

Transcript of Proceedings

Issued subject to correction upon revision.

THE HONOURABLE JUSTICE C HOLMES, Commissioner

MR JAMES O'SULLIVAN AC, Deputy Commissioner

MR PHILLIP CUMMINS, Deputy Commissioner

MR P CALLAGHAN SC, Counsel Assisting

MS E WILSON, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2011

QUEENSLAND FLOODS COMMISSION OF INQUIRY

BRISBANE

..DATE 26/09/2011

..DAY 36

THE COMMISSION RESUMED AT 10.00 A.M.

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COMMISSIONER: Just before you begin, I see, Mr Ure, you're back appearing for the Moreton Bay Regional Council?

MR URE: The Local Government Association of Queensland on behalf Moreton Bay Regional Council, Commissioner.

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COMMISSIONER: Yes, thanks. Yes, Ms Wilson?

MS WILSON: Madam Commissioner, I call Lola Worthington.

LOLA FAY WORTHINGTON, SWORN AND EXAMINED:

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COMMISSIONER: Yes?

MS WILSON: Thank you, Madam Commissioner. Is your full name Lola Fay Worthington?-- It is.

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

Can I show you this document, please? That document-----?-- Yes.

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That folder contains your statement and the exhibits that you have attached to your statement?-- It does.

Madam Commissioner, I tender that statement and exhibits.

COMMISSIONER: Exhibit 610.

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ADMITTED AND MARKED "EXHIBIT 610"

MS WILSON: Now, you are a resident of Male Road, Caboolture?-- I am.

118 Male Road?-- Correct.

You lived there since 2006?-- Correct.

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The residents in the area around your residence you believe was developed in 1979 to 1983, around that time?-- The subdivision, Caboolture Meadows, that was when it was first developed, in that period.

And you refer in your statement to all the houses built then were over the then hundred year flood line?-- Correct.

And how do you know that?-- We were told.

Okay. By?-- Hearsay, by hearsay.

By hearsay?-- Yes.

Is that just being all the neighbours talking?-- Yes.

Now, your property is on the northern side of Male Road?--
Correct.

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Now, if I can show you this map, which I understand that you have been shown this morning, and it will come up just in front of you on the screen. This is a map that shows your property at 118 Male Road?-- Yes.

And you can see that, that's the blue bold line?-- Yes.

Now, your property and the properties on the northern side of Male Road are in five acre lots?-- Correct, except the very one at the far end.

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Which number was that?-- Be 146, it's slightly larger.

Okay. And the properties on the other side are about the same?-- Oh, opposite us is now a new subdivision.

Okay. They were at the time lots of around five acre?-- They were all - yeah, there was seven five acre lots.

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Can you tell us about the subdivision now that is across the road?-- There's now approximately 193 to 195 homes on that five acres. The land and the roadway were all built up. Some of the land was built up to approximately two metres in height.

Okay. Just so that we are all clear what you are referring to when you say about this new subdivision, can you - there's a pointer to your right. Can you indicate - see that little white-----?-- That?

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Yep. Now, can you pick that up?-- Mmm-hmm.

If you push that button do you see a red light shine out?-- Yes.

Now, you will be able to point to us all on that map up there - see the map up there?-- Yes, yeah.

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Okay. Can you point to us and show to us where you are talking about where this new subdivision is? Down a bit?-- Can you see Herd Street, Herd Street there.

Yes?-- That's part of the new subdivision. Where you see number 79, that's still the original land at the original height and to the left of that is a retention basin. Now, your Elof Road is part of - and Granger Road - they're part of

the new subdivision. Schofield Circuit, where you see that, is part of a subdivision that was developed approximately in 2002, to my knowledge.

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Okay. Your statement refers to that initially there were no industrial areas in the vicinity. If I can just clarify the term that you use "initially", is there any industrial areas in your vicinity now?-- Not to my knowledge.

Now, when you purchased your property on Male Road, the council was the Caboolture Shire Council?-- Correct.

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And then the Caboolture Shire Councils amalgamated and other councils became the Moreton Bay Regional Council?-- Correct.

When you purchased your land, it was zoned rural residential?-- The original property was - it wasn't residential A, it was the rural residential, yes.

And what about when you purchased your property?-- By the time I - by the time I bought into that property - I'm not sure of the status. It could have been residential A, I'm not sure.

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And what is your property zoned now?-- It's residential A now.

So, at one time it was rural residential?-- Correct.

And now it's residential A?-- Yes. It was changed without our knowledge.

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Now, King John Creek is near your property?-- Yes.

Now, King John Creek is shown on this map?-- Yes.

And is that the dark blue line that weaves its way through?-- Yes.

And you can see that going through 26, 34, 42, 58, 56, 74?-- Yes.

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Now, your property was flooded in the - in January 2011?-- Yes.

Can you tell us where you believed the water came from?-- Well, can we go back a bit before this year? That area had five floods in the time from '88, '89, '91, '92 and '99 and in that period of time the water behaved in exactly the same manner. The water would come along the creek and as soon as it got to the Bruce Highway, that's when the water would then back on to the properties, it would come back that way. However, this year when it did flood, the pattern of water had a total change. We had water coming from the western end of Male Road, we had it coming from the retention basin and we also had it coming back in from the highway back on to the properties. So, we were getting hit in three different directions.

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Okay. Well, if we can, I would like you to show us using that pointer, if you can, and Ms Rolf-----?-- The pointer's gone.

It's gone?-- It's gone.

The Associate will assist if you can't do it.

COMMISSIONER: Would it be easier to get Miss Worthington, if she shouldn't mind, just to show us?-- Can I stand up and go over?

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Yes. Would you mind doing that?-- The first five floods that the area experienced, the water come would down the creek and as soon as it got to the Bruce Highway, it would then come and it would back on to the properties that way, the water always came that way. In '09 and this year when the water came we had it coming from this area, we had it coming from the retention basin that way, and we also had the water coming back this way. So, we got hit three - on three sides.

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So you are saying from west, from east and the from the retention basin?-- Yes. The property 100 suffered very badly with the water coming from this retention basin area. It was actually going straight across the road and straight into their house and straight through their house, and in '09 - in the previous five floods not one house had water near them, right. In '09 five houses got flooded, this year eight houses got flooded.

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And is that map north-south oriented, as far-----?-- Well, that's the west.

Mmm-hmm?-- Right.

That sounds right then. Thanks very much, Miss Worthington.

MS WILSON: Miss Worthington, while you're there, can I just ask you a couple more questions that you can just help me identify a couple of other features that you mention in your statement? In your statement that you - you provide a number of reasons why you think the flooding occurred?-- Mmm-hmm.

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And one of them is the housing developments-----?-- Yes.

-----around your area?-- Yes.

And you identify Lilyvale?-- Yes.

Could you show us where Lilyvale is?-- Lilyvale is way over here, off Male Road.

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To the bottom of that photograph you've got in front of us?-- Yes, see, the old Male Road came right down this way and Lilyvale was here, and the water from the Lilyvale estate goes into this retention basin. The water from Schofield Circuit goes into this retention basin.

And another housing estate or development that you refer to is Kelvin Grove?-- Yeah, well, it's - Schofield Circuit is Kelvin Grove.

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And Elysian Grove?-- Yes, that's this one here.

Okay. And you're referring there when you are talking around the Herd Street Elof Road?-- Yes.

Is that the case?-- Yes.

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Thank you very much.

COMMISSIONER: Before you go, just so I understand where the retention basin is exactly, what can you tell me that's around it so I will remember later?-- Oh, okay. Property number 79 is still the - at the original ground level that the whole area used to be. The retention basin is straight to its left, right.

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Thanks very much?-- And-----

MS WILSON: In paragraph 9 of your statement you set out the-----?-- Oh, yes.

-----combination of causes-----?-- Yes.

-----that you believe contributed to the flooding. Just one matter that if you could provide some further assistance on? One of those factors is King John Creek being overgrown-----?-- Yes.

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-----with vegetation and built up of debris and silt deposit?-- Mmm-hmm.

But you go on further in your statement to say, "You do not believe that the vegetation of tea-trees on the eastern side of the Bruce Highway prevents the flow of water."?-- Yes.

Perhaps if we can have that map up again? Those tea-trees-----?-- Are on the other side. We got a letter from the Main Roads Department stating that the cause for our flooding was the tea-trees that are growing on the far side of the-----

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On the other side of the Bruce Highway?-- On the other side, on the southbound, and we do not believe that's the cause. We never knew that tea-trees could stop water. Our property at the back is full of tea-trees and if tea-trees can stop it, it didn't at 118 Male Road.

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And the concerns that you and your residents hold in relation to the flooding of Male Road and the areas around that, you've written to the council on numerous occasions-----?-- Yes.

-----setting out those concerns?-- Yes.

And the council has responded and those - that correspondance

is included in your statement as attachments?-- It is. 1

Thank you very much. I have no further questions?-- Okay.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: I have nothing, thank you, Commissioner.

MR FLANAGAN: No questions. 10

MR URE: I have nothing.

MS O'GORMAN: I have nothing.

COMMISSIONER: Thanks very much, Miss Worthington. You are excused.

WITNESS EXCUSED 20

MS WILSON: Thank you, Madam Commissioner. I call Juleia Murray.

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JULEIA NICOLE MURRAY, SWORN AND EXAMINED:

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MS WILSON: Is your full name Juleia Nicole Murray?-- Yes, it is.

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

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And can I ask you to look at this document, please? That's a copy of your statement?-- Yes, it is.

Madam Commissioner, I tender that statement.

COMMISSIONER: Exhibit 611.

ADMITTED AND MARKED "EXHIBIT 611"

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MS WILSON: Ms Murray, you live in Dale Street, Burpengary?-- That's correct.

And how long have you lived there for?-- Seven - seven years in June this year.

Okay?-- Sorry, seven and a bit, yes.

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Seven and a bit years?-- Yes.

Perhaps if we can just now show you a photograph - an aerial photograph?-- Sure.

And we can identify where you live in relation-----?-- Sure.

-----Dale Street, and a couple of other features for us.

Madam Commissioner, I am reminded that online photograph is not tendered to the statements, so I will tender that photograph that I showed Miss Worthington.

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COMMISSIONER: That will be 612.

ADMITTED AND MARKED "EXHIBIT 612"

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COMMISSIONER: Are you tendering this one as well?

MS WILSON: I will tender this one as well.

COMMISSIONER: 613.

ADMITTED AND MARKED "EXHIBIT 613"

MS WILSON: You live at 17 Dale Street?-- That's correct.

And you can see that that's got a thick blue line?-- Yes, that's right.

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And can you locate the Burpengary Creek for us?-- Basically the line of trees that you can see, so it's to the north of our property, and then at the end of Dale Street it kind of wraps around to - yes, to the left of Dale Street, between O'Brien Road and the end of Dale Street.

Right?-- So, basically where 112 is and 46, that-----

It is that still Burpengary Creek?-- That's still Burpengary Creek.

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Okay. So, it follow that grove of trees-----?-- Yes.

-----that comes through 46. Now-----?-- And - sorry - it also - it does go under O'Brien Road there as well.

Okay. So, it diverges just before O'Brien Road, goes under O'Brien Road, and also wraps around at the end of Dale Street where we see that 46. Now, when you purchased your property, what did you assume your risk would be for flooding?-- We thought that there - the fact that the property was bordered by Burpengary Creek that we may be at some risk, but when we purchased - well, we're in the - when we were purchasing it, we asked our solicitor to carry out all of the searches and flood - including flood searches and all the council searches, and he - we were told that council didn't have any records of flooding in that area.

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Now, your property has now flooded four times?-- Since we have been there, yes.

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April 2009, May 2009, October 2010 and-----?-- January.

-----January of this year?-- Yep.

On each occasion has the flooding and the flood waters come from the same direction?-- Yes, so - because of the - where the creek is located in relation to our property, it comes from - from the rear of the property - from the north, I guess you consider that, and then also from the end of Dale Street. So, it actually - we tend to - probably tend to notice it - that we can see it from out the back of the property, you can see the water passing, passing the property, but it doesn't actually enter the property until fairly late and then it comes up really quite quickly and then by the time it's in from the rear, it's actually coming up the street as well.

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And in January this year-----?-- Yes.

-----how high did the water reach on your property?-- It was about 1.2 metres above the ground storey.

And did your house get - did flood waters enter your house?-- Yeah, about 1.2 metres inside the house.

How does that compare to previous flooding?-- This was the worst that we have had in the four that we have had. October 2010 we only got a small amount of water. It was about maybe not even an inch deep under the house. In April 2009 we probably had about - it was about knee deep under the house, and then in May 2009 it was perhaps waist deep, but 2011, January 2011 was by far the worst.

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If I can take you to paragraph 22 of your statement, and you refer to "significant development both upstream and downstream of our property", and it is your belief that this has contributed to the overland flow and ability of Burpengary Creek to cater for this excess overland water?-- Yes.

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Simply put do you believe that this significant development - and we will get to that in a moment - has contributed to the flooding of your house?-- Yes.

If we can have a look at the map or the aerial photograph which we referred to before and if you can just assist us and when you refer to the significant development?-- It's not shown on this map, but if you go further west of O'Brien Road, there's a number of developments, number of residential developments, housing-----

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So, across the road from O'Brien-----?-- Across the road and - yeah, over to the right - left, sorry, and then to the right, I guess to the east, there's some shopping centres and the school and that - where there's significant buildings and pavements, car parks and that kind of thing where they would sort of contribute to the - the water's not able to sort of sink into the ground basically.

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Has there been any recent developments on Dale Street?-- Not that I'm aware of.

Okay.

COMMISSIONER: Can I just ask how do you get in and out? What's the access road?-- If you follow Dale Street to the - to the east, you can come down Springfield Drive and that comes off Burpengary - Burpengary - no, Station Road, sorry, and you can also come in via Pamela and Patricia and there's - there is a back way via Leah Street - you can't see it on this map - but typically the main way would be along Dale Street and turn on to Springfield Drive.

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In the flood this year, was any of that open?-- At its peak - I wasn't actually there when it first flooded, I got there at about 1 o'clock in the afternoon, and we couldn't even turn

into Dale Street, the water had extended all the way up Dale Street and it had actually cut Springfield Drive, so you couldn't continue along Springfield Drive either, and the other - the other streets I'm not sure if you could go down that way, but - yeah, Dale - Springfield Drive is significantly higher, it's the high end of Dale Street, so if that was blocked, then other ways definitely would have been blocked.

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MS WILSON: Since the flooding in January of this year, there has been some meetings between residents and the Moreton Bay Regional Council?-- That's correct.

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And you have been advised by council that expert reports have been prepared regarding various flood and mitigation options?-- That's right.

Were any options discussed with the residents?-- At one of the meetings Councillor Chris Whiting was there and he had mentioned that there were a number of studies - studies had been carried out - I am assuming it was by hydrologists but by experts, and one of them was looking at either rediverting the creek or something along those lines, and he advised us at one of the street meetings that it was just far too expensive and it just wouldn't be carried out, and so then there were discussions about various different things that the residents thought might be able to be carried out, but as far as I'm aware, nothing else. I think they have looked into it. There was another street - another meeting called about two weeks ago where I believe they talked about some early warning systems.

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What was discussed in relation to early warning systems?-- I didn't attend the meeting, I wasn't able to attend, sorry.

You talked about the residents have some ideas?-- Yes.

Can you tell us what some of those ideas are?-- One of them was potentially - I mean, it wouldn't - it wouldn't stop the property from flooding but it would give us some - an earlier warning, maybe some form of solar powered beacon or something like that at the end of the street that would be able to tap into the Bureau of Meteorology information to - and looking at the level of the water, so that a siren might sound or something would - would sound so that the residents would get an early warning, because the first warning we - official warning we had was the text message that I believe a number of people got, that was about 11.35 that morning, but by that time it was two and a half hours too late.

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There is a gauge on Burpengary Creek?-- Up a little bit further in the park, in the reserve there, which is about five - to the east of us.

Do you ever go up and have a look at that?-- No, you can access it via the Bureau of Meteorology website, but I wouldn't know what to look at it - at the actual station itself.

Thank you, Ms Murray, I have no further questions.

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COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: Nothing, thank you.

MR FLANAGAN: Nothing, thank you, Commissioner.

MR URE: I have nothing, thank you.

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MS O'GORMAN: No questions, thank you.

COMMISSIONER: Thanks very much?-- Thank you.

You are excused.

WITNESS EXCUSED

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MS WILSON: Commissioner, I call Tony Martini,
Anthony Martini.

