

QUEENSLAND FLOODS COMMISSION OF INQUIRY
STATEMENT OF HENDRIK CHRISTIAN (CHRIS) du PLESSIS

I, **Hendrik Christian (Chris) du Plessis**, Manager Planning and Land Management, South Burnett Regional Council make the following statement under oath as required by the Commissioner of Inquiry:

A summary of the assessment criteria and development controls contained in Council's planning scheme(s) and how such criteria are used to assess application for development in the natural hazard management area.

Material Change of Use, Operational Work & Building Work

- 1) Council currently administers four Planning Schemes of the four former Shire Councils:-
 - a) Kingaroy;
 - b) Murgon;
 - c) Nanango; and
 - d) Wondai.
- 2) The above listed Planning Schemes do not contain a statement which confirms that State Planning Policy 1/03: Mitigating the Adverse Impacts of Flood, Bushfire and Landslide is appropriately reflected in each of the planning schemes.
- 3) Each of the Planning Schemes identifies land that is subject to a Special Management Overlay Areas (SMOA) for Natural Features and Resources. The Natural Hazard Risk Management Areas is included in this SMOA. Land that may be subject to Possible Drainage/Flood Problems is identified on SMOA Map 2B for the Murgon, Nanango and Wondai Planning Schemes. The SMOA Map 2B for the Kingaroy Planning Scheme only identifies areas subject to bushfire hazard and it does not identify Possible Drainage/Flood Problems.
- 4) The Assessment Provisions of the Murgon, Nanango and Wondai Planning Schemes for development on land identified on the SMOA Maps are contained in the Codes for Special Management Overlay Areas (SMOAs). These Codes are included in Division 3 – Assessment Provisions for Special Management Overlay Areas (SMOA), Section 3.8 – Natural Features and Resource Overlay Code, Section 2(c) SMOA Map 2B – Natural Hazard Risk Management Areas – Possible Drainage or Flood Problem Areas.
- 5) Copies of SMOA Map 2B – Natural Hazard Risk Management Areas are attached for information. (Please refer to Figures 1-3).

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- 6) Assessable development on land that is identified on SMOA Map 2B that is subject to possible Drainage or Flood problems needs to meet the following specific outcomes:

Specific Outcomes:

"O7 Development on a possible drainage or flood problem area depicted on SMOA map 2B which would be placed at unacceptable risk from or is incompatible ^(footnote) with flooding, maintains the safety of people and minimises damage to property on the site by:

(1) avoiding areas shown as possible flood or drainage problem on SMOA map 2B;
or

(2) mitigating the risk through:

1. lot design and the siting of buildings and uses so:
 - i. efficient emergency access is optimised, and
 - ii. the number of people and properties at risk is minimised.

O8 Development on a possible drainage or flood problem area depicted on SMOA map 2B, is of a type and intensity ^(footnote) and is located and designed so that the hydrological regime of drainage or flood problem areas is not altered to the detriment of the following values related to the site and surrounds:

- (1) public safety,
- (2) the integrity of property including buildings, structures, plant, equipment and stock,
- (3) the operational efficiency of essential service infrastructure during and following an event,
- (4) flood storage and conveyancing capacity including static or dynamic loads,
- (5) depth, duration, velocity and warning times associated with flooding,
- (6) soil and bank stability,
- (7) hydraulic capacity and effective functions of watercourses and drainage lines,
- (8) access routes and emergency vehicle operations,
- (9) integrity of areas accommodating contaminants or hazardous materials,
- (10) the capacity to use land in the floodplain, and
- (11) downstream water quality.

O9 Community uses on a site shown as a possible drainage or flood problem area on SMOA map 2B are able to function effectively during and immediately after flood events."

