

Transcript of Proceedings

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THE HONOURABLE JUSTICE C HOLMES, Commissioner

MR JAMES O'SULLIVAN AC, Deputy Commissioner

MR PHILLIP CUMMINS, Deputy Commissioner

MR P CALLAGHAN SC, Counsel Assisting

MS E WILSON, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2011

QUEENSLAND FLOODS COMMISSION OF INQUIRY

IPSWICH

..DATE 18/10/2011

..DAY 48

THE COMMISSION RESUMED AT 10.02 A.M.

COMMISSIONER: Yes, Ms Wilson?

MS WILSON: Does Madam Commissioner wish to take appearances?

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COMMISSIONER: Yes. Mr Flanagan, you are for the Ipswich City Council again with Ms Brien?

MR FLANAGAN: Yes, Commissioner.

COMMISSIONER: Ms McLeod?

MS McLEOD: With Ms O'Gorman, for the Commonwealth.

COMMISSIONER: Ms Brasch?

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MS BRASCH: Thank you. With Mr MacSporran SC and Mr Rolls for the State.

COMMISSIONER: Thank you. That's all the appearances?

MS WILSON: Thank you, Madam Commissioner. The City of Ipswich lies west of the junction of the Bremer and Brisbane Rivers. Both rivers have been a feature of the city's history and progress since Ipswich was settled in the mid-19th Century.

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Like many cities in Queensland and Australia, the city was established around a river, a river which has allowed the city to grow and prosper, but a river which has also caused the devastating flooding which is the subject of the Commission's hearing here today.

The Commission has visited Ipswich once before on the 20th of May this year. On this day, the Commission heard evidence about the warnings provided to the community, about the evacuation centres, which provided a safe place for families and individuals affected by the flooding, and about government agencies' efforts to respond to the unfolding emergency.

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Since that time, the Commission has produced an interim report making recommendations about what Federal, State and Local Governments need to do before the next wet season.

Today the Commission has returned to Ipswich for two days of hearings to focus upon the terms of reference which were not addressed when the Commission was here last but which are highly relevant to the people of Ipswich.

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The first of these is the term of reference which requires the Commission to examine the performance of insurers in meeting their claims responsibilities.

The performance of insurance companies has been a significant issue for many in Ipswich who suffered property damage as a result of January's disaster and then made insurance claims. Many Ipswich residents attended community meetings about insurance issues earlier this year. The House of Representatives Standing Committee on Social Policy and Legal Affairs is also conducting inquiry into the operation of the insurance industry and held a public hearing in Ipswich on the 27th of September.

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The issues with which this Commission is concerned include the timeliness with which insurance companies decided and settled claims; the adequacy of the processes by which they assess claims; and the adequacy of communications between insurers and insured.

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Our inquiries do not extend to questions which arise before the point at which a claim was made. For example, questions such as whether an insured was clearly informed that he or she was not covered for flood is not a part of the Commission's inquiries.

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Part of the Commission's investigation does involve examining how particular claims were handled. In this regard we will hear today about the experiences of some who made insurance claims in the wake of the January flood.

One issue of particular interest to some residents of Ipswich is a decision announced on 2 August this year of one insurance company, RACQ insurance, to approve claims which had been denied some months earlier.

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The Chief Executive Officer of RACQ insurance, Mr Bradley Heath, has provided a statement to the Commission explaining this decision.

Madam Commissioner, I will now tender that statement, the statement of Bradley Peter Heath, sworn on the 23rd of September 2011.

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COMMISSIONER: Exhibit 824.

ADMITTED AND MARKED "EXHIBIT 824"

MS WILSON: Some of those who benefitted from this decision by RACQ had been previously informed that an internal review of their claims had been unsuccessful. However, the decision did not apply to all claims in the Ipswich area which had been declined.

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We will hear from Mr Colin Sharp, a resident of Fernvale, whose claim with RACQ insurance was denied some four months after he made his claim. It should be added that the General Manager, Personal Insurance Claims of RACQ Insurance,

Mr Graham Dale, has provided statements to the Commission about Mr Sharp's claims, and the claims of a number of other policyholders who have given information to the Commission. Mr Dale's statement regarding Mr Sharp's claims will be tendered today, and it is proposed that he will appear to give evidence next week in Brisbane on matters arising from today's hearings and other matters relevant to that insurance company.

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The other term of reference on which the Commission will focus over the next two hearing days here in Ipswich concern land use planning. It is clear that in planning for future development, Ipswich must balance a range of competing factors: The local government area that is heavily constrained by the risk of flooding; significant established development on land that floods; the prospect of increasing residential and commercial development in both established and greenfield areas; and the need to keep its community safe while maintaining the amenity of both new and historic neighbourhoods.

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It is worth exploring the history of land planning in Ipswich to understand the challenges faced by those planning for this city's future development. The current Ipswich City Council is a result of the amalgamation in 1995 of the former City of Ipswich and the former Moreton Shire. Prior to 1976 neither of these councils considered flooding to be a relevant consideration when assessing development, and neither had implemented a flood line or imposed controls such as minimum habitable floor levels, nor were they required to do so.

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In 1976, the City of Ipswich introduced by way of a bylaw a flood regulation line, the Q20 line. To this day, the Q20 flood regulation line remains a feature of the Ipswich City Council's planning scheme and this is a matter to be considered in these hearings.

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The State Planning Policy 1/03, introduced in 2003, expressed explicitly the State Government's view that the risk of flooding should be a consideration for local governments who remained responsible for assessing applications for development in their local government areas.

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The policy suggests that generally the acceptable level of flood risk for our communities is equivalent to a one per cent probability of flooding, the Q100 flood line.

In 2004 Ipswich City Council adopted a new planning scheme which used the Q100 flood line to regulate new development in the council's area. However, by this time extensive development had already occurred below Q100 and some even below Q20.

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The history of Ipswich City Council's planning schemes and, in particular, the level of development which has occurred on land that floods provides the background against which the Commission will today examine the adequacy of Ipswich City Council's planning controls and processes. Whilst some point to the historic nature of much of Ipswich's development, as an

explanation for the sheer volume of properties affected by the recent floods, there are those who question whether enough has been done in recent times to minimise infrastructure and property impacts from floods.

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We will hear evidence from a number of those who are concerned about recent developments in Ipswich. Residents of Karalee, a suburb of Ipswich, located at the meeting point of the Brisbane and Bremer Rivers, experienced significant flooding. Ms Carol Richards, who will give evidence, watched the development of the Citiswich site with increasing concern. Ms Richards will describe how bulk earthworks have filled in what she believed to be a floodplain.

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Mr Julian Chambers, also a resident of Karalee, will describe how flooding blocked evacuation routes forcing him to drive across another person's land to escape the rising floodwaters. Mr Chambers will also give some evidence about the insurance claim made following the inundation of his property.

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The Commission will also hear from Mr Kenneth Alderton, who is concerned that subdivisions for residential use are continuing to be approved on land that was known to be flooded in 1974. Ms Natalia Ang lives next door to one such subdivision in Mill Street, Goodna. Ms Ang will describe how quickly the floodwaters in her area rose leaving her little time to escape. While the residential complex Ms Ang lives in was built in 1992, the complex next door began construction in 2007 and the Commission will consider this more recent Mill Street development.

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The Commission will also examine the assessment of a development application for a childcare centre in Goodna. Ms Krystal Wilson, an employee of the Kaleidoscope Childcare Centre, will describe how as the local creeks rose rapidly and the nearby Brisbane River began to flood, she and her staff had to scramble to ensure the safety of their children.

For each of the developments I have described, and for more developments, Ipswich City Council has provided to the Commission a statement from the relevant officer in council.

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It should be noted the considerable cooperation of Ipswich City Council in providing extensive material in short time-frames to the Commission.

Over the course of the next two days, several council officers will give oral evidence about the processes they used and how they took flooding into account when assessing these development applications.

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Mr Carl Wulff, the council's Chief Executive Officer, will also give evidence. He will address matters including the impact of the recent floods on council's infrastructure and what steps have been taken to minimise such impacts in the future.

We will call evidence from the City Planner, Mr John Adams,

later in Brisbane. Mr Adams will set out what steps the council has taken prior to and since the recent floods and address matters such as the council's use of the Q20 flood line, the council's temporary local planning instrument introduced in June this year, how the planning scheme deals with existing development commitments, and how the Ipswich City Council sets design standards that seek to mitigate the effects of flooding on property.

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Madam Commissioner, if we could now adjourn for a short period before we call the first witness?

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COMMISSIONER: We will adjourn for five minutes.

THE COMMISSION ADJOURNED AT 10.15 A.M.

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THE COMMISSION RESUMED AT 10.19 A.M.

COMMISSIONER: Yes, Ms Wilson?

MS WILSON: Madam Commissioner, I call Natalia Ang.

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NATALIA DESTIANY ANG, SWORN AND EXAMINED:

MS WILSON: Ms Ang, can you tell the Commission your full name?-- Natalia Destiany Ang.

You live at unit 10/25 Mill Street in Goodna?-- Yes.

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You provided a statement with some photographs attached for the Queensland Floods Commission of Inquiry?-- Yes.

Can I show you this document, please?-- Yeah.

Is that your statement with attachments?-- Yes.

Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 825.

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ADMITTED AND MARKED "EXHIBIT 825"

MS WILSON: You have got a copy of that statement in front of you?-- Yes.

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Now, that statement is your evidence but if I can just ask you some questions - further questions arising from that statement. In paragraph 1 you describe the location of your house. Do you see that?-- Yes.

And you refer to your house being - that adjacent to your complex is an open drain that runs towards the Ipswich Motorway?-- Yes.

And you also refer to Leslie Park in your statement?-- Yes.

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And Woogaroo Creek?-- Yes.

Can I show you this map, please, which is a Google map? We will just show you this. It is an additional map. Now, on that - can you see your - the location of your house-----?-- Yes.

-----or your residence on that map?-- Yes.

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Is that marked by a letter A in red?-- Yes.

Now, also on that map, can you see there has been two features marked, one is Woogaroo Creek on the right. Can you see that?-- Yes.

Is that where you understand Woogaroo Creek to be?-- Yes, it should be there. It should be under one in Ipswich Motorway where I actually look at.

10

So it runs under Ipswich Motorway, is that the case?-- Yes.

Where that's marked, that's just what could be described-----?-- Yeah.

-----as a part-----?-- Yes.

-----of Woogaroo Creek, is that the case?-- Yep.

20

Now, also on that map is marked the drain that you refer to in your statement, is that the case?-- Yes.

That is - we can see that on the left-hand side of that map?-- Yes.

That photograph?-- Yes.

It is marked by a line with some crosses on it?-- Yes.

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Madam Commissioner, I tender that marked aerial photograph.

COMMISSIONER: Exhibit 826.

ADMITTED AND MARKED "EXHIBIT 826"

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MS WILSON: Now, attached to your statement was some photographs. If I can take you to two of these photographs? This is in relationship to the location of your complex to the drain. And if you look on the screen you will see the two which I will take you to. The first is - just wait one moment and it will come up. There is a screen beside you which I understand the photograph should come up at. Now, is that a photograph of the drain that you refer to in your statement?-- Yes.

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Okay. Now, can you show me on that photograph or describe to me where your complex is in relation to that drain?-- This side.

To the left of that?-- Yes.

Okay. If I can just show you this other photograph? The next

photograph shows a parkland area. Perhaps if Ms Pierce could show you the photograph that I'm referring to on your statement. And just while that photograph is coming up on the screen - it should come up in a moment - perhaps if you could just show us all that photograph that you're looking at at the moment. Now, that's a photograph of a parkland. I'm just wanting to be clear. Is that Leslie Park?-- Yes.

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And that's - can you see Woogaroo Creek in that photograph?-- I am not sure because I haven't been there myself.

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You have never been up to Leslie Park?-- No, no.

Okay. Madam Commissioner, those photographs are attached to the statement, so I don't need to tender them. If we can go to your statement now, from paragraphs 4 to paragraph 9, you describe the flooding that occurred in that area on the 11th of January this year?-- Yes.

Now, on the 11th of January you were at work?-- Yes.

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And your husband came to collect you from work?-- Yes.

Do you know what time that was?-- It was about 11 o'clock.

Okay. And then you went back to your residence?-- Yes.

And on the way back did you see Woogaroo Creek in Leslie Park?-- Yes. I saw the water in the Leslie Park is already full.

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Okay?-- Yeah, and-----

When you say already full, can you describe what you saw? Was Woogaroo Park-----?-- I can see just the roof-----

The roof?-- -----where people actually having the barbecue.

Okay. There is a barbecue-----?-- Place.

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-----place that's got a roof on it?-- Yeah.

When you say you could see the roof-----?-- Yeah.

-----what do you mean you could see the roof-----?-- Just the-----

-----in relation to the water?-- Just the roof only.

Okay?-- Because I can see it completely underwater, the ground.

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What about the drain adjacent to your house?-- We went home and I cook my lunch, and I tried to convince my husband that it is going to flood, and he didn't believe me, so he keep searching on the internet but we didn't get anything. So after lunch I convinced - I tried to convince him again to drive, just to see the drainage next to our complex. And,

yeah, he drove and we saw it is just full of water. It is running really, really fast. It is just going - it is just about to go out from-----

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When you say it was full of water and running really fast-----?-- Yeah.

-----what are you referring to? Are you referring to the drain?-- Yes.

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Okay. At some point in time that day you decided to evacuate?-- Oh, just straight after that.

Do you know what time that was?-- That was about one. One-ish.

Okay. When you decided to evacuate what did you take with you?-- My documents, my - some of my baby stuff, and that's it, yeah.

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And you and your husband drove away from your house?-- Yes.

And you refer in your statement to water on the road at the intersection of Bertha Street and Mill Street?-- Yes.

We've got the map that we can see the intersection of Bertha Street and Mill Street?-- Yeah.

You can see that in front of you?-- Yeah.

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At this point in time when you were driving away from your residence, how high was the water on-----?-- The water from Leslie Park was out and that's about half of the - my car wheels.

Up to half of your car wheels?-- Yeah.

And in your statement you say that the water was rising from two directions?-- Yes.

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Can you tell us about that?-- It is the drainage.

Yes?-- And the Woogaroo Creek.

Okay. So the drain that is marked on that aerial photograph you've got on the left-hand side?-- Yes.

And Woogaroo Creek?-- Yes.

And that's where you believe the water was rising at that point in time?-- Yes.

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When you were in the intersection of Bertha Street and Mill Street?-- Yes.

Now, you tried to return to your property the next day?-- Not only the next day, just in a few hours we tried to go back and tried to secure some stuff but we couldn't because the police

didn't allow us to go there.

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And when was the first opportunity that you had to see the area around your residence and the flooding that had occurred?-- That was the only time. Oh, when we went out from the area when I saw the water is already up from the Leslie Park, we can go back one more time but that's it.

Okay. And when you went back that one time how far did you get to your residence?-- What do you mean by how far?

10

Well, could you drive back to your residence when you went back?-- Yes.

Okay. So the flooding had gone by the time that you had left?-- No, no, no. It was still - it was still flooding but we take the risk to sort of just go there one more time and try to get more stuff out.

You referred to before some police stopped you?-- Yes.

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When was-----?-- That was - that was - I think that was already 4 o'clock.

Okay?-- Yep.

So the police stopped you and you couldn't go back to your residence at that point in time?-- No.

So when the police stopped you, what was the state of flooding in the area at that point in time?-- The intersection between Bertha Street and Brisbane Road-----

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Yes?-- -----it was already about - probably up to my knee, yeah.

Okay. In your statement you refer to that you returned to your property the next day, on Wednesday the 12th of January?-- Yes.

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If you look at that, that's paragraph 9. And you couldn't get back to your property?-- No.

And you - but you could see all of Leslie Park flooded. Do you see that at paragraph 12?-- Yeah.

And you refer to all the lower areas on Mill Street, including your complex, was a lake?-- Yes, that was the next day.

That was the next day?-- Yeah.

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And there was a caravan park located next to Woogaroo Creek. What could you see of that?-- It was just a lake. I couldn't see anything.

Thank you, Ms Ang. They are all the questions I have for you. Just hold on some other people might have some questions for you.

COMMISSIONER: Mr Flanagan?

MR FLANAGAN: Thank you. Ms Ang, can I take you to paragraph 3 of your statement?-- Yes.

May I draw your attention to the last three lines of that statement where you say, "I did not, however, receive any adverse comment from the solicitor concerning flooding. Subsequently, the contract period expired and we purchased the house in June 2009." Do you see that?-- Yes.

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At the time that you purchased the house, did you request your then solicitor to conduct council searches for you in relation to this property?-- Yes.

Those searches included a rates search?-- Yes.

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And a flood search?-- Yes.

And do you recall that your solicitor actually filed that application for those searches with the Ipswich City Council?-- I didn't receive it at all from my solicitor for the results.

All right. Do you recall, however, that your solicitor did in fact file an application with the Ipswich City Council in relation to those searches?-- No, I'm not sure.

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All right. Do you recall receiving any information back from your solicitor in relation to those searches?-- Only a phone call.

Only a phone call?-- Mmm.

Do you recall what your solicitor said to you in the course of that phone call?-- She said, well, the area was flooded before, and that's it, nothing else and - yeah.

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Did he say words to the effect that in 1974 the property that you were intending to purchase flooded to the extent of 8 metres above its property level?-- No.

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You don't recall him saying that to you?-- No, she didn't mention at all.

May I ask that you look at two documents for me?-- Yes.

The first document, which is loading onto the system-----?-- Okay.

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-----should be a Search Application Form, and you'll see there that the purchaser's name is your name; is it not? And you'll see, if you just look at the very top of the document, it's a Search Application Form with the Ipswich City Council-----?-- Yep.

-----and the purchaser's name has your name; is that correct?-- Yes.

20

Yes. And you'll see that the applicant's name has the name of your then solicitors?-- Yes.

And the vendor's name is the name of the persons that you purchased the property from?-- Yes.

All right. And if you go down to - you'll see there "Individual Items" tick box-----?-- Yeah.

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-----and there's a "Flood Only Study", five working days-----?-- Mmm-hmm.

-----and that's been ticked; do you see that?-- Yes.

And in relation to this document, you see there that there's a receipt invoice number "135206"?-- "Receipt invoice"? Oh, yes.

All right, thank you. I tender that document, Commissioner.

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COMMISSIONER: Exhibit 827.

ADMITTED AND MARKED "EXHIBIT 827"

MR FLANAGAN: And then, may I then take you to the second document, Ms Ang, which you will see is a Flood Certificate under the hand of Carl Wulff, Chief Executive Officer, dated the 25th of May 2009?-- Is this the one?

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No, the second document is - that should be-----?-- Flood Certificate?

Yes?-- Yes.

Thank you. Again you'll see that it's a Flood Certificate for 10/25 Mill Street, Goodna. That was the property that you purchased?-- Yes.

That property had been built in 1992, hadn't it?-- I believe so.

Yes, all right. And the particulars that were given, you'll see there that it states that the property levels, that is the level of your property-----?-- Mmm-hmm.

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-----ranged from approximately RL 10.7 metres AHD to approximately RL 10.8 metres AHD?-- Mmm-hmm.

But the recorded 1974 flood level is approximately RL 18.5 metres AHD, that is, approximately 8 metres above - the 1974 flood was 8 metres above the average level of your property that you were purchasing in 2009. Was this certificate presented to you by your then solicitor?-- No.

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Was the information in the certificate given to you?-- No.

Right. Do you recall any conversation with your solicitor in relation to him conducting searches at the Ipswich City Council that showed that the 1974 flood level, as indicated from the City Council, was actually 8 metres above the level of your property that you were purchasing?-- No, she didn't mention at all.

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All right, thank you. You will see there on that certificate that it says, "For all other flood levels please contact the Planning and Development Department," and it's given a phone number. Did you ring that phone number at all-----?-- No.

-----for flood information?-- No.

To your knowledge did your solicitors ring that number for flood information?-- Not to my knowledge.

40

All right, thank you. As at 2009, in May 2009 when you purchased this property, did you appreciate that the Ipswich City Council had a number of flood levels or flood lines that you could search, including the Q100 line?-- Sorry? Can you-----

Did you appreciate the fact in 2009 that if you did a flood search you would have found a Q100 line for this property?-- No. I did a search from Google myself, that was after I saw myself - after I bought the property a few days - I can't remember, but there was really pouring rain for three days that was flooded the Mill Street, that when I started to Google myself, but in terms of contacting Ipswich City Council - sorry, can you-----

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Do you have a recollection of contacting the Ipswich City Council yourself?-- No.

All right. And you're not aware of the results of your solicitor receiving information from the Ipswich City Council?-- No. 1

Right, thank you. Thank you, Commissioner. I tender that document.