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ANTHONY BRENDAN MARTINI, SWORN AND EXAMINED:

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MS WILSON: Thank you, Mr Martini. Can you tell us your full name?-- Anthony Brendan Martini.

And you're the director of engineering construction and maintenance of the Moreton Bay Regional Council?-- That's correct.

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And you have made a statement to the Queensland Floods Commission of Inquiry?-- That's correct.

Can you have a look at this document, please? This is statement that you have made and there are some attachments that you have attached to your statement?-- That's correct.

Madam Commissioner, I tender that statement with its attachments.

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COMMISSIONER: That's Exhibit 614.

ADMITTED AND MARKED "EXHIBIT 614"

MS WILSON: Have you got that statement in front of you?-- Yes, I have.

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If I can take you to some of the matters that you raise in your statement. In paragraph 2.1 you talk about a detention basin?-- Correct.

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Now, if I - we can bring up Exhibit 611, which is the - a photograph of Male Road and the region. You've just been in the back of the Court and you saw Ms Worthington give evidence?-- That's correct.

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Okay. And you saw that photograph, that aerial photograph shown to her?-- Yes, I did.

Six-hundred and 10 perhaps. The previous photograph.

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COMMISSIONER: It's 612.

MS WILSON: Six-hundred and 12. Thank you, Madam Commissioner. You heard Miss Worthington discuss the detention basin?-- Yes, I did.

And is that the same detention basin that you refer to in paragraph 2.1?-- Yes, it is.

And could you indicate just for us where - just to clarify that we are talking about the same piece of land, can you show us?-- Sure. Sorry, I can't - it doesn't seem to be appearing on the scheme. It's appearing on the wall.

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Okay. Could you just quickly - could you just quickly just go up there and show it to us?-- Sure.

COMMISSIONER: And can you give some indication of what's around it so that we've got a record?-- There is a residential development in and around the detention basin.

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Which numbers?-- 57, 26, 23, 13.

Thank you.

MS WILSON: This detention basin is not for the purpose of flood mitigation?-- No, that's correct, it's not.

Can you tell us what the purpose of this detention basin is?-- Is to take storm - to cater for stormwater runoff from the development.

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And when you refer to "the development", which development is that?-- I'm not sure of the actual title of the subdivision but certainly it - and I can't give you the actual name of the subdivision, I'm afraid.

Can you see that subdivision-----?-- Sure.

-----on that map?-- Yes, I can.

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And can we easily describe it by identification of roads or - and numbers?-- Elof Road and Male Road.

So-----?-- And Granger Street, sorry.

And Granger Street. So that development there - that detention basin serves that development there?-- Mmm-hmm, yes.

And was that a council initiative to put that - to put that detention basin in or was it a part of the development process?-- My - I'm not - I can't - I would understand it would be part of the development process. I can't say, given the - I'm not in that area that largely it was a condition of the council requirements.

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Now, council has recently investigated possible flood mitigation options for the Male Road area?-- That's correct.

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And you're aware that the residents of Male Road have voiced their concerns to council on many occasions?-- I'm aware, yes, that's correct.

Okay. And a draft report has been undertaken by the Moreton Bay Regional Council?-- Yes.

And you've attached that to your statement, and perhaps if we can go to that, which is the first attachment to your statement. I'm told it's the second. You've got that document in front of you?-- Yes, I do.

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It is - the status of this document is presently draft. How much more work needs to be done on it before it can be finalised?-- Very little.

And so then when is it proposed for this to be a document in final form?-- Oh, probably within the next month or two. What will need to be done, it will need to be included in a council report and go to the council for resolution adoption.

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Is it going to be externally reviewed?-- There's no reason why it can't be.

And is that a process that the council undertakes when getting these reports?-- Not all the time, no.

And is this a report that would be considered to be up for external review?-- Well, the report was generated via a department that doesn't undertake development engineering assessment so it is independent of that area of council. It was also undertaken by an independent person who was engaged as a contractor of the council, so certainly there is a degree of independence in terms of that, but, having said that, there is no reason why anyone would be concerned with regarding having an external review of what's outlined in the draft report.

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Are you familiar with the contents of this report?-- Yes, I am.

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I'm not going to ask you about the modelling because I understand that that - you didn't participate in that aspect of the report but if I can take you to some issues that are raised in this report?-- Sure.

Are you comfortable with that?-- Yes.

First of all, if I can go to figure 2.1, which is at page 3, and if you can assist me in relation to this. Figure 2.1 is titled the "Floodplain Extent at Male Road"?-- Yes.

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Now - and we can see the floodplain as shaded in blue; is that correct?-- Yes.

Now, where did the council get this information from? Was there flood mapping undertaken to get this information?-- Council, since amalgamation, has embarked on a regional flood database and part of that work, that's still in progress, is a result of that flood mapping that the council has done to map and flood - flood map, I suppose, the whole of the region as distinct from the three former municipalities. It's a work in progress and it's still, like I said, about another year to go before it's completed, but certainly in this area-----

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Sorry, I didn't quite pick that up?-- It's got about another year to go before the regional flood database project is completed.

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The work that has been done on the Male Road and regional - and regions adjoining that floodplain, is that finalised? Is there any more work to be done on this?-- Not a lot. It's nearly finalised, yes.

And when the floodplain is identified on this photograph in this figure what are we looking at? Are we looking at a Q100 or are we looking at a defined flood event or are we looking at a probable maximum flood, can you assist us?-- Probable maximum flood.

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So this is the probable maximum flood?-- That's correct.

Now, since the 2010/2011 floods that occurred in the Moreton Bay Regional Council area, are these going to be revised to incorporate any additional data that may change that?-- Certainly. The January '11 event has been surveyed and mapped and that's also been included in the work with updating the mapping. As well there's the extra year to run to finalise all the modelling across the municipality. That will then be refreshed. In about year's time there may well be some change to this mapping. What effect that has at the moment I can't tell you, if it's worse or not - or less.

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The modelling, is the modelling being done by external consultants?-- That's right.

Now, this report on Male Road addresses four issues, that are outlined at page 1. Sorry, five issues that are outlined on page 1. Can you tell me how the scope was determined for this report, why those issues in particular?-- They were seen to be the major issues that could have an effect on the flooding situation of that catchment. Some of them were looked at in terms of - you know, in terms of the modelling of how the King John Creek performed, were quite conservative in terms of trying to model certain situations and look at what effect that would have, particularly urbanising the catchment or if

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the catchment was dense with vegetation, as there were concerns expressed previously by the community members that largely that was a problem in terms of the amount of vegetation in the creek. The fact that residents were also concerned about the extent of development and what effect that was having on flooding, as well as the Bruce Highway.

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If I can take you to the conclusions of this report, which can be found at page 19. In terms of the Bruce Highway, it was found that the Bruce Highway did contribute to increased flooding?-- Yes, that's correct.

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And an upgrade could have some impact on reducing flooding levels?-- Yes, that's correct.

Has the Moreton Bay Regional Council been in discussions with the Department of Transport and Main Roads?-- Yes, they have.

And can - when will any upgrade or is there any upgrade proposed?-- The advice at this stage is that TMR will look at upgrading the southbound land in around 2019.

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Twenty?-- Nineteen.

Was the discussions with the Department of Transport and Main Roads, was that done with this flooding impact in mind or was it done in isolation of that?-- The report was - well, I understand the report was discussed with the Department of Main Roads. I wasn't privy to the meeting but that was my understanding.

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Catchment development is also discussed in the conclusions, and at page 20 that is set out. The results indicated that in a large flooding event, that is 50 to a hundred year ARI, the Male Road area is "not sensitive to uncontrolled development". Can you assist us what that terminology means, "not sensitive to uncontrolled development"?-- If I can - as I was mentioning before, one of the options that was modelled was if you considered the whole catchment of King John Creek catchment, and you treated it like it was an impervious area, if you like, it was concrete for the full width and extent of the catchment, that was modelled and the effect that that would have on flooding, as also was modelled if the catchment was completely dense with vegetation with an average of a tree every metre, and to that extent if I can take you through to show you the difference in table, I think it's said there in the conclusions, it's about a difference of a hundred and 50 millimetres on the effect and flooding in that catchment, and particularly at Male Road area. Those two scenarios, being the catchment being a hundred per cent impervious or being densely vegetated, are quite extreme and quite conservative, so the conclusion from that is, given the conservative nature of those two cases and the effect of those is only to increase the flooding by a hundred and 50 millimetres in the area that largely that was seen to be then insensitive to the area or largely, you know, development didn't have a substantial effect on flooding in Male Road.

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COMMISSIONER: What if the land's built up for the development?-- Depending upon, I suppose, the nature of the terrain in terms of where it flows to. Certainly the developments which drain into the retarding basin, detention basin, basically naturally, whilst they're built up, they still flow in the normal path that they did, and all effect that has had is maybe affecting the Q100 line by maybe the width of the road. That's the modelling that's come out of it, so again it's not significant.

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MS WILSON: So the comparison was done with densely vegetated, comparing that to a developed area by houses and residences?-- Yeah, that's correct.

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Was - before the development occurred was that the state of the area, was it densely vegetated?-- I don't know, I can't tell you that, I am not aware.

Well, was any inquiries, and perhaps you can't assist, but was any inquiries undertaken to be able to give a comparison about what the state of the land was before the development and what the - as compared to the development that is there now?-- I appreciate your point. All I could say in those two cases that were modelled, one basically makes the whole catchment impervious, which is quite extreme. It's certainly worse than having, you know, housing all over it because there are areas of green and park and those sort of things. And the other modelling where the density of vegetation is every metre, whilst I can't say that wasn't the case before development, it would be quite extreme that it was.

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And so that is how we get to the conclusion of this report that it - the development really had no effect upon the flooding?-- Minimal effect, yeah.

COMMISSIONER: Which bits of the report will show me what has been considered about built-up development? In other words, I think Ms Worthington said that the development across from her was built up to about two metres?-- I don't think the report talks particularly about those things in terms of levels and those sort of things, it talks about what I've just said in terms of modelling the catchments, if they were different to what they are at the moment. It then talks about the actual retarding basin and the effect of the retarding basin and its function. It also - so the development area is, I suppose, covered in section 5, but there's no particular section in there that talks about the - a particular development being raised by two metres particularly.

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So how do we form any view about the effect of the build up? You say, well, it would just run off into the retention basin but has that ever been considered, modelled, studied?-- Certainly, as I understand, to perform in a one in a hundred year event it can handle those floods. Certainly in the situation on January where water did back up, as it normally does from the Bruce Highway, and given that the catchment was saturated, and the event, as we've modelled, is that it was greater than one in a hundred, certainly may be substantially

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closer to maybe one in a thousand, so certainly the catchment was flooded, it was already saturated and largely, in effect, nearly mimicking an impervious area because it was saturated and water just ran off, so the effect of development was pretty miniscule in terms of the size of the catchment and the floodplain and the effects that that would have on flooding of the area.

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How do you know?-- Well, it is through models.

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It is through models?-- That's right, yes.

But where do we see those?-- They're part and parcel of this report. I'm sure if we could provide a modelling situation for you I'm sure we would be happy to do that but I'm just not quite sure how that's done simply and easily.

MS WILSON: This report also looked at the creek conveyance?-- Yes.

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And "testing undertaken on the impact of increasing or decreasing the conveyance of King John Creek in the reach adjacent to Male Road," and you can find that on page 22?-- Mmm-hmm.

What is this report, in effect, looking at when it refers to "increasing and decreasing the conveyance of King John Creek in the reach adjacent to Male Road"?-- Increasing the conveyance, if you like, makes it easier for the water to or - the quicker. So an impervious state, the water runs off the impervious-modelled area quickly, more quickly. Where if it's densely vegetated, then largely the flow through that is longer and it tends to then block up. So that's the difference between having something that's quite smooth and impervious to having something that's quite dense with vegetation.

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And the - this report concluded that there was very little benefit and not feasible to do anything there?-- The effect of the conveyancing was not significant in terms of the flooding, that's what it came up with, yes.

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Drainage issues have also been matters that the residents have raised in relation to the King John Creek area?-- In terms of how it flows?

Yes, and in relation to the effect of the detention basin?-- Okay. If I can take - certainly there is an effect of the Bruce Highway with the southbound lane being, I don't know, a hundred - I'm not quite sure of the exact figure but it's certainly lower than the northbound lane. The southbound lane was the earlier road constructed just before or at the same time as the subdivision, where the latter road was constructed later. There's certainly a difference in height and certainly the southern-bound lane does cause concerns and contributes to back-flooding. There's also some vegetation, which we discussed with the Department of Main Roads at the meeting with them, that - so we're encouraging them to clean up around

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their embankments, that may assist lessening any effect of the
- not totally affecting the effect of the southbound lane but
certainly it would assist-----

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Well, actually I was - as my - I was looking at-----?-- But
getting into the retarding - detention basin-----

Detention basin, that was the focus of my question?-- It is
certainly - yes. It's certainly designed and constructed in
accordance with its intent. It is certainly not there to take
anything like the significant storm event that happened on
January '11, that's not what it's designed for. So when the
catchment is in flood the detention basin's, I suppose,
effectiveness is somewhat significantly reduced. It
undertakes its function by draining water or surface water
runoff from the subdivision which drains into it, but largely
it's not there as a mitigating measure for any flooding in any
way, shape or form.

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But has it been investigated whether it exacerbates the
floods?-- I can't - well, this report says it has minimal
effect. There's certainly some-----

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Well, look, if we can just stop there?-- Sure.

Let's go to page 17?-- Mmm-hmm.

The report says that a detailed inspection of the detention
basin and a review of the design capacity has not been
undertaken as part of this investigation?-- Not as part of
this investigation but certainly would have been as part of
the development assessment and certainly there's a number of
letters on file about the matter in terms of explaining how
the matter functions and for my - also understanding there's -
there was a review or some - an independent engineer made some
comments about the controlling mechanisms and how the level of
the retarding basin and those sort of things were done, and
certainly that independent engineer had, after there was some
modification during the design process, no problem with the
function and the intent of the retarding basin.

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But this report doesn't consider that?-- No, it doesn't.

And this report states that the Moreton Bay Regional Council
has no reason to believe that there are any problems with the
detention basin?-- That's correct.

So can you answer this: has any study been done to determine
whether the detention basin can increase flooding at times of
floods to the residence?-- Not to the degree of this report,
no.

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If we can go back to figure 2.1?-- Yes.

Which is the floodplain extent at Male Road. And if you can
just assist us in - this is the floodplain extent. If you
could just show us in relation to this figure where that
detention basin is in relation to the floodplain, and perhaps

it would be easier if you just go up there, Mr Martini?--
Just here.

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So it's adjacent to the floodplain extent as on this - in this figure, as shown in this figure?-- That's right.

Can you assist whether in the 2011 - 2010/2011 floods that the floodplain extent went over the detention basin?-- I'm not quite sure of the October 2010 event but certainly January '11 it did.

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It did?-- Mmm-hmm.

So when we're looking at the probable maximum flood, as you've said this figure shows, then that really is wrong and it should be modified to take into account?-- That's my understanding but I might be in error.

Okay. And do you know whether the council is doing work to do that?-- There is some ongoing work with this report. Certainly I take your point in terms of the retarding basin. I'm sure - I know there's been additional work done in the early days when it was designed. We're certainly happy to look at that in terms of doing some modelling on the effectiveness or if it contributes to any flooding. We don't believe it does, we believe it functions in the Q100 event, because that's what it was designed for. We don't - the subdivision isn't designed for a PMF even, it's designed for a one in a hundred year, and in that context we're satisfied that the retention basin does behave as it's expected to do in that event.

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And is the council taking into account the history of flooding that seems to be occurring in this area when looking at how that detention basin serves its purpose?-- Certainly. Certainly the recent events were significantly more intense than events of previous years which has probably added to the degree of flood.

You're aware that residents of Male Road, Caboolture, believe that certainly upstream developments are contributing to the flooding in their street?-- I certainly understand that they've written to council on that basis.

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And if I can just identify one, which is Elysian Grove. Are you aware of that development?-- Not offhand, no.

So you couldn't assist me with-----?-- I can try to answer you but I'm not overly familiar with the development.

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Are you aware that concerns have been expressed about Elysian Grove contributing to flooding and the council has responded that Elysian Grove does not exacerbate flooding issues? Are you aware of any of that, communications between council and the residents?-- If I can just find some things here, if you just let me. I have a number of letters but they really are - I've got a letter dated the 5th of November 2009. It was addressed to Mr Quinn and Mrs Worthington. It is from the

Mayor-----

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Yes?-- -----and that talks in the - on page 2 of the letter about Elysian Grove Estate.

