

Queensland Floods Commission of Inquiry

Further Submission by the Ipswich City Council

28 April 2011

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1. Executive Summary and Conclusions

- 1.1 The Ipswich City Council (**Council**) in this submission has highlighted the following key points in relation to the development of its local government planning and development assessment frameworks and the integration into those frameworks of flooding assessment criteria.

Historical Context

- 1.2 The land use planning frameworks under which local government planning and development assessment occurs have evolved over time. Under the Integrated Planning Act 1997 (**IPA**) and now the Sustainable Planning Act 2009 (**SPA**) a comprehensive and integrated land use planning system has developed. The current planning framework is a more directory and codified system for land use planning and development assessment as compared to that which existed under the Local Government Act 1936 (**LG Act 1936**) and the subsequent Local Government (Planning and Environment) Act 1990 (**LGPE Act**) under which the early Ipswich town planning schemes were first developed.
- 1.3 IPA introduced performance based planning and multiple criteria that must be addressed in both plan making and during development assessment. SPA has then increased the range of considerations that must be complied with in planning schemes and during development assessment and introduced a hierarchy of State planning instruments. The implementation of these statutory requirements means that the current system for land use planning by local governments is sophisticated and complex. Planning schemes need to give guidance about a range of ecological, economic and social factors, land use allocations, infrastructure and community expectations, but they do not necessarily provide a policy hierarchy for their application. As a consequence there will often be competing objectives that need to be balanced in preparing planning schemes and undertaking development assessments.
- 1.4 Given the evolution of this statutory planning and development assessment framework, the planning scheme provisions for the City of Ipswich in terms of flooding criteria have developed in the context of:
- (a) the City's geography and history. Ipswich, as Queensland's oldest provincial City developed an early settlement pattern around the Bremer River and its tributaries;
 - (b) the limited State policies or available modelling tools to guide flooding controls. It was only in 2003 that the State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide (SPP 1/03) was issued;

- (c) advice from expert flood consultants to the Ipswich Rivers Improvement Trust and Council on the appropriate flood levels for town planning purposes;
- (d) the requirement in the State legislation (LG Act 1936, the LGPE Act, IPA and SPA) to provide statutory protection of existing use rights in the planning scheme, which historically prevented in practical terms the introduction of planning controls to remove or interfere with existing land use and approvals;
- (e) the extent of development constraints in Ipswich where some 936 km² or 86% of the Ipswich local government area is affected by some form of identified development constraint. These constraints range from topography (steep land), land affected by mining, water supply catchments, buffers to infrastructure, areas impacted by defence facilities and flooding. In most cases these constraints can be ameliorated through an appropriate design response;
- (f) statutory exposure of the Council to compensation for injurious affection if development entitlements were reduced by a planning scheme change;
- (g) the need to provide housing affordability and diversity;
- (h) consideration of economic and social impacts;
- (i) the need to manage population growth pressures given the proximity of Ipswich to Brisbane and to transition the City from a rural and mining economy to a manufacturing and business base. The current population of the City of Ipswich LGA is approximately 170,000. The current South East Queensland Regional Plan 2009-2031 (**SEQRP 2031**) population growth target for the City of Ipswich by 2031 is 435,000. This growth target has been considerably increased as compared to the previous South East Queensland Regional Plan 2005-2026 (**SEQRP 2026**) which stated a population target for the City of Ipswich of 318,000 by the Year 2026. The current planning scheme for the City of Ipswich is capable of accommodating 538,000 residents within approximately 246 km² of designated urban areas (representing 23% of the relevant local government land area);
- (j) the Queensland Government SEQRP 2031, which identifies the City of Ipswich as a major area for future urban development and as a primary part of the overall solution for housing and population growth within South-East Queensland. The SEQRP 2031 anticipates that the Ipswich CBD as the historic centre for commerce is also strategically located to function as the principal administrative, cultural and community centre for the City of Ipswich and its surrounding areas. The SEQRP

2031 envisages that Goodna will become a major activity centre to complement the principal Regional Activity Centres of Ipswich and Springfield which will have a subregional business service and retail function. The current Ipswich planning scheme also supports around 335,000 jobs in designated centres and in the order of 100 km² of regionally significant business and industry land (representing 9% of the Ipswich local government land area);

- (k) the statutory requirement on the City of Ipswich to implement the South East Queensland Regional Plan through its planning scheme;
- (l) community needs and expectations. Balanced planning outcomes are often challenged by communities who are resistant to change and protective of neighbourhood amenity; and
- (m) the development approval requirements of the State planning legislation, as currently reflected in SPA.

Council's Current Planning Scheme

- 1.5 The Council's current planning scheme implements development controls for the defined flood levels of a Q20 flood and a Q100 flood. The Q100 flood line reflects the expert flood modelling advice which has been provided to the Council with further refinements to reflect the more detailed flood information that has been made available to Council through development application processes. The Q20 development line is based on a long standing flood regulation line which was established in the 1976 Town Planning Scheme for the former City of Ipswich.
- 1.6 Whilst the Council's planning scheme cannot prohibit development within these flood lines, it discourages any intensification of residential development below the flood lines and for non residential development encourages the design and layout of buildings for parking or other low intensity non habitable uses at ground level so that any non-residential buildings are located and designed to avoid areas of significant flood flows and damage from flooding. Both the 2004 Ipswich Planning Scheme and the 2006 Ipswich Planning Scheme were accepted by the Minister for Local Government and Planning as meeting the requirements of State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide (SPP1/03).

Council's Response to the 2011 Flood Event and Review of Planning Approach to Flood Regulation

- 1.7 A simplistic approach to the setting of flood regulation lines and associated building floor heights can lead to inappropriate planning outcomes when applied in practice, particularly

within large complex existing urban areas. Provision will need to be made for existing uses and development commitments. Whilst raising building heights might improve flood immunity, in a commercial area it can create additional challenges and undesirable planning outcomes, with no active street front amenity and areas that do not meet crime prevention design principles.

- 1.8 The 2011 flood event involved a unique combination of unusual circumstances, including where the nature and extent of the flood event may have been exacerbated or contributed to by an element, namely the release of waters from the Wivenhoe Dam. As Council does not presently know the extent to which this factor aggravated the flood event within the Ipswich region, caution needs to be exercised in terms of future planning based only on the 2011 flood event, as it seems clear on the available evidence that the flood event had its own peculiarities and was certainly a different flood event to the 1974 event.
- 1.9 Until the impact of the Wivenhoe Dam releases on the 2011 flood event is known and understood, it is difficult to make any reliable final decisions as to important planning matters in response to the 2011 flood event such as the possible development of new flood regulation lines. Changes to the location of flood regulation lines in planning instruments will have consequential impacts, including impacts on property values, development costs to ameliorate potential flood impacts, potential sterilisation of land and impacts on the location of land uses. For that reason the Council is keen to more fully understand the January 2011 flood event and the reasons for its cause before it makes permanent changes to the planning instruments.
- 1.10 For this reason, the Council is looking to the Commission of Inquiry and to the outcome of hydro-dynamic studies undertaken subsequent to the 2011 flood event to assist in establishing what was the effect of the January 2011 Wivenhoe Dam releases. The Council sees this as a valuable input as to how Council will address flood issues in its town planning.
- 1.11 Early in the recovery phase for the 2011 flood event, Council developed a Flood Recovery Assistance Package to reduce planning approval "red tape" and fees to assist the flood recovery for residents, businesses and other land users. Council also undertook a strategic planning analysis of the main flood affected urban areas between Amberley and Gales, to collate information that would be used to develop Council's town planning response to the 2011 flood event. In addition, the Council has also engaged an independent hydrologist to provide further advice on flood impact issues.
- 1.12 Council has also supplemented the "standard approach" to Disaster Recovery through the addition of a Forward Planning Sub Group. The main focus of the Forward Planning Sub Group is to *"coordinate the development and implementation of recommendations to improve*

the preparation and planning for future flood threats and risks, particularly where they relate to land use planning and development activities.” Thus far, the Forward Planning Sub Group has focussed on:

- (a) preparing a proposed Temporary Local Planning Instrument with enhanced flood regulation controls (see Schedule 7);
- (b) considering an initial strategic planning flooding impact analysis to inform a planning response;
- (c) obtaining accurate mapping of the extent and depth of the January 2011 flood event; and
- (d) commissioning a preliminary engineering feasibility study for physical works such as flood gates and levy banks in targeted areas.

1.13 The Council proposes the following steps for the review of its planning approach to flood regulation:

- (a) it proposes a Temporary Local Planning Instrument (**TLPI**) as soon as possible, which will ensure that all new dwellings on flood affected land will require planning approval. Business users will be able to make an informed choice on the level of flood immunity (based on existing zoning and development commitments and how to minimise flood impacts). The flood level used for the proposed TLPI will be the greater of the Q100, 1974 flood level or the 2011 flood event. As the proposed TLPI will only apply for a period of 12 months from when the TLPI is made, more permanent amendments to the Planning Scheme to reflect elements of the TLPI will in all likelihood be required. The proposed TLPI was approved by Council on 15 April 2011 and will be submitted to the Minister for Local Government and Planning for approval in the near future;
- (b) Council may need to consider further amendments to the planning scheme, as a consequence of the outcome of the Floods Commission of Inquiry. The next major statutory review of the Ipswich town planning scheme is due to commence after 2012; and
- (c) when there is sufficient clarity in terms of outcomes and recommendations from this Commission of Inquiry and any review of SPP 1/03 is undertaken (if required) a new flood study may then be undertaken by the Council to develop any new flood regulation lines.

- 1.14 Whilst the ultimate findings of this Commission of Inquiry will not affect the Council's present intention to put in place an interim TLPI, they may in due course affect the nature of the Council's long term approach to planning issues. The findings of this Commission of Inquiry may lead to a review by the Council of its defined flood levels and the use of same during its development assessment processes.

2. Introduction

2.1 Clause 2(g) of the Commissions of Inquiry Order (No. 1) 2011 (**Order**) directs the Commissioner to make full and careful inquiry with respect to:

"(g) all aspects of land use planning through local and regional planning systems to minimize infrastructure and property impacts from floods."

2.2 In doing so, clause 2(g) of the Order identifies as the relevant touchstone, those aspects of land use planning which seek to minimize infrastructure and property impacts from floods. This is the relevant land planning that is referable to local and regional planning systems.

2.3 Therefore, the starting point of any analysis in terms of clause 2(g) of the Order is the identification of the relevant local and regional planning systems. Clause 2(g) of the Order does not expressly identify the relevant period that is to be considered.

2.4 These submissions therefore focus on a consideration of the local and regional planning systems that were in force within the current Ipswich City Council area prior to the 1974 flood event and then through to the 2011 flood event. The 1974 flood event has been selected as a relevant reference point, as it was the most recent major flood event (apart from the 2011 flood event) experienced within the City of Ipswich.

2.5 In responding to clause 2(g) of the Order, these submissions will address the following aspects of land use planning over four distinct periods being:

- (a) pre 1974 flood event;
- (b) 1974 to 1995;
- (c) 1995 Ipswich City Council amalgamation to 2004; and
- (d) 2005 to current.

In respect of these various timeframes, a range of land use planning issues will be considered including:

- (a) the legislative framework;
- (b) State planning instruments (these include regional plans, state planning policies, relevant guidelines and the South East Queensland Infrastructure Plan);
- (c) local planning instruments (including relevant flood studies which also informed these instruments);

- (d) development applications, assessment and approval processes;
- (e) delivery of infrastructure; and
- (f) other general matters.

2.6 By way of general background, the current primary State legislation establishing Queensland's land use planning and development assessment regulatory framework is SPA. Amongst other things, SPA (as did the earlier legislation regulating land use planning and development¹) establishes a framework by which the State manages land use planning and development, as well as the jurisdiction for local governments to manage land use planning and development within their local government areas.

2.7 Under SPA, State planning instruments are used to articulate the State Government's position on planning and development related issues of State interest. The four types of State planning instruments are, in order of hierarchy:

- (a) State Planning Regulatory Provisions;
- (b) Regional Plans;
- (c) State Planning Policies; and
- (d) Queensland Planning Provisions.

2.8 Each State planning instrument plays a different role and is designed to serve a different purpose. For example, Regional Plans relate to specific regions and are intended as a high level integrated and spatial expression of State strategic policy in those regions, whereas State Planning Policies relate to specific State interests, such as SPP 1/03 Mitigating the Adverse Impacts of Flood, Bushfire and Landslide. State planning instruments are the only way of expressing State interests in relation to development assessment planning matters.

2.9 Local planning instruments include a local government's planning scheme, a temporary local planning instrument and planning scheme policies. Whether or not development requires approval will be specified either in the planning scheme for the local government or in SPA. SPA (as did IPA and the earlier legislation to varying degrees) sets out the process by which a local government can make or amend a planning scheme for its local government area and specifies the key concepts which must be addressed in planning schemes. Among other things,

¹ Namely, the Integrated Planning Act 1997 (repealed), the Local Government (Planning and Environment) Act 1990 (repealed) and the Local Government Act 1936 (repealed).

local governments must ensure their planning schemes coordinate and integrate core matters, including any State and regional dimensions of these matters contained within, for example, a Regional Plan or in a State Planning Policy. Core matters include such things as:

- (a) infrastructure (including the extent and location of proposed infrastructure having regard to existing networks and their capacity and threshold for augmentation);
- (b) land use and development (including the location of and relationships between various land uses, the effects of land use and development, accessibility to areas and, relevantly, development constraints); and
- (c) valuable features (including resources or areas that are of ecological significance, areas contributing significantly to amenity, areas or places of cultural heritage significance and resources or areas of economic value).

2.10 Local planning instruments must be consistent with the State planning instruments.

2.11 The terms Q20 and Q100 are referred to in this submission. It is noted in that regard that floods are usually described in terms of their statistical frequency. Average recurrence interval (**ARI**) or annual exceedance probabilities (**AEP**) are the statistical benchmarks used for flood comparison. ARI is the average value of the number of years between exceedances of flood events of a given magnitude (gauge height or discharge volume). AEP is the probability of a flood event of a given magnitude being equalled or exceeded in any one year.

2.12 A "1 in 100-year flood" or a "Q100" flood or flood line describes an event or an area subject to a 1% probability of a certain size flood occurring in any given year (that is, a 1% AEP). A common misconception is that a Q100 flood will only occur once in one hundred years. Whether or not it occurs in a given year has no bearing on the fact that there is still a 1% chance of a similar occurrence in the following year. Since floodplains can be mapped, the boundary of the Q100 is commonly used in floodplain mitigation programs to identify areas where the risk of flooding is significant. Any other statistical frequency of a flood event may be chosen depending on the degree of risk that is selected for evaluation, for example, Q5, Q20, Q50, Q500.

3. Pre 1974 Flood Event - Legislative Framework

- 3.1 The LG Act 1936 which is now repealed was the operative legislation that governed land use planning in Ipswich from 1 January 1937 until the legislation's repeal on 7 December 1993. The analysis set out below considers the LG Act 1936 as it was in force at 1974.
- 3.2 The LG Act 1936 authorised local authorities to prepare a town planning scheme and it then set out how that scheme was to be prepared. The town planning scheme was ultimately to be approved by the Governor-in-Council. A local authority was then responsible for the administration, implementation and enforcement of its planning scheme.² A summary of the legislative framework for land use planning under the LG Act 1936 is set out in more detail in Schedule 1. While the LG Act 1936 provided the process for the preparation of town planning schemes by local authorities within their local government areas, it did not provide any specification on the required content of such planning schemes.³
- 3.3 The LG Act 1936 specifically protected existing lawful uses by providing that "*where there is in an area a use of land or of any improvements on land that is a lawful use*" on the date a town planning scheme or amendment is approved, "*that use shall continue to be lawful notwithstanding any provision of the scheme.*"⁴

² Section 33(4) of LG Act 1936.

³ Section 33(2) of LG Act 1936.

⁴ Section 33(1A) of LG Act 1936.

4. Pre 1974 Flood Event - State Planning Instruments

During this period there were no relevant State planning instruments which related to flooding issues in land use planning. The Standard Sewerage By-Laws made under the Sewerage and Water Supply Act 1949 contained specific requirements for house drainage systems. Section 53 of the Standard Sewerage By-Laws provided that where any premises was subject to flooding, the tops of all fittings and fixtures installed on such premises were not to be placed at a reduced level than was fixed by Council unless otherwise approved.

5. Pre 1974 Flood Event - Local Planning Instruments

Former City of Ipswich

- 5.1 The first subdivision layout for Central Ipswich (including the current Ipswich CBD) was produced by surveyor Henry Wade when the area was first opened to "free" settlement in 1842. Prior to that time, the area was used as a small outpost of the Brisbane Penal Colony after Captain Patrick Logan navigated the Bremer River in 1827.
- 5.2 Early subdivisions also occurred around river landing points and various agricultural, mining and other business enterprises at Bundamba, Redbank and Goodna. The early 19th Century settlements tended to favour locations near rivers and creeks as those areas provided access to both water supply and early transport routes. The Ipswich Town Centre originally was developed as an important river port.
- 5.3 The original City of Ipswich encompassed a relatively small area from West Ipswich, east to Bundamba Creek. None of the former planning schemes for this area (1949, 1953 and 1957) contained any flood regulation provisions. However, the 1949 planning scheme did reflect on flood issues and made some recommendations as to what should be required before a subdivision should be approved and spoke about the local and regional measures which might be taken to prevent flooding. In the 1960s, the City of Ipswich expanded west to Wulkuraka (including the former Shire of Brassall) and east to Goodna/Gailes (including the former Shire of Bundamba). In 1967, development within these expanded areas came under the control of an "interim development" By-Law, but again there was no designated flood regulation line.

Former Moreton Shire

- 5.4 Early planning instruments for the former Moreton Shire being the 1961 Subdivision of Land By-Law, 1973 Interim Development Order and the 1974 Planning Scheme did not contain any flood regulation or associated development control lines.

6. Post 1974 to 1995 - Legislative Framework

- 6.1 The LG Act 1936 remained the relevant legislative framework for land use planning until commencement of the LGPE Act on 15 April 1991.
- 6.2 The LG Act 1936 also specified the types of development applications that could be made to a local authority being an application for subdivision or to use land or a building or structure. The LG Act 1936 indicated that a local authority could refuse an application made to it, approve the application or approve the application subject to conditions. A decision of the local authority in respect of a development application could be appealed to the Court.⁵
- 6.3 In approving an application for subdivision, the local authority was required to take into account and consider a number of matters, including "*whether land or any part thereof is low-lying so as not to be reasonably capable of being drained, or is not fit to be used for residential purposes.*"⁶
- 6.4 Further, a local authority, when considering an application for approval, consent, permission or authority for the implementation of a proposal under the LG Act 1936 (or another Act) was required to take into consideration whether any deleterious effect on the environment would be occasioned by the implementation of the proposal.⁷ It should be noted that the effect on the "environment" for the purposes of s.32A of the LG Act 1936 was a much more limited concept and related general town planning principles to the "environment" in the sense of the physical or terrestrial region surrounding the relevant application (for example, "*whether a projected development may pollute the air by the emission of noxious vapours; or the rivers or the sea by the emission of poisonous fluids; or the soil and the forests by similar insults...[or] the likelihood that significant tracts of forest may be felled to make room for the development or that open-cut mining may alter the balance of the terrestrial environment*"); it did not require regard to be had to "*the well being of a particular species.*"⁸
- 6.5 In 1975, the LG Act 1936 was amended to allow applications to be made to the local authority for rezoning of land. The LG Act 1936 set out relevant matters to be considered by the local authority on a rezoning application. These considerations included, amongst other things, "*the balance of zones*", "*whether the land or any part thereof is low-lying or subject to flooding so*

⁵ Section 33(15) of LG Act 1936.

⁶ Section 34(12)(g) of LG Act 1936.

⁷ Section 32A of LG Act 1936.

⁸ *Murphy v The Crown* (1989) 68 LGRA 286 at 293-294.

as to be unsuitable for use for all or any of the uses permissible with or without the consent of the Local Authority in the existing zone and the proposed zone" and whether the rezoning would be contrary to Council policies.⁹

6.6 The LGPE Act provided for the preparation by local authorities of planning schemes for their local authority areas.¹⁰ A summary of the legislative framework for land use planning under the LGPE Act is set out in Schedule 1. Under the LGPE Act a planning scheme was required to consist of:

- (a) planning scheme provisions for the regulation, implementation and administration of the planning scheme;
- (b) zoning maps and any regulatory maps;
- (c) a strategic plan;
- (d) a development control plan (if any); and
- (e) any amendment approved by the Governor in Council in respect of the planning scheme.¹¹

6.7 Under the LGPE Act, development applications were to be assessed against a planning scheme for the relevant local authority, which could then provide that development required town planning consent or subdivisional consent. The LGPE Act also enabled applications for rezoning.¹² Relevantly, in considering an application to amend a planning scheme or the conditions attached to an amendment of a planning scheme, the LGPE Act provided that a local authority was to consider, amongst other things, "*the balance of zones*" and the need for the rezoning, planning amenity matters, "*whether the land or any part thereof is so low-lying or so subject to inundation as to be unsuitable for use for all or any of the uses permitted or permissible in the zone in which the land is proposed to be included*" and the impact on the environment.

6.8 There were no relevant considerations set out in the LGPE Act for decision making on an application for town planning consent other than, that the application ought be refused if it

⁹ Section 33. 6A of LG Act 1936.

¹⁰ Section 2.10 of LGPE Act.

¹¹ Section 2.1 of LGPE Act.

¹² Section 4.3(1) of LGPE Act.

conflicted with the strategic plan or a development control plan and there were no sufficient planning reasons to justify approval despite the conflict.¹³

6.9 An application could also be made to the local authority to subdivide land.¹⁴ In considering the application to subdivide land the local authority was required to take a number of factors into consideration including:

- (a) whether any of the proposed allotments would be unsuitable for use because of existing or possible inundation, subsidence, slope or erosion;
- (b) the impact on the environment;
- (c) the proposed method of disposal of drainage and whether this would have a detrimental effect upon neighbouring lands; and
- (d) whether kerbing and channelling should be provided.¹⁵

6.10 The LGPE Act protected existing lawful uses. Section 3.1 of LGPE Act provided that a lawful use made of premises, immediately prior to the day when a planning scheme or amendment commenced to apply to the premises, was to continue to be a lawful use of the premises for so long as the premises were so used notwithstanding any contrary provision of the planning scheme or that the use was a prohibited use.

¹³ Section 4.13 of LGPE Act.

¹⁴ Section 5.1(1) of LGPE Act.

¹⁵ Section 5.1(3) of LGPE Act.

7. Post 1974 to 1995 - State Planning Instruments

7.1 During this period, whilst there were no statutory State planning instruments which related to flooding issues in land use planning, there were a number of non statutory documents which provided guidance on some specific planning issues and which were considered during the planning scheme development of both the former Ipswich City and Moreton Shire. These relevantly included:

- (a) the Australian Model Code for Residential Development (**AMCORD**) Edition 1, which was launched in August 1989 and which established principles and techniques for residential development at the national level. Edition 2 of AMCORD which was launched in November 1990, refined some of the issues that had been addressed in Edition 1. AMCORD has been updated several times since this time. AMCORD addressed such key issues as lot size and orientation, building siting, streetscape, transport and drainage networks, amongst a number of other matters. As a Model Code, the adoption of AMCORD at a State or local level was entirely voluntary; and
- (b) the Queensland Urban Drainage Manual (**QUDM**) which was first published in 1992. The purpose of the QUDM, which deals primarily with the hydrology/hydraulics of drainage systems, was to provide local governments and stormwater professionals with a standardised approach to planning and designing urban stormwater drainage. The QUDM traditionally dealt with passing run-off through and away from urbanised areas to meet flood mitigation, public safety and convenience objectives. The QUDM was prepared by the Queensland Department of Primary Industries (Water Resources), the Institute of Municipal Engineering Australia (Queensland Division) and the Brisbane City Council.

8. Post 1974 to 1995 - Local Planning Instruments of the Former City of Ipswich

- 8.1 Whilst not a statutory document, the former City of Ipswich produced a Statement of Policy 1975-1985 wherein the Council set out its policy position for future planning and in particular how planning would seek to accommodate population growth pressures for a predicted population growth to 120,000 persons in 1985, the increasing importance of Ipswich City to the wider Moreton Region and particularly in terms of its planning control system. The Statement of Policy noted that it was not considered feasible for Ipswich, with its small land area to permanently retain any significant rural areas and as a result the amount of rural land would diminish. This land consisted mainly of vacant undeveloped land. A copy of this Statement of Policy is attached in Schedule 2.
- 8.2 The first flood regulation line for the former City of Ipswich was introduced as part of the Town-Planning Scheme for the City of Ipswich which was then approved by the Deputy Governor on 8 July 1976 (**1976 Scheme**). This planning scheme replaced the previous planning scheme dated 19 December 1957.
- 8.3 In a planning context, the concept of a flood regulation line is used to assess development that could be adversely affected by river or creek inundation. This is to be compared to a stormwater flow path or more localised drainage problem areas that may also be affected by drainage problems during storm events. In development assessment, the Council will consider the impacts from both flooding and stormwater drainage.
- 8.4 The 1976 Scheme divided the City of Ipswich into zones which were identified on scheme maps.¹⁶ With respect to each zone, the 1976 Scheme then identified the purposes for which development might be permitted without the consent of the Council, be permitted only with the consent of the Council and the development that would not be permitted.¹⁷ Existing lawful uses were allowed to continue, subject to any conditions that might be applied if changes or additions were proposed.¹⁸

¹⁶ Part 2, Division 2A of the 1976 Scheme. The zones were Rural, Residential 1 (Single Family Detached), Residential 2 (Medium Density), Residential 3 (High Density), Residential 4 (High Density - High Rise), Local Commercial, Central Commercial 1, Central Commercial 2, Service Industry, Light Industry, General Industry, Hazardous, Noxious or Offensive Industry, Extractive Industry, Public Open Space, Private Recreation, Special purpose.

