

Transcript of Proceedings

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THE HONOURABLE JUSTICE C HOLMES, Commissioner

MR JAMES O'SULLIVAN AC, Deputy Commissioner

MR PHILLIP CUMMINS, Deputy Commissioner

MR P CALLAGHAN SC, Counsel Assisting

MS E WILSON, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2011

QUEENSLAND FLOODS COMMISSION OF INQUIRY

BRISBANE

..DATE 19/09/2011

CONTINUING FROM 27/05/2011

..DAY 32

THE COMMISSION RESUMED AT 10.00 A.M.

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COMMISSIONER: Mr Callaghan, I'll take the appearances for this round of hearings.

MR CALLAGHAN: If it please the Commission, my name is Callaghan, initials of P J, of Senior Counsel. I appear with my learned friends Ms Wilson and Ms Kefford as counsel assisting.

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COMMISSIONER: Thank you. Mr MacSporran.

MR MacSPORRAN: If it pleases the Commission, my name is MacSporran, initials A J, of Senior Counsel, and I appear with Mr J Rolls and Ms J Brasch. I'm instructed by Crown Law for the State of Queensland.

COMMISSIONER: Thank you. Mr Dunning.

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MR DUNNING: May it please the Commission, my name is Dunning. I appear with my learned friend Mr Porter for the Brisbane City Council.

COMMISSIONER: Thank you. Mr Flanagan.

MR FLANAGAN: Flanagan, initials P J, of Senior Counsel, with Ms Brien, initial J of counsel, instructed by Clayton Utz for the Ipswich City Council.

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COMMISSIONER: Thank you. Ms McLeod.

MS McLEOD: McLeod of Senior Council, initials F M, with Ms O'Gorman, for the Commonwealth.

COMMISSIONER: Thank you. That's everyone? Thank you. Mr Callaghan.

MR CALLAGHAN: Madam Commissioner, since we last adjourned the Commission has delivered an interim report that contained 175 recommendations about matters associated with flood preparedness. This was done in the hope that some improvements could be implemented before the next wet season.

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Several parties have issued public responses to the report, notably, the Queensland Government has indicated that it accepts and will implement the 104 recommendations which related specifically to its responsibilities.

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We now commence the second and final round of public hearings in advance of delivering a final report in February next year. Once again, the issues are complex, the time frame is tight and the volume of information is enormous.

We understand that, as a result, some parties have been required to devote much in the way of energy and resources so as to ensure the Commission has been provided with material as

requested. We thank them for that, are conscious of the pressures involved and look forward to the continued cooperation of all parties as we strive to finish the job in the time which has been allowed.

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Some of the topics addressed during the last round of hearings will be revisited in the final report and may, once again, be touched upon in evidence during the weeks ahead.

With one exception, I shall not in these remarks say more about the evidence to be called on topics which have already been introduced. However, we remain sensitive to concerns expressed by residents of Grantham about the effect that Wagners Quarry may have had on the wall of water which devastated that town.

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Dr Phillip Jordan has provided to the Commission a report in which he expresses his opinion as to the effect that the nature and location of that quarry had on the flood and we shall call Dr Jordan to give evidence of his conclusions.

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Once again, we shall endeavour, as best we can, to address the needs and concerns held by the residents of Ipswich and Regional Queensland.

To that end, Deputy Commissioner O'Sullivan has recently been accompanied by Commission staff on visits to Taroom, Roma, Charleville, Cunnamulla and Warwick for a series of community meetings and consultations. Since we began Mr O'Sullivan has driven over 4,000 kilometres on trips such as these.

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The Commission itself will in the weeks ahead convene in Ipswich, Bundaberg, Maryborough, Gympie and once more in Emerald.

Our return to Emerald is apposite given that we have identified as a subject of interest the manner in which flood water and the need to dispose of it affected mining operations, and, in particular, mining operations in Central Queensland.

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The great importance of the mining sector to the Queensland economy is well understood and we know that the floods had a severe impact on that sector's operations. Pits and underground mines were inundated for lengthy periods. Water and tailings dams were filled to the limit. Equipment was destroyed and access roads were cut. The need to remove excess water from mine sites carried with it the potential for impact on the environment, and, in particular, on the river systems into which water was released.

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The issues involved were not new to those who were required to deal with them. In 2008 flooding affected many Central Queensland mines. The Ensham Mine, outside of Emerald, was inundated when waters breached levee banks and poured into the pit. A hundred and 50 gigalitres of water were trapped there.

It was necessary then for Ensham to be granted by the government a permit of a kind known as a "Transitional Environmental Program" so that it could pump a significant amount of that water into the Nogoia River over seven months from February to September 2008.

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The government then commissioned a report by Professor Hart into the effect of these discharges and a new approach to the management of water and mines began, and this approach was, like so many things, severely tested by the extreme events of last summer.

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The Department of Environment and Resource Management had in the leadup to the wet season examined in a number of ways the preparedness of mines to cope with an above-average wet season. Nevertheless, when the floods arrived much urgent action was needed.

The Department received more than 100 applications for transitional environmental programs between the 1st of December 2010 and the 23rd of August this year.

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Departmental officers have worked hard to respond to the need for these applications to be processed quickly. Even so, many mines were unproductive for significant periods of time, with resulting damage to the Queensland economy. But the work in which the Department was engaged was important given the potential for discharge of water from mine sites to affect drinking water and other aspects of the environment as far afield as the Great Barrier Reef.

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We will look at the terms of the standard environmental authorities at mines and examine their flexibility in the face of natural disasters. We understand that those terms have already been the subject of some reform.

We shall also examine the process by which the temporary environmental programs were created during the flood events. We shall inquire as to whether these transitional arrangements are the most effective vehicles to deal with flooding at mine sites and look at the manner in which the competing interests are balanced.

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To that end, the Commission will hear evidence from operators of certain mine sites in different part of the State, as well as from officers who were dealing with the applications for water to be released.

We shall also, in the weeks ahead, turn our attention to that term of reference which requires the Commission to examine the performance of private insurers in meeting their claims' responsibilities.

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In the aftermath of the floods insurance claims were made in unprecedented numbers. For many of those who made claims the experience was a distressing one. Flood cover is not included in many standard household insurance policies. Some policies cover damage caused by stormwater or flash flood but not

damage caused by a slow-rising flood of the kind which inundated so many places, including densely-populated areas such as Brisbane and Ipswich.

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At the outset we must be clear about that which we shall not be doing in this context and at the same time acknowledge that which is being done by others.

Our task does not extend to examining issues such as the availability of flood cover, disclosure of exclusions, the definition of "flood", and the wording of policies. The Natural Disaster Insurance Review is examining systemic questions as to how disaster insurance should operate.

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Many claimants who found themselves to be without flood cover made submissions to this Commission and these have, where appropriate, been forwarded by us to the NDIR for its consideration. The report of that review is due to be submitted to the Commonwealth Government by the 30th of September.

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The second Commonwealth review of insurance issues is the responsibility of the Commonwealth Treasury. It is consulting on proposed reforms to insurance policies relevant to flood cover. The closing date for submissions responding to their consultation was the 13th of May.

Thirdly, the House of Representatives Standing Committee on Social Policy and Legal Affairs is examining the performance of the insurance industry in assessing claims following the 2010/2011 extreme weather events. Now, that Committee is, unlike this Commission, also inquiring into the insurance-related matters arising out of the Cyclone Yasi.

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The subject matter for our inquiries will begin at the point when insured people made contact with their insurance company in order to make a claim. We shall examine the processes by which insurers assessed and decided the outcome of claims. We will also examine the manner in which insurance companies handled complaints about their performance.

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One challenge we face as we assess the performance of insurers will be the search for a reference point against which to assess that performance. Some of the relevant standards for insurers are contained in a voluntary code of practice, however, in times of catastrophe or disaster and when faced with an unusual number of claims the code allows that insurers may not be able to meet the standards which would ordinarily apply. It requires, instead, that insurers establish their own internal processes for responding to such situations, but still insists that insurers are to deal with clients quickly, professionally, practically and compassionately. We suggest that as a starting point. We examine the conduct of insurance companies by reference to that requirement.

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We propose to call as witnesses some individuals who are or have been in dispute with their insurance company. On the basis of the concerns expressed by such people we have

identified as subjects of interest issues such as: the timeliness of processing claims; the adequacy of the assessment process; the adequacy of communications between insurers and insured; the adequacy of the process by which an aggrieved insured could make a complaint; the question of whether potential claimants were inappropriately dissuaded from pursuing a claim, and the timeliness or otherwise of settling a claim once it had been processed and approved. Most of the evidence relating to these issues will be heard in Brisbane and Ipswich.

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We shall also address during hearings in all centres the term of reference that directs this Commission's attention to all aspects of land use planning through local and regional planning systems to minimise infrastructure and property impacts from floods.

Both the State Government and local governments control and affect the way in which land is used in Queensland. It is a fundamental principle underpinning any planning exercise that decisions must be based on good information. In that regard, the ability of any government to plan development will depend upon up-to-date and accurate flood mapping, but that proposition leads to the further inquiry which is how flood mapping should be done.

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Traditionally, for the purposes of flood risk management, there has been a focus on identifying and mapping a flood based on a certain probability, typically the 100 year flood.

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This theoretical flood is also described as one with a 1 per cent annual exceedence probability or AEP. That means that there is a 1 per cent chance in every year that a flood of that severity or greater will occur.

We also hear of floods with an average recurrence interval, or ARI, of 100 years and, of course, by now many are familiar with the term "Q100".

These phrases, acronyms, statistics, whilst convenient, have the capacity to mislead. Specifically, it is common belief amongst many that such a flood will only occur once every hundred years. That is not necessarily so. As we shall see, by way of example, there is another way of interpreting such statistics. Namely, that over the period of a lifetime, or at least over a period of 70 years, there is a one in two chance that a so-called one in 100 flood will be experienced.

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We have also encountered a belief that being above Q100 provides complete immunity to the effects of flooding. Again, that is just not right.

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We see in these hearings a useful opportunity to examine all aspects of this concept, including its appropriateness, accuracy and accessibility.

That such an examination is warranted becomes clear when it is appreciated that the 1 per cent AEP flood has had an important

role to play in the Queensland Government's State Planning Policy.

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Madam Commissioner, I will tender at the outset a copy of the State of Planning Policy 1/03, entitled "Mitigating the Adverse Impacts of Flood, Bushfire and Landslide" and its accompanying guidelines.

COMMISSIONER: Exhibit 530.

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ADMITTED AND MARKED "EXHIBIT 530"

MR CALLAGHAN: The policy and its guidelines, which took effect in 2003, established a number of concepts and an approach to managing flood risk through the planning process.

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It is stated in the policy that the Queensland Government's position is that, generally, the appropriate means for determining a natural hazard management area for flood is the 1 per cent AEP flood. It acknowledges, however, that it may be appropriate to adopt a different defined flood event depending on circumstances of individual localities.

This policy has since last summer's flooding been reviewed by the Queensland Reconstruction Authority. That authority, in partnership with the Department of Local Government and Planning, has conducted a review of all planning schemes currently in force of Queensland, a total of 127 schemes, so as to understand by reference to the State Planning Policy how flood mapping is reflected in these planning schemes.

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The Authority's review has identified that many local planning schemes contain no flood mapping at all. Amongst those that do there is no standard or consistent method employed through land planning schemes to manage development within floodplains throughout Queensland. Indeed, it is generally treated differently in every planning scheme.

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The QRA has already prepared a Draft Temporary State Planning Policy and some guidelines to go with it. The policy is entitled "Planning For Stronger, More Resilient Floodplains" and was introduced by the Premier on Saturday.

That planning policy will, if approved by the planning minister, suspend the provisions of the State Planning Policy regarding how local councils represent areas affected by flood. The temporary policy will allow local councils to adopt flood maps prepared by the QRA in recent months.

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I tender that Draft Temporary State Planning Policy and the guidelines.

COMMISSIONER: Exhibit 531.

MR CALLAGHAN: We will hear from a representative of the Authority who will give evidence about the work done thus far and their plans to assist councils in obtaining flood information and maps.

Madam Commissioner, we are aware that there were in Brisbane, and elsewhere, conspicuous cases in which the effects of flooding were so profound that they called into question the purpose for which certain land was being used. We shall adduce evidence relating to some of the more obvious examples. This will include, in some cases, evidence of the assessment process which led to approval being given for the land to be used for its designated purpose.

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I should mention the reason for which this evidence is being called. By its nature land use planning is a forward-looking exercise. Planning schemes can have effect only when an application for development is made and there is little in the way of specific recommendations that a commission such as this can make about certain existing situations when those situations are the result of decisions which were made long ago.

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By way of illustration: we have already heard in the first part of the year some evidence about the situation at Bellbowrie where the effect of inundation on the only supermarket in the area was compounded by the isolation that community experienced. Well, we will briefly hear some more evidence about that situation, whilst noting that some relevant planning decisions in this area might have been made even before the 1974 floods.

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We perceive, however, that there is value in ventilating the concerns which have been raised about such essential services being located in seemingly inappropriate locations, and, in at least offering some explanation as to how these situations have developed, it might be hoped that there comes a heightened awareness as to the types of issues which need to be considered when assessments of development are being made in the future, and it is on that future that this Commission has always been and will remain firmly focused.

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If it please the Commission, might I suggest a brief adjournment before we hear from the first witness?

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

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THE COMMISSION ADJOURNED AT 10.21 A.M.

THE COMMISSION RESUMED AT 10.30 A.M.

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COMMISSIONER: Yes, Mr Callaghan?

MR CALLAGHAN: I call Gary White.

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GARY STUART WHITE, ON AFFIRMATION, EXAMINED:

MR CALLAGHAN: Could you tell the Commission your full name, please?-- Gary Stuart White.

And, Mr White, your occupation?-- I'm a town planner.

And you are, in fact, the government planner; is that correct?-- Yes, that's correct.

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You prepared a statement for the purposes of the Commission; is that right?-- Yes, I have.

I will have that shown to you. Oh, it's in a CD form, the form that's been provided to the Commission. I will show you the folder anyway. I will tender that.

COMMISSIONER: Exhibit 532.

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ADMITTED AND MARKED "EXHIBIT 532"

MR CALLAGHAN: And you have got a copy of that with you-----?-- Yes, yes, I do.

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-----in a form suited to your purposes. You have also made a number of amendments to your statement; is that correct?-- Yes, I have.

And you very helpfully itemised those on a separate document?-- Yes, that's right.

I will tender that list of amendments to the statement of Gary Stuart White.

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COMMISSIONER: Exhibit 533.

ADMITTED AND MARKED "EXHIBIT 533"

MR CALLAGHAN: Now, Mr White, in your statement you identify certain principles which are fundamental to the concept of planning; that's correct?-- Yes, that's correct.

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And one notion that I'd suggest recurs or a theme that recurs is the one to which you refer in, for example, paragraph 24 of your statement, and that is that local communities know best about their own areas and local government makes decisions by way of planning schemes; that's correct?-- Yes, that's correct.

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But you point out the State has flagged formally what it believes must be addressed in such schemes; is that correct?-- Yes, that's correct.

Right. I would just like to examine the means by which the State exercises influence in this area and the extent and the effect of that influence and especially, of course, insofar as it relates to the topic of flooding. Can we speak first about the legislation-----?-- Yes.

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-----the actual acts of Parliament. I will come back to the State Planning Policy and the Queensland planning provisions in a moment, and I understand that they do interrelate, but if we just look at the Act in isolation for a moment, is it true to say that the Act itself, and that is the Sustainable Planning Act, does not expressly require local government to address flooding when preparing a planning scheme?-- Not expressly.

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No, and that just leads me to clarify one point in your statement. If I could take you to paragraph 68? In that paragraph, you say that, "Section 89 of the Sustainable Planning Act creates a requirement for a local government to address core matters in the preparation of a planning scheme." You say, "That includes obtaining necessary studies, background reports, on issues such as", and you identify them to include flooding. I just wanted to ask you about that. Does section 89 really require any such report as regards flooding?-- It doesn't specifically mention flooding as being a requirement as opposed to a range of issues that are required in the preparation of a planning document.

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I might even be able to get section 89 up on the screen in front of you. Which part of that section do you say would be capable of requiring the local government to obtain studies or reports on flooding?-- If you were going to element under valuable features B, it talks about areas contributing significantly to the amenity, including, for example, areas of high scenic value, physical features, it starts to give you an indication of issues that a planning scheme might need to consider in the context of a physical form of that local government area. Whilst not talking about specifically flooding issues, it's taking you to the terrestrial aquatic features within a particular area.

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So, if there is a requirement in that section, that's the source of it, valuable feature (b), for bravo; is that

right?-- It would be the most - it is most closely aligned specifically to term "flooding", yes.

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Thank you. Well, turning, then, to the State Planning Policy itself and guidelines, in them there is contained a statement as to what the State Government thinks ought to be done for the purposes of mitigating the adverse effect of flood; is that correct?-- Yes, that's correct.

But as you point out at different points in your statement, I think 148, paragraph 148 being one such place, perhaps 151 and 152 as well, if there is no so-called defined flood event adopted by a local authority, then the State Planning Policy does not take effect; is that right?-- Yes, that's correct.

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So, it's reliant upon a local authority doing something before the State Planning Policy applies?-- Having done generally a flood analysis or a flood study, which enables you to prepare a map.

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Just so. I am just finding you a little difficult to hear?-- Sorry.

And I don't know that the microphone is amplifying, but, anyway.

COMMISSIONER: We just need you to speak up-----?-- I will.

-----essentially, Mr White?-- I appreciate that. Thank you. Sorry.

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MR CALLAGHAN: And, as you you say, you need a flood map before you can adopt a defined flood event?-- Yes.

So, long as we're in that part of your statement, can we just go back to paragraph 146 of your statement where you say that, "In the absence of a flood map or flood study, the local government would not be able to consider the potential impacts on the development or resulting from it unless the applicant was requested to provide information as part of their application."?-- Yes, that's correct.

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So, in that you are suggesting that a local government might ask an applicant for development to provide a flood map?-- Yes, and that was clearly the case before SP 1/03 came into operation.

All right. And I just wondered if you can say how that works in practice, because getting a flood map could be a complicated exercise. Would it be beyond the capabilities of smaller or applications for smaller developments as a general rule? I appreciate we're speaking generally?-- As a general rule, that would pose a challenge to somebody who had no idea of what the characteristic might be in relation to flooding in a particular area. Having said that, though, often there will be local knowledge in relation to flood events, they could be recorded simply on a tree or side of a building, which enables a council to identify a known event as part of that process

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which they could then seek further analysis through a flood study, again as was the case in many planning schemes before SP 1/03 outlined the frame.

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So, you contemplate something short of or something at least simpler than defining a Q100 for a specific area?-- Yes, yes.

And just whilst we're in this part of your statement and talking about the State Planning Policy, can I take you to paragraph 159, and the third bullet point in that paragraph where you identify the possibility that a Minister may direct a local government to amend an existing planning scheme to address a State interest. Have such directions been given, to your knowledge?-- No, not - not to my knowledge. Very often with a planning scheme the Minister will require a response to a series of conditions that might relate to a State Planning Policy. I don't have any recollection of it being a specific response in relation to SP 1/03 from the Minister.

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No. All right. But hypothetically the Minister could direct a local government to address State interest by reflecting the SPP in their planning scheme?-- Yes, they can.

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That power has not been exercised to your knowledge?-- No, not to my knowledge.

Certainly not with respect to flooding?-- No.