COMMISSIONER: Exhibit 828.

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ADMITTED AND MARKED "EXHIBIT 828"

COMMISSIONER: Ms McLeod?

MS McLEOD: No questions, thank you.

COMMISSIONER: Ms Brasch?

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MS BRASCH: No questions, thank you.

MS WILSON: Madam Commissioner, may Ms Ang be excused?

COMMISSIONER: Yes. Thank you very much, Ms Ang, you're excused.

MS WILSON: Madam Commissioner, I call Krystal Wilson.

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KRYSTAL JOHAN WILSON, SWORN AND EXAMINED:

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MS WILSON: Thank you, Miss Wilson. Could you tell the Commission your full name, please?-- Krystal Johan Wilson.

And you're currently employed as a centre director at the Kaleidoscope Early Learning Centre?-- Yes.

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You provided a statement to the Queensland Floods Commission of Inquiry dated the 14th of October this year?-- Yes.

Would you have a look at this document, please? Now, that's your statement?-- Yes, it is.

And attached to that statement, I believe, is also some photographs?-- Yes.

Madam Commissioner, I tender that statement.

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COMMISSIONER: Exhibit 829.

ADMITTED AND MARKED "EXHIBIT 829"

MS WILSON: Now, Miss Wilson, that statement is your evidence but if I could just take you to a few matters in your statement?-- Mmm-hmm.

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The child-care centre, the Kaleidoscope Child-Care Centre is located at 45 Alice Street, Goodna?-- Yes, it is.

And this complex opened as child-care centre in 2009?-- 2008.

2008, okay?-- Yep.

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Now, when I say "complex", that's because there's two buildings on-----?-- Yes, there is two separate buildings-----

-----the lot?-- -----yeah.

How many children can the centre accommodate?-- 115 a day.

A hundred and 15 children per day?-- Per day, yes.

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Now, do you have quotas for babies and toddlers-----?-- Yes.

-----and preschool? Can you tell me how many babies the centre accommodates?-- Eight.

Eight?-- Yeah.

And toddlers, which I would put - that need assistance with

walking, say?-- So that's our - we have two rooms for the 15 months and two and a half, which is the toddlers-----

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Okay?-- -----and that will be 20 in total.

Okay. And then the other room is - makes up the rest, is that the case?-- There's a total of eight rooms. We then have two rooms of twos to threes, which is 12 in each room. We also have a two and a half and three and a half room, which holds 16 children; a threes to fours which holds 24, and a fours to sixes which also holds 24 children.

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So out of all of those numbers of a hundred and 15-----?-- Mmm-hmm.

-----how many need - would need assistance in walking? If you had to evacuate how many would need assistance in walking?-- The nursery would need - the whole eight babies would need assistance there and some of the toddlers as well because most of them are only 15 months or more, so they are more encouraged for assistance. Even when we do our fire evacuations we encourage the carers to assist them.

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Okay. How many staff is employed on the centre on any given day?-- Roughly about 25 a day.

Okay. Now, the parents of the children cared for at the centre you say mostly work in Ipswich or Brisbane?-- Yes.

But some are located locally?-- Some are local.

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Now, if I can take you to some maps of the site, which are available on Ipswich City Council's website. The first map I wish to take you to is "Major Flood Information - Map 52". Now, there is a mark on that map that indicates where the child-care centre is located. Do you agree where that mark is?-- Yes.

Okay. So that mark indicates where the child-care centre is located?-- Yes, it does.

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Now, that child-care centre is located in - we can see some green and blue hatching?-- Yes.

And you will see a legend down the bottom of that map which tells us what that hatching means?-- Yes.

Which - and the green is the flood event for January 2011 and the blue is for the flood event January 1974. So if we go back to where the child-care centre is located it is both within the green and the blue; can you see that?-- Yes.

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Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 830.

ADMITTED AND MARKED "EXHIBIT 830"

MS WILSON: Another document that I wish to show you is the PD Online map. Now, in your statement you refer to a creek at the back of your premises?-- Yes.

How far away is that creek from your premises?-- From the edge of the fencing I could only approximate it to - probably - to the actual hollow in the ground?

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Yes?-- Between five to 10 metres, roughly.

Have a look at that document?-- Yeah.

And we can see a yellow and a red line behind there?-- Yes.

Which is referred to in the legend as the - red is the urban stormwater flow path areas?-- Yeah.

And the yellow is the one in 20 development line. Does - that line at the back of the premises, is that about where the creek is?-- Yes.

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Okay. Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 831.

ADMITTED AND MARKED "EXHIBIT 831"

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MS WILSON: Now, your statement refers to evacuation procedures that the child-care centre has?-- Yes.

The centre has what you would describe as excellent evacuation procedures in place and that is because of the nature of your business?-- Yes.

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So-----?-- We actually rehearse them monthly and that way the children when we do, for example, have a fire or an emergency evacuation are calm and that it's not going to create a lot of chaos for them.

Your emergency evacuation, does it take into account flooding in any way?-- Our main emergency evacuations that we do are just fire and emergency, we've never had to rehearse a flood one, but we do have a policy for it.

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And what is a policy for flood evacuation in-----?-- To contact all families and evacuate the children as soon as possible in a safe and calm manner.

Is there any policy of the children holding onto a rope and being walked up along Alice Street to the top of a hill?-- No.

Okay. So the procedure in relation to flood is contact the parents so the parents can come and get their children?-- Yes.

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And what do you estimate, and you've got experience now with this-----?-- Yeah.

-----how long does that procedure take?-- It took for this year - it took just under two hours, roughly, to evacuate all staff and children in a safe manner.

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And when did you make the decision that now we have to start that process on the 11th of January?-- I actually took my assistant director for a drive and said to her, "Okay, this water's coming," and it was raining on the day, I said, "can you get in the car, we're going for a drive. I want to check out all the water easements and go down and see what the river's doing." We got down to the Goodna boat ramp and I actually saw a police officer there so I pulled over, got out of my car and while I was talking to her she noticed my logo on my shirt and she said that it would be advisable to evacuate the centre, 'cause she knew we were behind the police station on that easement area where the water does come in the creek.

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So what waterways were concerning you on that day that you wanted to check out?-- We were checking out the stormwater which goes up towards Jones Road and just the actual river itself.

Now, when was the last child collected by?-- 1 o'clock.

30

And then the staff left?-- All the staff had left by the same time, 1 o'clock.

And when did you leave?-- I left just after 1, with the assistant director. We made sure the centre was completely locked up. We took the towers off both computers in each building just as a precaution, and locked the centre, closed the gates and we all went home.

40

In paragraph 17 you refer to receiving a phone call on your mobile phone which was diverted from the centre?-- Yes, I diverted all lines to the centre as a precaution again. I received a call that - and it was - all it consisted of was a very loud siren and unbeknownst to me at the time, I didn't know what it was, it wasn't until I visited my sister to see how they were that she told me that that siren meant it was time to evacuate.

Do you know when water started to enter the premises?-- I don't know what time it started to enter the premises, no, sorry.

50

You did go and visit the centre early the next morning?-- Yes, 5 a.m.

And when you visited the centre on that early morning what did you see?-- I couldn't see from the 6 foot fence under. I

could only just see above the 6 foot fence to the roof tops of our buildings.

1

And when were you able to actually get back into the premises?-- Not till the Friday.

Now, your statement in some detail takes us through the enormous community support that you received to assist in cleaning up?-- Yes.

10

You received - members of the RAAF came to assist?-- Yes, one of my parents had called the centre hoping to get someone or hoping the phones were diverted. They hadn't been rostered to do anything for the day and he said, "Do you want some help?" and I just said, "Yes, please, it would be appreciated," so he brought half his unit down to help us get out the larger items in the kitchen and the cupboards and lockers and, like, furnishings that were attached to the walls.

And members - just people walking along the street just came in and helped?-- I had people from even New South Wales just over the border come. It was a very good community spirit.

20

Food was provided?-- Yes. We had Go-Gecko turn up and put a barbecue on with sausages on bread and some water. We had people donate water. People come in with bottles of water, food, soft drinks, whatever they could help provide. I even had a elderly lady who had lost everything who'd baked goods come down and she's like, "I can't help you clean but please eat something."

30

Now, you provide quite a bit of detail in your statement about the damage caused by the flooding to the centre. How long did it take for the centre to reopen?-- It took 45 days.

Forty-five days?-- Yes.

And after the centre reopened you refer to the "utilisation rate". When you refer to the "utilisation rate", what do you mean by that?-- A "utilisation rate" is the percentage of children and families that came back to us.

40

Okay?-- So before the centre flooded we were sitting at about 97 per cent and when we reopened we sat at 47.

And what's - what is it now?-- We just hit a hundred per cent this week.

So it's gradually built up over that time?-- It's gradually built up over the time.

50

And for those 45 days you could not offer any service?-- No, we could not.

Now, there's some photographs attached to your statement. If we could just quickly have a look at those. You saw - actually see them on the screen as well. So that's an aerial photograph of your centre?-- Yes, it is.

Is there any significance between the left and the right?--
So this one here?

Yes?-- This is after the flooding. This is prior - before
the flooding when they first opened and this is what you could
see from the aerial to the ground on the clean up.

And there we can see the two buildings that are a part of your
complex?-- Yes.

10

If we can go to the next - I think these are the - it's hard
to actually - looking at the ones-----?-- Yep.

It's hard to actually see it because they're somewhat a mirror
image?-- So this is the water level line.

And you're pointing to-----?-- Pointing to which would be
where the 6 foot fence is. This is the frontage-----

20

Right?-- -----so it's slightly higher. So that's the water
line there, and, like, you can see a couple of toys floating
just behind the fence line there that had been in the
playground-----

And-----?-- -----and again the water line is here, and all the
toys that have actually floated out from the building.

Now, do you know whether that's the water line at the peak?--
No, that wasn't at the peak.

30

And when was that photograph taken?-- Those photos were taken
the Wednesday, roughly early morning, I couldn't say exact
time because I had personally gone home to get a camera to
start taking photos to document the water level.

If we can have a look at some more photographs. See the
photographs on the left?-- Yes.

And when were those photographs taken?-- All three of those
photographs were actually taken at the 5 a.m. on my mobile
phone.

40

Okay. And we see that a sign has been put up showing that
there's-----?-- Yeah, there is a traffic hazard of the water
covering the road ahead and there was actually a police
officer car and an officer there.

If we could have a look at the next. That is after the water
has receded?-- Yes, this is after the water has receded.

50

And we can see the damage inside the building. Is that,
though, after the clean up process had started?-- This is
before the clean up process had started.

So that's what you encountered when you walked into the
building?-- Yes.

And if we can keep on going. There's photos on the left that - what stage of the clean up process are those photographs?-- This photo here? Or that one?

1

Yes?-- This one. This is walking first in.

Okay?-- We've been able to open the doors and see what was done.

And the one on the right?-- The one on the right is we started to pull stuff, like the smaller things out of the building.

10

And if we could have a look at the-----?-- And this was the Saturday. This is after we'd got all the walls, the Gyprock, as much equipment and all that out of the centre. The centre had been high-pressure hosed down. So this was pretty close on lockup.

And where did you get the high pressure hose?-- We actually had one of the volunteers who contacted some friends that he knew had industrial high-pressure hoses to be able to hose out the centre.

20

And I think that's all of the photographs. Thank you, Miss Wilson, I have no further questions.

MR FLANAGAN: Commissioner, this is one of the few occasions I need to seek leave to ask questions.

30

COMMISSIONER: Oh, is this not one of your terms of reference?

MR FLANAGAN: It is but I hadn't given notice of cross-examination.

COMMISSIONER: Oh, I see. Are you going to be long?

MR FLANAGAN: No, not at all.

COMMISSIONER: That's all right then.

40

MR FLANAGAN: Thank you.

Miss Wilson, are you aware that - and appreciating you are not the developer of the child-care centre, but are you aware that one of the conditions of the development was a construction of a solid wall along the road frontage from the eastern corner across the south-west corner of the property and along the western boundary to the north-western corner?-- No.

50

You are familiar with the wall I'm talking about, though?-- That would be the very front entrance across that entrance to Spalding Court.

All right. And how high is that wall?-- Well, it's, I'd say, 6 metres and then it has, like, the bars that were in the

photos and then the cylinders, which are probably another foot, perhaps.

1

All right. Does that wall separate the creek that you referred to and the child-care centre?-- Part of the wall because it goes around one corner of one side and then it's a wooden fence.

And the owner of the building, did they ever explain to you that part of the conditioning of this development was that the child-care centre had to have a flood escape plan and procedure to be developed and periodically practised, rehearsed in case of flooding of the site?-- I was not aware of the flood procedure, although it is a policy we do have.

10

Right, thank you. And also in relation to the car park. You are aware that there's signs in the car park, again a condition of the development, that warn of the car park is subject to flooding?-- No, I was not aware of this.

20

You are not aware of that?-- No.

Thank you.

COMMISSIONER: I take it there are no such signs or-----?-- No.

MR FLANAGAN: And I take it that you're not aware whether that was a condition of the development that there be such sign-----?-- No, unfortunately I'm not aware.

30

Right, thank you. Now, to be clear, the event that happened in relation to the flooding of the child-care centre was not a flash flooding event from the creek, was it?-- No-----

No?-- -----it was slow rising.

All right. And, indeed, it was a slow rising flood event from the Bremer River flooding itself; is that correct?-- Yes.

40

According to your evidence, it's the case, isn't it, that before the water hit the back wall, or that wall we've referred to-----?-- Yeah.

-----the 6 metre wall, before any water hit that wall the children had been evacuated for a period of 10 to 12 hours; is that correct?-- Yeah, approximately.

All right, thank you. And in relation to that evacuation, the evacuation took place really by you contacting parents and saying, "Come and pick up your children"?-- Myself and the assistant director, we got on the phones.

50

Right. And most of the children were picked up 11 to 12 hours before any flooding event in relation to this development; is that correct?-- Yes.

And at the latest the last child, one parent had some

difficulty in picking the child up, but that child was picked up at least 10 hours before any floodwaters hit this development; is that correct?-- Yes.

1

All right. You're aware that there is a specified evacuation route for this development, which is up to higher ground?-- No. It was-----

You're not?-- -----just to contact families and get the children evacuated.

10

All right. In relation to the evacuation procedure that you conducted on that day, it really took the effect of you ringing parents to say, "Come and collect your children"?-- And some parents had already started coming back because they were getting turned away from work.

Exactly?-- Yep.

Right. But that happened in an orderly manner, didn't it?-- Yes, it did.

20

Right. You didn't have to scramble to achieve an evacuation with a minimum of 10 hours before any floodwater-----?-- No.

-----hit the development? No, all right, thank you. Now, at no stage was any child under your care, was their health and welfare or safety at risk?-- I was just concerned for getting the children out before the water actually came to-----

30

Quite?-- -----hitting the back fence.

And you achieved that some 10 to 12 hours before-----?-- Yes.

-----the water hit? Thank you. Yes, thank you, Commissione

40

50

COMMISSIONER: Ms McLeod?

1

MS McLEOD: No questions, thank you.

MS BRASCH: No questions, thank you, Commissioner.

MS WILSON: You've been asked questions about the wall, the solid wall?-- Mmm-hmm.

10

In relation to this flood event, did the wall achieve any level of flood mitigation on the site?-- What do you mean by "flood mitigation"?

Well, did it-----?-- Crumble or fall, or-----

Yeah, do you believe that the level of water was reduced by that existence of that wall?-- Not as far as I'm aware.

20

The creek that you refer to, does that flow into the Brisbane River?-- To my knowledge, yes.

Not the Bremer, it goes into the Brisbane?-- I think it goes into the Bremer.

Into the Bremer?-- Into the Bremer.

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

30

COMMISSIONER: Thanks very much, Ms Wilson.

MS WILSON: May the witness be excused?

COMMISSIONER: You are excused, thank you.

WITNESS EXCUSED

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MR CALLAGHAN: I call Kenneth Alderton.

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KENNETH ALDERTON, SWORN AND EXAMINED:

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MR CALLAGHAN: Could you tell the Commission your full name and address, please?-- My name IS Kenneth Leslie Alderton. I live at 1A Edwards Street, One Mile.

Mr Alderton, you've prepared a statement for the Commission?-- Yes, I have.

10

And the statement attaches to itself a copy of a submission which you've prepared also; is that correct?-- That's correct.

Yes. Can I get you to take a look at this? You have been shown a copy of your statement and submission?-- Yes.

I tender that.

20

COMMISSIONER: Exhibit 832.

ADMITTED AND MARKED "EXHIBIT 832"

MR CALLAGHAN: It might also be convenient at this time to tender the statement of Ms Joanne Pocock, who is the Development Planning Manager for the Ipswich City Council.

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COMMISSIONER: Exhibit 833.

ADMITTED AND MARKED "EXHIBIT 833"

MR CALLAGHAN: Now, Mr Alderton, your home was not flooded in January 2011; is that correct?-- No, it wasn't.

40

But your submission addresses some broader issues that you believe exist within the planning approval systems?-- Yes, it does.

And you've in your submission and statement referred to some specific examples given by the Ipswich City Council which you believe demonstrate the issues that you've identified?-- Yes, I believe they're examples of what I'm trying - the point I'm trying to make.

50

Can we start with the example of 84 Chubb Street at One Mile?-- Yes.

And this is an approval that relates to the subdivision of land and associated construction of some 118 aged

accommodation units; is that correct?-- That's as I understand it, yes.

1

All right. And is it the case that these units have been construct or this is just a-----?-- No, they have not been constructed.

Now, you say, I think, in your materials that the land which is the subject of this development application is below the Q100 level; is that correct?-- That's correct, yes.

10

I might show you the Council flood overlay map for the relevant property. Now, we're concerned with the area - it's more or less in the centre of the map with the parallel lines?-- Yes, I understand that.

Is that correct?-- That's correct, yes.

Number 84?-- That's correct.

20

And it's within the blue shaded area, which the legend, it might be on the next page, tells us is the one in 100 flood line; is that right?-- That's correct.

So that's the basis of your concern?-- Plus the note in the decision notice which is-----

Yeah, sure. Sorry, we will come to that. I might just tender that before I forget to.

30

COMMISSIONER: Exhibit 834.

ADMITTED AND MARKED "EXHIBIT 834"

MR CALLAGHAN: And ask you - and it would seem by reference to that map that the whole of the block is within the Q100 area, are you aware whether the proposed construction itself, or the development itself, you know, are you aware as to whereabouts on the block that's proposed to be?-- As far as I can see from the development application, it sits on - if I can - it sits roughly there extending in this direction.

40

Are you indicating the top right-hand-----?-- On the northern - on the northern edge extending down into this area here.

All right?-- It's at the end of this court. There's a court there which you can hardly see.

50

COMMISSIONER: Could Mr Alderton, do you think, show it on the - just point to it on the large screen?

MR CALLAGHAN: Would you be able to stand?-- Could I get over-----

COMMISSIONER: Are you able to just stand up and point to it perhaps? I'm not sure whether you can reach?-- I may not be taller enough, but it's-----

1

We might find you a pointer, perhaps?-- Yes.

Is there something that can be used? No rulers anywhere?-- Is this a pointer?

Presumably Mr Alderton can come out and around. Is that working?-- Yes, it is.

10

MR CALLAGHAN: It might be working but it's not showing up very well?-- Just there. Can you see that?

COMMISSIONER: No, sorry, I actually can't?-- No.

Can you come out of the witness box and around and just show us on-----?-- Sure. There's an extension of - it's a cul-de-sac just here and I believe that the residential development is in this area here. The top of the block.

20

Okay. Thanks very much, Mr Alderton.

MR CALLAGHAN: And that belief is based upon your interpretation of what?-- Of the documents that go with the development application.

All right?-- I believe there's a site plan.

30

You personally witnessed inundation on this site?-- On the 12th of January, yes.

On the 12th of January this year. And I might just take it one step further?-- Sure.

You've heard about the Ipswich City Council's new flood map search facility?-- Yes, I have.

Can I ask you to take a look at this document, which I believe is a copy of the search from that facility?-- Yes, yes.

40

This document indicates the areas which were inundated in both 1974 and in 2011; is that right?-- Yes.

And part, of course, that was inundated in both?-- Yes.

Is it your understanding that the area for the - I will ask you this way: by reference to that map, where do you understand the proposed construction to be designated for?-- It's - again, it's-----

50

Well, could I ask you this: I think we remember where you pointed it out previously?-- Yes. You can see there are four - there are two E shaped buildings there?

Yes?-- Just below that.

Just below that? So in the Q100 but not in the 2011 - I'm sorry, in the 1974 area but not in the 2011 area; is that right?-- The only thing I would say is that the edge of that 2011 flood line doesn't equate with my memory of it.