¹⁷ Part 2, Division 2A, section 17 of the 1976 Scheme.

¹⁸ Part 2, Division 3A of the 1976 Scheme.

- 8.5 Various by-laws were also approved at the same time when the 1976 Scheme was approved. These by-laws set out the procedures for implementing the 1976 Scheme and included By-Law 30 (town planning), By-Law 6 (subdivision of land) and of particular relevance to flooding issues By-Law 37 (drainage and drainage problem areas) (**By-Law 37**).
- 8.6 By-Law 37 enabled land to be declared by the Council to be a drainage problem area if in the opinion of the Council, any land was so low-lying or so affected, whether frequently or infrequently by floods, or if the land formed part of an area which was so difficult or expensive to drain, that it was undesirable that any, or any further development for any purpose should take place thereon without the permission of the Council.¹⁹ Where a drainage problem area was declared, section 4 of By-Law 37 operated to prohibit the erection, rebuilding or enlarging of buildings, change of use of buildings or any other development except with the written permission of the Council.
- 8.7 The flood regulation line which is referenced in the 1976 Scheme and the declared drainage problem area under By-Law 37 was in both instances the Q20 flood line as depicted on the 1976 Ipswich City Council Works Department Drainage Problem Area mapping.
- 8.8 The 1976 Scheme and By-Law 37 do not specifically refer to the 1974 flood. The 1974 flood impacted approximately 35% of the then City of Ipswich area.²⁰ See the attached plan in Schedule 3. This represented a significant proportion of the City of Ipswich area and its potential "urban footprint", particularly as the area of the City of Ipswich at that time was only 121 km² in size. By comparison, the Q20 flood line affected only approximately 14% of the then City of Ipswich area. At the time the City of Ipswich adopted the Q20 flood regulation line, whereas the Shire of Moreton adopted a flood regulation line based on the maximum known flood level. The Shire of Moreton was then mainly a rural Shire, whilst the City of Ipswich was somewhat land constrained and was mainly an urban area. As noted in the Statement of Policy 1975-1985, there were considerable growth pressures that would have made it impractical to retain vacant undeveloped land within the former City of Ipswich.
- 8.9 On 7 October 1989, the town planning scheme for the City of Ipswich (**1989 Scheme**) together with By-Law 6 (subdivision of land) and By-Law 30 (town planning) replaced the 1976 Scheme.
- 8.10 As was the case with the earlier 1976 Scheme, the 1989 Scheme applied planning controls through the designation of zones and identified purposes within zones which then later

¹⁹ Section 2 of By-Law 37.

²⁰ GIS mapping prepared by the Planning and Development GIS officer of Council.

required town planning consent or which were prohibited. Existing lawful uses were allowed to continue, subject to conditions should changes or additions be proposed consistent with the statutory protection given to existing use rights under both the LG Act 1936 and the LGPE Act.²¹ Additionally, Part 5 of the 1989 Scheme introduced the concept of a Strategic Plan and Development Control Plans and required that the Council apply the relevant provisions of these plans when deciding development applications under the town planning scheme. The Strategic Plan set out the preferred dominant land uses and identified the Council's goals and objectives for the future.

- 8.11 The 1989 Scheme used the same Q20 flood line as was used in the 1976 Scheme. In addition, the 1989 Scheme enabled the Council to impose development conditions requiring the dedication of land to the Crown for drainage and park purposes where that land was within the Q20 flood level. The purpose of such dedications were to retain open space areas along riparian areas, whilst avoiding the development of land constrained by the Q20 flood level, which could be subject to flash flooding from storm events, river and creek flooding and drainage problems.
- 8.12 The 1989 Scheme was amended in 1993 and 1994 to introduce additional development controls for residential development by including some of the requirements of AMCORD.²² These amendments included the introduction of additional matters that were relevant to the consideration of development applications for residential development including, for example, a requirement for a dwelling house within the Future Urban Zone to be located on a flood free building platform. Furthermore, development of dwelling houses on allotments less than 550 m² required a plan of development prepared in accordance with AMCORD to accompany any application and for there to be demonstrated compliance with certain performance criteria and objectives as set out in AMCORD including compliance with the specific performance criteria in relation to stormwater drainage and flooding. However, as AMCORD was a voluntary code, the Council continued to apply its Q20 flood line for the assessment of residential development.
- 8.13 Subsequent amendments to the 1989 Scheme in 1994 applied additional criteria for the subdivision of land including:

²¹ Part 3 of the 1989 Scheme.

²² Planning Schemes (Approval of Amendments) Order (No. 74) 1993, which commenced 4 June 1993. Planning Schemes (Approval of Amendments) Order (No. 342) 1994 which commenced on 2 September 1994 amended, inter alia, By-law 6.

- (a) whether any of the proposed allotments would be unsuitable for use because of existing or possible inundation, subsidence, slip or erosion;²³
- (b) the proposed method of disposal of drainage and whether this would have a detrimental effect upon neighbouring lands;²⁴ and
- (c) whether drainage reserves were required and whether land for these areas should be surrendered free of cost.²⁵

8.14 The 1995 town planning scheme for the former City of Ipswich (**1995 Scheme**) was gazetted in August 1995 and replaced the 1989 Scheme. The 1995 Scheme was a consolidated scheme which effectively consolidated the provisions of the 1989 Scheme and the subsequent amendments to that scheme which primarily incorporated new heritage controls and adopted the AMCORD requirements for small lot residential subdivisions. Flooding issues were otherwise dealt with under the 1995 Scheme in the same way as the 1989 Scheme.

Development Assessment and Approval (1976 Scheme)

- 8.15 The procedure for applications that were made to the Council for town planning consent and rezoning and the matters that were to be considered by the Council when assessing any application for town planning consent were set out in By-Law 30 (town planning) (**By-Law 30**) and were governed by the requirements of the LG Act 1936 and the subsequent LGPE Act. The By-law identified all the details that were to be provided with the application.²⁶
- 8.16 When assessing any application for consent to any development, the Council was required to take into consideration a range of matters specified in By-Law 30, including:
- (a) the character of the proposed development in relation to the adjoining land and the locality;
 - (b) the size and shape of the parcel of land to which the application relates, the siting of the proposed development and the area to be occupied by the development in relation to the size and shape of the adjoining land and the development thereon;

²³ Part 2(5)(2)(c) of the 1989 Scheme.

²⁴ Part 2(5)(2)(q) of the 1989 Scheme.

²⁵ Part 2(5)(2)(r) of the 1989 Scheme.

²⁶ Chapter 1(1) of By-Law 30.

- (c) any detailed Policy Plan or Statement adopted by resolution of the Council for the ordered development of the locality in which the land to which the application relates is situated;
- (d) whether adequate provision has been made for the landscaping of the site;
- (e) the existing and future amenity of the neighbourhood;
- (f) the provisions of the Scheme;
- (g) all objections which have been duly lodged with Council against the granting of its consent;²⁷ and
- (h) the effect that such a proposal, if implemented, would have on the environment.²⁸

8.17 Application procedures for the subdivision of land were dealt with by By-Law 6 (subdivision of land) (**By-Law 6**). An application for subdivision was required to address, amongst other matters, the location of all watercourses, waterholes and creeks and all land that would be subject to inundation by stormwater runoff with a recurrence interval of 1 in 20 years.²⁹ The 1976 Scheme expressly provided that the Council could refuse an application for town planning consent where the development of a building or structure was "*situated along watercourses subject to inundation by flooding at a frequency of 1 in 20 years.*"³⁰

8.18 At that time, the Council also assessed development applications against By-Law 37. Under By-Law 37, development in a declared drainage problem area required written permission of the Council. By-Law 37 also provided that "*the 1 in 20 year flood line as adopted by the Council shall be the limit of all proposed development except in special cases where the Council decides that the flood problem can be mitigated by filling and/or engineering works in accordance with Council requirements.*"³¹

Development Assessment and Approval (1989 Scheme)

8.19 The 1989 Scheme introduced additional matters for consideration during development assessment processes. In addition to the controls under By-Law 37, the 1989 Scheme either

²⁷ Chapter 1(3) of By-Law 30.

²⁸ Chapter 5(1) of By-Law 30.

²⁹ Chapter 2(2) of By-Law 6.

³⁰ Chapter 1(4) of By-Law 30.

³¹ Section 5 of By-Law 37.

prohibited development or required town planning consent for all uses in a declared drainage problem area as was specified in By-Law 37.³² The declared drainage problem area coincided with the Q20 flood line.

8.20 The 1989 Scheme and By-Laws specified matters that were to be considered in relation to various applications. These matters included (with respect to flooding issues):

- (a) for rezoning applications - whether the land was "*so low-lying or so subject to flooding as to be unsuitable for use for all or any of the uses permitted*";
- (b) for applications for town planning consent - "*any drainage or flooding problems associated with the land and any measures which may be undertaken to alleviate such problems*";³³ and
- (c) for subdivision applications - whether the subject land is or is likely to be "*subject to inundation by flood waters at an interval of 1 in 20 years or less*"³⁴ or whether the lot is "*so low-lying as not to be, in the opinion of the Council, reasonably capable of being drained by gravitation at all times, or in the case of an allotment which is low-lying but is capable of being filled and drained, provision is not made in the proposal to effect such filling and drainage, to the satisfaction of Council.*"³⁵ Assessment requirements for subdivision also reflected the assessment requirements under the LG Act 1936.

8.21 Furthermore, drainage design and construction of subdivisions was to be in accordance with By-Law 37.

8.22 The Strategic Plan also identified areas where the Council could not make a firm commitment for a particular future land use. With respect to these land areas, criteria for the development of such land included, amongst other things, whether the proposed development would create or increase flooding problems in any residential area.³⁶ Relevantly, the Strategic Plan

³² Part 7, Division 2 of 1989 Scheme.

³³ Part 2, Division 2(6)(9) of By-Law 30.

³⁴ Part 2(6)(2)(m) of By-Law 6.

³⁵ Part 2(6)(2)(n) of By-Law 6.

³⁶ Appendix A, Part A, 3(1)(c)(i)(D) of the 1989 Scheme.

provided that the Council would not approve subdivision applications which were likely to create additional potential residential lots in areas affected by the Q20 flood level.³⁷

8.23 Requirements for the subdivision of land under the 1989 Scheme were dealt with by By-Law 6 subdivision of land.³⁸ By-Law 6 required that an application was to include a proposal plan detailing:

- (a) the levels of the present surface of the ground as related to the Australian Height Datum or as approved by the Council;
- (b) the areas of all catchments draining upon the land and any further information as requested;
- (c) the location of all watercourses, waterholes and creeks and all land that was subject to inundation by stormwater runoff with a recurrence interval of 1 in 20 years;
- (d) the lines of all existing sewers and drains; and
- (e) the purpose for which the land is proposed to be subdivided.³⁹

8.24 Before determining an application for approval for the opening of a road, the Council was required to consider the method of draining the road and the disposal of drainage.⁴⁰

³⁷ Appendix A, Part A, 3(1)(c) vi)(A) of the 1989 Scheme.

³⁸ Appendix B of the 1989 Scheme.

³⁹ Part 2(4)(c) of By-Law 6.

⁴⁰ Part 2(5) of By-Law 6.

9. Post 1974 to 1995 - Local Planning Instruments of the Former Shire of Moreton

- 9.1 The 1982 Moreton Shire Planning Scheme regulated land subdivision below the "*maximum known flood level*", which was generally taken to be the 1974 flood line. Given that the Moreton Shire comprised in excess of 1,000 km² at the time which was relatively undeveloped, the 1974 flood line did not constitute a substantial development constraint.
- 9.2 In the late 1980s and the early 1990s, the Moreton Shire undertook significant forward planning which highlighted the extensive development potential of the western corridor of South East Queensland and in particular within the Moreton Shire. In 1992, the Moreton Shire introduced a town planning scheme for the whole of the Moreton Shire which incorporated the provisions of the AMCORD (**1992 Scheme**) and commenced preparation of a draft Strategic Plan (**1993 Draft Strategic Plan**). The 1992 Scheme utilised a Q100 flood line to regulate new residential development (particularly land subdivisions) but included an allowance for building on existing lots below the Q100 line at Karalee, Karana Downs and Woogaroo Creek given that these areas had been subdivided prior to 1974. Other developments (including residential developments which were not to be assessed under AMCORD because they related to larger lot sizes) were assessed against the maximum known flood level.
- 9.3 A 1987 Flood Study by Munro Johnson & Associates was relied upon by the Moreton Shire to define the Q100 flood line within the 1992 Scheme. The 1993 Draft Strategic Plan stated that *"Map 13.1 indicates those areas of the Shire identified by the Munro Johnson Report (1987) as being subject to inundation by a Q100 flood event...The map should be interpreted in conjunction with that report. Because the information presented relates to overall stream characteristics and surrounding topography, a tolerance of plus or minus five metres should be taken into account when determining the flood levels."* The 1993 Strategic Plan was never finalised because of the amalgamation of the Moreton Shire with the City of Ipswich in 1995, but it was considered as a supporting document in the development of the 1999 Scheme for the amalgamated city.
- 9.4 Proponents for subdivision applications were required to undertake further detailed survey work and hydrologic and hydraulic studies in order to more precisely determine likely flood levels for specific sites.
- 9.5 The 1992 Scheme provided that the Moreton Shire shall not grant consent to development unless the development is consistent with the objectives of the zone within which the proposed

development is to be undertaken.⁴¹ Within the 1992 Scheme, the Non-Urban Zone included protection of the health and safety of the Shire's population, investments in property and the long term viability of resources by restricting the establishment of inappropriate uses upon land known to be affected by a significant constraint upon development. Such constraints upon development included, amongst other things, flooding.⁴²

9.6 The Future Urban Zone was said to designate the preferred direction for the Moreton Shire for residential growth in the short to medium term. The 1992 Scheme provided that no building or other structure was to be erected or used for any purpose or land subdivided within the Future Urban Zone unless various requirements were met, including:

- (a) the need for urban land as indicated by the Shire's prioritised growth strategy;
- (b) the physical suitability of the site including soil stability, flooding, erosion, drainage and slope;
- (c) protection of the natural vegetation and habitats of the land;
- (d) the development's effect on the visual amenity of the area;
- (e) the land's location from urban areas or the facilities and infrastructure associated with urban areas;
- (f) whether the development was a logical extension to existing urban areas and infrastructure;
- (g) the provision of service and community infrastructure to the site;
- (h) the implications of traffic generated by the development;
- (i) the suitability of the site for its intended purpose as compared with other sites within the catchment; and
- (j) the present and preferred future uses for the adjacent land.⁴³

9.7 Subdivision applications were to be accompanied by a proposal plan.⁴⁴ The proposal plan was required to indicate various types of information including the line and banks of any

⁴¹ Part II, 2(3) of the 1992 Scheme.

⁴² Zone No. 2, section 1(iii) of the 1992 Scheme.

⁴³ Part VIII (3)(iv) of the 1992 Scheme.

watercourse or creek, the position of any waterholes on the subject land, the high water mark of any tidal water,⁴⁵ and where applicable, the maximum flood level on the subject land.⁴⁶

9.8 The Moreton Shire could refuse an application for subdivision if (amongst other things):

- (a) the site orientation of any existing building or any building which could be erected on such land would be for any reason unsatisfactory;⁴⁷
- (b) provision was not made for the transfer free of cost to the Shire of any drainage reserves or drainage easements;⁴⁸
- (c) any allotment proposed is so low-lying as not to be, in the opinion of the Shire, reasonably capable of being drained by gravitation at all times; or in the case of an allotment which is low-lying but is capable of being filled and drained, provision is not made in the proposal to effect such filling and drainage to the satisfaction of the Shire;⁴⁹
- (d) the proposal included any low-lying allotment capable of being filled and/or drained, but which cannot be so filled and/or drained, without requiring filling or drainage on an existing road or roads and/or adjacent properties;⁵⁰
- (e) any of the land to be subdivided is below the maximum known flood level.⁵¹

⁴⁴ Part IX, Division 4(2) of the 1992 Scheme.

⁴⁵ Part IX, Division 5(1)(d) of the 1992 Scheme.

⁴⁶ Part IX, Division 5(1)(h) of the 1992 Scheme.

⁴⁷ Part IX, Division 10(1)(e) of the 1992 Scheme.

⁴⁸ Part IX, Division 10(1)(f) of the 1992 Scheme.

⁴⁹ Part IX, Division 10(1)(h) of the 1992 Scheme.

⁵⁰ Part IX, Division 10(1)(i) of the 1992 Scheme.

⁵¹ Part IX, Division 10(1)(t) of the 1992 Scheme.

10. Post 1974 to 1995 - Delivery of Infrastructure

- 10.1 A planning scheme made or continuing in force under the LGPE Act did not bind the Crown.⁵² Also the Crown had not been bound by town planning schemes made under the LG Act 1936. As most urban infrastructure (roads, water and sewerage infrastructure, rail, electricity) was at this time either supplied by the State or was located on State land, the development of infrastructure, generally speaking, was not subject to local government planning controls. The exception to this was for infrastructure that was provided as part of a subdivision, which would be assessed under the subdivision By-Laws under the relevant planning scheme and either the relevant LG Act 1936 or the LGPE Act.

⁵² Section 2.21(1) LGPE Act.

11. Post 1974 to 1995 - General

- 11.1 Under both the LG Act 1936 and the LGPE Act, a person who had an interest in premises within a planning scheme area, could in certain circumstances, obtain from the local government compensation where that interest was injuriously affected by:
- (a) the coming into force of any provision contained in the planning scheme; or
 - (b) the prohibition or restriction imposed by the planning scheme.⁵³
- 11.2 The potential for compensation claims against local governments acted as a significant practical limitation to reducing pre-existing development entitlements under a planning scheme, including for flood control purposes, or to provide for "down zoning" of particular areas of land.

⁵³ Section 3.5(1) LGPE Act and section 33(1) of the LG Act 1936.

12. 1995 Amalgamation to 2004 - Legislative Framework

- 12.1 The current Ipswich City Council area was created in March 1995 through the amalgamation of the former City of Ipswich (approximately 121 km²) and most of the former Shire of Moreton (1,000 plus km²). Both former local governments had their own planning schemes as described above. The City of Ipswich had a strategic plan as part of its planning scheme and the former Moreton Shire Council had submitted the 1993 Draft Strategic Plan for State Government approval.
- 12.2 When the former City of Ipswich and Shire of Moreton were first amalgamated, the LGPE Act was the relevant planning and development legislation in Queensland. However, it was then repealed and replaced by the IPA which was assented to on 1 December 1997 with most of its provisions commencing on 30 March 1998. IPA then formed the foundation of Queensland's planning and development legislation and, amongst other things, established the step-by-step process for lodging, assessing and deciding development applications known as the Integrated Development Assessment System (**IDAS**). A detailed analysis of the planning and development assessment framework under IPA is set out in Schedule 1.
- 12.3 IDAS recognised that there were numerous Acts, usually topic specific, which regulated development by setting out minimum standards aimed at managing and protecting the environment. The IDAS framework provided a co-ordinated system which allowed for the assessment of a range of aspects of a development in a single integrated manner by managing the lodgement and assessment of most development related activities, including planning, building, environmental, coastal and water management.⁵⁴
- 12.4 IPA defined development by reference to five aspects of development, being:
- (a) carrying out building work;
 - (b) carrying out plumbing and drainage work;
 - (c) carrying out operational work;
 - (d) reconfiguring a lot; and
 - (e) making a material change of use of premises.

⁵⁴ The summary following in relation to IDAS is adapted largely from Integrated Planning Act 1997 Implementation Note 1, Version 2.0, April 1995. The purpose of IPA and its advancement, and the requirements for planning schemes are addressed below in the summary of the SPA.

- 12.5 Development was either assessable (either code or impact assessable), self-assessable (which was to then comply with relevant codes) or exempt from assessment. The basic premise in IPA was that all development was exempt from assessment unless it was made assessable or self-assessable in either Schedule 8 of IPA, the Draft Regulatory Provisions of the Draft South East Queensland Regional Plan, or in a local government's planning scheme. Accordingly, not all development was automatically regulated.
- 12.6 A code assessment application was assessable against identified "applicable codes". If the application complied with the code the application was required to be approved. However, the application could also be approved if it did not comply with the code, if there were sufficient grounds to justify the decision having regard to the purpose of the code, any applicable State Planning Policy (**SPP**) or the South East Queensland Regional Plan (**SEQRP**) and provided that the decision did not compromise the achievement of the desired environmental outcomes for the planning scheme.
- 12.7 Impact assessment required a broad assessment of the environmental effects of the development having regard to a range of matters such as the local government's planning scheme and any relevant SPPs. An impact assessable application was required to be publicly notified and any person or group who lodged a properly made submission in respect of such an application accrued third party appeal rights.
- 12.8 Under IPA, a new planning scheme could not stop a use from continuing or further regulate an existing use lawful use or require a use to be changed.⁵⁵ This applied for as long as the use continued and if there was no material change of use since the commencement of the new IPA planning scheme. Similar protection was given under IPA for pre-existing buildings or other work and applications for and approvals for development made under a prior planning scheme.⁵⁶ These existing use protections which were enshrined in IPA acted to constrain the scope for a new planning scheme to change existing development entitlements.

⁵⁵ Section 1.4.2 of the IPA.

⁵⁶ Section 1.4.4 of the IPA.

13. 1995 Amalgamation to 2004 - State Planning Instruments

Regional Framework for Growth Management 1995

- 13.1 In the early 1990s, a Regional Planning Advisory Group was formed which included representatives of the South East Queensland local governments and the State Government to undertake co-operative regional planning within South East Queensland. This resulted in preparation of the Regional Framework for Growth Management 1995 (**RFGM**), which was a non-statutory regional planning document.
- 13.2 Amongst other things, the RFGM established a set of principles to guide the management of growth in the South East Queensland region to achieve agreed social, economic and environmental objectives. Under the RFGM, Ipswich was identified as a Key Regional Centre and an urban area on the Indicative Growth Pattern Map. The RFGM stated that the Key Regional Centres should be developed as the preferred locations outside of the Brisbane CBD for major office and retail development, with rail access, a comprehensive range of high order community services and leisure and cultural facilities based on a population catchment of 300 - 500,000 people. These centres were to be a focus for public and private employment growth. The Key Regional Centres were to be given priority over other centres in relation to the planning, promotional and resource allocation activities of government.
- 13.3 In relation to urban growth, the RFGM provided that an increased proportion of the region's population growth should be accommodated within existing urban areas by identifying and developing areas which were suitable for redevelopment or infill. Furthermore, medium density housing should be concentrated around the major centres.
- 13.4 An action under the Rivers and Coastal Management Action Plan contained in the RFGM was that regional standards for flood mitigation/protection should be adopted and implemented through Local Government planning schemes.⁵⁷
- 13.5 The RFGM was not specifically incorporated within the Ipswich local planning instruments, but rather was a precursor to the South East Queensland Regional Plan 2005-2026 (**SEQRP 2026**) and the South East Queensland Infrastructure Plan and Program which are discussed below.

⁵⁷ Action 2.5, p 83 of the RFGM. The overarching policy for this action was that a Regional Water Resource Management Strategy should be prepared by the Department of Primary Industries, as lead agency, in consultation with other State Government agencies, Local Government and the community based on the principles of Integrated Catchment Management and Ecologically Sustainable Development and that the strategy should be implemented on a catchment basis. The Water and Wastewater Action Plan also contained Policy 13 (at p.171) requiring that urban stormwater drainage systems should be planned, designed, constructed and managed to maintain acceptable water quality and minimise the impacts of storm events on the community and the environment.

State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide

- 13.6 SPP 1/03, made under Schedule 4 of IPA, was adopted by the Minister for Local Government and Planning on 19 May 2003 and took effect on 1 September 2003. SPP 1/03 sets out the State's interest in ensuring that the natural hazards of flood, bushfire, and landslide are adequately considered when decisions are being made about developments so as to minimise potential adverse impacts on people, property, economic activity and the environment. The 2004 Scheme which was developed immediately after the introduction of SPP 1/03 incorporated the requirements of this SPP. The Minister for Local Government and Planning identified that SPP 1/03 had been appropriately reflected in the 2004 Scheme. This is noted in the preamble to the scheme. Schedule 1 contains a more detailed summary of SPP 1/03.
- 13.7 SPP 1/03 also notes that to achieve some of the SPP 1/03 outcomes, development proposals may include works (e.g. filling, firebreaks or retaining structures) that would have unacceptable impacts on the natural environment, heritage or amenity values. It therefore acknowledged that achieving the outcomes of the SPP is not an automatic justification for a development proposal being inconsistent with policies on amenity, conservation and other matters.⁵⁸
- 13.8 SPP 1/03 required the identification of natural hazard management areas within which minimisation of risks to the community should be a key consideration in both development assessment and the preparation of planning schemes.⁵⁹ In relation to certain important types of community infrastructure (for example, State-controlled roads) the SPP aims to ensure that they are able to maintain their operation during and immediately after major natural hazard events wherever that is practicable.⁶⁰
- 13.9 SPP 1/03 provides various development outcomes which must be considered when development applications are being assessed against this SPP. These outcomes include:
- (a) Outcome 1 - Within natural hazard management areas, development to which the SPP applies is to be compatible with the nature of the natural hazard, except where:

⁵⁸ Section 3.2 of SPP 1/03.

⁵⁹ Section 5.1 of SPP 1/03.

⁶⁰ Section 5.2 of SPP 1/03.