All right. We turn, then, to the Queensland planning provisions and can you just give us a brief statement as to what they are and what their purpose is?-- Queensland planning provisions were introduced as part of SPA legislation in 2009. The main issue there was to address the issue of multiple definitions, multiple classifications that appeared throughout planning schemes in Queensland, and the focus there was to standardised planning schemes, standardised terms so that essentially across the entire State when the term was used for a particular event or a particular zoning or a code, it applied and was interpreted as being the same as in other areas as well.

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All right. Can we just take a look at them? Perhaps before we do - and just taking it one step further, and I will take you to paragraph 121 where you speak to the concept of overlays and the flood hazard overlay. Can you just elaborate on that a little and explain those concepts, explain the concept of an overlay to us?-- The notion of an overlay is that you may have an area designated for a specific designation, that could, for example, be residential, could be industrial or similar, and the notion of an overlay is a further qualification within the planning scheme that requires an additional issue to be addressed and it can be around a noise overlay, it can associated with aerodromes, it could be associated as in this instance with floods, which - further qualifications that are needing to be addressed as part of the consideration of applications within that overlay.

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All right. Having said that, can we look at the Queensland planning provisions version 2, which I think are attachment 9 to your statement, and at section 1.2 the planning scheme elements are set out; is that right?-- Sorry, I have got that down as appendix 8. Have I got the wrong there?

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Nine, attachment 9?-- I do apologise.

That's all right. And at 1.2 paragraph E there are the options to - or the option is given to insert the names of overlays or insert a statement that there are no overlays; is that correct?-- Yes, that's correct.

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So, the option is there for a local government to simply elect not to include any-----?-- Yes, that's right.

-----overlays? All right. Now, can I take you to module B of the planning provisions which deals with drafting instructions, and specifically take you to page 3 of that module?-- Yes.

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To get an understanding of the use of this module to choose the zones to insert into a scheme, and the options would appear to be there - if we just stick with the residential category - go over to page 4 and following, page 3 shows the options, I suppose, for each zone. You could have a level 1 zone which is general residential or a level 2 zone which allows for a range of zones within the residential category; is that correct?-- Yes, that's correct.

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All right. When you go over to page 4, and we look at the residential zones category, there are suggested overall outcomes listed there, and for general residential level 1, which is the simplified version, I suppose, if you look at the suggested overall outcomes they include many things but six bullet points up from the bottom of the page there's the suggested outcome that, "Development be designed to mitigate the impact of bushfire in designated bushfire prone areas."?-- Yes.

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Is that correct? There's no corresponding or no similar entry there for flood, though; is that correct?-- Yes, that's correct.

But if we look over the page, and we look at residential choice - this is on page 5 - residential choice level 2, "Purpose: Mandatory.", again there are some suggested outcomes - sorry, the purpose is open there, I take it?-- Yes.

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There has to be a purpose, but-----?-- Yep, it's open.

-----it's up to the local authorities to-----?-- Yes.

-----designate it?-- That's correct.

And in the bullet points which follow, the second last one suggests that, "The development respond to land constraints,

including but not limited to topography, bushfire and flooding constraints."?-- I'm sorry, can I just check which page we're on there? That's page-----

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Page 6 now?-- Page 6.

Which relates back to the bottom of page 5?-- Yep. And which dot point?

The second last one in the first box on the page?-- Yes, it does mention flooding constraints.

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And I suppose the question is invited as to why flooding would be referred to as a suggested outcome for one category but not the other?-- I don't have an answer for that one. I would-----

No?-- I would share the view that it would seem that if it's appropriately reflected in one of the residential zones, it may also be reflected in the other residential zone if it were to be then governed by an overlay where you would be looking at flooding issues to be considered.

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We can - just for completeness, I suppose, if we look at page 7 there's a character residential category. The suggested outcomes for that go over to page 8 and the same form of words appears in the second bullet point on that page. There is there a suggested outcome that development respond to flooding constraints in that one?-- I can only assume that there may have been an omission in the first - in the first one because I see no reason why the same characteristics don't apply in all instances.

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No. And, likewise, but while we're on page 8, if we look down to tourist accommodation, I don't think it's reflected there?-- I think the same issue applies as previously.

Same omission applies?-- Yep.

Okay?-- Sorry, insofar as preparing a planning scheme, whilst SP 1/03 might not be activated in those designations, it wouldn't mean that you couldn't take into account-----

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Oh, no?-- -----flooding if it were to apply.

No?-- Which is why I feel that perhaps it is an omission in those instances.

Yes. No, this isn't to suggest that it couldn't be done, but I suppose the point being these are provided to local authorities for their assistance?-- Yes, they are.

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And the suggestion might be if they were relying on these, there might be a danger that something got overlooked or by emphasising, for example, bushfire in one category and not another. There is at least, you'd agree, an inconsistency there?-- Yes, I do agree.

Yes, all right. While we're there, can we look over to page 13 to the recreation zones category, and we have got two different concepts in this category, there's the recreation and open space, which as its name suggests would apply to things like open playing fields and outdoor facilities and that sort of thing, I suppose as suggested equestrian facilities, public swimming pools, outdoor courts, that sort of thing?-- Yes.

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And the other category, sport and recreation, would include built form structures?-- Gymnasiums, clubhouses and the like, yes, that's right.

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That's right. Or, you know, on a larger scale, stadiums?-- Yes, that's right.

Indoor tennis courts, that sort of thing?-- Yes.

Yes. And if we look at the suggested outcomes for the first category, the open space category, four bullet points up from the top one in the first box on page 14, there's the suggested outcome that, "Land susceptible to flooding be protected from inappropriate sport and recreational activities or facilities."?-- Yes, there is.

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But I'd suggest to you no corresponding suggested outcome for the sport and recreation category is in the box on page 15?-- No, there's not.

And I'd suggest to you that there's a logical tension there, because the existence of a built form structure, such as the tennis centre or a stadium, could well present more difficulties in terms of flood impacts on property and infrastructure and, for that matter, carry with it the potential to adversely affect flood plain storage and flow of water than would an open field area?-- I would agree with you.

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All right. Next on page 16 we have the industry zone categories and correct me if I'm wrong but none of those make mention of flooding in the suggested overall outcomes, do they?-- No, they don't.

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We could contrast that with the State Planning Policy, and we can get it up if we need to, but I daresay you are familiar with it and I'd suggest to you that it suggests that industrial uses may only be appropriate in areas of medium to high flood hazard severity if there are special controls - I am talking about the ones in appendix 5 - and I can get them for you, but I am talking about-----?-- No, I do know the ones you're talking-----

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-----ensuring the storage of hazardous materials?-- Yes.

And ensuring that's not affected by flood waters?-- Yes.

But as we've, I think, agreed, there's no suggested of such an overall outcome in the Queensland planning provisions?-- No,

there's not, not to reflect the same language.

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Should there be?-- Yes, I do, I think they should be.

It's not a hypothetical problem, because we know or you would be aware of issues arising at Rocklea in the Oxley Creek-----?-- Yes, I-----

-----catchment area? All right. Thank you. Now, as, I think, I said to you earlier, notwithstanding any omissions that there might be, nothing stops a local authority from addressing these issues in their planning schemes?-- No, and traditionally we find that particularly since the 1974 events here in Southeast Queensland that most planning schemes will have addressed flooding issues in one way or another, and then have that reflected in terms of their development assessment process and their land use designations.

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Yes, but that will be done on a case by case basis by local authorities?-- Yes, those planning schemes will still however - they are then assessed by - either under the previous legislation by the Minister of the day.

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All right. But for the future - and these provisions are relatively new, aren't they?-- Yes, they are.

Their effectiveness does depend upon local authorities turning their mind to the fact that just because the State Government's produced these for their use, they may not necessarily be suitable for specific purposes in a specific local area, they still have to turn their own minds to-----?-- Yes.

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-----their own issues?-- Absolutely, because one of the things that you wouldn't want your standard provisions to do would be to take away a local characteristic or a local flavour that is unique to that particular government and should be reflected through their planning instruments.

Now, can I ask you a couple of questions about some amendments to the Brisbane City plan and before I do that, I might at this stage tender, Madam Commissioner, the statement of Gary Mahon.

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COMMISSIONER: That will be Exhibit 534.

ADMITTED AND MARKED "EXHIBIT 534"

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MR CALLAGHAN: And I might ask you, Mr White, to start, perhaps, by having a read of paragraphs 39 and 40 of that statement if you haven't - have you seen Mr Mahon's statement?-- No, I haven't seen his statement.

No?-- It was 38 and 39; was it?

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39 and 40, yes?-- Sorry.

You've had a chance to read that. Now Mr Mahon - I appreciate if you haven't read it before you're coming at this cold - but at para 40 it is indicated that the Department of Community Services informed the Department of Local Government and Planning that it did not agree with Brisbane City Council's proposed amendment which amounted to a statement that State Planning Policy 1-03 was reflected in the City Plan?-- I note that.

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You note that, yes. If we can turn to the exhibit which might be in another folder - is it? It's volume 2, have you been given that one, of Mr Mahon's statement?-- Which one did you want me to look at?

17, please, and towards the bottom of the page?-- I can just take that as read in relation to-----

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Yes. And there's a paragraph there which has got some lines and an asterisk next to it which is probably the important one, in essence noting that there couldn't be agreement to the position that SPP 1/03 was reflected in the scheme?-- It was my understanding, without having read that particular piece of correspondence, that, in fact, Brisbane City Council's plan does in fact for the most part reflect SPP 1/03-----

All right?-- -----in terms of defining flood events, defining flood lines, putting in place appropriate codes, appropriate overlays, acknowledgements as sought by SPP 1/03. It would be something that I would have to take on notice and further check, but it was clearly my understanding that it has been the case that the Brisbane City Council's planning documents do, in fact, reflect by and large SPP 1/03.

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And it does, in fact - the Brisbane City plan does, in fact, include a notation to the effect that it explicitly recognises and is consistent with SPP 1/03?-- Yes, and that is my understanding.

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All right. And I suppose if we just go back up to the top of that email, and the first paragraph, the response to that suggestion that it didn't appears to have been a response to the effect that there was no objection to deleting it, deleting reference to the SPP 1/03?-- Yes.

But it's still in there. Were you aware of this?-- No, I wasn't.

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Before now?-- No.

Not at all?-- No.

Okay. All right. Is there a flood map or equivalent in the city plan?-- There's a whole series of maps in the city plan that reference flood lines and there would be lines that if

you were making applications or assessing that you would be taking into account in your plan making and decision making.

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All right. To the extent that you believe that SPP 1/03 is reflected?-- Yes, I do.

Okay. On that topic of maps, you are aware of the QRA mapping project?-- Yes, I am, only as recently as last Friday, but I've certainly read in as much as I could before it was released on Saturday, as I understand.

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Okay. So you didn't have any involvement before that?-- No, not personally.

Okay. Can I take you back to your statement and take you to paragraph 94, and just picking up on what we were talking about a moment ago with the Brisbane City Plan, the last sentence of paragraph 94 says what it says. Can you elaborate on that for us as to what you had in mind when you wrote that?-- There would be parts of state planning policies that wouldn't necessarily apply to Brisbane City Council, that the very nature of state planning policies. So you will often have a situation where a council's planning scheme simply doesn't reflect or doesn't need to reflect state planning policies and my general inquiry when I asked the question: Does the Brisbane City Council plan reflect every State Planning Policy? It was such that my advice was, it might not necessarily reflect every State Planning Policy fully and that reflects the comment that I made in that paragraph; and if I might just add, for example, there's State Planning Policy work being done at the moment in relation to coastal management and I suppose it exemplifies the fact that you will have councils in the inland areas where obviously the provisions of an SPP in relation to coastal management don't apply, and I just use that by example.

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MR DUNNING: Excuse me, Commissioner, I'm loath to interrupt but we are having a great deal of difficulty hearing.

COMMISSIONER: Hearing?

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MR DUNNING: Yes.

COMMISSIONER: Could you pretend you are shouting at the children.

MR CALLAGHAN: Do you still have your statement in front of you?-- Yes, I do, yes.

Can I take you to paragraph 145 and following where you've got extracts from the regional plan?-- Yes, I have it.

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Which should be reflected in local schemes; is that right?-- Yes, that's right.

And the aspect of this of interest to me is in 1.4, which is on page - you've got different pages in your statement but, anyway, it's 1.4?-- 1.4, I have it.

It is the question of climate change because that - certain statements are made about the need for climate change to be factored into planning decisions; is that correct?-- Yes, that's correct.

My question is this: What does the state government do to facilitate a local government incorporating climate change into their planning process?-- The guidelines which are currently being developed around climate change will be of some assistance. It would also be to take account of issues that have been presented in the coastal management plan which have a direct relationship to climate change and even a study we did in Central Queensland in relation to considering the impacts of climate change in relation to rainfall frequency. However, having said that, it is a challenge at this stage in the context of available information and also the different interpretations of information when seeking compliance with that particular provision of the regional plan. I think it's very much reflective of the notion of work in progress and a significant challenge in terms of drafting our future planning schemes so that you do have a consistent approach up and down the coast and not an interpretive approach of different characteristics as different levers may be pulled around climate change.

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All right. So you've frankly acknowledged that's a significant challenge which is not-----?-- It is a challenge but what is really coming through from a number of local authorities is the desire by those communities to respond to climate change. The-----

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I'm sorry?-- And I think the challenge that we have as planners and the planning system is to ensure that we don't get multiple interpretations from different enthusiastic councils preparing climate change responses which end up causing greater confusion to the community as part of that process.

Well, that's the point, I think, isn't it? And that's what makes the role of the state so important?-- Very much so in terms of getting that coordinative framework.

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Okay, thank you. In your statement can - I take you to paragraphs 205 to 206 and lead in by saying it's an issue of concern especially in Brisbane and especially in high-rise developments near the river that the location of things like lift motors, electrical and main switchboards and the like in areas likely to be affected by inundation such as basements in high-rise buildings, is something which is, or in relation to which there are very few, if any, current requirements; is that correct?-- Yes, that's correct.

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There is very little in place to ensure that such things are not effected during a flood events?-- Having said that, there's major reviews going on right at this moment with Building Codes Australia and our own building codes and I understand that Mr Glen Brumby is being called to give further

evidence where he probably can elaborate more on the technical detail. But clearly in relation to your earlier question about overlays, the opportunities, once an overlay has been cast through a particular area is to enable activation of a series of clauses and cross references with building legislation insofar as it may relate to essential infrastructure being required to be at certain levels where such an overlay has been put in place, so it becomes a trigger to enable those sorts of considerations.

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And when you say that there's work being done, I was going to ask you whether, if you refer back to paragraph 177 in your statement, and I might have this wrong, but is that the - in 177 are you talking about the sort of thing that I'm talking about now?-- Yes, that's the point that I was just raising, yes.

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Thank you for clarifying that. Just finally I was going to refer you to paragraph from the statement of another witness, that is Christopher Beckley who's statement I will now tender.

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COMMISSIONER: Exhibit 535.

ADMITTED AND MARKED "EXHIBIT 535"

MR CALLAGHAN: And if I could ask you to look at paragraph 16 of Mr Beckley's statement in which he states that so far as he's aware there is no requirement for the flood resilient standards and associated design adopted for the River Walk to be assessed by any third party, and he'd seen no evidence indicating that the standards and design were in fact reviewed by any third party. Are you aware of any statutory or other requirement for flood resilient standards and associated design of something like the River Walk to be assessed by a third party?-- I don't have any qualification or experience in that area so I'm not able to comment to you.

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All right. You don't have qualification or experience, perhaps, but just to clarify it, you don't have any knowledge of any third party reviewing the design standards of the River Walk?-- No, I don't. I really have no knowledge at all.

Can I ask you your opinion as a matter of policy whether you think such a thing would be a good idea?-- The notion of a party being able to do an assessment would seem to be not inconsistent with provisions and policies elsewhere, for example, private building certification is probably an example of where that's being used. So I don't see that the ability of another party to do an assessment is an issue or should be a concern.

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I am sorry. Now I am having difficulty hearing?-- I'm sorry. In relation to building certification, for example, that is an alternative party assessing an application on behalf of

regulations or standards that are put in place, I'm just wondering whether that is a parallel situation to that which you talking about, that a technical assessment is done by a third party or is it not directly the government?

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Well, I suppose it's any sort of review of when there's a large scale publicly funded development, whether someone other than the assessment manager might review it or assess it prior to issuing an approval but-----?-- I'm just not familiar with any instances.

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No, all right. Okay. That's all I have for the moment, thank you, Madam Commissioner.

COMMISSIONER: Mr MacSporran, you will go last, will you?

MR MacSPORRAN: Yes, thank you, Commissioner.

MR CALLAGHAN: I just observe that that clock is clearly wrong.

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COMMISSIONER: Quite wrong. All right. Mr Dunning.

MR DUNNING: Very briefly. Mr White, my name is Dunning, I appear on behalf of the Brisbane City Council. Can I ask you just a couple of questions very briefly. You were asked some questions about the Brisbane City Planner's conformity with the SPP, you'll agree with me, won't you, and I can take you to the document if you want me to, but the SPP is an outcomes based document?-- Yes, it is.

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All right. So the metric of compliance is really to determine whether, whether it be the Brisbane City Plan or any other local authority's plan attains those outcomes?-- Yes, that's right.

All right. And against that metric, the view you have is the Brisbane City Plan is one that attains those outcomes?-- Yes, it does.

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All right. And the reason that it may appear different to other local authorities is because you're dealing with a much larger municipal authority with more sophisticated and developed information, particularly in relation to flood?-- Yes, that's right.

All right. Thanks for your attention to my questions, Mr White. Thank you, Commissioner.

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COMMISSIONER: Mr Flanagan.

MR FLANAGHAN: Mr White, I want to ask you some questions in relation to State Planning Policy 1/03 and the accompanying guidelines?-- Yes.

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SPP 1/03 was developed on the 19th of May 2003 with effect from the 1st of September 2003; is that correct?-- Yes, that is correct.

And it was a joint initiative between the Departments of Local Government and Planning and the Emergency Services; is that correct?-- Yes, that is correct.

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We understand that there is a proposed draft temporary State Planning Policy but if we could concentrate for the present moment on SPP 1/03 itself. The SPP has a lifespan of ten years; does it not?-- Yes, it does.

And that's if it's not otherwise reviewed by the relevant Minister?-- Yes, that is correct.

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It's the case, isn't it, that a partial review of SPP 1/03 occurred in the course of the Inland Flood Study which was completed in November 2010?-- Yes, that's right.

And you'd be aware that the Inland Flood Study made a number of relations in relation to the review of SPP 1/03?-- Yes, I was.

In fact, there were seven recommendations made; were there not?-- There were, but I don't have a copy before me.

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I'll take you to them in due course. We may take it from the submission filed by the state of Queensland in the inquiry that SPP 1/03 is intended to be reviewed by the relevant state agencies and a remade SPP or a combination of instruments to effect the policy intent of the state government must be in place by September 2003, is that correct?

COMMISSIONER: September when?

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MR FLANAGHAN: Sorry, September 2013?-- Yes, that's correct.

Do you agree that the relevant state agencies, particularly the Department of Local Government and Planning and the Department of Environment and Resource Management and the Department of Emergency Services should undertake the review of SPP 1/03 in partnership with effective local governments?-- Yes, and that was the - when you say "effective local government" are you talking a generic term any local government that obviously will be affected?

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Yes?-- Yes, I agree.