1

Okay?-- It's confused by the fact that along the red line there, which is on the northern border, there is a five to six metre mound of earth, so that this area immediately behind it is blocked from the view that I had which was up on Cafferky Street looking down.

10

I see?-- I could not see at the back there, but you can see at the side, and I had the impression that, in fact, that water was much closer to the boundary.

To the boundary of Lot 84?-- Yes. I don't know when that line was surveyed, but the peak of the flood at One Mile would have been somewhere around midnight, certainly after dark, and by 8 a.m. the next morning it had gone down at least two metres at the One Mile Bridge. The One Mile Bridge is visible from my front verandah.

20

All right?-- So, I just have some doubts about that area in my own mind.

All right. Well, that's noted. I tender that.

COMMISSIONER: Exhibit 835.

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ADMITTED AND MARKED "EXHIBIT 835"

MR CALLAGHAN: Now, in the first paragraph of page 9 of your submission, you make a particular note that this development would be utilised by - this proposed development would be utilised by elderly people-----?-- Yes.

40

-----vulnerable in flood events?-- Yes.

And it's probably self-evident, but do you just want to elaborate on that?-- I have some knowledge of how difficult it is to evacuate elderly people because my daughter is a Director of Nursing at one of the local - at one of the large local nursing villages and she is always concerned about having to evacuate elderly people in a hurry because of the fact that they suffer from a variety of disabilities.

50

And the Commission has also examined the problems involved in housing elderly people at evacuation centres as well?-- Yes. So that's what I had in mind when I wrote that paragraph, I understood some of the difficulties and hazards evacuating elderly people in a hurry.

Okay. Well, can we turn our attention then to Haig Street at Brassall?-- Yes.

That's another development that has concerned you?-- Yes.

Now, this is an application for the construction of 48 residential units; is that right?-- Yes, it is.

At page 8 of your submission-----?-- Yes.

-----the third full paragraph, you make reference to a flood report-----?-- Yes.

10

-----prepared by Cardno-----?-- Yes.

-----which shows that some sections of the site are well below the Q100 levels and right at the Q20 level; is that right?-- Yes.

Could I get you to take a look at this document, which is a Flooding and Urban Stormwater Flowpath Areas Overlay Map from the Councils PD online website, and you've seen that, or can you interpret that?-- Yes, I can.

20

Explain what your concerns are by reference to that?-- Well, as I interpret the drawings in the Cardno Report, that it's quite a large development and it extends from the intersection of Collins and Haig Street down towards the Bremer River, which is at the bottom, it's in the yellow area there, and the bottom edge of the development almost intersects the area where the Q20 line is, and, as you can see, it's all within the-----

30

The yellow? The Q20 being represented by the yellow?-- Yes, it goes almost down to there as I remember it-----

All right?-- -----and it's all in blue area, which is the Q100 level.

All right. I will tender that.

COMMISSIONER: Exhibit 836.

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ADMITTED AND MARKED "EXHIBIT 836"

MR CALLAGHAN: Now, you have referred in your submission to the fact that a flood report was prepared for the purpose of the development application and to the fact that some of the site would be filled to build it above the Q100 level; is that right?-- That's what was said in the report, yes. That is what it recommended.

50

And you've got concerns about that?-- Yes, because when I looked at the drawing, which is attached to the submission, it seemed to me that the report was indicating that some parts of the development would still be inundated, to what depth was

uncertain, in spite of the filling.

1

And, again, we might look at the document from the Flood Information Search Facility for this site. I should ask: did you actually witness flooding at this site in 2011?-- No, no. No, I couldn't get to that site.

Okay. That map would seem to suggest that a fairly substantial portion of the lot was inundated in January; is that correct?-- That is the case, yes.

10

Yes, all right. I tender that.

COMMISSIONER: Exhibit 837.

ADMITTED AND MARKED "EXHIBIT 837"

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MR CALLAGHAN: Again, I have to ask you what is the basis for your understanding as to where the actual development will be?-- The basis of my understanding is that the site plan, which I think I've attached as an attachment to the - it's Figure 2 on Attachment 3.

Right. So it's your interpretation of that?-- Yes, that's the drawing, in fact, in which my interpretation is based.

30

Okay. All right then. Can I ask you about the property at 70A Chubb Street, One Mile?-- Yes.

Now, that approval that you've noted was for the reconfiguration of one lot into 11 lots; is that right?-- That's correct, yes.

Again, I will show you the Flooding and Urban Stormwater Flowpath Areas Overlay Map for that one?-- Yes.

40

And at the same time show you the corresponding Flood Information Search Facility document?-- Yes.

Now, we can interpret those documents to read that this site was inundated in 1974 but not at all during 2011; is that correct?-- Not that I'm aware, no.

All right. Again, before I forget, I tender both of those.

COMMISSIONER: The Flooding Overlay Map will be Exhibit 838.

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ADMITTED AND MARKED "EXHIBIT 838"

COMMISSIONER: The Flood Information Report, Exhibit 839.

ADMITTED AND MARKED "EXHIBIT 839"

MR CALLAGHAN: Now, I think you addressed this site at page 7 of your submission?-- Yes.

10

That's attached to your statement. And you refer to the fact that an information request was sent from Council to the developer requesting some further information in relation to the flooding of this site?-- Yes, yes.

And you suggest there's no indication in the documents on PD Online, the Ipswich City Council website, that a response was provided to this request?-- There's no indication in any of the documents after that of the response or whether it was in fact received.

20

All right. Can I ask you to take a look at Attachment 30 to Ms Pocock's statement, which was just tendered?-- Yes.

Now, I'm not sure if you've seen that, but it would seem-----?-- No, I haven't.

It would seem that the developer's response to the Council's information request attached a stormwater management plan and a flooding report?-- That seems to be the case.

30

And that the flooding report commissioned by the developer revealed that the Council's calculations of the Q100 level were inaccurate and the site was, in fact, not within the Q100 level - you can just take this from me because-----?-- Well, can I just amend something? In fact, I have seen that report now that I-----

Okay?-- I think I refer to it in the submission.

40

Yes, or at least the information?-- Pardon?

You are at least, I think, aware of the fact?-- Yes, there was a reply from the developer and he did - he just - he did dispute certain of the Council's assumptions.

Yeah, and the Council decided to proceed with the assessment of the application based on the developer's calculations of the Q100, or at least on the report's calculations of the Q100 flood line for this site, instead of the Q100 line identified in the planning scheme?-- I have no way of knowing that.

50

Again, if you would just - I'd ask for your comment on that, I suppose, if you accepted that as a fact?-- They would have had to, yes.

And do you have a view as to that process?-- I would have thought the evidence for the developer's case was rather thin

to be honest.

1

All right?-- That's the evidence that was available. I would have thought the Council would have, in their initial - in their initial viewpoint would have at least had some basis for saying that.

If you accepted that the evidence was sound, would you think that the Council's overlay should be updated to reflect it?-- I would have thought so, yes.

10

All right. Now, just - okay, that's all we need with that one. Can we just address some of your general concerns? In paragraph 5(c) of your statement you, I think, express the view that Local Governments should not be entitled to approve any type of residential or commercial development on land identified as flood prone; is that right?-- That's what I believe, yes.

What about though if - or is it not the case that certain conditions can be implied and flood mitigation measures adopted such that development can take place on land that's below Q100 or below - or that's in a flood risk area?-- I would think - I would think that some of the evidence that's come out and been published in the Commission's Interim Report would have pointed to a degree of uncertainty that anyone who could say, with engineering certainty anyway, that such measures could be undertaken within what I would term a flood prone area, that is below a Q100. I might add there's no way of knowing, looking at the Council - what was the Council website, if there's any correspondence between the Q100 level and the 1974 level, so that there's a degree of uncertainty there already, and I think some of the evidence that I've seen, which has already been submitted, would make me wary of believing that a skeptical engineer, which is what Council should be, could accept anything but an ironclad guarantee, which the Council's never been prepared to accept.

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30

I was going to ask you about your efforts to get information particularly about the 1974 floods. I think at the bottom of page 3, top of page 4 of your submission-----?-- Yes.

40

-----you requested from the Council a copy of a flood study produced in 1999 or 2000; is that right?-- Yes, yes.

And you've attached an e-mail-----?-- Yes.

-----that documents your request. Have you been advised as to whether that report is now available?-- No-one's contacted me, no.

50

All right. Look, the only other thing I wanted to ask you about specifically was the concern that you raised, page 9 of your submission, about the concept of appeals or reviewing approvals?-- Yes, yes.

You make the point, firstly, I think, that appeals can only be instigated by people who have made a submission-----?-- Yes.

-----during the public notification period?-- That's correct, yes.

What's the issue with that from your perspective?-- It's the people, for instance, who don't make a submission at that time, and remembering that quite often the time between the notification going out and the closing of the thing could be as little as 14 days, as long as 30 days, and quite often the documents are quite technical and quite long, voluminous, and a lot of people just say, "No, I'm not going to look at those." In fact, I have seen some submissions that have pointed that out to Council, it's just too much documentation. So, therefore, those people really don't get a say. They could be living next door and still get no say.

10

Another limitation on the process you identify is the fact that it's only applications that are impact assessable that can be appealed; is that right?-- Yes, I think that's quite a minor thing though.

20

Yes?-- I mean, most of these developments are all impact assessable.

All right. The other issue relates to the costs involved in running an appeal, obviously a barrier to any sort of litigation, including this kind. What's - you've given or suggested some figures, I think, what's your source of information as to the costs?-- They were supplied to me by a solicitor in Ipswich who is regularly involved, unfortunately on the other side of the question usually, he gave me that estimate.

30

All right?-- He did mention it was a minimum.

You're aware that there's an entitlement for people to represent themselves in these sorts of proceedings, what do you see as the limitations?-- Well, I've seen some comments from the Bench - I've read some comments from the Bench in the Environmental Court where the Justice advises against that.

40

Yes?-- Particularly where you have a developer and/or Council armed with all sorts of experts and he said that he is virtually bound to accept the expert's view over a lay view. So, therefore - and looking at the record they very rarely succeed.

Yes, all right. Well, thank you, those are all of the matters that I wanted you to elaborate on from your statement. The Ipswich City Council has some questions for you, so if you would just stay there for a while.

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COMMISSIONER: Mr Flanagan?

MR FLANAGAN: Mr Alderton, you live at 1A Edward Street, One Mile, Ipswich, don't you?-- That's correct.

10

You have already told Counsel Assisting that no part of your land or residence were flooded in the 2011 flood?-- That's correct.

You hold the degrees of Bachelor of Science and Chemical Engineering?-- Yes.

And a Masters in Asian Studies?-- Yes.

But, to be clear, you don't hold any qualifications in relation to town planning?-- None.

20

Nor do you hold any formal qualifications in relation to civil engineering?-- Chemical engineering covers a fair deal of civil engineering.

But is it still true-----?-- No, I have no formal qualifications in civil engineering.

Thank you. You certainly don't hold any formal qualifications in relation to hydrology?-- None.

30

In your submission we know that you refer to three development applications, is that correct?-- Yes.

84 Chubb Street, One Mile; 70A Chubb Street, One Mile; and 2 Haig Street, Brassall?-- That's correct.

Now, where is your residence in relation to 70A and 84 Chubb Street, One Mile?-- It would be about a kilometre away.

40

A kilometre away, all right. Similarly, in relation to your residence and 2 Haig Street, Brassall, how far away is your residence from 2 Haig Street, Brassall?-- It would be at least five kilometres.

You accept that in relation to 70A Chubb Street and 2 Haig Street, no development-----?-- 2 Haig Street.

2 Haig Street?-- Yeah.

50

No development has yet occurred on these sites?-- As far as I am aware, no.

And only civil works in relation to stage 1, that is the stage nearest to Chubb Street, has commenced in relation to 84 Chubb Street site?-- I am aware there were some civil works there, yes.

You accept that in the context of the 2011 flood, no part of 70A Chubb Street, One Mile flooded, did it?-- No, I dispute that. The northern edge - are you saying 70A?

70A?-- I am sorry, I thought you said 84.

I will repeat the question so we're clear. In the 2011 flood event, no part of 70A Chubb Street flooded, did it?-- Not as far as I'm aware. I didn't go there.

10

Thank you. To the extent that any part of the land at 84 Chubb Street, One Mile or 2 Haig Street, Brassall were inundated in the course of the 2011 flood, this inundation did not have any effect on your land or residence?-- None at all.

All right thank you.

COMMISSIONER: Mr Flanagan, what's the point of that? Is he not entitled to have a view unless he is flooded?

20

MR FLANAGAN: No, not at all. Not at all. But it does put it into perspective, that what we have is a submission that does tend to suggest an expertise in relation to planning matters - well, it does, because-----

COMMISSIONER: I don't think Mr Alderton has professed to have any - I can't see that he has professed to have qualifications, at any rate.

30

MR FLANAGAN: Well, on a fair reading of the submission it is at least impliedly critical of the planning decisions that have been made by town planners.

COMMISSIONER: Yes, it is. I just don't see whether his property was flooded has any bearing on that.

MR FLANAGAN: Well, it probably goes to the motivation of making the submission.

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COMMISSIONER: Yes, that he is a disinterested observer.

MR FLANAGAN: Well, we wouldn't say disinterested.

COMMISSIONER: All right. Well, if you have got substantial matter of interest to put, by all means do.

MR FLANAGAN: Thank you.

We take it that your submission to this Commission is really as a concerned citizen of Ipswich?-- As a concerned citizen of Ipswich, yes.

50

Would you agree that your interest in town planning matters arose when a decision was made by the Ipswich City Council to approve a commercial development beside your property?-- My interest in development matters started when the application was put in.

And you objected to that application?-- I did indeed.

All right. Having objected to that application, that objection was dealt with or - and, indeed, the development went ahead, didn't it?-- The development has not started but it has been approved.

All right. That was in or about 2002, is that correct?-- No.

10

Or later. What year was that?-- 2010.

Right. And after that did you take an interest in other developments that were being approved by the Ipswich City Council planning department?-- Having had some experience with the way it operates, yes.

And as a result of that decision to build or to approve a commercial development beside your residence, did you then start asking questions in relation to other developments that were being approved in the Ipswich City area?-- Yes, because I saw the same principle being involved.

20

All right. And in that regard you have contacted council planning staff in relation to various developments around Ipswich, haven't you?-- I don't recall contacting planning staff on any developments except the one next door to my house.

Have you been contacting development or planning - people from the planning department in relation to the three examples that you've given in your submission?-- No, I have not.

30

All right. Have you had a chance to read Ms Jo Pocock's statement in relation to how these development applications were determined?-- No, I have not.

No. Has anyone shown you her statement?-- No.

Right. May I take you to page 10 of your submission where you state that, "The public statements of the elected members of the council make it clear that development of all types is expedited." Do you see that on page 10 of your submission?-- Yes, I can see that.

40

All right. Now, are you, by that statement, suggesting that development applications are decided in haste?-- No. I'm saying they are expedited.

All right. Well, do you know how long the assessment of the development application for 84 Chubb Street took?-- I am not aware.

50

May I suggest the assessment process took in excess of 13 months for that project?-- I would believe that, yes.

All right. Again, for 78 Chubb Street, did you know it took 14 months for the assessment of that development

application?-- No.

1

Did you know in relation to 2 Haig Street, that it was assessed from early 2006 to late 2009, that is a period of almost four years?-- I wasn't aware of that, no.

Thank you. You appreciate that in relation to development applications and other such applications, sir, that they are assessed in accordance with the relevant planning scheme and the applicable assessment criteria?-- They are assessed according to the planning scheme, yes.

10

Thank you. You also appreciate that the assessment is carried out by qualified town planners employed by the Ipswich City Council?-- I assume so, yes.

And that's done in conjunction with engineers employed by the Ipswich City Council?-- I assume so, yes.

Thank you. And you appreciate from your submission that part of the criteria for assessment is the overlay maps which includes the Q100 line?-- Yes.

20

And your submission is actually geared towards an implied criticism that the council has permitted development on land that is subject to inundation above the Q100 - sorry, below the Q100 line?-- And also relying on their statements in decision notices that both blocks of land - not Haig Street, but the other two - were both inundated in 1974 and the developer should be aware of this, and the council has absolved itself of all responsibility.

30

We'll come to each of the properties in turn, if we may, but for present purposes you appreciate that the requirements of complying with the planning scheme in relation to the Q100 line can be achieved by the imposition of reasonable and relevant conditions to ensure compliance with the planning scheme?-- I understand that is the case, yes.

You appreciate that none of these sites have been developed, so with the naked eye you can't tell whether the proposed development or habitable floor area is above or below the Q100 line by looking at the development itself, can you?-- No, the only thing you can tell is they are below the Q100 level.

40

Before I take you to the three examples you've given, can you tell the Commission how you came to the conclusion in your submission that the development that had been approved was going to permit development below the Q100 line? What did you have regard to?-- Well, first of all, the statements in the decision notices, which I have already referred to; secondly, examination of the site plans and comparing that to the Q100 levels on those two properties indicated that at least a substantial part of the development would be below - nominally below that line. I take the point that if you raise the development up six metres, it will get - it will be out of the Q100 level.

50

Yeah. And to be fair, sir, was it the case that in doing your own research for the purposes of doing your submission, you didn't actually have regard to earth work applications that had been put in or the sort of earthworks that would be conducted in relation to these developments?-- I saw in at least one of the developments that earthworks were proposed and that the developer had faith that these would - that these would mitigate any problems with floodwaters, but, as I have said before, if you look with a bit of a skeptical eye upon those you might have some doubts.

1

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And in relation to those earthworks applications and the earthworks to be carried out, what documents did you have before you to give rise to that scepticism?-- In one case - well, in all cases the documents that are available on the Ipswich City Council PD Online, which are quite extensive, in one case I believe a document from the Town Planners - I think it is on 70A Chubb Street - expressed some scepticism about the developer's proposals to fill, and also his contention that the Q100 line was wrong. So that it was a combination of those factors that would give me some pause for thought, yes.

20

And this is in relation to 70A, which didn't flood at all during the 2011 flood event, did it?-- No.

Would you agree with this general proposition: that before a person in your position can determine whether development will take place above or below the Q100 line in accordance with the planning scheme of the Ipswich City Council, that you have to have regard to the plans themselves as approved?-- Unless there is something else within the planning scheme that forbids that sort of - or puts some doubt upon that sort of development, whether it be of any design.

30

But one would have to have regard to the plans that are part and parcel of the application, surely?-- Yes.

And the plans that are actually approved?-- Yes.

By the Ipswich City Council?-- Yes.

40

So you have to have regard to those?-- Yes.

You would also have to have regard to the earthworks that are to be conducted on site?-- You would have to have regard for how the earthworks are described, yes.

And you would also have to have regard to any other conditions that had been imposed by the Ipswich City Council planning department in respect to the development itself?-- It would depend whether those conditions had a direct bearing on the floodability or otherwise of that particular development.

50

See, I'm just asking this question: you've come to the conclusion, or suggested in your submission that the Ipswich City Council planning department has actually approved the development of habitable floor areas, including in relation to aged care facilities below the Q100 line?-- I have referred

nowhere to habitable areas.

1

All right?-- I'm purely concerned about the fact that the developments are going on below that level, which seems to be contrary to what the stated policy of council is.

We might be able to shorten this, then, sir: should we understand your submission that - not suggesting for a moment that the Ipswich City Council has in fact approved development of habitable areas below the Q100 line?-- I have no knowledge of whether they have done that or not.

10

I see, thank you. May I take you to page 4, section 5, paragraph 2 of your submission?-- Page 4?

Page 4, section 5, paragraph 2 of your submission?-- Yes.

Where you state this: "There is a general public perception that elected councillors either make the final decision on the approval of the developments or at the very least have a large input into these decisions. This is simply not the case. Councillors review only a minute fraction of development applications."?-- Yes.

20

Do you see that? Do you understand or do you know - first of all, where did you get that information from?-- From what information are you-----

What you have stated in your submission. What was the source of that information?-- Well, the first is a general public perception, which I have gained from speaking to a large number of people in the city in the course of normal living around the town.

30

Can I ask-----?-- And the second part is looking at council minutes, which are also available on the website for both the planning and development committee and for the full council, and simply counting up the number of development applications that appear.

40

Right. Can I ask you these questions and tell me whether you know this for a fact or not: do you know that the report and recommendations for each development application in the Ipswich City area are sent to the relevant divisional councillor and to the Chair of the Planning Committee for consultation, that is every application?-- I am not aware of that, no.

Do you know that where the Chair of the Planning Committee is also the relevant divisional councillor, that a substitute chair, usually the Deputy Mayor, considers each application?-- No, I am not aware of that. Might I just add that that's - I am not aware of it because it is not a public - it is not transparent to the public.