COMMISSIONER: I'm pretty sure that will be Elysian.

MS WILSON: I apologise, Madam Commissioner, I didn't quite hear you.

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COMMISSIONER: I'm pretty sure that will be Elysian Grove.

MS WILSON: Elysian.

COMMISSIONER: Well, that's how it's spelt.

MS WILSON: Thank you, Madam Commissioner. In terms of Elysian Grove, you've got that letter of the 5th of November 2009?-- Yes.

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Madam Commissioner, I will tender that letter.

COMMISSIONER: Exhibit 615.

ADMITTED AND MARKED "EXHIBIT 615"

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MS WILSON: Now, is the view of council, and I don't know whether you can assist me with this or not, is that view based on the assessment of the stormwater drainage issues that occurred during the assessment of the development application?-- Excuse me. From what I'm getting out of the paragraph on top of page 2 the Mayor was advised when he's written this letter that largely, from what I'm reading, is that the detention basin during the event 2009, I would assume, appeared - performed adequately in that it didn't overtop or did what it was expected to do in a Q100 event.

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Are you aware of any stormwater drainage assessment that occurred during the development?-- No - no, I'm not offhand, no. Not first-hand, no.

If we can just - before we leave the Male Road flooding assessment of September 2011, there are recommendations that this report provides, and they can be found on page 23, and they can be summarised in relation to matters that need to be taken up with the DTMR?-- Yes.

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And which you've discussed that - already here today that any such - to your understanding any such upgrade won't occur for some time?-- That's the advice from the Department of Main Roads, yes.

(e), 8(e) looks at the "future zoning of these flood-affected parcels should be reviewed as part of the preparation". Do you - can you assist us in terms of what future zoning would be reviewed?-- The zoning of the land in Male Road?

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It is presently-----?-- There's no - sorry-----

It's presently Residential A?-- I'm not quite sure.

So, I'm just wanting to know what this report is recommending in terms of future zoning in relation to this area?-- The report's recommending that consideration be given to maybe alternative zoning of the land that may assist its - and maybe look to increase the height of the land in certain parcels and maybe allow greater development. But that's just options that are being looked at and are being canvassed, so those matters are being referred to the Council's planning team as part of their development of the Moreton Bay Regional Council planning instrument.

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So is it the case, in terms of any detail, you can't provide us with any real detail about this recommendation?-- Really, there's nothing specific. It's more that consideration be given to what options there may well be that may improve the situation for residents in terms of what options there might well be in terms of rezoning land.

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How would that improve - how would rezoning improve the situation for residents?-- There are some options that might consider, like I said, the areas that get flooded which are closer to the creek - that maybe something different happens with that land. It's not a buy-back and it's not what's considered here at all. It's just looking at potential different uses of the land and how that might assist the situation. That's all. And nothing specific at all.

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And are you aware whether that is on track at the moment, or is it just a possibility that may be considered?-- It's more a possibility.

There has been no work done on this?-- Very little. But there has been some, but not significant.

There are recommendations provided in this report that would be directed to the property owners?-- Yes.

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Can you advise us what Council is considering in relation to working with the property owners about these recommendations?-- If you're referring to the (g) and the two dot points there particularly, certainly we can - if the residents aren't familiar with those opportunities, then we could certainly advise them of that and certainly more than happy to do that. Those measures are realistically recommended for the property owner to consider. It is not something that Council would be doing.

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It's not something the Council would consider by regulation in any planning scheme?-- Could well be in areas that might be susceptible to flood. All I'm just talking about is in terms of those particular matters now. It's not as if the Council would go out and do those things.

COMMISSIONER: Suggesting that property owners consider levies is a little rash, isn't it?-- Sorry, I'm not quite sure I understand the question?

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Well, you would want to know an awful lot more about any levy around an individual dwelling before you'd recommend that they rush out and do that, surely?-- Yes, I understand your point because it could cause problems to their nearby neighbours and those sort of things in court might not be adequate, yes. I don't believe that those things would be done in isolation. They would require some sort of engineering design and consideration before those were done, but it's not particular and it doesn't say that.

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MS WILSON: But if this report is, as you say, almost at final status-----?-- It is a draft, and it will need to go before the Council for consideration and either adoption or otherwise.

Dale Street is discussed at paragraph 2.3 of your statement. If I could ask you some questions in relation to Dale Street?-- Mmm.

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Dale Street is a flood prone area that adjoins Burpengary Creek. The Council operates a flood warning gauge in this area at two locations upstream to provide residents of Dale Street with improved flood warning?-- Yes, we did recently install another one at Oakey Flat Road. So, we've got one in Dale Street in park, one at Rowley Road and one at Oakey Flat Road.

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So, there's now three?-- That's correct.

And when you say "recently installed", when did that occur?-- Within the last month or two.

Now, the Council has previously investigated the Dale Street flooding problem?-- Yes.

Can you tell us when this investigation was carried out?-- I can't tell you exactly. My understanding it's got some history to it. There's certainly an investigation going on at the moment as per 2.4 looking at a large retarding basin. I can't speak about any other reports at recent times that I'm aware of.

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2.4 refers to that it has "previously investigated the Dale Street flooding problem and has found that there are no viable flood mitigation options available"?-- It's the last two lines, sorry.

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So, I just want to know where we're at at this stage. Is the Council proceeding on the basis that there is no viable flood mitigation available?-- No, they're looking at - we're considering a detention basin based on Burpengary Creek, upstream from Oakey Flat Road. We're presently looking at that now.

So, that would be regarded as a flood mitigation opportunity?-- Yes, it would.

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And this detention basin, would that have a different purpose than the detention basin that we've been referring - discussing in relation to the Male Road area?-- It's purpose would still be to take stormwater run-off and basically that would be its general intention. It's just a matter of - at this stage it's early days in terms of what the scale might be, and what other, if any, options it might well have in terms of capacity.

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Because it's clear from your statement that the detention basin located at intersection of Elof Road and Male Road is not for the purpose of flood mitigation?-- Certainly not that - the design of that retarding basin. I'm not saying this one would be the same. It's very early days. We're just looking at what options there are at the moment. So, what specific functions it might perform are unclear at this stage.

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Your statement refers to Mathew Crescent, which is another flood prone area that adjoins Burpengary Creek?-- Yes.

"The Council has recently installed an embankment with backflow prevention devices (flap gates) on a channel adjoining Mathew Crescent."?-- Yes.

You then go on to explain that, "This device must function at all times so the device has been designed to minimise maintenance requirements." Has the Council imposed specific design specifications that are not usual to backflow devices to ensure this occurs?-- I can't speak categorically on that, sorry.

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The Council is currently evaluating options for flood mitigation in the area, and you refer to a draft report that is attached to your statement, and if I can take you to that draft report - Attachment 3. Have you got that draft report in front of you?-- Yes, I have.

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Again, the status of this report is draft. Can you indicate to us when this report will reach a final form?-- Probably for the same period of time as the Male Road - within the next one to two months.

And, again, this was a report that was drafted by members of the Moreton Bay Regional Council?-- The same people that drafted the other report, yes.

Can you assist on what further work is required before this report is finalised?-- There are issues that mention budget throughout the report. There will be consideration given in terms of what some of these projects may well cost for the Council's understanding and purpose in terms of when they consider the report, so when they are considering the report they are well aware of what some of these projects may well cost and also to give them a relative order of priority. So, they're probably the major things that still need to be done,

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as well as just a further review in terms of internal review.

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Are you familiar with this report that you can feel comfortable discussing some of the contents of it?-- I certainly have an understanding of what's there.

If we can go to page - to figure 1.1, which is the locality plan. These are the areas of interest that this report examines. The new Hideaway Stage 3 development location, can you tell us where that is up to?-- No, I can't, sorry.

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Burpengary Creek is labelled up the top of this figure. Do you know where - how it flows through this figure? Can you assist?-- No.

Okay. Figure 6 point - this report discusses various recommendations and gives options. These recommendations can be shown in figure 6.1?-- Yes.

Now, the report proposes more recommendations and more options than as shown on this figure. Are these the recommendations that the Council will pursue or is considering to pursue out of all the options discussed?-- The report will provide all options. The options that are shown on figure 6.1 are the ones that are being looked at. There's also - there's been some brief work done on the other options you refer to in the recommendations. There needs to be further work on those in terms of their costing and full extent in terms of what they may or may not positively affect or otherwise. Whilst these options shown on 6.1 have had a fair degree of work on them, they still need to be priced and they still need to be prioritised.

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This report also attaches the RFD Preliminary Flood Extents 1 in a 100 year event. Have you got that-----?-- I'm still looking for it, sorry. What page is that?

I haven't got a page number?-- Figure, sorry?

Have you got that-----?-- No, what figure is it?

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It's RFD - it's actually Attachment A1, Existing Flooding Events. Have you got that document?-- Yes.

And it's up on the screen?-- Sure.

Now, this aerial photograph has an overlay of the 1 in 100 flood event. Does this flood overlay take into account the 2010/2011 flood events?-- If you just bear with me for one second? Not that I'm aware of, no.

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And is all the flooding and the flood maps that the Moreton Bay Regional Council - that is a step that's going to be undertaken is to take into account the 2010/2011-----?-- Yes, that's correct.

And, finally, if I can take you to paragraph 2.9 of your statement which refers to the maintenance of flood mitigation

infrastructure-----?-- Yes.

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-----in the areas of interest. You refer to that there is no dedicated maintenance program for the streets and roads listed?-- That's correct.

Is that in relation to flood mitigation infrastructure?-- It's more that there isn't a program that might look at those drains on a regular basis every six months, 12 months, two years. It's more a case leading up to a storm season in an area that's known to be - may well have flooding issues, that largely drains are checked, pits are checked, and those sort of things, so they're reasonably free or free of obstacles. So, there's no, "Every six months I go and look at it.", or, "Every 24 months it's on a program." It's more a case - I suppose every storm season is every 12 months, it's looked at.

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And in relation to the stormwater drainage systems-----?-- Yes.

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-----there have been some that have been identified through the most recent flood events and previous flood events. Do those stormwater drainage systems and parts of that system get regularly up-checked by the Council, the ones that are identified as perhaps being of issue?-- They're certainly checked before a storm season, yes.

So, once a year?-- About that.

Okay?-- We are also looking to purchase a closed-circuit TV truck that may assist in that regard as well in terms of may make the job a lot easier and a lot more streamlined, but that's another situation that's got to go before the Council because it is quite a costly item of plant.

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Thank you, Madam Commissioner. I have no further questions.

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: I have nothing, thank you.

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MR FLANAGAN: No questions, Commissioner.

COMMISSIONER: Mr Ure?

MR URE: Thank you, Madam Commissioner. Just a couple of matters, one of which is a little counterintuitive. There were some questions asked about the placing of fill for development, such as the development that's on the southern side of Male Road. Do you recall that?-- Yes.

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If one has land that is above the Q100 level and one then fills that land or places fill on that land, for example, for another two metres or even three metres or whatever distance, does that make any difference at all to the Q100 regime?-- No.

Sorry, you have to answer. A shake doesn't register?-- No.

All right. So, even if Ms Worthington is right - or, sorry, do you know was the land which is now developed on the southern side of Male Road, in its undeveloped state, above or below the Q100?-- It's above.

So, does the placing of any fill on that land have any difference to the regime which would pertain in a Q100 flood?-- No.

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You were also asked about a development called Elysian Road, or something like that. Assume for the sake of these questions that that is, in fact, the marketing name of the development Ms Worthington was talking about on the other side of Male Road, the one that has the detention basin that has been the subject of some discussion. You've told the Commission that the work that had been performed by the developer was checked by an independent consultant and then that resulted in some amendments to the design. Do you recall that?-- Yes.

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Now, a document has been provided to the Commission staff. I was under the impression that Mr Martini was going to be specifically asked about this. I can't identify the electronic reference that the Commission has, but look, please, at this hard copy document?-----

COMMISSIONER: What's it look like, Mr Ure? What title has it got?

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MR URE: 28 August 2007. It's a two page report from a Denis Ogle of Brisbane Stormwater Management Pty Ltd to the CEO of the then Caboolture Shire Council.

MS WILSON: I was going to show this document to Mr Martini, Madam Commissioner, but I understood from his answers that he didn't have any knowledge of it.

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MR URE: I think he might have not known the name. Is that the document to which you refer with respect to the review - the independent review that was done of the detention basin?-- Yes.

I tender that.

COMMISSIONER: Would it already be part of anything, or not?

MS WILSON: No, Madam Commissioner, it needs addition.

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COMMISSIONER: Okay. 616.

ADMITTED AND MARKED "EXHIBIT 616"

MR URE: Yes, thank you.

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COMMISSIONER: Ms O'Gorman?

MS O'GORMAN: I have no questions.

COMMISSIONER: Any re-examination?

MS WILSON: I have no further questions. May Mr Martini be excused?

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COMMISSIONER: Yes, thanks, Mr Martini. You're excused.

WITNESS EXCUSED

COMMISSIONER: Oh, is that a convenient time to take the morning break, perhaps?

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MS WILSON: Yes, thank you, Madam Commissioner.

COMMISSIONER: We'll come back at 25 to.

THE COURT ADJOURNED AT 11.19 A.M.

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THE COMMISSION RESUMED AT 11.36 A.M.

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COMMISSIONER: Yes, Ms Wilson?

MS WILSON: Thank you, Madam Commissioner. I call John Rauber.

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JOHN WILLIAM RAUBER, SWORN AND EXAMINED:

MS WILSON: Thank you, Madam Commissioner. Can you tell us your full name, please?-- John William Rauber.

And you're the chief executive of the Moreton Bay Regional Council?-- I am.

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

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

And you have attached certain documents that you refer to in your statement-----?-- Yes.

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-----to that statement?-- I have.

Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 617.

ADMITTED AND MARKED "EXHIBIT 617"

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MS WILSON: Now, the Moreton Bay Regional Council is in the process of developing a document referred to as the Moreton Bay Regional Council Flood Plain Risk Management Framework?-- Correct.

That is a document that is presently in draft and is the first step towards working towards flood maps and flood studies-----?-- Yes.

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-----to be incorporated into the planning scheme?-- The planning scheme would have regard to that document.

The Moreton Bay Regional Council is working on a new planning scheme?-- Yes, correct.

That will incorporate the three previous council regions?--

Yes.

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And can you tell us what those council regions are?-- Council region, the amalgamated councils are Caboolture Council, Caboolture Shire Council, Pine Rivers Shire Council and the Redcliffe City Council.

And all of those three councils were amalgamated to become the Moreton Bay Regional Council?-- That's correct.

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Now, if I can take you to volume 2 of that flood plain risk management framework and to page 103? Now, these volumes, 1 and 2 of the Flood Plain Risk Management Framework, these documents have been drafted by external consultants; is that the case?-- The - yes, that would be the case. We have a number of consultants working for the council as well as council - council staff.

And part of developing the new planning scheme is to address these issues that are contained in this - in this framework?-- The new planning scheme will have regard to the documents, yes.

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Now, when is it proposed for that new planning scheme to be finalised?-- We would expect that to be in the '13/'14 financial year.

Now, page 103 in volume 2 sets out the local situation now in relation to the three planning schemes as they reflect the State Planning Policy 1/03?-- Yep.

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Now, of the three planning schemes, the Caboolture Local Planning Scheme does not reflect the provision of SPP 1/03?-- I don't - I don't have the detailed knowledge around that, but that - that's-----

Okay. So, you can't assist us in any way of why they don't or how they don't reflect SPP 1/03?-- My understanding is that the flood modelling or the information was more advanced in both Redcliffe and Pine Rivers as it was in the Caboolture region.

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As chief executive officer are you aware that Caboolture doesn't reflect SPP 1/03?-- I do, yes.

And are you aware how that impacts on assessing developments?-- Well, certainly the development assessment team rely on the information that's held by the three former councils to inform the development assessment process.

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If we can now go to your statement and particularly to paragraph 3.1-----?-- Yes.

-----where there has been no changes to land planning processes in response to the floods that occurred late last year and early this year?-- Correct.

And the reason that you provide in paragraph 3.1 is that the

current planning schemes already cover flood issues through current provisions, codes and policies?-- That's right, where they're available, yes.

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Sorry, where they are available?-- Well, the - if there were provisions within any of those areas that required more detailed information, that detailed information or the studies would form part of the development application.

But is it the case that the Moreton Bay Regional Council sees that there is no need to make any changes to land planning processes because of the present policies that are available?-- Correct.

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And that is taking into account that the Caboolture planning scheme doesn't reflect SPP 1/03?-- There would be other - other measures in place to compensate, if you like, for - for the lack of detailed information on a case by case basis.