And we know from the Premier's Saturday press release that the draft proposed temporary SPP was a result of extensive consultation with local authorities; wasn't it?-- Yes, it was.

And would you agree that the same process should be followed in relation to the ongoing review of SPP 1/03?-- Yes, and that was a similar process that was followed in relation to the development of SPP 103 in 2001 through to 2003.

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All right. Now so as not to make things difficult for you, are you, yourself, involved in the review of SPP 1/03?-- I'm not directly involved hands on at this stage, but it's more than likely the case that I will become very involved in it as it evolves.

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Have you participated in your role as a state planner what matters should be the subject of review of the State Planning Policy 103?-- I do have a view at the moment. I also have a view which has come from a close examination of the submissions which have come as part of this inquiry thus far. There are two issues that are very significant, in my opinion, one is the capacity and the ability to obtain data, I feel that that is an issue and I think it influences so much of what flows out of SPP 1/03 as it currently exists, and also the notion of what is the appropriate method of defining a flood event around the discussions that we heard in the opening today around the use of the 1 in 100. I feel that those two issues, regardless of the technical nature of submissions that have come in from professional people through to lay persons not involved, those two underlying messages seem to me to be issues that do need to be addressed as part of that review process.

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May I take you then to the recommendations that were made by the Inland Flood Study in November 2010, and that document would be found in the state submission tab 2 which has the final report on Inland Flood Study, it's page 2, recommendations 5 to 11.

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COMMISSIONER: I don't suppose you have got spare hard copies?

MR FLANAGHAN: It's going to come up on the screen.

COMMISSIONER: You've got this lined up; have you?

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MR FLANAGHAN: Yes. Exhibit 39 on the statement of Mr Mahon. In fact, we've tried to comply with the Practice Direction as much as possible.

COMMISSIONER: I should be more optimistic, obviously.

WITNESS: I do have a copy of that before me.

MR FLANAGHAN: Yes, thank you, and it should come up on the screen, I believe. Thank you. And if we go to page 2 and we commence with recommendation number 5. Yes. You're familiar, are you not, as state planner, with the recommendations made by the Inland Flood Study?-- Yes, I am.

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Yes, thank you. And that was the first time, was it not, that there was some sort of review or an initial review of SPP 1/03?-- In a formal sense, yes, it was.

Yes, thank you. If you look at recommendation 5, it says, "The review of SPP 1/03 should consider the benefits of requiring a standard method for undertaking a flood study and determining a DFE", that is a defined flood event; is that correct?-- Yes, that's correct.

Now what are the benefits of a standard methodology?-- Well, my first reaction would be that you don't have multiple ways and multiple interpretations of what constitutes a flood event or a series of flood events, which then enable you to craft out a planning document that properly reflects how flooding in that particular local government may be handled in comparison to flooding in another particular local government.

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And, sir, would you agree with this proposition: That not only should there be uniformity of flood studies in relation to one local government from another local government, but there should also be uniformity in relation to regionally based flood studies?-- In general terms I agree with you, with your proposition, but I would probably need to think about the capacity of certain local governments to in fact undertake a flood study if a standard approach were being used for somewhere like an urban area like Brisbane or Ipswich and expecting a local authority in an area which has a very low population or a different set of characteristics necessarily using the same way of assessing, I feel there needs to be some consideration to capacity. Maybe that's an issue that does need to be looked at separately.

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In fact, what you're saying is that sometimes the financial capacity of councils, even a council the size of Ipswich City Council, would be unduly taxed if it had to undertake a regional flood study?-- It would seem to me that a regional flood study is a regional flood study and not a local government flood study.

Yes?-- And that's how I'd respond to your question.

Thank you. And even for an entity such as the Brisbane City Council or the Ipswich City Council, there are a number of matters that will impact on any one individual flood event; is that correct?-- Yes, that's correct. There's a term often used, a number of levers that might interact.

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Yes?-- A lever, for example, might be a high tide event or a cyclonic event, obviously subject to those levers.

For example, the level of flooding in Ipswich can be dependent on the level of flooding in the Brisbane River and the timing of that flood event with the Bremer flood event?-- I would have to accept the logic, yes.

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And also with the release and the operation of the Wivenhoe Dam could impact on that flood event?-- I would accept that.

Thank you. May I take you to recommendation 6. The review of SPP 1/03 should consider whether there is a need to specify

how frequently a flood study should be reviewed or updated. Now from your own knowledge as state planner, what is the frequency of flood studies that are contemplated and how would it vary from local government to local government?-- The governing review process would revolve around a local authority preparing its planning scheming. Under the Integrated Planning Act that was an eight year review period and it would be a study that would inform the planning scheme. Under the SPA legislation it's a ten year horizon between the planning schemes and I would expect that ten year review to be part of that process.

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Yes. And that is there would be a coordination between a significant amendment to a planning scheme or a new planning scheme and the relevant flood studies that would inform the defined flood event?-- Yes, that's right.

Thank you. At recommendation 7 it says: "The review of SPP 1/03 should develop criteria that outline the circumstances where a defined flood event higher or lower than 1 per cent AEP, that is the Q100 is appropriate for residential land use planning". What's contemplated here?-- It takes into account my earlier comment that if a particular local authority or a council has done it's analysis and comes up with a different flood event and it's accepted that the principles behind something like 103 have been met in terms of enabling a planning document to be crafted to be receptive to flood related matters, then it shouldn't precluded from consideration as part of that process.

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Thank you. I know these recommendations were made in November 2010. To your own personal knowledge what work has been undertaken in relation to recommendation seven?-- We referenced in relation to what happened on Saturday with the release of the document by the QRA-----

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Right?-- -----as an example of a multiple or a multiple series of ways of looking at how flood events might be considered.

Can I put certain propositions to you and you can say whether you agree or disagree? Do you agree that the review of SPP 1/03 should encompass hydraulic, hydrologic and climate parameters, including an agreed approach to appropriate and realistic rainfall and climate change inputs for various regional areas?-- Yes, I would, yes.

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Thank you. Do you agree that the review should also consider provisions for floodplain management?-- Yes, I do, but I think it's also important to define what is meant by floodplain management as part of that process as well.

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All right. Well, we know from the Premier's Saturday press release that the Premier has announced a broader approach to floodplain management. What do you understand to be the broader approach to floodplain management?-- I think that is the point that I just made in response to your previous question, that there are a whole range of issues associated with floodplain management, the planning scheme potentially being but one of those mechanisms. Others could be physical remediation strategies where you talk in some communities about levees and various other processes. So I think you need to look at it in a much broader context than just the single dimension associated with the planning scheme and what it can do.

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Yes. And we'll come to it but would you agree that that requires a great deal of coordination between local authorities and State agencies?-- Yes, and that's - that is already reflected through instruments we have in the legislation. For example, the regional planning framework, that I was taken to in my earlier questions, it provides just such an opportunity.

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May I ask you a more general question: as a general principle as the State Planner do you support a merits-based approach to development approval assessment which balances social, economic, environmental and flood risk parameters in order to avoid unnecessary sterilisation of flood-affected land?-- I agree notionally with the principle that you have put to me but I don't think it's as simple an answer as "yes" or "no", I think there are a whole series of issues that if you're doing your planning analysis well and properly it should enable you to balance and come to some conclusion, but I would not answer your question in a "yes" or a "no", I'd have to - I'd have to say it really depends on the circumstance and the analysis it goes into.

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Thank you. It was a general question so I appreciate the nature of your answer. If I go back to the review then of SPP 1/03, would you agree that it should encompass both planning schemes and non-scheme measures to deal with existing land uses?-- I think it would be useful if it did that in consideration of the comments that we went through before in so far as the planning scheme certainly has limitations in terms of how it can respond to a series of events and a series of issues.

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You'll appreciate that each planning scheme, and, indeed, SPP 1/03, has to deal with existing development commitments?-- Yes, I do.

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And, indeed, if they're interfered with compensation provisions can arise under SPA?-- Yes, I note that as a statement of fact, yes.

And it also has to deal with infill development within established areas?-- Yes, it does.

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Should that - those two issues also constitute part of a cooperative review between local authorities and the State agencies in relation to SPP 1/03?-- I would have thought they were already included as part of the process of analysis that we talked about before. I mean, I would put to you that over 80 per cent of our towns are in fact on floodplains at the moment and therefore the analysis that you would do as part of your plan preparation work, eight years or 10 years, whatever, would need to take account of those existing situations. It certainly doesn't mean that you stop development but what the whole notion behind that qualified analysis is that you understand the context environment within which you are taking your planning products into and you hone your delivery accordingly, taking notice of that background information.

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It's the case, though, isn't it, that under the present system, and that is under SPP 1/03 as it's presently drafted, it's local authorities who must ensure that SPP 1/03 is appropriately reflected in the proposed planning scheme?-- Yes.

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Right. The Minister, of course, is also responsible for determining whether the SPP 1/03 is appropriately reflected in the relevant planning scheme?-- Yes, that's correct.

But under the present system it is the local government that adopts a flood event for the management of development in a particular locality known as the "defined flood event"?-- Yes, that's correct.

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That is, it's not the State Government or State agencies that - that cooperatively, if you like, with the local government, arrives at a defined flood event. That's entirely the responsibility of the local governments; is it not?-- Yes, it is.

Right. To be fair, of course, the State does provide guidance and the State agencies do provide certain guidelines and tools as to how to best arrive at a defined flood event. That's correct, is it?-- Yes, that is correct. 1

Can I just take you, for an example, if I can go to outcome 4 at page 8 of SPP 1/03, which is Exhibit 530?-- Yes, I do have that.

Now, that responsibility for identifying a natural hazard management area belongs to the local government, isn't it - doesn't it?-- Yes, it does. 10

And also it is the local government's responsibility to identify the severity of that hazard?-- Yes, that would follow.

Then if we can go to the guideline, which I don't think has been tendered but we've given notice that we want it uploaded - sorry, the SPP 1/03 guideline. It is part of Exhibit 530. Sorry, I wasn't too clear about that. Could we go to paragraph 7.2 on page 20 of the guideline? And if I could direct your attention, Mr White, to the third line and the sentence commencing with the words, "The intention of the SPP is that wherever practicable the natural hazard management area should be identified through a comprehensive and detailed natural hazard assessment study," do you see that?-- Yes, I do. Yes, I do. 20

Then, if you go to 7.4 it says, "The scope of the studies to be undertaken will be determined by the local government in consultation with the relevant State Government departments during the process of making or amending planning schemes." Now, if we then go to the appendices to the guideline, starting with appendix 1 at page 31, and may I draw your attention to paragraph A1.8, which identifies that, "As at 2003 financial assistance is available to local governments for natural disaster risk studies, including natural hazard studies." Are you able to tell us as the State Planner how this financial assistance operates?-- Look, I haven't had any involvement in relation to that financial aspect so I'm really not in a position to make a comment. 30

That's fine, thank you. May I then take you to appendix 2, which deals with a defined flood event, and at page 32 may I draw your attention to paragraph A2.4?-- Yes. 40

Now, this identifies that it's, "Generally impractical to adopt a probable maximum flood," which is called a PMF, "for the purposes of managing floodplain land use and development." Now, that does nothing more than identify for planning purposes, given that it involves a number of considerations, that merely selecting a probable maximum flood as a flood line is not practical for planning purposes. Do you agree that the adoption of a PMF is not practical for planning purposes?-- In a general sense no it's not practical, it ignores a lot of other characteristics, but I wouldn't completely discount it in the consideration of a particular set of circumstances. 50

Generally speaking I would accept what you say.

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Yes. Could - just again generally speaking, could you tell the Commission your main reasons for identifying that a PMF, or probable maximum flood, line is not practical?-- The impracticality of it is that you could have a floodplain where in all recorded history you've never seen an event but the characteristics associated with your analysis of a floodplain may indicate to you, not inconsistent with, I think, some of the work that was done by the Queensland Reconstruction Authority, that there have been events or types of events across a broad floodplain at sometime in history, and clearly, in the context of our settlements already being adjacent to and close to rivers already on floodplains, it might not be practical to adopt a PMF line as part of that process, hence the notion of a defined flood event, which follows in paragraph A2.5, which selects the context where the balancing, the consideration of a range of issues comes into the selection of an appropriate line around which you build your planning instruments to enable consideration of a series of factors around which you will mitigate the impacts associated with flooding. For example, our earlier discussions about an overlay. The defined flood event could enable you to determine the position of an overlay and then the appropriate mechanisms that might be associated with building construction methods, use of certain materials which triggers that relationship-----

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Yes-----?-- -----I talked about previously.

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And your main point is that the more accurate information one can obtain in relation to the defined flood event the better the planning outcome?-- Yes, and your earlier questions about the review of SP 1/03, clearly in the last 10 years our technology and our abilities and our recording of a whole raft of analysis associated with flooding perhaps better equips us in the future to look at what is more likely to be the appropriate flood event around which you do craft your planning documents.

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May I finally in relation to the guideline take you to A2.7. It's been the position of the State Government since 2003 that in relation to planning schemes adequately reflecting SPP 1/03 that the State's preference for the natural hazard management area flood is the 1 per cent AEP flood, that is what's commonly referred to as the one in 100 line?-- Yes, that's - that is reflected in SP 1/03 but SP 1/03 does enable alternatives to be considered as part of that process, and I probably would like to make the point that councils have defined flood events for over 35 years. It could very well be the case that the data associated, and as part of this preparation of the statement for the Commission, it seemed to me that most planning schemes in Queensland have reflected in one way and another the notion of attempting to recognise a flood event in one form or another. It could be the fact that a single statement in a planning scheme, which is to build 500 millimetres above a known flood event, is as reliable as a study analysing what constitutes a one in 100 flood event.

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The actual recording of an event might be far more useful in crafting our planning scheme by a particular local authority.

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Thank you. In any event, from SPP 1/03 and the guideline it's clear, isn't it, that the burden of carrying out flood studies and determining an appropriate flood line for the purposes of planning presently falls upon the local authority, albeit that some guidance is offered by the relevant State agencies?-- Yes, that is the case.

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COMMISSIONER: Mr Flanagan, I'm thinking about taking the morning break. Would it suit you to do that now?

MR FLANAGAN: Thank you, your Honour.

COMMISSIONER: We will come back at midday.

THE COMMISSION ADJOURNED AT 11.45 A.M.

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GARY STUART WHITE, CONTINUING:

COMMISSIONER: Yes, Mr Flanagan?

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MR FLANAGAN: As the government planner, do you see a role for the State agencies, particularly the Department of Local Government and Planning, the Department of Environment and Resource Management and the Department of Emergency Services undertaking catchment based regional flood studies in cooperation with local authorities?-- I'm not sure whether it should necessarily be those departments, but the notion of doing catchment-based flood studies which transcend both regional and local government boundaries I think would be highly beneficial.

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What State agency would ordinarily undertake such studies?-- I suppose it would be the focus of that department which has the expertise around mapping data collection and analysis, which probably would be DERM as the principal department around the information collecting and analysis.

All right. Up until now, however, it has the local authorities who have had the responsibility of conducting the flood studies for the purposes of defining their flood lines?-- The very nature of SP 1/03 when you look at the way it operates transfers that responsibility through to local government and proponents in so far as flood studies may not be available, yes.

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What do you think as State Planner of a full burden of conducting those flood studies in most cases or a lot of cases funding those flood studies falling upon local authorities?-- I think it's a major challenge of SP 1/03 and it's reflected in clause 6.6 where - 6.6 acknowledges the situation that if council hasn't done a flood study then the provisions of SP 1/03 are not activated and that's to take account of submissions that came in during the 2001-2003 period, which specifically related to that capacity side of the information gathering, mapping and terrain analysis.

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May I quote something from the Premier's press statement on Saturday, but to ask you some questions from your own personal knowledge then? The Premier stated this, "The largest flood plain mapping initiative in the State's history built on the latest technology and supported by both new and historic data is underway, Premier and Minister for Reconstruction Anna Bligh announced today." Is it contemplated by the State Government that regional flood studies will be undertaken and funded by the State in relation to this flood plain mapping initiative?-- The flood plain mapping initiative would require further analysis and further flood studies. Whilst I'm not aware of any announcements being made by the

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government in that regard, it would seem natural that those sorts of analyses would follow as part of the process to take account of the fact that the material that was released on Saturday didn't just go to one area in terms of gathering that information, it was a series of data sources that were collated to define a flood plain as part of that process. It would seem to me in order to gain even greater clarity around the initiative that has been taken as part of that exercise further more detailed work needs to be done around contour mapping and a whole series of other issues.

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Mr White, from your own knowledge has the State considered taking on a coordination role in relation to regional catchment flood studies?-- I am not aware of any decisions.

Do you view this as a desirable outcome, that is rather than ad hoc flood studies undertaken by local governments with varying degrees of financial capacity, that the State coordinate in a cooperative approach with local governments for undertaking regional flood studies?-- My overview analysis of the document that was released on Saturday would suggest that that is the direction that we will be moving towards as part of our analysis in the future.

20

This might be well beyond your expertise, and I don't want to put you any - put you in a difficult situation, but would you agree with me that it is a desirable outcome that the State at least in part financially subsidise these regional flood studies?-- I think it's broader than just the State, I think it's perhaps a higher issue, it's an issue of relationship perhaps even between the Federal Government, the State, regions and local government. I think that's the nub of the way the Queensland planning system is moving, that is line of sight between relevance at the higher level and issues at the lower level in the planning system.

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I appreciate that you didn't know so much about the obtaining of funding or the funding arrangements for local authorities to conduct flood studies, but you are aware, are you not, of the existence of the Natural Disaster Risk Management studies program?-- Yes, I am.

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And that's funded, is it not both by one-third, I think, by the Commonwealth Government and one-third by the State Government?-- Yes.

And that's the body to which local authorities need to on an ad hoc basis apply for funding to conduct their flood studies?-- That would be the case, yes.

50

If I could just deal quickly with the temporary State Planning Policy, that State Planning Policy seems to be aimed, even though it applies to all local authorities, it seems to be aimed at those local authorities who have not conducted any sort of flood studies and don't have a defined flood event for planning purposes?-- It's aimed at assisting those councils who have that limited capacity of resources, yes.

So-----?-- It certainly wouldn't be discontinued, though, as a tool that other councils would use as well.

Quite, but in terms of planning outcomes and positive planning outcomes in response to this particular flood event and other future flood events, the starting point for local authorities has to be the most accurate information available so that they can arrive at a true or accurate defined flood event?-- The starting point for any planning process has to be creditable information gathering, creditable data. Your planning system, your planning documents are clearly only as good as the data on which they are based upon.

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As State Planner would you agree that it remains desirable that it is local governments that retain the role as assessment management - as assessment manager for development on flood affected lands in local government areas?-- The planning - planning system under SPA is clearly one of this line of sight between the State Government crafting out its legislation, if you like, in the wholesaling capacity, the local governments then become the retailers and implementers of the legislation that are crafted, and the customers are the people that are making applications in accordance with the planning documents that have been framed by the local governments. So, clearly there is this notion of the most appropriate level of government to be assessing and managing planning schemes and planning is, in fact, local government knowing full well the circumstances which surround the issues relevant to their communities.

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And do you think that principle of local governments being the assessor for development applications should be achieved principally through the relevant planning scheme provisions informed by, if you like, a reviewed or a new SPP 1/03 rather than through mandatory provisions? Take, for example, mandatory building code provisions which are really administered by a private certifier?-- That's probably a broader question than just the Flood Inquiry, it's probably my opinion on the planning system. I think there are opportunities whereby responsibility can solely rest with local governments around those issues, but I don't think that that can be with the State Government being an absent partner. The State Government needs to be clearly a participant in the framing of those - those documents. My earlier comments in relation to the QPP provisions is so that we have a situation where there is an acknowledged standard understood across the State when dealing with a whole range of planning-related matters.