50

All right. Do you appreciate that the consultation with the divisional councillor and the Chair of the council Planning Committee is required under the conditions of the planning

officer's delegation?-- That's not how I read the delegation. 1

It is not?-- They are - they are required to be advised and they can ask for the development application to be referred to the planning committee, but I am not aware that the delegation says that every development application has to be so considered. There is a part of the document that says a record must be kept of every time the delegation is made, but I hardly think that's - you know, a development application. 10

All right?-- All the documentation.

Could you just accept for the present purposes that the delegation of the relevant planning officer requires that planning officer, in relation to a development application, to refer it on to the divisional councillor and to the Chair of the Planning Committee?-- That's not apparent to me, nor anyone else.

Thank you. That's not apparent to you from your reading of the delegation, is that correct?-- I have read the delegation, yes. 20

COMMISSIONER: Do you happen to know if the Commission has been provided a copy of that delegation?

MR FLANAGAN: No, I don't think the Commission has that delegation, so I was making a mental note to tender it tomorrow. 30

COMMISSIONER: Okay. Perhaps you can make a physical one as well.

MR FLANAGAN: Yes. A physical note?

COMMISSIONER: Yes.

MR FLANAGAN: May I then take you - Commissioner, do you intend to have a morning tea? 40

COMMISSIONER: If you are going to be a little while we might take the break now.

MR FLANAGAN: Yes.

COMMISSIONER: Thank you. We will take a 15 minute break.

THE COMMISSION ADJOURNED AT 11.45 A.M. 50

THE COMMISSION RESUMED AT 12.02 P.M.

KENNETH LESLIE ALDERTON, CONTINUING:

COMMISSIONER: Yes, Mr Flanagan?

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MR FLANAGAN: Thank you, Commissioner. I understand that the Commission's been able to show you some maps that have been done by the Ipswich City Council?-- I have seen them, yes.

Could I show you the map then for 70A Chubb Street?-- Sure. Yes.

Now, that's the - in dark print is the allotment, is that correct?-- That appears to be, yes.

20

In the black line?-- Yes.

Then you will see the red line is the 2011 flood line?-- I assume that's the case, yes.

All right. And the blue line, of course, is the Q100 line?-- Yes.

So no part of this property was inundated in the 2011 flood? This is 70A Chubb Street?-- 70A, yes.

30

Thank you. I tender that map, Commissioner.

COMMISSIONER: Exhibit 840.

ADMITTED AND MARKED "EXHIBIT 840"

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MR FLANAGAN: May I then take you to paragraph 167 of Ms Pocock's statement? I appreciate, sir, you haven't had a chance to read her statement, which is quite lengthy, but I just need to put certain things to you, if I may?-- Certainly. What was the number again?

Paragraph 167?-- 167, yes.

50

Commencing with the words, "Notwithstanding the Q100 flood line did not impact on the site"?-- Which site is that?

70A?-- Are you sure, because the previous paragraph refers to 84 Chubb Street?

I am sorry. For the adjoining 84 Chubb Street, but you can take it that that's the report that was done by Cardno in

relation to 84 Chubb Street-----?-- Yes.

1

-----which adjoins 70A Chubb Street, and the one report was used by the developer for both adjoining lots?-- Oh, well, I will have to believe you.

Just accept that for present purposes. And an information request went out by the council which my learned friend took you to-----?-- Yes.

10

-----in your evidence-in-chief. That was responded to with the Cardno report which basically said that in relation to this lot, it wasn't affected by the Q100 event. And, sir, would you accept that given that this lot didn't flood in the 2011 event, that that would seem to be a proper conclusion?-- No, because there is no way there is a correspondence between the Q100 level and the 2011 flood. The two have never been, to my knowledge, connected.

But can I-----?-- See, they are based on two different things.

20

Quite. I understand. But do you know what the event in Ipswich was in relation to Q levels, for example?-- I have no idea, no.

No idea, right, thank you. May I take you back to 167 of Ms Pocock's statement? She says, "Notwithstanding the Q100 flood line did not impact on the site, further measures proposed to mitigate the potential for flooding at the site included", and she lists three conditions there. Do you see those?-- Yes.

30

In your research and obtaining information from the Ipswich City Council, did you read those conditions on a previous occasion?-- Yes, I believe I did.

All right. You will see there that condition 2 of the development permit required the proposed development of the site to be undertaken generally in accordance with plan number 4628/P2. Do you see that?-- Yes.

40

And do you accept that these plans, in effect, ensured that all proposed sites and all habitable floor levels were above the Q100 flood line. You were aware of that?-- I cannot - I cannot recall that precise detail.

Mr Alderton, did you ever view these plans for 70A Chubb Street prior to writing your submission?-- Yes, I did.

50

You did, thank you. Are you in a position to agree or disagree with what's in Ms Pocock's statement in relation to that condition; that is, all habitable areas would be above the Q100 area or flood line?-- I would tend - 250 millimetres is not much. I would tend to believe that there could be an error as much as that in those lines. That, at least, was the developer's conclusion. It would depend - that will be taking everything as being according to plan; that is, the line is

where the line is drawn, and that if the line is not there but somewhere else, that the difference in height or level at that point would be less than 250 millimetres.

1

Would you agree with this, though: that as at the time of determining this application and imposing these conditions, a requirement that the building pads have a minimum of 250 millimetres immunity above a Q100 flood line was in accordance with the planning scheme?-- I assume that's the case, yes.

10

Thank you. May I then take you to the other property - and I can do this very shortly and briefly - to 2 Haig Street, Brassall. In this respect may I take you to paragraph 132 of Ms Pocock's statement?-- 132?

Commencing with the words-----?-- One moment.

Yes, of course?-- Yes.

Commencing - you have it?-- I have it, yes.

20

Commencing with the words "Condition 20h of the council's approval"?-- Yes.

Could you read that for me, please?-- "Council"-----

Just to yourself?-- Yes.

Again, in doing research for your submission were you aware of the imposition of that condition in relation to 2 Haig Street development?-- Probably. I don't recall reading it.

30

May I then take you to 84 Chubb Street? Again, I understand the Commission has been able to show you a map in relation to 84 Chubb Street provided by the Ipswich City Council. Would you look at that map, please?-- Yes.

And is it possible to turn that map on its side? That's better. Do you see the first green line there-----?-- Yes.

40

-----shown is the Q20 line?-- The green line?

The green line is the Q20 line?-- Yes.

The red line is the 2011 flood event?-- Yes.

And the blue line is the 1:100 flood event?-- Yes.

So in this present case for 84 Chubb Street, the 2011 flood event did not reach the Q100 line in relation to this property?-- No, it did not.

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All right, thank you. I tender that map, Commissioner.

COMMISSIONER: Exhibit 841.

ADMITTED AND MARKED "EXHIBIT 841"

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MR FLANAGAN: Part of your submission you refer to a statement in relation to the 1974 flood that you have found on a number of decision notices-----?-- That's correct.

-----in relation to applications. Are you aware that it is actually a pro forma or generic notification in respect to sites that were - or sites that are subject to development applications which were affected by the 1974 flood?-- I would assume that they were alerting the developer to the fact it was inundated, yes.

10

In your own research have you appreciated that that is in fact a pro forma or generic type notification to developers?-- I think whether it was pro forma or not would have been irrelevant. It was advising the developer of the fact.

20

Did you become aware, though, that that notice appeared on a number of development applications that you were inquiring in relation to?-- I noticed it in two. I didn't see anything of that nature on the Haig Street decision notice, for instance.

All right. May I take you to the bottom of page 6 of your submissions, please, sir?-- Yes.

You will see there that you say, "The author personally observed that the area proposed for construction of the units was covered by about one metre of flood water on 12 January 2011." Do you see that?-- Yes.

30

That's an assertion you are making in relation to 84 Chubb Street?-- That's 84 Chubb Street, yes.

Mr Alderton, this observation was made by you in circumstances where there is no present development on the land, is there?-- No.

40

Right. Well, what steps did you take to identify for yourself where the units were actually to be constructed when you observed the 2011 flooding?-- Well, I had already been looking at the site plans which identified the places that the buildings would be constructed.

We appreciate for 84 Chubb Street the 2011 flood line is actually below the Q100 line?-- Yes.

You accept that, don't you?-- I do, yes.

50

Do you know, from the development application that you looked at for 84 Chubb Street, as to what is the habitable floor platform in relation to the Q100 line for this development?-- I don't recall.

You don't recall. May I take you to paragraph 55 of Ms Pocock's statement? In doing so, I appreciate you haven't

had a chance to read her statement but could I take you to it?-- 55?

1

Yes, sir?-- Yes.

You knew from your own research that the Ipswich City Council, in relation to the development at 84 Chubb Street, required a flood report and Stormwater Management Report in relation to the application?-- Yes.

10

And you knew that fact, didn't you?-- Yes, I did.

If you look at paragraph 56, did you also appreciate that all accommodation units were to be located above the Q100 flood line?-- I am not sure that I would have agreed with that from the observations I made of the drawing plus the Q100 line, which you will appreciate are not on the same map.

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Quite, and - but you'd also concede, wouldn't you, that you could be quite mistaken in relation to your siting of where the development would occur when you were looking at the land in the course of the 2011 flood event?-- Yes, it would be very easy to make a mistake.

1

Yes, all right?-- As I pointed out earlier, at the northern boundary of that - just remember that the buildings are directly behind that boundary-----

10

Yes?-- -----there is a five to six metre wall of earth, so that you can't see the level of the water behind that, all you can see is on the left it comes up to a line that - which when continued up to your line of sight of the wall would tend to go behind the wall. Now, that's why I disputed the level shown on the - on the previous maps.

When you observed the one metre of flood on 84 Chubb Street in the 2011 event did you yourself have a map of where the units were to be constructed when you made that observation?-- Not with me, no. In my head.

20

In your head, all right, thank you. If you look at paragraph 57 then of Ms Pocock's statement, "The council required as part of the conditions of this development that all pad levels of the multiple dwelling units were located above the Q100 flood level of 23.8 metres AHD". Were you aware of that condition being imposed by the council in relation to this development?-- No, I wasn't, but that doesn't make sense, with respect, if I'm thinking of the right flood line here. That would be an awfully big pad, awfully high pad, I would imagine.

30

All right-----?-- I mean, I don't have the levels, neither did the levels appear on the drawings that I had access to.

Right. I think my question is simpler than that. Were you aware that was a condition imposed by the Ipswich City Council in relation to the development of 84 Chubb Street?-- I can't say I was aware, no.

40

Thank you. May I then take you to page 8 of your submission. You state that from these three examples that you've given to the Commission in your submission that they illustrate three propositions. It's page 8 of your submission?-- Just one moment, yes. Illustrate that, yes.

The first is that, "Since 2002 the Planning Department of the Ipswich City Council has permitted development below the Q100 flood line even though these developments consisted of a considerable number of dwellings." Do you see that proposition?-- Yes.

50

I take it that the date 2002 is a reference to when you returned to Ipswich-----?-- No.

-----is that correct?-- No, that's the date that Councillor Tully gave as the dividing line between when the council

accepted Q20 and the council accepted-----

1

Q100?-- -----Q100.

I see?-- That's what that - that refers to that specific date.

I've taken you to the relevant paragraphs in Miss Pocock's statement in relation to each of those developments of where the conditions imposed by the Ipswich City Council Planning Department was that all habitable floor areas were to be constructed above Q100 flood level. Do you appreciate that?-- That's what we've taken there, yes.

10

All right. Having considered those paragraphs of Miss Pocock's statement do you accept that it's not correct for you to assert in your submission that these developments consisted of a considerable number of dwellings which were - permitted development below the Q100 flood line?-- No, because we're talking about two different things.

20

Are we? How so?-- We're talking about a plan which illustrates that the building is partially or completely below the Q100 line and Miss Pocock is discussing habitable floor levels. Now, those two things are different. If I might just illustrate. My house is three metres above ground. The habitable floor level is a lot higher than the ground level on which the Q100 level would be marked, so I just use that to illustrate the fact that she and I are talking about two different things. I'm talking about the council saying that nothing is to be subdivided, remember subdivided, when there's no building upon it, of any land below Q200 - below Q100. That's according to all the public statements for council, their stated policy, it has nothing to do with habitable floor levels.

30

So-----?-- I think she's splitting hairs, to be honest.

-----if I could understand it, you're talking about the treatment of the land itself-----?-- Yes, exactly.

40

-----in relation to the Q100 flood line-----?-- Which is exactly what a development application is about.

But in your submission you actually refer it back to a considerable number of dwellings. You accept, of course, that the dwellings are above the Q100 flood line?-- Not necessarily.

No, but you don't know one way or the other?-- No. I'm concerned entirely for the fact that land is being subdivided, allowed to be subdivided below the Q100 level, which I think is against council policy and is frowned upon by the planning scheme.

50

All right, but you don't make a statement whether or not the permission for granting of a development application for reconfiguration of a lot, which has some lots in terms of land

below the Q100, is otherwise in accordance with the planning scheme?-- I would think that - the provisions I've seen are all or nothing. It's either all above the Q100 line or all below - or considered to be below it.

1

Right. And meaning no disrespect, but that's an opinion you've arrived at without any town planning qualifications?-- Well, I think it's a conclusion you could reach by logic.

Thank you. Your Honour, would you just excuse me for one minute in relation to the delegation? Oh, look, I'll come back to that, it's too complicated. Thank you. Thanks very much Mr Alderton?-- Thank you.

10

COMMISSIONER: Ms McLeod?

MS McLEOD: I have no questions, thank you.

COMMISSIONER: Ms Brasch?

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MS BRASCH: No questions, thank you.

COMMISSIONER: Mr Callaghan.

MR CALLAGHAN: Just to put that last exchange in context, Mr Alderton. If you have your submission there?-- Yes.

It's at page 14 of your submission. Were you picking up on or referring to the proposition which appears about halfway down the page, a remark attributed to Councillor Tully, if you have a block of land under Q100 you can't subdivide?-- Yes.

30

Is that - that's the basis-----?-- That's basically the - that's basically the policy I'm talking about.

Yes?-- I consider that to be a statement policy.

Yes, all right. Thank you, that's - may Mr Alderton be excused?

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COMMISSIONER: Yes, thanks very much, Mr Alderton, you're excused.

WITNESS EXCUSED

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MS WILSON: Thank you Madam Commissioner. I call Julian Chambers.

JULIAN JAMES CHAMBERS, SWORN AND EXAMINED:

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MS WILSON: Thank you, Mr Chambers. Is your full name Julian James Chambers?-- Yes, that's correct.

You live at 86 South Queensborough Parade, Karalee?-- That's correct.

10

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

Can I show you this document, please. Is that your - is that your submission - is that your statement?-- I believe that to be, yes.

And there are some attachments to that statement?-- Yes. Yes.

20

If I can just take you to one part of that statement before I tender it. If I can take you to paragraph 11 of your statement?-- Yes.

And that refers to a conversation that you had with an AAMI representative on the 11th of January?-- Yes-----

Now-----?-- -----it would have been.

-----just to be clear, did you have that conversation or did someone else have that conversation?-- My wife had that conversation.

30

Okay. And you refer to - so that paragraph is incorrect in the terms of it was your wife that had the conversation?-- Yes, I suppose in that term, yes.

We'll come to this later on but I just wanted to clarify that?-- Mmm-hmm.

40

Did you have any conversations with any member of AAMI staff at all?-- Did I have any-----

Yes, did you?-- On which particular day?

Throughout the time that you were dealing - you and your wife were dealing with AAMI?-- I believe I had one conversation with AAMI, yes.

We will come to that later. Madam Commissioner, I tender that statement.

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COMMISSIONER: Exhibit 842.

ADMITTED AND MARKED "EXHIBIT 842"

MS WILSON: Madam Commissioner, Mr Chambers, as we can see, raises some issues in relation to his insurance claim in his statement. It would be an appropriate time now to tender now a signed statement of Mr Higgins, who is the Executive Manager of Queensland Event Recovery for Suncorp Personal Insurance. His statement is dated the 7th of October 2011.

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COMMISSIONER: Exhibit 843.

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ADMITTED AND MARKED "EXHIBIT 843"

MS WILSON: Mr Chambers, have you got your statement in front of you?-- I do

If I can take you to some matters in your statement. You purchased and moved into your house in about 2008?-- Approximately.

20

And the house is situated above the banks of the Bremer River-----?-- That's true-----

-----is that the case?-- -----yes.

And about 20 metres above the normal river level, you estimate?-- Approximately, yeah.

30

Now, in your statement you raise issue about a development called "Citiswich"?-- Yes.

Can I show you this aerial map so that we can get some understanding of where your house is in relation to the Citiswich site? Now, you will see there that there is a mark there that has got "JC"-----?-- That's correct-----

-----next to it?-- -----yeah.

40

And does that represent, thereabouts, where your residence is?-- It does, yes.

And there is a site that is outlined which is named "Citiswich Site" and that is part of the Citiswich site, is it?-- That's correct, yes. Whether it's exact - it's a very, very large area that they've got outgoing there. I think it includes the sewerage works and other areas but that is the major part of Citiswich.

50

And that Citiswich site is - runs adjacent - part of it runs adjacent to the Bremer River, is that case?-- That's correct, yes.

Madam Commissioner, I tender that statement - I tender that aerial photo.

COMMISSIONER: Exhibit 844.

ADMITTED AND MARKED "EXHIBIT 844"

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MS WILSON: If I can also show you another document, which is a PD Online flood overlay map. Now, we can see your property, that's shaded in red?-- That's correct

And there's a yellow line there which indicates a one in 20 development line?-- That's correct.

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And the blue is the one - below the one in a hundred flood line, is that the case?-- That's correct, yes.

Now, when you purchased your property did you undertake any searches in relation to potential flooding on your property?-- No.

Okay. Did you look at any flood maps for the area?-- No.

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If we can just go to your statement and if I can seek some clarification for the matters that you raise in paragraph 2. You refer to the real estate agent showing you the current flood maps for the area-----?-- That's correct.

-----which indicated that it was out of a one in 20 flood event but within the Q100 zone?-- That's correct.

So the flood maps that you saw were a part of that discussion-----?-- They were shown to me, yeah, I didn't undertake to see them-----

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And you go on to say that you felt comfortable that your flood risk was minimal because of the mitigation ability of the Wivenhoe Dam?-- That's correct.

And so following that you did purchase your property?-- Yep.

Now, a lot of your statement addresses the development that occur - that was occurring across the river on the Citiswich site?-- Yes.

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And we've seen where that is in relation to your property by that aerial photograph. If I can take you to some of the matters that you raise in your statement and if we can go to paragraph 3. Now, not long after you moved into your house a new industrial development commenced construction just across the Bremer River and about 400 metres downstream. You go on to state that prior to the development this area appeared to be a natural floodplain where any excess water would cross between the bend in the river. How did you understand that prior to this development the area appeared to be a natural floodplain?-- I mean, I'm not - I'm not a hydrologist but it's on the outside bend of a river and when you see a river flowing, especially in times of flood, be it minor or moderate flood, the water needs to go somewhere and it will generally raise up on the outside edge of a river and the river comes and meanders around, as you can see here, coming around the

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left-hand bend and then back around the right-hand side and I presumed all of this area to be undeveloped because it is a natural way for the water to flow.

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In paragraph 4 you go on to set out your observations of the construction of this estate?-- Yes, that's true.

Where you observed massive earthworks that were occurring on the site?-- Mmm-hmm.

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Now, you've got some photographs that are attached to your statement?-- Mmm-hmm.

Perhaps if we can go to those photographs to clearly show what you are referring to when you talk about the massive earthworks that were occurring?-- Mmm-hmm.

Now, that is - where is that photograph taken from?-- That's taken underneath the Warrego Highway-----

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Now-----?-- -----looking across at the Citiswich development.

And where is your property in relation to the position that this photograph was taken?-- We're actually on my street there. Or if you travel up the river it's just around up to the right-hand side.

Okay. If we can continue?-- That's our street. That's where the photograph was taken from, looking the other way.

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Okay. And if we continue?-- That's our street again, just looking the other way up the street.

Okay. Now, that is from your property?-- That's from my property.

Looking down?-- Looking down at the river.

And looking over, is that the - does that form part of the Citiswich site?-- No it doesn't, no.

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That's further downstream?-- Further upstream. The Citiswich development is further downstream, yes.

Yes, okay. If we can continue. Now, your property got flooded during the-----?-- Yeah, I think the photo reference would be the black light up there is the height to which the water came.

So the black light is-----?-- The height of the water.

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-----the height that the water came to?-- Yeah.

Okay. If we can continue. Now, where is this photograph taken from?-- That's taken once again from my property looking down towards the Citiswich estate, which is downstream a little bit.

