetres above the footpath, and that

would be very close to that, and I believe that they would have been required to build that building above the Q100 level.

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If we can have a look at the next photograph and if we could zoom in, please? We can see there that someone has marked the January 2011 flood level?-- Yes.

Okay. Well, on the 11th of January 2011 there was discussions that Rosalie would reach the 1974 flood level.

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COMMISSIONER: Sorry, before you go on, do you want to put those photos in?

MS WILSON: I do, Madam Commissioner. I will tender those photographs.

COMMISSIONER: Exhibit 583.

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ADMITTED AND MARKED "EXHIBIT 583"

MS WILSON: On that day there was discussion that the flood levels will reach 1974 levels. That was spoken about when you went to Rosalie that day?-- Yes, it was.

And who was telling you that?-- We had Peter Matick from the Brisbane City Council and Geraldine Knapp came down to Rosalie, asked what we're doing, you know, to try and prevent the water, and we had a conversation about - went on for about five minutes in regards to sandbagging and she's saying, "We need to get more sandbags down here.", because we said - someone said, "We can't get sandbags.", and that's when I said, "If you are talking '74 levels, there's no amount of sandbag's going to stop it."

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And did you have a photograph that you actually showed her?-- At the time there was a photograph in the chemist shop and the chemist walked out then and said, "Come and have a look at this." She wasn't particularly interested, but Peter Matick walked in and had a look at it.

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And was it resolved at any - at that stage of where they thought the water - where people thought the water would come to?-- As far as Geraldine - well, she came up to me about five, 10 minutes later and said, "No amount of sandbagging's going to stop this, is it?", and I went, "No."

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You took some photographs of the flooding that occurred at Rosalie?-- Correct, yeah.

Perhaps we could look at those photographs? Now, can you tell us where this photograph is taken from?-- That photograph is in Agar Street and the body of water you see is Nash - Nash Street straight across, so that's Nash Street going there



and Baroona Road is actually going from left to right.

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We can't see your property from this photo?-- No.

Can we have a look at the next photograph, please? And that's a closer up photograph than the previous photograph?-- Yes.

Now, can you indicate to me when these photographs were taken?-- These photographs would have been taken Wednesday, Wednesday morning. So, that - that would have been around the peak.

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That's what I was interested in. Is this indicating the height of the waters or was it receding?-- No, this - that would have been around the peak of the flood.

And all of the photographs we're seeing, were they taken at the same time?-- I'd have to have a look at the others.

Okay. We will look at the next. This is of some police officers. Do you know where they - what street they are driving their boat along?-- They're heading down Nash Street.

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And this photograph was taken at the - around the same time?-- Yes.

About the peak of the floods?-- Yeah.

And the next? You can see your shop in this photograph?-- Yeah, that's my building there, straight-----

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You are indicating the one that there's a brown paint - a building that has brown paint?-- Brown - yeah, chocolate and a white.

Yes. Now, this photograph, when was this taken?-- Would have been later in the afternoon to those earlier photos.

Yes. And what was the height of the floods at that point in time? Had it reached its peak?-- I think it would have reached its peak and it would have started to recede.

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Now, you know that photograph that we saw of the 1974 floods on the awning where you say as a little boy you put your feet in the water?-- Yep.

Is there a shop there that you can tell us which shop that is?-- Well, that barber's shop right next to mine-----

That's the white shop?-- That's - yeah, the white one, that's the awning we were sitting on.

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Right. Can we have a look at the next photo? Now, this photograph is taken inside your shops?-- Inside the dry-cleaners', yes.

Is that on your premises?-- Yes.

When was this photograph taken?-- Tuesday - I have got to my days right. Tuesday morning, that's as the water's coming up. So, that would have been, I think, about 8.30 in the morning.

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And how did you get in there?-- We could access the property from the house around the corner, through their backyard, and just came in through the back door.

What was the height of the water when you were in there then?-- That would have been about a metre.

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And can we see the next photograph, please? This is after the water had receded?-- Yes.

And this - which premises is this?-- Same - same - in the dry-cleaners', but the opposite wall.

Okay. Now, we talked about before about the flood resilient materials that you used?-- Correct.

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And is that the boards that you used?-- Yeah, that's an MDF HMR MDF board.

And did that have to be replaced?-- Yes.

And we can see the line there where the flood height reached?-- Yeah, that's about 1 - 1.7 metres.

Can we have a look at the next photograph, please? This is also in your premises?-- Yes.

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And the Besser brick walls just required washing down?-- Correct.

And didn't require any other remedial work to them?-- No. No.

COMMISSIONER: Are those photos being tendered?

MS WILSON: Yes, Madam Commissioner, can I tender those photographs?

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COMMISSIONER: 584.

ADMITTED AND MARKED "EXHIBIT 584"

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MS WILSON: Your statement provides some suggestions as to what could be done in the future. One of the big issues that you see is the clarification of Q100?-- Yes.

Why is that a significant issue for you?-- I don't think - well, the average person doesn't understand what Q100 is or Q1,000. They don't understand what level 1974 was. So, there's no relevance to it. If they could clarify it and say

like '74 was either height or something that some people could - people can understand, and I'm talking like shopkeepers, your home owners, that if they say, "The water is going to get to this level.", they can prepare for it a lot easier.

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One of the other suggestions that you provide is backflow devices on the drains. However, you acknowledge this may not be effective during every flood event?-- Yeah, it depends on what kind of flooding we're getting, but stormwater and soil would have - there would have to be some kind of device there to stop water coming up.

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And, finally, another one of your suggestions is investigations into the current drain network. Did you see that as a problem during the floods?-- It's always been a problem through - the drain network through-----

When you say "always a problem", always a problem in Rosalie?-- Yeah, pretty much Rosalie, Auchenflower, Torwood Street, has suffered quite a lot.

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And can you explain to us what you see the problem is?-- A remedy? I don't know. The water just can't - doesn't seem to flow. Whether they can put a flood gate there. We have - I don't know whether it's feasible, the train lines act as a levy, they have just got to do something with the - with the creeks and the underpasses.

Thank you, Mr Middendorp. That's all the questions I have?-- No problems.

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COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: No, thank you.

COMMISSIONER: Mr Dunning?

MR DUNNING: No questions, thank you, Commissioner.

MS McLEOD: No questions, thank you.

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COMMISSIONER: Thanks, very much, Mr Middendorp. You are excused.

WITNESS EXCUSED

MS WILSON: Madam Commissioner, the next witness is Emma Scragg and Ms Kefford will be taking that witness.

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MS KEFFORD: Madam Commissioner, I call Emma Scragg.

EMMA KALEENA SCRAGG, SWORN AND EXAMINED:

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MS KEFFORD: Is your full name Emma Kaleena Scragg?-- It is, yes.

And you are a registered architect currently working for Riddel Architecture?-- Yes.

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You have provided a statement to the Queensland Floods Commission of Inquiry. Can I ask you to have a look at this document, please?-- Yep, that's the statement.

Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 585.

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ADMITTED AND MARKED "EXHIBIT 585"

MS KEFFORD: Could you please tell us how long you have worked in the architecture industry?-- I've worked in the architecture industry since 1992, I have been Riddel Architecture since '93 and - yeah, worked on old and new buildings for that time.

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And in addition to holding a Bachelor in Architecture, you also hold a Bachelor in Applied Since Built Environment Architecture?-- Yes, I do.

In your current role at Riddel Architecture, your role includes designing and documenting new and adaptive reuse projects?-- Yes.

Can you explain what that involves?-- In the adaptive reuse projects, that's working with old buildings and adopting them to new use, so working with heritage buildings typically, adapting them to new technologies or the new demands of, you know, current lifestyles, and in terms of sustainability it might be within other people's projects, putting input into energy efficiency, low toxicity, specifying materials and products to reduce the carbon footprint of the-----

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Is the house known as the Hill End Ecohouse one of the houses that you have worked in?-- Yes.

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And that is a house situated at 105 Ryan Street, West End?-- Yes.

It is a new home with sustainability at the core of the design brief, I understand?-- Yes.

In your statement you tell us that the house was designed to address and integrate with its site, context and climate; is

that right?-- Mmm-hmm.

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And the client brief was to provide the most sustainable home possible?-- Yep.

You will just have to speak up your answers?-- Yes, yes, sorry.

In design and constructing the Ecohouse, I understand consideration was given to strategies for flooding events?-- Yes, it was.

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Can you explain what was done in the design with flooding in mind?-- Okay. Well, we built the ground floor to the lowest step that we could relating to Q100 levels, but, I guess, thinking about climate change we anticipated in the future that that might not be sufficient level, so we designed a lower floor to be able to be flooded, we didn't anticipate it would flood within a year of completion. So, that involved choosing materials that were weather resistant or water resistant and could easily be cleaned down after flooding, reducing the amount of built-ins or completely avoiding the amount of built-ins with that lower space, so that loose furniture could be moved if flooding did occur.

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Can I ask you to have a look at this document, please? It's a copy of the decision notice from the Brisbane City Council - and if it perhaps could be brought up on screen - dated 15 June 2007. Are you aware that an application was required to be made to the Brisbane City Council for the Hill End Ecohouse?-- Yes.

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And are you aware that the application was impact assessable?-- Yes.

It had to be assessed against the whole of Brisbane City Plan?-- Mmm-hmm.

And in terms of the decision, the council made a decision to approve it, you are aware of that obviously?-- Yes, yep.