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Thank you, Mr White. Thank you, Commissioner.

COMMISSIONER: Ms McLeod?

MS McLEOD: If the Commission pleases, I seek leave to ask Mr White a few confined questions in relation to the building code framework and the development of the relevant standards. I need to seek leave because we don't have leave on the issue of land use planning at this stage. I can address that more broadly at another appropriate point.

COMMISSIONER: All right. The building code is a little tangential to what the Inquiry is doing. Look, go ahead and ask the questions. Are you likely to want to examine in any other respects any other witnesses under this Term of Reference? I am just wondering whether I should just let you ask these questions without necessarily giving-----

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MS McLEOD: There are a couple of things that appear to us to be of interest, although we don't have primary responsibility or direct interest in them. They include the flood mapping. Mr Nelson, for example, has touched on the role of Geoscience Australia, the Bureau and their contribution or proposed contribution to the work that's being undertaken in terms of flood mapping. Now, there's obviously an overlap there with land use planning and with insurance so there may be some straying into the other Term of Reference, and then there's potentially some environmental issues coming out of the flooding of the mines, but we are getting some further instructions about those.

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COMMISSIONER: All right. Well, proceed on the basis you have leave to appear on the term of reference and if I think better of it later, I will let you know.

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MS McLEOD: Thank you. Thank you, Commissioner. Mr White, my name is McLeod and I appear for the Commonwealth. I wanted to ask you some questions in relation to the building code framework, if I may, and I please tell me - I understand from your evidence that Mr Brumby by is expected to be called for evidence so please tell me this if something - these questions are things I should address to Mr Brumby later?-- Okay, thank you.

40

Can I ask you generally that each State and Territory has broadly responsibility for building regulation within its own jurisdiction, does it not?-- Yes, it does.

But at the national level, the States and Territories together with the Commonwealth and local governments have created The Australian Building Codes Board as a national body with responsibility for the maintenance and development of the Building Code of Australia?-- Yes, that's the case.

50

Queensland has membership on the board, that's Mr Brumby, and there are also individual representatives on that board, - sorry, individual or industry representatives on that board?-- Yes.

Okay. Now, each State or territory has legislated to call up each year the relevant changes to the

Building Code of Australia and give effect to any changes that have occurred during year; is that correct?-- Yes. 1

And in Queensland that's the Building Act of Queensland. Just in terms of the framework of how The Australian Building Code Board works, it works within a national framework that includes an intergovernmental agreement that was agreed to in 2006. Are you familiar with that?-- Yes.

Within various COAG guidelines and also Building Code Board guidelines for the development of the Code and various referenced documents within the Code?-- Yes. 10

The overriding objective of the Building Code of Australia is life safety rather than the protection of property?-- I didn't know that, but I will take that as said, yes.

Okay. And those objectives or that overriding objective, are you aware of that being addressed by the inclusion of various measures to protect occupants from structural collapse of buildings?-- Yes, that's so. 20

The protocols for the development of the Building Code are designed to promote transparency of the impacts of various changes for decision makers and the public, so they undergo a public exposure or regulatory impact statement process each year, do they not?-- Yes, they do.

And you mention standards or at least one of the particular standards that's under review or being drafted. There are a number - just to understand the process, there are a number of standards referenced within the Building Code of Australia?-- Yes. 30

And at paragraph 178 of your statement, in the last sentence of that paragraph you refer to the fact that, "There are currently no specific building control requirements for other classes of building as opposed to residential-type buildings in flood areas. Therefore, building design, preparation for flood events, is generally left to owners." So, my question is around this there is generally - the Building Code of Australia does not currently contain detailed construction requirements to project against flood hazards, does it?-- That's the case, yes. 40

Right. It does include requirements currently that buildings withstand various actions or loads-----?-- Yes.

-----as a general proposition, including flood actions?-- Yes. 50

But what is proposed and what is - what work is underway is the development of a draft standard which would be referenced in the Building Code, I think you mention in 2014?-- Yes, that's right.

For development of a standard to address building flood hazard areas, at paragraph 185? Do you see that?-- Yes, that's

right.

1

The objects of that standard need to be consistent with the overriding objective of the Building Code of Australia, do they not?-- Yes, they do.

Okay. The development of each Code - sorry, each standard in the Building Code are developed and supported by the work of technical committees that actually do the work of drafting those standards. You are aware of that?-- Yes.

10

And those committees are responsible to ensure that the developing science and technology and advancements in technology are continually picked up in each of the standards?-- Yes, that's right.

Okay. They also look to make sure that the various standards interact with each other, so that there's no inconsistency where there's an overlap?-- Yes, that's correct.

20

Okay. And in a sense it's an iterative process because the States and Territories and industry representatives are making their contribution to those standards as they're developed?-- Yes, that's right.

Okay. You note that the draft standard is to be adopted on the current timetable in the 2014 version of the Building Code of Australia. That is following the usual regulatory impact process and the public exposure process that is normally undertaken?-- Yes, I am advised that way.

30

And that ensures uniformity in terms of the application of Building Code across different States and Territories?-- Yes.

But certainly individual jurisdictions can regulate to pick up or adopt those standards earlier if they wish?-- That's right.

And you have anticipated that Queensland may do that with this draft standard?-- Yes.

40

This new standard will apply to new buildings and new additions to existing buildings. That's what's proposed?-- Yes, that's proposed.

And it will apply to classes of building broadly described as residential or buildings in which people sleep?-- Yes.

The standard, including the general provisions of the Building Code, are not a stand-alone solution to mitigation of life safety risk, are they?-- No, they were discussed earlier as part of the broader planning issues as well.

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Right. And it's one measure, you mentioned planning issues as well, effective land use planning being another measure, other effective measures might be flood mitigation measures and an effective warning and emergency response?-- Yes, that's correct.

Thank you, Mr White.

COMMISSIONER: Mr MacSporran?

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

COMMISSIONER: Mr Callaghan, do you have any-----

MR CALLAGHAN: Just in light of Mr White's position, may I suggest that he be stood down rather than excused? We do anticipate that he might be recalled towards the end of the hearings just to tidy up a few issues.

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COMMISSIONER: All right. Mr White, we may need you at some point for the present you are excused for the moment at any rate?-- Thank you very much, Commissioner.

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WITNESS STOOD DOWN

MR CALLAGHAN: We call Gary Mahon. Ms Wilson will take Mr Mahon's evidence.

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GARY LEONARD MAHON, ON AFFIRMATION, EXAMINED:

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MS WILSON: Thank you, Madam Commissioner. Is your full name Gary Leonard Mahon?-- Yes, it is.

And you're the Assistant Director-General of the Strategic Policy Division of the Department of Community Safety?-- That's correct.

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And you have signed and provided a statement with 46 exhibits to the Queensland Floods Commission of Inquiry?-- Yes, I did.

Madam Commissioner, that statement is already tendered and it is Exhibit 534. Have you bought along a copy of that statement today?-- I have.

Thank you. Now, your statement addresses various matters relating to the State Planning Policy 1/03, SPP 1/03?-- Yes.

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And if we can start off looking at the roles and responsibility of the Department, that is the Department of Community Safety, in administering the planning policy, your statement addresses what the Department does and what the Department does not do in relation to SPP 1/03. Let's look at what the Department does. Now, the roles and responsibilities of the Department is set out in sections 8.5 to 8.8 of the policy, SPP 1/03 guidelines?-- Yes.

30

And you address that in your statements - in your statement at paragraph 27 onwards. Paragraph 27 addresses section 8.6 of the guidelines where the Department provides advice on interpreting and implementing the SPP and should be consulted by local governments about integrating the SPP into planning schemes. Then paragraph 28 to 30 goes on and explains how the Department fills this role and responsibility. At paragraph 28 you - paragraph 28 explains that in 2003 the Department coordinated training and information sessions on SPP 1/03. Now, has there been any additional training and information sessions provided since 2003 by the Department?-- In a search of the records and certainly in the time that I have been at the Department, not that I'm aware of, no, not - not on a large scale as that was undertaken.

40

And that training and information session was brought about because in 2003 the SPP 1/03 came into being?-- That's right.

Now, are you aware that there are - there's a significant number of local schemes that do not comply with SPP 1/03?-- Yes, we are.

50

Have you done any - has the Department done any audit on which schemes do comply and which schemes do not comply?-- No, it has not.

But you are aware in general terms that there is a significant number of local councils that do not comply with SPP 1/03?--

Certainly mostly in more recent times, yes.

1

When you say "mostly in more recent times", is that you have become aware of that mostly in more recent times?-- Yes, I am aware that the Queensland Reconstruction Authority undertook a comprehensive audit and that's given us some very useful information. Prior to that, we were aware that the SPP would only be being adopted as planning schemes were being renewed or amended.

10

You had a look at the QRA statics on this issue, have you?-- Yes, I have.

And they, the QRA, reviewed 127 planning schemes and 73 per cent of those numbers were identified as not appropriately reflecting SPP 1/03?-- That's from their audit, yes.

And it was really only - are you shocked by that number? Do you think that's a - did you think that there was more compliance?-- No, I wouldn't say I was shocked as such. We knew from the records that a decision had been taken that the SPP would only be adopted into schemes as planning schemes came up for renewal.

20

Mmm-hmm?-- That was at least eight years. So, given that it was introduced in 2003 we knew that it was more likely than not that those planning schemes would only just start to really roll through in the last couple of years and over the next few years, as those schemes came up for renewal.

30

And did the Department consider that it would be useful to give maybe more training and information sessions to the councils to help local governments fulfil the - for local governments to be able to comply with SPP 1/03?-- That was certainly being considered as part of review and because - as the - as we commenced the review, nearly a year ago now, we were certainly considering what we would need to do with local government as we undertook this review. We wrote to all local governments asking for their views about how it was being adopted, what they might like considered in the review for the next iteration of the SPP, so we were certainly taking all that into account in our current deliberations.

40

But during the first - when SPP 1/03 was implemented, the Department gave no further training?-- Not beyond that first round in that first six, eight months.

There's also a training package available on the Department's website. Has there been any monitoring of this training package to see how often that this is used?-- I think a fair reflection of the awareness across local governments has been the bidding for funding under the NDMP and the NDRP programs, and as you can see from my statement we have channelled out quite a bit of money under those programs to assist with flood studies, so I think that was a fair reflection that there was a good level of awareness and some understanding of what needed to be done.

50

But if we can go back to my question where I'm looking at the training package available on the Department's website, has there been any monitoring to see if this has been used or not?-- Not any monitoring as such, no.

When requested the Department also provides informal advice to councils on interpreting and implementing SPP 1/03, and you provide in your statement an example of a council - that a council may contact the Department if they are contemplating a new planning scheme. How often does this actually occur?-- In terms of planning schemes, my search of the records shows that since 2006 we've worked with in the order of about 15. In 2006, from memory, there were four, 2007 there were seven, then there's been a few since then, so they're actual planning schemes of substance where we have been working with DLGP and/or the council on the application for SPP 1/03.

And of those 15, did you say?-- Approximately 15 since 2006.

These are local governments that the Department has been working with in relation to implementing and interpreting SPP 1/03; is that the case?-- I focus on the word "informal", though, because when planning - when councils apply for planning scheme renewal, amendment, and so forth, they do that through DLGP, and DLGP then seeks our advice. During that period, it's not necessarily unusual council would come directly to us seeking informal advice about interpretation, application and so forth.

Certainly. And of those 15 local governments that the department has been working with on an informal basis, have any of those schemes been approved as appropriately reflecting SPP 1-03?-- Some have, yes. We've provided our comments back to DLGP on each of those schemes, yes.

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Can you give me any idea of the numbers of that?-- I would have to go to the records to give you an answer to that.

Your statement also addresses what the department does not do. The department does not have a role in monitoring whether each local government has an adequate flood map. Now there's two aspect to that, that is, monitoring whether each local government has a flood map, and then whether that flood map is accurate. Now that second limb, that is the responsibility of DERM?-- That's correct.

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What about the first limb, monitoring whether each local government has a flood map?-- Well, in the initial conception of the SPP instrument, that wasn't a part of our role and responsibility, it was to provide advice when that advice was sought on a planning scheme renewal or amendment, it wasn't part of the SPP responsibility for us to monitor that uptake.

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You used the word "initial". Has there been some change to that or some change of thinking in relation to that?-- It's certainly one of the considerations for us in the review as to the next iteration of the SPP as to whether or not that might be appropriate.

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So in the eight years that the SPP 1-03 has been on foot, is it the case that there is no department that checks on whether each local government has a flood map?-- Not that I'm aware of.

The department does not have a role in monitoring whether each local government has carried out adequate flood studies. Again, there's two limbs to this, that is, monitoring whether each local government has carried out flood studies, and then whether those studies are accurate. The second limb is DERM's responsibility, but monitoring whether each local government has carried out flood studies, is that in the same category as monitoring whether each local government has an adequate flood map, but no one does that, no department does that?-- That's correct.

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And, again, is that something that is up for consideration-----?-- Yes, it is.

-----in reviewing-----?-- In the review.

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The department does not have a role in monitoring whether each local government has identified an appropriate defined flood event in its planning scheme. Does any government agency perform that role?-- If a planning scheme is provided to DLGP for consideration for amendment or review and they seek our advice on the SPP, we would - if a flood study is a part of that submission, we would normally seek technical advice from

DERM as to whether that DFE is appropriate given the considerations of the technicalities of the actual hydraulic study. So we're not technicians as such to say a DFE of .75 is appropriate based on the hydraulic study that's been undertaken, we seems DERM's advice as to whether the selection of that DFE is appropriate based on the modelling work that has been undertaken.

1

What about the general coordination role in determining whether each local government has, in fact, identified a defined flood event?-- Well, it goes hand-in-hand with having a natural hazard - a NHMA or undertaking flood studies period. You normally would not be able to assign a DFE unless you had actually undertaken a flood study.

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The department does not have a role in monitoring whether each local government has taken steps to appropriately reflect the SPP 1/03. Does any government agency perform this role?-- Not that I'm aware of.

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And is that up for review again to see whether there should be a coordinating government agency?-- That is consistent with your previous questions.

Now, the objective of the State Planning Policy was to assist in slowing the rate increased - in the cost to the community, the government and the industry of recovering from a natural disaster?-- That's correct.

That's the primary objective?-- Yes.

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And that's the primary focus of why the SPP 1/03 was implemented?-- Yes.

When the SPP took effect in September 2003 there was an eight year time frame envisaged for the introduction of the flood component because of a lack of flood data?-- That's correct.

Where did the eight year time frame come from?-- My search of the records reflects that a decision was taken at that time to allow the full duration of planning schemes that were in train at the time and adopt the SPP as those planning schemes came up for renewal. So that meant, in effect, that the period would be in the order of about eight years, and from my search of the records that seems to be mainly guided by cost, availability of data and information and giving appropriate and due warning to local governments to adopt this methodology.

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Was it envisaged eight years from September 2003 that local planning schemes would appropriately reflect the flooding component of SPP 1/03?-- Again, my search of the records suggests that that was an expectation at the time but that's the only comment I could make.

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Were you aware whether this eight year target, if we can call it that, was conveyed to the councils as a target to be achieved?-- It was provided in the information sessions that

I've reviewed. We do still have the information available to us that was provided at those sessions and was included in those information sessions.

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But nothing has been followed on that to assist councils with intermediate steps to achieve the target?-- Not that I'm aware of.

Your statement refers - makes reference to the Brisbane City Plan?-- Yes.

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The Bundaberg City Plan, the Ipswich Planning Scheme and the Emerald Shire Planning Scheme. If I can take you to those plans and schemes. First of all the Brisbane City Council scheme. Your statement refers to the fact that the Brisbane City Plan is not compliant with SPP 1/03?-- Can I refer to my statement?

Yes, paragraph 44 may be of assistance. Paragraph 39 it starts. The Brisbane City Plan starts at paragraph 39 and goes on to paragraph 44?-- So you're referring to specifically para 44?

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That's where you say that the department has reminded Brisbane City Council through the DLGP, the Department of Local Government and Planning, that the City Plan is not compliant with SPP 1/03?-- That's correct.

Now can you tell us why the Brisbane City Plan is not compliant with SPP 1/03?-- Again, I just want to preface my reply that I can only relate to my research of the records, I wasn't there at the time, but there were two characteristics as I understand that brought about that conclusion from our department. One was that Brisbane City Council was relying upon what's called a DFL, or a defined flood level, which was a level set at the city gauge. Whilst on the one hand that's not necessarily inappropriate methodology to use, it does not assign a probability, which an AEP does. So that was one part of it. The second part was that they hadn't then translated that DFL as they preferred to use into, at that time, and we're talking in 2004, into an NHMA for Brisbane City Council. So whilst many codes were adopted and a range of other very good work at the time was undertaken and they had assigned a DFL at the flood gauge, the SPP in of itself requires that you set a probability through your DFE, or that would normally be via your AEP, or your Annual Exceedence Probability, and the second part is to then translate that into a risk map for people to consider.

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But it appears to be the case that the department's view that the Brisbane City Council is not compliant with SPP 1/03 is still the case this year, if we look at your exhibit 19 which is referred to in paragraph 44?-- That's our position at this time, it's about the, meeting the spirit and intent of what the SPP is about, and Brisbane City Council have made a case that they meet a similar outcome via a different approach and that's their position.

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And is it the case that that has not been accepted by the department?-- We would still argue assigning a probability is an appropriate method for your DFE. 1

So is that the outstanding factor?-- As I understand it.

And the department has taken into account the publicly available detailed flood mapping systems?-- Yes, there's much more mapping available today than there was back in 2004 when you refer to that attachment in my statement. 10

And if I can take you to the Bundaberg City Plan, which is over the page. The department's involvement in reviewing the Bundaberg City Plan and advising whether it reflected the SPP 1/03 is set out in paragraphs 45 to 48. There were issues initially raised by the department that the City Plan was not compliant with SPP 1/03, can you tell us what those issues were?-- Again, I can only rely on my research of the records because this is prior to my time in the department, but the initial plan as it was submitted was submitted on the basis of two per cent which translates to Q50 as other, or many people might know it, which at the time was considered to be unduly low in terms of assignment of risk, and the department countered with a view as to justify as to why the City Plan would set an AEP below one per cent at that time. We also made a comment at the time about what was outlined as the intent of the code and we asked for that to be amended as well. 20

The department is ultimately satisfied that the scheme reflected the State Planning Policy?-- On the basis the Bundaberg City Council made a case on its local knowledge and respecting its autonomy about managing its own risk, that they put back justification around the questions that we asked, and I can only say that on the records it shows that the department accepted that argument at the time with the only caveat being that they wanted the purpose of the code amended. 30

Sorry, I didn't quite catch that last bit?-- Well, at the time they made reference to, in the purpose of the code, to protection from all flood events. That suggested to, from what I can see on the records at the time, to our department that they were relying on a PMF and out department----- 40

PMF, sorry, that's probable maximum flood?-- Probable maximum flood.

Yes?-- And in our response we said that was inappropriate and should reflect that you've assigned a DFE of two per cent or Q50. 50

So is-----?-- It was unrealistic to be suggesting a PMF.