And when was this photograph taken?-- Three weeks ago.

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Okay. So it's - it shows the state of the land as it is now?-- As it is now.

If we can continue?-- That's looking back up towards my property from down towards the river's edge.

Now, if we can go to the next one. This one seems to be scanned in - now, are we now on the Citiswich site, are we?-- We are on the Citiswich site. I wasn't there when these photos were taken, they were taken by the flood police.

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Now, have you been onto the site?-- I have, yes.

Now, when you were referring to massive earthworks, the buildup of massive earthworks in your statement, are there any photographs that we are seeing or we've seen which show the massive earthworks that you're looking at?-- This photo here would-----

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Okay?-- -----yeah.

Why is that?-- Well, I'm presuming that down where the water that you can see there in the puddle, that would be the natural height of this land before they built up to where this person taking the photo is standing. So to presume they're a minimum of five to six metres higher than where the normal land would be.

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So-----?-- I mean, the massive earthworks that I referred to is the months and months that they had machinery, huge machinery moving dirt from - cutting out of the - up against the edge of the mountainside, almost, and bringing the earth and placing it on the outside edge of a river, for months.

Well, if we could keep on going?-- There's a very clear example of it there.

So-----?-- To the right-hand side you can see the height. Even this particular road where we're on here, is also been built up and the natural land would be metres down to the left-hand side.

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If we can continue. And that photograph is on the Citiswich site?-- This is on the Citiswich side. That's all fill there, the difference where he's standing and where the photographer is standing.

And so is that what you have been referring to, that fill-----?-- That fill.

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-----that makes up that jump, as we can see?-- Yeah.

Okay. In these photographs. If we can continue?-- Once again it's the same photos. The left-hand side is the buildup, and the part where we're standing here and then to the right is the lower.

And that's all the photographs that we've got. They're attached to your statement so I don't need to tender those. If I can take you now to paragraph 7 of your statement. You refer to that there are two main issues that you wish to highlight and then you go on to refer to the Citiswich development?-- Mmm.

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And then you set out the observations that you had of watching the Bremer River rise and you noticed that the floodwaters could not escape across the floodplain?-- That's true.

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Can you talk us through that, please?-- A point where we went to down our street, where those photos were taken underneath the bridge-----

Yes?-- -----to see where the water was at, to see if our only entrance in and out of our property was blocked off, the first time we went down there, approximately a quarter past 2, the water was over the top of the road and you could see the water literally flowing against the bank of the Citiswich development and causing almost swirls and pushing the water back up. That was my observation.

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And so what effect do you say the Citiswich development has on you across the other side of the river?-- Well, it prevents us from escaping from our street when it floods, it causes the water to do things that it shouldn't do, and it also in the way that a big rock in a small pond would add a metre of height to everywhere else, that's what I believe the Citiswich has done.

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In your statement you refer to the term damming effect?--
Mmm.

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Damming effect, can you tell us about that?-- Possible damming effect. If - once again, if the river - this particular flood is one particular flood, the '74 flood was obviously a different style of flood, and there could be a possible future flood where there's more of a rapid current coming down the river that would like to go straight over where the Citiswich area is and form a straight line. However, now there is a 10 metre high earth wall built on the outside edge of the river so that would act as a dam.

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Another issue that you raise is the lack of road access. Now, this feeds into what you referred to before that it denies you being able to get out because it crosses the road. The South Queensborough Parade flooded on the afternoon of Tuesday, the 11th of January, is that the case?-- Tuesday, the 11th, yes.

Now, what is the access that you have to your property?-- We only have one road that runs in and runs out and that's South Queensborough Parade, and that runs down underneath the Warrego Highway, and that's our only access in and our only access out.

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So, how long did it take for this road to be flooded?-- By quarter past two on Tuesday the road was more than a metre deep.

And were you watching it rise?-- We were watching the river rise, but the river was still eight metres, nine metres from our property.

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So, when this road was flooded, what access did you have to get out of your property?-- We went through private property at the other end of our street, which was in - you know, it had been raining for weeks obviously, it was deep in mud, and it was through paddocks, cow paddocks, that we exited and up on to the Warrego Highway.

And when did you decide to leave that way?-- When we saw that the road was blocked, so approximately about quarter past two, 2.30. I'd been watching the BOM weather site, watching the TV, and we received a text come through on our phone saying possible flooding. At that point we said we will go and have a look at the road and see how far the water would be from going over the road. When we got down there we found that the road was completely blocked, so we quickly raced back home, my wife grabbed an overnight bag for herself and my son and we went out through the farm lands.

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And ultimately your property did get inundated by water?--
Mmm.

And we saw that photograph of the side of the house where we could see a line - a black line where the water reached?--
Yeah, it went over the ceiling of our property.

Okay. Your statement also raises some insurance issues?--
Yes.

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Now, you had a home and contents insurance policy with AAMI?--
That's true.

Now, we've already gone to paragraph 11 of your statement where you refer to a conversation that you had but you say that was your wife had that conversation?-- Yes, that is true. That may be a possible typo. Even possible typo on the 11th of January, I think it might have been on the 12th.

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Okay. Now, you've had the opportunity to look at Mr Higgins' statement?-- I have.

And Mr Higgins' statement at paragraph 8 summarises the communication between AAMI and either yourself or your wife?--
That's correct.

Do you accept that as far as you know this is an accurate summary of the communications between yourself and - you and your wife and AAMI?-- Yes, I believe that to be correct.

30

And we talked about before at the beginning of your evidence that you made one telephone call and the documents and the material produced by Mr Higgins states that that telephone call was made on the 4th of March this year?-- Yes, that's correct.

Can you tell us what that phone call was about?-- Possibly just through frustration of myself, that every time my wife rang they told her the same story, that it's still undecided, and at the time I picked up the telephone and within a space of probably a 30 second phone call was told the same thing.

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Is it the case that your wife kept you informed about the communication that she was having with AAMI?-- Yes, absolutely.

Now, there was an internal investigation being conducted regarding a misrepresentation?-- There is, yeah. There was.

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Do you know what that internal investigation was about?-- The first phone call my wife made to AAMI, the operator informed her that we would be 99 per cent covered.

And were you kept informed about the outcome of that internal investigation that AAMI was conducting?-- Only at the end when there was an outcome.

On the 11th of May 2011, your wife received a call from AAMI notifying the rejection of the claim?-- Yes. 1

And AAMI sent a confirmation letter to you and your wife dated the 12th of May 2011?-- Mmm-hmm.

Was any explanation provided to you or your wife as to why it took four months for AAMI to make the decision to reject your claim?-- They would have different excuses, waiting for hydrology reports, waiting for that internal investigation for that Customer Care Officer. 10

In terms of hydrology reports, were you ever provided any hydrology reports?-- We weren't provided but we were told of the website where it was available.

Was that the ICA website?-- I think so, yeah.

What about an assessor's report, were you ever provided with that?-- The assessor of our property or----- 20

Yes?-- Yes, we were, yes.

You sought a review of your claim?-- We did, yes.

And you sought some legal assistance from Legal Aid?-- Yes, we did.

A letter was sent to your lawyer dated the 14th of June, "The decision to reject your claim was upheld on the basis that damage to your clients," that's your home and contents, "was caused by floodwater inundation from overflowing of the Brisbane River."?-- That's what they said, yes. 30

During the review process were you aware whether a hydrologist came out to your property?-- No.

Well, is that no, you weren't aware, or yes or no, did a hydrologist come out to your property?-- I'm not aware of any hydrologist ever visiting our property. If they did so, they did so without our knowledge and without our permission. Neither my wife or myself ever had anyone, so I can say 99 per cent no. 40

And presently your claim is now going through external review through the Financial Ombudsman Service?-- That's correct, yes.

Okay. Thank you, Mr Chambers, that's all the questions I have for you, but there may be others. 50

COMMISSIONER: Mr Flanagan?

MR FLANAGAN: Just one question, Mr Chambers. May I show you a document which is a Search Application Form to the Ipswich City Council? You will see there it's in the name of an applicant Williamsons & Associates Lawyers?-- Mmm.

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And it's in relation to the purchase by yourself and your wife of your property. If you could look at the heading "Individual Items" halfway down the page?-- Mmm-hmm.

You will see you're to tick a box and it says, "Flood Only - \$75" and it's not ticked. Do you know why there weren't any request for a flood search to be done in relation to the purchase of your house?-- I'm not sure as to why there was no flood searches done. I would understand that when you are purchasing a property that the conveyances would do all of those. I'm surprised to see - who would tick that, would that be the purchasers or would it be-----

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I was going to ask you, is that your handwriting at all?-- No.

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And do you know - if you look at the applicant's name, do you know who that firm of solicitors was acting for?-- The firm of solicitors was acting for myself and my wife.

Right. Thank you. Thank you, Commissioner.

COMMISSIONER: Are they solicitors, by the way?-- I beg your pardon?

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Are they solicitors, do you know?-- I think they are solicitors. I'm not sure if they're just conveyances or actual solicitors.

Okay. Thanks.

MR FLANAGAN: I tender that document.

COMMISSIONER: Exhibit 845.

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ADMITTED AND MARKED "EXHIBIT 845"

COMMISSIONER: Mr Holyoak, you're appearing for AAMI, are you?

MR HOLYOAK: I'm here for AAMI, your Honour, may it please the Commission.

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MR HOLYOAK: Mr Chambers, your property flooded on the 11th of January 2011?-- That's correct.

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That's correct?-- That's correct.

And from the statement of Mr Higgins, you've accepted that it was your wife that first made contact with AAMI on the 12th of January 2011?-- That's correct.

And that was by telephone?-- Correct.

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Are you aware of the description that your wife gave of the event that caused the damage to your property?-- I'm aware of the basic outline of description that she would have given.

Are you aware-----?-- I mean, I think that she rang up and said that her house had been water damaged.

Are you aware that the description was, "Due to the storm my house was flooded."?-- I'm aware of those words being said.

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Are you aware that any conversation which occurred then on the 12th of January was in the context of a claim being described as the house being flooded due to a storm?-- I'm aware of that. I mean, when one rings up to put an insurance claim in the claim was for water damage. She can say it was from the storm, from the water coming, wherever the water came it was water damage, that is what the claim was put in for.

On the 13th of January, are you aware that it was mentioned to your wife that in light of information she supplied, that your house was on or near the river, that the policy may not cover you for flood?-- I'm not aware that anyone's said it was on a river. Whether she was - was she asked it was on a river or did she tell it was on a river?

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Are you aware that she advised AAMI at that point, that is the day after the 12th, that the house was on the river and AAMI responded by - the representative responded by saying that you may not be covered for flood then?-- Well, I'm not aware that she said that. I'm aware of the transcripts.

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Now, as at the 14th of January 2011, after your house had been inundated on the 11th of January, you and your wife had been staying with friends; is that correct?-- I was staying at a refuge centre, sleeping on the floor in a church for the days during the flood, and then I went to where she was staying at a friend's house.

And as at the 14th of January 2011, you and your wife were beginning to research for accommodation in the area or in the Sunshine Coast area?-- We needed accommodation for ourselves and our family, so we were looking as to what our options were.

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So as at the 14th of January 2011, you hadn't found alternative accommodation but you were beginning to research-----?-- Yes.

-----for that alternative accommodation?-- Yes.

Thank you. Mr Chambers, are you aware that your wife was informed on the 14th of January 2011 that as the claim was likely to be considered a flood claim, you would not be provided with any accommodation benefits under the policy?-- I'm aware that we were - they were starting to lean towards that. But they were also-----

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That was on the 14th - sorry?-- They also said they hadn't made a decision as to our claim.

Correct. But so I can make my question clear, are you aware that your wife was told on the 14th of January 2011 that as your claim is likely to be considered a flood claim, you would not be provided with accommodation benefits under the policy?-- I'm not aware of that, no.

And are you aware that was confirmation of a conversation that occurred with your wife on the 13th of January 2011?-- Am I aware of the confirmation of that? Not really, no.

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Thank you, Commissioner.

COMMISSIONER: Ms McLeod?

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

COMMISSIONER: Ms Brasch?

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MS BRASCH: No questions, thank you, Commissioner.

COMMISSIONER: Ms Wilson?

MS WILSON: I have no further questions, may Mr Chambers be excused?

COMMISSIONER: Yes, thanks for your time, Mr Chambers, you are excused.

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WITNESS EXCUSED

MR CALLAGHAN: I call Joanne Pocock.

MR HOLYOAK: Commissioner, may I withdraw?

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COMMISSIONER: Thanks, Mr Holyoak.

JOANNE MARY POCOCK SWORN AND EXAMINED:

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MR CALLAGHAN: Could you tell the Commission your full name, please?-- Joanne Mary Pocock.

You are the Development Planning Manager for the Ipswich City Council; is that correct?-- That's correct.

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And even though in that position only since January, employed by the Council since 2001; is that right?-- I've been in this position since January this year.

Yes?-- 2011.

Yes. But with the Council for a long time?-- That's correct.

Yep. Your statement has already been tendered and is Exhibit 833. I think that's a copy of your statement and associated volumes in front of you; is that correct?-- That's correct.

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Now, I might also, at this point, tender the Ipswich Planning Scheme 2006.

COMMISSIONER: 846.

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ADMITTED AND MARKED "EXHIBIT 846"

MR CALLAGHAN: And the Temporary Local Planning Instrument 1/2011 Flooding Regulation.

COMMISSIONER: Sorry, did you say you were tendering a Temporary Planning Instrument?

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MR CALLAGHAN: Yes, the Temporary Local Planning Instrument 01/2011 Flooding Regulation.

COMMISSIONER: Exhibit 847.

ADMITTED AND MARKED "EXHIBIT 847"

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MR CALLAGHAN: Ms Pocock, your statement provides us with an overview of the development assessment process for the Ipswich City Council; is that right?-- That's correct.

I just want to ask you about a few aspects of it. Can I take you to paragraphs 31 to 34 inclusive, which in essence you tell us that after a Planning Officer has assessed a

development application, the report and the recommendation goes to a delegate, and so on, to a Divisional Councillor and Chair of the Council Planning Committee; is that right?-- That's correct.

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And a development application might then be referred to the Planning and Development Committee which has the option to change the recommendation by a Council resolution; is that right?-- That's correct.

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If that occurs, is there any requirement for Council to give reasons for doing so?-- In clause 34(c) of my statement it refers to the change, "change of the recommendation by resolution of the Council, in which case the Local Government Act requires that the Council give its reasons for doing so."

And upon what sort of basis might the Council - what sort of reasons might be given, just by way of general example?-- That's not something that's come up in my time, so-----

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Oh, okay. All right. And when you say not come up in your time, are you talking about just since you've been in the job you are in now or since you've been in Council?-- I can't recollect an instance of any recommendations of mine, yeah, where that's occurred and certainly not since I've been Development Planning Manager.

What about not just yours, but are you aware of it ever having occurred, whether you've been told about it or aware on any basis?-- No. No, I'm not, sorry.

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No, that's all right. In that part of your statement, paragraph 37, you refer to the 19 - or the advice that can be given on a decision notice about the 1974 flood and you've told us that it has no policy relevance, it's a generic notification; is that right?-- That's correct.

The developments to which these notices, or the notices on which this advice would appear, would all have been assessed against the 1:100 flood line map under the Ipswich Planning Scheme; is that right?-- If they are applications that are lodged pursuant to the planning scheme of which the Q100 or the 1:100 flood line is the relevant adopted flood line?

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Just in general?-- As a general.

But, of course, the 1:100 flood line is not necessarily coincident with the 1974 line?-- That's correct.

Can you see - and this is just inviting a comment, I suppose, from you - that the suggestion might be made that if the extent of the 1974 flood is important enough to include as a notation, even though, as you say, it's not meant to have a particular status, but it's important enough to include on such a notice, but it doesn't get referenced in the Ipswich Planning Scheme itself; is that right?-- I'm sorry, I didn't quite catch your question.

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The suggestion might be made that it's a bit odd that it's important enough for the advice about 1974 to be included in a notation of the kind that you reproduce but not included or at least not referenced in the Ipswich Planning Scheme itself?-- I don't interpret it that way. It's an advice - the way that I interpret it it's an advice clause. The planning scheme quite clearly adopts the 1:100 flood line and that this is simply to inform that someone in 1974 that site was inundated.

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I understand-----

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COMMISSIONER: But the point is why are you bothering to tell them if you don't think it's relevant?-- Well, it's an advice clause, it's a generic notification that had been applied to development applications of, you know, this nature prior to, you know, my arrival at the Council and it's something that was continued. So, it was accepted that it was a notification that we applied to development sites that were inundated in 1974.

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Well, you've told us what it is but not really why it's there?-- I wasn't there when it was conceived, so I can't tell you why it's there. I think - I can only say that I think it was to advise people, an advice clause, but I wasn't there when it was conceived, so-----

Okay.

MR CALLAGHAN: I understand that, but, you see, I was more inviting an opinion of your own as to whether if it's sufficiently relevant to be there but not in the planning scheme itself whether there's an anomaly there?-- I think it depends on which way you're looking at it.

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Degrees of relevance, perhaps?-- I think it is.

All right. Okay. Well, look, you're familiar with Mr Alderton's materials that have been placed before the Commission?-- That's correct.

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And were you here when he gave evidence this morning?-- Yes, I was.

Okay. And you've been put in the position to respond to a number of the concerns that he's raised?-- I've been asked to, yes.

Can we start with the - I'm about to start on that matter, Commissioner.

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COMMISSIONER: Oh, that would probably be a good time to break then. Is 2.30 all right?

MR CALLAGHAN: Yes, one of the witnesses who was scheduled for this afternoon is now unable to attend, so-----

COMMISSIONER: All right. So there is no time pressure.

MR CALLAGHAN: -----I don't anticipate that we will run out of
time.

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THE COMMISSION ADJOURNED AT 1.00 P.M. TILL 2.30 P.M.

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THE COMMISSION RESUMED AT 2.32 P.M.

JOANNE MARY POCOCK, CONTINUING:

COMMISSIONER: Yes, Mr Callaghan?

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MR CALLAGHAN: Ms Pocock, I was going to commence with the development for aged accommodation at 84 Chubb Street. You are familiar with that development?-- Yes.

You weren't the primary planning officer involved in the assessment but you had some supervisory role, is that right?-- That's correct.

Now, this document is for - or the application was for 118 aged accommodation units, including a communal facilities building, swimming pool, tennis court, lawn bowls, is that correct?-- That's correct.

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You, in your statement, go through the details about the various lots involved. But is it the case that this development didn't actually involve subdivision, or did it?-- The application was a combined application for material change of use for the units and reconfiguration of the lot for three lots into two lots. So it reduced the overall number of lots.

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So technically - and this might be a question of the language that's spoken in this area - technically that's not a subdivision, is that right?-- No. Technically it is a reconfiguring the boundaries to create a different lot arrangement.

All right. You'd agree that the usual consequence of a subdivision would be more people ending up living in the same space, same amount of space. That would be the usual consequence of a subdivision?-- Yeah.

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Yeah?-- Yes, yes.

And without knowing much about what was in this area prior to this development application, I'm guessing that the consequence of this development would be more people - specifically aged people - living in the same geographical space, would that be right?-- That's correct.

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Yeah. As you note in paragraph 53, the site is affected by both the Q100 and the Q20 flood lines, is that right?-- Sorry, was that clause 53 - paragraph 53?

Yes?-- That's correct.

So it was inundated in 1974 and partially inundated in 2011?-- That's correct.

If we look at Exhibit 835, that might be the one that illustrates that. We might put a copy in front of you. There we go?-- That's correct.

At paragraph 54 - and, as we can see - I am sorry, at paragraph 54, you say that "the inundation experienced in 2011 did not extend to the location of the proposed unit sites", is that right?-- That's correct.

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And presumably this was worked out by you by comparing the approved plan with that exhibit, or something like it, is that right?-- That's correct. I overlaid the approved plan on to a map to ascertain that.

Okay. And the point being that the finished pad levels of the multidwelling units become above the Q100 level due to the cut and fill arrangements on the site, is that right?-- That's correct.

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Okay. Look, apart from the habitable floor level, there are, of course, many more flood related issues raised by an aged care facility; you'd agree with that?-- The application wasn't for an aged care facility. It was for aged persons accommodation which is slightly different from an aged care facility.

I accept that, I am sorry, my mistake, but for aged people, anyway? For accommodation-----?-- Generally, yes.

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-----for aged people? And accommodation of that kind raises a number of specific flood-related issues. You would agree with that?-- Generally.

Yeah, just as a general proposition. I mean, there are special issues involved with evacuation-----?-- Yes.

-----of aged people, for example?-- I agree.