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You earlier made reference to the fact that the lower floor of the house was designed to, I think you said, the lowest level above Q100 that was possible?-- Yes, yeah, I can't recall what that height was above the Q100, but-----

Could I ask you to have a look at conditions 15 and 15A?-- Yes.

Are they the requirements that you were referring to in terms of the floor levels-----?-- Yes.

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-----which the house was built?-- Yes.

And as far as you're aware those conditions were complied with?-- Yes.

In terms of the design features incorporated into the house,

and you made reference to design features that would withstand flooding, they are features such as the rendered block wall and the like?-- Yes, polished concrete floors and paint finishes that were highly resistant to moisture. 1

Were those design features incorporated as a consequence of requirements that Brisbane City Council imposed?-- No. We built to the level that was required by council in as far as I understand that was all that was required in terms of flood - flood resistance, but we chose to make that lower floor flood resistant because we assumed that at some point there would be an event. 10

And that was simply the choice of the client?-- That was, yes.

Now, did the house, in fact, flood in the 2010/2011 flood event?-- It did.

Water came inside the lower rear section of the house up to about 600 millimetres?-- Yes. 20

Now, you have a series of four page photographs attached to your statement. They start at about seven pages from the end of the statement. Can we get that up on the screen? It's the photographs that - oh, here we go. Thank you. Can you just explain to us what this photograph shows?-- So that shows the water mark from the receded waters. The owner of the property cleaned the walls as the waters receded but you can still see that line a couple of days later after the water had dropped. 30

And where is this photo taken from?-- That's taken from the lower level terrace looking back into the main - into the bedroom space of that lower floor.

In terms of the owners' ability to clean up as the water receded, is there something in particular about the materials that we see in these photograph that assist in that process?-- The polished concrete floors for a start were very easy to clean. The rendered block wall that you can see with that moisture mark on it had a limestone - sorry, a limewash render on it which we hadn't previously used but they reassured us it was highly water resistant and it proved to be the case, it hasn't had to be repaired since the floods, it was just purely cleaned down. The timber joinery, a lot of that the client removed as the flood waters were coming up, so a lot of the doors were removed and stored on the next floor up, and others he covered with plastic and sealed off. 40

If we could go to the next photograph? Where is this photograph taken from?-- So, that's the same doorway, but taken from a bit further back, so you can see that door wasn't removed, but was protected with plywood and plastic. 50

And what are the materials used in this area of the house?-- They're the same materials as before, so below that mud is concrete as well and rendered blockwork. The ceiling lighting to the deck upstairs is corrugated steel. Obviously the

waters didn't get to that height, but that was another water resistant material that we'd specified.

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And was there any difficulties in terms of property impact with this area of the house that we see in this photograph as a consequence of the flood?-- No.

And the next photograph, can you tell us where this one was taken from?-- So, that's just to the left of the last photograph looking towards the hallway inside. In that photo the screen on the outside was removed and you can see the inner door protected by the plywood and plastic.

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And the final photograph?-- So, that's looking in the other direction, in front of that first door that we looked at, looking back towards the swimming pool and the river.

Sorry, I think there was actually one more photograph?-- Okay. Well, that's just - just after they have cleaned it all up. So, that's only - that's while the waters were still receding in other parts of West End and Hill End.

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So, they were able to clean up quite quickly and-----?-- Yeah, they - he stayed there during the flood and so as the waters receded he used water to clean all of that down.

So, as a consequence, you would say of the building materials used there was little adverse impact suffered as a-----?-- Yes.

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By the residents of this house-----?-- Yeah.

-----from the flood?-- That's correct, and it was also assisted by the fact that the residents cleaned - cleaned that mud off as the waters receded.

Madam Commissioner, I tender a copy of the decision notice.

COMMISSIONER: What do we need the decision notice for?

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MS KEFFORD: The decision notice contained the requirement to build the house above the 100 year ARI creek or river flood event. It was contained at condition 15.

COMMISSIONER: Yes, I am just not sure how it takes anything much further, but if you tell me it's necessary Exhibit 586.

ADMITTED AND MARKED "EXHIBIT 586"

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MS KEFFORD: Madam Commissioner, I have no further questions of this witness.

COMMISSIONER: What about those photos though?

MS KEFFORD: The photos, I understand, are already part of the statement that's been tendered.

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COMMISSIONER: There seem to be rather a lot in the document that didn't seem entirely relevant beside the photographs as I saw it coming up on the screen. Is there any part of the attachment that has got any bearing for our purposes apart from the photographs?

MS KEFFORD: They contain further - there's further product information of the details of the products used, but-----

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COMMISSIONER: May I see it, please? All right. Thank you.

MS KEFFORD: I have no further questions.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: I have nothing.

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COMMISSIONER: Mr Dunning?

MR DUNNING: No questions, thank you, Commissioner.

MS McLEOD: No questions, thank you.

COMMISSIONER: Thanks, Ms Scragg. You are excused.

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WITNESS EXCUSED

MS WILSON: Madam Commissioner, the next witness is Mr Byron. Ms Mellifont is taking that witness. Perhaps if we could just have a short adjournment for that witness?

COMMISSIONER: All right. Let us know when you're ready.

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THE COMMISSION ADJOURNED AT 3.25 P.M.

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THE COMMISSION RESUMED AT 3.31 P.M.

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COMMISSIONER: Now, Mr Doyle, you're announcing your appearance?

MR DOYLE: I am, Madam Commission. My name is Doyle, I appear with Mr Baartz, instructed by Cooper Grace Ward for RACQ Insurance.

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COMMISSIONER: Thank you. Yes, Miss Mellifont.

MS MELLIFONT: The next witness this afternoon is Raymond John Byron, an Esk resident whose property at Russell Street was inundated in the January floods. He is the first witness to be called in respect of the Inquiry's insurance term of reference.

As Mr Callaghan of Senior Counsel stated in his opening, one challenge we face as we assess the performance of insurers will be the search for a reference point against which to assess that performance.

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Some of the relevant standards for insurers are contained in a Voluntary General Insurance Code of Practice. I tender that Code of Practice.

COMMISSIONER: Exhibit 587.

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ADMITTED AND MARKED "EXHIBIT 587"

MS MELLIFONT: I also now tender an aerial photograph of the relevant parts of Esk. Mr Byron's house is circled in red at about the centre, slightly to the right of that map, at the corner of Russell and Hassall Streets.

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COMMISSIONER: The photo will be Exhibit 588.

ADMITTED AND MARKED "EXHIBIT 588"

MS MELLIFONT: I call Mr Byron.

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RAYMOND JOHN BYRON, SWORN AND EXAMINED:

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COMMISSIONER: Thanks, Mr Byron, take a seat.

MS MELLIFONT: Thank you. Is your full name Raymond John Byron?-- It is.

And do you reside at 1 Russell Street, Esk?-- I do.

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Have you prepared two statements for the Commission?-- I have.

I'll show you both of those statements. The first is a 14-page statement, plus attachments, signed on the 15th of September 2011. The second is a five-page statement, plus attachments, signed today?-- Yep.

And that second statement is largely directed at clarifying some aspects of your first statement; is that correct?-- That's correct.

20

Can I take you, please, to paragraph 19 of the first statement?-- Yes.

Do you retract the last sentence in that paragraph?-- I do.

I tender those two statements.

COMMISSIONER: The 14-page statement will be Exhibit 589; the shorter page - shorter statement 590.

30

ADMITTED AND MARKED "EXHIBITS 589 TO 590"

MS MELLIFONT: Mr Byron, is your house a three-bedroom, ground-level, brick veneer home built in around 1993?-- It is.

40

In the January flood did two creeks in the area break their banks which sent a wall of water and mud travelling across parts of Esk, including your property?-- It did.

If I could ask for that aerial photograph to come back up on the screen. As best you can by - can you see that on the screen there?-- I can.

50

Okay. As best as you can by reference to that photograph can you just describe the general direction of the water?-- From the Brisbane Valley Highway direction down Hassall Street and in through the front fence.

Okay. Now, your home was inundated?-- It was.

As were your sheds?-- Yes.

Destroying, in effect, all of your property and personal effects?-- Everything. 1

At the time did your mother and sister also live in Esk?-- They lived next door, yes.

And were their properties - sorry, were they in the one house?-- Pardon?

Were they in one house or two houses?-- They were in two separate houses. 10

Yes. And were their properties flood-affected so as to make those houses-----?-- Yes.

-----uninhabitable?-- They were.

And was it your plan to have your house repaired first so that your mother and sister could move in with you?-- My house was the quickest and easiest to repair, which seemed the logical answer to getting mum back there to ease the burden on her. 20

And in respect of the burden on her, was your mother unwell at the time?-- Very, very much.

Very well - very unwell?-- Yes.

Now, did you make an insurance claim with respect - with RACQ with respect to your home?-- I did. 30

And was your claim made by making a telephone call on the 17th of January to RACQ?-- It was.

Did you get through on the first go?-- It took a while. On - on that day I finally got through on the first go, yes. It took a while, though. I was on the phone for about 20 minutes after I got through.

After you got through?-- Yes. 40

And on hold for a while waiting to get through?-- Oh, be probably 15 minutes.

All right. And was that on the 137 202 telephone number-----?-- That's right.

-----provided by RACQ?-- Yep.

Did you then have a conversation with that person on the telephone where she asked you a series of questions in relation to the flood?-- Yes. 50

Were you told to take some photographs if possible?-- Yes, she said take photos, as much as I could of any damage or any material damage to - for records.

And were you told that the claim would be placed in the system for processing and someone would be in touch with you in due course?-- Yes.

1

Could she tell you when that would be?-- She didn't know because of the volume of claims.