And is it the case that the Moreton Bay Regional Council does not see any need to fast-track the process to ensure that the Caboolture planning scheme does reflect SPP 1/03 but is, rather, going to wait until the new planning scheme?-- It's not practical to do it any other way than to - it will - it will come together in the consolidated scheme in due course.

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Can you assist us with the status of the Moreton Bay Regional Council's flood mapping?-- Flood mapping is a project that's probably got about another 12 months to go. It's funded jointly by the three levels of the government, it's about a \$2.4 million project, and it's well advanced.

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And are you doing it by previous shire or are you looking at it in relation to the Moreton Bay Regional Council entire area?-- It's being done as Moreton Bay Regional Council as a whole area.

And are you taking into account any catchment issues that may exist beyond the boundaries of Moreton Bay Regional Council area?-- The study area is about 2,700 square kilometres. Our region is about 2,000, so it does cross boundaries.

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And have you had any assistance in relation to the QRA flood mapping?-- No, I don't believe that's assisted us much at all.

Is there any reason why that is the case?-- No, just our mapping is fairly well advanced.

The Moreton Bay Regional Council Flood Plain Risk Management Framework that-----?-- Yes.

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-----you have asked external consultants to do up, are you aware of the contents or familiar with the contents of those documents?-- Not at this stage, no.

Can you tell us, then, where this management framework is at in relation to moving through council?-- At this stage it is

still a work in progress, it's still a little way off. It will ultimately come through to the executive management team and then to council formally.

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And is your head planner looking at it to see how it can work in with the planning scheme?-- There would be - there would be a member of - on the team from that area of our organisation, so it has input through the planning process.

In relation to flood risk for specific properties, your statement addresses the steps that the Moreton Bay Regional Council is undertaking to provide this material to residents?-- Yes.

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And if I can take you to paragraph - section 4 and the paragraphs that flow from that? Now, the council made available in February 2011 regional scale flood mapping on its website-----?-- Correct.

-----for free download?-- Correct.

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Is there any reason why that only occurred in February 2011?-- The information was not available across the whole region in February 2011, so there was still pockets of the region that we didn't have that detailed information. Had the flood not - had we not had the flood period in December and January, we may have delayed that - you know, the entry of that information on line a little longer, but it became important that we release what information we had, so we made the decision to release it in February.

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And the mapping that is available on line shows the one in 100 year flood?-- Correct.

And does that take into account the floods of 2010/2011?-- Yes, it does.

So-----?-- Certainly 2010.

When I'm talking about the December/January floods?-- Yes. I can't answer that in any detail.

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Is there anywhere that members of the public could find out what the levels were for the December 2010/January 2011 floods at council?-- We have certainly undertaken survey work to a - to capture that information. At this stage, I'm not aware that we're - we have that online.

Okay. If I can just take you to one of these maps just as an example, and if we could have a look at map 9 of 18? That will come up on your screen and we can give you a hard copy there as well?-- Okay.

50

You refer to the fact that the mapping classifies the flood plain to different depth zones to assist with the interpretation of likely risk?-- Yes.

So, if a member of a public goes on to the council's website

and wishes to work out any flooding issues for their residence-----?-- Mmm-hmm.

1

-----is this the type of map that they will - that will be made available to them?-- Correct.

And there's a legend to the side that refers to the depths that - likely flooding risk?-- Correct.

And this all relates back to Q100; is that the case?-- Yes, yes.

10

Has the council considered providing information to the residents in the council area on the basis of, "Your place is in a high flood risk.", "Your place is in a low flood risk."?-- Not to my knowledge at this stage.

Do you know whether that is a matter for consideration for the council?-- I don't believe that's being contemplated.

20

Madam Commissioner, I should tender that map.

COMMISSIONER: That will be Exhibit 618.

ADMITTED AND MARKED "EXHIBIT"

COMMISSIONER: Is there any indication of which creeks that's showing, which are which?

30

MS WILSON: I believe that is showing Male Road, which is what has been referred to in evidence this morning, and King John Creek. If Madam Commissioner refers to the second line of brown across that map, that you will refer to as King John Creek, and Male Road is just below that.

COMMISSIONER: Right. Thank you.

40

MS WILSON: Is that your understanding?-- That's my understanding.

Council also provides in addition to the material available online at no cost a property based flood search service whereby members of the public may request a flood search and a more detailed map?-- That's correct.

This is at cost?-- It's at cost.

50

And is that to cover the Moreton Bay Regional Council's costs to provide the service?-- Yes.

Can you tell us what is the difference between the service available for payment and the service available for free?-- Well, the service for a fee, and it's \$71.50, covers the - you know, the cost of doing the detailed analysis for that site by

site investigation, whereas the online is really, you know, a district-based information and, you know, you would - you would be certainly well advised to do the online - sorry, the site by site investigation as well.

1

And since these flood maps have been available to the public at no cost online, has there been any monitoring as to see how often that - this website is being accessed?-- I am sure there is but I don't have the information.

10

And, finally, if we can now go to the buy back scheme?-- Yes.

Which you address in your statement at paragraph 10, that, "The Moreton Bay Regional Council is currently preparing a draft flood affected property buy back policy." Can you assist us with any more details in relation to this?-- The council is considering a policy around a buy back scheme. Brisbane has a buy back scheme and obviously there's some interest by flood affected property owners for council to have a policy around buying back their properties. We don't at this stage have such a policy. We are working on a draft policy for the consideration of council and looking at what the various parameters might be in such a policy.

20

And can you give us any indication of what those various parameters may be?-- I can only - I mean, some of the parameters will be around - you know, risk of - risk to life and the velocity of rivers, the type of - type of property, so I think it's too early at this point to be too specific about what those conditions will be.

30

And is it too early to give any indication of when this may come in to play, if at all it does?-- I expect the policy won't - won't be adopted by council within the next three, four months, it will be - it will take a while to finalise the policy and I am sure it will be of, you know, interest to the council when deliberating, you know, the application of it.

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

40

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: I have nothing, thank you.

COMMISSIONER: Mr Dunning?

MR DUNNING: No questions, thank you.

MR URE: I have nothing, thank you.

50

MS O'GORMAN: I have no questions.

MS WILSON: May Mr Rauber be excused?

COMMISSIONER: Yes. Thank you, Mr Rauber, you are excused.

WITNESS EXCUSED

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MS WILSON: Madam Commissioner, I call Mr Chris Warren.

CHRISTOPHER JOHN WARREN, SWORN AND EXAMINED:

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MS WILSON: Can you tell us your full name, please?-- Yes, it's Christopher John Warren.

And you're the director of strategic planning and development for Moreton Bay Regional Council?-- That's correct.

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

20

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

Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 619.

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ADMITTED AND MARKED "EXHIBIT 619"

MS WILSON: In relation to your statement, have you got that in front of you?-- Yes.

Can we go to paragraph 2.1? And there you set out that the Moreton Bay Regional Council area is currently covered by planning schemes for the previous local government areas?-- That's correct.

40

And they are Redcliffe, Pine Rivers and Caboolture?-- That's correct.

And you also set out in the following paragraphs about how these planning schemes appropriately reflect SPP 1/03?-- Correct.

And in relation to Caboolture, Caboolture does not appropriately reflect SPP 1/03?-- In relation to floods-----

50

For floods?-- In relation to flood, that's correct.

Sorry, all of these questions are asked in the context of floods?-- Yes.

Can you tell us why the Caboolture plan does not appropriately

reflect SPP 1/03 for floods?-- Prior to amalgamation I was with the former Redcliffe City Council so I am unable to attend to that particular question for you.

1

But as your role of the director of strategic planning and development, you're not aware of how the Caboolture planning scheme doesn't reflect the SPP 1/03?-- I wasn't a party to the discussions on the then Caboolture Council when they were drafting the scheme so I cannot answer that particular question for you.

10

But, however, when new applications-----?-- Yes.

-----for development come through the Moreton Bay Regional Council, then you would be applying the Caboolture planning scheme; is that the case?-- We apply the Caboolture planning scheme, that's correct. In relation to the policy, because it is not endorsed by the Minister in relation to the Caboolture planning scheme it has no effect whatsoever. However, my staff do have regard to it.

20

And can you tell us how your staff do have regard to it?-- They use the guidelines that are set out in support of that particular policy, as well as the provisions that are contained within the Caboolture planning scheme.

And is this set out as a structure that must be applied for every assessment or it is just a case of on an ad hoc basis?-- No, they have been using that particular - reference to that particular policy since the 1st of September 2003.

30

Okay. At paragraph 2.15 talks about the Caboolture district and, "In particular it does not include mapping of the natural flood hazard areas or areas at risk of flood." What does the Moreton Bay Regional Council have in relation to flood mapping with respect to the Caboolture area?-- With respect to Caboolture and the rest of the region, we have a GIS layer that reflects that particular information. That's been spoken about this morning, the regional flood database.

40

So, is it the case that you do have flood mapping?-- We do, yes.

But it does not - it is not included in this Caboolture planning scheme?-- No, it's not endorsed in relation to the Caboolture planning scheme because there's no overlay that shows flooding within the Caboolture planning scheme, but we do have GIS information which we use during our development and assessment processes.

50

And why doesn't, then, the Moreton Bay Regional Council get this planning scheme assessed to see if it does comply with the SPP 1/03 with what you have got now?-- We are currently working on a new planning scheme for the whole of the region and - so we have a consistency across the region.

So, there is no point to just looking at the Caboolture planning scheme to get that to comply with SPP 1/03 at the

moment?-- That's correct. As I said earlier, my staff also have regard to the policy when they assess applications in that particular part of region.

1

And that is referred to also in paragraph 2.15 because without the plan appropriately reflecting SPP 1/03, this places a greater emphasis on determining flood hazard during assessment of development applications?-- Correct.

For the purpose of assessment under SPP 1/03 council has used the flood with a one per cent annual exceedance probably, so Q100?-- That's correct.

10

And that's to define the natural flood management area?-- Yes. That's for Pine and the Redcliffe schemes.

Okay. What about Caboolture?-- Caboolture, as I said uses that GIS information but they also use the Q100.

If we can just have a look at one of the maps that you - so that I'm clear about what you are using in relation to an assessment, if we can have a look at one of the maps that is provided and if we can go to map 3 of 41? Have you got that map there?-- It's on the screen. I will just - this is in relation to the residential areas?

20

Yes?-- I think it must be in volume 2 of my statement, but I have it on the screen anyway.

Okay. You have got it on the screen. This is one of the many maps that you have provided us and as you can see it's map 3 of 41. On the right-hand corner we have some indication where this map is referring to in relation to the Moreton Bay Regional Council?-- Yes.

30

And this is just a micro look at a part of the Moreton Bay Regional Council?-- That's correct.

The blue indicates the Q100?-- Yes.

40

And we can see that it also refers - it also shows it in relation to residential development?-- Yes, it shows constructive development as well as approved development.

50

And there are two, for example, on this map, material changes of use that we can see, and one of them the Q100 goes through?-- Yes. I can't read that small print, unfortunately.

1

Okay?-- If there's an MCE, yes.

So when the new planning scheme is compiled what better flood mapping will you have than this?-- We will use the latest available to us at the time and that may include this regional framework strategy that's been spoken about again this morning, as well as this information here, and any ground truthing of survey by survey that we have available at the time.

10

In relation to the new scheme, planning scheme for the Moreton Bay Regional Council, do you have any idea what the defined flood event will be? Will it be Q100 or will it be another defined flood event?-- It will be the Q100 unless there's some recommendations forthcoming from this Commission that we can utilise.

20

Okay. And is that something that the council has been looking at what the defined flood event should be?-- Not at this stage but we'd be going on what we've previously used and then, as I said, anything that's forthcoming.

Now, are you across the content of all three of the planning schemes?-- Not - not in particular - not with great - a lot of detail, no.

30

Could you - is there a - could you assist us with, in your opinion, is there any one planning scheme that best minimises infrastructure and property impacts from floods out of the three?-- I know that the Caboolture - sorry, the Pine and the Redcliffe schemes call up the provisions within the State Planning Policy which refers to that particular matter, so I'd suggest probably both of those would be examples that could be used.

40

But there's nothing that's within those that actually makes it be a better model to be used in relation to minimising infrastructure and property impacts from floods?-- No, not to my knowledge, no.

The Moreton Bay Regional Council is in the - Moreton Bay Regional Council is in the process of developing a document referred to as the "Moreton Bay Regional Council Framework". Are you aware of that document?-- Yes.

50

Okay. Can I take you to parts of that document because I'm interested for your views as a planner in relation to some of the concepts that they're talking about?-- Sorry, I'll just clarify the last response. I'm aware of it because I've heard it spoken about this morning but I don't know the intimate details of that report. I haven't seen it being presented to our senior executive management team at council yet so I'm not in a position to be able to give you some comments.

Not even if I can take you to some concepts and get your views as a planner of how those concepts work?-- Yes. Well, I'm happy to do that, yes.

1

Okay. Well, perhaps then if we can go to volume 1, and if I can take you to page 5 where it refers to flood maps. Now, have you got any views about how - and this document refers to that they are necessarily inexact documents. Have you got any view on whether there should be flood mapping done by zone by risk? For example, looking at zones that are high risk or zones that are low risk. Have you got any view as a planner in relation to the implementation of that?-- In my personal view it would be in the sense that because events - there's no certainty in the nature of events that we receive and Mother Nature can throw curve balls at us and give us different events constantly, it would be very difficult to be able to come up with a traffic light-type approach to risk. One size doesn't fit all, in other words.

10

No, but taking into account the flood mapping and the nature of the floods as existed in the area and the flood mapping that does exist, taking that into account for the particular area have you got any view?-- Could you just repeat that again, please?

20

Well, I'll use an example. For example, Dale Street. We've heard about flooding in Dale Street. We've heard that there's been a history of flooding at Dale Street. That if you're looking at putting that on maps that that could be assessed as a high risk area for flood mapping. High risk area that can be easily identified for people?-- As an overlay or as a zone?

30

As an overlay?-- Potentially, yes. I would recommend that, yes.

Why would you recommend that?-- As bringing to the attention of all concerned, those that may be purchasing property or selling property or any capital works that council may be doing in this is an area of high concern.

40

And we've seen other maps, and you've been in Court when you've seen the other maps, what could that information give that those other maps don't, or is there any information that that could give that those other maps don't?-- I think you'd have to also be able to provide the level of water going through at that particular time for those floods to be able to gauge the difference in the risk. So if there's only a millimetre as opposed to a metre there's a big difference in risk.

50

And so that's how that risk can be easily shown to-----?-- Yes.

-----residents and future - future property purchasers?-- Yes, I'd agree.

Do you know whether the council, your council, is considering such an option?-- As I said, I haven't seen it yet so I can't comment on that.

1

Okay. If we can then go to page 10, and this document refers to flood risk management issues ultimately being acknowledged in the planning scheme, and you can see that they run parallel, which goes down until we come to the framework, then come to a study into a management plan?-- Yes.

10

So local schemes on this proposal "would incorporate the planning provisions of floodplain risk management plans into statutory planning instruments". Have you got a view on that?-- I would support that particular view, in fact I've canvassed in my own personal way whether or not we should actually have a new type of zone within our planning schemes. At the present time the general public when they view a planning scheme would be well accustomed whether they're a residential-type zone or industrial-type zone but have got no idea what sort of flood immunity that land has without going into very detailed planning documents to be able to find information, so if you were able to have a constrained-type zone which could be applied on top of the residential, the commercial or the industrial, then at a glance any member of the public could see whether it was constrained land or not.

20

And can you give us an example how this could work in the conditions that are present in the Moreton Bay Regional Council area?-- An example?

30

Yes?-- There may be an opportunity where if we say the Male Road example that we spoke about this morning, or heard about this morning, that part of that land may be suitable under certain events for use, however the majority of the land would be subject to a constraint, such as flooding, that would then alert people to what sort of land use activities they could expect to carry out on that particular land.

COMMISSIONER: So what do you mean, do they get to build a residence but only if it's so high off the ground with nothing on the bottom or can they not build a residence; what sort of thing are you talking about?-- Madam Commissioner, it may be there's design criteria set out in relation to the constrained land that's spelt out in the planning scheme by way of a code that the applicant will need to meet.

40

Thank you.

MS WILSON: If we can go to volume 2 of this management framework, and just some specific issues of concern that have been raised. At page 31. The first issue is the cumulative impacts, and this is referring to that while a development by itself may not lead to a significant increase in flood, it has to - that increase may be increased - that risk, sorry, may be increased by the cumulative effects of a number of developments?-- Yes.