- (i) the development proposal is a development commitment;⁶¹ or
- (ii) there is an overriding need for the development in the public interest and no other site is suitable and reasonably available for the proposal.⁶²

The natural hazard management area for flood hazard is dependent on a local government adopting a flood event for the management of development in a particular locality (known as a defined flood event)⁶³ and identifying the affected area in the planning scheme. Until this occurs, the SPP does not take effect for development assessment in relation to flood hazard in that locality.⁶⁴

- (b) Outcome 2 - Development that is not compatible with the nature of the natural hazard but is otherwise consistent with Outcome 1:
 - (i) minimises as far as practicable the adverse impacts from natural hazards; and
 - (ii) does not result in an unacceptable risk to people or property.
- (c) Outcome 3 - Wherever practicable, community infrastructure to which the SPP applies is located and designed to function effectively during and immediately after natural hazard events commensurate with a specified level of risk.
- (d) Outcomes 4-6 require that planning schemes identify natural hazard management areas, contain strategies to address natural hazards, include a code designed to achieve the development outcomes and ensure that development to which the SPP applies is assessable or self-assessable against the planning scheme code.

⁶¹ Section 9 of SPP 1/03 defines "Development Commitment" as including any of the following:

- development with a valid preliminary approval;
- a material change of use that is code assessable or otherwise consistent with relevant requirements of a planning scheme;
- a reconfiguration of a lot or relevant work consistent with the planning scheme; or
- development consistent with designation of land for community infrastructure.

⁶² Section 6.3 of SPP 1/03.

⁶³ The definition contained in section 9.1 of the SPP 1/03 notes that a DFE is generally not the full extent of flood-prone land. This is further acknowledged by the definition of natural hazard management area which states that the defined area may not reflect the full extent of the area that may be affected by the hazard and gives, by way of example, land above the 1% AEP floodline that may flood during a larger flood event.

⁶⁴ Section 6.6 of SPP 1/03.

- 13.10 While SPP 1/03 leaves it to the individual local government to identify the natural hazard management area (flood) by identifying a defined flood event in its planning scheme, the State Government position is generally that the appropriate flood event for determining a natural hazard management area (flood) is the 1% AEP flood. SPP 1/03 acknowledges that it may be appropriate to adopt a different defined flood event depending on the circumstances of the individual localities.⁶⁵
- 13.11 In determining a defined flood event, the SPP 1/03 Guidelines acknowledge that there are a range of competing interests that may be applicable. The SPP 1/03 Guidelines outline the key factors that should be considered when deciding an appropriate defined flood event for determining a natural hazard management area (flood) as follows:
- (a) potential economic and social impacts of a range of flood events;
 - (b) community desires and expectations;
 - (c) environmental values of and objectives for the floodplain;
 - (d) consistency with adopted defined flood events in adjoining localities (whether or not within the same local government area);
 - (e) emergency response requirements e.g. warning times, refuges, evacuation routes, recovery measures; and
 - (f) management and mitigation measures.⁶⁶

⁶⁵ Annex 3 of SPP 1/03.

⁶⁶ Appendix 2 of SPP 1/03 Guidelines.

14. 1995 Amalgamation to 2004 - Local Planning Instruments

- 14.1 The initial focus of the amalgamated Ipswich City Council as regards planning issues was to finalise the Springfield Development Control Plan and the Ipswich City Centre Development Control Plan, both of which were well advanced by the respective local governments prior to amalgamation in 1995. These plans were then finalised in 1997 and 1998 respectively.
- 14.2 Following amalgamation, the Council also commenced preparation of a new planning scheme so as to produce a consolidated set of planning instruments for the amalgamated Council. The amalgamated scheme was finalised in 1999 (**1999 Scheme**) and included the Springfield Structure Plan (formerly the Springfield Development Control Plan) and the Ipswich City Centre Structure Plan (formerly the Ipswich City Centre Development Control Plan). Additionally, it incorporated a new Eastern Corridor Structure Plan which provided planning controls for the area between Springfield and the Ipswich City Centre. During preparation of the 1999 Scheme the legislation which governed the preparation of the planning scheme was changed to the IPA. While the 1999 Scheme had commenced preparation under the LGPE Act, the 1999 Scheme was finalised after the commencement of the IPA and had to be drafted to be consistent with the IDAS arrangements as set out in the IPA.
- 14.3 The 1999 Scheme consists of three main elements being:
- (a) a Strategic Plan for Ipswich City;
 - (b) the Planning Scheme provisions which include Zoning Maps; and
 - (c) the Structure Plans which specify a series of land use allocations, precincts or classifications for particular areas within the City to facilitate development in a comprehensive and co-ordinated manner in accordance with the principles and policies outlined in the Strategic Plan.
- 14.4 The 1999 Scheme was also supported by a number of Planning Scheme Policies which provided the performance objectives, criteria, acceptable solutions, development standards and contribution levels for various land uses and development types. This included the 'Planning Scheme Policy for Flood Liable or Drainage Problem Land' (**Flood Land Policy**) which is included as Schedule 4.
- 14.5 The 1999 Scheme incorporated as the adopted flood levels those levels which had been included in both the 1995 Scheme for the former City of Ipswich and 1992 Scheme for the former Shire of Moreton. The term "*Adopted Flood Level*" is defined in the 1999 Scheme as "*the flood level which has been selected as the basis for planning purposes within the city immediately prior to the Appointed Day, or as otherwise adopted pursuant to a Structure*

Plan." The existing flood levels were used by the Council in the preparation of its 1999 Scheme. At this time, there had been no specific guidance from the State in terms of adopting a regional approach to flood levels or how flood levels should be addressed in planning schemes. It was not until 2003 that the State issued a SPP which addressed flooding.⁶⁷ The key priority for the Council after the amalgamation in 1995 was to prepare one amalgamated scheme. Therefore some aspects, including flooding, could not be fully assessed in time for the adoption of the 1999 Scheme. The constraints imposed by existing development and planning scheme zonings and the limited land in the former Ipswich City strongly influenced the Council in continuing the flood levels of the previous planning schemes for the former City of Ipswich and the former Shire of Moreton in the 1999 Scheme.

14.6 Under the 1999 Scheme, the Strategic Plan required decision makers to "*locate urban development on land that is free of environmental hazards*" and required that except as provided for in the Flood Land Policy, no urban development was to be permitted on flood liable or drainage problem land. The Flood Land Policy had as its objective:

- (a) the minimisation of damage and disruption caused by development within flood liable or drainage problem land;
- (b) to discourage further residential development in such land; and
- (c) to protect such land from incompatible development.⁶⁸

14.7 Following the adoption of the 1999 Scheme, the Council continued to prepare structure plans which focused on the major greenfield growth fronts in the newly amalgamated City. These areas included Springfield, Redbank Plains/Bellbird Park, Ripley, Swanbank/New Chum and Walloon/Thagoona. These were the main additional growth areas that had been identified in the 1993 Draft Strategic Plan and the subsequent SEQRP 2026. The Council prioritised the planning of these new greenfield growth fronts because of the development pressure for these areas and the need to provide for comprehensive and co-ordinated planning.

14.8 In 1998 and in consultation with Council, the Ipswich Rivers Improvement Trust commissioned Sinclair Knight Merz to undertake a flood study of the major rivers and creeks in the Ipswich City area to establish design flood levels for the major waterways in Ipswich. This resulted in the report titled "Ipswich Rivers Flood Studies Phase 1 and Phase 2, 18 August 2000" (**Ipswich Rivers Flood Studies Phase 1 and 2**). The Ipswich Rivers Flood Studies

⁶⁷ SPP 1/03.

⁶⁸ The Flood Land Policy is referred to in Policy (a) of Principle 4 of the Strategic Plan.

Phase 1 and 2 was undertaken in the context of the Wivenhoe Dam being in place. The dam had been completed in 1984. Ipswich City had previously commissioned the Bundamba Creek Flood Study which was completed by Crooks Michel Peacock Scott & Furphy in June 1996. That study was reviewed as part of the Ipswich Rivers Flood Studies Phase 1 and 2. In April 2001 Halliburton KBR Pty Ltd was commissioned by the Council to undertake the Ipswich Rivers Flood Studies Phase 3⁶⁹ to assess mainly the rural parts of the city and then in November 2001 to review the hydraulic study undertaken of the lower Bremer River in the Ipswich Rivers Flood Studies Phase 1 and Phase 2, (18 August 2000) to assist with determining design flood levels in this area.⁷⁰

- 14.9 The Ipswich Rivers Improvement Trust is a statutory body constituted under the River Improvement Trust Act 1940 and River Improvement Trust Regulation 1998 "*to carry out works designed to improve the flow of water in the rivers and tributaries within the City of Ipswich to correct erosion and provide flood mitigation.*" The functions of the Ipswich Rivers Improvement Trust under the River Improvement Trust Act 1940 was to provide for the protection and improvement of the bed and banks of rivers, the repair and prevention of damage to the bed and banks of rivers, the prevention of flooding and the prevention or mitigation of inundation of certain land by flood waters from rivers. The Council has representative Councillors on the Ipswich Rivers Improvement Trust.
- 14.10 The adopted flood levels in subsequent Council planning instruments were developed from and were based on the outcomes of these studies. These studies were progressively used to inform local area plans and planning scheme amendments for the Council over the ensuing years. As further local area plans and structure plans were being developed, the Council would incorporate information that was available from these flood studies. In particular, the Council incorporated flood design levels as they became available from the modelling to inform the preparation of the Ipswich Eastern Corridor Structure Plan, the Rosewood Corridor Structure Plan, the Southern Corridor Structure Plan and the Northern and Inner Western Corridors Structure Plan. The adopted flood levels in these structure plans were stated to be the Q100 flood level (post Wivenhoe Dam).⁷¹
- 14.11 Specifically, the adopted flood level that was selected for each of these structure plans was:

⁶⁹ Ipswich Rivers Flood Studies Phase 3, May 2002.

⁷⁰ Lower Bremer River Flooding Report 8 May 2002.

⁷¹ The Q100 flood level appears to have assumed controlled releases from Wivenhoe Dam, such that downstream bridges such as Fernvale Bridge, Burtons Bridge, Kholo Bridge and Mt Crosby Weir Bridge were not overtopped.

- (a) The Rosewood Structure Plan dated July 2001 specified an adopted flood level for the Rosewood Township Character Housing Low and Medium Density Precincts and the Residential Low and Medium Density Precincts as the estimated 100 year ARI, post Wivenhoe Dam. These adopted flood level also applied to the South West, South East Urban and Southern Investigation Areas. These structure plans also required that any detached house be located above the adopted flood level.
- (b) The Ipswich Southern Corridor Structure Plan dated December 2001 provided that the adopted flood level for all precincts in that plan be the estimated 100 year ARI, post Wivenhoe Dam. This structure plan also noted that flooding impacts may be reduced through the range of initiatives outlined in the Flood Land Policy. The 1 in 20 ARI was referred to in the Business and Industry Precinct, and development on the Western side of Lobb Street was to have floor levels which cleared that level, or which were as high as reasonably possible.⁷²
- (c) Under the 1999 Planning Scheme, the Springfield DCP was renamed the Springfield Structure Plan and it maintained its adopted flood level of Q100 which was based on the specific flood studies developed for Springfield during development of the Springfield DCP.⁷³ The Springfield Structure Plan provided that *"no urban development (excluding parkland and other similar uses) will be permitted below the final Q100 design flood level."*
- (d) The Ipswich Northern and Inner Western Corridors Structure Plan dated April 2001 provided that the Adopted Flood Level for all precincts in that structure plan was to be the estimated 100 year ARI, post Wivenhoe Dam.⁷⁴ This structure plan noted that flooding impacts could be reduced through the range of initiatives outlined in the Flood Land Policy. This structure plan provided that Council may review the flood level upon receipt of further information in relation to matters such as the mitigating effects of the proposed development.
- (e) The Ipswich City Centre Structure Plan dated February 1999 had a range of flood levels for different precincts including the Q100 flood level post Wivenhoe Dam and the 1974 flood level.

⁷² 1999 Scheme, Ipswich Southern Corridor Structure Plan, Part 3.4 - Business and Industry Precincts, (b) Local Employment and Services Precinct.

⁷³ By Water Studies Pty Ltd.

- (f) The Ipswich Eastern Corridor Structure Plan, dated February 1999, provided that the adopted flood level was the 100 year ARI post Wivenhoe Dam.

⁷⁴ 1999 Scheme, Ipswich Northern and Inner Western Corridors Structure Plan, Part 4 - Requirements and Guidelines, 4.2 - Requirements and Guidelines Relating to all Precincts, 4.2.9 Physical Constraints, (a) Flooding.

15. 1995 Amalgamation to 2004 - Development Assessment and Approval

- 15.1 Under the 1999 Scheme, where land was affected by the adopted flood level:
- (a) all development required approval by the Council;⁷⁵ and
 - (b) as a condition of development or subdivision approval, the Council would require the transfer to the Council or to the Crown, of all of that land below the adopted flood level for drainage and/or park purposes.⁷⁶
- 15.2 Development applications on land affected by the adopted flood level were assessed against the Flood Land Policy. The Flood Land Policy:
- (a) set minimum floor levels for habitable rooms of dwellings at 250 mm above the adopted flood level;
 - (b) required dwelling design to ensure that dwellings were able to withstand flood and debris loadings and not be susceptible to water damage;
 - (c) provided for flood free access;
 - (d) required electrical wiring outlets and switches to be located above the adopted flood level; and
 - (e) required car parking to be above the adopted flood level or protected against inflow of water.
- 15.3 The Flood Land Policy discouraged subdivision and filling of land below the adopted flood level.

⁷⁵ Part 4 of the 1999 Scheme.

⁷⁶ Part 3 of the 1999 Scheme.

16. 2004 to Current - Legislative Framework

- 16.1 During this period IPA continued until 18 December 2009 as the primary enabling legislation for planning and development in Queensland when it was repealed and the SPA commenced as the relevant legislation. The 2004 Ipswich Planning Scheme (**2004 Scheme**) was prepared and operated under IPA. The 2006 Ipswich Planning Scheme was prepared as a consolidated scheme comprising the 2004 Scheme provisions as subsequently amended (**2006 Scheme**). The 2006 Scheme was prepared under IPA. The 2006 Scheme continues as the relevant planning scheme for the City of Ipswich under SPA. Under SPA, the planning scheme will need to be reviewed within 10 years after it was made or, if a review of the planning scheme has been previously completed, within 10 years after the completion of the last review.
- 16.2 IPA introduced a more performance based planning system, where no development was prohibited (other than in State Planning Regulatory Instruments) and assessment of development applications was to be made against the performance based codes within the planning scheme. IPA governed how planning schemes were to be made and specified how development applications were to be made under the IDAS system. The core matters to be included in a planning scheme which IPA required were:
- (a) land use and development which included the location and relationship of land uses, the effects of land use and development, mobility and access and development constraints including population and demographic impacts;
 - (b) the extent and location of proposed infrastructure; and
 - (c) valuable features of the local government area including areas of ecological significance, areas contributing significantly to amenity, places of cultural heritage significance and areas of economic value.⁷⁷
- 16.3 In the preparation of a planning scheme, the local government was required to advance IPA's purpose, that is to achieve ecological sustainability by coordinating and integrating planning at the local, regional and State levels, managing the process by which development occurs and managing the effects of development on the environment.⁷⁸ Ecological sustainability is a balancing exercise that integrates the protection of ecological processes and natural systems at a State, regional and local level, economic development and the maintenance of economic,

⁷⁷ Section 2.1.3 of IPA.

⁷⁸ Section 1.2.1 and 1.2.2 of IPA.

physical and social wellbeing of people and communities.⁷⁹ Furthermore, in making decisions on development applications the effect of those decisions on ecological sustainability had to be considered (other than for code assessment).⁸⁰

- 16.4 The extent of the discretion that a local government has in the making of its planning scheme was limited by the requirement of IPA that for scheme preparation there was a requirement for Ministerial approval. All planning schemes under IPA were required to be submitted to the Minister on two occasions during their preparation to be assessed as to whether they had any adverse effect on any State interest. The Minister would also determine whether the State Planning Policies and the Regional Plan were appropriately reflected in the proposed scheme.⁸¹ A State interest was an interest that in the Minister's opinion affected an economic or environmental interest of the State or region or an interest in ensuring whether there was an efficient, effective and accountable planning and development assessment system.
- 16.5 As noted above, a planning scheme could also not override existing lawful use rights. The implementation of these plan making requirements meant that the system was complex and would often involve competing objectives that then needed to be balanced.
- 16.6 SPA continued the IDAS process as established under IPA, with some amendments. SPA has also retained the protection for existing lawful use rights.
- 16.7 SPA expanded on the requirements for the making of planning schemes. The changes introduced by SPA added further layers to the matters to be addressed under a planning scheme. These are summarised below. A more detailed analysis of the planning and development assessment system under SPA is set out in Schedule 1.
- 16.8 The stated purpose of SPA is to seek to achieve ecological sustainability⁸² by:
- (a) managing the process by which development takes place, including ensuring that the process is accountable, effective and efficient and delivers sustainable outcomes;
 - (b) managing the effects of development on the environment, including managing the use of premises; and

⁷⁹ Section 1.3.3 of IPA.

⁸⁰ Section 1.2.2 of IPA.

⁸¹ Refer Schedule 1 of IPA.

⁸² See above for definition.

- (c) continuing the coordination and integration of planning at the local, regional and State levels.⁸³
- 16.9 Under SPA the following additional matters are to be considered in advancing the purposes of the Act:
 - (a) climate change and urban congestion;
 - (b) adverse effects on human health; and
 - (c) considering housing choice and diversity, and economic diversity.⁸⁴
- 16.10 Some of the changes that SPA introduced to the planning scheme making processes included the preparation of a strategic land use plan and an increased emphasis on community engagement in planning scheme making to ensure that all of the community's needs were then being reflected in the final planning scheme.
- 16.11 Under SPA, the local government discretion in planning schemes and in development decisions was further limited by requirements for the scheme to appropriately reflect State planning instruments including:
 - (a) the standard planning scheme provisions;
 - (b) SPPs and regional plans by requiring that the planning scheme coordinate and integrate matters, including any State and regional dimensions of the matter.⁸⁵ A SPP prevails over a local planning instrument to the extent of any inconsistency. To the extent that a SPP is not reflected in a local planning scheme, an assessment manager must assess an application for development approval against the SPP.⁸⁶ The assessment manager's decision cannot be inconsistent with a SPP except in the limited circumstances prescribed in sections 326 and 329 of SPA.⁸⁷ This includes the relevant SPP for flood related matters, being SPP 1/03;

⁸³ Section 3 of SPA. This is similar to, but expands upon, the stated purpose under section 1.2.1 of IPA.

⁸⁴ Section 5 of SPA. This is similar to, but expands upon, section 1.2.3 of IPA.

⁸⁵ Section 90 and 26 of SPA. See also section 2.1.4 of IPA.

⁸⁶ Sections 313(d)(ii) and 314(d)(ii) of SPA. See also sections 3.5.4(2)(c)(i) and 3.5.5(2)(c)(i) of IPA.

⁸⁷ The decision rules have been simplified in SPA. For IPA decision rules, see sections 3.5.11, 3.5.13 and 3.5.14 of IPA.

- (c) the SEQRP.⁸⁸ Where there is an inconsistency between a planning scheme and the SEQRP, the SEQRP will prevail;⁸⁹
- (d) furthermore, the Minister may direct a local government to protect or give effect to a State interest or to take an action in relation to a local planning instrument or proposed planning instrument including to make or amend its planning scheme; and
- (e) the local government's decision on a development application must not conflict with a State planning regulatory provision.⁹⁰

⁸⁸ Section 29 of SPA.

⁸⁹ Section 26(3) of SPA.

⁹⁰ Section 324 of SPA.

17. 2004 to Current - State Planning Instruments

- 17.1 A number of State planning instruments had been developed and have specific relevance to the planning process for Ipswich City.

South East Queensland Regional Plan 2005-2026

- 17.2 As noted above, the SEQRP 2026 and the South East Queensland Infrastructure Plan and Program succeeded the RFGM. The SEQRP 2026 is a statutory instrument made under the Statutory Instruments Act 1992 and is a planning instrument under IPA. The purpose of the SEQRP 2026 was to provide a sustainable growth management strategy for South East Queensland to the year 2026. The SEQRP 2026 allocated all land in South East Queensland into one of five regional land use categories. The City of Ipswich was identified as being within the Urban Footprint (which was intended to identify land which would provide for the region's urban development needs to 2026). With respect to urban development, the SEQRP 2026 noted that the major urban areas in South East Queensland comprise Brisbane City and the surrounding local governments of Caboolture, Logan, Pine Rivers, Redcliffe and Redland and it identified Ipswich City as a major new urban growth corridor which was known as the Western Corridor. It then provided that the Western Corridor would relieve environmental pressures on coastal parts of the region and that considerable growth and change was expected to occur in the City of Ipswich over the period of the Regional Plan.
- 17.3 The SEQRP 2026 noted that the Western Corridor was expected to play a significant role in the future development of South East Queensland and that the corridor has land available for new housing and industry, the opportunity for large numbers of new jobs and economic growth and for significant investment in infrastructure and services. The need and opportunity to revitalise the Ipswich City Centre and to take advantage of its unique cultural and built heritage was also recognised. The targeted planning population for Ipswich was specified as 318,000 for 2026. The SEQRP 2026 also set a target for new dwellings in Ipswich at 77,200 by 2026, 13,800 of which were to be provided by infill dwellings. Ipswich City and Springfield were acknowledged as Principal Regional Activity Centres and Ripley and Goodna were identified as the Major Regional Activity Centres.
- 17.4 In response to the SEQRP 2026 Council prepared the Ipswich Local Growth Management Strategy 2006 (**LGMS**) as a planning instrument to guide implementation of the requirements of SEQRP 2026. Whilst the State has subsequently determined not to proceed with the implementation of LGMS under the SEQRP 2026, the LGMS demonstrated how the Council proposed to achieve the dwelling targets and other key urban development policies set out in the SEQRP 2026, based on investigations at the local and sub-regional level. The Strategic Framework Map, which is noted to have a high degree of consistency with the SEQRP 2026

designations, identifies Ipswich Central and Springfield as Principal Regional Activity Centres and Ripley and Goodna as Major Regional Activity Centres.

SEQRP 2009 - 2031

- 17.5 The SEQRP 2026 was then replaced by the current SEQRP 2031 on 28 July 2009. One of the key objectives of the SEQRP 2031 is to redirect growth to existing urban areas, particularly activity centres and corridors while maintaining a supply of broad hectare land for development. The sub-regional narratives of the SEQRP 2031 have the status of policies under the SEQRP 2031 and set out and explain the approach that is expected for development for each local government area within the Region. For Ipswich, the sub-regional narrative continues to acknowledge Ipswich City and Springfield as the Principal Regional Activity Centres and also Goodna and Ripley as Major Regional Activity Centres. The targeted population for the Ipswich local government area has been increased substantially to 435,000 by 2031. The Ipswich CBD is noted as the historic centre for commerce and is strategically located to function as the principal administrative, cultural and community centre for Ipswich and the surrounding areas. The Ipswich CBD is also intended to act as the main retail and commercial centre.
- 17.6 Goodna as a major activity centre is seen as complementing the principal Regional Activity Centres of Ipswich and Springfield with a sub-regional business service and retail function. Residential development densities for major activity centres are specified in the SEQRP 2031 at around 30-80 dwellings per hectare net. Future planning for the City of Ipswich will need to address the requirements of the SEQRP 2031, particularly in terms of how the population targets will be achieved and where both infill and greenfield growth will occur.
- 17.7 In recognition of the Centre's hierarchy in the SEQRP 2031, the Queensland Government and the Council jointly developed the Ipswich City's Regional Centre Strategy which has resulted in a recent amendment of the 2006 Scheme. Council has now taken an unprecedented step to acquire land within the City using a Corporations Act subsidiary company that was formed with the approval of the State Treasurer. As an interim step, since acquisition, the Council has revitalised the shopping precinct with a range of new tenants.
- 17.8 Council has already entered into joint venture arrangements with a private sector entity to allow for the construction of a staged development which will create a mixed use precinct of not less than 150,000 m² of gross floor area over a 15 year period. This development is anticipated to incorporate 6 towers of a minimum of 10 storeys each comprising commercial office towers, residential towers plus a regional shopping centre (of approximately 60,000 m² of gross floor area). The State Government has publicly confirmed that it will re-locate a significant number of State public servants to Ipswich. This has created demand for necessary

State Government office space in the first commercial tower that is anticipated to be developed. The upgrade of the Ipswich City rail station in Bell Street is expected to occur providing further impetus for this important development within the Ipswich CBD .

17.9 With the growth of Ripley and Springfield, Ipswich now has the population to support the revitalisation of its CBD. Applications and inquiries for development in the City have increased significantly in the last 5 years.

17.10 Key projects that are acknowledged under the South East Queensland Infrastructure Plan and Program for Ipswich include the upgrade of the Ipswich Motorway, additional line capacity for the Ipswich rail line and the upgrade of road and rail access for Springfield.

18. 2004 to Current - Local Planning Instruments

- 18.1 The Ipswich City Council adopted the 2004 Scheme on 10 March 2004 under IPA. The 2004 Scheme and the associated policies took effect on 5 April 2004.
- 18.2 The 2004 Scheme provided a significant milestone in terms of flood regulation and associated development control. It was the first fully IPA compliant planning scheme for the City of Ipswich. The 2004 Scheme was prepared having regard to the SPP 1/03. The 2004 Scheme was the first planning scheme in Ipswich where there was a comprehensive use of a Q100 flood line across the whole of the local government area. The draft 2004 Scheme was placed on public display during its preparation and the adopted flood level was the Q100 flood line identified in the Ipswich Rivers Flood Studies Phase 1 and 2. At about this time, Brisbane City had undertaken a review of its own flood studies with the Independent Review Panel. Ipswich City Council had commissioned Sargent Consulting to provide advice on the effect of the Independent Review Panel on the Ipswich flood assessments. The then Deputy Works Manager for the Ipswich City Council lodged a submission arising from the public display version of the 2004 Scheme and recommended a change to the adopted flood level that was consistent with the latest data that had been reviewed by Brisbane and which had been reviewed for Ipswich City Council by Sargent Consulting. This change to the adopted Q100 flood level was made in the final 2004 Scheme overlay mapping. A summary of the relevant provisions of the 2004 Scheme is attached as Schedule 1.
- 18.3 In a flooding context, the timing of the 2004 Scheme was important as it was required to incorporate provisions of SPP 1/03 and be able to incorporate the latest available information on Q100 flood levels for both the Brisbane River and Bremer River systems from the independent Review of the Brisbane River Flood Study and Sargent Consulting's review of the Independent Review Panel's Report.⁹¹ The Minister's approval letter for the 2004 Scheme acknowledged that SPP 1/03 was appropriately reflected in the planning scheme and complimented the scheme on its robustness and technical competence. This letter is attached as Schedule 5.
- 18.4 The 2006 Scheme was adopted by the Ipswich City Council on 14 December 2005 and commenced on 23 January 2006. The 2006 Scheme is a consolidation of amendments to the 2004 Scheme. A summary of the relevant provisions of the 2006 Scheme is attached as Schedule 1. The flooding provisions are essentially the same as those adopted in 2004 except

⁹¹ Brisbane River Flow Estimates September 2003 by Sargent Consulting.

for some changes which were made to the mapping in Overlay 5 which mainly reflect more accurate and up to date data, including in the Peak Crossing and Marburg areas.