Right. Did a loss-assessor, Mr Bob Gates, from MYI Freemans, Toowoomba, attend at your property on the 1st of February 2011?-- He did.

10

Did he take a number of photographs and measurements?-- He did.

And that was of flood-affected parts of your house?-- Yep.

On the 21st of February 2011 did two assessors from Stream Group attend?-- They did, yep.

And was that Brett Holt and another person?-- Brett Holt and I don't - I'm not aware of the other person's name.

20

And had anybody explained to you who "Stream Group" were?-- Not really, no. I assumed they were there as part of the assessment and arrangement of repairs.

And while there did they take photographs, including narrating movie footage-----?-- They did, yes.

-----and measurements of the damage-----?-- Yeah.

30

-----to the entire property?-- Yeah.

After that was the next time you heard from anyone about the claim, was that in March when you received a telephone call from someone from RACQ?-- I did, yeah.

Were you told at that time that the details of your claim had been processed and RACQ were now waiting on the results of a hydrology report?-- I was.

40

Was the next point of contact in respect to your claim from Mr Bob Gates of MYI Freemans when he rang you in late March to advise you that RACQ had accepted your claim?-- Yes. I'm not sure of the exact date but it was around then, yeah.

And did he indicate to you that he imagined Stream Group would be in touch shortly regarding repairs to your home?-- He did.

After that contact from Mr Gates did you hear anything further from RACQ or anyone associated with your claim?-- Nothing.

50

And was your next point in contact your initiated contact to Stream Group on the 13th of April?-- It was.

So did you telephone Stream Group switchboard at that time?-- Yes.

And you were eventually transferred to a lady named Diana Pollok?-- Yes. 1

Who you found to be helpful?-- Yes.

And she advised that they were ready to proceed with commencing repairs to your home?-- Yes.

And she gave as the reason for that that Mainz Developments had submitted a very reasonable quote?-- Yes. 10

And she told you she would forward you a scope of works?-- Yes.

And did you then receive a scope of works by e-mail?-- I did. Later that day, yep.

Was that scope of works complete?-- No.

In what respects was it incomplete?-- It was missing the entire laundry room, a front entrance foyer section, which is three metres by two and a half metres with a front entry door to it, tiled areas associated with both, and half of the perimeter fencing. What was included in the scope of work was the front fence and the rear fence but no side fences. 20

Did you then contact Ms Pollok again?-- Yes.

And what did you tell her?-- I didn't get on to her herself, I left a message with an associate who said that she would transfer the message and it was likely that they would have to reassess the situation. 30

Did you tell that person that the scope of works was incomplete?-- I did.

And did you tell them in what areas-----?-- I did.

-----the scope of works was incomplete?-- I did. 40

And in respect of those areas are they the areas you've just indicated?-- That's right.

Did you receive any more contact from Miss Pollok or anyone at Stream Group?-- No. Not directly, no.

All right. And did you on the 14th of April, that is the following day, again attempt to contact RACQ on the 137 202 number?-- I did. 50

Were you able to get through?-- After a while.

And when you did get through was the person who answered the call able to assist you?-- They transferred me to the appropriate department that was handling my file and I was told there that the person I need to talk to was busy and they would transfer an e-mail to advise of my contact details and they - someone would get back to me.

Did someone get back to you?-- About five days later.

1

All right. Was that the 19th of April-----?-- Yes.

-----when you received a telephone call from a lady who was assisting the RACQ team leader with the handling of your claim?-- That's right.

All right. In the meantime, on the 15th of April did Mr Mainz from Mainz Developments arrive at your home to measure up the works required?-- He did.

10

And in your conversation on the 19th of April with the person from RACQ did you discuss issues such as time delays, lack of information, family and - family health matters and the suggestion that Stream Group had said your case would need to be reassessed?-- I did.

Did you ask RACQ to consider a payout of your claim so as to avoid all of the delays-----?-- I did.

20

-----which you were perceiving would now occur?-- I did.

And were you told that somebody called "Mario" would look into it?-- Yes.

Discuss the proposal with MYI Freemans and get back to you?-- Yes.

Did they?-- Yes - no.

30

And on the 9th of May, due to a lack of contact, did you forward a detailed e-mail to all of the parties?-- I did.

And expressed your demand for a payout from RACQ?-- Yes.

Did you get a response that day?-- I did.

Who was that from?-- From Mr De Leo.

40

From Mr De Leo or Mr De Leo's assistant?-- Sorry, Mr De Leo's assistant.

Yes, all right. And did she supply you with three figures and a total amount?-- She did.

Did she invite you to discuss those figures?-- No, we - no, there was no discussion on what - the figures were itemised for specific things but no other discussion.

50

And were you given any advice in that telephone call as to how that payout figure was determined?-- No.

Were you given any quotes for the repairs which were provided to RACQ?-- No.

Did you ask for those things?-- No, I don't think - don't think I did. I assumed - in that situation you assumed that things are being looked after in your own interests.

1

All right. So by that you had assumed that RACQ had looked at these-----?-- I assumed the-----

-----figures-----?-- -----payout figure that they were mentioning on the day was going to cover the amount of damage that had occurred to my home.

10

In accordance with the amended scope of works?-- Yes.

Did you later receive an e-mail - sorry. Yes, did you later receive an e-mail that day from Mr De Leo of RACQ describing your earlier call with his assistant as "having reached an agreed resolution with Mr Byron in the form of a cash settlement for all required building repairs"?-- I did.

And do you agree with that description of what had occurred in that telephone call?-- No I don't, I don't, and I was quite upset by it at the time and I sent a follow-up e-mail expressing some views in a polite way.

20

To your mind you didn't feel that a settlement had been reached?-- I didn't - I didn't feel that to say that we'd reached an agreed resolution was representative of what had transpired. I had been advised of a payout of a certain amount of money and there was only assumption provided to guarantee that that was going to take care of the damage to my home. As later - you know, as time went on, it turned out it wasn't.

30

And as you've said, you later requested a review of that process?-- Yes.

A review of your claim, that is?-- I did.

All right. And so that was on the 24th of May you requested by e-mail a full internal review of your claim?-- Yep.

40

And you asked for that on the basis that the payout figure you had received was, in your opinion, far below the true value of repairs that were needed to your home?-- It was.

Did you ever receive a reply to or acknowledgement of your request for a full internal review of your claim?-- No.

Did you receive a letter from RACQ on the 2nd of June itemising a breakdown of the amount in settlement of the claim?-- Yep.

50

And, as you've just indicated, you're finding that that amount is not sufficient to carry out the repair work necessary to your home?-- True, yes.

So in the result are you attempting to repair much of the damage to your home yourself?-- I am. I can't afford to transfer the work to tradesmen, it just won't cover it.

1

Can you tell me where and what living conditions you were living in while you've been waiting for the claim to be processed and paid out?-- I've been living in what used to be the kitchen of my home. I slept on an old cane settee which I retrieved from the floodwaters, it was locked in the garage, and that's it, that's - that's where I've lived for the whole time.

10

Is that where you still are now?-- Yes.

And has your mother been able to move in with you?-- She has. We - the whole course of repairs changed. We concentrated on my mother's house. It had to be repaired right to the ceiling level but she's back in there now.

All right. Just give me one moment, please. I asked you about return calls in response to your 14th of April contact to RACQ and you indicated that the next was on the 19th of April. Can I also just take you, please, to your second statement at paragraph 8 on page 3?-- Yep.

20

Does that recall another instance of communication between the 14th and the 19th of April?-- I don't understand your question.

All right. Did you on the 15th of April receive a telephone call from Mr De Leo while Craig from Mainz was at your house?-- I did, and I wasn't aware at the time that it was Mr De Leo, but I did receive a phone call.

30

All right. Did the person who rang you not identify themselves?-- He did but I missed it, and I often do, yes.

Oh, I see. And what was it - do you recall the content of the conversation at that time?-- Vaguely, yes.

40

And what was it?-- It was along the lines of RACQ deciding on whether they would employ Mr Mainz to do the job or pay me out and there was a process involved in trying to work that out.

All right. Did he say that process was ongoing or did he give you an indication of what they were doing?-- He didn't, really, no. He didn't - he didn't give me an indication of anything definite they were working on.

All right. Thank you, that's the evidence of Mr Byron. Oh, may I please - I understand there's to be some cross-examination which may require taking Mr Byron to some exhibits which are annexed to an affidavit - a statement of Mr - affidavit of Mr Dale, so can I tender, please, an affidavit of Graham Ian Dale? It is headed the "Third Affidavit", and it is a 65-paragraph affidavit sworn on the 14th September 2011.

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COMMISSIONER: That will be Exhibit 591.

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ADMITTED AND MARKED "EXHIBIT 591"

MS MELLIFONT: Thank you.

10

COMMISSIONER: Yes, Mr Doyle.

MR DOYLE: Mr Byron, do you have with you copies of your statement?-- I do.

Okay. Would you take up the first of them, please, which is the one I'll probably go through most?-- Yep.

20

And if you can't hear me you let me know?-- Yeah, just speak up a little bit, I am a bit deaf.

Yeah, well, I'm a bit quiet, so it's a bad combination. Now, one of the things you say in your statement is that you took out your home policy on the 16th of July 2008 and renewed it annually. Do you recall that?-- Thereabout, yep.