But that doesn't get considered at this part of the - or in the process that we're talking about, or does it?-- Yes, in relation to the requirements of the residential code in conjunction with the overlays code, the units and the pad levels for the units are all above the adopted flood line.

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The pad levels certainly, but these associated issues that I'm talking about-----?-- Well, the evacuation routes are all above that line as well.

Right?-- There is no activity below that flood line other than recreational activities.

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What about the mere fact that you've got such a concentration of aged people living in an area that might be as flood prone as it is; is that something that's ever considered in this part of the land use process?-- I think the density in relation to this development is not something which is that excessive above a normal residential development.

Maybe not but that's the point. If it is this concentration of aged people, it is not a normal residential development for the purposes of, say, evacuation. That's my question. Whether that gets taken into account here or somewhere else in the planning process, or whether it is ever really addressed?-- Well, I think in relation to the planning scheme requirements in the residential code, those requirements are taken into account in relation to that flood level, and the location of all the units above that level and the evacuation routes was properly taken into account, but in terms of density, the density was acceptable in accordance with the planning scheme as well, which is 10 to 15 dwellings per hectare in that general locality in the urban footprint.

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No different to any other application, in other words?-- No.

I think you have already answered the question there is no special consideration given to the fact of the population being of a certain demographic?-- I don't - the application wasn't for nursing care-----

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No?-- -----or of any special care to be provided. So I wouldn't ordinarily think that there was any different requirements to be provided. So if it was for a nursing home, may have different requirements pursuant to our planning scheme.

Okay?-- Each of the unit's car accommodation, that type of thing.

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All right. Well, that's interesting to know. You make another interesting point at paragraph 68 about the development because the proposed filling below the flood line triggered State Government referral to the Department of Local Government and Planning, Sport and Recreation, that's right?-- That's correct. It was referred for coordination.

And the short point being, I think, that you make - as I say, I suggest it might be an interesting one - is that this requirement no longer exists, is that right?-- That's correct.

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Do you know or can you help us to explain why that might be?-- The requirement for a referral coordination was removed from the Act, which it was a process whereby a number of concurrence agency, three or more, were triggered under an application. The application referrals to those concurrence agencies were coordinated by the Department of Local Government and Planning.

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I will just get you to slow down a little bit. But keep going?-- And now the action is still undertaken but the concurrence agency referrals are undertaken by the applicant to the relevant agencies and not coordinated by the Department of Local Government and Planning.

Sorry, who co-ordinates it?-- The applicant co-ordinates the

referrals to the State Government referral agencies.

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Look, I appreciate this might be - certainly is beyond the scope of your position, but just as an opinion would it not be appropriate for the State government to still be involved in such a process? This is an opinion I am asking for?-- My personal opinion is that the coordination of referrals through different agencies by the Department of Local Government and Planning didn't add any additional value-----

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Right?-- -----to the process because the relevant agencies would still be notified of the application and have the right to assess it.

Okay. That's helpful, thank you. At paragraph 83 you make reference to the Ipswich Planning Scheme Policy. I don't think we've tendered that yet. I will just show you a copy of the - that's a copy of the Ipswich Planning Scheme Policy to which we've referred?-- That's correct.

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Yes, I tender that.

COMMISSIONER: Exhibit 848.

ADMITTED AND MARKED "EXHIBIT 848"

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MR CALLAGHAN: Can I take you to section 1 part 8? I don't think - down the bottom it is PSP 2-6, I think. There is a list there of the types of information that a local government can request if an application is received involving land which is subject to flooding or major stormwater flows?-- That's correct.

How is this planning scheme policy triggered?-- This planning scheme policy serves as information to potential applicants about information which they may include in their application should certain overlays or certain matters be triggered by the planning scheme. It is also used in conjunction various times with the preparation of information requests to applicants to supply certain information.

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And what triggers those sorts of requests?-- If an application is deficient in certain aspects, or isn't accompanied by an expert report that is required for an application, we may refer to this document in calling up information that we would ask them to provide to support their application.

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I suppose - can I ask that the phrase is used "land which is subject to flooding or major stormwater flows". It is in the introductory words of section 8 there?-- That's correct.

What I'm getting at is how is it determined whether land is "subject to flooding or major stormwater flows"? Is that

defined somewhere or-----?-- That's defined by part 11 of the planning scheme which is the overlays code.

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Right?-- So an overlay is triggered on a particular parcel of land, which is where the Q100 flood line or Q20 flood line would be identified, or a stormwater flow path.

Or what, sorry?-- Stormwater flow path.

Stormwater flow path. All right. At paragraph 84 you refer to the fact that an engineering assessment of this proposal was undertaken-----?-- That's correct.

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-----by Mr Katt. How is it determined whether an application will be referred to an engineer?-- We - in receipt of an application, we forward - or we have a meeting, which is called an IDAP meeting, which is Integrated Development Assessment Panel, where a number of planners, senior planners, and team coordinator development planning manager, and the City Planner attend. We identify the constraints, the issues relating to the development application, and identify who potentially are the internal referral officers in addition to who are the referral agencies triggered by the legislation.

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And is there a checklist or a standard which is applied? Is that when those sorts of decisions are being made?-- We have a checklist in relation to those meetings which the planner - the responsible planner fills out prior to coming to the meeting and then adds additional notes of the discussion to that meeting to inform the assessment process moving forward.

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All right. Okay. May we turn then to 2 Haig Street at Brassall, a development application for 48 residential units? Again, you weren't the planning officer primarily involved but you had a supervisory role, is that right?-- That's correct.

Paragraph 104 you note that two thirds of that site is above the Q100 level, one third sits between Q100 and Q20, is that right?-- That's correct.

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And in paragraph 104 you say that the site sustained partial inundation in 2011?-- That's correct.

Could I get you to have a look at Exhibit 837, just tendered this morning? I suppose what I'm interested in, again, whether there is a term of art involved here or how the language works, because it is the greenish sort of colour which was the 2011 flood event, is that right?-- That's correct.

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You call that partial inundation. It looks, I'd suggest, fairly substantial?-- Partial as opposed to fully.

All right. At paragraph 119, you note that the flood study reports were reviewed internally within the council Engineering Services Department and considered to be relevant and appropriate?-- That's correct.

In what - I suppose my question is addressed to the adequacy of resources and qualifications within the council's Engineering Services Department. Obviously it is considered substantial enough to review this application but in what circumstances, if any, would a third party review of a flood study be undertaken?-- In this instance our internal development engineers reviewed the report and the engineers in our Engineering Services Department reviewed it. If it was determined necessary that a third party review the report, we would obtain that.

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What might cause that to happen?-- In relation to hydraulics reports, I couldn't - I couldn't comment what the specific circumstances would be.

Okay. Paragraph 109, you note that, I think, the approval permitted 14 units to be constructed within the extent of the Q100, which means 34 were above it, is that right, of the 48?-- That's correct.

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Can you explain the reasoning which allows 14 to be built within it and 34 above it, or is it just something peculiar to the lot itself or-----?-- It is something that's peculiar to the lot and the levels on the lot and the topography. There was certain earthworks proposed in relation to this, stability reports undertaken to demonstrate that the footings of some dwellings could be substantiated in a slope which would still achieve freeboard above the flood for the habitable floor levels. So it is of the particular circumstance of the lot.

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All right. Look, at paragraph 176, you make another point about the fact that the habitable floor level was included as an express condition in the decision notice, is that right?-- That's correct.

And you go on in 177 to express an opinion in this regard. You have expressed that in your statement, but it might be helpful if you could just explain that in a little more detail while you're here?-- With respect to paragraph 176, the condition was applied specifically to the 2 Haig Street application because the footprint of the buildings was below the flood - or the Q100 flood line with the - so it was to ensure that the floor levels, the habitable floor levels, achieve the planning scheme requirement of 250 millimetres above. It wasn't expressed as a condition specifically in the other instances owing to the fact that the pad levels for dwellings and buildings were above the - or we were satisfied were above or 250 millimetres above the Q100 line. The statement goes on to say that "notwithstanding the planning scheme requirements, in my opinion, and to provide additional certainty and clarity as to the council requirements". There is no reason why such a condition couldn't be included to be sure.

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Just an extra layer of protection, or security, or something like that?-- That's right.

There is no reason why that shouldn't be done, in your

opinion?-- That's right.

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Finally, can I take you to the 70A Chubb Street application? And this is the one where the flood study produced by the developer was different from the - or produced a different Q100 from the one which had previously been thought to be relevant, is that right?-- You are referring to the council identified Q100 flood line?

Yes. In this case, another report was prepared which came up with a different figure?-- That's correct. They undertook specific cross-sections at the model of that point.

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Yeah?-- That's correct.

And council engineers were satisfied to proceed on the basis of the more specific study, I suppose?-- We cross-referenced that with the hydraulic study that was undertaken for 84 Chubb Street.

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Yes?-- And we were satisfied upon cross-referencing that report and the information provided by the applicant in respect to this application.

Yes. So the point being you had what was thought to be more accurate site specific data-----?-- That's correct.

-----relating to this development or as a result of this application. My question is what do you do with that once you've got that? Do you update or amend the council's flood overlay to incorporate that site-specific information?-- My understanding is that we don't input each of the findings of every hydraulic study into the model to do that, because, later on, it could - depending on other development up or downstream, may impact on, you know, certain aspects of that as well. So I think it is a site-specific verification of the flood modelling that's already undertaken for the site, and based on the model that is adopted by council.

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Well, should it not prompt a review of the Q100 in that area? If it is accepted - and I am not suggesting it shouldn't have been, necessarily, for that area - but if it is accepted that a more specific study comes up with a different Q100 for that area, should that not prompt a review - a wider review by council or is that just not practical?-- I am not sure that it is practical in every instance. However, with my understanding of it, the cross-sections, you don't get - for this site and for other sites you wouldn't get the exact answer for every different - the same answer, sorry, for each cross-section.

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No, I am not suggesting you would?-- So I would - I can't really comment on the hydraulic studies and the hydraulic models. So I think-----

Well, the short answer to my question being that the information stops with this application?-- I think each application stands alone.

All right. That's all I have for the moment, thank you.

COMMISSIONER: Ms McLeod?

MS McLEOD: I have no questions thank you.

COMMISSIONER: Ms Brasch?

MS BRASCH: If you can give me three seconds and he can walk this way, I can take some instructions. No questions, thank you.

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COMMISSIONER: Mr Flanagan?

MR FLANAGAN: Ms Pocock, may I take you to paragraph 31 of your statement, please? There you refer to the delegate reviewing the planning officer's report, is that correct?-- That's correct.

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And you say that, "Once the delegate is satisfied with the report and recommendation, these are sent to the relevant divisional councillor and to the Chair of the Council Planning Committee for consultation", is that correct?-- That's correct.

And in paragraph 32 you say, "This consultation is required under the conditions of the relevant planning officer's delegations", yes?-- Yes.

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Would you look at this document, please? Commissioner, I can hand up a copy to the Commission.

COMMISSIONER: Yes.

MR FLANAGAN: Is this the delegation you refer to, at least in relation to your position in paragraph 32 of your statement?-- That's correct.

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And would you turn to page 17 of that delegation, please? And are the conditions of the delegation contained in schedule 3 referred to with three exceptions: the exercise of a delegated power to determine a development application, is that correct?-- That's right.

And is that the requirement for consultation that you refer to in paragraph 32 of your statement?-- That's correct.

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And if you turn to page 18, does that contain further limitations on the exercise of a delegated power in the sense that it requires a response from the Chairperson of the Planning and Development Committee and the relevant divisional councillor?-- That's correct.

And those limitations are contained in paragraph 5?-- Yes.

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7 and 8?-- Yes.

Thank you. If the commission pleases, I tender that document.

COMMISSIONER: Exhibit 849.

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ADMITTED AND MARKED "EXHIBIT 849"

MR FLANAGAN: Commissioner, that's all I have for Ms Pocock.

COMMISSIONER: Thank you.

MR FLANAGAN: May I be excused, because we understand the next witness is an insurance witness?

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COMMISSIONER: Yes, thanks, Mr Flanagan.

MR CALLAGHAN: No, I have nothing further. May Ms Pocock be excused?

COMMISSIONER: Thanks, Ms Pocock, you are excused.

MR CALLAGHAN: I will also ask to be excused. Ms Wilson will take the final witness for the day.

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WITNESS EXCUSED

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MS WILSON: Thank you, Madam Commissioner. I call Mr Colin Sharp. 1

COMMISSIONER: Mr Doyle, you're back appearing for RACQ.

MR DOYLE: With Mr Bath, your Honour.

COLIN JOHN SHARP, ON AFFIRMATION, EXAMINED: 10

MS WILSON: Your full name is Colin John Sharp?-- Yes.

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

Can you have a look at this document, please?-- Yes. 20

Now, that statement indicates that it was taken on the 5th of October 2011 but you actually signed the statement on the 11th of October-----?-- Yes.

-----2011? Madam Commissioner, I tender that statement.

COMMISSIONER: Exhibit 850. 30

ADMITTED AND MARKED "EXHIBIT 850"

MS WILSON: And I'll also take the opportunity now to tender the eighth statement of Graham Ian Dale, the General Manager of Personal Insurance Claims of RACQ Insurance Limited, and also to tender the supplementary eighth statement of Graham Ian Dale 40

COMMISSIONER: The statement itself will be Exhibit 851 and the supplement 852.

ADMITTED AND MARKED "EXHIBITS 851 TO 852"

MS WILSON: Mr Sharp, you've got your statement in front of you-----?-- Yes. 50

-----and you've also got the statement, the eighth statement of Mr Graham Dale, with its attachments, in front of you?-- Yes.

Now, in January 2011 you lived at 53 Schmidt Road, Fernvale?--
Yes.

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And it was inundated on the afternoon of 11th of January this
year, is that the case?-- Yes. I couldn't swear on the
date-----

Okay?-- -----bit funny with the dates but it was in the
afternoon, yeah.

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And at the time you had a home and contents insurance policy
with RACQ Insurance?-- Yes.

Now, you've had the opportunity since arriving at Court today
to go through some of the matters raised in Mr Dale's
statement?-- Yes.

You haven't - you don't profess to have read all of Mr-----?--
No.

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-----Dale's statement closely?-- No.

And you've had the opportunity to go through some of the
transcripts that are attached to Mr Dale's statement, is that
the case?-- Yes, I have.

It's not the case that you've had the opportunity to be able
to sit down and slowly and carefully read through-----?-- No.

-----all of the transcripts?-- No.

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Now, if we can go to your statement and start with your
statement. I won't ask you about paragraph 3 of your
statement as that's not relevant for the Commission's
purposes, so if we can start at the point at which you made
the claim. You did this by on phone on the 13th of January?--
Yes.

And you were told an assessor would come to your property?--
They did, yes.

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And do you know when an assessor did come to your property?--
Well, apparently it was Australia Day but I had to take my
wife to the hospital at the time and my son, who is part owner
of the house, was there when they arrived and spoke to them
after - after they'd made their-----

So when the assessor came to your house you weren't
there-----?-- No.

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-----but your son was?-- Son was there, yeah.

And were you aware that the assessor was coming?-- Yes, they
did ring and let me know that they were coming.

And so did you discuss with your son that an assessor would be
coming?-- Yes, I did. He's 24 years old so I expected-----

You were comfortable-----?-- Comfortable with letting him do that, yes.

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In paragraph 6 of your statement you mention that you were concerned to clean up your house?-- Yes.

And you say that you contacted RACQ Insurance on a number of occasions-----?-- Yes.

-----at least once a fortnight?-- Yep. We'd actually cleaned the mud and everything off the floor but I wanted to take the Gyprock down and was more or less told it was up to me to take it down or not but if any other damage had been done while we're taking it down I wouldn't be covered.

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Okay. Now, you've had the opportunity to go through some of the transcripts that are attached to Mr Dale's statement?-- Yes.

And you've had the opportunity to go through some of the transcripts that address the issue of whether you could start cleaning up your house?-- That's right.

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Now, if I can just take you to those transcripts?-- Yes.

Now, they are conveniently numbered at the bottom of the page, so when I take you to a page-----?-- Yes.

-----number, if you can - you will see that page number on the right-hand - bottom right-hand corner?-- Yeah.

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If we can start with page 243. Sorry, we've got to go to Exhibit 26?-- What was the page number?

Page 243?-- 243. Yep.

Now, this is a transcript of a conversation that you had on the 13th of January 2011. You will see that you did ask whether you could start cleaning up or you should just leave it?-- Yeah.

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And you were told, yes, definitely. If you need to clean up you can take photographs. You see that?-- Yes. But I understood that to be cleaning up the muck off the floor and the walls, not actually taking the Gyprock down, and again later on in that - in one of the other places here I ask them about that and they said to do it at my own risk.

Okay?-- So that's what I'm trying to say, it wasn't - sounds like I've asked if I could knock the walls in but I didn't at that stage. I knew I could clean it up. I've actually cleaned the mud and everything up but I just hadn't taken the walls down because they kept saying that it would be at my own expense if anything else was damaged.

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Well, can we go to page 246, just a couple of pages on. Now, a friend of yours made a query to the insurance company on your behalf-----?-- Yes.

-----on the 16th of January?-- It was my son's friend, yes.

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And if we can work our way through this part of the transcript. Can start it off about halfway through that page we will see, "But anything else - anything bulky that needs to be thrown out, we're just encouraging everyone to do that to get rid of it," yes?-- Yes.

Do you see that?-- Yeah.

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"just to avoid illness"?-- Yes.

"Yes," your friend asked, "what about all the Gyprock on the walls and stuff? Should we pull that out or wait for the assessor to come?" The response was, "Well, if anything" - "anything's needing to be removed just knock it out to the water level and leave the rest," and then the question was, "To take it to where the water level's risen," and you can see that goes on?-- Yeah.

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Now, was that conveyed back to you?-- Not - not exactly-----

Okay?-- -----in those terms. I still didn't know that they had actually given permission for us to take the Gyprock down at that time.

Okay. So - and we can see that, that you seem to be still under some confusion, if we look at page 259. And this is a conversation on the 7th of February?-- Yep. Yes.

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And if I can just find it on this page. If we can go to the bottom of that page?-- Yep.

You were told, "nothing can happen at the moment until we receive that report from MYI Freemans"?-- That's right.

And then you say, "All right, it's just that I've been waiting to cut the walls out and that"?-- Yeah.

And then you go on to say you'd like to get that done as soon as you can?-- Yeah.

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So is it the case that when you refer to - that you were told about what you - what is raised in your statement at paragraph 6 they said that, "if we started to pull anything apart and did any further damage we'd not be paid by the insurer"?-- Yes.

COMMISSIONER: I think there might be more than that at 264, Ms Wilson.

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MS WILSON: Oh, there is. We can go continually through it-----

COMMISSIONER: Which is more specific, I think. "We're not giving you approval to do that. If the claim is not covered we can't reimburse you for anything you've done".

MS WILSON: Yes

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COMMISSIONER: "can't give you the approval just to go ahead".

MS WILSON: Yes.

COMMISSIONER: It seems for specifically like-----

MS WILSON: Yes-----

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COMMISSIONER: -----what Mr Sharp is talking about.

MS WILSON: That's on the 10th of February? If you can go to page 264. And that's where you asked if you could start pulling the walls down inside?-- Yes.

You can see that about halfway down?-- Yep.

"and if there's anything you need to do, by all means you can do that". You can see that, we can read that?-- Yeah. But that was the thing, they kept sort of saying to me, you know, "You can pull it down but it's at your own risk," sort of thing. So, you know, I didn't want to do more damage to the place and not be able to - and finally I just give up because people, you know, they're in the same boat as I were were back in their houses. They'd cut it all out them themselves and done it, so I just started cutting it out 'cause the mould and mildew was building up in it, you know, you don't want that in your house.

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So in your statement that we referred to in paragraph 11, is this what you are referring to?-- Yes.

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Okay. In paragraph 8 of your statement, if we can go to that part of your statement. "RACQ continue" - where you refer to, "RACQ continue to make us feel as though our claim was going to be satisfied favourably"-----?-- Yes.

-----"and that it would take time"?-- Yes.

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Can you tell us where you got this impression from?-- Well, it's just that every time I rang them, the person you get in touch with first would try to answer the questions that you asked and they - you know, you would ask the question about coverage and stuff and they said, "Oh, everything seems to be coming along all right, we've just got to wait for the hydrologist's report, we've got to wait for," so and so else, and then every now and again you'd get on to your case manager, you know. After a while they shuffling you around to a few different phones and then they'd say, "Oh, we can't get in touch with her at the moment so we'll get her to ring you". So the next day she would ring you and more or less asked, "Oh, well, what do you want? What's wrong?" you know. I said, "Well, I'm not in my house and I need to be," and she said, "Oh, well, there's nothing we can do about it at the moment, sorry," you know, all the rest of it, and that would be it, you know. So we'd wait for another week or two until I rang them again and go through the whole routine again.