18.5 Prior to the coming into force of IPA, on 30 March 1998 Queensland local governments were significantly restricted in terms of instigating planning changes by the risk of compensation claims for injurious affection under the former LGPE Act for any change to zonings or other planning scheme provisions which reduced development entitlements. Whilst IPA (and now SPA) allowed for compensation for injurious affection, these Acts introduced a much more balanced approach which required a request for a development application to be assessed under the superseded planning scheme. Such an application had to be refused before a compensation claim could be made. Further, IPA limited compensation where a change to a planning scheme affected development that would have led to significant risk to persons or property from natural processes (including flooding, land slippage or erosion) and where the risk could not have been significantly reduced by conditions attached to a development approval.⁹² This compensation regime has now continued in SPA although the period within which an application for a development application may be assessed under the superseded scheme has been reduced to 1 year from the commencement of the new planning scheme. This change in the compensation provisions of IPA and now SPA allowed local governments greater flexibility in terms of seeking to change planning schemes and reduced the timeframes (initially 2 years under IPA and now 1 year under SPA) within which claims for compensation could be made. This change in law gave the Council greater opportunities to review its planning scheme to introduce additional planning controls, such as those related to flooding.

18.6 Key elements of the 2004 Scheme and 2006 Scheme that related to flooding included:

- (a) the desired environmental outcomes included that the adverse effects from natural and other hazards (including flooding) are to be minimised.⁹³ Under section 3.1 the 2004 Scheme and the 2006 Scheme notes as a desirable environmental outcome:
 - (i) *"the adverse effects from natural and other hazards, including flooding, land subsidence, bush fires, ordnance explosions and aircraft operations are minimised";*
 - (ii) *"the health and safety of people, and the amenity they enjoy, are maximised, particularly in the urban and township areas where different types of uses are located close together";*

⁹² Section 5.4.4 of IPA

- (iii) Section 3.2 identifies as a relevant performance indicator that "*where development has occurred it ... has been located away from areas subject to natural or other hazards or been designed to mitigate adverse impacts*".
- (b) the Strategic Framework in Part 1, Division 3. While the Strategic Framework does not have a role in development assessment and does not confer land use rights for the planning scheme, it is reflected in the balance of the planning scheme. The Strategic Framework includes the following provisions of relevance to flooding:⁹⁴
 - (i) for Urban Areas:
 - A. residential uses are, with the exception of existing development or current existing approvals, generally to be located in areas to avoid identified development constraints.⁹⁵
 - B. future investigation areas are designed to avoid significant development constraints (including flood liable land).⁹⁶
 - C. business and industry uses, commercial uses, open space and recreation uses are to be located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).⁹⁷
 - D. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.⁹⁸
 - E. uses located within the areas of identified development constraint (including flood liable land) are to take into account siting and building design issues to reduce the impact of the constraints and are to be designed to avoid creating

⁹³ 3.1(3)(i) of the 2004 Scheme and the 2006 Scheme.

⁹⁴ Only strategies with flood relevance have been extracted.

⁹⁵ Section 1.6(8)(e) of the 2004 Scheme and the 2006 Scheme.

⁹⁶ Section 1.6(9)(d) of the 2004 Scheme and the 2006 Scheme.

⁹⁷ Section 1.6(10)(e)(ii); 1.6(11)(c)(i); 1.6(13)(d)(i) of the 2004 Scheme and the 2006 Scheme.

⁹⁸ Section 1.6(18) of the 2004 Scheme and the 2006 Scheme.

conflicts or hazards for the operation of significant economic infrastructure.⁹⁹

(ii) for Township Areas:

- A. township residential uses are, with the exception of existing development or current existing approvals or relevant previously zoned land, generally to be located in areas to avoid identified development constraints (including flood liable land).¹⁰⁰
- B. town business uses and open space and recreation uses are to be located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).^{101 102}
- C. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be located outside the areas of flood liable land.¹⁰³
- D. any uses located within flood liable land are to take into account siting and building issues designed to reduce the impact of flooding.¹⁰⁴

(iii) for rural areas:

- A. rural housing is to be located to avoid identified development constraints (including flood liable land).¹⁰⁵

⁹⁹ Section 1.6(19) of the 2004 Scheme and the 2006 Scheme.

¹⁰⁰ Section 1.7(5)(d) of the 2004 Scheme and the 2006 Scheme.

¹⁰¹ Section 1.7(6)(d)(i) of the 2004 Scheme and the 2006 Scheme.

¹⁰² Section 1.7(7)(b)(i) of the 2004 Scheme and the 2006 Scheme.

¹⁰³ Section 1.7(8) of the 2004 Scheme and the 2006 Scheme.

¹⁰⁴ Section 1.7(9) of the 2004 Scheme and the 2006 Scheme.

¹⁰⁵ Section 1.8(7)(b) of the 2004 Scheme and the 2006 Scheme.

- B. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.¹⁰⁶
 - C. uses located within the areas of identified development constraint (including flood liable land) are to take into account siting and building design issues to reduce the impact of the constraint.¹⁰⁷
 - (iv) map OV5 identifies land:
 - A. below the Q20 development line; or
 - B. below the Q100 flood line; or
 - C. within an urban stormwater flow path area.¹⁰⁸
 - (c) the Q20 development line in Map OV5 is based on a long standing flood regulation line, established in the 1976 Scheme, that applied to the former City of Ipswich Council area prior to its amalgamation with the former Moreton Shire.¹⁰⁹
 - (d) overlays provide the secondary organisational layer in the planning scheme and are based on special attributes of land that need to be protected, or that may constrain development.¹¹⁰

18.7 Every 12 to 24 months the Council undertakes an operational review of its planning scheme. These reviews, as far as flooding is concerned, incorporate any refinements in the data for flood lines as provided by Council's Engineering Department when more detailed information on localised flood levels becomes available, or from information provided during development assessment processes. These reviews are not, however, generally used to change the substantive provisions or assumptions in the planning scheme.

¹⁰⁶ Section 1.8(10) of the 2004 Scheme and the 2006 Scheme.

¹⁰⁷ Section 1.8(11)(a) of the 2004 Scheme and the 2006 Scheme.

¹⁰⁸ Note Section 11.4.7A(1) of the 2004 Scheme and the 2006 Scheme.

¹⁰⁹ Note Section 11.4.7A(3) of the 2004 Scheme and the 2006 Scheme.

¹¹⁰ 1.15 of the 2004 Scheme and the 2006 Scheme.

19. 2004 to Current - Development Application, Assessment and Approval

19.1 Development assessment in terms of flooding issues under both the 2004 Scheme and the 2006 Scheme is essentially the same. Development applications were and are assessed as regards flooding having regard to Map OV 5 and the Development Constraints Overlays Code as contained at Division 4 of Part 11. That Code identifies the overall outcomes for land affected by the flood lines as depicted on OV 5 and the specific outcomes required to be achieved by the development of flood constrained land. Whilst the Council's planning scheme cannot under SPA prohibit development of flood constrained land on Map OV5,¹¹¹ the planning scheme identifies the types of development within the flood lines that must be approved by Council and the criteria that must be met by such development. The criteria for assessment of such development applications is set out in the Development Constraints Overlays Code which also sets out the assessment tables that specify the level of assessment for flood constrained land.¹¹² The overall outcomes to be met by development being assessed under that Code relevantly include that:

- (a) the health and safety of the local government's population, investment in property and long term viability of significant economic resources are protected;
- (b) uses and works are located on land free from significant constraints upon development, or when within such areas, risk to property, health and safety is minimised;
- (c) uses and works are sited, designed and constructed to avoid, minimise or withstand the incidence of a development constraint; and
- (d) the number of people exposed to a development constraint is minimised.¹¹³

19.2 The specific outcomes for development being assessed under that Code are set out separately for land situated:

- (a) below the Q20 development line for residential uses;

¹¹¹ Section 88 (2) (d) of SPA provides that a planning scheme may prohibit development but only if the Standard Planning Scheme Provisions state the development may be prohibited development.

¹¹² Table 11.4.3 of the 2004 Scheme and the 2006 Scheme sets out the assessment categories and relevant assessment criteria.

¹¹³ The overall outcomes sought are listed at section 11.4.3(2) of the 2004 Scheme and the 2006 Scheme.

- (b) below the Q20 development line for commercial, industrial and other non residential uses;
 - (c) between the Q20 development line and the Q100 flood line for residential uses; and
 - (d) between the Q20 development line and the Q100 flood line for commercial, industrial and other non residential uses.¹¹⁴
- 19.3 The specific outcomes for each of these circumstances are set out in the table contained in Schedule 1. Development that is being assessed against the Development Constraints Overlays Code must comply with the specific outcomes of that Code.
- 19.4 Specific outcomes and probable solutions for community infrastructure are also provided for at sections 11.4.7(1)(f) and 11.4.7(2)(f). The specific outcome is that key elements of community infrastructure are able to function effectively during and immediately after flood hazard events with the probable solution that key elements of community infrastructure are sited to achieve the levels of flood immunity as set out in the State Planning Policy and associated guideline.
- 19.5 In summary, the Development Constraints Overlay Code discourages any intensification of residential development below the flood lines and for non residential development encourages the design and layout of buildings for parking or other low intensity non habitable uses at ground level so that any non-residential buildings are located and designed to avoid areas of significant flood flows and damage from flooding. These controls are particularised below.
- 19.6 The probable solutions for a specific outcome set out in the Code provide a guide for achieving the specific outcome. These do not limit the assessment manager's discretion to impose conditions on a development approval. Probable solutions for the following matters are provided at section 11.4.7(2) being:
- (a) electrical installations;
 - (b) structural adequacy;
 - (c) evacuation routes;
 - (d) earthworks;
 - (e) clearing of vegetation; and

- (f) community infrastructure.

19.7 The assessment categories and relevant assessment criteria for flooding in the development constraints overlay are as follows:

- (a) making a material change of use for the following uses or use classes have been identified as code assessable being:
 - (i) car park where land is affected by the Q20 development line or Q100 flood line constraint overlay or the urban stormwater flow path area development constraint overlay;
 - (ii) forestry;
 - (iii) wholesale plant nursery where land affected by the Q20 development line or Q100 flood line constraints overlay or the urban stormwater flow path area development constraint overlay;
 - (iv) single residential situated within a Residential Zone and not between the Q20 development l line and Q100 flood line constraints overlay (in which case it would be self assessable);
 - (v) all other uses not identified in the table.¹¹⁵
- (b) carrying out building work not associated with a material change of use is self assessable if building work is on an existing building on site and the acceptable solutions of the applicable code for self assessable development are complied with. Otherwise, it is code assessable;
- (c) clearing of native vegetation is self assessable if it is limited clearing (less than 110 m²) and situated within the Q20 development line or Q100 line constraints overlay or the urban stormwater flow path area development constraint overlay. Otherwise it is code assessable;
- (d) earthworks not associated with a material change of use will be code assessable if land is affected by the Q20 development line or Q100 flood line constraints overlay code or the urban stormwater flow path area development constraint overlay;

¹¹⁴ The specific outcomes in relation to flooding and urban stormwater flow path areas are contained at section 11.4.7 of the 2004 Scheme and the 2006 Scheme.

- (e) reconfiguring a lot and carrying out work for reconfiguring a lot is code assessable;
- (f) development applications are also considered in the context of the desired overall and specific outcomes for the zones:
 - (i) relevant overall and specific outcomes include Sub Area FU4 - Walloon/Thagoona in the Future Urban Zone which specifically requires that residential uses and works are situated above the adopted flood level¹¹⁶ and that they be located on fully serviced land which can be adequately drained;¹¹⁷
 - (ii) within the Local Business and Industry Investigation Zone, uses and works are to provide local business and employment opportunities subject to resolution of applicable constraints (including flooding). In situations where the constraints cannot be resolved, uses and works may be limited to land extensive or low to very low yield activities which have minimal building requirements.¹¹⁸ Sub Area LBIA2 - North Tivoli was specifically identified as being constrained by flooding¹¹⁹ and accordingly requires new uses and works to be setback 50 metres from the alignment with a defined watercourse and, in relation to business mix, uses be supported that are compatible with the flood plain for the Bremer River and Sandy Creek, including provision for a riparian open space corridor.¹²⁰
- (g) reconfiguration applications are assessed against the Reconfiguration of Lot Code which relevantly provides for flooding in the following manner:
 - (i) with respect to minor subdivision, specific outcomes include:

¹¹⁵ Other uses identified in the table include agriculture, animal husbandry, home based activity, minor utility, night court and park.

¹¹⁶ Adopted flood level is defined as the flood level which has been selected as the basis for planning purposes within the City, which unless otherwise specifically stated, is based on a defined flood event of Q100 ARI.

¹¹⁷ Section 4.8.5(3)(c) and (d) of the 2004 Scheme and the 2006 Scheme.

¹¹⁸ Section 4.12.2(2) (overall outcomes) of the 2004 Scheme and the 2006 Scheme.

¹¹⁹ Note section 4.12.4D of the 2004 Scheme and the 2006 Scheme.

¹²⁰ Section 4.12.4(2)(h) of the 2004 Scheme and the 2006 Scheme.

- A. lots have the appropriate area and dimensions to overcome site constraints (e.g. flooding and drainage);¹²¹
 - B. all lots are located above the adopted flood level to provide protection of property in accordance with the accepted level of risk;¹²²
 - C. all cottage lots, courtyard lots, traditional lots, hillside lots and dual occupancy lots are located above the adopted flood level;
 - D. for homestead or township lots, an area which is suitable for a building platform comprising at least 600 m² of each lot is to be located above the Q100 ARI. An additional area is to be available on each lot that is suitable to treat and dispose of effluent on-site;
 - E. all multiple residential lots, commercial lots, mixed business and industry lots and industrial lots are located above the adopted flood level for the respective zone or Sub Area; and
 - F. those areas of residential lots below the adopted flood level for the applicable zone or Sub Area which are affected by a "significant flood flow"¹²³ are to be subject to a drainage easement.
- (ii) with respect to moderate and major subdivision, specific outcomes include:
- A. lots have the appropriate area and dimensions to overcome site constraints (e.g. flooding and drainage);¹²⁴
 - B. the major stormwater drainage system:

¹²¹ Table 12.5.1(1)(f) of the 2004 Scheme and the 2006 Scheme.

¹²² Table 12.5.1(8) of the 2004 Scheme and the 2006 Scheme.

¹²³ Significant flood flow is defined as inundation of land by water which is one metre or more in depth.

¹²⁴ Table 12.5.2(2)(f) of the 2004 Scheme and the 2006 Scheme.

- 1) has the capacity to safely convey stormwater flows resulting from the adopted design storm under normal operating conditions;
 - 2) is located and designed to ensure that there are no flow paths that would increase risk to public safety and property;
 - 3) is to maximise community benefit through the retention of natural streams and vegetation wherever practicable, the incorporation of parks and other less flood-sensitive land uses into the drainage corridor and the placement of detention basins for amenity and function;¹²⁵
- C. all lots are located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.¹²⁶
- (iii) with respect to minor rural subdivisions, specific outcomes include:
- A. lots have the appropriate area and dimensions to overcome site constraints (e.g. flooding and drainage);¹²⁷
 - B. a flood free dwelling is located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.¹²⁸
- (iv) with respect to moderate rural subdivisions, specific outcomes include:
- A. lots have the appropriate area and dimensions to overcome site constraints (e.g. flooding and drainage);¹²⁹

¹²⁵ Table 12.5.2(28) of the 2004 Scheme and the 2006 Scheme.

¹²⁶ Table 12.5.2(29) of the 2004 Scheme and the 2006 Scheme.

¹²⁷ Table 12.5.3(1)(e) of the 2004 Scheme and the 2006 Scheme.

¹²⁸ Table 12.5.3(9) of the 2004 Scheme and the 2006 Scheme.

¹²⁹ Table 12.5.4(1)(e) of the 2004 Scheme and the 2006 Scheme.

- B. a flood free dwelling is located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.¹³⁰
- (h) the 2004 Scheme and 2006 Scheme also allow the local government to request further information in relation to a development application. Planning Scheme Policy 2 sets out the information that may be requested and specifically addresses matters relating to flooding and stormwater flow paths. Assessment tables for the zones and overlays identify development that is assessable, self-assessable or exempt under the planning scheme. If development is identified as having a different assessment category under a zone than under an overlay, or under different overlays, the higher assessment category applies.¹³¹
- (i) For development applications, Council require up to date hydrological studies to be submitted where appropriate.

¹³⁰ Table 12.5.4(18) of the 2004 Scheme and the 2006 Scheme.

¹³¹ 1.16(3) of Planning Scheme Policy 2.

20. 2004 to Current - Balancing Competing Planning and Development Interests

- 20.1 The development of a workable planning scheme is a complex exercise where many and varied competing interests have to be balanced. This is particularly the case in a large existing urban area such as the City of Ipswich which is experiencing high growth rates within a challenging and complex physical environment.
- 20.2 The planning scheme for Ipswich is expected to reconcile and deliver balanced outcomes across a wide range of key inputs including:
- (a) SEQRP 2031 growth targets;
 - (b) housing affordability and diversity;
 - (c) meeting the sometimes competing expectations of local communities, businesses and State and Commonwealth government agencies;
 - (d) protecting valuable features;
 - (e) supporting economic development and local employment opportunities;
 - (f) ensuring that existing and future growth areas are serviced by adequate and efficient infrastructure networks; and
 - (g) having due regard to likely development constraints.
- 20.3 The current population of the Ipswich local government area is 170,000. The current SEQRP 2031 growth target for Year 2031 for Ipswich is 435,000. This growth target has been considerably increased as compared to the previous SEQRP 2026 which stated that the population target was 318,000 by the Year 2026.
- 20.4 The 2006 Scheme is capable of accommodating 538,000 residents in 246 km² of designated urban areas (representing 23% of the local government land area). The 2006 Scheme also supports approximately 335,000 jobs in designated centres and 100 km² (9%) of regionally significant business and industry land. The residential, business and industry areas that comprise the urban footprint are located to make efficient use and to promote the logical extension of available infrastructure. Medium to high density residential areas are clustered to take advantage of existing or planned transit hubs and associated activity centres.
- 20.5 The 2006 Scheme also protects a broad spectrum of valuable features including:
- (a) 7,000 plus places of cultural heritage and streetscape value;

- (b) 218 km² (20%) of important natural environment and biodiversity areas;
- (c) 484 km² (44%) of good quality agricultural land, scenic rural landscapes and rural production areas; and
- (d) 172 km² (16%) of mining and extractive industry key resource areas.

20.6 The Ipswich local government area presents many challenges in terms of development constraints, which occur on, over or under land. The 2006 Scheme includes 18 mapped development constraints overlays, including:

- (a) bushfire risk areas;
- (b) mining and key resource areas;
- (c) difficult topography (steep land);
- (d) flooding and major stormwater flow paths;
- (e) buffer areas to highways and regional transport corridors, motor sports, wastewater treatment plants, power stations, high pressure oil and gas pipelines and high voltage electricity transmission lines;
- (f) areas impacted by defence facilities (including building height limits, overhead aircraft noise, explosive storage safety distances, unexploded ordnances and rifle range buffers); and
- (g) water supply catchment areas.

20.7 It is worth noting that 936 km² or 86% of the Ipswich local government area is affected by some form of identified development constraint. In most cases these constraints can be ameliorated through an appropriate design response rather than through complete sterilisation of future land use.

20.8 In the local government context, delivery of balanced planning outcomes is often challenged by existing communities who are resistant to change, protective of the local neighbourhood amenity and resistant to increased building heights and densities and the introduction of non residential land uses.

20.9 As is recognised in SPP1/03 setting the level of a defined flood event requires consideration of a range of competing interests and under SPP1/03 some of those interests include potential economic and social impacts, community desires and expectations and consistency with adopted defined flood events in adjoining localities.

- 20.10 Raising flood levels in retail centres to improve flood immunity also presents a range of challenges, particularly in central business district locations. Vibrant shopping streets are an important component in achieving vibrant retail centres, town centres and central business districts. Having active shop fronts engaging directly at the street level is a key ingredient to creating a vibrant city heart and retail centre.
- 20.11 Raising shop floor levels above the street and replacing shop fronts with undercroft or basement car parks can destroy streetscape vitality and often increases the incidence of crime through reduced on-street activity, reduced casual surveillance (i.e. less 'eyes on the street') and may create concealment and entrapment points within covered parking areas. The resultant outcome may well be a highly dysfunctional retail and community environment.
- 20.12 Having regard to the above, simplistic approaches to the setting of flood regulation lines and associated building floor heights can lead to inappropriate planning outcomes when applied, particularly to large complex existing urban areas.
- 20.13 Provision needs to be made to take account of existing development commitments in the form of existing uses, existing approvals and existing entitlements that are bestowed through existing lot reconfigurations and zoning provisions.
- 20.14 Regard also needs to be given to competing land uses and planning policy drivers, including economic development and housing targets as well as the cumulative impact of various development constraints and key locational criteria in terms of preferred development outcomes.

21. 2004 to Current - Infrastructure Planning

- 21.1 Both IPA and SPA place a strong emphasis on integrated land use and infrastructure planning, particularly as compared to the former LGPE Act. Notwithstanding, there are still significant elements of both State and private infrastructure that can be developed without reference to local government planning. Until 2000, development by the State was exempt from planning scheme controls. This meant that much of the historical infrastructure that was developed on Crown land, or by the State, was never assessed under council planning schemes.
- 21.2 IPA and now SPA contains provisions to allow infrastructure to be approved by a relevant State Minister under a Community Infrastructure Designation which then exempts such infrastructure from the applicable local government planning schemes. Furthermore, specified community infrastructure is exempted under SPA from the application of planning scheme controls, including State controlled roads and the augmentation of, or expansion of, a railway. A consequence of this statutory framework is that much of the public infrastructure (including roads and rail) will fall outside of the Council's planning jurisdiction. For the City of Ipswich, this has meant that major projects such as the Ipswich Motorway Upgrade was not assessed under the Council's planning scheme and no mandatory consultation was required with Council. The Ipswich Motorway Upgrade and, in particular, the placement of spoil removed for this upgrade across the City of Ipswich has generated a number of complaints from the community, including in relation to flooding allegedly caused by the placement of such spoil.
- 21.3 The 2004 Scheme and its successor the 2006 Scheme promoted infrastructure networks to support the desired land use outcomes, as well as medium to high density housing and activity centre clusters around significant infrastructure investment in transit hubs and major transport interchanges.
- 21.4 The 2006 Scheme's strategic elements, associated zoning scheme, overlay provisions and local area plans also identify and protect key elements of community infrastructure and associated corridors and trunk networks.
- 21.5 Part 13 - Infrastructure, deals with developer contributions and infrastructure agreements. Planning Scheme Policy 3 - General Works, includes infrastructure design standards.¹³² Table 5.1.1 includes the desired standards of service (including recommended flood immunity levels) for various types of parks. Planning Scheme Policy 3 also calls up the Department of Transport and Main Roads Road Design Manual for road design (including flood immunity) for arterial and sub-arterial roads and Queensland Streets for all other streets. PSP5 -

¹³² in Parts 1 to 5 and Construction Standards in Parts 6 to 12 of the 2006 Scheme.

Infrastructure deals with infrastructure contributions and associated network planning. These Planning Scheme Policies are used to assess infrastructure design on development applications including reconfigurations which involve the construction of infrastructure.

22. Response to the January 2011 Flood Event - Development Assessment

- 22.1 Early in the January 2011 flood event recovery phase, the Planning and Development department formulated a Flood Recovery Assistance Package (see Schedule 6) which was designed to reduce approval "red tape" and associated fees in order to stimulate and assist the flood recovery efforts for residents, businesses and other land users. It was important that Council recommenced its normal business activities as regards planning and development as soon as possible as most of the growth fronts of the City of Ipswich were unaffected by the January 2011 flood event.
- 22.2 An early appraisal was undertaken of all applications lodged and yet to be decided to determine any likely impacts associated with the January 2011 flood event. These applications are in progress.

23. Response to January 2011 Flood Event - Strategic Planning (Initial Response)

23.1 Early in the January 2011 flood event recovery phase, the Planning and Development department undertook an initial strategic planning analysis of the main flood affected urban areas between Amberley and Gales. This analysis identified:

- (a) 119 affected precincts with various combinations of different zonings, land uses and flooding impacts;
- (b) 32 areas where major planning scheme reviews (e.g. zoning changes) might be required; and
- (c) 34 areas where minor planning scheme reviews (e.g. precinct wording changes) might be required.