50

Now, is this type of assessment by looking at the cumulative effect of developments, is that being presently considered under any of the schemes that you have consideration to?-- It is my understanding that's the case, yes.

1

Okay. So what is being discussed there would be nothing new to the Moreton Bay Regional Council?-- Correct.

The next issue of concern is the consequences of floods larger than the flood used to derive the DFE, the defined flood event. At the end of the page. And it looks at the definition of the floodplain and flood-prone land is based on the PMF, the probable maximum flood. Now, to your understanding, the planning schemes that you're working with are on the Q100?-- That's correct.

10

What's your view on the probable maximum flood?-- I think we should take that into account when we're doing our future planning scheme.

20

And why is that?-- To give us more flexibility and buffers between the Q100 and the probable maximum.

And how will that give you more flexibility?-- I would imagine there would be less land available to redevelop within that particular buffer and on that basis we would also be looking for further modelling to be able to demonstrate what could and couldn't happen.

One of the other matters of concern, if you can go to page 33, is the hazardous industries or hazardous storage establishments. Now, you refer to that - the issue of hazardous materials in your own statement-----?-- Yes.

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-----at 5.8, where it is that, in summary, the control of ERAs and activities that store chemicals, such as flammable and combustible liquids, "is the current Q100 level at the time of any application lodged with council". So if it's above Q100 is it the case then you can - then it's no longer an issue for council?-- That's correct, across the region, however, in relation to the Caboolture scheme, there's also provision there to have non-habitable rooms or structures at the Q50, and that may explain why you've seen some of the mapping where it shows it is in flood area.

40

In your view as a planner do we need to do more than just if it's over Q100?-- For hazardous materials?

Yes?-- Yes, we should - we should also have management plans in place to be able to address those sorts of materials as well.

50

Management plans, but is this incorporated in a planning scheme or does this operate outside the planning scheme?-- It should be done through the ERA component, yes, the management plan.

The management plan, but what about within the planning scheme, is there anything more that local councils can do in relation to managing hazardous industries or hazardous storage establishments in the planning scheme?-- I think if we were guided by a State Planning Policy which basically directed those sorts of activities away from streams or the ability for the land to be drained into a stream nearby then that would assist.

1

COMMISSIONER: I didn't entirely catch what you said before about the Caboolture scheme allowing for, was it, habitable rooms at Q50?-- Yes, Madam Commissioner. In relation to, I think it's section - sorry, table 7.2 of the reconfiguration of the lot code, there's provision there for other zones in relation to the flood-free component on the site for subdivision, and in relation to things of non - non-habitable for other zones, such a industrial areas where you've got storage sheds and that sort of thing, it's allowed to go within the Q50.

10

Thank you.

20

MS WILSON: If you look at page 32 of these issues of concern the matter the islands is raised, and that is that residents may be trapped, their house or - their house may be above the flood but they cannot evacuate?-- Yes.

Now, is this something that can be better addressed in planning schemes about evacuation routes, in your opinion as a planner?-- Again I would like to see a State regulation that actually stipulates that, that you must have them, that would give guidance to all local governments to ensure that those particular features are in place.

30

What do you mean "must have them"?-- It's a mandatory requirement.

Okay. So a development is - a developer comes to the council wanting a development assessed. What presently is done by the council in addressing evacuation routes now?-- In relation to the three scheme - district scheme areas?

40

Yes?-- In relation to Pine and Redcliffe there's actually provisions within or specific outcomes within the components of the planning scheme that require that in relation to evacuation routes, places of containment, that sort of thing. In relation to the Caboolture scheme, again having - even though it's not endorsed, they have regard to the same policy which calls up those provisions as well.

50

Well, in your view as a planner, what more could be done in relation to evacuation routes within a planning scheme?-- It would depend on how detailed, I think, you wanted the document to be. If you were looking at the ability to have local area plans then I think you could actually document those evacuation routes quite easily, the particular components of the region, but as a whole of the region, because of the scale that we're talking about, I think it would a lot - it would be

more difficult but if you had provision to call it up then certainly you could do that.

1

Just in relation to effective flood access. This is also addressed in volume 2, at page 41, and if I can take you there now. It discusses effective flood access, and concludes that access routes does not have to be above the probable maximum flood level but a level of flood protection that "in combination with effective warning time, development type and flood duration provides adequate time for evacuation and reduces risk to acceptable levels in all events". Now, when the Moreton Bay Regional Council presently is looking at evacuation routes do you set a level that evacuation routes must be at?-- I can't answer that, unfortunately----

10

Okay?-- -----I don't have that detailed knowledge.

Well, then, as a planner, do you have a view about whether evacuation routes should be set at a certain level?-- To be able to satisfy that criteria you would have to come up with a level, yes.

20

And is that the best way to address this issue?-- Potentially. If the road's - road surfacing at a particular site are already at that level then that would be fine, if they're not then you would have to come up with other alternatives to be able to address that.

And whose responsibility would it be to do that?-- I think it would be placed upon the proponent as well as the council as the assessing authority and possibly in association with the relevant State agency that was responsible for that sort of activity collectively to create that particular document.

30

COMMISSIONER: You mentioned the prospect of State regulation before in the context of evacuation routes, what have got in mind, something in the Sustainable Planning Act that says a planning scheme must, or what sort of thing are you thinking of?-- I'm thinking of something that has an overriding control that is applied throughout the State. It makes it a lot easier for local governments to be able to defend their actions by saying, "This is a State regulation, we don't need to go to Court to debate this and have a Court determine whether council's right or the proponent's right". If it's a State regulation it's set out in stone, basically.

40

Right, thank you.

MS WILSON: Thank you, Madam Commissioner. And, finally, if I can just take you the issue of the zoning designation of Male Road, Caboolture?-- Mmm.

50

Are you aware that that is presently - there's parts of it that's presently zoned residential A?-- Again, yes, I'm aware of that. That happened with the - when the Caboolture Shire Planning Scheme was adopted in December 2005.

And if I can take you to the report of the Ordinary Council Meeting of Council dated the 12th of February 2008, and 389 of the report, and issue 82 refers to that there's been requests for some of the properties in Male Road, Caboolture, that they be changed from residential A to rural residential, do you see that?-- Yes.

1

And can you tell me what's the difference? What would be the difference if it was residential A or rural residential?-- The difference would be in the minimum lot size that could be created through the zone, either zone.

10

Okay. And the response, which is the - I understand the council's response, is that these properties, along with some others on the northern side of Male Road, are mostly below the one in 100 year flood line?-- Yes.

And at this stage the view of the council was for it to be changed from residential A to the rural residential zone?-- That's correct.

20

Thank you. Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 620.

ADMITTED AND MARKED "EXHIBIT 620"

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MS WILSON: You're aware that the council received a response from the Deputy Premier, Minister for Infrastructure and Planning?-- Yes.

And if I can - this document - show you this document. The condition was placed on the amendment to the planning scheme by the Minister that the rezoning of Male Road as proposed by council did not proceed. There was conditions attached. You can see that first bullet point?-- I'm just reading that now.

40

Okay?-- Yep. Yes.

And it was noted that this zoning change should not proceed because the land remains in the urban footprint of the South East Queensland Regional Plan and such is not suitable for the inclusion in the rural residential zone?-- Yes.

Can you assist me with your understanding of planning about what impact the urban footprint of the South East Queensland Regional Plan has whether a property is zoned rural residential or residential A?-- In relation to the regional plan all land within the footprint is suitable for development subject to the normal development constraints. In this case the council is trying to have the land revert back to rural residential and the government advised us that we couldn't do that, saying we had to deal with these sorts of issues, such as flooding, through a normal development application.

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So on a piece by piece - as any development application comes through, on a case by case basis?-- Correct.

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Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 621.

ADMITTED AND MARKED "EXHIBIT 621"

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MS WILSON: And, finally, for completion, if I could show you the report from the Moreton Bay Regional Council Coordination Committee meeting dated the 18th of November 2008. This just gives some further detail in relation to the basis of why the council wanted to change it to rural residential?-- That's correct.

20

And that is under rural residential - residential A limits the amount of animals that can be kept?-- That's one of the factors, yes.

And also the residents were constantly being approached by developers with potential offers for their properties?-- They could have been, yes.

If it got zoned back to rural residential would that - would that have any impact about whether the land could be developed to any greater extent?-- Again in relation to minimum lot sizes, the rural residential lot size is a lot larger than a residential A lot size so that would affect yield. Notwithstanding that, matters such as flooding would still need to be taken into consideration.

30

And, Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 622.

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ADMITTED AND MARKED "EXHIBIT 622"

MS WILSON: Thank you, Mr Warren, no other questions.

COMMISSIONER: Mr MacSporran?

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MR MacSPORRAN: Just one matter, thank you, Commissioner: Mr Warren, in terms of the State Government knocking back the proposal to change the zoning, you understood that the normal constraints continue to apply in terms of assessing development in those areas?-- Could you please clarify that?

Yes. This letter you were shown which was from the Deputy Premier at the time-----?-- Yes.

10

-----refusing permission to change the zoning as proposed by you or the Council - and one of the bases for that decision was that the land remained in the urban footprint?-- Yes.

And it was expected that any development application would be assessed under - taking into account the normal constraints?-- Yes.

And part of that process of taking into account the normal constraints would involve the Council in applying, in effect, the State Planning Policy 1/03?-- Yes, if it had effect in that area.

20

Yes, and especially in respect - so far as we're concerned with here - for flooding?-- We would take flooding into consideration anyway.

In any event; that's so?-- Yes.

Thank you.

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COMMISSIONER: Mr Porter?

MR PORTER: No questions.

COMMISSIONER: Mr Ure?

MR URE: I have nothing, thank you.

MS O'GORMAN: I have no questions, thank you, Commissioner.

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COMMISSIONER: Thank you. Yes, Ms Wilson?

MS WILSON: Thank you. May Mr Warren be excused?

COMMISSIONER: Yes, thank you, Mr Warren. You're excused.

WITNESS EXCUSED

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MR CALLAGHAN: I call Malcolm Snow.

MALCOLM CHARLES SNOW, SWORN AND EXAMINED:

MR CALLAGHAN: Your full name is Malcolm Charles Snow?--
That's correct.

You are the Chief Executive Officer of the South Bank
Corporation; is that correct?-- Correct.

10

Now, you've provided a statement to the Commission of Inquiry,
with accompanying exhibits, I think; is that right?-- That's
right.

I'll show you a copy of that?-- Yes.

Yes, I tender that.

20

COMMISSIONER: Exhibit 623.

ADMITTED AND MARKED "EXHIBIT 623"

MR CALLAGHAN: Mr Snow, in paragraph 29 of your statement, you
refer to some of the impact of the flood on the South Bank
area, but can I just ask you this: as a very general sort of
proposition, would you agree that the sort of damage
experienced was of the kind you'd expect at a riverside
development during a flood?-- Yes, I would.

30

And I might indicate at this stage at least that the
Commission is interested in the way that the sort of planning
regime to which South Bank is subject operates, rather than
any particular issue or consequence of the floods, and it -
well, perhaps we can start with the nature of the South Bank
Corporation itself. When was it created?-- 1989.

40

And how long have you been the CEO?-- Six years.

Can you just give us a brief description of the reasons for
which the South Bank Corporation was created?-- Yes, it was
created by State legislation immediately prior to the
conclusion of Expo 1988. It was created in order to plan and
manage the development of the former Expo site. The
corporation was established as a statutory authority under
that act, the South Bank Corporation Act 1989, and the
Corporation was given responsibility for Crown land, for
planning and developing the Crown land that predominantly was
occupied by Expo '88.

50

Now, we have your statement on the screen. We might go back
to paragraphs 8 and 9. That's where you describe the main
functions of the Corporation; is that right?-- That's

correct.

1

And you do that by reference to the South Bank Corporation Act?-- Yes.

And the functions include controlling the development of land within the corporation area in accordance with an approved development plan; is that right?-- That's correct.

So, it follows, then, does it, that - or under the administration of the corporation, development is not regulated by what we might call the normal planning regime under the sustainable planning act or the Brisbane City Plan?-- That's right, the approved development plan is not a planning scheme per se. It's a unique development plan that specifically controls the management and development within the defined Corporation area.

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And that area is defined or there's a - I think we might even have a map or a plan of the area itself. Is that available? It doesn't matter anyway. We all know where South Bank is. So, the original approved development plan then, that would have been approved back in - paragraph 6 - you might say 1990; is that right?-- 1989, I believe.

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'89? Okay. Gazetted in - or approved by the Minister and gazetted 28 April 1990, is that-----?-- I beg your pardon, 1990, yes.

Is that right? And it's been amended, has it?-- Yes, it's been amended approximately 18 times.

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And it follows, does it, that every amendment is approved by the Minister - follows from what is provided for in the Act and what you say in your statement?-- That's correct.

And the Corporation's in charge of preparing the draft development plans for the final approval by the Minister; is that right?-- Yes, the original draft development plan was submitted to the Minister. That was approved, as you just mentioned a moment ago, and subsequently the development plan has been amended on a number of occasions to facilitate developments where necessary.

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All right. Well, if we could just see how it works. If we look at section 32 of the act - we can get that up for you if necessary, but you're no doubt familiar with it - but the Corporation is required to consult with the Brisbane City Council; is that right?-- That's correct.

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Does it necessarily have to take on board any of the Council's comments or recommendations?-- It's not obliged to take on Council's comments, no.

What sort of level of consultation - well, perhaps I can go back to your statement in paragraph 6, specifically. You say there that there was consultation with the original plan; is that right? Do we know the level of consultation at that

stage, or the nature of it?-- No, I don't. It predates my time as CEO, but I'm advised that there was close cooperation between the Brisbane City Council and the drafters of the legislation at the time. 1

And I'm interested to learn, or whether it's possible to learn whether flood impact or the concept of flood was taken into account in preparing that development plan. You've had a review of the Corporation records, I think - paragraph 14 and 15 of your statement you refer to that?-- That's correct. 10

And you say in paragraph 15(a), I think, that the records are incomplete. What do you mean by that?-- The Corporation has changed its premises a number of times - four times - and I've attempted, in preparing my statement, to go back to the archives and establish whether there's any information been held in our records to more precisely determine whether or not those flood impacts, or how the flood impacts were taken into account in drafting the original development plan. We do not have - I have been unable to locate any records that provide any indication that that was the case. 20

You may not have any idea about this, but the Minister who has the power to amend or reject draft development plans as proposed by the Corporation - at the moment, anyway - is the Minister for Reconstruction, which is the Premier; is that right?-- That's correct.

Would you have any sense as to whether documents which might complete the set might be in the possession of the Ministry?-- It could be, but my feeling would be that those documents would have been with the Corporation at that time and have subsequently been moved or lost. 30

All right. And - sorry, you may have answered this a moment ago, but just to clarify it - in the documents that you do have, are there any that indicated whether flooding impacts were taken into account when developing the plan?-- We did locate one document that related to a specific area within the parklands where there was river reclamation work proposed and subsequently built, and that related to the construction of the Clem Jones Promenade and also possibly the lagoon. We have located a consultant's report prepared by Connell Wagner which, on reading, suggests that certainly the fact that river reclamation works were occurring, that the consulting engineers to the Corporation took that aspect into account. 40

COMMISSIONER: How are the records of those days held? Do you have electronic records or is everything in hard copy?-- Madam Commissioner, for those early documents, they were deposited and archived with the Queensland State Archives Office. 50

So, they're hard records, are they? They're not-----?-- Correct.

MR CALLAGHAN: And of the ones you do not have, are there any that you might have expected to locate which were the types of

documents that might indicate the way in which flooding was taken into account at that time, or-----?-- Could you repeat the question, please?

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Yeah, I'm just - you've got a familiarity with the documents that you do have?-- Mmm.

Do you have a sense of the type of documents that are missing and, if you do, are they the types of documents which might indicate the way in which flooding was taken into account?-- I would have expected to have found or locate studies or investigations which would have informed the identification of the development precincts within the defined Corporation area and how those - how the controls - the development controls that relate to each of those precincts took account of flooding. There is one precinct in the parklands, zoned Precinct 7, where subsequently specific reference is made to all development taking account of the 1 in 100 year event.

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Yes, I was going to ask you about that-----

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COMMISSIONER: Before you do, though, are you sure documents are missing? Perhaps they never existed? Is that a possibility?-- Madam Commissioner, it is a possibility that documents are simply missing, yes.

All right. So, both are possible: there were never such documents or they existed once, but no longer?-- Mmm.

All right.