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And so - how do you feel on - from your part how that communication process could be better done?-- Well, look, I realise that there was a lot of people in a lot of trouble at the time but if they had of just turn around and said, "Look, we are inundated and we are completely strapped out," you might have been able to understand it, but they kept trying to say, "Well, by" - they didn't actually say it but the way they made you thought it was, "Oh, tomorrow's another day and it will probably be okay by then," you know, but it wasn't going to be and they could have told you that right from the word go. And if they had feelings that the claim wasn't going to be covered they should have sort of said, "Well, look, we think that you might not be" - "you might not be covered," straight away, right in the beginning, instead of leaving it go for five months and then telling you. Then it's all over and done with, you know.

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In paragraph 9 you refer to the communications with the insurer?-- Yeah.

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You didn't ring every day because you knew-----?-- No.

-----that RACQ were busy?-- That's right.

But unless you chased them RACQ did not update you on the progress of the claim?-- The only - the only time I got a phone call from RACQ is if I had rung the day before and they couldn't find the case manager, she'd ring me back the next day. That's the phone calls I got from RACQ. And the final one that said, "No, well, you're not covered, sorry," and that was it.

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And for the sake of accuracy, there was some communication by letter from RACQ to you?-- At the end, yeah. I got a phone call to say that we weren't covered and then a couple of days later a letter came to say that we weren't covered.

You received letters from RACQ on the date of the 23rd of May-----?-- Yep.

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-----the 9th of June and the 20th of June?-- Yes, that sounds about right.

Mr Dale accepts that the majority of contact was initiated by you and Mrs Sharp but states RACQ Insurance and the assessors, MYI Freemans, and the hydrologists, Water Technology, did initiate some contact?-- The assessors came out and seen my son and told him what I told you, that to start making lists of things we'd lost. That was the last time that they had any contact with us. They rang up the day or two days before they came out to let me know they were coming out. The hydrologist just rang me up out of the blue one day and asked me what happened, and that's the exact words. He said, "Now what happened, Mr Sharp?" I said, "Well, we were flooded," you know. Within - within minutes we were inundated and I just got - just got my wife out of the place and I didn't think I was going, I thought I was nearly going to have to swim out of the place with the dog, it was that quick. So I have never

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seen a hydrologist report, I've never met a hydrologist, only over the phone.

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One of the issues that you raise is the occasions that you had to spend a considerable time on hold?-- Oh, yeah, yeah.

Can you go to page 321 of that exhibit? Now, can you see just over halfway down it's "CS"?-- Yeah.

That's you?-- Yeah.

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And it starts, "I'll just keep doing it until you get some sick of me or something"?-- Yeah.

This seems to sum up some of your frustrations?-- Yeah.

If we can go on. "Five months it took you to get back to tell me that we weren't covered. All the time you were hanging on, hanging on, telling me, 'Yes, we've got the hydrologist report. No, we haven't got the hydrologist report. Yes, now we've got them and now you're not covered,'" and then you go on and talk about your frustrations about being on hold?-- Yeah.

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And you give an example that on - on one day you were on hold for one hour and you went to three different terminals?-- Yeah.

What was that about?-- Well, they were trying to find the - my case manager again, apparently, but then - actually, the one girl said to me, "Oh, they're not answering their phones," and I said, "Well, what is it business hours or not?" and - 'cause I said - I mean, if somebody - if the phone line was busy you can understand why the phone isn't being answered but when somebody says to you, "Oh, they're not answering their phones," you wonder what they're doing, you know. If I owned a company and people - somebody told me they're not answering their phones in room 27, I'd be down there wanting to know why.

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Okay. Now, the issue with the hydrologist's report and the working on that hydrologist's report is an issue that you raise?-- Yes.

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Now, if we can go to paragraphs 11 and 12 in your statement. And we can see from that paragraph that we just read out of the transcript you talked about, "Yes, we've got the hydrologist's report. No, we haven't got the hydrologist's report". What is the issue that you had with the information that you were provided-----?-- Well, the one-----

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-----about the hydrologist's report?-- The one day I rang up I was talking to just the receptionist and I said, "What's the problem? You haven't got the hydrologist's reports yet?" "Oh, yeah, we've got the hydrologist's reports," she said, "we're just collating the information". So I let it go at that because I thought, "Oh, well, have to come along soon." So the next time I rang up, I don't know whether it was a week

or two weeks later, they put me on to my case manager again and I said, "What's the big deal," I said, "you've got the hydrologist's report." "No, not for your area. You must have been mis" - I said, "Well, I was told that it was in." "You must have misunderstood what the person said," that was what was told to me. Well, I mean, whether - whether it is right or wrong, if you are given that little bit and you've been hanging on for that long and somebody said, "Oh, yeah, the hydrologists' reports are in," and then all of a sudden, "Oh, no, they're not," you start to think, "Well, did they get a hydrologist's report in that sort of didn't go their way and now they're trying to get another one in?" You know, it just makes you think like that, doesn't it?

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If I can take you through - have you been through the transcripts which refer to when hydrologists' reports was mentioned in conversations that you had with the insurance company?-- Oh, little tiny bit, yeah, not sort of right through the whole lot but we touched on it.

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Okay. Well, how about we do that exercise quickly. If we can start at page 264. And this conversation occurred on the 10th of February 2011. Have you got that, Mr Sharp?-- Just about. Yep.

We've already visited this page once before when we were discussing the - whether you could pull down the walls?-- Mmm.

If you look just a little bit further up on the page you can see - you see the paragraph that says, "Okay, right, they have put a report on there." Do you see that?-- Yes.

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And further down in that paragraph, "We are also waiting on a hydrology report as well"-----?-- Yes.

-----"which will determine whether or not your home has been damaged by flood or by flash flooding"-----?-- Yeah.

-----"so we have no time frames on the hydrology report as yet. If it has been damaged by flood the claim won't be covered but we need the hydrology report to make that determination."?-- Yeah.

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Okay? So then on the 23rd of March, at page 278. And do you see the bottom of that page?-- Yes.

And do you see "JH" and it starts, "Okay"?-- Yeah.

"what I can tell you is that the hydrology information that we've been waiting on has now been received"?-- Yep.

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And finishes off that they would certainly expect that you should certainly hear from someone very soon. "we haven't got exact time frames but, yes, it's been a couple of weeks now so hopefully very shortly"-----?-- Yes.

-----"you will have some information"?-- That's right, yeah.

And then if we can go to page 284. And this is on the 30th of March?-- Yeah.

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And you can see "FC". Do you see, "Yes, we're in the process of reviewing"?-- Yeah.

"Yes, we're in the process of reviewing all the information at the moment. So we've got the hydrology information for all the affected areas," and then they discuss the process, "and it shouldn't be too much longer before we can give you a call back to discuss that"?-- Yeah.

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Now, at page 298, and this is on the 18th of April. And this is a message that is left on your answering machine?-- Yeah.

The message that is left is set out there?-- Yes, still waiting hydro-----

"outcome in relation to particular claim"?-- Yeah.

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And then if we can go to the next page, which is the 27th of April, and this message is discussed?-- Yes.

We can see that. "I can see that someone called you back last week and they left a message"?-- Yeah.

And you reply, "Yes, that's what I couldn't understand really because I've been told at least a month ago that the hydrologist's report was in"-----?-- Yeah.

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-----"and the message he left was that they're waiting on the hydrology report so"-----?-- Yeah.

And it's got you bamboozled?-- Yeah.

So - and I can just continue to page 305. And this is a conversation with Narelle Sharp-----?-- Oh, right, yeah.

-----on the 30th of April, and then they're discussing that - you can see "DL", "It doesn't say who it is"-----?-- Yeah.

40

-----you can see that?-- Yeah.

"but I'm not sure who Dale has spoken to but we're waiting on further investigation reports"?-- Yeah. I knew she'd rang but I didn't know the conversation she'd had with them. 'Cause at that time we weren't living in the same house either.

Okay. Now, if we can just continue to page 308. Have you seen this copy of this transcript before, which is on the 9th of May? And the case manager is - explained why the claim-----?-- Yeah.

50

-----had been held up?-- Yeah.

That in the month of March they got a lot of information
through from the hydrologists?-- Yeah, yeah, that's right,
yep.

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And it goes on, been a small number of claims that requested
further investigation, and it goes on?-- Yeah.

Now, in paragraph 12 you refer to a conversation that there
was no hydrology report and that you were mistaken?-- Yes.

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Is that what-----?-- That's what I was talking about. 1

Which one was that, Mr-----?-- It's the whole lot. You know, they went from one stage they told me, "Yeah, the hydrologist's report is in, we're just waiting to put all the information together," and then in later calls they said, "Oh, no, you must have been mistaken, some of the hydrologists' reports are in but not all of them."

So the term "mistaken" we haven't quite picked up in the transcripts, but going through that process-----?-- Yeah. 10

-----does that sort of sum-up-----?-- Yeah.

-----the-----?-- Mistaken-----

-----chronology with the issue of the hydrology reports?-- It's just, you know - I mean, I doubt whether many people wouldn't think that they told me one thing and then told me another just from those transcripts. 20

At paragraph 14 you refer to that you didn't receive a copy of the hydrologist's report or any documentation regarding their assessment of the flood?-- No, I did not.

You've read Mr Dale's statement where he refers to that your solicitors were given a full copy of the hydrology report?-- Yes, I have.

Did you receive that copy of the hydrology report?-- No, I didn't. 30

So your solicitors may have been given it, but-----?-- They may have been, yes.

But you didn't receive it?-- Did not.

And is it the case that you were shown the hydrology report?-- No, I was never shown it. 40

Today were you shown it?-- Today I was, yes.

And is it the case that's the first time you've seen it?-- That's the first time I've seen it, yes.

In paragraph 15 you refer to a telephone conversation that you received from RACQ?-- Yeah.

And that you were not insured for the flood?-- That's right. 50

And they told you that they would send a copy of a letter to you explaining the process?-- Yes, and they did do that, yes.

And they did do that?-- Yes.

The letter arrived and the claim was rejected?-- Yes.

And you refer to a compassionate payment of 12,500?-- Yes.

This payment of 12,500, that was referred to also in a telephone call?-- It was.

And that transcript is attached to Mr Dale's statement?-- Yes.

And you've had an opportunity to read that transcript?-- Yes, I have.

10

And that, Madam Commissioner, can be found - that telephone call transcript can be found at page 317. Your response to that was, "Just forget about it."?-- Yeah.

And then you terminated the phone call?-- Yep, that's dead right.

And that was followed up in a letter?-- Yes, it was.

And to this day you've not accepted any-----?-- No, nothing more has been said about it except in the letters, but didn't say how you go about getting it or whether they were going to send a cheque to you, what was going on with it.

20

You've made a complaint against RACQ to their Internal Complaints Review?-- I did.

And as a result your claim was reviewed by RACQ Insurance?-- Apparently so, yeah.

30

And the outcome of this review was communicated to you in a letter dated the 20th of June?-- That's correct.

And that was not in your favour?-- No.

And your lawyers have requested a further review?-- Well, I took everything to my local Member and he helped me put it through to the Courts and that, yeah.

So, can you tell us where your claim is up to?-- Well, I haven't heard anything for quite a while. It was just they'd been submitted and they were waiting for RACQ to get back to them the last time I spoke to them.

40

Thank you, Mr Sharp.

COMMISSIONER: How are you getting on and where are you living?-- We're back at home, only because of Red Cross and Salvation Army. They sent - Red Cross got in touch with some apprentices that came out and put the Gyprock back up for us, and I had friends, luckily, that were plumbers and they all come and helped, and, yeah, we finally got back in our home, thank goodness.

50

So at least you are sleeping in your own bed now?-- Yes, it makes a difference.

Okay. Thank you. Mr Doyle?

MR DOYLE: Yes, your Honour.

MR DOYLE: Mr Sharp, I'm going to ask you some questions. We will go over some of the things, I'm sure, you've just been asked, including some of those transcripts, okay, bear with me?-- Yeah.

10

I want to start with the matter you commenced to deal with in paragraphs 6 and 7 of your statement about your requests - I will let you turn that up, please. You say you decided it was time to start cleaning out the house?-- Yep.

"I asked RACQ on a number of occasions, at least once a fortnight, whether I was going to be able to start pulling the internal walls out, but was told repeatedly not to touch the inside of the house."?-- Yep.

20

"They said that if we started to pull anything apart, and did any further damage, we would not be paid by the insurer."?-- We would not be covered for that damage that we did.

Okay. Well, we should understand you to mean that you wouldn't be covered for the additional damage you caused?-- That's correct.

Okay. Now, you've had a chance obviously before giving this evidence to go through the various transcripts?-- Oh, a little bit, yes.

30

Okay. Well, I will take you to a few more?-- Yeah.

And then I will ask you whether - you probably accept that your recollection when you signed this statement of conversations, and the like, was not 100 per cent?-- No, I would agree with you there, but I haven't been lying about anything.

40

No, no, and you found the whole process an emotional one, would that-----?-- Well, wouldn't you?

Undoubtedly?-- Well, I did, yes.

You found it emotional?-- Yes.

And that's, can I suggest to you, in part influenced the way you've expressed your recollection of things?-- Well, if I hadn't been left hanging for so long I probably wouldn't be as upset as I got.

50

I understand. We will come back to that as well, but can we go with the topic about you asking whether you could clean up the house and pull out the walls, and so on?-- Yes.

If you go to Exhibit 26 again, please, that's the transcripts, and can we start with page 240. This is the call in which you

made a claim?-- Yep, okay.

1

Have you got that? I'm not going to read all of it to you, but you will see on the first page it has "Parties Present" it tells us, but that's the parties to the conversation. It's a conversation between you and someone call Jane?-- Yep.

Okay. And this, you can recall, is the call in which you made your claim?-- Yeah, it would be, yes.

10

Okay. Now, if you turn to page 243, it should be page 4 of that conversation?-- 243.

Have you got it?-- Yeah.

Okay. And at about point 4 of the page there's a "CS: The other thing I would like to know is can we start cleaning up or should we just leave it how it is?" Have you got that?-- Yep.

20

Okay. And then you can read the response, "Yes, definitely. I mean, if you need to clean it up, if you can take photos, or anything." "Yes." And then you can read a few more?-- Mmm-hmm.

And then you say, "Yes, well, we want to try and start it on" - this probably isn't a fair transcript - "because all the walls have bulged because it's all Gyprock," and she says, "Yes."?-- Yes.

30

"That's all just bulged out the bottoms, you know, where the water's hit and I'm trying to get a bit of the silt and stuff out," and she say, "Yes."?-- Yes.

And that's your recollection of the conversation?-- Yes.

Okay. If you turn, please, next to the next sheet you've got a conversation a couple of days later, 16th of January?-- Yeah.

40

And if you turn to the third page of that, this is the conversation where your son's friend rang up?-- Oh, yes.

Okay. And I think our friend took you to part of this before. If you go to page 246?-- Yeah.

At about halfway down the page. Do you see-----?-- Yeah.

-----SH says, and that's the person that your son's friend is having the call with?-- Yep.

50

"Anything else, anything bulky that needs to be thrown out, we're just encouraging everyone to do that." I want you to read on because the effect of it is that if you wanted to remove the walls you could?-- Yeah, well, I didn't - she didn't relate that back to me.

I understand?-- Yeah.

So we should understand that if this is a transcript of what was told it wasn't passed on to you?-- Yeah. But I think you will find later on I had rung back and they had told me that I took the walls down under my own - on my own recognisance and if I did any more damage it would be on my head.

Okay. We will come to that, at least I will come to a conversation and you can tell me if that's the one you have in your mind?-- Okay.

10

Okay. The next one I want to take you to is a conversation on the 31st of January at page 255, or it starts at 254. Oh, look, I won't worry about that one. Go, please, if you would, to one at page 264. Just so you can see where we are, if you turn back a page you will see this is a telephone conversation on the 10th of February?-- All right.

So a little under four weeks after the damage to your house, okay, that's the order of things. Now, if you turn to page 264, I think your attention was drawn earlier to a passage commencing about halfway down the page where it says, "CS: Well, can we at least start pulling down walls," do you see that - "pulling the walls down," I'm sorry?-- Yep.

20

Do you have that?-- Yes.

And the person says to you, "If there's anything you need to do by all means you can do that. We're not giving the approval to do that. Obviously if the claim is not covered, you know, we can't reimburse you for anything that you've done. If it's accepted, of course, keep your receipts. But I can't give you approval just to do" - sorry, it should be, I suppose, "to go ahead with any repairs." Do you see that?-- Yeah.

30

And then you said, "No, well, I'm just tearing out, I'm not putting anything in yet," and she says, "Yes." "I just want to be able to clean the place up properly." "Yes." And then you say a few more things?-- Mmm.

40

Is that the conversation that you have in mind-----?-- Yes.

-----where she says it's at your risk?-- Yes.

Okay. Now, you understood her to be saying, did you, that if you did any more damage they wouldn't cover you?-- That I would be - I would have to pay for that myself, yeah.

Okay. Can I suggest to you that in fact what she said to you was pull it out but they're not giving you approval to do any repairs?-- Well, that might be the way you understand it.

50

Well, reading it now, Mr Sharp?-- I still take it the way I understood it in the first place.

Okay. All right. Thank you. And did you in fact go ahead and pull it out?-- I did.

When?-- The start of that afternoon actually.

Right. That's the 10th of February?-- Something like that.

So after this conversation with her you started pulling out the walls?-- Yeah, yeah.

Okay. And you did so continuously for a few days?-- Yes.

10

So that say by the - say the 22nd of February - I may have said to you 10th of January a moment ago, I meant to say the 10th of February. I'm told I did say the wrong date?-- Yeah.

Within, say, 10 days or 12 days thereafter you pulled all the walls out you wanted to pull out?-- I was doing it myself so it probably took a bit longer than that.

But that order of time?-- Yeah.

20

Okay. Thanks. Now, is there any other conversation which you wish to have me take you to where someone said something which suggested to you that you could not start pulling the internal walls out, that you were told repeatedly not to touch the inside of the house?-- Well, that's what I'm saying, they said that over and over again until I finally did it myself, did it off my own bat because I had to do something.

But the transcripts that you've been taken to today are the only ones that you wish us to look at?-- Probably. I can't say yes for sure. I can't remember every phone call I had with them.

30

Okay. Thanks. Can I move to a different topic?-- Yep.

And that's something you say in paragraph 14 of your statement, yes, that you haven't received the hydrology reports?-- That's right.

Or any documentation regarding their assessment of the flood?-- That's right.

40

You mean the hydrological assessment of the flood?-- Yeah.

But you have had lawyers acting for you?-- Legal Aid, yeah.

Yeah. And you know at least by looking at Mr Dale's affidavit that they had sent all of these things, all of these reports-----?-- Yeah.

50

-----on the 14th of July?-- Probably, I don't know, but they never got back to me or gave me any report on that thing. The first time I'd seen them was today.

Okay. So we're clear though, they hadn't told you before, that is Legal Aid hasn't told you-----?-- That they have-----

-----at all that they have got those reports?-- That's right.

I see. And I don't want to - I want to give you the opportunity to tell me if I'm wrong about this, when you signed this statement no-one from the Commission said to you, "Oh, by the way, you should know Legal Aid has got all of those reports."?-- I don't - well, I can't remember them saying that to me.

Right. And I gather that you haven't had much of a chance to read the reports?-- None of this, yeah, hardly any at all.

10

By which I mean the hydrology reports?-- I haven't. I've seen a little bit of it there just before.

Okay. Well, let's see how we go. We may not get very far with this, Mr Sharp, we will see how we go. You at least knew from very early on that RACQ had retained a hydrologist to give it advice about the causes of flooding?-- Yes.

And you knew that - well, let me try again. You knew that it was taking time, let me put it that way?-- Well, yes.

20

And that you knew from time to time, as I will show you in a moment, RACQ was saying, "We're waiting for something from a hydrologist."?-- Yes.

And then later they said they've got something?-- They did.

And they said they wanted some more?-- Yes. Well, they said they hadn't - they didn't have the report-----

30

Well, I will come to that in a moment?-- -----to me.

But along the course of the exchanges you had with people you rang at RACQ-----?-- Mmm-hmm.

-----you knew that an important thing for their processes was to obtain whatever they were going to get from the hydrologists to enable them to make some decisions?-- Probably, yeah.

40

Okay. And I would be wasting my time asking you anything about the contents of the various reports that have been obtained?-- Well, I can't remember exactly. I just read a couple of words on that one, that was it. I couldn't tell you anything else.