It might be a small thing but can I see if you remember this: in fact, you took out a policy in December 2008 but you let it lapse in February 2009. Do you recall that?-- I do recall something happening, yes, I do-----

30

See how we go and you tell me if it sounds right. That you got in December 2008 a Certificate of Insurance and a Product Disclosure Statement and you let that - that edition of the policy lapse in February 2009. That's my first sort of proposition to you. Does that sound right?-- No, look, from what I remember I missed a payment of a premium by a few weeks, I think, I'm not sure, or maybe a month, and I rang and reorganised it.

40

Okay. That's in fact what I'm going to suggest to you. You rang up and you arranged a new policy and a new certificate was sent out to you in - sorry, in February 2009, together with a new policy document?-- I can't recall when that was, yes.

Okay. Now, you renewed that again the following year-----?-- Yes.

50

-----they would have sent you a Notice of Renewal?-- Yeah.

And that too lapsed in June 2010?-- No, I don't recall that.

Okay?-- I can recall once.

Well, I want to just see if you agree with this, that you did in fact then effect the third policy in June 2010 and you got a Certificate of Insurance and a policy document sent out to you then and it's that policy which is the one that was in place when the flood hit your house? Can't recall that?-- I don't recall. No, I really don't.

1

Okay, never mind?-- There was a lot going on.

Fair enough. If you look at paragraph 5 of your statement, just to the last sentence, you say, "Since January 2011 I have made several requests to RACQ for a copy of the home insurance policy, but these have been ignored." Do you see that?-- Yes.

10

If I were to suggest to you that the first time you made a request for a policy since January 2011 was in an e-mail of the 24th of May 2011, does that sound about right?-- Oh, yeah, quite like, yes.

20

That's about right, okay. Thank you. Now, still in this statement you then deal in paragraph 6 and 7 with the first call you got through on where you made your claim?-- Yes.

Now, when you signed this statement you did not have copies of the transcripts of that conversation, did you?-- No.

But you've since been shown some transcripts of conversations?-- Yes.

30

And have you been shown a transcript of that conversation?-- Yes.

All right. Well, I'll get you to have a look at it again, and, Members of the Commission, it's in an exhibit to Mr Dale's affidavit, which has been handed up. Sorry, I'm not aware that the Members of the Commission have access to the exhibits.

COMMISSIONER: It will probably come up on the screen, I'm hoping.

40

MR DOYLE: Thank you. Well, I will be going first to Exhibit 24 of that affidavit. Could the witness-----

COMMISSIONER: The best idea, Mr Doyle, if you are cross-examining, is to let my associate know in advance, if you can, and she'll just be nipper about getting things up, but she's pretty good anyway and we've got it.

50

MR DOYLE: Thank you. Well, I anticipate going to Exhibit 24 quite a bit to the transcripts. Now, if things are going well, Mr Byron, you should have a page number 147, down the bottom right-hand corner?-- Yeah.

It's headed "Transcript of Interview" with you?-- Yes.

On 17th of January. Now, can you tell me, please, if you've read this recently, in the last day-----?-- No, I haven't read this one.

1

Okay, well, I'll help you. I'll go through a few little things. It starts with the claims service officer Nadine saying she'd - giving you her name. That sounds right, doesn't it? Do you remember speaking to Nadine?-- No, I don't remember, no.

10

All right. The parts I want to take you to, if you can look down, please, at about halfway down the page, it gives your full name and it gives your address?-- Yes.

You recall being asked those things when you rang up and made your claim?-- Yes.

If you turn over the page, you were asked about your contents-----?-- Yes.

20

-----and you give some information about that? Whether you had effected contents insurance and you told her that you hadn't?-- Yes.

And you recall that as part of the first discussion you had on the phone?-- Yes.

Okay. Then a little - halfway down the page it's got a letter - sorry, the alphabet "N", where that's Nadine, I should tell you. See that? It says: "Okay. Now, do you have a pen and paper handy and I'll give you a claim number?" Do you see that on the page?-- Yes, yes.

30

Okay. And if you look down you'll see that you say you do have a pen and she gives you some details of your claim number?-- Yeah.

And then the next relevant entry is at about two-thirds of the way down that page. "N", that's Nadine, says: "What happens now is we refer this on to our loss-adjusting team and they will be in touch with you as soon as they can to arrange an appointment day and time to come out and have a look at the damage to your home," and so on, and she asks what's the best number to contact you and you give her a number, you see that?-- Yep.

40

And you can recall that too as something you and she discussed on that-----?-- Vaguely, yes.

Then after the phone number she says: "They'll be in touch with you as soon as possible. I honestly don't know when that will be," and so?-- Yes.

50

You can recall that's-----?-- I can.

-----the effect of what you and she spoke about?-- Yep.

If you turn across to page 149. Towards the bottom of the page she asks you where you're living and you tell her?-- Yes.

1

If you turn across the next page, page 150. About halfway down the page she says - the sentence commences, "But they'll go through all that with you". Then she says, "If you have any questions with regards to either of your claims" - now, I'll just stop there, Mr Byron. You had also at that stage made a claim with respect to a damaged car, hadn't you?-- I did, yes.

10

Which you later withdrew?-- Yep.

But she's there talking about both claims. And she gives you a phone number to ring, which you repeat. You see that?-- Where are we, about halfway down the page?

Yes, sorry, it's that-----?-- 137-----

20

That's the one?-- Yep, yep.

Okay. And that's where the end of that conversation is. Now, one of the things that - now, you accept that's - you may not remember-----?-- I don't. Look-----

But you accept that's in fact-----?-- -----there was a lot going on at that time, yes.

I understand. But that's in fact the conversation-----?-- Roughly.

30

-----where you made your claim? Okay. Now, if I can then ask you to turn to page - sorry, paragraph 9 of your statement. Sorry, I probably should just mention paragraph 8. You say in paragraph 8 of this statement, "Despite lodging a claim, apart from the claim number, which was provided verbally during a confirmation call from RACQ about two weeks later"-----?-- Yep.

40

-----"I never received any relevant documentation"?-- Yep.

It's right, isn't it, that in fact you were given the claim number during that first call?-- I was but I - I think I remember writing it down but with the mess that was around at the moment I didn't have it-----

Sure?-- -----from there on.

Okay. Now, then you say in paragraph 9 - the next thing you refer to, anyway, in paragraph 9 is Mr Gates-----?-- Yes.

50

-----coming out on the 1st of February, you see that?-- Yes.

And then you refer in the same paragraph to two other people turning up three weeks later on the 21st of February?-- Yes.

1

Now, again, tell me if you can help me with this, please: before Mr Gates arrived you received some calls from him?-- Yes.

10

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40

50

And can I suggest to you that he rang you on the 24th of January?-- I have no idea what dates they were. 1

I will tell you?-- Yep.

And you tell me if it sounds about right. He rang and left a message for you on the 24th of January?-- Yes.

Sorry, he rang and spoke to you on the 24th of January?-- Yes. 10

And you told him something of the condition of your house. He rang and left a message on your mobile phone on the 28th of January, that's right?-- I think I recall, yes.

Okay. He rang again on the 1st of February and you phoned him back on the 1st of February?-- That's right.

And it was during that call when you rang him back that you and he arranged the time when he would come and inspect your house?-- No. The call that I missed was advice of a pending visit. And the call that I missed again was him ringing to make a time or to confirm a time, I think it was 8 o'clock, or something, on the 1st of February, and I missed the call and I rang him straight back and he said - agreed everything was fine to me. 20

Okay. So you and he spoke for him to arrange - to confirm, if you like, that you'd be there if he turned up at a particular time?-- Yes. 30

And when he came he had a look around the house and he did various things which you've told the Commission about?-- Yeah.

And he told you, didn't he, that he would have to arrange for someone else to come out-----?-- Yes.

-----and to look at the work-----?-- Yes. 40

-----to do some things, to measure, take photographs, and that he'd go off and get quotes?-- Yes.

Okay. And to prepare a scope of works, do you recall him telling you that?-- I - vaguely, I think. I don't know.

Okay. Now all of that was on the 1st of February. The next thing, as I've said, that you tell us about is the 21st of February, but again I want to suggest in between there was some contact between you and Stream between Mr Gates coming out on the 1st and Mr Holt and this other person on the 21st - see how I go, if you can agree with me - that someone from Stream called and left a message on your mobile phone on the 8th of February?-- I can't recall. 50

And another attempt was made to contact you on your phone on the 9th, you can't recall? That another message was left for you on the 18th of February. Do you recall getting two

messages from Stream?-- I don't recall very much of what happened at that particular time, if you envisage what was going on.

1

I understand. And I'm not being critical that you can't remember?-- I know.

But I'm trying to give you the chance to tell me if it sounds about right, okay?-- Yep.

10

COMMISSIONER: Mr Doyle, so I understand what you are putting, are these actual voice messages that say something? It's not just a phone number - a missed call, sort of thing.

MR DOYLE: Voice messages inviting a return call, I expect, but these are from Stream.

COMMISSIONER: All right.

WITNESS: If I had received any calls inviting me to return a call, I would have returned the call.

20

MR DOYLE: Good. Because, in fact, I want to suggest to you, you did in fact ring them back on the - just excuse me - on the 18th of February; do you recall that? Perhaps I'll try it this way: When Mr Holt and this other man turned on the 21st-----?-- Yes.

-----do you now recall that you had had some contact on the phone with someone from Stream before they arrived?-- Yes, I do. They rang to make some sort of an arrangement, yes.

30

And that might have been because you returned a call that they had left a message-----?-- It could have been, yes.

It probably doesn't matter now?-- No.

And you can recall having a discussion with them on the phone in which they said who they were?-- Yes.

40

That they were on their way out to do something?-- Yes.