So is the Bundaberg City Plan an example where the flood immunity of Q50 was accepted as being compliant with SPP 1/03?-- I would argue, going on the records, that the Bundaberg City Plan reflected essentially the purpose of what the SPP set out to do, and that is the appropriate questions

were asked and the local government came back with justification as to why it chose the DFE that it chose, and on the basis of the arguments that it made it was accepted that all due process had been undertaken.

1

And the starting point, is it that when looking at the desired to flood immunity Q100 is regarded as the acceptable flood immunity, is that starting point?-- The SPP reflects that Q100 or one per cent is not the default level, but it is generally accepted that for residential areas you need to come up with some fairly good justifications to go below one per cent.

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And this case, the department was satisfied that the Bundaberg City Plan did address those issues?-- That's what the records reflect.

If we can now go to the Ipswich Planning Scheme. By looking at the records, can you tell us whether the Ipswich Planning Scheme appropriately reflects SPP 1/03 in the view of the department?-- Are we talking at the time that-----

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As now?-- In 2003?

Today. Would you say - has any review been done where the Ipswich Planning Scheme reflects the State Planning Policy?-- I'm not aware of any assessment as of today of the Ipswich Plan undertaken by our department.

There was some work done in 2003?-- Yes.

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And what was the decision by the department then?-- When the first request was made of us, the Ipswich at that point had not been adopted and we gave advice at that time that upon adoption our view would be that it would not reflect the SPP 1/03.

And the department has done no further work with the Ipswich Planning Scheme since?-- My understanding is we have not had any further requests.

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The Emerald Planning Scheme, if you turn the page. In September 2006 the department advised that the draft annual planning scheme did not comply, completely reflect SPP 1/03. Now if I can take you to exhibit 34 which is attached to your statement, and exhibit 34 is the result of the second state interest check, have you got that document, exhibit 34? Yes. It's on your screen, is it?-- Can I scroll it up?

No. And if we can take you to the second page of that document?-- Yes.

50

And if you see that the second part of that table - sorry, if I could take you to the third page where you see SPP 1/03 comments flood, which is the last part of that table. Do you see that or is it difficult for you to see?-- No, no, I can see, I think I can see the bit you're talking about.

Okay. This document refers to, that the department was aware that the council undertook a natural disaster risk management study which included flood investigations for the shire, and it was stated that results of this report should inform the development of the Emerald IPA planning scheme, particularly in relation to flood issues. The solution to moving this forward to complying with SPP 1/03 is seen in the far column and that is, to use the results from this report to amend the scheme. Are you aware whether this is a difficult task or not?-- Under normal circumstances I wouldn't have considered it too difficult, no.

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And has the department had since 2006, had any further involvement in reviewing the Emerald Planning Scheme?-- Not that I'm aware of, but I could search the records for that question.

But you've searched the records and you came up with nothing?-- No.

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If we can now look at the operation of section 6.6 of the State Planning Policy, you address this in paragraphs 90 and 91 of your statement where you talk about the policy intent of paragraph 6.6?-- Yes.

It was never the intent that paragraph 6.6 permits a council to avoid setting a DFE and, therefore, a void a compliance with SPP 1/03. Whilst it may not be the intent, is this what you see that is occurring?-- I couldn't comment on what the motivations of a particular council might be. I can only say that it's always been understood, as I have investigated and talked to previous staff and so forth, within the department, that it's always been understood that 6.6 was not an opt out clause.

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Does this need to be made more clear in the document itself?-- I think it's paramount in the next iteration of this SPP that that be abundantly clear.

Is it your view with your, the practical experience that you bring here, that section 6.6 of the SPP has created a view that it might be an opt out provision?-- Certainly some anecdotal information has come forward to me that some may be perceiving it as such, yes.

40

So this has to be addressed in any revision of the State Planning Policy?-- For sure.

Does the department play any role in urban development areas? Are you aware of urban development areas and the Urban Land Development Authority?-- Not in a statutory sense. We certainly are - our advice is sought from time to time on aspects of those instruments.

50

Is it the case that the SPP 1/03 does not apply once an urban development area is declared?-- As I understand it, that's the case, yes.

The government planner, Gary White, states in his statement that your department, as lead agency for SPP 1/03, generally provides comment on the need to ensure the state interest in flooding issues is addressed in the interim land use plan and the development scheme for the particular ULDA; do you accept that?-- My understanding of the ULDA work is that their planning does not attract the SPP 1/03.

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But what role does the department play with the ULDA?-- As I said, from time to time our advice is sought, as I understand it, to comment on master plans and/or other planning instruments that they might utilise and we give advice on a range of interests there, permeability, siting of emergency access, a range of other considerations that come into that equation.

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So this advice is only sought on an ad hoc basis, is that the case?-- No, normally where any of their planning instruments are utilised they would seek our input.

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Sorry, normally, does that always happen?-- I'm not aware where they haven't asked for our advice, if that's a better way of explaining it.

So the ULDA does seek the advice on every urban development area?-- As I'm - but not in relation to SPP 1/03.

Okay. Let's just focus on SPP 1/03. Does the Urban Land Development Authority seek advice in relation to the SPP 1/03 on every urban development area?-- I'm not aware that they have.

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Is this something that really needs to become more open and transparent, that the SPP 1/03 and the policy intent behind that is applied to these independent planning processes?-- That would seem a reasonable conclusion.

And that does not include just the urban land development authorities, but also the Southbank Corporation Act the - any independent planning process not governed by SPA, there needs to be a more open and transparent way that the SPP 1/03 is applied?-- That would seem reasonable.

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The Queensland Reconstruction Authority as you are aware has been doing some work to address flood planning management issues?-- Yes.

And at the time of preparing your statement you state that a temporary SPP and guideline was being considered?-- Yes.

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You are aware now that that has been released?-- Yes, released for comment, yes.

Released for comment. What has been the department's role in QRA's guideline planning for stronger and more resilient flood plans?-- We've provided input and comment in various parts of that. A lot of the mapping work was undertaken by the QRA itself, but how it might be applied and utilised is where our

advice has been sought.

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A temporary SPP is being considered?-- Well, that's the way the instrument is being contemplated, the TSPP, is that it be a temporary instrument that suspends parts of the current SPP 1/03.

If this occurs, does the department have a role in implementing and interpreting the temporary SPP?-- For those parts that are relevant to us, yes.

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And so in relation to the SPP 1/03 and the temporary SPP, it will just be business as usual for the department, you can see no change?-- Relatively so, yes.

Before the QRA released their guideline, the department was undertaking a review of the SPP 1/03 and we've discussed various elements that are being considered in that review?-- Yes.

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It commenced in November 2010 and is completed in September 2013?-- That's correct.

So at this point in time you are one third into the review?-- We would expect we would be well before that timetable.

Paragraph 99 of your statement addresses the matters that have been considered in that review?-- Yes.

And if I can take you to some of those matters. The first is the audit of planning schemes to determine whether and how the SPP 1/03 has been adequately reflected and the QRA has done an audit of this?-- Yes.

30

So no further work needs to be done on that?-- Not really.

And what is the purpose of finding out whether and how SPP 1/03 has been adequately reflected?-- Well, it gives a good sense of the state of play, the adoption of the SPP, how well the DFEs might be being assigned and utilised.

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And until this review began was it the case the department was in the dark in relation to that?-- In the complete sense of an audit, we didn't have a full sense, but we certainly had a reasonable awareness of where DFEs were being adopted, how well utilised they might be, advice being sought, even the Inland Flood Study in its own right was representative, I think, of Gayndah being proactive and wanting to engage in a fuller study before they adopted DFE in their own precinct.

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You've attached the Inland Flood Study to your statement at exhibit 39. There are recommendations there that are included in that study in relation to the SPP 1/03. Is the review looking at all of those recommendation?-- Yes, we are. There were 12 recommendations, seven of which went directly to the SPP review, and we found that work quite instructive in terms of the fuller considerations we would give to the review of SPP.

When you're talking about "we" who is actually being a part of this review?-- Well, it encompasses a number of departments, DLGP, DERM, LGAQ academics and the like, I think it's a, you know, reasonably comprehensive engagement model in terms of those people who have a direct interest.

And how does this now work with QRA guidelines?-- Well, obviously when we commenced the review the QRA didn't exist. You know, post the events of 10/11 the QRA came into play, so we're trying to be as adaptive as possible in terms of as these events have unfolded, so the work of the QRA will be rolled in these considerations. We've just completed some work through Macquarie University in terms of risk assessment across the state and the strata of risk and the order in which that should be considered, and the extent to which those risks apply. So we've been feeding in quite a bit of work for, you know, the fullest consideration of this review, so that we should be able to come to some conclusions reasonably quickly once the Commission of Inquiry passing down its recommendations as well, and that's why I say we expect to be early in terms of our review rather than having to wait until 2013.

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One of the matters that is being considered in the review includes a flood level or zoned approach to development constraints, and you note recent evidence from the UK that multi-zoned approaches and practice tend to default to the high risk zone. Can you explain to us what you mean by that?-- Well, when a flood - the purpose of a flood study being undertaken I would summarise as this, and the purpose of the SPP 1/03, if you want to build a community over here or make significant change to a community over there via a planning scheme, our question is: Does it flood or could it flood? If so, to what extent? How do you then take that into consideration in terms of managing risk or implementing design constraints within that community? To arrive at a DFE you need to do a model on that community on the basis of a number of levels. We notionally argue that you should at least look at point 2, point 5 and 1. So that gives you a reasonable assessment of the extent that flooding might occur. The hydraulic studies give you depth and velocity so that you can take into account where you might assign risk. So you might then argue that within your community you're prepared to manage that risk at a one per cent level, so you choose Q100.

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What you then would assign is where your medium risk might be and where your highest risk might be. So if you've done a .2 and a .5 assessment, you then come up with some conclusions about where you should place various parts of that community at 1 per cent, at .5 and at .2. If you read through appendix 9 in the SPP it says community infrastructure, like, you know, police stations and hospitals and the like, you should be putting in the lowest risk area that you possibly can, so you would be looking at .2, in some cases .5, and we would argue that under normal circumstances you would have to give a fair bit of consideration to be taking residential development below 1 per cent. Where the design constraints come in, if - if - and SPP does not in any way argue for flood immunity of land, what we're saying is you need to understand those risks and assign a low/medium/high categorisation to that, and then you might adjust for habitable floor heights. So if you're going below 1 per cent, well, you make adjustments within your design as to habitable floor height. Velocity of water, for example, is important because that takes into account engineering considerations for the design of those houses if you're taking floor height up to, you know, two or three metres or whatever the case may be. So that's - that's my summary of how zones would then work. So you notionally assign low, medium and high risk to those considerations and you choose a DFE at which you're prepared to manage risk within that community

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But you also state that, "in practice tends to default to the high risk zone"?-- Well, in terms of availability of land and where people might want to build various parts of community infrastructure, our experience has been, and experience internationally has been, there seems to be a tendency to make an argument as to being able to justify going lower rather than further up the hill, so to speak. I mean, as a metaphor it's basically how close to the river do you want to go versus how further up the hill you might want to go in terms of managing risk.

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COMMISSIONER: Ms Wilson, is that a convenient time to break or-----

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MS WILSON: Certainly. Thank you, Madam Commissioner.

COMMISSIONER: 2.30.

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

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THE COMMISSION RESUMED AT 2.29 P.M.

GARY LEONARD MAHON, CONTINUING:

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COMMISSIONER: Yes, Ms Wilson.

MS WILSON: Thank you, Madam Commissioner. Mr Mahon, we were looking at the key issues to be considered in the review of the State Planning Policy. If I can take you to paragraph 99G, where you refer to the, "Introduction of adaptation and strategies including questions of defend or retreat." Can you explain what that means?-- We're partly being guided there by lessons from the Victorian bushfires and their application potentially to evacuation priorities within Queensland but also about how instructive flood studies might be in terms of understanding depth and velocity in the context of disaster risk plans and how they might be incorporated, if at all, within the next generation of the SPP.

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Before lunch, and we were going through the various plans, the Brisbane City plan and various schemes, we were referring to Ipswich, do you recall that?-- Yes.

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Can I show you this document, please? Now, if you can just take your time to read that. Have you read that document?-- Yes, I have.

This is an undated document from Desley Boyle MP, the Minister for Local Government and Planning?-- Yes, I can see that.

30

And it has - it's not - undated but it does refer to the Beattie Government was returned to office on the 7th of February 2004 so it should be some time after that. And the letter states that, "the Minister is satisfied that the following State Planning Policies are appropriately reflected in the proposed scheme," and refers to SPP 1/03. Do you see - did you see that?-- I can see that, yes.

Is that your understanding?-- Is not my understanding, no.

40

What is your understanding?-- Well, my understanding can only be taken off the records that I've researched that shows that the last advice coming from DCS at that time or in that period was that they didn't believe SPP 1/03 was appropriately reflected. I might add, that was on first State interest check where that question was asked and it's the last advice I've been able to find.

Can we go to where you refer to the Ipswich Planning Scheme in your statement, which is paragraphs 49 onwards?-- Yes.

50

You can look at that - paragraph 57 where in 2007 DoCS replied - the Department replied to the DLGP by e-mail stating that the amendments to the Ipswich City Planning Scheme do not raise any issues for the Department?-- That was on the basis of the amendments as they were put to us-----

Yeah?-- -----and as you could see those amendments related to quite some specific elements within that plan to which as - the advice I've received, and from the research and the records I've seen, did not relate to SPP 1/03.

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If we look to page 2 of this letter, in the final paragraph, "the Minister commends the Ipswich City Council on an essentially robust and technically-comprehensive planning scheme and completion". Would you agree with that statement as contained in this letter?-- I don't believe I can make any comment. It's not my letter and that's a view of that Minister at the time.

10

That's the next question I wanted to ask you. Did this letter appear in the Department's records?-- Not that I saw.

Madam Commissioner, I will tender this letter.

COMMISSIONER: Exhibit 536.

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ADMITTED AND MARKED "EXHIBIT 536"

MS WILSON: And, Madam Commissioner, that's the only questions I have.

COMMISSIONER: Thank you. Mr Dunning.

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MR DUNNING: Thank you, Commissioner. Mr Mahon, my name is Dunning. I appear on behalf of the Brisbane City Council. I've got just a couple of questions for you. State Planning Policy 1/03 you know to be an outcomes-based policy?-- That's correct.

Right. But beyond that you don't have any technical qualifications in this field of endeavour, do you?-- No, I do not.

40

Thank you. And consequently you don't have any technical qualifications to determine if a particular local authority's plan meets the outcomes of SPP 1/03?-- No, I do not.

Right, thank you. What you've recorded for us in your statement then is really a result of your review of the Department's files; correct?-- That's correct.

50

All right. But unaided by an ability to analyse them technically yourself?-- That's correct.

Right, thank you. And you were not present in the Department when any of the material dealings were occurring between the Department, as it was then called, and the Brisbane City Council; correct?-- That's correct.

Thank you. Now, on matters of whether the city plan for Brisbane is in conformity with SPP 1/03, that's a matter that you would defer to, for example, somebody like Mr White, the State Planner; agreed?-- Yes, I would.

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Yes. And likewise you would defer to the report recently commissioned by the Reconstruction Authority from PSA?-- In the context for their various parts. When you say for technical advice, yes, on planning advice. If it was in the context of hydraulic studies I would seek advice from DERM.

10

From?-- The Department of Environment and Resource Management.

All right, certainly, but on matters of planning-----?-- That's correct.

-----you would defer to those two identities?-- Yes, I would.

All right. Yes, thanks, Mr Mahon. Thank you, Commissioner.

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COMMISSIONER: Mr Flanagan.

MR FLANAGAN: Mr Mahon, in relation to Exhibit 536, which you've just been shown, a letter from the then Minister for the - for Local Government and Planning, had you seen that letter before it was shown to you by counsel assisting?-- Not as I recall, no.

30

All right. Now, in relation to the 2004 Ipswich City Plan and the 2006 Ipswich City Plan did you yourself look at the files held by the Local Government and Planning Department?-- No, I did not. I researched records held by the Department of Community Safety.

All right. And so did you have access at all to the records held by the Local Government and Planning Department?-- We had some access. They did provide some documents to us, yes.

40

All right. If you go to your statement, and if you look at paragraphs 49 to 54, they don't actually record the fact that there was a 2004 planning scheme which was subsequently amended and became the 2006 planning scheme, does it?-- It may be that where we refer to the work that was undertaken by our Department in 2003 that it was subsequently adopted in 2004, I-----

But to be clear, paragraph 50 refers to SPP 1/03 prior to it actually taking effect, doesn't it?-- That's correct.

50

So that correspondence is in fact internal correspondence between State agencies as to the need for a proposed planning scheme to reflect what was a proposed SPP?-- That's correct.

Right. And beyond what you've got in those paragraphs and what - beyond what you researched in your own Departmental files you have no other knowledge, do you, of whether or not

both the 2004 and 2006 Ipswich Planning Schemes complied or, to use the proper language, adequately reflected SPP 1/03?

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COMMISSIONER: I think it's "appropriately reflected".

MR FLANAGAN: Is "appropriately"-----

COMMISSIONER: I think.

MR FLANAGAN: Appropriately. Did I say-----

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COMMISSIONER: It's a new jargon we're all learning.

MR FLANAGAN: Did I say "adequately"?

COMMISSIONER: You said "adequately".

MR FLANAGAN: I had "adequately" in my question, crossed it out and put "appropriately", but, anyway. Appropriately reflected?-- No I did not. We normally would not hold those records in any case as it is a decision of DLGP.

20

Good. Can I just move to a very short topic-----?-- Sure.

-----a different topic? Mr Mahon, what do you know of the funding scheme that is in place for local authorities to obtain financial assistance for the purposes of conducting flood studies?-- Well, the current scheme in operation is the NDRP, or the National Disaster Resilience Program. That's 44.4 million over four years.

30

Right. And is that just for Queensland?-- That's just for Queensland.

Right. Do you have personal knowledge of how that scheme operates?-- Yes, I do.

All right. And is it any council that can apply for funding from that scheme for the purpose of conducting flood studies?-- They can.

40

All right. And to your knowledge how many councils statewide have applied to that scheme since SPP 1/03 came into effect in September 2003?-- In terms of the number of councils I can't - I'd have to research the records. As you can see in my statement a substantial proportion of the funding that's gone out under the NDMP and the NDRP have been to councils for flood studies-----

All right?-- -----or flood-related studies.

50

And can you tell the Commission what sort of criteria is followed or set by the funder for the purposes of making application to it?-- Well, there's a range of - NDMP was a bit different to NDRP, but in the main they make a case for how the nature of the work that they're submitting for goes towards mitigating disaster events within their community in its broadest sense, so it's fairly open as to the nature and

type and scale of submissions they can make and it's weighted against mitigation value for those respective councils.

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All right. Thank you. Thank you, Commissioner.

MS McLEOD: No questions, thank you.

COMMISSIONER: Mr MacSporran.

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

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COMMISSIONER: Ms Wilson.

MS WILSON: No re-examination, Madam Commissioner. May, however, Mr Mahon be stood down? He may be required to give further evidence later in these hearings.

COMMISSIONER: All right. Mr Mahon, you are stood down on that basis then, thank you.

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WITNESS STOOD DOWN

MS WILSON: Madam Commissioner, I call Anthony Leighton.

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ANTHONY CHARLES LEIGHTON, SWORN AND EXAMINED:

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COMMISSIONER: Take a seat, Mr Leighton?-- Stand or -

Yes.