The following footnote in the Planning Scheme in relation to the Specific Outcomes is noted:

"Development which is not compatible with the nature of a natural hazard is either:

- In the public interest,

- *Not catered to by another site which is suitable and available for the proposal, or*
- *Minimises adverse impacts from natural hazards and does not create an unacceptable risk to people and property.*

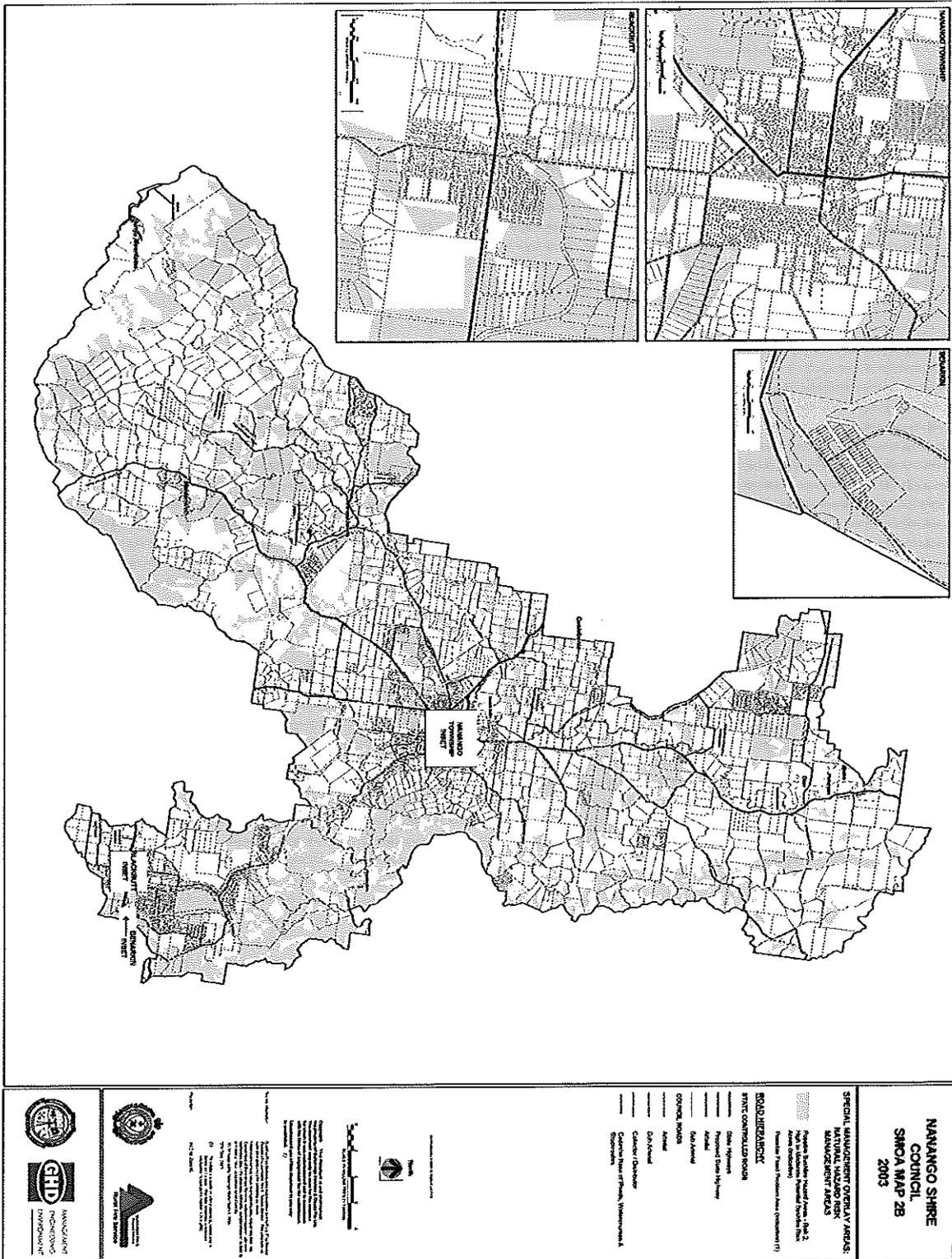
The parameters will be determined for assessable development in accordance with the State Planning Policy Guideline – Mitigation of Adverse Impacts of Flood, Bushfire and Landslide, Queensland Government, June, 2003."