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MR CALLAGHAN: In any case, as you say in paragraph 13(a), there's no express dealing with the potential of impact of flooding on infrastructure at Corporation area as a whole, but then you do identify in (b) the reference to Precinct 7 there. Apart from that, what's the closest that it comes? Is there anything?-- No. As my statement says, we rely entirely upon the advice of Brisbane City Council to propose development conditions which the Corporation then generally adopts in issuing its own development approval.

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All right. And just on 13(b) where you identify that reference there, it requires that all designs must be cognisant of the possible 1 in 100 year flood events. So, it doesn't actually require anything be done? It provides guidance?-- That's correct, although the Corporation has, in assessing developments within that precinct, required all developments to be at a habitable floor level above the 1 in 100 year event.

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All right. And this is probably implicit, but no other precinct has anything comparable?-- Nothing as specific as that.

No. Okay. All right. So, all development - if we look at paragraph - back up to paragraph 10, "All development in the Corporation area must be in accordance with the approved development plan."?-- That's correct.

And the Corporation's responsible for all the development, except for certain subdivisions and amalgamations and so on; is that right?-- That's correct.

So, if the Corporation receives a development application from a developer, it then decides whether to approve or refuse the application?-- Ah, the corporation generally goes through some period of community consultation.

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Certainly, yes?-- Yes.

But as a matter of responsibility, that's-----?-- Yes.

-----that's what happens?-- That's correct.

And is there - or who is it at the Corporation who is responsible for the processing or assessment of such applications? Is there a special department or-----?-- Yes, there's a Planning and Projects Division, and they administer the ADP.

20

And are their qualifications/resources comparable to those that might exist in the City Council for the same sort of thing, do you know?-- Yes, three of those staff are qualified town planners.

Now, again, as with the process involving the preparation of the development plan, the Corporation is required to consult with the Brisbane City Council in assessing development applications; is that right?-- That's correct.

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But, again, it's not required to take on board any of the Council's recommendations?-- No, it's not, but as a matter of course, we always do.

Sure. And, look, I appreciate we're speaking in generalities here and you say "as a matter of course", can you just give us a clue as to what's involved in the matter of course? I mean, what is the Council's normal involvement in the development assessment process?-- Yes, within - the Act states we have to give the Council 21 days to assess. Once the Corporation has sent the development application supporting material to Council, it then has 21 days to assess the application. The projects and planning division are in close contact and communication with the relevant planning team within Council, make sure that Council has all the necessary information it needs to to then make its own assessment of the development application, as if it was a matter or an application submitted under the provisions of, say, City Plan. The Council, within 21 days, provides a written response and, within that response, incorporates a number of recommended development conditions that it suggests the Corporation applying in the issuing - or in consideration of its own development approval.

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And there'd obviously be a multitude of issues involved in any given case, but, of course, the one we're interested in is flooding. To your knowledge, has Council ever recommended

certain development not proceed or given specific feedback on a project because of the issue of flooding?-- During my time as CEO, no. 1

COMMISSIONER: Can I get some idea of the proportions of what we're talking about? How much of South Bank remains to be developed, how much has been developed over the last couple of years? How many applications would we be talking about?-- The Corporation has been in existence, Madam Commissioner, for 22 years. There's one remaining large vacant development site, known as the South Point site, but over the period of that 22 years, it's varied from time to time, but approximately minor and major matters, development applications, you'd be not looking at more than 10 per year. 10

Thank you.

MR CALLAGHAN: Can I take you to paragraph 23? We note that the Corporation generally imposes conditions in relation to minimum floor levels. In what circumstances might it not do that, or, by "generally", do you mean always, but-----?-- The Corporation has a plan which defines the one in 100 year flood level AHD, and clearly for those sites that are well above the defined Q100 level, the Corporation has made the decision that the application of a minimum habitable floor level is unnecessary. The corporation, though, errs on the side of caution, and generally all applications, particularly those within close proximity of the river, are subject to - or incorporate that development condition in the approval. 20

All right. And, look, just to clarify, it's implicit in all of this, isn't it, that the State Planning Policy 1/03 does not apply to assessment of development in the area - not as it is, anyway?-- That's correct. 30

And it follows clearly that changes to that policy would also not apply?-- Yes, although the Corporation as a responsible planning authority would note and take account of the outcome of this Commission and the outcome of any reviews of the SPP 1/03 and establish for itself how Brisbane City Council will take account of that and how the Corporation itself might, in continuing to issue development approvals, have a high regard or a stronger regard for flood mitigation aspects. 40

And I think you just hit upon the phrase of interest. You establish it for yourself. The corporation establishes for itself, obviously, drawing upon resources-----?-- I think it is important that we independently establish our own view as to the efficacy of those - any revised flood levels. 50

All right. That Q100 plan to which you refer, is that part of the approved development plan?-- No, it's not. It is based on a - I'm led to believe - I'm advised that Q100 level plan for the South Bank Corporation area is based upon spot levels that were taken at the time of the 1974 flood.

All right. So, just in summary, I suppose, there are no mandatory requirements for the Corporation to take into

account flood impacts when developing or making amendments to the approved development plan; is that right?-- That's right. We rely entirely upon Council's advice.

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All right. And, likewise, no mandatory requirements for flooding to be taken into account when assessing development applications?-- Only in respect of Precinct 7, as I mentioned earlier.

Ah, yes, of course. And is it envisaged that at some stage in the future that the land will be controlled by the City Plan?-- There has been a statement approximately six to 12 months ago where it has been foreshadowed that in accordance with the Act which incorporates a statement to the effect that, "once development is substantially complete", unquote, that the Corporation's planning powers may well be repealed.

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All right. I was in particular - my attention has been drawn to the South Brisbane Riverside Neighbourhood Plan. I understand we might have that or a copy of it. No? You're looking at the document I just identified, section 3.1 at the fourth paragraph?-- Yes.

20

Is that - or does that contemplate what you were talking about when it says, "at some stage in the future"? Is that once development is substantially completed?-- Yes, that would be making reference to that provision within the Act that says at some point, the Corporation' planning powers will be repealed and it is assumed that they would revert to Brisbane City Council.

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And is that because there would be minimal scope for them once it is substantially completed? Is that the rationale?-- That's correct.

And any idea when that's likely to be?-- The Corporation's view and I think the view of the former Minister for Planning and Infrastructure who made a number of public statements about this were that the large remaining development in the South Bank Corporation, being South Point, which is yet to start construction - approximately three to four years' construction - and it was indicated that at the conclusion of that development that might be an appropriate point to consider the repealing of the planning powers.

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And just out of interest, which part of South Bank are you talking about, the South Point? Can you-----?-- Yes, it is adjacent to South Bank Railway Station, near the College of Art, on the top of Vulture and Grey.

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Okay. Thanks, Mr Snow?

COMMISSIONER: Mr MacSporran?

MR MacSPORRAN: Mr Snow is one of mine, Commissioner.

COMMISSIONER: Okay. Ms Brien?

MS BRIEN: No questions, thank you.

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MS O'GORMAN: No questions, thank you, Commissioner.

MR MacSPORRAN: No, I have no questions, thank you.

COMMISSIONER: Mr Callaghan?

MR CALLAGHAN: May Mr Snow be excused?

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COMMISSIONER: Thanks, Mr Snow. You're excused.

WITNESS EXCUSED

COMMISSIONER: Do you want to adjourn then?

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MR CALLAGHAN: We may as well, I suppose.

COMMISSIONER: There's not too much point in starting anyone else. 2.30.

THE COMMISSION ADJOURNED AT 12.54 P.M. TILL 2.30 P.M.

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THE COMMISSION RESUMED AT 2.30 P.M.

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MR CALLAGHAN: I call Jon Womersley.

JONATHAN CHRISTIE WOMERSLEY, SWORN AND EXAMINED:

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MR CALLAGHAN: Your full name is Jonathan Christie Womersley?-- That's correct.

You are the director of Regulatory Practice Operations, Environment and Natural Resource Regulation Division within the Department of Environment and Resource Management; is that correct?-- That's correct.

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You have prepared a statement, Mr Womersley, with accompanying exhibits?-- That's correct.

That's a copy of it being shown to you now; is that right? I tender that.

COMMISSIONER: Exhibit 624.

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ADMITTED AND MARKED "EXHIBIT 624"

MR CALLAGHAN: You have got your own copy there in front of you as well, have you?-- I have.

Now, your statement addresses in broad terms - in broad terms your statement addresses how local and State Governments regulate environmentally relevant activities when such activities are located on a flood plain; is that right?-- That's correct.

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At paragraph 10 of your statement, you set out the different kinds of environmentally relevant activities and then go on to a bit more detail in paragraphs 11 to 15. We probably don't need to worry about paragraphs 11 and 12 so much, but 13, 14 and 15, can you tell us what sorts of activities that you are talking about in those paragraphs? For example, in paragraph 13, is your common service station embraced by the notion of me petroleum and gas activity or are we talking about something else?-- No, petroleum and gas activities are a best understood term in common parlance to be about CSG production and petroleum production out in the far west of the State. It's not anything to do with the chapter 4 kinds of activities relating to petroleum storage.

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Perhaps in chapter - we might deal with paragraph 14,

chapter 4A, 5 or 5A. What sort of things are we talking about there?-- Well, chapter 4A is a social group of environmentally relevant activities that deal with cane farming and cattle production in the reef catchment areas, and they have a set of provisions relating to their administration, chapter 5 relates to mining activities and chapter 5A is the provisions relating to petroleum and gas activities.

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And in paragraph 15 you talk about chapter 4 activities which you mentioned a moment ago. What are you talking about there?-- Chapter 4 activities are the ones that are administered under the Sustainable Planning Act and are the ones that the Commission asked me to address.

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Right. And is it the case that, again, as a general proposition for those chapter 4 activities it's local government which has the responsibility for these?-- No, but it's a co-regulatory arrangement under the legislation which is a shared arrangement between the State and local government for chapter 4 activities. So, some chapter 4 activities devolve to local government, the majority of activities are administered by the State.

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Okay. To whom does someone actually apply for assessment of a development application involving an environmentally relevant activity?-- All the chapter 4 environmentally relevant activities are applied for under the Integrated Development Assessment System administered through the Sustainable Planning Act, and those applications are generally speaking made to local government.

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Right. And if we look at your statement, if we looked at paragraph 35, as you say there the process undertaken by DERM in assessing development applications follows the requirements of the Sustainable Planning Act and the Environmental Protection Act; is that right?-- That's correct.

Then you proceed to address each of those in paragraphs following right through to paragraph 61?-- Yes.

40

The procedure does not appear to be straightforward; would you agree with that?-- There are several pieces of legislation involved in making a decision and that does make it difficult to follow exactly what the procedure is in some cases.

Several pieces, one of which being the Sustainable Planning Act?-- That's correct.

And in paragraphs 41 and 42 you refer to some of the things which DERM might as a referral agency have to have regard to certain matters as set out in the Sustainable Planning Act and you have referred, I think, in your statement to section 282; is that right?-- That's correct.

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And then there are other matters which - in paragraphs 44 and 45 you've referred to certain other things to which DERM must consider when assessing a development application. I am just

wondering if you could - if we can translate all this into something practical? Can you give us some practical explanation of how all that might actually work, the sorts of things that might be - that you are talking about there?-- All right. The Sustainable Planning Act sets up, as I understand it, and I hasten to say that I'm not a lawyer, I'm a lay interpreter of legislation, but the Sustainable Planning Act sets up a process called IDAS and within that process you have assessment managers and referral agencies. Now, for the vast majority of considerations relating to environmentally relevant activities, the Department of Environment and Resource Management is a referral agency. That means that it will receive from the applicant a copy of an application lodged with local government for a development approval and as a referral agency it's the obligation of DERM to give to the assessment manager its advice or concurrence requirements; in other words, conditions that it wishes to have placed on the approval. It arrives at those conditions by assessing the application that's been made. In making that assessment, the concurrence agency has to take account of the requirements of the Sustainable Planning Act and also the requirements relating to its particular jurisdiction. Now, in relation to the questions that the Commission has asked, I have addressed only one of a number of jurisdictions that DERM exercises, and to give the Commission an example in relation to that, the Environmental Protection Act is one jurisdiction, another jurisdiction is the Native Vegetation Management Legislation, another jurisdiction is the Queensland Heritage Act requirements. So, DERM actually administers multiple jurisdictions. My responses to the Commission have addressed only the jurisdiction in relation to the Environmental Protection Act.

All right. Can I take you to paragraph 56 of your statement and the provision that you talk about there and you say apart from a provision relating to wild river areas, that's the only specific reference to the term "flooding" of which you are aware in the Environmental Protection Act and regulations; is that right?-- That's correct.

And no specific examples of the kinds of releases of water that you talk about in paragraph 57?-- No, there are no - in the explanatory notes to the regulations when they were enacted, there are no examples given of when a release to waters like that might relate to an environmentally relevant activity.

And this is probably again implicit in what we're talking about, but when considering environmentally relevant activities, does it - is it the case, then, that there's no requirement or the State Planning Policy doesn't come into things?-- No, that's not correct, the State Planning Policy is one of the matters that would be considered under the Sustainable Planning Act requirements in relation to both the assessment manager and the concurrence agency making a decision.

I see. All right. Well, can I take you specifically to that part of your statement which might, with respect, contain some helpful comment and that is paragraph 74 and following. You say that, "The Environmental Protection Act gives the administering authority limited direction as to whether or how it should assess development applications for chapter 4 environmentally relevant activities proposed for land subject to flooding."; is that right?-- That's correct. 1

Have you got a view as to the sort of direction which might better be given in that part of the Act?-- That - that essentially borders on policy questions that we administer the provisions of the legislation as it stands and the fact is that there is little guidance in that part of the Environmental Protection Regulation which deals with making an environmental management decision or in the standard criteria about the issue of flooding or the impact that floods might have and how that should be taken into consideration. 10

Even if you don't want to volunteer as to what the policy might be, can you just illustrate the sorts of things which you - the manner in which such guidance might be given in a certain case?-- Well, currently the Environmental Protection Regulation sets out a series of considerations that the - DERM has to make in relation to a decision, and there are some which are for every decision and there are some which are for matters that impinge on discharges to water or acid sulphate soils and so on. So, every one of those matters has to be considered by DERM in giving a concurrence decision in relation to a development application. It also has to consider not only those regulatory requirements, but the standard criteria which are defined in the Act itself in the dictionary, and those standard criteria set out some 10 or 11 different issues that this person undertaking assessment must consider in making that assessment. Now, my comment is that there is nothing specifically relating to flooding that you - one can discern easily in those matters as they're set out in the legislation at the present time. 20 30

Would it be difficult to formulate something in that regard?-- I'm confident that Parliamentary council could formulate appropriate words. 40

COMMISSIONER: What would make it easier for you to administer the legislation since that's your role? What degree of detail would assist you?-- Some specific provisions that pointed to the requirements in relation to the effect of flooding on what might happen in relation to the administration of an activity or the performance - the carrying on of an activity, so that if that activity was proposed to be in a flood prone area, then that would of necessity be raised up and considered as part of making that decision. 50

MR CALLAGHAN: Can I take you to paragraph 76 where you refer to the fact that information of the kind you describe there is not readily available and you go on in paragraph 77 to say that, "When it is provided, it's difficult to evaluate." What could be improved in that regard, do you think?-- My first

comment there is that it's rarely given as a matter of course in an application on - in relation to flood prone land, and the second aspect of that comment is that it's not just simply whether the land is flood prone but it's actually the impacts that activities have on the nature of flooding and so on which has to be part of the assessment process, and that information's often not part of the documentation submitted with an application, and the second - my second comment to paragraphs 77 of my statement is that it requires expertise that is not necessarily held widely amongst assessment officers to interpret that kind of information and to analyse it when making a decision and determining what kind of conditions should be imposed on an approval for an ERA.

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Right. Can I take you forward to paragraph 88 where you talk about the manner in which the provision of advice can be facilitated through a standing offer arrangement with the relevant commercial expertise. Can you just explain what that's all about?-- I'm not responsible for that particular aspect of the work of the Department. My understanding on the advice that I was given is that there's a standing contractual arrangement with expert providers - experts who will provide services on a brief from the Department in relation to particular questions and give us commercial advice in respect of those matters.

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Right. Well, in the following paragraph, paragraph 89, you talk about substantial inconsistencies in approach. Can you elaborate on that for us, describe some of those inconsistencies?-- I made that statement having been - having responded to item 5 in the Commission's questions that were put to me. Having gathered the documents, I then took the opportunity to have a look at them, and it's quite clearly apparent from the documents which have been provided to the Commission that there is inconsistency across the practice that's evidenced now. That inconsistency is based on the fact that some of those documents were provided on - were decided in 2003 and some of them much more recently and so practices evolved over time but some of the inconsistency is also due to the fact that as a highly distributed organisation we have variations in practice between offices and, therefore, the inconsistency creeps in to those activities.