MS WILSON: Is your full name Anthony Charles Leighton?--
Yes.

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And you reside at Allard Close, Bellbowrie?-- Yes.

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

Can you have a look at this document, please? Attached to
that statement is some exhibits. Some attachments?-- Yep.

Is that your statement?-- Yep.

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Madam Commissioner, I tender that document.

COMMISSIONER: Exhibit 537.

ADMITTED AND MARKED "EXHIBIT 537"

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MS WILSON: Now, you've got a document in front of you and
I'll refer you to some matters in that statement. You live at
24 Allard Close, Bellbowrie?-- That's correct.

And this is three houses on a subdivision sharing a
driveway?-- Yes.

The Brisbane River runs about 500 metres to the east?-- Yes.

40

And you are separated from the river by what used to be the
Moggill Golf Course?-- Yes.

Now, you have used a service called NearMap to identify your
place during the floods?-- Yes.

And I think you'll find that at the end of your statement.
Could you go to that document, please? And it will come up on
the screen as well. I was wondering if the associate could
turn that exhibit around.

50

WITNESS: That's actually the Queensland-----

MS WILSON: Is that-----?-- -----Reconstruction Authority
website. That's not actually the NearMap.

Okay. So that one's come from the Queensland Reconstruction
Authority?-- Yes. Yeah, that's a different-----

Now, can you see your house on this photograph-----?-- Yes.

1

-----with an overlay of water?-- Yes.

And can you identify that for us all? You can see that - if we can just zoom in a bit more? And one more?-- My house is the middle house near the centre of the screen there.

Okay. What we see is we see a line of houses in the middle of that water, effectively; is that the case?-- Yes.

10

And you're referring to the middle of that line as your house?-- Yes.

Okay. Now, Allard Close, that's the street that you live on?-- Yes.

Can you tell me where Allard Close is in relation to this-----?-- Allard - Allard Close is the street that's running up towards the top left-hand corner and if it was extended through - it's hidden by the driveway, but if it was extended through it would hit the top house of those three houses in a line there.

20

The top house which is below - under water?-- Yes.

Okay. So Allard - the street that you live on, which you live - your residential address is-----?-- Yes.

-----is the top - the top street running in an east-west direction?-- Yes.

30

Now, you share a driveway?-- Those three houses do, yes.

And they share the driveway that comes off Allard Close?-- Yes.

Now, you purchased your home from previous owners?-- Yes.

And you purchased this house in April of 2008?-- Yes.

40

Now, when you purchased this home you - were you aware where this - where your house sat in relation to Q100?-- I was somewhere roughly became aware that we were very low in relation to a flood-----

Did you do - did you do any checks in relation to-----?-- No.

-----determining that?-- No.

50

When did you do checks in relation to where your house sat in relation to Q100?-- I didn't. I didn't. I became aware through - I'm not exactly sure where I became aware, at how low we were.

Okay. So where does your house sit? Can you tell us where does your house sit in relation to Q100?-- I believe our house has been - well, it's built up - there's a lot of fill,

that - the third house there would have 20 foot of fill to get it up to what I would assume would be a minimum level and my house is also on fill-----

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Okay. When you say "third house" where-----?-- The top house-----

Okay, when we're looking at-----?-- -----the top house of those three-----

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-----the top of that picture-----?-- Yes-----

-----or the bottom of that picture?-- -----the top photo's - yes, the top. The northernmost house there-----

Yes?-- -----would have over probably 25 foot of fill to get it up to a building pad which I would assume would be the minimum building level, and our house is within 30 ml of that house.

Of the three houses that are situated at Allard Close where you, did any flood during the 2010/2011 floods?-- Yes.

20

Which ones did?-- The one that's under water there.

Okay. And any other ones? Did - I'm not too sure whether this shows the height of the flood or not?-- There - I think there was 98 houses in Bellbowrie that flooded but out of those three no.

Okay?-- It came within about, I would say, 6 millimetres of my carpet.

30

Okay. Now, in 2008 you were informed by the Brisbane City Council that the land to the rear of your property was the site of a proposed estate?-- Yes.

Okay. Now, when you're talking about that can you indicate to us on this map, showing us on this map - on this photograph where - what you're referring to of the proposed estate?-- Okay. All that land between my house and the river - the river's to the north of us, it's to the south of us and it's to the east of us.

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Yes?-- Now, basically the land to the west - to the east, sorry, of my house has got a proposed residential subdivision there.

Okay.

COMMISSIONER: Do we have a laser pointer any more or has it gone?

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MS WILSON: Oh, I was - thought that might not have made it over.

WITNESS: Sorry, guys.

MS WILSON: So can you indicate to us with that laser pointer?-- Yes. Can't see it. That - that's my house there. 1

Yes?-- And all this land here has a proposed residential subdivision up against it.

Okay?-- All that - there's the whole lot there.

And is that where the Moggill Golf Club used to be?-- The golf course, yeah. 10

Okay. Now, you have some concerns about having a development there?-- I have enormous concerns about a development going there.

And those concerns are in relation to effecting evacuation routes for yourself-----?-- Yes.

-----and your neighbours?-- Yes, yes, yes. 20

Well, let's tell us - tell us what happened during the floods this year?-- Okay. Well, from - we woke up Tuesday morning and couldn't get out to our suburban street. Some - Monday night sometime our access was cut so-----

Okay. Let's take it one step at a time?-- Yes.

On the 10th, which is the Monday?-- Yes.

Okay. The driveway flooded, you say, to about one metre in depth, which meant that you couldn't evacuate by vehicle?-- On - on the - it was overnight Monday night that happened. 30

Okay?-- We woke up Tuesday morning and we couldn't get out.

Now-----?-- Couldn't get our vehicles out. Couldn't get out of our gear out.

Has that ever happened before where your driveway was flooded where you couldn't evacuate the house by vehicle?-- Not while I've lived there. It - I'd say it would have happened in the previous floods in '74 and that but not - not since I've lived there. That's never gone under water. 40

Okay. On the 11th you state that the two neighbours' houses and your houses were an island, effectively, and we can see that-----?-- Yes-----

-----here?-- -----yes, yes, yes. 50

The neighbours evacuated, how did they do that?-- Which neighbours?

The neighbours that evacuated on the 11th?-- With me?

No?-- Two neighbours evacuated together and a young mum, who had two young girls, we got her out Tuesday morning.

Okay. And how did you do that?-- We carried the children and her across our flooded driveway which was - it was only about that deep.

1

Okay. And that is to the left of where you have identified your house to be; is that the case?-- Yes. To - to that street there, which is Allard Close, which is our street, down through the water at the bottom there and up to that driveway and out.

10

Okay?-- They could still use the road then.

Now, on the 12th the Brisbane River broke its banks?-- Yeah. Well, it sort of broke its banks very early there because that gully is so deep. It's not like it's above the top of - like, it was coming up, you know, so where its banks is - you know, I don't know, it just kept coming up.

And on the 12th you evacuated?-- If - the Wednesday morning?

20

Yes?-- Yes. Yes.

And perhaps if the associate could just - just pan out a bit so that we can see where you evacuated from. How you evacuated?-- Okay. We - we evacuated from - from there up there's a very narrow ridge of high ground, straight up we - we - straight up to the - there's a little rise there and then we went down here and the SES evacuated us across that expanse of water there, because they couldn't get to our front street because that's like camel humps and they couldn't get the boat anywhere near us at the front because our street's undulating so they couldn't even get there so they said can we make our way up that ridge to the bush and they will pick us up at that expanse of water over there.

30

When the SES came to assist you how did they get you across, how-----?-- By boat.

Now, you've also attached some photos to your statement. Can we have a look at those, please? The first photo is taken before the floods? Have you got two photos in this-----?-- Yeah. There are only two there?

40

Yep?-- Yes. Yeah that would - yes, yes, that would have been Monday, maybe. Maybe Monday/Tuesday, something like that. That's - that's a lot - that's the river coming up a lot higher than it - it's never been there before, so I knew it was a - a serious flood when this photo was taken.

Okay. So that was on the Monday?-- Or the Tuesday. I'm not sure.

50

Or the Tuesday. And the next photograph?-- Okay, that's - that's the same gully full with water. That's what was presented between us and our front street. I thought it was like 80 metres across but I've since measured it on NearMap and it's more like 150 from our - from our garage to our front street. And that to me was what was between us and safety.

Okay. And is there any other photos? No. I did have a lot more but-----

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

COMMISSIONER: Do you have any questions, Mr MacSporran?

MR MacSPORRAN: Just briefly, thank you, Commissioner. Mr Leighton, you made a submission to the Inquiry, this Inquiry?-- Yes.

10

And then you followed that up with an e-mail to the Minister for Local Government and Planning?-- Yes.

And that was on the 16th of August, I think?-- Yeah, I'll take your word for that.

Reasonably recently. Did you receive a letter in reply to your e-mail?-- No. Only an acknowledgment that I'd sent one.

20

Okay. When you say "an acknowledgment", was it just a -----?-- From The Honourable Paul Lucas, yes, on a very official letterhead, just a one-page letter saying that he's addressing the issue.

Okay. Did he go on to indicate that - what was happening, the State Government was reviewing the Local Neighbourhood Plan?-- No.

30

Didn't go through the process with you in the letter?-- No. I don't believe so. I would stand corrected there. It was just a simple I took it as an acknowledgment letter.

Yes?-- Is all I - he's received what - and he's working on something and he'll get back to me-----

Okay?-- -----is how I - is - that's just how it fell into my consciousness.

40

All right. I won't take it any further then, thank you.

COMMISSIONER: Mr Dunning.

MR DUNNING: Thank you, Commissioner. Mr Leighton, my name's Dunning. I appear on behalf of the Brisbane City Council. You've had opportunity to read your statement, obviously, before you gave evidence today?-- Yeah.

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Okay. Just a couple of things I wanted to touch on with you. You make some fairly forthright criticisms of the council in the statement, don't you?-- Yeah. Yes, I would - yeah, I'd agree with that.

Okay. Now, it's the case, is it not, from - that when you bought your property you had a solicitor act for you in conveyance?-- Yes.

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That's a "yes"?-- Yes.

Okay. And you were aware that - this is in 2008 when you purchased it, that the house was built up on a peninsula, I think is the expression you come to use; correct?-- Yes.

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And you would have seen that from when you went to look at it before you bought it?-- Yes, yeah.

Okay. And you knew that the driveway fell away sharply from the house?-- Yes.

And the driveway was about level with the river?-- Oh, no. I wasn't aware of the flooding issues when I bought it, I just thought it was a nice hilly high block with a steep driveway and I wasn't fully conscious of all the - what I have been since I've become conscious as to what, you know, flooding issues can arise.

20

Well, if you just bear with me as we go to the questions. You did appreciate that it was right on the Q100 level at the time you bought it? That is, the floor - that is the house itself?-- Not really. I'm - you know, I'm not-----

Well, what we-----?-- I thought it - I did - I did think it would be low. I thought it would be relatively low.

30

Okay-----?-- And that's fair.

-----all right. Well, perhaps we can agree on this: at the time you buy, at the time you decide to buy, you have - you have assessed that it is low to the river?-- Yes.

Okay, thank you?-- Yes.

But by September - by September/November, say, 2009, so the following year, you're much better informed, aren't you?-- Yes.

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Okay. And by that stage at the latest you in fact know that the house is built at the lowest allowable level with regard to the Q100; correct?-- I became flood literate over a lot of research I was doing over the development behind me-----

All right?-- -----and I was thinking, "What can arise? What can't arise?" And I can't ever remember someone ever telling me I'm at the Q100 level-----

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Certainly?-- -----I've just assumed that, I would say. Dare I say it.

Certainly. Might Mr Leighton please see his statement, Commissioner, and the exhibits to it? You've got your statement-----?-- Yes.

All right. Can you go-----?-- Somewhere here.

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Can you go, please, to the first attachment to that statement?
And if you go to about the sixth last page, can you see a
letter that you write to the then Lord Mayor of Brisbane on
the 28th of September 2009?-- Yep. Yep.

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Can you see that?-- Yep.

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All right. Can you you go, please, to the top of the second page, and you will see there that you write to the Lord Mayor in September of 2009, "Our house is built at the lowest allowable level with regards to the one in 100 year flood event. It is located on an artificial peninsular created by cut and fill.", and it then it goes on to deal with the impeding your access issue, which I am going to come back to in a moment. Then can I ask you, please, to have a look at the first page of attachment 2 to your statement, and you will see there you write a similar letter to the Chief Executive Officer of the Brisbane City Council on the 30th of November 2009. Do you see that?-- Yes.

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Okay. If we go to the second page of that - sorry, if we go to the third page, you will see at the top of that page, "Our single storey house is built on an artificial peninsular built up by fill to the lowest allowable level in regards to a one in 100 year flood event. Our driveway is a full 10 metres lower still.", and then in the next paragraph, "As our driveway is almost level", I think we can take "of" to mean "with the river", "which is in very close proximity and crosses the enormous guilty which runs parallel." Do you see that?-- Yep.

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Now, I think what you and I can agree with is that by September through to November 2009 you were aware of these things: you were aware that your house was constructed on an artificial peninsula; agree?-- Yes.

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That the single storey dwelling was right on the Q100 line?-- Well, I don't say the Q100 line there, because I - still then that is all - it's a one in 100 year flood event and I've - I'm not sure if that is even the correct statement.

Well, let me help you a bit?-- I thought it was, however. I - you know, I-----

Yes. Why don't we go down, and have you still got the third page of your second attachment open, so that's your letter to The Chief Executive Officer? If you go to the fourth paragraph on that page, second sentence, "Periodically this river does flood above the Q100 level."?-- Yep.

40

You will agree with me a fair supposition that what you're referring when you talk about a one in 100 year event is the Q100 level?-- I thought they were the same thing.

All right. What you appreciated when you were writing to Brisbane City Council at the end of 2009 is that your house is built right at the level of a significant flood event, can we agree on that?-- I haven't had the levels - that's just what I believe.

50

That's what you wrote as well?-- Yes, yes.

That's what you believed in 2009?-- Yes.

Thank you. And you also appreciated that the driveway from your house to the road was considerably lower than the house itself; agreed?-- Yes.

Yes?-- Yes.

And also at the end of 2009 you knew that it was about the level of the river; agreed?-- Yes, it - yeah, it's a few metres above, but, yes.

10

And you also knew that it was in close proximity to the river?-- Yes.

All right. You also knew by the end of 2009 at the latest that in the event of any sort of flood event in Brisbane, that house would become isolated because the driveway would become flooded?-- Yes.

Okay. Thank you. Now, you have expressed concern to council regarding a development application in relation to land behind your property; agree?-- Yes.

20

And you corresponded extensively with the Brisbane City Council regarding it; agree?-- Multiple times.

Yes?-- Yes.

To the Lord Mayor; agree?-- Yes.

30

To your local counsellor; agreed?-- Yes.

To the relevant officer within the Brisbane City Council who's been handling any planning application?-- Yes.

You yourself have some familiarity with the planning and approval process, don't you?-- Now I do, yes. I have been educated.

But even as at 2009 you had some considerable understanding of the process?-- Only through my correspondance with - regarding that application. That's what opened my eyes up to the scenario we could find ourselves in. Before that I had - didn't even enter my head.

40

Now, you know from that that council is not responsible for the making of the application, don't you? You know that's a private developer who's doing it?-- Yes, yes, I think that. I don't know that.

50

And you know that counsel is bound to consider an application that's made to it, don't you?-- No.

All right. You know it's bound to consider the interests of other persons like yourself?-- From my experience I don't think my interests were even looked into at all of - I have had a stonewall of silence with regards to my concerns about pre-flood - about getting out of that place.

All right. So, you say council's had no regard at all to the concerns that you expressed prior to the flood?-- Very little that would put me at peace, and to then - actions speak a lot louder than words and never was that developer made to remove those lots that are - block our only escape route.

But you know for a fact that no approval has been given, don't you?-- I saw somewhere where council said preliminary approval has been granted.

10

All right. I will take you to something in correspondance in a moment. It's fair to say that your criticisms in relation to the development are summarised on page 4 to your letter to the Lord Mayor on the 29th of September 2009? So that's in the first bundle, it's about the third last page?-- Will that come up on the screen?

Yes, it will do. It should be page 4 of that document. Is this attachment number 1 to that? I don't think that's - it should be page number 4 of the 28 September letter. Now, that's, in fact, the complaints you make about the proposed development, the reason you didn't want it to proceed, at least in the form proposed?-- That - yeah, was - I have since learned a lot more. That was just my first foray into this whole development education, you know, I have learned a lot more since then.

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Your complaints haven't changed? Essentially it's the loss of your views. That's a complaint you have got?-- That's - lifestyle is a complaint.

30

Right. A loss of amenity of your rural lifestyle?-- That's - yeah, that's the complaint.

That's your first complaint. Your second complaint is impeding your exit in the event of a major flood; correct?-- This is to the Lord Mayor. I thought - this isn't my objection application to the development.

40

No, no, but this summarises your complaint?-- Oh - this is - I - this has only got four items. There was 10 in my objection to the development, so this is very preliminary and - it was shot from the hip pretty much, just to - I didn't know who to write to. I didn't even know how the process worked, I just thought if I write to the Lord Mayor something may happen.

Well, if you go to attachment 2 then, you will see those 10 items that you are presumably referring to. Now, you will see they get back really to these things, don't they, the impact on lifestyle, the difficulties of or the fact that it might impede your evacuation route, that not sufficient is being extracted from the developer by the proposal, and the ruling out in the future of the East-West Bridge, essentially your complaint summarised to those four things, don't they?-- No, no, no, not even close.

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Then you say there are 10 things set out there, but they're essentially the complaints?-- Yeah, I have subsequently got other concerns as well, but they were at the time when I objected to the development there, they were the 10 that I came up with.

1

So, that's at the 30th of November 2009 you set out those 10 concerns about the development?-- Yep.

Right. Can I then take you, please, to a letter that's contained within annexure 2 to your affidavit - to your statement, and it's a letter of the Brisbane City Council of 11 February 2010 to the developer. So, your concerns are set out at the end of November 2009, and early in 2010 the Brisbane City Council write to the developer about the proposal development and can I take you to what that letter says? In the second paragraph on the first page, "The proposed development is not supported in its current form." You saw this letter roughly at about the time it was sent, didn't you?-- Roughly about what time, sorry?

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20

The time it was sent, didn't you?-- Yeah, yeah, we - I would check the website every week or so.

So, you you knew in February 2010 that council were not supporting the application in its proposed form, didn't you?-- I - I am not sure how to answer that, because I - I assumed the issues in the letter are the only issues that would have to be reconciled for it to be assumed, and I can never remember them addressing my issue of getting my family out of there.

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All right. Well, let me speed this up. I am just going to take you to passages of this letter and I just want you to confirm that you knew these things in about February of 2010. So, you knew that the council had written to the developer saying that the proposed development was not supported in the current form?-- I knew - I read this letter.

Yes. And consequently you knew that they had written to the developer in terms of the next sentence saying that there were a number of key issues that needed to be addressed and resolved before the proposal could be favourably considered?-- Yes.

40

All right?-- Yes. So - like - I have read the letter, I have read the letter, that's all I can saying.

Well, I want to - given the strength of criticisms made of the council in it, I want to take you to each of the salient parts of the letter-----?-- Yes.

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-----that are completely inconsistent with your statement?-- All right.