24. Response to January 2011 Flood Event - Flood Recovery Working Group – Forward Planning Sub Group

- 24.1 Council has supplemented the "standard approach" to Disaster Recovery through the addition of a Forward Planning Sub Group. The main focus of the Forward Planning Sub Group is to *"coordinate the development and implementation of recommendations to improve the preparation and planning for future flood threats and risks, particularly where they relate to land use planning and development activities."* The tasks of the Forward Planning Sub Group relate to forward land use planning as a consequence of the 2011 flood event.
- 24.2 The membership of the Forward Planning Sub Group is currently comprised of representatives from Council's Planning and Development, Engineering Services and Health Parks and Recreation departments and the Queensland Government Department of Local Government and Planning (**DLGP**). The DLGP representative also liaises directly with officers from the Queensland Reconstruction Authority, Department of Environment and Resource Management and Department of Community Safety as required. The Sub Group may also include direct representation from other State Agencies and the development industry, as required.
- 24.3 The main focus of the activities of the Forward Planning Sub Group to date has been:
- (a) the preparation of a proposed Temporary Local Planning Instrument with enhanced flood regulation controls (see Schedule 7);
 - (b) consideration of an initial strategic planning flooding impact analysis to inform a planning response;
 - (c) obtaining accurate mapping of the extent and depth of the January 2011 flood event; and
 - (d) commissioning a preliminary engineering feasibility study for physical works such as flood gates and levy banks in targeted areas.

25. Response to January 2011 Flood Event - Temporary Local Planning Instrument

- 25.1 As was noted at paragraphs 2.6 and 2.7 of the Ipswich City Council Submission on Flood Preparedness, the 2011 flood event involved a unique combination of unusual circumstances, including where the nature and extent of the flood event may have been exacerbated or contributed to by the release of waters from the Wivenhoe Dam. As noted in its earlier submission, the Council does not presently know the extent to which this factor aggravated the flood event within the Ipswich region, and the relevance of this factor as regards Council's planning for a future flood event.
- 25.2 The Council has previously submitted¹³³ that caution needs to be exercised in terms of future planning based only on the 2011 flood event, as it seems clear on the available evidence that the flood event had its own peculiarities and was certainly a different flood event to the 1974 event. The earlier submission also addressed the impact of a Brisbane River flood event on the Bremer River, and how that impact differentiated the event from a "pure" Bremer River flood.
- 25.3 The Council's apprehension as to the relevance of these factors to future planning decisions has been reinforced by the evidence to the Commission of Inquiry by Mr Darren Zanow.¹³⁴ Mr Zanow's company has various business and property interests along the Brisbane and Bremer Rivers. Those interests sustained significant damage in the 2011 flood event. One of the Zanow interests is a property located on the Bremer River at North Booval. Mr Zanow said that the North Booval site has had two hydrological studies conducted to determine building allotment heights, primary flow paths and bank stability issues.
- 25.4 Mr Zanow gave evidence that the North Booval property has been in the Zanow family since prior to 1974. In the 1974 flood event, significant flooding occurred in the Bremer River. The North Booval property was flooded and many houses were washed away in Sydney Street, Brassall (located some considerable distance upstream in the Bremer River from North Booval).
- 25.5 However, Mr Zanow gave evidence that in the 2011 flood event, there was very little flow coming down the Bremer River and that at around 7.00 a.m. on Wednesday 12 January 2011, he "was chasing cattle out of the flood water." He said that it was very obvious that the flooding being experienced in the Bremer River from around Wulkuraka and maybe

¹³³ Paragraphs 4.2 - 4.6 of the ICC Submission on Flood Preparedness.

¹³⁴ Statement of Darren Zanow, COI Exhibit 50, COI Transcript page 428.

Leichhardt in Ipswich (both of which are located upstream of One Mile and the Ipswich CBD) was "back up from the release from Wivenhoe Dam". Mr Zanow said this "was a definite".

- 25.6 Against this background, it is important, in terms of future planning requirements for the City of Ipswich, to determine what was the impact of the releases from Wivenhoe Dam on the 2011 flood event, and in particular on the flooding experienced by the City of Ipswich. It does appear clear that, for planning purposes, the 2011 flood event was a very different event to a typical Bremer River event. Until the impact of the Wivenhoe Dam releases on the flood event is known and understood, it is difficult to make any reliable final decisions as to important planning matters in response to the 2011 flood event such as the possible development of new flood regulation lines.
- 25.7 For this reason, Ipswich City Council is looking to the Commission of Inquiry and to the outcome of hydro-dynamic studies undertaken subsequent to the 2011 flood event to assist in establishing what was the effect of the January 2011 Wivenhoe Dam releases.
- 25.8 Any changes to the location of flood regulation lines in planning instruments will have consequential impacts, including impacts on property values, the cost to development for measures to ameliorate potential flood impacts, potential sterilisation of land and the location of uses. For that reason the Council is keen to more fully understand the January 2011 flood event and the reasons for its cause before it makes permanent changes to the planning instruments. In the interim the Council proposes a temporary local planning instrument (**TLPI**) which will be used in the assessment of development applications, whilst the gathering of facts and necessary modelling is undertaken and tested through this Commission of Inquiry.
- 25.9 The TLPI was approved by Council on 15 April 2011 and will be submitted to the Minister for Local Government and Planning for approval in the near future. The key elements of the TLPI include:
- (a) an expanded OV5 map which includes the outer limit of known flood mapping (i.e. 1974, 2011 and Q100);
 - (b) amending the assessment table to ensure that all new dwellings on flood affected land (including land within existing residential zones) will require planning approval as code assessable;
 - (c) update and refinement of the provisions contained in section 11.4.7, particularly regarding:
 - (i) use of flood resistant building material and construction types;

- (ii) raising of habitable floor heights to 500 mm above the flood line;
 - (iii) refining earthworks provisions to ensure that there is no reduction in flood storage capacity through cumulative filling; and
 - (iv) for business uses owners and operators to make an informed choice on the level of flood immunity (based on existing zoning and development commitment and how to minimise flood impacts); and
- (d) the identification of special opportunity areas where relocation of residential uses is then facilitated through the encouragement of a transition to low impact non residential uses.

26. Response to January 2011 Flood Event - Moving Forward

- 26.1 At this stage, the following steps are proposed to review and implement revised flood provisions as part of the Ipswich Planning Scheme being:
- (a) implement the TLPI as soon as possible. As the TLPI will only apply for 12 months, more permanent amendments to the Planning Scheme to reflect the approach set out in TLPI are likely to be required on an ongoing basis;
 - (b) Council may need to consider further amendments to the 2006 Scheme, in light of the outcomes of Commission of Inquiry. The next major statutory review of the 2006 Scheme is due to commence post 2012;
 - (c) if required consequent upon the outcomes from the Commission of Inquiry, the results of expert hydrological or hydro-dynamic studies, or any review of SPP 1/03, to undertake new flood studies in order to develop new flood regulation lines.
- 26.2 The findings of this Commission may ultimately affect the nature of the Council's long term planning options. Options that may need to be reviewed by the Council include:
- (a) a complete review of flood studies;
 - (b) review of design and construction standards;
 - (c) land use/zoning changes;
 - (d) targeted property acquisitions; and
 - (e) physical works.
- 26.3 Given the time required to develop a longer term position and response to the learnings of the January 2011 flood event, the Council is not presently in a position to provide details of its longer term planning options. However, as these options are developed by Council, they will be presented to this Commission of Inquiry.

27. Definitions

Set out below are details of the definitions that are used throughout this submission.

1976 Scheme means the town planning scheme for the City of Ipswich which was approved by the Deputy Governor in Council on 8 July 1976.

1989 Scheme means the town planning scheme for the City of Ipswich dated 7 October 1989.

1992 Scheme means the 1992 planning scheme for the Moreton Shire.

1993 Draft Strategic Plan means the 1993 draft strategic plan prepared prior to the amalgamation of the Moreton Shire with the City of Ipswich in 1995.

1995 Scheme means the town planning scheme for the former City of Ipswich approved by the Governor in Council on 17 August 1995.

1999 Scheme means the town planning scheme for the City of Ipswich approved by the Governor in Council on 18 February 1999.

2004 Scheme means the town planning scheme for the City of Ipswich which took effect on 5 April 2004.

2006 Scheme means the town planning scheme adopted by the Ipswich City Council on 14 December 2005 and which commenced on 23 January 2006.

AEP means annual exceedance probability.

AMCORD means the Australian Model Code for Residential Development.

ARI means average recurrence interval.

By-Law 6 means By-Law Number 6 Subdivision of Land..

By-Law 30 means By-Law Number 30 Town Planning.

By-Law 37 means By-Law Number 37 Drainage and Drainage Problem Areas.

Council means the Ipswich City Council

DLGP means the Queensland Government Department of Local Government and Planning.

Flood Land Policy means the planning scheme policy for Flood Liable or Drainage Problem Land.

IDAS means the Integrated Development Assessment System.

IPA means the Integrated Planning Act 1997 (Qld) (Repealed).

Ipswich Rivers Flood Studies Phase 1 and 2 means the report titled "Ipswich Rivers Flood Studies Phase 1 and Phase 2, 18 August 2000" commissioned by Sinclair Knight Merz.

LG Act 1936 means the Local Government Act 1936 (Qld) (Repealed).

LGMS means the Local Growth Management Strategy 2006.

LGPE Act means the Local Government (Planning and Environment) Act 1990 (Qld) (Repealed).

Order means the Commissions of Inquiry Order (No. 1) 2011.

Q100 flood or flood line means an event or an area subject to a 1% probability of a certain size flood occurring in any given year (that is, a 1 % AEP).

Q20 flood or flood line means an event or an area subject to a 5% probability of a certain size flood occurring in any given year (that is, a 5 % AEP).

RFGM means the Regional Framework for Growth Management 1995.

SEQRP means the South East Queensland Regional Plan

SEQRP 2026 means the South East Queensland Regional Plan 2005 - 2026.

SEQRP 2031 means the South East Queensland Regional Plan 2009 - 2031.

SPA means the Sustainable Planning Act 2009 (Qld).

SPP means State Planning Policy.

SPP 1/03 means State Planning Policy 1/03 Mitigating the Adverse Impacts of Flood, Bushfire and Landslide.

TLP1 means Temporary Local Planning Instrument.

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1. Legislative Framework and Land Use Planning

1.1 Local Government Act 1936

- (a) The Local Government Act 1936 (repealed) (LG Act 1936) commenced on 1 January 1937 and was repealed on 7 December 1993. The analysis below considers the LG Act 1936 as it was in force at 1974.
- (b) Under the LG Act 1936, a local authority was responsible for the administration, implementation and enforcement of a planning scheme.¹ The LG Act 1936 provided the following process for the preparation of town planning schemes, by local authorities, for their local government areas.¹
- (c) A local authority was required to pass a resolution, defining the area it proposed to include within the planning scheme.¹ A copy of the resolution, together with a map showing the area defined in the resolution was then required to be provided to the Minister.² In the event that the resolution was approved by the Minister, the Minister was required to publish his or her approval by gazette notice.³
- (d) Before an application to approve the planning scheme was made, the local authority was required to publicly notify and keep the proposed planning scheme and associated maps open for inspection.⁴ Any person could make written objections to the planning scheme within the published notification period.
- (e) An application to the Governor in Council to approve the planning scheme was required to be made within ninety days after the last day for the receipt of objections. The application was required to be accompanied by:
 - (i) particulars of the planning scheme, including the relevant map or maps of the scheme
 - (ii) all properly made objections
 - (iii) a copy of the public notifications of the planning scheme
 - (iv) submissions and representations made.
- (f) Where the Governor in Council approved of the scheme, approval was published by Gazette.⁵
- (g) The LG Act 1936 did not provide any guidance as to criteria that the planning scheme was required to meet in order to be approved by the Governor in Council.
- (h) The local authority was permitted at any time to make an application to the Minister for amendment of a planning scheme.⁶ Further, the Governor in Council was

¹ Section 33(2)(b) of the LG Act 1936.

² Section 33(2)(b) of the LG Act 1936.

³ Section 33(2)(c) of the LG Act 1936.

⁴ Section 33(3)(a) of the LG Act 1936.

⁵ Section 33(3)(f) of the LG Act 1936.

permitted, on the recommendation of the Minister, to amend a planning scheme from time to time.⁷

- (i) In 1975, the LG Act 1936 was amended to provide that an application could be made to the local authority to exclude land from any zone and to include land into another zone. In deciding the application, the authority was required to consider, amongst other things, *"the balance of zones", "whether the land or any part thereof is low-lying or subject to flooding so as to be unsuitable for use for all or any of the uses permissible with or without the consent of the Local Authority in the existing zone and the proposed zone"* and whether the rezoning would be contrary to the policies of the Local Authority.⁸
- (j) An application could be made under the LG Act 1936 to subdivide land, use land or for a building or structure. An application was required to be submitted to the local authority with accompanying plans. Where a planning scheme required that any building or other structure could only be erected or used with the consent of the local authority, the local authority was required to publically notify the application.⁹ Written objections were able to be made in relation to the application.
- (k) The local authority was able to refuse the application, approve the application or approve the application subject to conditions. A decision of the local authority could be appealed to the Court.¹⁰
- (l) In approving an application for subdivision, the local authority was required to take a number of matters into consideration, including *"whether land or any part thereof is low-lying so as to be reasonably capable of being drained, or is no fit to be used for residential purposes."*¹¹
- (m) Further, a local authority, when considering an application for approval, consent, permission or authority for the implementation of a proposal under the LG Act 1936 (or another Act) was required to take into consideration whether any deleterious effect on the environment would be occasioned by the implementation of the proposal.¹²
- (n) Under the LG Act 1936, a person who had an interest in premises within a planning scheme area, could in certain circumstances, obtain from the local government compensation where that interest was injuriously affected:
 - (i) by the coming into force of any provision contained in the planning scheme;
 - (ii) or by the prohibition or restriction imposed by the planning scheme¹³.

⁶ Section 33(5) of the LG Act 1936.

⁷ Section 33(6) of the LG Act 1936.

⁸ Section 33(6A) of the LG Act 1936.

⁹ Section 33(18) of the LG Act 1936.

¹⁰ Section 33(15) of the LG Act 1936.

¹¹ Section 34(12)(g) of the LG Act 1936.

¹² Section 32A of the LG Act 1936.

¹³ Section 33(1) of the LG Act 1936.

1.2 Local Government (Planning and Environment) Act 1990 (LGPE Act)

- (a) The Local Government (Planning and Environment) Act 1990 (repealed) (LGPE Act) commenced on 15 April 1991 and also provided for the preparation by local authorities of planning schemes for their local authority areas.¹⁴ The LGPE Act was repealed in 1997.
- (b) A planning scheme was required to consist of:
 - (i) planning scheme provisions for the regulation, implementation and administration of the planning scheme;
 - (ii) zoning maps and any regulatory maps;
 - (iii) a strategic plan;
 - (iv) a development control plan (if any);
 - (v) any amendment approved by the Governor in Council in respect of the planning scheme.¹⁵
- (c) The LGPE Act required a planning study to be prepared in connection with the development of planning schemes, strategic plans and development control plans.¹⁶ In preparing the planning study, the local authority must have regard to State planning policies,¹⁷ and must include a statement about the extent to which the local authority had regard to State planning policies.¹⁸ No relevant State planning policies were made under the LGPE Act.
- (d) Each planning study is also required to include an assessment of, amongst other things, any constraints and opportunities in respect of development.¹⁹
- (e) Before application to approve the planning scheme was made, the local authority was required to publicly notify and keep the proposed planning scheme and supporting documents open to inspection.²⁰ An application to the Governor in Council to approve the planning scheme must be accompanied by the proposed planning scheme and supporting documents, the advertisement and submissions and representations made.²¹
- (f) A person was able to make an application to a local authority to amend a planning scheme or the conditions attached to an amendment.²² Relevantly, in considering an application to amend a planning scheme or the conditions attached to an

¹⁴ Section 2.10 of the LGPE Act.

¹⁵ Section 2.1 of the LGPE Act.

¹⁶ Section 2.7(1) of the LGPE Act.

¹⁷ Section 2.7(1A) of the LGPE Act.

¹⁸ Section 2.7(1B) of the LGPE Act.

¹⁹ Section 2.7(2)(g) of the LGPE Act.

²⁰ Section 2.14 of the LGPE Act.

²¹ Section 2.15 of the LGPE Act.

²² Section 4.3(1) of the LGPE Act.

amendment of a planning scheme a local authority was to assess, amongst other things, "*the balance of zones*", need for the rezoning, planning amenity, "*whether the land or any part thereof is so low-lying or so subject to inundation as to be unsuitable for use for all or any of the uses permitted or permissible in the zone in which the land is proposed to be included*" and the impact on the environment.

- (g) An application could be made to the local authority for a town planning consent permit or interim development permit, in certain circumstances.²³ Where an application was made for consent, the applicant was required to publically notify the application within 2 days after lodging the application with the local government. Public objections could then be made in respect of the application within the objection period. The local authority could approve the application, approve the application subject to conditions, or refuse the application.²⁴ An applicant who was dissatisfied with the decision of the local authority could apply to the Planning and Environment Court for review of the decision.
- (h) An application could be made to the local authority to subdivide land.²⁵ In considering the application to subdivide land the local authority was required to take a number of factors into consideration including:
 - (i) whether any of the proposed allotments would be unsuitable for use because of existing or possible subsidence, slope or erosion;
 - (ii) the proposed method of disposal of drainage and whether this would have a detrimental effect upon neighbouring lands;
 - (iii) whether kerbing and channelling should be provided.²⁶
- (i) In deciding the application for subdivision, the local authority may approve the application, approve the application subject to conditions or refuse the application.²⁷
- (j) The LGPE Act protected existing lawful uses. Section 3.1 of LGPE Act provided that a lawful use made of premises, immediately prior to the day when a planning scheme or amendment commences to apply to the premises, is to continue to be a lawful use of the premises for so long as the premises are so used notwithstanding any contrary provision of the planning scheme or that the use is a prohibited use.
- (k) A planning scheme made under the LGPE Act, or continuing in force under the LGPE Act, did not bind the Crown . Section 6.2.1 of IPA repealed the LGPE Act in March 1998.
- (l) Under the LGPE Act, a person who had an interest in premises within a planning scheme area, could in certain circumstances, obtain from the local government compensation where that interest was injuriously affected:
 - (i) by the coming into force of any provision contained in the planning scheme;

²³ Section 4.12(1) of the LGPE Act.

²⁴ Section 4.13(5) of the LGPE Act.

²⁵ Section 5.1(1) of the LGPE Act.

²⁶ Section 5.1(3) of the LGPE Act.

²⁷ Section 5.1(6) of the LGPE Act.

- (ii) or by the prohibition or restriction imposed by the planning scheme.²⁸

1.3 Local Government Act 1993

- (a) The Local Government Act 1993 (Repealed) (**LG Act 1993**) commenced on 26 March 1994 and was repealed in 2009.
- (b) From 1994 until the commencement of the Integrated Planning Act 1997 (**IPA**) (now repealed) matters relating to planning schemes were governed under the LGPE Act. Section 6.2.1 of IPA repealed the LGPE Act.
- (c) After the commencement of IPA, the LG Act 1993 allowed a local government to make a decision to prepare a new planning scheme under IPA, and then under the Sustainable Planning Act 2009. If a provision of a local law or local law policy made before the commencement of IPA dealt with development, within the meaning of that Act, the provision could only be repealed and not amended.²⁹

1.4 Integrated Planning Act 1997

- (a) IPA was assented to on 1 December 1997 with most provisions commencing 30 March 1998. It formed the foundation of Queensland's planning and development legislation and, amongst other things, established the step-by-step process for lodging, assessing and deciding development applications known as the Integrated Development Assessment System (**IDAS**).
- (b) IPA introduced a more performance based planning system, where no development was prohibited (other than in State Planning Regulatory Instruments) and assessment of development applications was to be made against the performance based codes within the planning scheme. IPA governed how planning schemes were to be made and specified how development applications were to be made under the IDAS system. The core matters to be included in a planning scheme which IPA required were:
 - (i) land use and development which included the location and relationship of land uses, the effects of land use and development, mobility and access and development constraints including population and demographic impacts;
 - (ii) the extent and location of proposed infrastructure;
 - (iii) valuable features of the local government area including areas of ecological significance, areas contributing significantly to amenity, places of cultural heritage significance and areas of economic value.³⁰
- (c) In the preparation of a planning scheme, the local government was required to advance the IPA's purpose, that is to achieve ecological sustainability by coordinating and integrating planning at the local, regional and State levels, managing the process by which development occurs and managing the effects of development on the environment.³¹ Ecological sustainability is a balancing

²⁸ Section 3.5(1) of the LGPE Act.

²⁹ Section 464A of the LG Act 1993.

³⁰ Section 2.1.3 of IPA.

³¹ Section 1.2.1 and 1.2.2 of IPA.

exercise that integrates the protection of ecological processes and natural systems at a State, regional and local level, economic development and the maintenance of economic, physical and social wellbeing of people and communities.³² Furthermore, in making decisions on development applications the effect of those decisions on ecological sustainability had to be considered (other than for code assessment).³³

- (d) IDAS recognised that there were numerous Acts, usually topic specific, which regulated development by setting out minimum standards aimed at managing and protecting the environment. The IDAS framework provided a coordinated system which allowed for the assessment of a range of aspects of a development in a single integrated manner by managing the lodgement and assessment of most development related activities, including planning, building, environmental, coastal and water management.³⁴
- (e) IDAS introduced four stages of development, being:
 - (i) The application stage - where the application is lodged by the applicant with the assessment manager (or private certifier) who then issues an acknowledge notice confirming receipt of the application;
 - (ii) The information and referral stage where the application is referred to any relevant referral agencies and is reviewed by the assessment manager (or private certifier) and the referral agencies who may then request further and better particulars from the applicant for the application to be properly assessed and decided. Concurrence agencies are provided with the opportunity to assess the application and provide a response to the assessment manager and applicant;
 - (iii) The notification stage (IPA required all impact assessable applications to be publicly notified) which provided the community with the opportunity to comment on a proposal;
 - (iv) The decision stage in which the assessment manager makes a decision on whether the application is to be approved, approved subject to conditions or refused, and advised the applicant and any submitters for the application of the decision.
- (f) IPA defined development by reference to five aspects of development, including:
 - (i) carrying out building work;
 - (ii) carrying out plumbing and drainage work;
 - (iii) carrying out operational work;
 - (iv) reconfiguring a lot; and
 - (v) making a material change of use of premises.

³² Section 1.3.3 of IPA.

³³ Section 1.2.2 of IPA.

³⁴ The summary following in relation to IDAS is adapted largely from Integrated Planning Act 1997 Implementation Note 1, Version 2.0, April 1995. The purpose of IPA and its advancement, and the requirements for planning schemes are addressed below in the summary of SPA.

Development was either assessable, self-assessable or exempt from assessment. IPA's basic premise was that all development was exempt from assessment unless it was made assessable or self-assessable in either Schedule 8 of IPA, the Draft Regulatory Provisions of the Draft SEQ Regional Plan, or in a local government's planning scheme. Accordingly, not all activities were automatically regulated. Development could not however be prohibited under a local government's planning scheme.

- (g) IPA recognised the following three levels of development accessibility:
 - (i) exempt development - where an application is not required and the proposal is not required to comply with any codes or standards;
 - (ii) self-assessable - where an application is not required but the proposal must comply with any applicable codes or standards relevant to the development;
 - (iii) assessable - where an application is required and a development permit must be obtained prior to undertaking any new work or use. Assessable development was either code or impact assessable.
- (h) A code assessable application was assessable against identified "*applicable codes*" only and if the application complied with the code, the application must be approved. However, the application could also be approved if it did not comply with the code, but there were sufficient grounds to justify the decision having regard to the purpose of the code, any applicable State Planning Policy (SPP) or the South East Queensland Regional Plan (SEQRP), provided the decision would not compromise the achievement of the desired environmental outcomes for the planning scheme.
- (i) Impact assessment required a broad assessment of the environmental effects of the development having regard to a range of matters such as the local government's planning scheme and any relevant SPPs. An impact assessable application was required to be publicly notified and any person or group who lodged a properly made submission accrued third party appeal rights.
- (j) The types of approvals that could be sought under IPA were:
 - (i) development permit;
 - (ii) preliminary approval
 - A. generally; and
 - B. overriding the planning scheme.
- (k) Preliminary approvals (generally)³⁵ were optional only and did not authorise the development to commence. Once issued, however, the preliminary approval formed a binding approval and accordingly was a useful step in the development process, particularly in the staging of large and complex approvals.
- (l) Preliminary approvals (overriding the planning scheme)³⁶ would override a planning scheme on the land the subject of the approval and substitute different

³⁵ Established by section 3.1.5 of IPA.

³⁶ Section 3.1.6 of IPA.

provisions applying to that land for the life of the approval or until the development approval was complete. This type of preliminary approval could, in addition to approving the development:

- (i) establish the level of assessment for further development on the site (for example, the level of assessment that would otherwise be required (for example, impact assessment);
 - (ii) identify the codes against which the subsequent development would be assessed.
- (m) IPA protected existing use rights as follows:
- (i) to the extent an existing use of premises was lawful immediately before 30 March 1998, the use was taken to be a lawful use under IPA on 30 March 1998;³⁷
 - (ii) if there was a lawful use of premises in existence prior to the commencement of a new IPA planning scheme, the planning scheme could not stop the use from continuing, further regulate the use or require the use to be changed.³⁸ This applied for as long as the use continued and there was no material change of use since the commencement of the new IPA planning scheme;
 - (iii) any building works or other work lawfully constructed or effected could not be required by a new IPA planning scheme to be altered or removed;³⁹
 - (iv) a use was also taken to be a lawful use in existence immediately before the commencement of a new IPA planning scheme if the use was self-assessable development or exempt development under a transitional planning scheme and a properly made application had been lodged for the development prior to the commencement of a new IPA planning scheme;⁴⁰
 - (v) if a current development permit existed for the use of the land and had not lapsed prior to the commencement of a new IPA planning scheme, the new scheme could not stop or further regulate that development.⁴¹
- (n) Furthermore, within 2 years of a new IPA planning scheme commencing, IPA allowed an applicant to lodge a development application (superseded planning scheme) requesting assessment of the application against the superseded planning scheme or notifying of the intention to carry out development that would have been self-assessable or exempt development under the superseded planning scheme. If such an application was refused a compensation claim could be made by a landowner in certain circumstances where a change in the planning scheme injuriously affected the land. Further, IPA limited compensation where a change to a planning scheme affected development that would have led to significant risk to

³⁷ Section 1.4.1 of IPA.