The term *Community Use* includes the following defined uses in the planning schemes: child care centre, local utility, major utility, special use and telecommunications facility (medium impact).

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Figure 2 – SMOA 2B Natural Hazard Risk Management Areas (Nanango Shire IPA Planning Scheme)



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A description of how the natural hazard management area, as it relates to flood affected land, is reflected in the planning scheme.

- 7) Land that may be subject to possible flooding or drainage problems is identified on Special Management Overlay Maps (SMOA) 2B - Natural Hazard Risk Management Areas included in each former Shire Council Planning Scheme.(Refer Figures 1-3 as attached for Question 1).
- 8) Council's Planning Scheme contains Assessment Tables that set out the assessment categories for certain land uses within particular zones.
- 9) The codes nominated in the applicable Table of Assessment outline the assessment criteria for development.
- 10) The Figure below, demonstrates the triggers for a Dwelling House located in the Rural Zone of the Murgon Shire IPA Planning Scheme. Under the Table of Assessment the proposed dwelling house is within the Natural Hazard Risk Management Areas for the Byee-Wheatland Floodplain or the Rural Flood Areas shown on SMOA map 2B. Other land uses in the Rural Zone may be triggered in the Table of Assessment, however it may not necessarily be triggered by the Natural Hazard Risk Management Areas on SMOA Map 2B.

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Figure 4
Tables of Assessment Categories and Assessment Criteria – Murgon Shire Council

TABLE 3A - Material Change of Use ¹		
Column 1 Defined Use	Column 2 Assessment Category	Column 3 Assessment Criteria
(1) DEVELOPMENT FOR DEFINED USES AND USES CLASSES:		
(b) Residential Use Classes		
Annexed Unit: Bed and breakfast: Caretakers residence: Dwelling house:	Self assessable: All except if assessable as follows. Code assessable: If: (i) nominated as self assessable but unable to comply with an Acceptable Solution in the Applicable Codes; or (ii) on a lot over 5ha and for more than two (2) <i>Dwelling houses</i> (or more than a <i>Dwelling house</i> and a <i>Caretakers residence</i>); or (iii) on a lot of 5ha or less for a <i>Caretakers residence</i> ; or (iv) on a Cultural Heritage Site shown on SMOA map 2F; or (v) in a Mineral and Extractive Resources and Buffer Area shown on SMOA map 2A; or (vi) not for a <i>Dwelling House</i> and in an Environmental Management Area shown on SMOA map 2C for the: 1) Bjelke Peterson Dam – Declared Catchment, 2) Major Wetlands and Indicative 500 metre Buffer to Wetlands, or 3) Indicative Riparian Land 100 metre Buffer; or (vii) in the Open Space preferred land use area; or (viii) in the 500 metre buffer area to the boundary to a <i>Major utility</i> premises shown on SMOA map 2E; or	Applicable Codes: <i>For self assessable development:</i> (xvi) For a Dwelling House: <ul style="list-style-type: none"> ▪ Dwelling House, Annexed Unit and Caretakers Residence Code - Elements (a), (c), (e) and (g). (xvii) For a Caretakers Residence: <ul style="list-style-type: none"> ▪ Dwelling House, Annexed Unit and Caretakers Residence Code - Elements (a), (c), (e), (f) and (g). (xviii) For an Annexed Unit: <ul style="list-style-type: none"> ▪ Dwelling House, Annexed Unit and Caretakers Residence Code - Elements (a), (c), (d), (e) and (g). (xix) For a Bed and Breakfast: <ul style="list-style-type: none"> ▪ Bed and Breakfast and Small Scale Tourist Facility Code. (xx) If in a SMOA on SMOA map 2B showing bushfire areas: <ul style="list-style-type: none"> ▪ Natural Features and Resources Overlay Code – Element (b)(ii) (xxi) If in a SMOA on SMOA map 2D: <ul style="list-style-type: none"> ▪ Natural Features and Resources Overlay Code – Elements (g)(ii) and (iii). <i>For assessable development:</i> <ul style="list-style-type: none"> ▪ Use Codes nominated

¹ Uses proposed on State lands must be consistent with the purpose for which the land was allocated under the *Land Act, 1994*. Consult with Department of Natural Resources and Mines.