You knew that the council had written to the developer in February of 2010 saying that the - as we see in the following paragraph, that the revised plans had not shown any

major modifications and that that had to happen before the proposal could be favourably considered. You knew council had written to the developer in those terms?-- Is that a question? Did-----

1

Yes, it is?-- I - my concern is that the council does - there's obviously meetings-----

No, I would be grateful if you attend to my question. You knew that the council had written to the developer in February of 2010 saying, as they say in third paragraph, that they'd reviewed revised plans, they didn't show any major modifications from the original layout, that council's information request has not been adequately addressed, and that until those thing happened it could not be favourably considered?-- My major concern about getting-----

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Would you attend to that question? You knew that, didn't you, you knew council had written in those terms?-- If I have to tell the whole truth, the truth is I understood - council have never acknowledged getting my family out of there is even an issue, ever, and that issue was not addressed in any of these letters and it's just silent on them and there's a lot of issues raised, so I'm assuming that if the council adhere - if a developer does what council asks in those letters, things will be okay. Saying it's not approved and then saying there may be a random thing come - that we are not addressing in this letter would be unfair to everyone.

20

I will come to how council have proposed to deal with the issue of evacuation, but the fact is you knew in February of 2010 that council had written to the developer saying that the revised plans did not attend the modifications that they required; agree?-- No, I don't know about those words of "modification so require".

30

Well, anyway, you have had a chance to respond to it. Can we go to the next paragraph?-- Yes.

You knew in February of 2010 that council had written to the developer saying that one of the key issues was lot layout and density, didn't you?-- Yes.

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And density was one of your principal complaints; correct?-- I'm not sure about that.

Okay. You knew in February of 2010 that council had written to the developer saying that one of the key issues was parkland and, in particular, a river corridor in the central parkland?-- River corridor along the river, not in the central parkland.

50

No, but you knew in February of 2010 the council had written to the developer saying one of the key issues it had to address was parkland areas and, in particular, the river corridor in central park?-- That's right, the parkland was too big for council, the council suggested to the developer that the developer look at opportunities to fill in the

waterway, which is where the Brisbane River nearly cuts straight across there, and in response to that the developer went back to council with a revised layout showing a massive infill of a waterway on that site with lots sitting on it.

1

Anyway, returning to my question, you knew that council said one of the key issues required addressing was parkland areas; correct?-- Sorry, I missed that.

You knew that one of the key issues council identified in February of 2010 was parkland issues; agree?-- Council said parkland was too big for them.

10

And-----?-- And I sat in on meetings and heard a council representative say they don't want to maintain that much park space.

And parkland was one of your complaints, wasn't it?-- I wanted more parkland.

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Well, that's a yes, I take it, to my question, parkland was one of your complaints?-- Yes.

All right. Let's go top the next one, setback from the Brisbane River. That was another of your complaints, wasn't it?-- Same - it's-----

No, no?-- That's where I wanted the parkland.

Setback from the Brisbane River was one of your complaints; agree?-- About - yes.

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Okay. Thank you. And you knew that in February of 2010 council took that issue up with the developer as one of the key issues that it was required to address?-- I'm not sure exactly what council took up with the developer. What appeared on the website wasn't the - you know, there was obviously meetings and that sort of thing, I'm not exactly sure what was being discussed there.

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Now, stormwater and flooding was another of the issues that was of concern to you, wasn't it?-- Yes.

All right. And you knew in February of 2010 that that was also an issue that council had identified to the developer as a key issue that it hadn't satisfactorily identified?-- I'm not an expert in that - you know, I-----

And another of your complaints was the use of cut and fill or earthworks; agree?-- Yes, yes.

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And you also knew in February of 2010 that that was an issue council identified to the developer as a key issue that it was required to address?-- Council suggested the developer fill in a lot of that land, went back to them, to opportunities to fill in the waterway.

All right?-- They said it's generally not supported but in

this instance we suggest you look at opportunities to fill that waterway in, and to me that's like tipping a wheelbarrow full of dirt into a bucket - into a bathtub full of water.

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Well, Mr Leighton, the fact is that your essential concerns that you'd expressed at end of 2009 find expression, I suggest to you, in the letter that council sent early in 2010 to the developer telling them it has to address before it can be favourably considered?-- I cannot find anywhere where council have even raised those multiple family safety issues. If they did it in work - mouth to mouth meetings with the developer, maybe, but those lots that will block our route were never, ever removed from multiple - Lord - Campbell Newman himself came out at one of the very early incarnations of this development and those lots were removed, bang, gone. Subsequently they have been put back there and despite my protestations, knowing that it was entrap multiple families, actions speak a lot louder than words, I have never seen it in words that they want it removed and I have never seen a lot layout that removes them.

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Could I ask you, please, to go to - still in attachment 2 - to an e-mail trail - probably the easiest way to describe it is - it's about 14 pages from the back of attachment 2, it's an e-mail from yourself to Councillor de Wit or the to is pullenvale.ward. It is actually dated 13 September 2004. That's obviously an error. Now, that's, in fact, a response to an e-mail from Councillor de Wit we can see on the next page of 4 October 2010. Now, what we see there in those bullet points that Councillor de Wit sets out are exactly the issues that were of concern to you?-- No.

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So, you say those issues weren't of concern to you?-- They're not exactly - you said they're exactly, I don't know anything about retaining walls and I don't know anything about hydraulic assessments.

All right?-- And I-----

Well, can I suggest to you that Councillor de Wit wrote to you and indicated that the - informed you that was - there was nothing she or anybody else could do until public notification signs had been erected, that you should take some comfort from the fact that council's initial assessment had been to determine the application was impact assessable generally inappropriate, so council were offering no support to it, and then she outlines the reasons why consistent with your concerns?-- Council approved that development in principle.

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No, council you know for a fact have never approved the development principle?-- In writing council have gone to the developer and said they support it in principle, very early on in the process.

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All right. Well, can you take us to the document that says that?-- I won't be able to, but it's certainly - it's certainly on the Public Scrutiny Council website.

Can you just take me to the document that says it?-- I haven't got that here, I'm sorry.

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Now, council has proposed a method of dealing with your concerns about escape from your premises but one that you are unhappy with; that's correct, isn't it?-- That's right.

So, it's not as though your concerns regarding the ability to escape uphill from your house has not been a matter that council has considered, it's that one of the proposals they put forward to deal with is one that you don't like?-- That was within the last two weeks.

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Well, can I ask you, please, to go to annexure 2 again and go to about 10 pages from the back and you will see an e-mail of 29 September 2010. If you want to see the context go to the page over and you will see your e-mail of 4 October 2010 to Meaghan Bourke from the Brisbane City Council and you're dealing with your concerns about evacuation; agree? Do you remember that?-- Yes.

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Then if we go to the response - sorry, if we go to - it's a little hard to follow the-----?-- I can tell you what happened there if you like.

But, in any event, the proposal council give as one of the alternatives to address that is set out in the e-mail of 29 September from Susan Lawrence?-- Now, I could never, ever - that e-mail was not to me, that was to one of my neighbours who forwarded it to me, but council have never, ever proposed that to me at all.

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Certainly, but by - it did come into your possession, you are familiar with the proposal, but you don't like that proposal, do you?-- I've - I would - I would prefer nothing there, I would prefer a straight route to the top of that hill.

Yes?-- But that - that e-mail is what my neighbour told me that someone in council who I don't even know if they have got any power or if - if they're an admin person who assessing - I don't, I have no idea. She forwarded that to me and I said - I flicked to it council and I said, "Here's one proposal.", but - you know.

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It would be fair to say it addresses your evacuation concerns but it does not address your lifestyle or view concerns?-- I would be happy after the flood to accept that to get out of there, get my family out of there. It was not a very nice place to be.

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Speaking of that, as I understand from your statement, in that period up to the 10th of January 2011 you were anxious about the rainfall?-- Yes.

And as we see from paragraph 7 of your statement that by the 10th of January you say you were concerned that the Wivenhoe Dam operators had not released sufficient water from the dam?-- Yes.

All right. So, by the 10th of January you know there's a lot of rain; agreed?-- Yes.

You formed the view that the dam operators are not doing a satisfactory job, in your opinion?-- Yeah, to my shooting from the hip thinking, yes.

You know you're in a house that's right on the Q100 line?-- Yes.

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And you know that it's easily isolated?-- Yes.

And notwithstanding your concerns about how the dam operators were operating the dam, you continued to stay there?-- I went and bought a generator-----

All right?-- -----on that Monday.

You will agree-----?-- I left work to go and purchase a generator and all flood equipment and lights and all that stuff because I knew.

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You will agree that an alternative, knowing all of those things you knew by the 10th of January, was to have made a timely evacuation from the house that you knew would become isolated?-- It may - I didn't know it would be become isolated, I - I erred on the side of caution buying a generator. I thought it may, I didn't really know what was going to happen, and there was a long way for the water to come up before we got into trouble.

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Well, no, you felt confident to put in a statement to the Commission critical of the Brisbane City Council, critical of dam operators, saying that you knew your house was easily flooded, and you were concerned about how the dam was being operated. You knew you had the alternative of an orderly evacuation in circumstances where on your evidence, no-one else's, your evidence, isolation of your house was inevitable, and you chose not to do it. That's the reality of it?-- I didn't know isolation of my house was inevitable. No, I didn't.

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Thank you. Thank you, Commissioner.

MR FLANAGAN: No questions.

MS McLEOD: No questions, thank you.

COMMISSIONER: Ms Wilson?

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MS WILSON: No questions. May Mr Leighton be excused?

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

WITNESS EXCUSED

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MR CALLAGHAN: I call Brendan Nelson.

BRENDAN JOHN NELSON, SWORN AND EXAMINED:

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MR CALLAGHAN: Could you tell the Commission your full name and occupation, please?-- Brendan John Nelson, and my occupation is town planner.

And you are the general manager, Land Use Planning in the Queensland Reconstruction Authority; is that correct?-- That's correct.

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Mr Nelson, you have prepared a statement for the purposes of the Commission?-- Yes, I have.

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A copy of that's being shown to you now?-- That's correct.

Now before I tender that, is it the case that in respect of the exhibit, or attachment BJN 13, you've made some corrections?-- That's correct.

And you've prepared a substitution for that exhibit; is that correct?-- That's correct.

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All right. So I might swap that over and make copies available and tender the statement and exhibits.

COMMISSIONER: Exhibit 538.

ADMITTED AND MARKED "EXHIBIT 538"

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MR CALLAGHAN: Just to explain, perhaps, for those who are getting a copy now, you'd originally said that there were some 127 planning schemes in Queensland; is that right?-- Correct.

In fact, there are 124?-- Correct.

There was some double counting of Tiaro, Gold Coast and Beaudesert; is that correct?-- That's correct.

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But subject to that qualification there's no major change?-- Some minor alteration to some of the statistics, but the overall intent is the same.

Has that affected some of the percentage figures that you expressed in a very small way?-- That's correct.

All right. It's just the covering document of BJN 13 is what's been amended; is that correct?-- That's correct. The attachment is still the same.

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All right. Now we're aware that on Saturday the Premier announced the guideline entitled Planning For a Stronger More Resilient Flood Plains; is that correct?-- That's correct.

That guideline is, in fact, annexure BJN 10 to your statement?-- That is correct.

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It's also, for the record, now part of exhibit 531. The guideline aims to provide interim flood maps to councils who currently have no flood mapping in their local planning scheme; is that correct?-- That's the objective.

And there are, as you've said in your statement, many of them?-- Yes.

I don't know whether that which you've amended changes the actual numbers or just the percentages, but in paragraph 146 of your statement you say that 63 per cent of local government planning schemes did not contain flood mapping, I take it that's still more or less the right percentage?-- Yes, it is. I think the updated figure is 64 per cent.

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All right. Can I take you to the guideline itself and first on pages six and seven the guideline sets out an overall approach to flood plain management; is that correct?-- Yes, it does.

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We see at the top of page seven that the objectives of flood plain management are to limit to acceptable levels the effect of flooding; is that right?-- That's right.

And what we're talking about here when we're talking about acceptable levels, we're talking about a risk management approach; aren't we?-- That's correct.

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And a very useful tool to deploy in risk management is the one that you've included on page 7, that's the table at the bottom left-hand corner of the page with a set of statistics there?-- Yes, that's correct.

And there's an explanation as to the concept of annual exceedance probability in the box on the right-hand corner there marked with the information symbol in the red circle?-- Yes.

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And I should point out that that is some, or that you've used throughout the document some key information drawn from the extremely helpful document prepared by the panel convened by the chief scientist Geoff Garrett; is that correct?-- Yes, that's correct.

Now one thing we do learn and to which I've already referred this morning from that table is that one way of expressing the probabilities of the one in 100 flood is that it has a 50 per cent chance of occurring in any 70 year period, that's as demonstrated on that table there; is that right?-- That's right.

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Okay. Pages 12 and 13 deal with the implementation of the guideline?-- They do.

And one step in the implementation process is for the Planning Minister to make a temporary State Planning Policy?-- That is one of the initiatives, yes.

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All right. It's intended to be made after the public consultation period on the guideline has-----?-- Yes.

-----expired in November?-- Well, the timing of the making of that is such that it can occur at any point. We would expect that making to occur at any point between now and November. It is under consideration by the Planning Minister at the present point in time.

I see. The public consultation period for the guideline goes until the 11th of November though; doesn't it?-- It does, that's for the guideline.

All right. Well, is there a date by which it is hoped that the temporary State Planning Policy will have been made then?-- It is hoped that the temporary State Planning Policy would be in effect before the conclusion of the consultation period on the guideline.

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I see. All right. Pages 16 and 17 deal with the process by which local councils might incorporate the interim flood plain mapping into their local planning schemes?-- Yes, they do.

And we see that part 2 of the guideline is planned to deal with a flood study template and standard planning scheme provisions; is that right?-- That is correct.

Can you just elaborate a bit more on what part 2 is expected to cover?-- The expectation is that we will provide a flood study template for use by councils or in a broader sense within regions for the preparation of flood studies so that we can achieve a degree of consistency across the state. The second part of the part 2 is proposed to effectively create a standardised approach for the implementation of those flood studies into the new generation planning schemes. At the present point in time under the Sustainable Planning Act councils are, a lot of councils, most councils indeed are already looking at their new planning schemes, and we see this as an opportunity to actually start embedding the flood studies and some of the findings from those flood studies into planning schemes, into the new generation planning schemes.

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All right. When's part 2 expected to be finished?-- We're expecting to have that completed in November of this year.

I see. All right. Tell me, in paragraph 93 - do you have your statement there, paragraph 93?-- Yes, I do.

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You say that you are partnered with the Department of Local Government and Planning, Department of Environment and Resource Management and Department of Community Safety. Can you tell me with whom in the Department of Local Government and Planning you were liaising?-- We were liaising with the planning and policy area. We were also liaising with the planning services area. The planning and policy area looks specifically at new policies and the State Planning Instruments Program. The planning services area considers the workability of documents.

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All right. What about the government planner, Mr White, was there any reason why you wouldn't have drawn on his expertise?-- Mr White is responsible for both of those two areas and I did liaise with Mr White.

When did you do that?-- I don't have the dates in front of me, but in the development of the documents I met with

Mr White, Mr Papageorgiou and with the staff from the planning services area to discuss this initiative.

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All right. So the full nature of the initiative was discussed with him?-- He was aware of it, perhaps not in full detail, but we certainly kept Mr White and the team from the Department of Local Government and Planning informed of what we were doing.

All right. It might have just been the finished product that he only saw on Friday would; would that be right?-- That's correct.

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I see. All right. What were the roles played by then the other government departments, DERM and DCS?-- Department of Environment and Resource Management were effectively contractors to the authority to provide the mapping product which is, has been completed for the sub-basins. We've been working very closely with the spatial services area within DERM to produce those maps and they have provided us with between 25 and 30 cartographers to complete the exercise. In relation to the Department of Community Safety, we have met with officers from the Department of Community Safety on a couple of occasions to run them through what we were proposing as part of the guidelines.

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So it was more keeping them informed than drawing information from them?-- It was. We also did ask them for general feedback acknowledging that the guideline did progress between initial discussions and when it was finalised.

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All right. Well, there are certain policy positions which underpin this guideline and the draft temporary State Planning Policy, they're probably so elementary or extremely elementary to you, but, firstly, there's the proposition that you need maps for this sort of thing?-- That would be our view, yes.

Okay. Well, was it your view that, or was it your decision, the QRA decision that that was the way it should proceed?-- The authority when we - as a part of the reconstruction program a major element is building in resilience into the new, into communities. As part of that consideration we looked at what we could do to facilitate that higher level of resilience. So, yes, as part of that we undertook an assessment of how we could support local governments with this particular initiative.

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Yes, I understand. I was really getting down to the basic methodology, though. Who actually decided it was, the proposition that it was maps that was needed?-- Well, it's more than just maps.

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I understand that?-- That was decided by the authority. So by myself through recommendation to my CEO.

Right. And then the question arose as to what should be depicted on the maps, again, is that your decision?-- It was - yes, it was.

Okay. All right, we might come back to that. Now as we've said when we were looking at the amended exhibit, you did a review of all 124 local planning schemes in Queensland to see how they reflected the State Planning Policy?-- Yes, we did.

And I've referred to your statement and to the exhibit, but as a broad proposition, or there's three broad propositions I'd suggest to you in terms of flood mapping. First of all there was a lack of mapping?-- Yes, I would agree with that.

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There were inconsistent approaches across the state?-- Yes, I would agree with that.

And there was a difficulty identified for councils having the time and resources to obtain flood mapping?-- Yes.

And just on the question of consistency, can I take you to BJN 13. Now the copy that's on the screen will probably be the old one but I don't think it's going to affect the point that I want to make which is by reference to page 14. This really just demonstrates the point that you've identified about the inconsistency in approach across the state; is that right?-- Yes, it does.

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Although I should probably just get you to agree, if we look at the second bar in that graph, there's the 32, it may still be 32, it was 34, local authorities using Q100; is that right?-- That's correct.

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But the fact that a local authority is not contained in that number doesn't mean that they weren't using Q100 for some purpose because as you look down the page others were using a combination of methods which included Q100?-- I would agree with that. I think there was about another 30 on top of that who were using Q100 in some form.

All right, thank you. Now if I can take you back to your statement and to paragraph 99, you identify there the information from which the new maps were derived. Can we go through it and can you identify the source of the information in each case?-- I can outline to the best of my ability the source, noting that this was work which we commissioned the Department of Environment and Resource Management to complete.

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Even if they're the source-----?-- Yes.

-----you can just tell us that?-- The drainage location information was sourced from the Department of Environment and Resource Management. The contour information was again sourced from DERM, noting that they have arrangements in place with for Geoscience Australia in relation to some of the imagery. The satellite imagery, Landsat 5 is through arrangements, again, it's through DERM but they arranged to get it from a United States source, I understand. The interpreted or actual flood information from the 10/11 events was sourced from DERM soon after the events where there was aerial photography available. The staff at DERM captured that

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information. The determine gauging station information again is available from DERM and the vegetation, preclear vegetation mapping of the land zone 3 and 1 and the SALI Soil limitation was also a collation of data from DERM.

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In relation to the gauging station information, can you tell us whether that was obtained for years other than the wet season just past?-- The consideration, as I understand, was from all information that was available on those gauging stations.

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All recorded gauging station information as far back as-----?-- As I understand that. That would need to be confirmed.