Did they tell you what they were going to do?-- They were coming out to assess and measure up and I remember now that the call - the arrangement was to meet about 7.30, I think, in the morning, which was quite early and they were happy to be there that early, and they rang about an hour before to say they were leaving.

Okay. All right. Well, it may not matter, I want to really see if you can recall a conversation with them three days before they come in which they arranged to come on the 21st of February; does that sound about right?-- Something like that, yes.

50

And in the course of that conversation you were informed who they were and what kind of things they would be doing when they came out?-- They - I was informed who one was and he

gave me a card. I was never informed who the other fellow was.

1

Okay. Never mind. Now you've told the Commission already what they did on the day, they appeared to take photographs of everything that they should have?-- Yes. Yes.

And measured up what they should have?-- Yes.

And were you present when they were walking around your house?-- Yes.

10

You were pointing things out to them?-- Yes.

And I take it you pointed out the laundry and the-----?-- Yes.

-----foyer area and the side fence-----?-- Yes.

-----that they missed?-- No, no. They hadn't missed them, they'd recorded - they were recording them on that day. They haven't been back after that day.

20

Sorry. You pointed each of those things out amongst many other things, no doubt?-- You didn't have to point much out on the day.

Okay. Well, you can recall walking around the whole of the house including-----?-- I can.

30

-----the laundry area and the foyer and the-----?-- Yes.

-----grounds? Now if we can go back to your statement, please. You say in paragraph 10, "After that I heard nothing more from anyone until receiving a phone call in early March from RACQ"?-- Yes.

And I think you've said that again today in your evidence. What I want to do, if I can, is take you to exhibit 24, now to page 152, so that transcript, sorry?-- Yep.

40

And you should have there a transcript of a conversation on the 24th of February; do you see that?-- I do. I don't recall it.

Sorry?-- I don't - I'm reading it. I'm trying to recall it.

I was going to ask you, have you read that in the last day or so?-- No.

50

I don't want to be unfair to you, Mr Byron, in your addendum statement - if you will listen to me for a moment, you say this, "In respect of paragraph 10 of my first statement"?-- Yes.

"I have today seen records of RACQ Insurance which show that the phone conversation to which I refer in the first sentence at paragraph 10 occurred on 24 February". Now what I'm asking



you, is the record that you were shown a transcript of the telephone conversation?-- Yes. Yes, it is. Yes.

1

You may have seen a lot-----?-- Yeah.

-----but this seems to be the one that you've-----?-- I'm half blind as well, and it's very small writing.

I understand completely. Well, as you sit there now you'd accept that someone from RACQ rang you on the 24th of February and had a conversation with you?-- Yes.

10

The detail of which you don't recall, obviously?-- Yep.

I'll take you to parts of it in a moment?-- Yep.

Just tell me when I do-----?-- Yep.

-----if that sounds about right as you now recall it?-- Yes.

20

Okay. It was a person called Theresa, does that ring any bells with you?-- No.

All right. At about halfway down that page she says, "Yes, I just wanted to give you an update on your claim as such", do you see that?-- Yep.

Do you recall that someone rang and did that?-- No.

You don't. Okay?-- Oh, there - no, is this - this - is the one where she's waiting on the hydrology-----

30

Yeah?-- Yes, that's-----

I'll take you through all of it and then tell you-----?-- That's the one, yes.

Okay?-- Okay.

She says that they actually got and reviewed the initial report from Freemans, the loss assessors, and she says they are waiting on the hydrology information?-- Yes.

40

And she says she's not sure when that will be, "hopefully it won't be too much long"?-- Yes.

Do you recall a discussion to that effect?-- Something like that, yes.

She says that she will give you a ring back once they've got that hydrology information?-- Yep.

50

She says, "If in the meantime you want to know anything", ring the number?-- Yep.

You recall that?-- Something like that, yep.

Okay?-- I was digging a fence out at the time.

Yes. If fact she says at the start, "Sorry for making you run to the phone"?-- Yes.

Okay. Now in that same paragraph you say of that conversation, "That was the only self-initiated contact from RACQ"?-- Yes.

I'm ultimately going to try to show to you that's wrong, okay? Just park that for the moment. But you also knew, didn't you, that you were - your claim was being dealt with, or processed in some way by Freemans, Mr Gates, and by Stream-----?-- Yes.

10

-----you knew that? You had their numbers?-- Yes.

And you knew how to contact them?-- Yep.

And you did?-- Yep.

Okay. If you can go next to paragraph 11 of your statement, where you say in late March, and you can't recall the exact day, Mr Gates rang and told you your claim had been approved?-- Yep.

20

If I were to tell you it was the 18th of March, would that sound about right?-- It would, yes. Yes.

Okay. Never mind. Then you say on the next page after hearing nothing from anyone you rang Stream on the 13th?-- Yes.

30

Okay. So it's right to say, isn't it, that you were, between when Mr Gates told you the claim had been accepted, after he told you it was accepted, you were expecting Stream ultimately to get in touch with you?-- Yes.

And what you were expecting them to get in touch with you about was to tell you they've got a scope of works or they'd identified-----?-- Something.

40

-----all the things that needed to be done?-- Something.

Yes?-- I was just waiting on something.

But the something that you were expecting was something which was a step in progress in your claim?-- Yes.

Okay. And the thing that they were meant to be doing was identifying the work to be carried out and getting prices for them?-- That's right, yes.

50

So if you were expecting them to get back to you, it would be about them telling you they've done that or they were trying to do or whatever they were going-----?-- Something in that regard, yes.

Okay. Ultimately you call them on the 13th of April?-- Yes.

You recall that?-- Yes.

1

And I want to suggest in fact you had a couple of telephone calls with them that day?-- I did, yep.

And the detail may not matter, but you spoke, I think you've told us, to Diana Pollok, and can I suggest to you that she said something like this, that she had the scope of works and you can recall her using that expression?-- Yes.

10

That they had obtained prices from some builders and one from a builder call Mainz who she told you about?-- Yes.

She told you, didn't she, that Mainz were ready to start almost immediately?-- She did.

In fact, she said they were ready to start right after Easter and would treat your work as a priority?-- No. She - she mentioned that they - she - it was that they were ready to start work immediately and I said, "Okay, can that be confirmed?" And she said she would do that and she did, she hung up and rung Stream and rung me back and I rung Stream myself to confirm that point-----

20

Okay?-- -----that they could, in fact, start work almost immediately, which was my main concern, the work.

Of course?-- The beginning of the work.

Well, as a result of those exchanges did she convey to you that they were ready to start after Easter and would treat it as a priority?-- Yes.

30

Okay. Now this conversation is on the 13th of April-----?-- That's right.

-----we've worked out, and I think Easter Friday, Good Friday was the 22nd of April?-- Right.

So she was telling you that they would be starting the last few days of April?-- That's right.

40

You recall that?-- Yes, yes.

Okay. Now you raised with her, didn't you, the possibility of you obtaining a cash payout of your policy rather than having Mainz do the work?-- I said - yes, I did. I raised it with her. I said, "Now, look, I don't want to rock the boat, I just want to know is it a feasibility because of the simple fact I want to get the job done".

50

Sure?-- Yep.

So you can recall saying to her that's what you'd like?-- Yes.

Okay?-- And she said, "Take that up with RACQ".

We're coming to that Mr Byron?-- Yes.

1

In the course of that day she sent you the email which had the scope of works?-- Yes.

And you identified some things that you've told us were left off it?-- Yes.

You rang her back?-- Yes.

10

And I want to say to you, suggested to you, you spoke to her and told her that, that these things had been left off?-- No, I didn't. I spoke to a colleague.

Again, not a lot might turn on this, but you later spoke to someone called had Helen Baker?-- Could be.

And you spoke to her to arrange for the payment of an excess of a figure of \$300?-- I sent - I sent - I sent an email to advise that I'd made the payment via internet payment.

20

Yes?-- But I'd forgotten to put a reference number on and I emailed again and rang, followed with a phone call.

Right. And on that occasion you spoke to someone called Helen, do you recall that?-- I think so, yes.

Well, you don't think you spoke to Diana Pollok to tell her of the things which had been left off the scope of works, but you certainly spoke to someone?-- I spoke to someone, yes.

30

Okay. And that whoever you spoke to told you that the Mainz man would come out on Friday the 15th of April-----?-- Yes.

-----to measure up and identify what needed to be done in respect of those times?-- Yes.

Do you recall that?-- Yes.

Okay. And that day you signed the scope of works and sent it back to-----?-- Yes. We'd - that's - yes, we'd discussed the fact that the items were missing and if I were to sign the scope of works with a reference to a missing items it would be attached later.

40

I see. I understand. So it would have been clear to you and whoever you spoke to at Stream that what you were sending back was a signed document but that you still wanted those missing things fixed up?-- That's right.

50

And they were going to arrange someone to come out on the 15th to look at-----?-- Yes.

-----what was involved?-- Yes.

Right. The day before - I'm sorry, before we come to that. The Mainz man, in fact, turned up on the 15th of April?-- He did.

Craig was his name?-- Yes.

And you showed him what was missing and he said he'd back to Stream that day with something whatever that-----?-- Yes.

Right. Now what I want to suggest is that the day before, that is between you speaking to Stream on the 13th and Mainz coming out on the 15th-----?-- Yep.

10

-----you rang RACQ?-- Yes.

And you spoke to someone - you tried to speak to your claims manager?-- Yep.

He or she wasn't available?-- Yes.

And you spoke to someone called Frank, can I suggest that?-- Yep.