³⁸ Section 1.4.2 of IPA.

³⁹ Section 1.4.3 of IPA.

⁴⁰ Section 1.4.5 of IPA.

⁴¹ Section 1.4.4 of IPA.

persons or property from natural processes (including flooding, land slippage or erosion) and where the risk could not have been significantly reduced by conditions attached to a development approval.⁴²

- (o) In relation to infrastructure planning, IPA required a Council planning scheme to address the provision on infrastructure to meet the future needs of a community. Once planned for, a Council could levy contributions for certain infrastructure, including:
 - (i) water management;
 - (ii) transport infrastructure;
 - (iii) local community purposes.
- (p) The IPA as passed contained relevant transitional provisions continuing the view that development by the Crown and on Crown land was exempt from planning scheme controls. Relevant provisions include that:
 - (i) All building work that carried out by or on behalf of the State, a public sector entity or a local government is self assessable.⁴³
 - (ii) Operational work or plumbing or drainage work (including maintenance or repair work) was exempt development if the work is carried out by or on behalf of a public sector entity authorised under a State law to carry out the work.⁴⁴
- (q) Further, section 6.1.40 of IPA provided that:
 - (i) *"This section applies if the State or an entity acting for or on behalf of the State, starts development.*
 - (ii) *...to the extent the development is self-assessable development or assessable development under a planning scheme, is exempt development, and the State is not required to pay any infrastructure charge for the development."*
- (r) Section 6.1.40(4) IPA provided that the section expires "2 years after its commencement". Section 6.1.40 of IPA commenced on 30 March 1998 and expired on 30 March 2000.
- (s) IPA contains provisions to allow infrastructure to be approved by the relevant State Minister under a Community Infrastructure Designation (CID). Provisions relating to CID were included in IPA as passed. These provisions commenced on 30 March 1998.
- (t) All aspects of development for community infrastructure prescribed under a regulation is exempt from planning scheme assessment. Such development can include:
 - (i) State-controlled roads;

⁴² section 5.4.4 of the IPA.

⁴³ Schedule 8, section 9 IPA.

⁴⁴ Schedule 8, section 17 IPA.

- (ii) other transport, including for example rail and bus way infrastructure;
- (iii) electricity infrastructure;
- (iv) educational or community and cultural facilities.

1.5 Sustainable Planning Act 2009

- (a) SPA, which provides the current framework for Queensland's land use planning and development assessment system, came into effect on 18 December 2009, replacing IPA.
- (b) SPA continues IDAS established under IPA, with some amendments.
- (c) The categories of development under SPA are:
 - (i) exempt development;⁴⁵
 - (ii) self-assessable development;
 - (iii) development requiring compliance assessment;
 - (iv) assessable development; or
 - (v) prohibited development.
- (d) A regulation may prescribe that development is self-assessable development, development requiring compliance assessment or assessable development. It may also require code or impact assessment, or both, for assessable development. Schedule 3 of the Sustainable Planning Regulation 2009 (Qld) (**SPA Regulation**) identifies assessable and self-assessable development under SPA and Schedule 4 of the SPA Regulation identifies development that cannot be declared to be self-assessable development, development requiring compliance assessment, assessable development or prohibited development.⁴⁶
- (e) The following instruments also may state that development is self-assessable development, development requiring compliance assessment or assessable development requiring code or impact assessment, or both code and impact assessment:
 - (i) state planning regulatory provision;
 - (ii) structure plan;
 - (iii) master plan;
 - (iv) temporary local planning instrument;
 - (v) preliminary approval to which section 242 applies; or
 - (vi) planning scheme.

⁴⁵ All development is exempt development unless it is self-assessable development, development requiring compliance assessment, assessable development or prohibited development under section 231(2) of SPA.

⁴⁶ In other words, exempt development.

- (f) The SPA Regulation (and any other regulation made under section 232 of SPA prescribing a type of development or requiring code or impact assessment or both for assessable development) prevails to the extent a planning scheme or temporary local planning instrument is inconsistent with the SPA Regulation.⁴⁷
- (g) A development permit is not necessary for exempt development, self-assessable development, or development requiring compliance assessment, although self-assessable development must comply with applicable codes and a compliance permit is necessary for development requiring compliance assessment. A development permit is essential for assessable development. A development permit authorises assessable development to take place to the extent stated in the permit and subject to the conditions of the permit and any preliminary approval relating to the development.
- (h) Development applications are administered and decided by the assessment manager for the application. The assessment managers for particular types of development are identified in Schedule 6 of the SPA Regulation. Referral agencies may also be involved in the assessment and deciding of an application. A referral agency may be an advice agency or a concurrence agency. A concurrence agency can require the imposition of various conditions and can also require that an application be refused if the application does not comply with the criteria within its jurisdiction, whereas an advice agency can merely make recommendations. A concurrence agency can also make information requests. Referral agencies and their jurisdiction are identified in Schedule 7 of the SPA Regulation.
- (i) The assessment manager or concurrence agency for an application may ask any person for advice or comment about the application at any stage of IDAS, other than at the compliance stage.⁴⁸
- (j) Importantly, the exercise of powers or the performance of functions conferred on an entity under SPA (for example, a local government) must be in a way that advances the purpose of the SPA.⁴⁹ This requirement does not apply to code assessment or compliance assessment under SPA.⁵⁰
- (k) The purpose of SPA is stated to seek to achieve ecological sustainability⁵¹ by:
 - (i) managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes; and
 - (ii) managing the effects of development on the environment, including managing the use of premises; and

⁴⁷ Section 233 of SPA. For example, if a regulation requires code assessment, a planning scheme cannot require impact assessment for that aspect of development. However, where a planning scheme states development is self-assessable but the regulation states development is assessable, codes in the planning scheme are not applicable codes but must be complied with.

⁴⁸ Section 256 of SPA. Note, IDAS involves the following possible stages: application stage, information and referral stage, notification stage, decision stage and compliance stage.

⁴⁹ Section 4 of SPA. See also section 1.2.2 of IPA.

⁵⁰ Section 4(2) of SPA. See section 1.2.2(2) of IPA.

⁵¹ See below for definition.

- (iii) continuing the coordination and integration of planning at the local, regional and State levels.⁵²
- (l) Ecological sustainability is defined under SPA as a balance that integrates:
 - (i) protection of ecological processes and natural systems at local, regional, State and wider levels;
 - (ii) economic development; and
 - (iii) maintenance of the cultural, economic, physical and social wellbeing of people and communities.⁵³
- (m) Advancing SPA's purpose is stated to include:
 - (i) Schedule 1 - Legislative Framework and Land Use Planning ensuring decision-making processes:
 - A. are accountable, coordinated, effective and efficient; and
 - B. take account of short and long-term environmental effects of development at local, regional, State and wider levels, including, for example, the effects of development on climate change; and
 - C. apply the precautionary principle; and
 - D. seek to provide for equity between present and future generations; and
 - (ii) ensuring the sustainable use of renewable natural resources and the prudent use of non-renewable natural resources by, for example, considering alternatives to the use of non-renewable natural resources; and
 - (iii) avoiding, if practicable, or otherwise lessening, adverse environmental effects of development, including, for example:
 - A. climate change and urban congestion; and
 - B. adverse effects on human health; and
 - (iv) considering housing choice and diversity, and economic diversity; and
 - (v) supplying infrastructure in a coordinated, efficient and orderly way, including encouraging urban development in areas where adequate infrastructure exists or can be provided efficiently; and
 - (vi) applying standards of amenity, conservation, energy, health and safety in the built environment that are cost-effective and for the public benefit; and
 - (vii) providing opportunities for community involvement in decision making.⁵⁴

⁵² Section 3 of SPA. This is similar to, but expands upon, the stated purpose under section 1.2.1 of IPA.

⁵³ Section 8 of SPA and section 1.3.3 of IPA.

- (n) A local government may make a planning scheme for its planning scheme area.⁵⁵ Each local government must complete a review of its planning scheme within 10 years after the planning scheme was originally made or, if a review of the planning scheme has been previously completed, within 10 years after the completion of the last review.
- (o) Planning schemes outline a local government's plan for the local government area outlining an integrated plan for the future and set out future plans for the area.
- (p) Planning schemes developed under IPA remain valid under SPA. Local planning schemes must be updated to reflect the new Queensland Planning Provisions when their scheduled review becomes due.
- (q) SPA introduced some changes to the planning scheme making process, including the preparation of a strategic land use plan and an increased emphasis on community engagement in the planning scheme making process to ensure all of the community's needs are reflected in the final planning scheme. Differences between SPA and IPA have been identified, where relevant, below.
- (r) A planning scheme is required to:
 - (i) appropriately reflect the standard planning scheme provisions;
 - (ii) identify the strategic outcomes for the planning scheme area;
 - (iii) include measures that facilitate achieving the strategic outcomes;
 - (iv) coordinate and integrate the matters, including the core matters,⁵⁶ dealt with by the planning scheme, including any State and regional dimensions of the matters;
 - (v) include a priority infrastructure plan;
 - (vi) include a structure plan for the master planned area if land in the planning scheme area is a declared master planned area.⁵⁷
- (s) Core matters are set out in section 89⁵⁸ and stated to be:
 - (i) land use and development;
 - (ii) infrastructure;
 - (iii) valuable features.

The core matter of land use and development includes development constraints.
- (t) When a local government is developing its planning scheme, it must ensure that the planning scheme reflects SPPs. This is by virtue of the requirement to coordinate

⁵⁴ Section 5 of SPA. This is similar to, but expands upon, section 1.2.3 of IPA.

⁵⁵ Section 84 of SPA.

⁵⁶ See paragraph 1.5(s).

⁵⁷ Section 88 of SPA. This is similar to the requirements of IPA (section 2.1.3) although SPA has changed the requirement to identify strategic outcomes instead of desired environmental outcomes.

⁵⁸ See also section 2.1.3A of IPA.

and integrate matters, including any State and regional dimensions of the matter. These include matters reflected in a regional plan or in a SPP.⁵⁹

- (u) SPPs are planning instruments that the Planning Minister (or any Minister in conjunction with the Planning Minister) can make to advance the purpose of SPA by stating the State's policy about a matter of State interest.
- (v) A State interest is an interest that the Planning Minister considers affects:
 - (i) an economic or environmental interest of the State or a part of the State; or
 - (ii) the interest of ensuring there is an efficient, effective and accountable planning and development assessment system.⁶⁰
- (w) SPPs are generally issue specific (eg. koalas, wetlands, acid sulfate soils) and set out the State's policy regarding a matter of State Interest.⁶¹ SPPs can apply to all or part of the State.
- (x) A SPP prevails over a local planning instrument to the extent of any inconsistency.⁶² To the extent a SPP is not reflected in a local planning scheme, an assessment manager must assess an application for development approval against the SPP.⁶³ The assessment manager's decision cannot be inconsistent with a SPP except in the limited circumstances prescribed in sections 326 and 329 of SPA.⁶⁴
- (y) The SPA has similar provisions to IPA in providing a right to compensation for injurious affection caused by a change to a planning scheme, although the period within which an application for a development application may be assessed under the superseded scheme has been reduced to 1 year from the commencement of the new planning scheme.

⁵⁹ Section 90 of SPA. See also section 2.1.4 of IPA.

⁶⁰ Schedule 3 of SPA. See also Schedule 10 of IPA.

⁶¹ Section 40 of SPA. See also section 2.4.1 of IPA.

⁶² Section 43 of SPA. There is no similar provision in IPA. The change was made to clarify the relationship between state planning policies and other instruments.

⁶³ Sections 313(d)(ii) and 314(d)(ii) of SPA. See also sections 3.5.4(2)(c)(i) and 3.5.5(2)(c)(i) of IPA.

⁶⁴ The decision rules have been simplified in SPA. For IPA decision rules, see sections 3.5.11, 3.5.13 and 3.5.14.

2. State Planning Policies (SPP)

2.1 State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide (SPP 1/03)

- (a) SPPs are planning instruments that the Minister for Local Government and Planning (or any Minister in conjunction with the planning Minister) can make to protect matters that are of interest to the state. This includes, amongst other things:
 - (i) agricultural land;
 - (ii) separating agricultural land from residential land;
 - (iii) development within close proximity to airport land;
 - (iv) protecting development from adverse affects of bushfire, floods and landslides.
- (b) In developing a planning scheme, a local government must ensure that the planning scheme reflects the elements outlined in SPPs. If there is a discrepancy between a planning scheme and a state planning policy, then what is outlined in the SPP overrides the planning scheme.
- (c) SPPs have a life span of 10 years if they are not reviewed but can be extended to 12 years by the planning Minister in certain circumstances.
- (d) SPP 1/03 was adopted on 19 May 2003 under IPA with effect from 1 September 2003. SPP 1/03 is supported by State Planning Policy 1/03 Guideline: Mitigating the Adverse Impacts of Flood, Bushfire and Landslide (**SPP 1/03 Guideline**). SPP 1/03 was a joint initiative between the Departments of Local Government and Planning and Emergency Services.
- (e) SPP 1/03 sets out the State's interest in ensuring that the natural hazards of flood, bushfire, and landslide are adequately considered when making decisions about development so as to minimise potential adverse impacts on people, property, economic activity and the environment. It addresses only development issues associated with minimising the potential adverse impacts of flood, bushfire and landslide.
- (f) The SPP notes that to achieve some of the SPP outcomes, development proposals may include works (eg, filling, firebreaks or retaining structures) that would have unacceptable impacts on the natural environment, heritage or amenity values. It therefore acknowledges that achieving the outcomes of the SPP is not an automatic justification for a development proposal being inconsistent with policies on amenity, conservation and other matters.⁶⁵
- (g) The SPP requires the identification of natural hazard management areas within which minimising risks to the community should be a key consideration in development assessment and the preparation of planning schemes.⁶⁶ In relation to certain important types of community infrastructure (for example, State-controlled

⁶⁵ Section 3.2 of SPP 1/03.

⁶⁶ Section 5.1 of SPP 1/03.

roads) the SPP aims to ensure that they are able to maintain operation during and immediately after major natural hazard events wherever practicable.⁶⁷

(h) The SPP provides various development outcomes which must be considered when development applications are assessed against the SPP. These outcomes include:

- (i) Outcome 1 - Within natural hazard management areas, development to which the SPP applies is compatible with the nature of the natural hazard, except where:
 - A. the development proposal is a development commitment; or
 - B. there is an overriding need for the development in the public interest and no other site is suitable and reasonably available for the proposal.⁶⁸

The natural hazard management area for flood hazard is dependent on a local government adopting a flood event for the management of development in a particular locality (known as a defined flood event (DFE))⁶⁹ and identifying the affected area in the planning scheme. Until this occurs, the SPP does not take effect for development assessment in relation to flood hazard in that locality.⁷⁰

(i) Outcome 2 - Development that is not compatible with the nature of the natural hazard but is otherwise consistent with Outcome 1:

- A. minimises as far as practicable the adverse impacts from natural hazards; and
 - B. does not result in an unacceptable risk to people or property.
- (ii) Outcome 3 - Wherever practicable, community infrastructure to which the SPP applies is located and designed to function effectively during and immediately after natural hazard events commensurate with a specified level of risk.
- (iii) Outcomes 4-6 requires that planning schemes identify natural hazard management areas, contain strategies to address natural hazards, include a code designed to achieve the development outcomes and ensure that development to which the SPP applies is assessable or self-assessable against the planning scheme code.

(j) SPP 1/03 applies to the following development:⁷¹

⁶⁷ Section 5.2 of SPP 1/03.

⁶⁸ Section 6.3 of SPP 1/03.

⁶⁹ The definition contained in section 9.1 of the SPP 1/03 notes that a DFE is generally not the full extent of flood-prone land. This is further acknowledged by the definition of natural hazard management area which states that the defined area may not reflect the full extent of the area that may be affected by the hazard and gives, by way of example, land above the 1% AEP floodline may flood during a larger flood event.

⁷⁰ Section 6.6 of SPP 1/03.

⁷¹ Annex 1 of SPP 1/03.

- (i) In natural hazard management areas for flood, to material changes of use and associated reconfigurations of a lot that:
 - A. increase the number of people living or working in the natural hazard management area, except where the premises are only occupied on a short-term or intermittent basis; or
 - B. involve institutional uses where evacuating people may be particularly difficult; or
 - C. involve the manufacture or storage of hazardous materials in bulk; or
 - D. would involve the building or other work (described in (b) below) as an intrinsic element of the development proposal; and
 - (ii) In natural hazard management areas for flood, to building or other work that involves any physical alteration to a watercourse or floodway including vegetation clearing, or involves net filling exceeding 50 m³.
 - (iii) Throughout Queensland, to the various types of listed community infrastructure that provide services vital to the wellbeing of the community.
- (k) SPP 1/03 contains some important definitions with respect to flood. It is noted that these acknowledge that it may not be practicable to provide protection for the full extent of flood-prone land. For example:
- (i) Defined flood event (DFE): the flood event adopted by a local government for the management of development in a particular locality. The DFE is generally not the full extent of flood-prone land.
 - (ii) Natural hazard management area: an area that has been defined for the management of a natural hazard (flood, bushfire or landslide), but may not reflect the full extent of the area that may be affected by the hazard (e.g. land above the 1% AEP floodline may flood during a larger flood event).
 - (iii) Probable maximum flood (PMF): the largest flood that could reasonably occur at a particular location, resulting from the probable maximum precipitation. The PMF defines the extent of flood-prone land. Generally, it is not physically or financially possible to provide general protection against this event.
- (l) While SPP 1/03 leaves it to the individual local government to identify the natural hazard management area (flood) by identifying a DFE in its planning scheme, the Queensland Government's position is that, generally, the appropriate flood event for determining a natural hazard management area (flood) is the 1% AEP flood. The SPP acknowledges that it may, however, be appropriate to adopt a different DFE depending on the circumstances of the individual localities.⁷²
- (m) In determining a DFE, the SPP 1/03 Guideline acknowledges a range of competing interests that may be applicable. The SPP 1/03 Guidelines outlines the key factors

⁷² Annex 3 of SPP 1/03.

that should be considered when deciding an appropriate DFE for determining a natural hazard management area (flood) as follows:

- (i) potential economic and social impacts of a range of flood events;
- (ii) community desires and expectations;
- (iii) environmental values of and objectives for the floodplain;
- (iv) consistency with adopted DFEs in adjoining localities (whether or not within the same LGA);
- (v) emergency response requirements e.g. warning times, refuges, evacuation routes, recovery measures; and
- (vi) management and mitigation measures.⁷³

⁷³ Appendix 2 of SPP 1/03 Guideline.

3. Planning Schemes

Ipswich

3.1 1976 Ipswich Planning Scheme

- (a) On 8 July 1976, the Town-Planning Scheme for the City of Ipswich was approved by the Deputy Governor (**1976 Scheme**). This planning scheme replaced the previous planning scheme dated 19 December 1957.
- (b) The 1976 scheme divided the city into zones identified on scheme maps available for inspection at the office of the Council and at the office of the Director of Local Government.⁷⁴ With respect to each zone, the 1976 scheme identified purposes for which development may:
 - (i) be permitted without the consent of the Council;
 - (ii) be permitted only with the consent of the Council;
 - (iii) not be permitted.⁷⁵
- (c) For example, within the Residential 1 (Single Family - Detached) Zone, the purposes of dwelling houses, home occupations and public recreation could be developed without the need for obtaining the consent of Council. Development of the land for any other purpose, except those identified as purposes for which development is not permitted (such as industry), required the consent of the Council. Therefore, purposes such as public utility, special uses (cemeteries, Commonwealth, State or Local Government undertakings, educational establishments, hospitals, places of worship, showgrounds), kindergartens and general stores required the consent of the Council to be undertaken within Residential 1.⁷⁶
- (d) Existing lawful uses were allowed to continue, subject to conditions should changes or additions be proposed.⁷⁷
- (e) Various by-laws were approved at the same time the 1976 Scheme was approved. These by-laws set out the procedures for implementing the 1976 Scheme and included By-law 30 (town planning), By-law 6 (subdivision of land) and, of particular relevance to flooding, By-law 37 (drainage and drainage problem areas).

By-law 30 town planning

- (f) The procedure for applications to be made to the Council and the matters to be considered by the Council in assessing any application were set out in By-law 30. Under the By-law, any person desiring to obtain consent of the Council under the

⁷⁴ Part 2, Division 2A. The zones were Rural, Residential 1 (Single Family Detached), Residential 2 (Medium Density), Residential 3 (High Density), Residential 4 (High Density - High Rise), Local Commercial, Central Commercial 1, Central Commercial 2, Service Industry, Light Industry, General Industry, Hazardous, Noxious or Offensive Industry, Extractive Industry, Public Open Space, Private Recreation, Special purpose.

⁷⁵ Part 2, Division 2A, section 17.

⁷⁶ Part 2, Division 2B table of zones.

⁷⁷ Part 2, Division 3A.

1976 Scheme was required to make application in the form required by the Council. The By-law identified all the details to be provided with the application.⁷⁸

- (g) In assessing any application for its consent to any development, the Council was required to take into consideration the following:
- (i) the character of the proposed development in relation to the adjoining land and the locality;
 - (ii) the size and shape of the parcel of land to which the application relates, the siting of the proposed development and the area to be occupied by the development in relation to the size and shape of the adjoining land and the development thereon;
 - (iii) any detailed Policy Plan or Statement adopted by resolution of the Council for the ordered development of the locality in which the land to which the application relates is situated;
 - (iv) whether adequate provision has been made for the landscaping of the site;
 - (v) the existing and future amenity of the neighbourhood;
 - (vi) the provisions of this Scheme;
 - (vii) all objections which have been duly lodged with Council against the granting of its consent.⁷⁹
- (h) The By-law also provided circumstances in which the Council may refuse an application for consent. Amongst other things, this included, relevantly, where the proposal was to erect a building or other structure on land "*which is situated along watercourses which are subject to inundation by flooding at a frequency of once in 20 years.*"⁸⁰
- (i) The procedure for applications for rezoning land was also set out in the By-law. The By-law did not set out any matters to be considered in the assessing a rezoning application, although before submission to the Council, the City Administrator was required to prepare a report setting out various planning and other matters which were considered relevant.⁸¹
- (j) Chapter 3 of the By-law enabled the Council to prepare and adopt by resolution Policy Plans or Statements "*for the good rule and government of the City, and for the ordered guidance of City growth and land use.*"⁸² Any sealed Policy Plans were to be made available for inspection at the office of the Council.⁸³ In respect of any application for consent under the planning scheme, the Council was required to take into account the principles and policies shown on the Policy Plans or Statements

⁷⁸ Chapter 1(1).

⁷⁹ Chapter 1(3).

⁸⁰ Chapter 1(4).

⁸¹ Chapter 1(5).

⁸² Chapter 3(1).

⁸³ Chapter 3(5).

and to have regard to the effect of the proposed use upon the implementation of those principles and policies.⁸⁴

- (k) Chapter 5 of the By-law required the Council, when considering an application for consent, to have due regard to the effect that such a proposal, if implemented, would have on the environment.⁸⁵ Any application for consent which was for a development of a type included in the policy statement for development requiring Environmental Impact Studies could be deemed incomplete unless accompanied by a study report and statement of impact.⁸⁶

By-law 6 subdivision of land

- (l) Procedures regarding subdivision of land was dealt with by By-law 6. The By-law required that various details be provided in an application including, with relevance to flood issues:
- (i) the levels of present surface of the ground as related to Australian Height Datum or as approved by the Council;
 - (ii) the areas of all catchments draining upon the land and any further information as requested;
 - (iii) the location of all watercourses, waterholes and creeks and all land subject to inundation by stormwater runoff with a recurrence interval of 1 in 20 years;
 - (iv) the lines of all existing sewers and drains;
 - (v) the purpose for which the land is proposed to be subdivided.⁸⁷
- (m) Standard conditions of development were provided in the By-law, including:
- (i) the subdivider shall carry out the construction of road works, sewerage, water and all stormwater drainage works to the requirements and satisfaction of the Council;⁸⁸
 - (ii) prior to proceeding with the construction of roads, sewerage, water supply and drainage works in the subdivision, the subdivider shall submit full working plans and specifications of works to the council for its approval;⁸⁹
 - (iii) the subdivider shall construct all drainage within the estate to conform with the Council's current specifications for stormwater drainage;⁹⁰

⁸⁴ Chapter 3(8).

⁸⁵ Chapter 5(1).

⁸⁶ Chapter 5(2).

⁸⁷ Chapter 2(2).

⁸⁸ Chapter 3(1).

⁸⁹ Chapter 3(2).

⁹⁰ Chapter 3(9).

- (iv) the subdivider shall dispose of all stormwater meaning from the subject land within that land or otherwise in a manner approved by the Council;⁹¹
- (v) prior to the final acceptance, by the Council, of roads, drainage, sewerage and water supply, appurtenant to the estate, the subdivider shall furnish to the Council an Engineer's Certificate of "*Works as Constructed*" setting out on a revised copy of the original plan, full details of works performed inclusive of all necessary survey data, levels etc.⁹²

By-law 37 drainage and drainage problem areas

- (n) Flooding issues were dealt with specifically by By-law 37. This By-law enabled land to be declared by the Council to be a drainage problem area when, in the opinion of the Council, any land is:
 - (i) so low-lying; or
 - (ii) so affected, whether frequently or infrequently by floods; or
 - (iii) forms part of an area which is so difficult or expensive to drain, that it is undesirable that any or any further development for any purpose should take place thereon without the permission of the Council.⁹³
- (o) Where a drainage problem area was declared, section 4 operated to prohibit the following activities within the area:
 - (i) erecting any building for any purpose; or
 - (ii) changing the use of a building or other structure; or
 - (iii) rebuilding or enlarging any existing building used for any purpose; or
 - (iv) carrying out any other development as defined except with the written permission of the Council and in accordance with the conditions, if any, to which such permission is granted.