All right. Can you tell us something more about soil mapping and as to how that is carried out?-- Well, I can tell you that the source of the information comes from DERM and I can tell you that the focus is to, in terms of page 10 of attachment 10 of my statement which outlines the context of land zone 1, land zone 3 and the SALI Soil limitation mapping, I can't go into specific detail about how that was collated and that would need to be something that was provided from DERM, but I can say that it was information which was collated which shows some evidence of previous - of water flow events.

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All right. Going back over what period; do you know?-- Well, from geological time.

Yeah?-- So that's based on the soil characteristics that are there. We know that gauging station information in this country is only about 100 years old in sort of the maximum example, but we know that obviously over time flooding has been occurring for a much longer period than that. So the soils information is, in fact, a very good source of identifying previous flooding events.

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All right. Does it tell us anything about frequency of flooding?-- No, it doesn't.

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Or length of time since last inundation?-- No, it doesn't.

Or depth of flooding?-- No, it doesn't.

Okay. Can I take you to paragraph 98 of your statement and can you just help me out with this. You say there are certain principles used in the development of the data set used for the mapping. Does that mean principles applied in choosing the data relating to the subject matter in paragraph 99 or what does that mean?-- Yes, it does. The approach taken was - previously with flood mapping they have been very discrete individual examples and the approach that we were looking at taking was a statewide approach. So in terms of being able to achieve that we need to make sure that the data was suitable at a statewide scale. It was something that was consistent between sub-basins and was repeatable over each of those basins and if questions were asked we would be able to provide the evidence and justification for how that overlay area was

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established.

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So what did that lead you to then? What sorts of things did that lead you to include in the data set using that criteria?-- The data set in paragraph 99 of my statement.

They are all the things that can be or are suitable for adopting a statewide approach, is that-----?-- In this first instance we would say that is the current data set that is available-----

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Yep?-- -----for the production, yes, on a statewide basis.

Okay. And by B, a consistent approach, is that another, or how is that different from A?-- Well, consistent between sub-basin to sub-basin. So you can obviously adopt information across the state and it could be different between sub-basins and what we were seeking to have here is making sure that there was a degree of consistency across the state.

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All right. Is that different from A?-- Well, A talks about the suitability for a statewide, so it's probably the same thing.

C. Repealable if more accurate data is available in the future. Is that applicable to, or is that - are there some things to which that would not be applicable?-- We would think that in the future certainly what's proposed at the present point in time is that there would be - councils will receive this information and be able to review it locally based on the best available information they have. So over time if there is further and better information that becomes available, then we would certainly like to make sure that's reflected. One such data set might be the contour information and a digital elevation model across the state. At the present point in time that is captured at 10 metre intervals and any engineer, not that I am one, but any engineer would tell you that if you were doing a flood study or hydrological study you need contours a little better than that.

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Right?-- So the expectation over time is that that data will, would certainly be improved, and certainly relationships, taking a partnership approach of this with Geoscience Australia, the hope would be that a higher level of resolution of contour mapping would be provided.

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Okay. Well, let's look at some of the maps themselves. Can I show you, first of all, one that has just been printed off the QRA's website, it's the interim flood plain map for Bundaberg. You have that - I'm just waiting for that to come up on the screen. Thank you. Now there's what appears to be a yellow area that's shaded in this map of Bundaberg, is that the interim, or the flood plain as worked out by the QRA?-- It is.

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And the blue area is the extent of inundation during the 2010/11 flood; is that correct?-- I believe so.

All right. Well, going back to the yellow area then, can you just tell us how that was actually worked out?-- The overlay of data on the data sets which were in the, I think, previous section or paragraph 99 of my statement, were assembled and in a GIS format-----

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GIS?-- Geographical Information Systems, it's an on-line tool that's used for mapping purposes. That data set was, it was overlaid and there was a visual interpretation by all, of all of those data sets by a cartographer from DERM to form the interim line, noting that it is a dotted line and noting that it will be subject to review by the local government.

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Sure. Just going back to how it's actually determined, though, is there a formula, or can we look at those criteria in paragraph 99 and work out how much of any one of those is reflected in what the finished product became?-- I can't answer that. I wasn't personally involved in preparing the overlay, that would be something that a DERM rep would need to answer.

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All right. So you don't know, for example, whether it's something in the nature of that geological information that we were talking about earlier that accounts for most of or even all of the delineation of the flood plain?-- What I can tell you is relying on information from DERM, is that they would identify the sub-basin by displaying the sub-basin boundary. They would then overlay the ordered drainage of the flood plain and then they would overlay the pre-cleared vegetation mapping of land zone 3, land zone 1 and the SALI Soil flooding. They would then analyse the drainage lines within the sub-basin to determine the drainage lines that are relevant. At a minimum the ordered drainage lines with 1 and 2 are excluded. So the areas at the very start at the top end of the catchment, a lot of the dry creeks and gullies are not included unless there are known events to have occurred in those locations. And then having determined where that mapping takes you, the overlay of ten metre contours is provided, the gauging station data at that point, and then the actual events in 2010 and 11. Using those data sets, they are then able to do a visual interpretation of each one of those lines to delineate the extent of the assessment area.

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All right. Well, after all that, you get that area that's shaded in yellow, but do we know anything about the extent of a flood, or a putative flood in such an area in terms of annual exceedance probability or annual recurrence interval?-- No, we don't, and that certainly wasn't the intention of this area.

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Right. Okay. Let's look at another one for Emerald - I'm sorry, I'll tender that map of Bundaberg.

COMMISSIONER: Exhibit 539.

ADMITTED AND MARKED "EXHIBIT 539"

MR CALLAGHAN: The yellow area here covers almost the entire area of the town of Emerald; is that correct?-- Yes, it does.

And, again, the lighter blueish area is the depiction of the 2010/11 flood event; is that right?-- Yes, it is.

Okay. Again, you don't know anything in this case about the AEP or the ARI of the yellow area?-- No, it's not the intention of this overlay.

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No, okay. I'll just show you one more and that's of Goondiwindi. I'll tender the map of Emerald.

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COMMISSIONER: Exhibit 540.

ADMITTED AND MARKED "EXHIBIT 540"

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MR CALLAGHAN: Once again we have the situation where in this case I think the entire town of Goondiwindi is shaded with yellow. We can see the depiction of the 2010/11 event there, and there's a question which presents because it's all on - the 2010/11 event is for the most part on one side of the river so the question is whether the levee bank was taken into account in any way in determining the interim floodplain area?-- I'm not aware of whether it was or it wasn't in the case of Goondiwindi.

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Okay. The question that I have, I suppose, is for, say, a local authority in Goondiwindi what use do they make of a map like that?-- For a council, particularly a number of the western councils who currently have no mapping in their planning scheme, this gives them the ability to at least ask the question if a development application is proposed in their local government area. It gives them some provisions, a model code and some mapping. What it also does is it's - we - in terms of providing this information to the councils is that if they have higher order map that they've developed through flood studies or flood modelling it gives them the ability to refine this mapping, and so what we've identified is that this is very helpful for councils who are at level zero with no mapping. Those council with some level of mapping this may not be as helpful as it is in some of those others.

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Sorry, just explain to me, I'm sorry, how this map is very helpful to a local authority in Goondiwindi?-- Well, prior to - and not being a geologist or a soil scientist but with the data sets that we have collated it has shown us that at some point in the past this area has formed part of a floodplain. Now, with - through the - through the provision of perhaps mitigation strategies like levees and other structures it may well be that that has been contained. Those considerations we would be looking to the council, through this process that we're going through now, of clarifying that in each of these localities.

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But you say it might prompt them to ask questions in response to a development application. What questions could usefully be asked on the basis of a map like this? Which basically shows that the whole - the whole town is on a floodplain?-- In the case of Goondiwindi I'm not familiar precisely with their planning scheme and I would have to refer to that but what I can say is that if for those councils, and there are a

large majority of western councils where there are no provisions and there is no mapping, that if there is development proposed that they can at least ask the question of a developer about the particular site to - that warrants further investigation.

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I'm just struggling to formulate what that question might be in a case where a map shows the entire town on a - on a floodplain?-- The consideration might be that the proponent demonstrates that the block that they are proposing development on is not flood constraint.

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All right. So that would be incumbent upon anyone making any application in Goondiwindi, is that-----?-- Only if the council adopts this mapping and adopts the code. We're not saying this is a mandatory requirement for every council.

No, but you are - you're encouraging them to adopt it, and especially if they don't have one, aren't you?-- Well, we are encouraging them to adopt it, or at least consider it, and refine the area that's been identified based on local knowledge.

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And you are particularly encouraging local authorities who might lack their own resources to - "low-growth councils", I think is the phrase that you use in the guideline; is that right?-- It is.

And at page 3 of the guideline you say that this provides low-growth councils with a workable product?-- It does.

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And I'm just again still struggling with the notion of how this is workable or what work you can do with a map like that?-- Well, when we provide it to the councils and they undertake the local review and the consideration of the mapping and both the code they will determine whether or not it's useful for them or not. Certainly the information that we have and the overlay that we've looked at in a number of locations demonstrate that this will be helpful for those councils.

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What's depicted here is not even what we've heard described as the "probable maximum flood", is it?-- No it's not, that would require further studies.

And a probable maximum flood, as its name suggests, at least reflects some degree of probability?-- It should be the absolute extent of flooding.

Yeah. What, one end of the scale of applicable probabilities?-- That's correct.

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Somewhere else along that scale are things like the ARI or AEP probabilities. That's so, isn't it?-- That's correct.

If these maps don't reflect the AEP or ARI of the yellow area, and I think you've made the point that wasn't their purpose-----?-- That's correct.

-----but if they don't then they say nothing at all about the probable chance of inundation, do they?-- They don't - they don't comment on the probable chance, that is correct.

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Yeah. Is there a danger in the case of somewhere like Bundaberg where there's a correlation between the yellow area and the blue area that without knowing or without demonstrating anything about the ARI or AEP or Q100 that you might actually be increasing the flood risk?-- I'm not sure I understand your question.

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Well, the map doesn't show anything about risk, does it?-- No it doesn't.

It just shows that there has been some inundation at some stage in the yellow area?-- That's - that's correct.

And it shows where the last flood went to?-- The blue overlay does show the last flood, yes.

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Yeah. But without knowing the ARI for either it provides absolutely no clue as to the risks involved or the probability of a flood like that and unless you have compared that to the defined flood event or the ARI for the particular area then you might be actually depicting a line which is below the Q100, mightn't you?-- What we-----

Q50, or whatever - whatever they're applying there?-- We - what we have said is this is an interim line that will be subject to local review. So if the council has further and better information regarding the probability of a line for its local government area then we would expect to see that reflected and updated on this line.

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And that's up to the local council to do that, I take it?-- It is.

All right. Was it ever considered to use as an interim measure something like a highest recorded flood plus freeboard?-- We considered highest recorded flood, but noting my comments earlier that flooding in this State and in fact this country has only been for about the last 100 years, and in some places much less than that, we felt that considering the other elements that I've outlined this afternoon were more appropriate.

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Accepting what you say about that, these maps might be nothing more than a reflection of the last million years, though, mightn't they, or longer?-- Well, they're not linked to a specific point in time, they are linked to evidence of previous events.

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And if those events were events disclosed by geological evidence which, as you've said, might have occurred back as far as - or long before recorded history, then we could be learning no more from, say, this map of Goondiwindi than that it might have been inundated once a million years ago; is that right?-- We would expect the council to be able to discount

the issue of flooding if that was in fact the case in the consideration of any development proposal.

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Well how do they do that? What - this is-----?-- What-----

I'm sorry. I mean I'm sorry, you finish?-- What I would say is, exactly the same way that they would do it now. This at least points them to the fact that they should consider this particular aspect.

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But isn't the problem that they're not doing it now? Isn't that why this whole project was undertaken?-- I'm wouldn't say they're not doing it, we are simply highlighting that this is an area that should be definitely considered.

Well, there's a number that aren't doing it?-- Well, I don't - I can't say that.

Okay. I thought that was what the point of your review was?-- The audit outlined the scheme provisions, that doesn't necessarily mean that a planner who is trained doesn't consider the issue of constraints.

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Oh, I follow. All right. That might be so but there's a degree of speculation in that, isn't there?-- There is.

All right.

COMMISSIONER: I don't think you've tendered that Goondiwindi map.

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MR CALLAGHAN: I'm sorry.

COMMISSIONER: That's Exhibit 541.

ADMITTED AND MARKED "EXHIBIT 541"

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MR CALLAGHAN: I mean, if we just go back to the guideline to page 9. There are maturity levels of flood mapping modelled in figure three; is that correct?-- That's correct.

Level zero as having no flood mapping and level one is including the interim floodplain maps of the kind we've been examining?-- That's correct.

So the proposition is that having the QRA map is better than having no flood map at all; is that right?-- I would agree with that.

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And that's irrespective of whether the QRA map actually is a meaningful document in so far as any local council is concerned?-- Yes.

All right. Did the QRA consult with local councils about this process?-- The QRA has been out and spoken with a number of councils. I think in the order of 15 or 16 councils are aware of this project. And I should say the LGAQ, the Local Government Association of Queensland, is also aware.

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All right. Okay. Can I ask - I mean, you've agreed these maps show nothing about probabilities. Was - was that approach considered using an area defined by a particular AEP or ARI?-- It was considered to look at how we might best achieve that across the whole State. That would take a considerable period of time. Noting my comments earlier that a number of councils are currently in the process of planning their new planning schemes. We saw this very much as an interim measure to support those councils who haven't quite yet developed their new planning scheme as an interim step.

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Okay. Were the - was there any match-up done as between the interim maps and any existing flood maps or models-----?-- No.

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-----or this just overrides all of those?-- No, it certainly doesn't override it because it's an interim area and the intention is very much that this will be provided to every council, both in hard copy and electronic format, and that we thought that there is a lot of - there has been a lot of flood studies undertaken by councils across Queensland over a considerable period of time, but the visibility of some of those studies is not easily seen. So by providing this information to the councils we see this as very much a tool where they can refine the line based on information that they might have in their possession.

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Is there any - do you hold any height of flood information for that yellow area in these districts?-- The only height that we have relates to the gauging stations.

Which has been factored into the equation, if you like?-- Yes.

Okay. Well, it's not - I think you've agreed already, not discernible by reference to any of the maps?-- In hard copy maps it is actually located on the very first map, the location of all of the gauging stations-----

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Yes?-- -----and the gauging station reference point, which would then avail the council of the opportunity of sourcing the highest recorded information at that point.

Right. And then using that for further study, I suppose?-- Using it for further study, or, indeed, perhaps setting an interim level for that particular part of their local government area.

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All right. It would seem, I'd suggest, that in some cases at least there would be a need for councils to invest a considerable amount of time and resources in order to render some of these maps into a meaningful tool; would you agree with that?-- No I wouldn't.

Well, we'll go back to Goondiwindi. The map, I think you've agreed, just shows what the people of Goondiwindi already know, which is where it got to at the beginning of the year, and the fact that at some stage in all of time the whole place has been under water. Is there not a fair bit that has to be done on top of that before you can make meaningful planning decisions?-- I understand that there has been a degree of work done by Goondiwindi and I also understand that it's part of the same sub-basin, which is part of the problem of the past, is that looking from local government to local government there's not a correlation between catchments and local government boundaries, so I understand there has been a fair degree of work done in Moree Plains Shire Council in New South Wales, so collectively there is quite a body of work which I understand is - has been done in this area and will inform the review of this interim line.

Right. Well, you don't even need the interim line for that work to be meaningful though, do you, because the interim line's not going to tell you anything?-- It may not for the Township of Goondiwindi but where the extent of those flood studies that have been completed finish this in fact provides a conduit to connect all of those areas where flood studies may have been completed previously. The missing gaps, if you like.

All right. I might turn to some other aspects of your statement. You have referred to the situation in Grantham?-- Yes, I have.

Is it fair to say that the reconstruction of Grantham has been one of the Authority's main priorities since its establishment?-- It has been.

And a large portion of your statement addresses the creation, operation and effect of the Grantham Development Scheme?-- It does.

And is that the key planning instrument guiding the rebuilding of Grantham?-- Yes, it is.

And the development scheme facilitates the implementation of the council's land swap program?-- Yes, and their master plan for the greater Grantham township. 1

What outcomes are expected by the end of the year for Grantham residents who have volunteered to participate in the land swap program?-- The expectation is that the first stage of the area - that the council subdivision will be complete and that homes will be constructed by those residents wishing to build immediately in that area. I'm aware that a temporary crossing of the railway line has recently been completed by the Department of Transport and Main Roads and we will shortly see a number of homes that are still engineeringly sound relocated across the railway line and on to some of those newer blocks. 10

All right. Can I ask you about the review of rivers that you talk about, I think in paragraph 125, where you speak about drainage divisions, basins and subbasins. It might be helpful if you just gave us a brief explanation of those concepts?-- In planning speak we often talk about a line of sight from the very highest order all the way down to the local, and in this particular regard we felt it was appropriate to actually go back and look at the highest order of streams and rivers and catchments in Australia all the way down to the local. So, in Australia there are 12 drainage divisions nationally. Of those 12, there are parts of five which exist within Queensland. Now, within those five drainage divisions there are a number of river basins. In fact, I think nationally there's about 245 or 246. We have about 75 of those in Queensland. At the next level down, a number of rivers make up a basin, and so in terms of the number of subbasins, we would say there are 128 within Queensland. So, we have looked at that across the State to try and look at how best to manage flood plains and management - the flood plain management issues within them. 20 30

And you go on in paragraph 126 to identify the fact that none of the boundaries of the drainage divisions or basins or subbasins correlate with local government area boundaries?-- That's correct. 40

And what do you see as the issues which are raised by that?-- I think there's an expectation that flood studies are done by local governments. That obviously creates with it some challenges if there are areas of a subbasin which are external to their local government area. So, that would be the first issue that I would note in relation to that.

Well, we might go from there back to the guideline and to page 8 of the guideline where you talk about flood management strategies, and at page 8 the guideline says that, "The best management of flood plains would be done at the subbasin level. The traditional method of local government planning should be reconsidered." How in practice would that be implemented?-- Through part 2 of our guideline, we would envisage outlining a model how that may be achieved. In a very preliminary sense, our belief is that at a regional planning level that is something that can be achieved. There 50

are 13 regional planning areas across the State and, again, re-emphasising the line of sight approach, I think it's something - whilst the regional planning areas do not correlate exactly with subbasin boundaries, there is a much greater degree of correlation, and the assignment of subbasins within a regional planning context I think is something that is both workable and practicable.

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Sorry, can you say that last sentence again?-- The assignment-----

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The assignment?-- -----of flood studies and investigations within catchments or subbasin areas at a regional planning level, I think, is something that can be achieved.

I mean, should there be - do you envisage subbasins having separate planning schemes referable to themselves?-- No. I think subbasins - the opportunity to embed some of the issues at subbasin level throughout the regional planning framework in Queensland which then flows on into the planning schemes I think is an achievable and practical approach.

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And so is that how the State Government gets involved then, through the regional process?-- The State is involved through the regional planning area, yes.

I suppose what I'm getting at is there will be more than one local government involved?-- Yes, very much.

So, it really has to be the State-----?-- There are several, there are several local governments involved in each regional planning area.

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All right. I have probably just got a little bit more to go but I wouldn't mind collecting my thoughts before tomorrow morning.

COMMISSIONER: All right. We will adjourn till 10 o'clock tomorrow. If you can come back then, Mr Nelson?

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THE COMMISSION ADJOURNED AT 4.26 P.M. TILL 10.00 A.M. THE FOLLOWING DAY

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