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COMMISSIONER: Do you need some kind of checklist, or how can the practice be made consistent?-- We have, in fact, a checklist, but it is apparent from these documents that it's not been being applied, and as a result of this exercise I have, in fact, taken steps to have that document revised and reissued before the end of the month so that it will be applied consistently across the Department.

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MR CALLAGHAN: All right. You have attached some documents to your statement. In particular, I think there's a series of them in Exhibit JCW 10. Just excuse me for a moment. There's a document entitled, "Assessment Report For a Dulux Application." I don't think that's numbered within your exhibit, but it's a 34 page document, probably towards the back of that attachment. Do you have that?-- Yes, I do.

And if you turn to page 16 the form asks about site characteristics and, for example, it's got a reference to the site's proximity to various things, including a heritage site and so on. There's no reference to flooding and flood plains or anything like that in that part of the document, is there, where an applicant might or should include application about flooding on a form such as this?-- I'm not absolutely certain where on page 16 you're referring to. Could you assist me?

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It's-----?-- So, under, "Site Characteristics.", they're labelled E, F, and G?

Yes. There's the second bullet point, E, in E the second bullet point refers to specific characteristics of the environment?-- That would be - that would be one opportunity that could be taken to consider the issue of flooding.

Right. And would you expect that that's - you say that's one opportunity. There are others, you'd say?-- There are other opportunities in relation to the requirement to consider the plans, local government plans, and other statutory planning documents such as the SP 1/03, and they are all opportunities that can be taken.

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They're all opportunities, it's all options, but it's not clear in any of them that it should be addressed in any of those; would you agree with that?-- In all of these matters with the exception of one, which relates to specific types of categories of wetlands that are designated under the State Coastal Management Plan and in the map of regulated wetlands, there are only requirements to consider matters under the law, there are no requirements other than in that one specific case to refuse an application.

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Now, before when you said you were taking steps to address the inconsistencies, is that what you were getting at in paragraph 85 of your statement, or was that something else?-- This assessment report is one of the examples of assessment reports that are used throughout these documents and it's this assessment report which is being revised and reissued in order to make sure that it complies with the requirements of the law and is clear about what are the legal requirements for assessing an application.

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And if you didn't - you might have said so a moment ago, but is the timetable for that-----?-- I've-----

-----as per-----?-- -----given a direction that it will be done by the end of the month.

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As specified in paragraph 8?-- So, the 30th of September, that's correct.

Is that on track?-- I reviewed the matter only on Friday and I believe that we will be able to accomplish that.

Thank you. And, finally, attachment 14 to your statement is

an example of an environmental impact assessment conducted by the Coordinator General. Paragraph 71 and paragraph 72 of your statement, you note that DERM is involved in that process by providing advice. I suppose the short point being is the risk of flooding adequately addressed in this process?-- The issue about whether flooding is assessed is addressed under the terms of reference for that particular environmental impact study, and the documents that I've tendered in evidence include the documents where the flood risks are - flood impacts were all assessed as part of that study.

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All right. Thank you.

COMMISSIONER: I will come to you last, Mr MacSporran.

MR MacSPORRAN: Thank you.

COMMISSIONER: Mr Porter?

MR PORTER: No questions, Commissioner.

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MR FLANAGAN: No questions, Commissioner.

MS O'GORMAN: No questions, Commissioner.

MR MacSPORRAN: I have nothing, thank you.

COMMISSIONER: Thank you.

MR CALLAGHAN: May Mr Womersley be excused?

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COMMISSIONER: Thanks, Mr Womersley you are excused?-- Thank you.

WITNESS EXCUSED

MR CALLAGHAN: I call Lynn Doyle.

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LYNN RACHEL DOYLE, SWORN AND EXAMINED:

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MR CALLAGHAN: Your full name is Lynn Rachel Doyle?

COMMISSIONER: Before you go on, Mr Newton, are you seeking leave to-----

MR NEWTON: Yes, I seek leave from the Commission. My name is Newton, initials GC, Senior Counsel. I appear with Mr Trim of counsel for, with the Commission's leave, CGU Australia Limited instructed by DLA Piper.

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COMMISSIONER: Thank you. Yes, Mr Callaghan?

MR DOYLE: Sorry, your Honour.

COMMISSIONER: Oh, Mr Doyle too.

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MR DOYLE: I am here again. We have some remote interest. I appear with Mr Baartz for RACQ Insurance. It will emerge why, I hope, your Honour.

COMMISSIONER: Mr Callaghan?

MR CALLAGHAN: Your full name is Lynn Rachael Doyle?-- That's correct.

And you've prepared a statement dated the 9th of September 2011; is that right?-- That's right.

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I will show a copy of that to you now. That's your statement with some accompanying documents; is that right?-- That's right.

Yes, I tender that.

COMMISSIONER: Exhibit 625.

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ADMITTED AND MARKED "EXHIBIT 625"

MR CALLAGHAN: Mrs Doyle, I just want to take you to some parts of that statement. Leading up to paragraph 24 you describe the process of your house being flooded and then you made a claim with CGU Insurance; is that right?-- That's right.

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Over the telephone?-- Yes.

Now, you gave your statement or you statement you signed as recently as the 9th of September of this year; is that right?-- That's right.

And you were obviously turning your mind back to events of January?-- That's right.

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Which was some time ago?-- That's right.

And there'd been a fair bit of contact between yourself and CGU between that time?-- That's right.

And since you signed your statement, have you now had the opportunity to listen to a recording of the telephone call made on the 11th of January?-- I have.

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And you'd accept that the call wasn't quite as you've depicted it in your statement?-- That's correct.

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In fact, it's case that you weren't asked about any creeks in the area or the colour of water or anything of that nature on the 11th of January?-- That's right.

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It's now your understanding that that was probably a conversation on the 27th; is that right?-- That's correct.

Or at least another date, even if you can't remember-----?-- Yeah, it wasn't on that day, yes.

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-----the exact date? You'd also accept that you weren't told in that conversation on the 11th that an assessor would attend within 48 hours; is that right?-- That's right.

But what in fact happened was that there was a call by your husband on the 13th of January; is that right?-- That's right.

And in that conversation is it now your understanding that he was advised that you'd be contacted within 48 hours?-- That's right.

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I might, before we go any further, Madam Commissioner, tender the statement of James Bruce Merchant on behalf of CGU Insurance and the exhibits attached to that.

COMMISSIONER: Exhibit 626.

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ADMITTED AND MARKED "EXHIBIT 626"

MR CALLAGHAN: Now, Mrs Doyle, you're aware that I've just tendered the statement that's been made by someone from CGU in response to your statement?-- Yes.

And that there's a summary there of relevant communications between you over the-----?-- Time.

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-----months since January?-- Yes.

And have you had a chance to see that summary of-----?-- I have.

And does it appear, to the best of your recollection, to be-----?-- Yes.

-----broadly accurate?-- Yes.

50

Now, it shows that there was communication between either you and CGU or your husband and CGU around about that time?-- That's correct.

But then there was another call on the 19th of January to check on the status of the claim?-- Yes.

Another call by you or your husband on the 25th? By all means do check annexure one?-- Yes.

1

And that call was apparently returned on the 27th; is that right?-- That's right.

And it's in this conversation that you were asked about the height of the water, the colour of the water, where it came from and so on?-- That's right.

10

Okay. All right. Again you, or the insured, is recorded as calling for an update on the 7th of February?-- Yes.

And an assessor attended at your residence on the 17th of February; is that right?-- That's right.

Okay. So when you said in your statement, paragraph 36, I think you say that you were ringing them almost every day, you would be prepared to accept that you weren't ringing them every day but just on that regular sort of a basis that we've-----?-- Yeah, it seemed like - yep.

20

Yeah, it seemed like it?-- Yeah.

Okay. Now, the assessors, one Cunningham & Lindsey, called you on the 10th of February to advise that an assessor would attend on the 17th of February. That's what you say in-----?-- That's correct.

-----paragraph 37?-- Yes.

30

And you've given an account of the assessment and there's probably not much more to say about that. Paragraph 42 you note that you'd spoken with neighbours, most of whom had approval at this time; is that right?-- That's correct.

Approval to go ahead with their repairs or whatever-----?-- That's right.

Paragraphs 44 to 46 you again talk about calling CGU and assessors for an update. Well, again, you accept the summary that CGU's prepared of the calls which have been made?-- Yeah.

40

An assessor's report was apparently received on the 4th of March, and it's annexure 10 to Mr Merchant's statement. On page 3 of that it said, "Based on the evidence available at the time of our inspection it appears floodwaters is the principal cause of loss." Can you tell me, what was the state of evidence as at the time of the inspection? What had you done or - how did things appear at the time of that inspection?-- From the assessor?

50

Yes?-- Well, we had the house cleaned up by then. Like, all the carpets, furniture, everything had been either removed and thrown away and cleaned up, basically.

And, obviously, there was no water still around?-- No, no.

Did you ever get a copy of the assessment report until recently, assessor's report?-- Not until recently and I got that from Paul Holmes from legal aid-----

1

All right?-- -----and I only requested that about - a few weeks ago.

It would seem from entries that may have been your husband who requested that perhaps back in March, on the 8th of March; would that be right?-- That's right.

10

You go on in paragraph 48 to speak about the hydrologist's assessment, the hydrologist's report?-- That's right.

And your husband was obviously involved in this as well. He's recorded in - on the 28th of March as advising CGU that he was becoming increasingly frustrated at how the claim was being handled, is that-----?-- That's correct.

And it's recorded that CGU apologised for the delays he was experiencing. Is that as related to you by your husband, did he - do you recall him telling you that they'd apologised for the delays?-- I don't recall.

20

Likewise, if we look at the 30th of March, it seems that a Ms Briggs from CGU returned your husband's call from the previous day, advised that "still waiting for hydrologist's report". Again your husband is recorded as saying that he was getting very frustrated with the delay; is that right?-- That's right.

30

Were you present for that call by your husband or did you discuss it with him?-- No. I was in hospital then so, no, I wasn't present.

All right. It's then recorded that your husband called on the 1st of April wanting someone to call him back. Calling twice on the 4th of April, and it would seem that CGU received the hydrology report on the 6th of April; is that right?-- That's correct.

40

And it seems that a call was made fairly promptly at that stage advising that the claim was denied; is that right?-- That's right.

There was then a request for a review of that decision and two letters, that you refer to in paragraph 49, issued. One, it would seem, to relate to the decision and the other to the review of the decision; is that correct?-- That's correct.

50

Okay. The letter of the 6th of April refers to the review of your claim and it says, "Based on your advice and information available to us we conclude that the loss for which you have claimed was caused by flood." Were you aware of the information that was referred to there, presumably the assessor's report and the hydrology report but-----?-- Not at that stage, no.

You didn't know about that?-- No.

1

No. Okay. In paragraphs 50 to 51 you speak to sending a letter and disputing the decision and contacting legal aid; is that right?-- That's correct.

There are a couple of entries which aren't really referred to anywhere except the annexure. There's a phone call of the 20th of June. There doesn't seem to be any record of a return of that call. And another on the 13th of July; is that right?-- That's right.

10

Do you know anything more about those or can you recall anything more about those?-- No. Sorry, I'm not - no.

No. Okay. Now, legal aid submitted a complaint to the Financial Ombudsman on your behalf?-- That's correct.

Are you still waiting for that to be dealt with-----?-- Yes.

20

-----or where's that at?-- That's still being processed.

I beg your pardon?-- We haven't heard anything yet.

All right. And you've also referred to the fact that, and this is in paragraphs 52 and following, various neighbours have had various claims approved with other insurers. You've had some communication with CGU about that, have you?-- Yes, we have.

30

And, in essence, is the response, "Well, different policies have different wording so we can't really"-----?-- That's correct.

-----"say anything just because someone else has had something approved," is that-----?-- That's correct.

-----in essence, the response? All right. Just excuse me. Yes, you have received the response made to the Financial Ombudsman by CGU; is that right? You received that-----?-- That's correct.

40

-----on the 29th of August? Yes. Yes, all right, thank you, that's all I have.

COMMISSIONER: Mr Newton.

MR NEWTON: Thank you, your Honour. Might I begin with a correction to Mr Merchant's statement, so it's on the record? Your Honour, in paragraph 13, the Commission will see there's reference to Ms Dobrowa's claim?

50

COMMISSIONER: Sorry, just give me a moment. Got it.

MR NEWTON: That should clearly be a reference to Mrs Doyle.

COMMISSIONER: Oh, it should be "Doyle". I noticed that before.

MR NEWTON: Would your Honour read it that way? Your Honour, I was going to ask for the audio to be played. I won't any longer. It goes for about eight minutes but I think I will just ask questions about it in order to save time given the concessions which have been made, if I may.

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COMMISSIONER: Sorry, what was the last thing you said?

MR NEWTON: Given the concessions which have been made-----

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COMMISSIONER: Yes, yes.

MR NEWTON: -----I won't ask for the audio to be read.

COMMISSIONER: All right, thank you.

MR NEWTON: Mrs Doyle, is it fair to say that in relation to the claim that you made on the 11th of January it was a very polite, cordial conversation that you had with Cathy on behalf of CGU?-- Yes it was.

20

And she, in fact, accepted your claim for lodgment?-- Yes.

And she gave you the claim numbers in relation to all of your policies?-- Yes.

And she took your mobile phone number and the mobile phone number of your husband for contact purposes?-- That's correct.

30

All right. She also took your e-mail address so she could contact you?-- That's right.

And she suggested to you that you were at liberty to clean up or minimise whatever damage you had sustained-----?-- That's right.

-----and that to keep the records so you could be indemnified if the claim was accepted?-- That's correct.

40

All right. And, indeed, at the end of that conversation you thanked her for her help?-- I did.

All right. So I think we accept that paragraphs 24 to 29 in your statement don't accurately reflect the conversation with CGU on the 11th of January?-- Yes, I think I got a few dates mixed up, like few phone calls mixed up-----

50

Well-----?-- -----since it's been so long.

Well, for instance, you'd said in that statement that there was an argument before they were prepared to accept the claim but that's in fact not correct, is it?-- I do remember making two calls on the 11th of January, actually.

Well, I've not heard that suggested before. The - if you go to annexure one to - sorry, annexure two, I should say, to Mr Merchant's statement, you will see, once you have it on the screen, the conversation that you had with Cathy on that occasion when you made the claim?-- Yes.

1

And if you scroll through, for example, to the second page-----

MR CALLAGHAN: It is annexure one, I think, two is the disk.

10

MR NEWTON: Sorry, two is the - two is the - sorry, two in mine is the transcript, I'm sorry, of the conversation.

COMMISSIONER: My annexure two sadly is a blank so I can't help with any of this.

MR NEWTON: Sorry. In my annexure two there's actually a transcription of the telephone conversation.

20

MR CALLAGHAN: We don't have that.

COMMISSIONER: Have we got a hard copy of it to show Ms Doyle?

MR CALLAGHAN: We don't have the transcript that Mr Newton is referring to.

MR NEWTON: I'm not sure why that wasn't included, your Honour. This is a transcription of the disk of a conversation that you had on the 11th of January. Now, with the Commission's indulgence might I get you to have a read through that to see whether it accurately reflects the conversation that took place on the 11th of January? Perhaps to save time, Mrs Doyle, I can take you through it-----?-- Yeah.

30

-----if I may. You'll see that you phone up, you speak to a lady called "Cathy". You tell her that you're flooded - your house, rather, has just been hit with floodwaters this morning, and she asks you to give her some information so she can get your policy details; do you see that?-- Yep, I do.

40

All right. If you go to the bottom of the second page, she points out that flood isn't actually covered under the policy but she says, "I can lodge a claim for you if you would like as we are considering all flood instalment claims". Do you see that?-- Yes.

And you ask her to do that?-- Yes.

At the top of the next page she then tells you the claim department will be in contact with you. She tells you, in about the middle of the page, to do whatever you need to do in the meantime to minimise the damage, to keep the receipts and so forth. Do you see that?-- That's right.

50

All right. And she then says it will take about 10 minutes to lodge the claim. Do you see that about two-thirds of the way down page 3?-- Yes, I do.

All right. So at the top of the next page, she says: "I've written that floodwaters have entered your home," and you say, "Yes," and, "that have caused damage to your carpet; is that correct?" And she asks you a series of questions in relation to the damage; do you see that?-- Yeah.