20

All right. And if you look back in those transcripts that I've given you, this time page 157 - sorry 156, you should see there a transcript of a discussion with you on the 14th of April?-- Yep.

And is this one that you've seen recently, that is today or yesterday?-- Pardon?

Do you now recall if you've been shown this today? It may not matter, Mr Byron, we will see how we go?-- I don't know.

30

Okay. I'll leave out some things that really don't matter. If you turn to page 157 at about point 3 of the page it's Frank speaking. He says, "Yes, sorry mate, I just can't get through to technical claims they're on phone calls". And that you understood to be a reference to the person actually handling your claim?-- Yep.

And then I want to direct your attention to the exchanges which follow. He says, "I will basically, like I said, have a chat and get everything you need clarified and send to them in an email and you should get a call back within 48 hours", do you see that?-- Yep.

40

And you go on to say, "Well, I'll tell you what it's about", and you do, don't you, in what follows down that page. I won't read it out but you can read it?-- Yep.

Have you read it all?-- Roughly. Yep.

50

Okay. So at about two-thirds of the way down the page Frank tells you that, "What I've got down here is", and he identifies that you have identified some things missing from the scope of works. And then you say that you've got your own builder ready to go and you ask if you can get a cash settlement to get the work done yourself?-- This was the follow up call from whoever it was I spoke to in the Stream Group that mentioned there could have to be a reassessment and

what I - this was on the 14th. On the 13th there was some mention of the reassessment. Then the point of that call was to clarify, was there going to be more delay with a reassessment? Can I get a payout or can Stream be given the go ahead to do the work? I wanted it done, one way or the other.

1

Sure?-- It was as simple as that.

Okay. But you did ask Frank whether you could get a cash settlement and get the work done yourself?-- I did. Yep.

10

You told him you had someone ready to go to do it?-- I did.

Okay. And you wanted him to put all that in an email to whoever was dealing with your-----?-- No. I assumed Frank was going to send my contact details who whoever he was going to send it to, to ring back so we could discuss those matters.

Okay. Well, just let me see. All right. Thank you. Well, you've read that exchange that - the telephone transcript?-- Yep.

20

It seems broadly to coincide with your recollection of the conversation you had with Frank?-- Yep.

Okay. Now the next day, can I tell you, you had a call with Mr De Leo?-- Yep.

That's the 15th?-- Yep, and I wasn't aware it was him. Again, I missed who it was.

30

Okay?-- Yep.

But he rang you?-- Yes.

And if you go back to those transcripts and this time to page 159?-- One?

159. Now you've read this today or yesterday?-- Yep.

40

Good. He starts by saying, "It's Mario from RACQ", there's a bit of chat. And then he says about point 4 of the page, "Yeah, you're not - you'd prefer to have a cash settlement then, than have the works commenced, is that right?" And you say, "Look, what happened is that there was a discrepancy in the scope of works and I got the inference there was going to be a need for a reassessment for the whole thing", and you thought a payout would be better, that's what you talk about; that's right, isn't it?-- Yep.

50

Okay. And, in fact, as it turns out, whilst this conversation is going on Craig from Mainz is there doing the-----?-- Yep.

-----measure up. And at about point 9 of the page ML says, "Okay. I mean, I'm happy to accommodate the cash settlement job provided that, you know, all parties are satisfied that the scope is correct", and that's - you understood at the time

him to be referring to-----?-- Yep.

1

-----the scope of all of the works-----?-- Yep.

-----which you agree is correct?-- Yep.

Okay. Then across the page, please, at 160, about point 3 of the page, again ML, I'll leave some words out. He says, "Okay. What we'll do is - well, I'll wait for the scope to come in and once, you know, the scope in its entirety has been received we will give you another call and decide what we're going to do"?-- Yep.

10

About whether the cash settlement is made, or the works are authorised, you understood that?-- Yep.

Okay. Now you can recall, don't you, that he went on to try to explain to you why it would be better if you had, or it might be better if you had RACQ Insurance arrange for Mainz to do the work?-- Yep.

20

Because you would get a lifetime guarantee?-- Yep.

If any problems arose, you could ring up and they'd look after you?-- Yes.

So he told you all that?-- Yep.

Okay. And it was left really on the basis that once the scope came in you and he would have a further discussion?-- Yes.

30

Thank you. Now if we go back to your statement, please. In paragraph 15 you refer to a conversation five days later on the 19th of April-----?-- Yep.

-----with a lady; do you recall that?-- Yep.

You accept, don't you, that you've missed out of this statement the conversation you had with Mario on the 15th?-- I said what?

40

You've left out of the sequence of things the fact that Mario had spoken to you on the 15th?-- Yeah. Yes, I'd accept that, yes.

Okay. Now when you got that call from that lady on the 19th, and again I ask you to go to the transcripts, please, to page 165, this is Lisa, you probably won't remember her name?-- No.

50

Did you receive this transcript and read it today?-- Yes.

You have?-- I think so.

Okay. She rang you; didn't she?-- Someone did.

Okay. Well, a female did. Then - I suppose - have you read the transcript in its entirety this morning?-- Yes.

And it is a fair or a reasonably fair transcript of the discussion as you recall it?-- Reasonably to my recollections, yes.

Okay. I want you to go to the bottom of page 166. She made an offer, didn't she, to contact Stream and see if she couldn't hurry them along?-- Yes.

Okay. And - yes, that will do. The next thing I want to take you to is a conversation you refer to in paragraph 18, I think, of your first statement. Do you have that?-- Yep. 10

Paragraph 18. Where you received a call from a female person you described in your statement as indignant?-- Yep.

And you've since signing that statement listened to the conversation on the disc?-- Yes.

And you accept that is a misdescription?-- Yeah, for whatever reason I had that, I had that impression on the day, and I don't know why, but it was there. 20

Okay. And also that she doesn't describe herself as assistant to Mr De Leo?-- That was my interpretation of who she was, yes.

But you accept she didn't say it?-- Yes, maybe.

Okay. Have you read the - as well as listening to it, have you read the transcript of that conversation?-- Yes. 30

Page 168, please. Do you recall her name that was Rani?-- Pardon?

Rani, do you recall that being the person you spoke to?-- I don't recall that, no.

Okay. About halfway down the page - and she is represented by the initials RS and you are RB?-- Yep. 40

She says, "Yes, that's fantastic. Now I'm happy to advise I have all the quotes and everything back today, so I can cash settle you for your claim today." She asks if have you've got a pen and paper and you say, "Yes. Ready"?-- Yes.

And she gives you an amount for fencing, you can recall that?-- Yep.

A figure which you wrote down, I take it?-- Yep. 50

Over the page she gave you an amount for the building repairs-----?-- Yep.

-----which you wrote down?-- Yep.

And she told you what the additional building for your laundry was, what the figure was?-- Yep.



And tells you a total; do you recall that?-- Yep.

You had a discussion about the excess?-- Yep.

And the problem arose because the insurer was going to take the \$300 off the total?-- Yep.

And you had already pay \$300 to-----?-- Yeah, I just mentioned that I'd already paid \$300.

10

It is not a big deal?-- No.

But she said you'd have to get it back from Stream?-- Yep.

And, in fact, she arranged that for you; didn't she?-- Yep.

And you got it back from Stream?-- Yep.

Okay. Then on page 169 at about point 4 of the page she asks you, this is after the debate about the excess, "Okay. So did you want it to be cash settled? You didn't want to go through Stream?" Do you see that?-- Where is that?

20

On page 169?-- Yeah. Okay, yeah, I've got that.

Got it?-- Yes.

Good. And then you say, "No", for reasons which you give, and then she says, "Yes, yes, but I was advised" - sorry, "I was advised you were waiting to cash settle". You said, "Yes, yes, that's right." "Is that correct?" "Yes." And then she asks you whether you - sorry, just let me withdraw that. She asks you at the bottom of the page whether you want the money sent to you or deposited to your account?-- Yep.

30

And you tell her some details of how it can be paid into your account?-- Yep.

Which you and she then repeat so as to confirm it's right?-- Yep. Actually the phone dropped out, I think, around that time.

40

Yes, we see that because the phone conversation ends but we go to page 171, it continues?-- Yep.

And she says, "Okay", about halfway down the page, "Okay. Well, I will make that payment for you today and you should receive that in your bank account within the next three or four working days." You said, "That'll be fine." She says, "Fantastic. Awesome. I will get in contact with Stream right away about the \$300." You said, "Thanks very much. Thanks bye"?-- Yep.

50

Now - and, again, that's consistent with your recollection of the conversation-----?-- Something - yes.

-----Rani had, forgetting for the moment her tone?-- You have

got to remember what goes on, on the sidelines, before I'm getting all these phone calls. We're doing the same thing every day so we're not really in the frame of mind for general chitchat.

1

I understand that?-- Yep.

I understand. I just want to see if you can agree with this. It is right to say, Mr Byron, that you had raised with Stream and then again with Mr De Leo - I'll start again. You had raised with Stream the question, can you get a cash settlement on the 13th of April?-- Yes.

10

You had discussed that with Mr De Leo when he rang you on the 15th?-- Yes.

And you and he had left it on the basis that once the scope had been corrected and the figure had been adjusted, he would ring you back and you would discuss whether you would have a cash settlement?-- Yep.

20

That this woman rang you back and told you that she had all the-----?-- Yep.

-----scope?-- Yes.

She told you a break up of some figures, some - you know, not dollars and cents to the fine detail, but she told you the total and some figures that made up that total; do you recall that?-- No, not - not that bit.