In addition to the drainage problem areas, the 1 in 20 year flood line as adopted by the Council was established as the limit of all proposed development except in special cases where the Council decides that the flood problem can be mitigated by filling and/or engineering works in accordance with Council requirements.⁹⁴

⁹¹ Chapter 3(10).

⁹² Chapter 3(14).

⁹³ Section 2.

⁹⁴ Section 5.

Moreton

3.2 1992 Moreton Planning Scheme

- (a) The planning scheme for the Shire of Moreton approved on 21 October 1982 was amended on 28 May 1992 (**1992 Scheme**). It is sometimes referred to as the 1991 AMCORD planning scheme.
- (b) The amendments included concepts from AMCORD (Edition 2, November 1990) with some slight modifications.
- (c) The shire was divided into various zones identified on maps.⁹⁵ With respect to each zone, the 1992 Scheme identified purposes for which development:
 - (i) may be carried out without the consent of Council;
 - (ii) may be carried out without the consent of Council subject to conditions;
 - (iii) may be carried out only with the consent of Council;
 - (iv) is prohibited.⁹⁶
- (d) The 1992 Scheme provided that the Council shall not grant consent to the carrying out of development unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development proposed is to be undertaken.⁹⁷
- (e) The Non-Urban Zone refers to flood constraints in its objectives. Specifically, it states that the objectives of the zone is to protect the health and safety of the shire population, investment in property, and long term viability of resources by restricting the establishment of inappropriate uses upon land known to be effected by a significant constraint upon development. Such constraints upon development include, amongst other things, flooding.
- (f) The 1992 Scheme also amended special requirements in relation to particular development under Part VI. In particular, it omitted requirements regarding multiple dwellings and group housing and inserted a new Division 3 for integrated residential development and Division 4 for dual occupancy and multiple dwelling development and relative's flats. These divisions then applied to land within the Future Urban Zone, Residential "A" Zone (excluding existing Residential "A" Allotment) and the Township Zone, where provision for reticulated sewerage services have been made. It provides that the Council may approve the erection of a dwelling house on an allotment having an area of less than 450 m² only in certain circumstances. Amongst other things, a plan of development showing various matters, as well as matters specified within AMCORD was required, the fundamental objectives of AMCORD were to be taken into account with respect to the scale and intensity of the development and, most relevantly, the development

⁹⁵ The zones included Rural, Non-Urban, Future Urban, Township, Park Residential, Low Density Residential, Residential "A", Residential "B", Commercial, Service Industry, Light Industry, Medium Industry, Noxious and Hazardous Industry, Special Facilities, Special Uses, Park and Recreation, Environmental Protection (Scenic/Escarpment, Environmental Protection (Habitat)).

⁹⁶ Part II, 2(2).

⁹⁷ Part II, 2(3).

was required to comply with the performance criteria and deemed-to-comply criteria contained in Part B (elements of control) of AMCORD.⁹⁸

- (g) A new overarching part (Part VIII) was inserted into the 1992 Scheme for special requirements in relation to development in particular zones whether or not consent is required under the scheme. This applied to the Future Urban Zone, which was said to designate the preferred direction for residential growth in the short to medium term. It provided that no building or other structure shall be erected or used for any purpose or land subdivided within the Future Urban Zone unless various requirements were met. This included that Council would consider, for a proposal to subdivide or develop land, the following matters:
- (i) *"need for urban land as indicated by Council's prioritised growth strategy;*
 - (ii) *the physical suitability of the site including soil stability, flooding, erosion, drainage and slope;*
 - (iii) *protection of the natural vegetation and habitats of the land;*
 - (iv) *the development's affect on the visual amenity of the area;*
 - (v) *the land's location from urban areas or the facilities and infrastructure associated with urban areas;*
 - (vi) *whether the development is a logical extension to existing urban areas and infrastructure;*
 - (vii) *the provision of service and community infrastructure to the site;*
 - (viii) *the implications of traffic generated by the development;*
 - (ix) *the suitability of the site for its intended purpose compared with other sites within the catchment; and*
 - (x) *the present and preferred future uses for the adjacent land."*⁹⁹
- (h) Part IX dealt with subdivision of land. It required that an application for subdivision be accompanied by a proposal plan.¹⁰⁰ The proposal plan was required to indicate various information including:
- (i) the line and banks of any watercourse or creek and the position of any waterholes on the subject land, and the high water mark of any tidal water;¹⁰¹

⁹⁸ AMCORD (Edition 2 November 1990) addressed flood issues only with respect to the drainage network. For instance, an objective under B12 was to prevent damage by stormwater to property such as house and gardens. One of the performance criteria for this and other similar objectives was that the minor drainage system is to have the capacity to control stormwater flows under normal operating conditions for an AEP of 50%. AMCORD dated November 1990 performance criteria:

P1. The major drainage network to have the capacity to control stormwater flows under normal and minor system blockage conditions for an AEP of 1%

P2. No dwelling to be inundated during a flood of 1% AEP

P3. Habitable rooms to have floor levels 300 mm above the estimated flood level resultant from a flood of 1% AEP.

⁹⁹ Part VIII (3)(iv).

¹⁰⁰ Part IX, Division 4(2).

- (ii) where applicable, the maximum flood level on the subject land.¹⁰²
- (i) Division 10 provided that the Council could refuse an application for subdivision if (amongst other things):
 - (i) the site orientation of any existing building or any building which could be erected on such land would be for any reason unsatisfactory;¹⁰³
 - (ii) provision is not made for the transfer free of cost to the Council of any drainage reserves or drainage easements;¹⁰⁴
 - (iii) any allotment proposed is so low-lying as not to be, in the opinion of the Council, reasonably capable of being drained by gravitation at all times; or in the case of an allotment which is low-lying but is capable of being filled and drained, provision is not made in the proposal to effect such filling and drainage to the satisfaction of the Council;¹⁰⁵
 - (iv) the proposal includes any low-lying allotment capable of being filled and/or drained, but which cannot be so filled and/or drained, without requiring filling or drainage on an existing road or roads, and/or adjacent properties;¹⁰⁶
 - (v) any of the land to be subdivided is below the maximum known flood level.¹⁰⁷

3.3 1989 Ipswich Planning Scheme

- (a) On 7 October 1989, the Town Planning Scheme for the City of Ipswich, together with By-law 6 (subdivision of land) and By-law 30 (town planning) were approved by the Governor in Council (**1989 Scheme**). The 1989 Scheme replaced the 1976 Scheme.
- (b) The 1989 Scheme again divided the city into zones identified on the zoning maps.¹⁰⁸ With respect to each zone, the 1989 Scheme identified purposes for which development may:
 - (i) be carried out without the consent of the Council (permitted development);

¹⁰¹ Part IX, Division 5(1)(d).

¹⁰² Part IX, Division 5(1)(h).

¹⁰³ Part IX, Division 10(1)(e).

¹⁰⁴ Part IX, Division 10(1)(f).

¹⁰⁵ Part IX, Division 10(1)(h).

¹⁰⁶ Part IX, Division 10(1)(i).

¹⁰⁷ Part IX, Division 10(1)(t).

¹⁰⁸ Part 2, Division 1. The zones were Future Urban, Residential A, Residential B, Residential C, Residential D, Special Residential, Local Commercial, Major Suburban Centre, Special Business, Comprehensive Development, Future Industry, Light Industry, General Industry, Extractive Industry, Non-Urban, Public Open Space, Sport and Recreation, Special Purposes, Special Facilities, Historic Mixed Use.

- (ii) be carried out without the consent of the Council where compliance with conditions (permitted development subject to conditions);
 - (iii) be carried out only with the consent of the Council (consent development);
 - (iv) not be carried out (prohibited development).¹⁰⁹
- (c) Existing lawful uses were allowed to continue, subject to conditions should changes or additions be proposed.¹¹⁰
- (d) Part 4 of the 1989 Scheme allowed the Council to prepare Statements of Planning Policy to be used for assessing applications for development and setting out procedures to implement the planning policy. The Council was required to have regard to such statements of planning policy in determining any application for rezoning, town planning consent, subdivision or development.¹¹¹
- (e) Part 5 introduced the concept of the Strategic Plan and Development Control Plans, requiring the Council to apply the relevant provisions of these when making a determination or decision on any matter dealt with or contained in the scheme including those plans.
- (f) Performance standards and special requirements in relation to particular development and zones were set out in Part 6. These standards and requirements were applicable to all development whether or not consent was required under the 1989 Scheme. The requirements included, amongst other things, that the use shall not be commenced unless the required external works have been provided or carried out at the expense of the owner or development of the site.¹¹² Required external works include (relevant to flood issues):
 - (i) such drainage works as are rendered necessary by the carrying out of any required external works;
 - (ii) stormwater and drainage from paved and roofed areas shall be discharged to kerb and channelling within the adjoining road reserves;
 - (iii) any external catchments discharging to the subject land shall be accepted and accommodated within the development's stormwater drainage system;
 - (iv) the development shall not cause ponding of stormwater on adjoining land or roads.
- (g) Special provision was made for drainage problem areas¹¹³ under Part 7 miscellaneous provisions. Division 2 provided that where, pursuant to the provisions of Council's By-laws, an area within the City has been declared a drainage problem area, all uses permitted without consent of the Council for

¹⁰⁹ Part 2, Division 2, section 1.

¹¹⁰ Part 3.

¹¹¹ Part 4(6).

¹¹² Part 6(5) External works and general site development requirements.

¹¹³ See 3.1(n) to 0 above.

particular zones shall cease to be permitted development and become consent development, provided that all prohibited development shall remain prohibited.

- (h) Appendix A to the 1989 Scheme contained the Strategic Plan which deals with broad patterns of land use. It set out preferred dominant land uses, identifying the Council's goals and objectives for the future. In addition to the preferred dominant land uses, the Strategic Plan also identified areas which the Council could not make a firm commitment for a particular future land use. With respect to this land, criteria was set out for considering applications for the land's development which included, amongst other things, whether water supply, effluent disposal, stormwater drainage and roads are able to be provided at a standard suitable for the type of development proposed.¹¹⁴

By-law 6 subdivision of land

- (i) Procedures regarding subdivision of land was dealt with by the revised By-law 6.¹¹⁵ To subdivide land, an applicant was required to obtain approval under the By-law.¹¹⁶ The By-law required that various details be provided in an application including a proposal plan detailing, with relevance to flood issues:
- (i) the levels of present surface of the ground as related to Australian Height Datum or as approved by the Council;
 - (ii) the areas of all catchments draining upon the land and any further information as requested;
 - (iii) the location of all watercourses, waterholes and creeks and all land subject to inundation by stormwater runoff with a recurrence interval of 1 in 20 years;
 - (iv) the lines of all existing sewers and drains;
 - (v) the purpose for which the land is proposed to be subdivided.¹¹⁷
- (j) Before determining an application for approval of the opening of a road, Council was required to consider, inter alia, the method of draining the road necessary in the circumstances, present and prospective, and the disposal of drainage.¹¹⁸
- (k) Before determining an application for approval of a subdivision of land (whether the subdivision involved the opening of a road or not) the Council was required to consider, amongst other things, whether the land or any part thereof is low-lying so as not to be reasonably capable of being drained, or is not fit to be used for residential purposes.¹¹⁹
- (l) Without limiting the Council's discretion, sufficient reasons for refusing approval of an application included, inter alia:

¹¹⁴ Appendix A, Part A, 2(9)(iv)(D).

¹¹⁵ Appendix B.

¹¹⁶ Part 2(2).

¹¹⁷ Part 2(4)(c).

¹¹⁸ Part 2(5).

¹¹⁹ Part 2(5)(3)(g).

- (i) The subject land or any part of such land, is or is likely to be subject to inundation by flood waters at an interval of 1 in 20 years or less.¹²⁰
- (ii) Any allotment proposed is so low-lying as not to be, in the opinion of the Council, reasonably capable of being drained by gravitation at all times, or in the case of an allotment which is low-lying but capable of being filled and drained, provision is not made in the proposal to effect such filling and drainage, to the satisfaction of the Council.¹²¹
- (iii) The site or orientation of any building which would be erected on such land would be for any reason unsatisfactory.¹²²
- (m) The By-law sets out engineering standards and requirements to be complied with at Part 4. Included in this are requirements regarding drainage design and construction and standards for filling and drainage of allotments.¹²³

By-law 30 town planning

- (n) Appendix C contains the revised By-law 30 which sets out the procedure for applications to be made to the Council and the matters to be considered by the Council in assessing any application.
- (o) The By-law provides the criteria to which Council was to have regard in considering applications for rezoning and applications for consent. In relation to applications for consent, Council was required to consider under clause 6 various matters including, relevantly:
 - (i) Any drainage or flooding problems associated with the land and any measures which may be undertaken to alleviate such problems;¹²⁴
 - (ii) Whether the existing system of drainage collecting stormwater from the land, in the opinion of the Council, is constructed to a standard sufficient to carry off the stormwater run-off from the proposed development.¹²⁵
- (p) The Council could refuse an application if the proposal conflicts with, or fails to comply with, any of the criteria contained within clause 6.

Subsequent amendments to 1989 Scheme

- (q) It is noted that the 1989 Scheme was subject to a number of amendments. Planning Schemes (Approval of Amendments) Order (No. 74) 1993, which commenced 4 June 1993, inserted concepts introduced by AMCORD (that is, the Australian Model Code for Residential Development). Relevantly, requirements in relation to flood impact mitigation were adopted for development for dwelling houses in the Future Urban Zone and with respect to the subdivision of land. For example, new part 6(7A) requires a dwelling house within the Future Urban Zone to be located on

¹²⁰ Part 2(6)(2)(m).

¹²¹ Part 2(6)(2)(n).

¹²² Part 2(6)(2)(r).

¹²³ Part 4(5) and (7)

¹²⁴ Part 2, Division 2(6)(9).

¹²⁵ Part 2, Division 2(6)(10).

a flood free building platform. Further, development for dwelling houses on allotments less than 550 m² required a plan of development prepared in accordance with AMCORD to accompany any application and to demonstrate compliance with certain performance criteria and objectives contained in AMCORD. By-law 6 was amended to include the provisions of AMCORD but making certain adjustments to AMCORD defined performance criteria relating to major stormwater flows (1% to be replaced with 5%).¹²⁶

- (r) Planning Schemes (Approval of Amendments) Order (No. 342) 1994 which commenced on 2 September 1994 amended, inter alia, By-law 6. Part 2(5)¹²⁷ was amended to merge Part 2(5)(2) and (3) so that new Part 2(5)(2) applied to the subdivision of land (whether the subdivision involves the opening of a road or not). The matters Council was required to consider where amended as well. With respect to flooding issues, the considerations were:
 - (i) whether any of the proposed allotments would be suitable for use because of existing or possible inundation, subsidence, slip or erosion;¹²⁸
 - (ii) the proposed method of disposal of drainage and whether this would have a detrimental effect upon neighbouring lands;¹²⁹
 - (iii) whether drainage reserves are required and whether land for these should be surrendered free of cost.¹³⁰
- (s) Further adjustments were made to AMCORD defined performance criteria relating to major stormwater flows by reverting back to 1% (it had earlier been adjusted from 1% to 5%) for Performance Criteria P1 and for Performance Criteria P2 and P3 by replacing 5% with the term "*Council's designated flood line*".

3.4 1995 Ipswich Planning Scheme

- (a) On 17 August 1995, the Town Planning Scheme for the City of Ipswich was approved by the Governor in Council (**1995 Scheme**). The 1995 Scheme replaced the 1989 Scheme.
- (b) The 1995 Scheme again divided the city into zones identified on the zoning maps.¹³¹ With respect to each zone, the 1995 Scheme identified purposes for which development may:

¹²⁶ AMCORD dated November 1990 performance criteria:

P1. The major drainage network to have the capacity to control stormwater flows under normal and minor system blockage conditions for an AEP of 1%
 P2. No dwelling to be inundated during a flood of 1% AEP
 P3. Habitable rooms to have floor levels 300 mm above the estimated flood level resultant from a flood of 1% AEP.

¹²⁷ See 3.3(j) and 3.3(k) above.

¹²⁸ Part 2(5)(2)(c).

¹²⁹ Part 2(5)(2)(q).

¹³⁰ Part 2(5)(2)(r).

¹³¹ 1995 scheme: Part 2, Division 1. The zones were Future Urban, Residential A, Residential B, Residential C, Residential D, Special Residential, Local Commercial, Major Suburban Centre, Special Business, Comprehensive Development, Future Industry, Light Industry, General Industry, Extractive Industry, Non-Urban, Public Open Space, Sport and Recreation, Special Purposes, Special Facilities, Historic Mixed Use.

- (i) be carried out without the consent of the Council (permitted development);
 - (ii) be carried out without the consent of the Council where compliance with conditions (permitted development subject to conditions);
 - (iii) be carried out only with the consent of the Council (consent development);
 - (iv) not be carried out (prohibited development) .¹³²
- (c) Existing lawful uses were allowed to continue, subject to conditions should changes or additions be proposed.¹³³
- (d) Part 5 of the 1995 Scheme introduced the concept of the Strategic Plan and Development Control Plans, requiring the Council to apply the relevant provisions of these when making a determination or decision on any matter dealt with or contained in the scheme including those plans.
- (e) Performance standards and special requirements in relation to particular development and zones were set out in Part 6. These standards and requirements were applicable to all development whether or not consent was required under the 1995 Scheme. The requirements included, amongst other things, that the use shall not be commenced unless the required external works have been provided or carried out at the expense of the owner or development of the site.¹³⁴ Required external works include (relevant to flood issues):
 - (i) such drainage works as are rendered necessary by the carrying out of any required external works;
 - (ii) stormwater and drainage from paved and roofed areas shall be discharged to kerb and channelling within the adjoining road reserves;
 - (iii) any external catchments discharging to the subject land shall be accepted and accommodated within the development's stormwater drainage system;
 - (iv) the development shall not cause ponding of stormwater on adjoining land or roads.
- (f) Special provision was made for drainage problem areas under Part 7 miscellaneous provisions. Division 2 provided that where, pursuant to the provisions of Council's By-laws, an area within the City has been declared a drainage problem area, all uses permitted without consent of the Council for particular zones shall cease to be permitted development and become consent development, provided that all prohibited development shall remain prohibited.
- (g) Similar to the 1989 Scheme, Appendix A to the 1995 Scheme contained the Strategic Plan which deals with broad patterns of land use. It set out preferred dominant land uses, identifying the Council's goals and objectives for the future. In addition to the preferred dominant land uses, the Strategic Plan also identified areas

¹³² 1995 scheme: Part 2, Division 2, section 1.

¹³³ 1995 scheme: Part 3.

¹³⁴ 1995 scheme: Part 6(5) External works and general site development requirements.

which the Council could not make a firm commitment for a particular future land use. With respect to this land, criteria was set out for considering applications for the land's development which included, amongst other things, whether proposed development would create or increase flooding problems in any residential area¹³⁵. Relevantly, the Strategic Plan provided that council would not approve subdivision application which are likely to create additional potential residential lots in areas affected by the 1 in 20 year flood levels.¹³⁶

By-law 6 subdivision of land

- (h) Similar to the 1989 Scheme, procedures regarding subdivision of land was dealt with by the revised By-law 6.¹³⁷ To subdivide land, an applicant was required to obtain approval under the By-law.¹³⁸ The By-law required that various details be provided in an application including a proposal plan detailing, with relevance to flood issues:
 - (i) The levels of present surface of the ground as related to Australian Height Datum or as approved by the Council;
 - (ii) The areas of all catchments draining upon the land and any further information as requested;
 - (iii) The location of all watercourses, waterholes and creeks and all land subject to inundation by stormwater runoff with a recurrence interval of 1 in 20 years;
 - (iv) The lines of all existing sewers and drains;
 - (v) The purpose for which the land is proposed to be subdivided.¹³⁹
- (i) The matters Council was required to consider, with respect to flooding issues included:
 - (i) whether any of the proposed allotments would be suitable for use because of existing or possible inundation, subsidence, slip or erosion;¹⁴⁰
 - (ii) the proposed method of disposal of drainage and whether this would have a detrimental effect upon neighbouring lands;¹⁴¹
 - (iii) whether drainage reserves are required and whether land for these should be surrendered free of cost.¹⁴²

¹³⁵ Appendix A, Part A, 3(1)(c)(D).

¹³⁶ Appendix A, Part A, 3(1)(c)(E)(vi).

¹³⁷ Appendix B.

¹³⁸ Part 2(2).

¹³⁹ Part 2(4)(c).

¹⁴⁰ Part 2(5)(2)(c).

¹⁴¹ Part 2(5)(2)(q).

¹⁴² Part 2(5)(2)(r).

- (j) Before determining an application for approval of a subdivision of land (whether the subdivision involved the opening of a road or not) the Council was required to consider, amongst other things, whether the land or any part thereof is low-lying so as not to be reasonably capable of being drained, or is not fit to be used for residential purposes.¹⁴³
- (k) Without limiting the Council's discretion, sufficient reasons for refusing approval of an application included, inter alia:
 - (i) The subject land or any part of such land, is or is likely to be subject to inundation by flood waters at an interval of 1 in 20 years or less.¹⁴⁴
 - (ii) Any allotment proposed is so low-lying as not to be, in the opinion of the Council, reasonably capable of being drained by gravitation at all times, or in the case of an allotment which is low-lying but capable of being filled and drained, provision is not made in the proposal to effect such filling and drainage, to the satisfaction of the Council.¹⁴⁵
 - (iii) The site or orientation of any building which would be erected on such land would be for any reason unsatisfactory.¹⁴⁶
- (l) The By-law sets out engineering standards and requirements to be complied with at Part 4. Included in this are requirements regarding drainage design and construction and standards for filling and drainage of allotments.¹⁴⁷

By-law 30 town planning

- (m) Appendix C contains the revised By-law 30 which sets out the procedure for applications to be made to the Council and the matters to be considered by the Council in assessing any application.
- (n) The By-law provides the criteria to which Council was to have regard in considering applications for rezoning and applications for consent. In relation to applications for consent, Council was required to consider under clause 6 various matters including, relevantly:
 - (vi) Any drainage or flooding problems associated with the land and any measures which may be undertaken to alleviate such problems;¹⁴⁸
 - (vii) Whether the existing system of drainage collecting stormwater from the land, in the opinion of the Council, is constructed to a standard sufficient to carry off the stormwater run-off from the proposed development.¹⁴⁹

¹⁴³ Part 2(5)(3)(g).

¹⁴⁴ Part 2(6)(2)(m).

¹⁴⁵ Part 2(6)(2)(n).

¹⁴⁶ Part 2(6)(2)(r).

¹⁴⁷ Part 4(5) and (7).

¹⁴⁸ Part 2, Division 2(6)(9).

¹⁴⁹ Part 2, Division 2(6)(10).

- (o) The Council could refuse an application if the proposal conflicts with, or fails to comply with, any of the criteria contained within clause 6.
- (p) The requirements of AMCORD, as outlined in the 1989 Scheme, were incorporated into the 1995 Scheme. Relevantly, requirements in relation to flood impact mitigation were adopted for development for dwelling houses in the Future Urban Zone and with respect to the subdivision of land. For example, part 6(7A) requires a dwelling house within the Future Urban Zone to be located on a flood free building platform. Further, development for dwelling houses on allotments less than 550 m2 required a plan of development prepared in accordance with AMCORD to accompany any application and to demonstrate compliance with certain performance criteria and objectives contained in AMCORD.