All right. Do you know that - well, tell me if you can answer this - that RACQ obtained from Water Technology the first report that was relevant to the area that included your house on the 9th of March?-- No, I didn't know that.

50

And it identified your area as an area requiring further hydrological investigation, you didn't see that?-- No.

Okay. That Water Technology on the 6th of April inspected your property, at least from outside?-- Didn't know that.

And you haven't seen that referred to?-- I've seen that referred to, yes, sorry. 1

Okay?-- But I didn't know they'd done that until I come in here today.

But you seen that they took notes and took some photos and did whatever hydrologists do?-- Yeah.

Yep. And then on the 5th of May, Water Technology produced a second report that touched upon an area that included your property, and, again, identified your property as one requiring further investigation, did you notice that?-- No, I didn't. 10

I want you to assume that for the moment?-- All right.

And you know that after that, on the 17th of May, a hydrologist rang you?-- That's correct. 20

And asked you some questions?-- Yes.

And you gave him answers?-- Yes.

And you knew that that was in the course of him investigating something?-- Well, I would, you know, put two and two together.

It's obvious, Mr Sharp. He was asking you questions about what you observed and where the water came, and so on?-- That's right. 30

And you knew that was part of his assessment in relation to your property?-- Yes, yes.

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50

You would expect the hydrologist would be doing other things as well; looking at maps, charts, gauges?-- I wouldn't have a clue. Does anybody in here know what a hydrologist was before the floods? It is the first time I heard the name.

COMMISSIONER: I had a very vague idea, Mr Sharp, I must say?-- It is the first time I'd heard of hydrologist. I thought they measured water pressure in pipes or something. Sorry, carry on.

10

MR DOYLE: They probably do, actually, but others will tell you. And that was on the 17th of May, can I suggest to you, that you had this conversation with the hydrologist?-- Yes, probably was.

That sounds about right?-- It could be right, yes.

And that on the 19th of May, the third report was produced by Water Technology which identified that your property - sorry, third report that relates to your property?-- Uh-huh.

20

And it identified the cause of the flooding of your property to be flood due to the releases from the Wivenhoe Dam?-- Mmm.

Okay. And that - just accepting from me, if you would, that sequence. 9th of March was the first report, another one the 5th of May, and another one on the - what did I say, the 17th - sorry, the 19th of May. Only the last of which said they now had enough information to decide, okay? With that - all of that, I take it, is news to you today?-- Yes.

30

Can I ask you to go back to your statement then, please?-- Yep, righteo.

To paragraphs 11 and 12. This is where you deal with-----?-- Yeah.

-----the topic, at least of what you perceive to be being told inconsistent things by RACQ?-- Yeah.

40

I actually want to start a bit earlier than you do in your statement. Would you go, please, now in the transcripts to page 278? You should have there, Mr Sharp, a conversation between you and someone from RACQ-----?-- Uh-huh.

-----on the 23rd of March. That's two weeks after that first report that I mentioned to you they received. If you look at the last comment on the bottom of page 278 where you were told: "What I can tell you is that the hydrology information that we've been waiting on has now been received, so the process now is that the technical team needs to run through and review all of the conclusions for each and ascertain those" - sorry, "ascertain how those conclusions will apply to each policy holder within that area." And they tell you they are in the process of doing that. Do you see that?-- Yeah.

50

Okay. Now, you would expect - I want you to make an

assumption, please - that if the report they had at the 9th of March when looked at said, "We can make decisions about other people's properties but there is a group of properties, including yours, where the hydrologist says further hydrological investigation is required", you would expect RACQ to ask them to do that?-- Yes.

1

Okay. If you turn, please, next to page 284? I think you may have been taken to this by my learned friend. This is a conversation again with you on the 30th of March. And if you read the last sort of, I suppose, two and a half inches on that page? So, again, you're being told they are looking at things?-- Yeah.

10

And again, Mr Sharp, you'd expect if the hydrologists were saying "we need more information", that RACQ would say "we'll get it"?-- Well, you know, after the third time I probably would have said, "Well, get some other hydrologists who know what they're doing."

20

Okay, I understand, and I will tell you that there is some evidence that there was a shortage of hydrologists at the time; lots of people were trying to get hydrologists to do things. You can imagine that? Yes?-- Okay, yeah.

Okay. Now, if you turn, please, to - just excuse me - page 298. See that?-- Yep.

You were taken to this before. This is where they are returning your call from Thursday?-- Mmm.

30

I will come back to something about that later. And the message is, "We are still awaiting the hydrology outcome in relation to your particular claim." Do you see that?-- Yeah.

Now, it is right to say, Mr Sharp, you have remembered that as if they'd said, "We're still waiting for a hydrology report"?-- Well, it could be, I suppose.

Okay. But in circumstances where I want you to assume the hydrologist who said, "I've got to do more investigations", it would be right to say that RACQ, until those are reported upon, is still awaiting the hydrological outcome in relation to your property?-- Okay.

40

Okay. Now, it is right to say you've remembered that message as if it said "we're still awaiting a report"? Yes?-- Probably, yeah.

Okay. And then if you turn, please, to the next page, I think that's where the confusion that was put before emerges. At about point 7 of the page - this is your conversation on the 27th of April - where you in fact say, "I have previously been told they had the report and now I got a message that they're still waiting on the hydrology report." So, at the time, that's the way you recalled things?-- Yes, that's right.

50

Okay. Would you turn, please, to page 302, which is someone

from RACQ calling you back on the 28th of April to explain things. Is that right?-- Well, it looks like it, yeah.

1

And - well, you read this - I know you have read a lot in the last few hours but you read this today?-- May have skimmed through it.

Okay. Well, can I just ask you to look at about point 7 or 8 on the page. Dale - that's not Mr Dale; it is Dale White - says, "We did get - we got, yes, response back on pretty much all of the claims, and most of them we've been able to provide a response on, but there are some that, I guess, that were a little more grey." And basically they needed to do more things. Okay? Do you recall a discussion to that effect?-- Okay.

10

Yes? If you turn over the page, can I just direct your attention to the first big observation - that is the second observation by Mr White on that page. "Right. Yes. I am not sure", et cetera?-- Yeah.

20

Just read that to yourself. And then once you've done that, about point 6 of the page, he says, "Yes" - sorry, when you're ready. "Yes, yes, well, like I say, we keep getting, yes, bunches of results back, you know, various claims that are left outstanding and we're obviously following them up as much as we can to, you know, get the answers on all of them." Read the rest of that to yourself. And you ask him, "You have got nothing more to tell me?" He said, "Nothing more, like, particularly, other than, you know, they're all coming through now, and, you know, most have been done and there are a few that we are waiting on", and so on?-- Yeah.

30

Now, if you make the assumptions that I've asked you to make as to the sequence of the reports, that the technology - sorry, Water Technology was giving RACQ, that you now know what Mr White was telling you was perfectly correct, wasn't it?-- Probably.

Okay. And that your - you understood that he was telling you that your property fell into one of the grey areas where further information was required?-- Can I make a statement?

40

If you wish. If it is responsive to that, please?-- Well, it is, yes. When you've been hanging on for that sort of period of time, you start to build up conspiracy theories of your own about certain things. So half the stuff some of these people were telling me, three and four months after it had happened, probably wasn't going down the right way.

50

I understand. You were skeptical?-- That's correct, yeah.

And you described it as a conspiracy; you wondered if they were lying to you?-- Yes.

But what I'm asking you to do, at least so far as my truth is concerned, assume that the reports that I told you about are the three sequence of reports. Knowing that, what they're

telling you is the truth; that they had a hydrology report but yours was in one of the grey areas?-- Well, I still find it hard to understand why-----

1

I understand?-- -----there was a grey area.

But what they told you is they had a report there was a need for more investigation, that was done. There was still a need for more investigation, that was done. And when the report finally came in, they communicated to you very promptly the outcome. Now, you at least agree with me that they were telling you along the way, in the passages of these transcripts that I've taken you to, they had some information, they were after more, they were going through what they had, and so on. You can recall that?-- Yeah, yeah.

10

All right. And you would expect, putting aside the time that it takes, you would expect an insurer to be careful to make sure that if a hydrologist told it it needs to conduct more investigation to determine whether your claim is covered or not, that the insurer would make sure that was done?-- Well, I suppose.

20

Okay. Now, one of the other things that you've said - and I would characterise it as you think they were giving you a false sense of security; that everything was going to be okay?-- Yeah.

You have read the transcripts?-- Uh-huh.

30

It would be a fair statement, wouldn't it, Mr Sharp, in every case what you were told is they needed to have hydrological information before they could make a decision. You knew that?-- Well, yeah, and they said at times it looked all right, that everything is all right, but we just have to make more-----

Okay. If there is that statement, "it looked all right", that will be in one of these transcripts that we've-----?-- Well, I'm saying they mightn't have been the exact words but everything is going along well, or something like that, they said to me, and what's that supposed to make you feel like?

40

In every case you understood that the question of whether you would be covered or not would be influenced by hydrological information they had yet to obtain or yet to consider; that's so, isn't it?-- Well, that's what they say, yeah.

Okay. All right. Now, just excuse me, I have lost - can we ask you to take up your statement again to paragraph 9, where you said - and I know you've qualified this a little in your evidence a moment ago?-- Mmm.

50

"Any contact that we had with the insurer was over the telephone. I didn't ring because I knew they were busy but unless I chased them they did not update me on the progress of the claim."?-- That's right.

Now, you accept you were in fairly regular contact with them?-- Well, if you consider the condition that we were in, me ringing once a week, or once a fortnight, or maybe a couple of days in a row when someone rang me back and I got a message and had to ring back to get in contact with her, well, what do you do?

1

No, I am not - even though your statement is that they didn't ring you-----?-- That's correct.

10

-----you were in fairly frequent contact with them?-- Well, wouldn't you be?

Absolutely.

COMMISSIONER: I think Mr Doyle's point might be, though, they didn't have to ring you so much because you were ringing them?-- Oh, okay.

MR DOYLE: And that when - we can go to the transcript if we have to for detail-----?-- That will be all right.

20

I will if we have to?-- If you want to, go to it.

Okay. I am not sure we have to because I think you probably agree with me, if I put it more generally, when you rang you were told they were waiting for things and the thing was usually something to do with hydrology?-- That's probably right.

30

Okay. You do recall, though, getting a couple of calls from - which were initiated by RACQ in order to update you?-- Well, the only ones they really called me about were to tell me that I wasn't covered.

Okay?-- I can't remember any other call that they actually made that I hadn't made the day before or something like that. They were just getting back in touch with me.

I see, all right. Well, we may be at cross-purposes, but have a look at page 302 of that transcript. This is one where they rang you but that's, you say, in response to your having rung them to get in touch with them?-- It probably is.

40

It is. I am not doubting it is. Okay. So that we should understand, you're not saying they didn't ring you back when they said they would?-- Oh, well, they got in touch with me.

Okay?-- Yes, afterwards. After a while.

50

All right, thank you. Now, a moment ago you told my learned friend that you rang and you were told that people weren't answering the phone, or something to that effect?-- That's correct. "They weren't answering their phone", I think was the exact words that she said. I am not sure.

Well, let's see how we go. If you turn, please, to page 296. You should have a call of 14th of April?-- Yep.

Okay. If you turn over the page to 297, and a little over halfway down she says, "They are actually all busy at the moment." Is that the call you-----?-- No, I don't think it is. It possibly could be but I am nearly sure she said, "They are not answering their phones at the moment", or "not answering their calls at the moment".

You are not saying it couldn't be this one?-- Oh, mate, you know, the amount of phone calls I made and the different people I spoke to, I suppose, no, I couldn't bet me life on it, but I'm nearly dead sure that we did have one call where she said that they weren't answering their calls.

10

COMMISSIONER: I think I have seen one, Mr Doyle, where the person says, "Oh, well, I've tried to ring them but it has come back to me." So I think that's probably more likely-----

MR DOYLE: Possibly, your Honour. In any event-----

20

COMMISSIONER: -----what Mr Sharp is talking about.

MR DOYLE: You are not able to point to a particular transcript that contains this? We can all read the transcripts?-- No, well, that's okay, if you want to. If I could, I would, but I haven't been through them all.

Well, I can't help you with such an exchange?-- Okay, thank you.

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Now, the other thing I wanted to ask you about is what you say in paragraph 10. Particularly the proposition that you say that the people you rang were often not - sorry, "they were often unhelpful, making me feel as though I was being impatient by asking them the progress of the claim"?-- Yeah, well, you know, not so much the first person that answered the phone - they were always pretty good - but when you got to some of these claim managers, you know, or claim, whatever they call them, they could be a little bit narky.

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All right. Well I was going to really suggest to you that they were always, in every call, courteous to you. Everyone you spoke to was courteous?-- Sir, I can be very courteous to you but be narky to you quite easily, and I am sure you can imagine that.

Well, are you agreeing with me then? They were courteous?-- Yes, okay.

They were - they tried to deal with what you are asking them for? You might not have liked what they were telling you but they tried to provide the information?-- Very well, yes, okay.

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I don't want to badger you into this. I am asking you to accept-----?-- Well, I just accepted it. What, do I have to get down on my knees?

I don't think I have ever had a witness go down on their knees, Mr Sharp. But perhaps for novelty sake, I should say yes please?-- I probably won't either, I have got bad knees. I have got bad knees, so we won't. But just say-----

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We will treat it as a notional genuflection. They apologised, in some instances, for the delay that was caused?-- Mmm.

Yes?-- Mmm, yeah. As I said, the first person picked up the phone was always very nice.

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I am really suggesting to you that everyone you spoke to-----?-- No, well, they weren't. They weren't all that way. I must have taken it the wrong way, though, I suppose.

Yeah, well - yeah. You accept you were emotional-----?-- Oh, very-----

-----and that may have influenced-----?-- It could have.

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-----how you were perceiving what they were saying to you?-- I was very emotional at the time.

In fact, some of them inquired after your well-being?-- They may have, yeah, asked how I was at the time.

And on occasions, Mr Sharp, you apologised for troubling them?-- Well, I did because I didn't want to be on their back all the time.

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Let me finish my proposition. They said, "No trouble at all." They said, "Don't worry about it, mate. It is no trouble." That's right, is it?-- Yeah.

Okay?-- The first caller would say that, yes.

All right. Now, on the - I am changing the topic?-- Okay, good on you.

But not much. On the 26th of May you received a call in which you were told the claim had been declined?-- That's right.

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You were told that you had been assessed for a compassionate fund payment?-- That's right.

You told them no?-- Just forget about it, I said, and threw me phone out the window and had to buy a new phone the next day. It is pretty silly, really, but it did get rid of a little bit of frustration.

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I was going to ask you if you were upset?-- I was upset, yes. Wouldn't you be?

And you hung up?-- Yeah.

Very good?-- Well, I didn't actually hang up.

You threw the phone out the window?-- I threw the phone out

the window. The dog may have done. He had it for a while.

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RACQ sent you a letter?-- Yes.

If you have got Mr Dale's affidavit, if you go to exhibit 19? That's the letter, I am sorry. I will let you - that's the letter with which both confirms what you've been told on the phone about your claim being declined?-- Yep.

Because it has been determined to be flood. And if we can scroll down a little, please, you will see - you can look at the hard copy if you prefer, Mr Sharp. It says, "Although you are not entitled to a payment under the terms of your policy" - now, I will interpose there. That's what you understood RACQ had decided; you were not entitled to payment under your policy?-- That's right, yeah.

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But they then made this - they told you that you were eligible for payment of 12 and a half thousand dollars from their compassionate fund?-- Yeah, that's right.

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Told you you might have to get advice about that-----?-- Yep.

-----if you wanted to before you accepted it?-- Yep.

Now, whatever else has happened, it is right to say, Mr Sharp, neither you nor your lawyers have approached RACQ subsequently to ask for that payment?-- Well - no, okay. Yeah, I just thought they might have sent me a letter out saying I had to sign some forms to get it, that's all.

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And - well, I want to put this directly to you: until your statement was received by us, it was the last communication was you saying "just forget it", and hanging up?-- Well, you know, I was pretty upset about everything.

Okay.

COMMISSIONER: What does Mr Sharp actually have to do to get this money? The letter doesn't make it clear.

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MR DOYLE: Ask for it. Ask for it. Contact us. I mean, we now know he wants the money.

COMMISSIONER: I think that's right, isn't it, Mr Sharp?-- Yeah.

So if he contacts RACQ?

MR DOYLE: Tells them the manner in which he wishes to receive it, it will be paid-----

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COMMISSIONER: All right. That's all?

MR DOYLE: -----out of the compassionate fund. All right.

Now, if we can just turn, if I can, to what you say in paragraph 17. And you refer to "some other people who were

originally told they were not covered around the same time that we were"?-- That's dead right, yeah.

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Now, one at a time. You were told towards the end of May?-- Yeah.

So we're talking about somewhere at the end of May?-- Around about that time, yeah.

I want you to identify them, please?-- Well, I can't tell you their names, because I don't know their last name. They are a member of a club that I am involved with, and I thought that it would be - wouldn't be correct for me to go through our computer to get their name to open it up. But from what I have heard is that they were told not to mention it to anyone else after they were paid.

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Now, you've read Mr Dale's statement?-- No, not the full statement.

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Okay. You haven't read what he says about this-----?-- No.

-----contention. Well, I will tell you Mr Dale says there is no insured person in that street insured by RACQ who was told they weren't covered and then were told they were?-- Well, they must be liars then, hey.

Or it was a mistake, a misunderstanding?-- Well, they were in the same room with me, and one of my friends said to them, "How did you go with the insurance?" "No, they knocked us back." They said, "What insurance company are you with?", and he said, "RACQ." I said, "Oh, yeah, I got the letter the other day, too." He said, "Yeah, I got the letter the other day."

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When did you learn they were-----?-- Mate, I wouldn't be able to tell you what date.

Just let me ask the question. When did you subsequently learn that that had been reversed?-- About two weeks later. They came-----

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Early June?-- They came - I am not saying for sure, but it was two or three weeks later they came back into the club and had said to one of the guys in there that they've paid us out. And when they asked them a question about it, they said, "I can't really say much more."

So the words were "they paid you out" - "paid us out"?-- Yeah, "They paid us out."

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Right, I see. You have been insured with RACQ for - I think you say for-----?-- It has been a while. I couldn't tell you for sure. The only reason I went to RACQ because they took monthly payments out. My previous insurer wouldn't. I had cancer at the time, I didn't have a lot of money coming through, and I wanted to make sure the insurance was covered monthly, so I went to RACQ to get it done that way.

Okay. Would you turn, please, in that statement - that affidavit to Exhibit 4?-- Would have been probably 10 years ago at least.

COMMISSIONER: What's the page number, Mr Doyle?

MR DOYLE: I am going to start at page 13.

COMMISSIONER: Thank you.

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MR DOYLE: What you have there, Mr Sharp, is a renewal certificate of insurance. That's just a sample. I am sorry to say I can show you many. But you can recall getting one of these every year about renewal time?-- Probably.

Okay. And you can recall reading them?-- Never read them.

Never?-- Never.

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Have you read them since?-- I read the last one I got.

Thank you. Have you read this one since your claim?-- No. Mate, how would I? They are all down the Brisbane River somewhere in me bloody filing cabinet.

Good question. One answer is your lawyers asked for them and were given them?-- From you? From RACQ?

Your lawyers asked for and were given the certificate of insurance?-- Who from?

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From RACQ?-- Yeah, all right. Yeah, okay.

And the policy document?-- Yeah, good.

I take it you haven't-----?-- No.

-----either been told that, or if you have, you haven't read it?-- No.

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And you didn't read it at each renewal time?-- Mate, I've just finished telling you that the reason I changed was because I had cancer. All I wanted to know was the bills were being paid to make sure that me wife and kids were going to be all right if anything happened that didn't need to happen. I don't give a bugger about reading stuff like that.

Good. Thank you. I have nothing further, Mr Sharp. Thank you, Mr Sharp?-- Thank goodness.

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COMMISSIONER: You are nearly done, Mr Sharp. I have just got to check if anybody else has any questions. Ms McLeod?

MS McLEOD: Thankfully, no, I have no questions.

COMMISSIONER: Ms Brasch?

MS BRASCH: We have no leave, so I have no questions.

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COMMISSIONER: Ms Wilson?

MS WILSON: Madam Commissioner, may Mr Sharp be excused?

COMMISSIONER: Yes, thanks for your time, Mr Sharp?-- Thanks for putting up with me.

MS WILSON: Madam Commissioner, Mr Sharp is the last witness for today. We have another witness who could not attend. Could we adjourn until 10 a.m. tomorrow morning?

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COMMISSIONER: Yes.

THE COMMISSION ADJOURNED AT 4.18 P.M. TILL 10.00 A.M. THE FOLLOWING DAY

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