30

Well, all right, I want to suggest to you that she told you some figures which added up to a figure, I'm not going to say it-----?-- Yep, go on.

-----you were going to get paid?-- Yes.

And you recall something like that?-- Yes.

Okay. You didn't ask her for any more details of the composition of those figures?-- No. This was on the-----

40

On the - the conversation with Rani?-- Okay. Yeah - no - yeah - no, I didn't.

Okay. She asked you, in fact, whether you wanted to go ahead with a cash settlement or you wanted to go through Stream?-- I didn't understand what going through Stream was.

Didn't you?-- No.

50

Well, you knew it was alternative to a cash settlement, she put it to you that you can either get a cash settlement or go ahead with Stream?-- Yes.

And you said you wanted a cash settlement?-- Yes.

You didn't ask her what she meant by going ahead with

Stream?-- No.

1

Okay?-- Yeah. Go on. Yep.

Sitting there now you understand that to being a reference to having them carry out the work in some way, or cause the work to be carried out?-- The point - the point being that the prior - any prior discussions on that point had occurred almost a month before and I had heard no more. That prompted my email on the 13th of - no, the 10th of May.

10

Sure?-- Yeah.

Okay?-- And that - that was the point of contention. On that day when she rang and advised of the payout, all I wanted was something that I could get going. If she was giving me the option to use Stream Group, I still had heard nothing from Stream group from almost a month before.

I understand. But on this day when you and she speak, you accept, don't you, that she'd said - she asked you, did you want to go ahead with a cash settlement or go through Stream?-- Yeah, something like that, yes.

20

30

40

50

And sitting there now, you'd accept that the choices that she was offering you was a cash payment or having Mains carry out the work?-- I don't know.

1

You don't know?-- I don't know.

It's clear you told her you wanted the cash?-- Yes.

She asked you for how you wanted it paid and you told her?-- Yes.

10

And that was, in fact, paid?-- Yes.

That figure was paid into your bank account on the 12th of May?-- Yes.

When you hung up that call, if you'd been asked, "Have you just agreed to take a cash payment instead of Mains or RACQ" - sorry, RACQ Insurance carrying out the work?", you would have said, "Of course I am getting the cash."?-- I would - the reason I would have said that was because I was under the impression that I could begin work the next day.

20

Sure?-- That was the issue, not the money.

I understand. You were keen to get something started?-- Yes.

But at the end of that conversation, if I'd been there when you hung up the phone and I said, "Have you just agreed to cash payment instead of having them do the work?", you would have said, "I have gone with the cash."?-- Yes.

30

And the cash was paid into your bank account, as I say-----?-- Yes.

-----two days later. All right. Thank you. Now, on the same day, if you turn, please, in Mr Dale's affidavit to Exhibit 15 is?-- To where?

Exhibit 15. You might need to have someone help you turn to the right page.

40

COMMISSIONER: Mr Zangari, can you help Mr Byron?-- Okay. Yep.

Just before you go on, Mr Byron, can I check, did you come from Esk-----?-- Yes.

-----to give evidence today?-- Yes.

50

All right. We will keep going.

MR DOYLE: Thank you, your Honour. I am very content-----

COMMISSIONER: You won't be too much longer.

MR DOYLE: I will be half an hour, I think.

COMMISSIONER: Half an hour.

1

MR DOYLE: Sorry. You should have a letter of the 10th of May?-- I do.

Which sets out, amongst other things - you see down the bottom?-- Yep.

Some break-up of some figures which leads to a figure?-- Yeah.

10

Don't read it out?-- Yep.

But that was the figure you told you were going to get?-- Yep.

And that's the figure that you got?-- Yep.

And you would describe this, would you, as a remittance advice?-- No. I didn't get that letter.

20

Okay. Well, you don't - you say in your statement you didn't get it?-- Yep.

You say you got something else?-- I did.

And you don't still have that something else?-- I do.

Where is it?-- It's at home. I did e-mail a copy through to Paul Brown.

30

Well, I am sure we haven't been given it. I don't need to cross-examine. If there is a document which meets the description "remittance advice", we would like to obviously see it. All right. Thank you. Now, it's probably just as easy to stay in this document. If you turn, please, in those tabs - see there's tabs down the side?-- Yep.

To Exhibit 18. The thing I want to direct your attention to is the e-mail at the top, addressed to someone called Sharon?-- Yep.

40

And it says, "Please be advised that we received an agreed resolution" - sorry, "We have reached an agreed resolution with Mr Byron in the form of a cash settlement for all required building repairs."?-- Yes.

You got that e-mail?-- Yes.

And that's the e-mail which you thought might have misstated what took place between you and the woman on the phone earlier that day?-- It - it was - yeah, it was - in my view it was a - an assumptive statement on Mr De Leo's part. I didn't want that to be taken as I was totally in agreement, because I didn't know where I stood.

50

Okay. And you sent him an e-mail the next day-----?-- I did.

-----the 11th. And if you turn to the next tab, I thin, in that document, tab 19?-- Yep.

1

That's your e-mail?-- Yep.

Where you say, "I'm not sure receiving that advice could be perceived as having reached an agreed resolution.", and then you say some other things?-- Yes.

Okay. All right. Just excuse me. In that e-mail you sent to Mr De Leo, just before the last sentence where you say, "I thank you for your assistance.", you refer to, "The work is now underway." Do you see that?-- Yep.

10

And that is a reference to the work on your house?-- That was a reference to me gutting the internal of my house myself.

You doing the work?-- Yep.

Okay. All right. Thanks. Now, you don't actually ask him for anything in that letter - in that e-mail, Mr Byron, you don't say to him, "Please"-----?-- No.

20

-----"give me something."?-- No, no, I - I think it's either that e-mail or the following one I said, "I'm assuming that RACQ are giving me sufficient amount in the pay-out that I have received or receiving"-----

Yes?-- -----"to effect repairs that need be to my house."

30

Sure, but you don't ask for anything in that e-mail. We will come to on where you do. You accept-----?-- I am making the point - I am outlining the amount that was specifically given.

Yes?-- And I'm outlining the point that I'm not sure that it can be perceived as a - an agreed resolution.

Okay?-- Because I don't know where I stand.

Okay. Fair enough. Now, then, on the 24th of May you write another e-mail to Mr De Leo?-- Yes.

40

Which is - if you turn to the next exhibit, Exhibit 20?-- Yes.

That's your e-mail, isn't it?-- Yep.

Where you start with thanking them for the receipt of \$300 and then thanking them for the money, which we have referred to?-- Yep.

50

Then you say, "However, having received no reply to my e-mail on 11th of May '11 confirming if adjustments are required relevant to omissions and discrepancies contained in the original scope of works were, in fact, included in the pay-out figure received, I tend to surmise the feeling of being ignored, an approach I don't take kindly too if indeed that is the case."?-- Yes.

See that?-- Yes.

And then you - we will skip the next paragraph, if we may, and you then ask for some things including a full review. You see that?-- Yep.

And copies of quotes, the original policy, and confirmation the policy is still on foot. You see that?-- Yep.

10

Okay. Now, I said at the outset that I was going to - I suggested to you that's the first time you asked for the policy, and that's so?-- Yep.

Okay. Now, if we turn, then, to paragraph 25 of your statement, you say, "No reply to or acknowledgement of my request for a full internal review of my claim has ever been received from RACQ."?-- Yep.

I just want to explore that with you?-- Mmm.

20

If you go, please, to Exhibit 22 in that, Mr Dale's affidavit?-- 22?

Twenty-two?-- Yep.

It should be page 139?-- Yep.

The bottom half is an e-mail Mr De Leo sent you on the 27th?-- Yep.

30

Where he apologised for the delayed response and then he continues, "I can confirm to you that the amount of", the figure, "which is based on Stream Scope is inclusive of all the required additional work in order to repair the damage covered by this claim."?-- Yep.

So that whether it's - you thought it was enough, he was responding to your question, "Did it include that additional work"?-- That's right.

40

And he was telling you it did?-- Yep, but prior to that I recall assuming that whatever figure they - they arrived at was sufficient to complete the repairs to my home.

Okay. Well, you'd been told they'd got it as a result of a quote-----?-- Yes.

-----from Mains?-- Yes, which was described as being somewhat - in two - considerably lower than other claims-----

50

Well-----?-- -----other assistance.

Who - I withdraw that. You were told it had been done on a quote from Mains?-- Yes.

And the evidence you have given is that you were - it was described as a very reasonable quote?-- But - yeah, it was,

compared to other - the two other quotes it was a very reasonable quote. That was the work.

1

Okay. Now, he then goes on and tells you that Stream have advised they don't - sorry, that they have obtained their quotations on line and do not have hard copies other than the report which they have provided. So, one of the things you asked for was the quotes and he tells you they don't keep them?-- I can't understand that.

10

Well, he told you that anyway?-- He did.

You recall receiving that?-- Yes.

And then he tells you that you have got to go and ask someone else for your policy essentially?-- Yeah, Brisbane or Toowoomba, they're both over an hour away.

I understand?-- Yeah.

20

Okay. Now, you also received, didn't you, a call, a message, I'm sorry, from someone called Lois on the 30th of May?-- Yes.

And if we turn back to Exhibit 24, that's where the transcripts were, you have there a transcript of a message that she left on your phone?-- I must have the wrong one here.

No, I'm sorry, perhaps I didn't tell you a page. Page 172?-- Yeah, no, I have got the wrong one. Okay.

30

You see that?-- Yep.

And you have seen that today, I suppose?-- Yep.

And you can recall receiving that message on the phone?-- I do, yep.