TABLE 3A - Material Change of Use ¹		
Column 1 Defined Use	Column 2 Assessment Category	Column 3 Assessment Criteria
<p>NOTE:</p> <p><i>Uses for:</i></p> <ul style="list-style-type: none"> ▪ Annexed unit and Dwelling house in the Open Space preferred land use area; or ▪ If on a lot created under section 3.2.2 (2)(b) S3.2(2) or (3) of the planning scheme; <p>are inconsistent uses (refer SO2 in 3.2.2)</p>	<p>(ix) on premises listed in Schedule 5.</p> <p>or</p> <p>(x) if a lot created under section 3.2.2 (2), (b), S3.2, (2) or (3)</p> <p>Impact assessable:</p> <p>If:</p> <p>(xi) on a lot less than 2000m²;</p> <p>or</p> <p>(xii) on a lot of 5ha or less and for more than one (1) <i>Dwelling house</i> (or a <i>Dwelling house</i> and a <i>Caretakers residence</i>);</p> <p>or</p> <p>(xiii) in the 1km buffer area to the boundary to an <i>Intensive animal husbandry</i> premises shown on SMOA map 2D(i);</p> <p>or</p> <p>(xiv) in the 200 metre buffer to land in the Industrial zone shown on SMOA map 2D(i);</p> <p>or</p> <p>(xv) in the Natural Hazard Risk Management Areas for the Byee-Wheatland Floodplain or the Rural Flood Areas shown on SMOA map 2B.</p>	<p>above; and</p> <ul style="list-style-type: none"> ▪ Rural Locality Code – Elements (a), (c)(iii) to (vi) and (g); <p>AND</p> <p><i>For assessable development:</i></p> <p>(xxii) If in a SMOA on SMOA maps 2A to 2D(i) inclusive:</p> <ul style="list-style-type: none"> ▪ Natural Features and Resources Overlay Code <p>(xxiii) If in a SMOA on SMOA map 2E:</p> <ul style="list-style-type: none"> ▪ Community Facility Overlay Code <p>(xxiv) If in a SMOA on SMOA map 2F:</p> <ul style="list-style-type: none"> ▪ Cultural Features Overlay Code

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Details of Council's defined flood event including a description of:

- (a) *how the defined flood event was chosen*
- (b) *the way in which the Council's defined flood event was calculated or determined.*

11) I have no knowledge of how this was determined at the time the Planning Schemes were drafted. A separate response by Council's Director Infrastructure is required.

A description of any planning requirements to have evacuation routes and/or early warning systems for areas identified to be at high risk of flooding, including information about how the existence of such evacuation routes and/or early warning systems are communicated to the occupiers of areas at high risk of flooding.

12) Specific Outcomes O7 and O8 referred to in A1 above requires development on a site identified under SMOA Map 2B to maintain the safety of people and minimise damage to property by mitigating the risk through lot design and the siting of buildings and uses so efficient emergency access is optimised. Specific Outcome O8 further refers to avoiding alterations to the hydrological regime of drainage or flood problem areas to the detriment of access routes and emergency vehicle operation.

13) I have no knowledge of information in the planning schemes or any other document that identifies evacuation routes and/or early warning systems. The existence of evacuation routes and /or early warning systems can therefore not be communicated to occupiers in areas at high risk of flooding.

A description of any controls or standards used to assess the storage of chemicals, or other Environmentally Relevant Activities below the Q100 flood line or the Council's defined flood event.

14) I do not possess direct knowledge about the storage of chemicals and the assessment of Environmentally Relevant Activities as this is the responsibility of the Manager of Environmental Health.