1

She asks for your contact numbers, on page 4. You give her two mobile numbers and an e-mail address. All right. And then at the top of the next page she said: "Yep, that's fine. So that's all lodged there, Lynn, I'll give you your claim numbers," and she proceeds to do that. Do you see that?-- Yes, I do.

10

All right. And then if you go over to the next page, page 6, you ask her to listen to some information in relation to a claim you want to make for your motor vehicle, see that?-- That's right.

And she then says: "Well, I'll finish off this claim. I'll let you know the claims department should be in contact with you within 24 hours," and she gives you a telephone number to contact them, you see that?-- Yes.

20

And then at the top of the next page she says, "Any questions about this one before I place you through to the motor area?" And you say, "Thanks for your help, Cathy." Do you see that?-- Yes.

All right. Now, that accurately records the first attempt that you made to have the claim for the damage to your house lodged, isn't it?-- Yes.

30

All right. Okay.

COMMISSIONER: Do you want to tender that transcript?

MR NEWTON: Sorry, your Honour?

COMMISSIONER: Do you want to tender it?

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MR NEWTON: Yes. Thank you, your Honour.

COMMISSIONER: That will be Exhibit 627.

ADMITTED AND MARKED "EXHIBIT 627"

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MR NEWTON: Now, Mrs Doyle, the claim was made by you on the 11th of January, and the claim was ultimately determined against you on the 6th of April, a little under three months since the date of the claim being lodged?-- That's correct.

Now, would you accept, I take it, that in order for an insurance company to make a determination about the validity of a claim they need to retain assessors, and in this case

hydrologists, to give them expert advice and make recommendations about the cause of the damage; do you accept that?-- Yes.

1

All right. You accept also that the two key appointments in relation to that so far as your claim is concerned is the appointment of the assessor, Cunningham Lindsey, and the appointment of the hydrologist, Worley Parsons?-- Mmm-hmm.

Now, it's correct, isn't it, that you had a conversation on the 27th of January with your insurer where they told you that they were about to appoint an assessor? If you go to Mr Merchant's affidavit to paragraph 6, which is on page 2?-- Yes.

10

Right. You'll see there's a list of the telephone conversations and there's one for the 27th of January where it says: "We advised that an assessor would be appointed to the claim to determine cause of water entry." Do you see that?-- Yes, I do.

20

All right. And that's a conversation that you had with CGU?-- Yes.

All right. Now, the appointment of the assessor in fact took place very promptly the following day. If you go to annexure eight to the statement of Mr Merchant. It should be annexure eight, not page eight. I'm not sure if she's looking at the right document. There should be a series of annexures, attachments to that statement, and they'll be numbered on the side?-- Oh, okay.

30

COMMISSIONER: We'll get Mr Zangari to help.

MR NEWTON: If you can go to the one that's marked numbered "8", if you wouldn't mind? Thank you. You'll see that that's the instruction to the assessor Cunningham Lindsey. You see the date the 28th of January 2011 in the bottom right-hand corner?-- Yes.

40

And there was a reference to a Krystle Beattie with whom you had the conversation from CGU and the task which the assessors are given is to assess the cause of damage to your house, you see that?-- Yes.

All right. Now, that takes place on the day after the telephone call, which was on the 27th of January?-- That's correct.

All right. Now, the assessor's report from Cunningham Lindsey was received on the 4th of March. If you can look at, in the same bundle, the one that's numbered "10", annexure 10? That should be a report from Cunningham Lindsey which was received by CGU on the 4th of March. Do you see that?-- Yes.

50

All right. Now, that's the assessor's report, which unfortunately was adverse to you in relation to the cause of your damage. All right? Now, you were telephoned on the 4th

of March, the day that CGU received that report, to inform you that CGU was going to retain a hydrologist. Do you remember that?-- That's correct.

1

All right. If you go back to Mr Merchant's statement. If you go to page 2, back to the body of the actual statement, page 2, you'll see that telephone call is recorded there: "We contacted Mr Doyle and advised the report on Cunningham & Lindsey had been received. We would like to appoint a hydrologist." Do you see that?-- That's correct.

10

All right. Now, the hydrologist was in fact appointed on the same day. If you go to the document that's numbered "7" in the numbered documents along the side. Now, you should be looking at an e-mail from someone called "Jackie Briggs", who works for CGU. See that?-- That's correct, yes.

Dated Friday, the 4th of March at 11:58 a.m., and it's to the hydrologist, who is Worley Parsons. Do you see that?-- Yes, I do.

20

All right. Now, that's the instruction letter to the hydrologist and it says a number of things, including: "Could you please contact our insured to arrange appointment for hydrologist's report". Do you see that?-- Yes.

If you go down one paragraph it says: "Please could you determine the cause of damage from storm/flood". All right, do you see that?-- Yes, I do.

30

And if you go to the paragraph numbered 1.1 it says: "No decisions on water damage/flood damage are to be made without understanding the facts for each case presented to us". Do you see that?-- Yes.

Now, I take it that you would accept that that's a correct approach, obviously, to-----?-- Yes.

Now, the report in response to those instructions was received by the insurer on the 6th of April 2011, and if you go to the document that's numbered "11" on the side of the volume, you see that document, being headed "Worley Parsons Resources & Energy"; do you see that?-- Yes.

40

That's the hydrologist's report which was received by CGU on the 6th of April. Now, you also - which, unfortunately, was adverse to you. You understand that? All right. Now, you also received a phone call from CGU on the 6th of April telling you that there had been an adverse report in relation to the hydrologist?-- Yes, my husband did.

50

All right. And you also received a letter dated the 6th of April declining to cover you for your damage?-- Yes, we did.

All right. So, as I understand it, you were told on the very day that CGU received it's assessor's report that they had received it and you were told on the very day that the hydrologist's report was received by CGU that they had

received it?-- Mmm-hmm.

1

All right. Now, I want to take you to a couple of documents in relation to the attempts made by CGU to follow up on your behalf the assessors and the hydrologists. Can you go back to Mr Merchant's affidavit? Probably the most convenient one is if you start at page 6 of the document. Now, some of these dates are repeated but I'll try to identify which ones I'm talking about for you. You will see the date the 7th of February? There were two of them. It's the second one to which I want to take you. Do you see that?-- Yep.

10

The 7th of February reads: "Chased Cunningham & Lindsey re status of investigation and contacted insured to advise of assessor's contact details." Do you see that?-- Yes.

If you go to the 18th of February you will see: "Discussed status with insured and chased assessor for report." Do you see that?-- That's right.

20

Then you had another conversation on the 24th of February to the same effect: "Discussed status with insured. E-mailed flood team to action. Contacted assessor to ascertain status. Contact insured." Do you see that?-- Yes.

All right. Also on the 1st of March there was a further attempt to chase up the assessor. Do you see the reference to that-----?-- Yes.

-----conversation? "Discussed status with insured. Chased assessor's report. Contacted insured." Right. And then similarly, on the 3rd of March, again: "Discussed status with insured. Chased assessor's report. Contacted insured and further contact with other insured." Do you see that?-- Yes, I do.

30

There's also a conversation with you on the 4th of March where Cunningham & Lindsey's assessment was actually received, and another one where they're actually chasing up Cunningham & Lindsey on the same day. Do you see those?-- Yes.

40

All right. Now, can I take you through the same process in relation to the hydrologist's report? Bear in mind the hydrologist was retained on the 4th of March. You've seen his instructions, to which I took you?-- Yes.

Can I take you to the same paragraphs of Mr Merchant's affidavit? If you go to the item on the 30th of March. You'll see it says: "Discussed status with insured. Phoned Worley Parsons. E-mailed Worley Parsons chasing report. Phoned insured back and discussed status." Do you see that?-- Yes.

50

And then if you go to the 1st of April 2011. Again there's a reference to: "Chased Worley Parsons. Discussed status with insured." See that?-- Yes.

Now, having had the benefit of those records, it appears that the insurer made pretty fair attempt to chase up Cunningham & Lindsey and to chase up the hydrologist on your behalf; would you agree with that?-- No.

Really?-- Because we were doing the chasing, because when I rang Cunningham and - Cunningham & Lindsey, on one occasion they told me the report was sent on the 1st of March, I think it was, and when we rang - when I rang Jackie Briggs, she said no, she hasn't received it, and when I rang Cunningham & Lindsey again, they said the report was definitely - it took a few days for the two to communicate to each other and they eventually got the report.

10

But you have seen all the telephone calls from CGU to both the assessors?-- Mmm.

And to the hydrologist?-- Mmm.

20

Chasing up the report for your benefit?-- Yes.

All right. Now, in relation to - can I take you to the documents which are part of Annexure 1, which should be file notes of conversations that took place between CGU and yourself or your husband?-- Yes.

Now, the way it's set out is it's done in chronological order. These are the file notes of the conversations. Can I take you to the 4th of March, which would be on the bottom of a right-hand page. You will see there are two items dated the 4th of March. I would like to take you to the one at the bottom of the page. Do you see that?-- Yes.

30

Now, I think this deals with the point you were trying to make a moment ago. It says, "Contacted Cunningham & Lindsey. Inquired on report and advised sent to CGU on 1 March 2011. Advised we have not received report and nothing on in box was advised. Will resend and left message with Maree." Now, that's a reference to Maree Perez from Cunningham & Lindsey-----?-- Yep.

40

-----to ring back?-- Yes.

And then it reads, "Located report on Cunningham & Lindsey website, uploaded from the website as per summary on 4 March." And if you go over the page, you'll see that it's on the same day that you're contacted and told that the Cunningham & Lindsey report has been received?-- Yes.

50

So, is that the confusion that you were talking about before, was it, in relation to the receipt or non-receipt of the report?-- No. We were told - I can't remember - the assessor's report will be within a certain time period and after that time, when we hadn't heard anything, we kept - we contacted them and they said they're waiting on Cunningham & Lindsey's report, so when she gave me Maree Perez's phone number, I rang Maree and Maree told me that the report was

sent on the 1st of March. I rang Jackie back and Jackie said she didn't receive the report, so I rang Cunningham & Lindsey again, "Are you sure you sent it, because they haven't got it.", and I spoke to a few different people over a period of a day or two from Cunningham & Lindsey, and everyone gave me that the report was sent on the 1st of March, but - and we left messages for Maree to ring Jackie and for Jackie to ring Maree to try to get the two to talk to each other and to locate the report. That took a few days.

1

Well, on that version, the report was sent on the 1st of March, you think, but it is received by CGU on the 4th of March, as we now know?-- Yes, the report was E-mailed, according to Maree, on the 1st of March, and it wasn't until about the 4th that Jackie said she finally received it.

10

Well, there's no record in any of the material of the report having been received by anybody on the 1st of March. The first record that any of the evidence establishes is that it was received by CGU on the 4th of March, and I don't think you adduce anything to the contrary, as I understand. All right. Now, you would appreciate, I take it, that there's a limit to how much control the insurance company has on the capacity of its assessors and its hydrologists to complete their reports?-- Yes.

20

Yes. And you'll appreciate the disastrous circumstances with which assessors and hydrologists found themselves in the period of time we're talking about?-- Yes.

30

You were also told, I think - correct me if I am wrong - on the 8th of March - if you go to the list of conversations in Mr Merchant's affidavit - for instance, on page 6, if you go to the item which is the conversation on the 8th of March, which is only a matter of days after Worley Parsons were appointed - you will remember they were appointed on the 4th of March?-- Yes.

There's a conversation with you on the 8th of March where it says, "Discussed status with insured. Advised hydrology report could take three to four weeks." Do you see that?-- That's correct.

40

In fact, the hydrology report took about that length of time - about a month. The instruction was dated the 4th of March and the report was received on the 6th of April. See that?-- Yes.

All right. So, you were aware that it was going to take about three or four weeks to have it completed, given the circumstances?-- No.

50

That's what you were told?-- We were told that a hydrologist would be in contact with us within three to four weeks.

That sounds like an even longer period of time. I think what you were told is that they hoped to have the report completed within three or four weeks?-- They spoke to my husband, so I

couldn't-----

1

All right. Now, the only other matter to which I want to take you, Mrs Doyle, is the conversations that you, in fact, had with CGU, although counsel assisting has really taken you through them, but if you go to paragraph 6 of the statement of Mr Merchant, you will see - do you have that?-- Yes.

You will see that it sets out in detail all the telephone calls that were initiated by CGU, either to you or to Mr Doyle?-- That's correct.

10

The 27th of January, the 7th of February, the 24th of February, the 1st of March, the 3rd of March, the 4th of March, the 8th of March, the 21st of March, the 22nd of March - I'll exclude the 29th, because that seems to be the returning of a phone call. The 30th of March, the 1st of April and then the 6th of April?-----

COMMISSIONER: If it says "we advised", Mr Newton, how do you know who initiated the conversation?

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MR NEWTON: It's been distinguished. The paragraph commences "we contacted".

COMMISSIONER: Sorry, I'm looking at the table.

MR NEWTON: I'm sorry, the introduction to the table says "We contacted Mr or Mrs Doyle".

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COMMISSIONER: All right. So, those are all initiated by CGU?

MR NEWTON: Yes. Indeed the - I perhaps should explain the material for the Commission's benefit. What we have done - and there's a number of sources for this, so I had to decide which one to go to rather than go to multiple sources - but the file notes of all the conversations are part of Annexure 1.

COMMISSIONER: I saw that.

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MR NEWTON: That's the source document from which the affidavit was put together.

COMMISSIONER: So, from those have been selected the ones where CGU actually made the call.

MR NEWTON: Yes.

COMMISSIONER: I see.

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MR NEWTON: And, in fact, the totality of the conversations are then disclosed in paragraph 12 of Mr Merchant's affidavit.

COMMISSIONER: I see that.

MR NEWTON: And it seems, on my calculation, your Honour, that there were 23 telephone communications from the time of the

lodgement of the claim, 12 of which seem to have been initiated by CGU, for what that's worth. Would your Honour bear with me one moment? I have nothing further.

1

COMMISSIONER: Anybody got any questions? Mr Doyle?

MR DOYLE: I do, your Honour. Ms Doyle, you've got your - sorry, can you hear me?-- Yes, I can.

10

Have you got your statement with you?-- Yes, I do.

Would you mind just turning, please, to page 6 and in paragraph 56 - when you get to it-----?-- Yes, I have.

-----you refer to some people insured with RACQ?-- That's correct.

Which should be RACQ Insurance, I'll tell you, but that doesn't matter. You say of those people they gave you a letter, which you exhibit to your statement?-- Yes.

20

I just want to clarify two things with you, please: in paragraph 56 you give an address-----?-- That's right.

-----for those people. If you look at the letter, please, which is four pages from the back of the exhibits, I think-----?-- Yes.

30

-----you will see it is addressed to number 49 of that street, rather than 39?-- Yes, sorry.

49 is the right address, isn't it?-- Yes.

You were obviously chatting to your neighbours from time to time throughout the whole of this process from when the flood hit to when - or probably to now?-- Yes.

That's the first thing. Secondly, if you'd go in your papers - that is, in the annexures to your statement - to your letter of the 3rd of May 2011 to CGU?-- Yes.

40

And if we're on the same page, so to speak, it finishes with you saying, "Please see attached report, photographs and appendix to support our claim." Is that the one you have?-- Yes.

And if you go through to some of those things, you've set out a table of properties flooded on Tuesday 11 January. If you'd turn through to that? It's a bit further on. That's the one. Ms Doyle, you can look on the screen if that's easier?-- Yes, I've got it.

50

Thank you. And that was part of your attachments to your letter of the 3rd of May?-- That's right.

And correcting the address of that person we were looking at

before?-- Yes.

1

You've got them as "approved stormwater"?-- Yes.

So it is clear that by at least the 3rd of May, they had told you that they had approval from RACQ?-- They had.

And if I were to suggest to you that that in fact occurred either in very late March or early April, does that sound about right to you?-- I think so, yes.

10

Thank you. I have nothing further.

MR HOLYOAK: No questions, your Honour.

MS O'GORMAN: No questions, thank you.

COMMISSIONER: Thank you. Mr Callaghan?

MR CALLAGHAN: No, there's nothing further, Madam Commissioner. May Mrs Doyle be excused?

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COMMISSIONER: Yes. Thanks, Mrs Doyle, you're excused.

WITNESS EXCUSED

MR CALLAGHAN: That's our final witness for the afternoon.

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COMMISSIONER: All right. We'll adjourn until 10 o'clock tomorrow.

THE COMMISSIONER ADJOURNED AT 3.41 P.M. TILL 10 A.M. THE FOLLOWING DAY

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