Where she told you that she was looking into your particular claim?-- Yep.

40

"And the correspondance that you have sent through to our team leader, Mario."?-- Yes.

And after you got his e-mail of the 27th of May, you sent him an e-mail on the 30th?-- Yes.

Saying some things about him?-- Yes.

50

And you knew that she was referring to having read that?-- Yes.

Okay. She tells you she's a team leader as well, Mario's unavailable. "What I would like to do just as a courtesy is let you know that I am looking into it further and then waiting on some information to come through from the company called Stream and I will get in touch with you on the next



business day tomorrow, 31 May, to discuss this further." She gives you her name - she gives the message, leaves her name and a number where you can contact her?-- Yes.

1

You can recall receiving that message-----?-- I can.

-----on your mobile on the 30th of May?-- Yep.

And you can recall her ringing you the next day?-- I can.

10

That's the next page of that bundle?-- Yep.

Page 173. And again I will leave some of the less important aspects of this call out, but I want to take you to some parts of it. At about halfway down the page, she says, "That's okay, and I did know that you have obviously been sending through some e-mails as well. I just thought that it might help to speak with you just over the telephone so I can send you an e-mail if you prefer. There's a bit to cover and it's always a bit easier if we can talk over the phone. Is that okay?", and you say, "That's fine."?-- Yep.

20

Then she says in the next relevant exchange, "So, Mario is just not available this week so I just thought I would have a look anyway for the information that's come through and just have a look at the claim in itself, what's - what's being discussed at the moment and information that's come through from the company that was doing our assessing on our behalf, which is Stream Build Assist. So, I understand at this point there is a payment just recently made to you of", a figure, and you confirm that's right. Then down the bottom, "What I did have a look at initially, I went back to the company called Stream Build and asked them for their scopes." See that?-- Yep.

30

You recall her saying that she'd done that for you-----?-- Yep.

-----in the course of this discussion?-- Yep.

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And a reference again to Mains, we see that there, and you recall her discussing Mains?-- Yeah.

And the fact that they provide their tenders on line?-- Yep.

See that? Okay. Then across the next page she says, "Back to Stream Build Australia, so there's no written quotes as such.", and she gives an explanation of why that's so?-- Yep.

Then there's a discussion that you and she have as to whether you had received that letter of the 10th of May. Do you recall that I showed that to you a while ago?-- Yeah.

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She said, in effect, "I will send it to you again.", or, "I will send you a letter like that."; do you recall that?-- Yeah, I recall her ringing or describing what was contained in that letter and I said, "No, I didn't receive that letter, the one I had was simply a statement of amount, and that's it."

Okay. But she says that she will do something about sending you another one?-- Yes.

And she did ultimately, didn't she?-- I think so, yes.

All right. But then at about halfway down page 174, you say, "I got a phone call prior to receiving the remittance. I got a phone call from a young lady.", he said that, "I can't remember who she said she was, she did she was going to ring", et cetera, "asked if I got a pen to write down these numbers and that was it." We have seen that conversation?-- Yep.

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That's the one you were relaying?-- Yep.

Then there's some discussion about things that were missing, the laundry and fencing and so on. I don't want to go through the detail?-- Yeah, no, that's fine.

You recall her discussing all that?-- I do, yep.

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And then would you return, please, to page 176? At about halfway down the page, Lois speaks. She says, "What I did want to say, because I do realise that there are other things that you did mention in the e-mail to Mario, particularly in respect you wanted a copy of your original Certificate of Insurance that was lost and you wanted confirmation of, like, the direct debits that are continuing to come out of your accounts.", and she says she will arrange that, doesn't she, she says she will arrange the Certificate of Insurance to be sent to you?-- Yep, yep.

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And it was, wasn't it? And she sent it to you?-- Oh, I - I - I don't know.

Okay?-- There was a letter came, it had some in it, I'm just over it at the time, I didn't care what was in it, I was finished with it.

Okay. Well, let's see - there's one more thing I want to take you to. Just at the bottom of page 176?-- Yes.

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Again Lois speaking, she says, "Yep, okay. What I would like to do is just send you - I mean, you clearly don't have the first letter that was sent, but what I'd like to do is send a fresh letter based on the discussion today and the figures that I mentioned to you, albeit verbally, because you haven't had an opportunity to write that down." See that?-- Yep.

And she goes on to say, "And where possible I will try and get some extracts of this online quoting from Stream and have that in the same envelope for you"-----?-- Yes.

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-----"with your settlement letter. Would that be okay?"  
"Yes, that would be good, yes."?-- Yep.

And then you can read, I think, the exchange on the top of the next page. She says, "Is there anything else that I can

answer for you?" She offers an apology that it wasn't the smoothest of processes and, "I guess that does happen from time to time. I've spent a lot of time on this today really trying to find out the issues with respect to that."?-- Yep.

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And so on. She's apologetic and hoping that she's dealt with your complaints; that's right, isn't it?-- Yep, yep, I - yes. I will agree with that. She did really try to answer the queries that I had, but at that point I was over it, I'd had enough.

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No, I understand?-- Yes.

You'd made - you'd raised some issues in an e-mail about things with Mr-----?-- Yep.

-----De Leo, she had obviously received that, read it and was responding, intending to deal with those complaints-----?-- Yes.

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-----those issues, and you felt she was doing the her best to do so?-- Yep.

And you were happy that she was a good person to be dealing with your complaints?-- Yep.

And had explained-----?-- The complaint was finished.

Okay?-- Yep.

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Now, after that, she sent you a letter. Just excuse me and I will see if I can find that. Would you turn back, please, to Exhibit 23 in that book? Perhaps I can do better than that. Yes. Do you have - sorry, Madam Chairman, I am struggling to find something. You have, in fact, have exhibited that letter to your statement?-- Yes.

The letter of the 31st of May?-- Yep.

Signed Lois?-- Yep.

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Setting out the details of the break up of the figure that you'd been paid?-- Yep.

And she also sent to you some spreadsheet details, if you like-----?-- Yep.

-----from the Stream-----?-- Yes.

-----computer system, and if we - would you take up your second statement now, please? Do you have that?-- Yep.

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And about the last or 10 pages in we see a Stream document - 10 pages in from the back, I should say?-- Yep.

A Stream document dated 31 May 2011?-- Yep.

If you just look-----?-- No. 13/4 have got.

Look on the screen if your eyes are better than mine. This is a copy-----?-- Yes.

-----of an attachment to your-----?-- Yep.

-----statement? And that's a letter, -a report of some kind from Stream to RACQ that day, that is the date that you and Lois had the conversation?-- Yep.

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And perhaps we shouldn't put some figures up. Behind that in your statement are extracts of certain details which are concerned with the prices of doing building works; do you recall that? Some scope of works, some figures against work to be carried out?-- Yes.

The kind of data that you expected Lois could get from Stream?-- Yes.

And send to you?-- And she did, yes, yes.

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Thank you?-- A month after I'd been paid out or - yes, three weeks.

A month and a half after you'd been paid out?-- Yeah.

I understand. All right. Now, just let me ask you this: you had obviously not had clear in your mind the fact that Lois had spoken to you on the 31st of May and provided that information to you when you made your first statement?-- My mindset on making the statement was on events prior to the settlement of my claim, which I - I viewed to be the end of the issue, that the letter in correspondance with Lois came much later.

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I understand. But you do deal with - you made a complaint to the Commission?-- I did.

And one of the things you said to the Commission is, "I'm giving you the totality of my dealings with RACQ Insurance."?-- Yep.

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And you made a statement which also says-----?-- Yep.

-----things like, "I'm telling you everything that happened and things that didn't happen.", and you don't tell us about the conversation with Lois or the stuff that she sent you?-- No, I did. On the - on the last page of my statement I mentioned the fact that Lois wrote, she attempted to explain all of the RACQ discrepancies and provided me with certain information.

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That's fine?-- Something like that.

You intended to tell the Commission that she had dealt with the things that you wanted to deal with on the phone and had sent you these quotes-----?-- Yes.

-----this quote information, and you are certainly not trying to hide the fact that she'd done that?-- Yep.

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Okay. It might be a small point, Mr Byron, but in your statement today, you give us an e-mail dated the 1st of July 2011 sent to your local member?-- Yes.

And in it you refer to receiving a call out of the blue from Stream?-- I did.

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You say on the 28th of May?-- Yes.

If I were to suggest to you it was the 28th of June, does that sound more right?-- Could be. I don't know, but it did happen, it just was so bizarre.

We agree. Now, one of the things you said in the course of an early conversation, I think, with Stream or Mr De Leo back in April is that you had a builder ready to go?-- Mmm.

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Had you obtained from that builder a quote to do the work as at the 13th or 14th of April?-- No.

Thank you. I have nothing further, thank you, Mr Byron.

COMMISSIONER: Anybody else wish to cross-examine? No.  
Ms Mellifont?

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MS MELLIFONT: One question. You were taken to your e-mail to the Federal Member and asked whether the 28th of May may have been the 28th of June. If I could indicate to you that your e-mail to the Federal Member was the 1st of July 2011, do you recall the telephone-----?-- Well, that would probably confirm June, yes.

June, yes. Thank you. I have no further questions. Might the witness be excused?

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

You are excused.

WITNESS EXCUSED

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COMMISSIONER: That's the close of a long weary day? 1

MS MELLIFONT: Yes.

COMMISSIONER: 10 o'clock tomorrow morning.

THE COMMISSION ADJOURNED AT 4.56 P.M. TILL 10.00 A.M. THE FOLLOWING DAY 10

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