15) However, I have held discussions with the Manager about Council's processes and have been advised as follows:

"There are no specific flood controls or standards as part of the Environmental Health assessment when considering an application for an Environmentally Relevant Activity (ERA) that I am aware of. It is my understanding that the Q100 aspects are taking into account by Town Planning or Engineering as part of their assessment protocols. However, generally speaking the impact of stormwater and surface waters are taken into consideration when assessing the application. This should include what would or could be the impact in a flood situation, particularly if there is a creek, stream, river, etc. close by. The primary focus though is on the activity and what its impact on the surrounding environment or human population might be. Obviously if the activity is in a low lying area that was subject to flooding then the Q would be asked

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in the event of a flood what would be the impact of this activity on the environment and or the human population. But as such there is no formal independent process within Council's ERA approval process for assessing against a Q100."

A description of any conditions imposed by Council on the approval of development applications to ensure that hazardous materials affected by flood water do not affect public safety and/or the environment.

16) I do not possess direct knowledge about the storage of chemicals and the assessment of Environmentally Relevant Activities as this is the responsibility of Manager of Environmental Health.

17) However, I have held discussions with the Manager about Council's processes and have been advised as follows:

"I am not aware of any such specific flood condition. However, the ERA conditions are normally rather general in order to cover a range of potential situations – anticipated and those not. For example, No contaminated stormwater or liquid is permitted to be released off site to the environment. This would therefore accommodate any liquid generated on site as a result of the activity or for that matter if there was a flood and flood water entered into a hazardous materials storage area where it became contaminated. The registration holder would then be obliged to control that potentially contaminated liquid from ordinarily leaving the site. Most hazardous materials storage areas are required to be bunded (Australian Standard). This bund would effectively work in the first instance to keep floodwater out that may have gained access to the property. If it did breach the bund and the bund was contaminated with some residual hazardous materials product then the contaminated floodwater may well be contained and then pumped out and disposed of accordingly. If the bund area was clean then after the flood the valve could be opened and the non contaminated flood water released."

A description of how levee banks are regulated in the Council area using specific examples.

18) There are no requirements under Council's Planning Schemes for the regulation of levee banks. Otherwise, I do not possess direct knowledge about the regulation of levee banks as this is the responsibility of Council's Director of Infrastructure.

19) However, I have held discussions with the Director about Council's processes and have been advised as follows:

The Murgon Shire Council was one of the four former Shire Councils that merged on 15 March 2008 to form the South Burnett Regional Council. Local Laws for each of the four former Shires continue in place at this time and consequently the Murgon Shire Council Local Law 24 is still applicable in the northern area of our region formerly covered by that Council.

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Council does not have any records of levee banks installed within its region and that levee banks were not generally used in the region to contain stormwater flows.

A description of the measures used by Council to protect Council infrastructure (sewers, roads, stormwater etc) and to ensure such infrastructure functions during a defined flood event.

20) As previously noted in paragraph 5), Specific Outcome O9 requires Community Uses on a site shown as a possible drainage or flood problem area on SMOA Map 2B to be able to function effectively during and immediately after flood events. The term *Community Uses* includes the following defined uses in the planning schemes: child care centre, local utility, major utility, special use and telecommunications facility (medium impact). The definitions for those uses cover most items of Council infrastructure. Accordingly, where a development application is required to establish such a use, the functionality of the infrastructure during and immediately after flood events will be considered as part of the assessment process for the development application. Otherwise, I do not possess direct knowledge about the measures used by Council to protect Council infrastructure as this is the responsibility of Council's Director of Infrastructure.

21) However, I have held discussions with the Director about Council's processes and have been advised as follows:

The design and construction of this infrastructure is undertaken by Council's Engineering staff in accordance with the most recent versions of Queensland Urban Drainage Manual, Austroads Standards and Main Roads Standards. In particular the Queensland Urban Drainage Manual Volumes 1&2 (second editions), the Austroads Guide to Road design-Part 5 Drainage Design, and the Queensland Urban Road Design Volume 2.

Sworn by Hendrik Christian (Chris) du Plessis at KINGAROOY this 6TH day of October 2011 in the presence of:

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Dependent

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Solicitor / Justice of the Peace
Comm. Dec.