3.5 1999 Ipswich Planning Scheme

- (a) On the 18 February 1999, the Ipswich City Council Planning scheme (**1999 Scheme**) was approved by the Governor in Council.
- (b) The planning scheme was originally prepared under the Local Government (Planning and Environment) Act 1990. This Act was repealed and replaced by IPA on the 30 March 1998. The 1999 Scheme is a transitional planning scheme under IPA.
- (c) The 1999 Scheme amends previous Ipswich City Council planning scheme to make it more consistent with the Integrated Development Assessment System under IPA.
- (d) On the 22 March, 1995, the new Ipswich City Council was formed, an amalgamation of the former Ipswich City and Moreton Shire Councils. The former Councils had their own Planning Schemes. Ipswich City Council had a Strategic Plan and the former Moreton Shire Council had submitted its draft Strategic Plan for approval.
- (e) The 1999 Scheme consists of three main elements:
 - (i) A Strategic Plan for Ipswich City (**Strategic Plan**);
 - (ii) The Planning Scheme provisions which include Zoning Maps; and
 - (iii) The Structure Plans which are intended to facilitate development in particular areas.
- (f) The 1999 Scheme is also supported by a number of Planning Scheme Policies which provide the performance objectives, criteria, acceptable solutions, development standards and contribution levels for various land uses and development types. This includes, relevantly, the 'Planning Scheme Policy for Flood Liable or Drainage Problem Land' (**Flood Land Policy**).
- (g) The Flood Land Policy is referred to in Policy (a) of Principle 4 of the Strategic Plan which requires decision makers to 'Locate urban development on land that is free of environmental hazards'.¹⁵⁰ Policy (a) requires that except as provided for in the Flood Land Policy, no urban development will be permitted on flood liable or drainage problem land.
- (h) Policy (a) described above applies implementation criteria for Objective 6 in the Urban Development Area Strategy of the Strategic Plan. Objective 6 is to ensure

¹⁵⁰ 1999 Scheme, Part 1, The Strategic Plan, 2.0 Principles and Policies of the Plan.

that development within Urban Development Areas takes into account natural and man-made constraints. The implementation criteria requires that *"no urban development (excluding parkland and other similar uses) will be permitted below the adopted flood level unless such development complies with the requirements outlined in the"* Flood Land Policy.¹⁵¹

- (i) *"Adopted Flood Level"* is defined in the 1999 Scheme as 'the flood level which has been selected as the basis for planning purposes within the city immediately prior to the Appointed Day, or as otherwise adopted pursuant to a Structure Plan. Structure Plan is defined as *"a plan that specifies a series of land use allocations, precincts or classifications for particular areas within the City to facilitate development in a comprehensive and co-ordinated manner in accordance with the principles and policies outlined in the Strategic Plan. For the purposes of this planning scheme a Structure Plan shall be approved by the Governor-in Council and have force and effect as if it were a Development Control Plan made pursuant to"* IPA.¹⁵²
- (j) Part 3 of the 1999 Scheme provides intents and objectives for each zone. The Township Zone Future Urban Zone, Park Residential Zone, Residential Low Density Zone, Residential Medium Density Zone, Commerce and Trade Zone, Future Industry Zone, Industry Zone, Particular Development Zone, Park, Sport and Recreation Zone and Rural Conservation Zone all include the objective of *"To ensure that development accords with the objectives and criteria for implementation of the Strategic Plan in relation to the provision of an integrated open space system along major water courses throughout the City. In this regard, where land is affected by the Council Adopted Flood Level, the Council will require as a condition of development or subdivision approval, the transfer to the Council or the Crown, of all of that land below the Adopted Flood Level for drainage and/or park purposes"*.¹⁵³
- (k) The 1999 Scheme provides that where an area within the City is below the Adopted Flood Level, all self assessable development for particular zones shall cease to be self assessable development and become assessable development, and follow the code assessment process.¹⁵⁴
- (l) A number of Structure Plans were approved under the 1999 Scheme. The Adopted Flood Level selected for each of these as they apply to particular precincts within each Structure Plan is described here.
 - (i) The Springfield Structure Plan approved by the Governor in Council on the 18 February 1999 provides 'No urban development (excluding parkland and other similar uses) will be permitted below the final Q100 design flood level'¹⁵⁵;
 - (ii) The Rosewood Structure Plan dated July 2001 provides that the Adopted Flood Level for the Rosewood Township Character Housing Low and

¹⁵¹ 1999 Scheme, Part 1, The Strategic Plan, 4.0 Planning Strategies, Implementation Criteria and Phasing of the Strategic Plan, 4.2 Urban Area Strategy, Objective 6, Implementation Criteria 1.

¹⁵² 1999 Scheme, Part 2, Definitions.

¹⁵³ 1999 Scheme, Part 3 - Zoning, Intent and Objectives for numerous zones.

¹⁵⁴ 1999 Scheme, Part 4 - Requirements for Development, Flooding.

¹⁵⁵ 1999 Scheme, Springfield Structure Plan, Section 10 - Special Development Areas and Miscellaneous Provisions, 10.1 Special Development Areas, 10.2.6 Flooding.

Medium Density Precincts, Residential Low and Medium Density Precincts is the estimated 100 year Average Recurrence Interval, post Wivenhoe Dam.¹⁵⁶ This Adopted Flood Level is also applied to the South West, South East Urban and Southern Investigation Area. The Structure Plan describes the South West and South East Area as containing sites that lie below the 1974 flood line, making it unsuitable for residential development. In those areas development proposals in the area will be required to be above the estimated 100 Year Recurrence Interval, post Wivenhoe Dam, and be capable of adequate disposal of stormwater runoff.¹⁵⁷ The Southern Area has drainage issues but has potential for drainage improvement and is described as suitable for low density residential housing with dwelling situated above the estimated 100 year Average Recurrence Interval, post Wivenhoe Dam. This Structure Plan also requires that any detached house is located above the Adopted Flood Level.¹⁵⁸

- (iii) The Ipswich Southern Corridor Structure Plan dated December 2001 provides that the Adopted Flood Level for all precincts in that structure plan is the estimated 100 year Average Recurrence Interval, post Wivenhoe Dam.¹⁵⁹ The Structure Plan notes that flooding impacts may be reduced through the range of initiatives outlined in the Flood Land Policy. The Structure Plan provides that Council may review the flood level upon receipt of further information in relation to matters such as the mitigating effects of the proposed development. The 1 in 20 Average Recurrence Interval is referred to in the Business and Industry Precinct where development on the Western side of Lobb Street should have floor levels which clear that level, or which are as high as reasonably possible.¹⁶⁰
- (iv) The Ipswich Northern and Inner Western Corridors Structure Plan dated April 2001 provides that the Adopted Flood Level for all precincts in that structure plan is the estimated 100 year Average Recurrence Interval, post Wivenhoe Dam.¹⁶¹ The Structure Plan notes that flooding impacts may be reduced through the range of initiatives outlined in the Flood Land Policy. The Structure Plan provides that Council may review the flood level upon receipt of further information in relation to matters such as the mitigating effects of the proposed development.

¹⁵⁶ 1999 Scheme, Rosewood Structure Plan, Part 3 - Precincts, Section 3.3, Section 3.3.1, Requirements and Guidelines Relevant to (particular precinct), Physical Constraints. The requirements and guidelines also provide for both precincts that *'Regard shall be had to the adopted flood level in determining the extent of the development allowed within the precinct, the height of floor levels for habitable rooms and the use of flood resistant construction techniques and materials.'*

¹⁵⁷ 1999 Scheme, Rosewood Structure Plan, Part 3 - Precincts, Section 3.3, Section 3.3.5 Urban Investigation.

¹⁵⁸ 1999 Scheme, Rosewood Structure Plan, Part 4 - Requirements and Guidelines, 4.5.5 Special Provisions for a Detached House.

¹⁵⁹ 1999 Scheme, Ipswich Southern Corridor Structure Plan, Part 4 - Requirements and Guidelines, 4.2 - Requirements and Guidelines Relating to all Precincts, 4.2.9 Physical Constraints, (a) Flooding.

¹⁶⁰ 1999 Scheme, Ipswich Southern Corridor Structure Plan, Part 3.4 - Business and Industry Precincts, (b) Local Employment and Services Precinct.

¹⁶¹ 1999 Scheme, Ipswich Northern and Inner Western Corridors Structure Plan, Part 4 - Requirements and Guidelines, 4.2 - Requirements and Guidelines Relating to all Precincts, 4.2.9 Physical Constraints, (a) Flooding.

- (v) The Ipswich City Centre Structure Plan dated February 1999 had a range of flood levels for different precincts including the 1 in 100 year flood level and the 1974 flood level.
- (vi) The Ipswich Eastern Corridor Structure Plan, dated February 1999, provided that the adopted flood level was 1 in 100 year Average Recurrence Interval post Wivenhoe Dam.

3.6 2004 Ipswich Planning Scheme

- (a) The Ipswich City Council adopted a new planning scheme on 10 March 2004 (**2004 Scheme**) under IPA. The 2004 Scheme and associated policies took effect on 5 April 2004.
- (b) The Minister for Local Government and Planning identified State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide as having been appropriately reflected in the planning scheme. SPP 1/03 sets out the State's interest in ensuring that the natural hazards of flood, bushfire, and landslide are adequately considered when making decisions about development so as to minimise potential adverse impacts on people, property, economic activity and the environment.
- (c) The 2004 Scheme was prepared by the Ipswich City Council in accordance with IPA as a framework for managing development in a way that advances the purpose of IPA by:
 - (i) identifying assessable and self-assessable development; and
 - (ii) identifying outcomes sought to be achieved in the local government area as the context for assessing development.¹⁶²
- (d) The 2004 Scheme sets out the Strategic Framework in Part 1, Division 3. While the Strategic Framework does not have a role in development assessment and does not confer land use rights for the planning scheme, it is reflected in the balance of the planning scheme. The Strategic Framework includes the following:¹⁶³
 - (i) For Urban Areas:
 - A. residential uses are, with the exception of existing development or current existing approvals, generally located in areas to avoid identified development constraints.¹⁶⁴
 - B. future investigation areas are designed to avoid significant development constraints (including flood liable land).¹⁶⁵
 - C. business and industry uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints.¹⁶⁶

¹⁶² 1.1.

¹⁶³ Only strategies with flood relevance have been extracted.

¹⁶⁴ 1.6(8)(e).

¹⁶⁵ 1.6(9)(d).

¹⁶⁶ 1.6(10)(e)(ii).

- A. commercial uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).¹⁶⁷
- B. open space and recreation uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).¹⁶⁸
- C. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.¹⁶⁹
- D. uses located within the areas of identified development constraint (including flood liable land) are to take into account siting and building design issues to reduce the impact of the constraints and to be designed to avoid creating conflicts or hazards for the operation of significant economic infrastructure.¹⁷⁰

(ii) For Township Areas:

- A. township residential uses are, with the exception of existing development or current existing approvals or relevant previously zoned land, generally located in areas to avoid identified development constraints (including flood liable land).¹⁷¹
- B. town business uses located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).¹⁷²
- C. open space and recreation uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).¹⁷³
- D. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be located outside the areas of flood liable land.¹⁷⁴

¹⁶⁷ 1.6(11)(c)(i).

¹⁶⁸ 1.6(13)(d)(i).

¹⁶⁹ 1.6(18).

¹⁷⁰ 1.6(19).

¹⁷¹ 1.7(5)(d).

¹⁷² 1.7(6)(d)(i).

¹⁷³ 1.7(7)(b)(i).

¹⁷⁴ 1.7(8).

- E. any uses located within flood liable land are to take into account siting and building issues designed to reduce the impact of flooding.¹⁷⁵
 - (iii) For rural areas:
 - A. rural housing is located to avoid identified development constraints (including flood liable land).¹⁷⁶
 - B. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.¹⁷⁷
 - C. uses located within the areas of identified development constraint (including flood liable land) take into account siting and building design issues to reduce the impact of the constraint.¹⁷⁸
- (e) Various development constraints have been identified under the 2004 Scheme and are incorporated into the assessment process via overlays. The 2004 Scheme has two types of overlays. These apply to character places and, relevantly, development constraints shown on overlay maps (Overlay Maps OV1 to OV14). Of particular relevance is Overlay Map OV5 which relates to flooding and urban stormwater flow path areas. Overlays provide the secondary organisational layer in the planning scheme and are based on special attributes of land that need to be protected, or that may constrain development.¹⁷⁹
- (f) Assessment tables for the zones and overlays identify development that is assessable, self-assessable or exempt under the planning scheme. The assessment tables also identify assessable development under the planning scheme that requires code assessment or impact assessment. If development is identified as having a different assessment category under a zone than under an overlay, or under different overlays, the higher assessment category applies.¹⁸⁰
- (g) Map OV5 identifies land -
 - (i) below the 1 in 20 development line; or
 - (ii) below the 1 in 100 flood line; or
 - (iii) within an urban stormwater flow path area.¹⁸¹

¹⁷⁵ 1.7(9).

¹⁷⁶ 1.8(7)(b).

¹⁷⁷ 1.8(10).

¹⁷⁸ 1.8(11)(a).

¹⁷⁹ 1.15.

¹⁸⁰ 1.16(3).

¹⁸¹ Note 11.4.7A(1).

- (h) The 1 in 20 development line is based on a long standing flood regulation line, established following the 1974 flood, that applied to the former Ipswich City Council area prior to its amalgamation with the former Moreton Shire.¹⁸²
- (i) The planning scheme seeks to achieve outcomes that are identified according to the following levels:
 - (i) desired environmental outcomes;
 - (ii) overall outcomes for zones and overlays, or for the purpose of a code;
 - (iii) specific outcomes for zones, overlays and codes;
 - (iv) probable solutions for a specific outcome, or acceptable solutions for complying with a self-assessable code.
- (j) Desired environmental outcomes include that the adverse effects from natural and other hazards, including flooding (amongst other things) are minimised.¹⁸³
- (k) The Development Constraints Overlays Code is contained at Division 4 of Part 11. It identifies the overall outcomes for the overlay, specific outcomes in relation to the various types of development constraints, and the assessment tables.
- (l) The overall outcomes sought are listed at 11.4.3(2) of the planning scheme. These include:
 - (i) The health and safety of the local government's population, investment in property and long term viability of significant economic resources are protected;
 - (ii) Uses and works are located on land free from significant constraints upon development, or when within such areas, risk to property, health and safety is minimised;
 - (iii) Uses and works are sited, designed and constructed to avoid, minimise or withstand the incidence of a development constraint;
 - (iv) The number of people exposed to a development constraint is minimised.
- (m) The specific outcomes in relation to flooding and urban stormwater flow path areas are contained at 11.4.7 of the planning scheme. Table 11.4.3 sets out the assessment categories and relevant assessment criteria. The specific outcomes are set out separately for land situated:
 - (i) below the 1 in 20 development line for residential uses;
 - (ii) below the 1 in 20 development line for commercial, industrial and other non residential uses;
 - (iii) between the 1 in 20 development line and the 1 in 100 flood line for residential uses;
 - (iv) between the 1 in 20 development line and the 1 in 100 flood line for commercial, industrial and other non residential uses.

¹⁸² Note 11.4.7A(3).

¹⁸³ 3.1(3)(i).

- (n) The specific outcomes for each of these circumstances are set out in the attached table. Specific outcomes and probable solutions for community infrastructure are also provided at 11.4.7(1)(f) and (2)(f). The specific outcome is that key elements of community infrastructure are able to function effectively during and immediately after flood hazard events with the probable solution that key elements of community infrastructure are sited to achieve the levels of flood immunity as set out in the State Planning Policy and associated guidelines for Natural Disaster Mitigation.
- (o) Probable solutions for a specific outcome provides a guide for achieving the outcome in whole or in part. These do not limit the assessment manager's discretion to impose conditions on a development approval. Probable solutions for the following aspects are provided at 11.4.7(2):
 - (i) Electrical installations;
 - (ii) Structural adequacy;
 - (iii) Evacuation routes;
 - (iv) Earthworks;
 - (v) Clearing of vegetation;
 - (vi) Community infrastructure.
- (p) Assessment categories under Table 11.4.3: Assessment categories and relevant assessment criteria for development constraints overlay are as follows:
 - (i) Making a material change of use for the following uses or use classes have been identified as code assessable:
 - A. carpark where land is affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay or the urban stormwater flow path area development constraint overlay;
 - B. forestry;
 - C. wholesale plant nursery where land affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay or the urban stormwater flow path area development constraint overlay;
 - D. single residential situated within a Residential Zone and not between the 1 in 20 development line and 1 in 100 flood line constraints overlay (in which case it would be self assessable);
 - E. all other uses not identified in the table.¹⁸⁴
 - (ii) Carrying out building work not associated with a material change of use is self assessable if:
 - A. building work on an existing building on site; and

¹⁸⁴ Other uses identified in the table include agriculture, animal husbandry, home based activity, minor utility, night court, park.

- B. the land is situated outside the defence facilities, operational airspace development constraint overlay; and
- C. the acceptable solutions of the applicable code for self assessable development are complied with.

It is code assessable otherwise.

(iii) Clearing of native vegetation is self assessable if:

- A. the acceptable solutions of the applicable code for self assessable development are complied with; and
- B. involving clearing of less than 100 m² in area in any one year; and
- C. situated within the 1 in 20 development line or 1 in 100 line constraints overlay or the urban stormwater flow path area development constraint overlay.

It will be code assessable otherwise (where relating to flood issues).

- (iv) Earthworks not associated with a material change of use will be code assessable if land is affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay code or the urban stormwater flow path area development constraint overlay;
- (v) Reconfiguring a lot and carrying out work for reconfiguring a lot is code assessable.

(q) In relation to specific areas, the 2004 Scheme identifies that some of the land within the following Zones is affected by development constraints (particularly flooding) and refers the reader to the overlay maps and Part 11 to determine whether a proposal is affected by an overlay:

- (i) Large Lot Residential Zone;¹⁸⁵
- (ii) Residential Low Density Zone;¹⁸⁶
- (iii) Residential Medium Density Zone;¹⁸⁷
- (iv) Character Areas - Housing Zone.¹⁸⁸

(r) In relation to the Future Urban Zone (comprised of four large areas which have been identified as having potential for urban development but which are subject to a variety of issues and constraints which will require significant investigation prior to any approval for urban uses or works being given)¹⁸⁹, the 2004 Scheme identifies that this land is affected by development constraints including flooding and

¹⁸⁵ Note 4.4.2B.

¹⁸⁶ Note 4.5.2B and Note 4.8.4D regarding Ripley Valley/Deebing Creek.

¹⁸⁷ Note 4.6.2B.

¹⁸⁸ Note 4.7.2C.

¹⁸⁹ Note 4.8.1A.

drainage issues, and refers the reader to the overlay maps and Part 11 to determine whether a proposal is affected by an overlay.¹⁹⁰ Sub Area FU4 - Walloon/Thagoona specifically requires that residential uses and works are situated above the adopted flood level¹⁹¹ and that they be located on fully serviced land which can be adequately drained.¹⁹²

- (s) Within the Local Business and Industry Investigation Zone, uses and works are to provide local business and employment opportunities subject to resolution of applicable constraints (including flooding). In situations where the constraints cannot be resolved, uses and works may be limited to land extensive or low to very low yield activities which have minimal building requirements.¹⁹³ Sub Area LBIA2 - North Tivoli was specifically identified as being constrained by flooding¹⁹⁴ and accordingly requires new uses and works to be setback 50 metres from the alignment with a defined watercourse and, in relation to business mixed, uses be supported that are compatible with the flood plain for the Bremer River and Sandy Creek, including provision for a riparian open space corridor.¹⁹⁵

Reconfiguring a Lot Code

- (a) Part 12 Division 5 contains the Reconfiguring a Lot Code. The code applies to all types of lot reconfiguration and groups them in two categories, urban and rural reconfigurations. It notes that where any provision of any cited technical documentation (eg AMCORD, Queensland Urban Drainage Manual) does not accord with the code, the provision of the code take precedence. The code contains overall outcomes, specific outcomes and probable solutions.
- (b) With respect to minor subdivision, specific outcomes include:
 - (i) lots have the appropriate area and dimensions to overcome site constraints (eg flooding and drainage);¹⁹⁶
 - (ii) all lots are located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.¹⁹⁷
- (c) The probable solutions with respect to 3.6(b)(ii) above are:
 - (i) All cottage lots, courtyard lots, traditional lots, hillside lots and dual occupancy lots are located above the adopted flood level;
 - (ii) For homestead or township lots, an area which is suitable for a building platform comprising at least 600 m2 of each lot is to be located above

¹⁹⁰ Note 4.8.2B.

¹⁹¹ Adopted flood level is defined as the flood level which has been selected as the basis for planning purposes within the City, which unless otherwise specifically stated, is based on a defined flood event of 1 in 100 ARI.

¹⁹² 4.8.5(3)(c) and (d).

¹⁹³ 4.12.2(2) (overall outcomes).

¹⁹⁴ Note 4.12.4D.

¹⁹⁵ 4.12.4(2)(h).

¹⁹⁶ Table 12.5.1(1)(f).

¹⁹⁷ Table 12.5.1(8).

the 1 in 100 years ARI. An additional area is to be available on each lot that is suitable to treat and dispose of effluent on-site.

- (iii) All multiple residential lots, commercial lots, mixed business and industry lots and industrial lots are located above the adopted flood level for the respective zone or Sub Area.
- (d) Those areas of residential lots below the adopted flood level for the applicable zone or Sub Area which are affected by a 'significant flood flow'¹⁹⁸ are to be subject to a drainage easement.
- (e) A Drainage Reserve may be required for any part of the land conveying stormwater drainage flows to the lawful point of discharge.¹⁹⁹
- (f) With respect to moderate and major subdivision, specific outcomes include:
 - (i) lots have the appropriate area and dimensions to overcome site constraints (eg flooding and drainage);²⁰⁰
 - (ii) the major stormwater drainage system:
 - A. has the capacity to safely convey stormwater flows resulting from the adopted design storm under normal operating conditions;
 - B. is located and designed to ensure that there are no flow paths that would increase risk to public safety and property;
 - C. is to maximise community benefit through the retention of natural streams and vegetation wherever practicable, the incorporation of parks and other less flood-sensitive land uses into the drainage corridor and the placement of detention basins for amenity and function;²⁰¹
 - (iii) all lots are located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.²⁰²
- (g) With respect to minor rural subdivisions, specific outcomes include:
 - (i) lots have the appropriate area and dimensions to overcome site constraints (eg flooding and drainage);²⁰³
 - (ii) a flood free dwelling is located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.²⁰⁴

¹⁹⁸ Significant flood flow is defined as inundation of land by water which is one metre or more in depth.

¹⁹⁹ Table 12.5.1(8).

²⁰⁰ Table 12.5.2(2)(f).

²⁰¹ Table 12.5.2(28).

²⁰² Table 12.5.2(29).

²⁰³ Table 12.5.3(1)(e).

²⁰⁴ Table 12.5.3(9).

- (h) With respect to moderate rural subdivisions, specific outcomes include:
 - (i) lots have the appropriate area and dimensions to overcome site constraints (eg flooding and drainage);²⁰⁵
 - (ii) a flood free dwelling is located above the adopted flood level to provide protection of property in accordance with the accepted level of risk.²⁰⁶
- (i) Land dedications for public parks is addressed at Appendix H to the code.²⁰⁷

Policies

- (j) The 2004 Scheme also allows the local government to request further information in relation to a development application. Planning Scheme Policy 2 sets out the information that may be requested and specifically addresses matters relating to flooding and stormwater flow paths.

3.7 2006 Ipswich Planning Scheme (2006 Scheme)

- (a) The current Ipswich Planning Scheme was adopted by the Ipswich City Council on 14 December 2005 and commenced on 23 January 2006 (**2006 Scheme**). The Minister for Local Government and Planning identified State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide as having been appropriately reflected in the planning scheme.²⁰⁸
- (b) The 2006 Scheme sets out the Strategic Framework in Part 1, Division 3. While the Strategic Framework does not have a role in development assessment and does not confer land use rights for the planning scheme, it is reflected in the balance of the planning scheme. The Strategic Framework includes the following relevant references to development constraints and flood liable land^{209, 210}:
 - (i) For Urban Areas:
 - A. residential uses are, with the exception of existing development or current existing approvals, generally located in areas to avoid identified development constraints.²¹¹
 - B. future investigation areas are designed to avoid significant development constraints (including flood liable land).²¹²

²⁰⁵ Table 12.5.4(1)(e).

²⁰⁶ Table 12.5.4(18).

²⁰⁷ 12-51.

²⁰⁸ Page 1-ii Ipswich City Planning Scheme.

²⁰⁹ Flood liable land is not defined.

²¹⁰ Only strategies with flood relevance have been extracted.

²¹¹ 1.6(8)(e).

²¹² 1.6(9)(d).

- C. business and industry uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints.²¹³
- D. commercial uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).²¹⁴
- E. open space and recreation uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).²¹⁵
- F. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.²¹⁶
- G. uses located within the areas of identified development constraint (including flood liable land) are to take into account siting and building design issues to reduce the impact of the constraints.²¹⁷

(ii) For Township Areas:

- A. township residential uses are, with the exception of existing development or current existing approvals or relevant previously zoned land, generally located in areas to avoid identified development constraints (including flood liable land).²¹⁸
- B. town business uses located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).²¹⁹
- C. open space and recreation uses are located and designed to avoid or mitigate, where relevant, the potential impact of identified development constraints (including flood liable land).²²⁰

²¹³ 1.6(10)(e)(ii).

²¹⁴ 1.6(11)(c)(i).

²¹⁵ 1.6(13)(d)(i).

²¹⁶ 1.6(18).

²¹⁷ 1.6(19).

²¹⁸ 1.7(5)(d).

²¹⁹ 1.7(6)(d)(i).

²²⁰ 1.7(7)(b)(i).

- D. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.²²¹
 - E. any uses located within flood liable land are to take into account siting and building issues designed to reduce the impact of flooding.²²²
 - (iii) For rural areas:
 - A. rural housing is located to avoid identified development constraints (including flood liable land).²²³
 - B. except for existing development or current existing approvals or relevant previously zoned land, the majority of uses are to be generally located outside the areas of flood liable land.²²⁴
 - C. uses located within the areas of identified development constraint (including flood liable land) take into account siting and building design issues to reduce the impact of the constraint.²²⁵
- (c) The current scheme seeks to achieve outcomes that are identified according to the following levels:
 - (i) desired environmental outcomes;
 - (ii) overall outcomes for zones and overlays, or for the purpose of a code;
 - (iii) specific outcomes for zones, overlays and codes;
 - (iv) probable solutions for a specific outcome, or acceptable solutions for complying with a self-assessable code.
- (d) Under section 3.1 the 2006 Scheme notes as a desirable environmental outcome:

"the adverse effects from natural and other hazards, including flooding, land subsidence, bush fires, ordnance explosions and aircraft operations are minimised;"

"the health and safety of people, and the amenity they enjoy, are maximised, particularly in the urban and township areas where different types of uses are located close together;"

Section 3.2 identifies as a relevant performance indicator that *"where development has occurred it ... has been located away from areas subject to natural or other hazards or been designed to mitigate adverse impacts;"*

²²¹ 1.7(8).

²²² 1.7(9).

²²³ 1.8(7)(b).

²²⁴ 1.8(10).

²²⁵ 1.8(11)(a).

- (e) The 2006 Scheme has two types of overlays. These apply to character places and, relevantly, development constraints shown on overlay maps (Overlay Maps OV1 to OV14). Of particular relevance is Overlay Map OV5 which relates to flooding and urban stormwater flow path areas. Overlays provide the secondary organisational layer in the planning scheme and are based on special attributes of land that need to be protected, or that may constrain development.
- (f) Assessment tables for the zones and overlays identify development that is assessable, self-assessable or exempt under the planning scheme. The assessment tables also identify assessable development under the planning scheme that requires code assessment or impact assessment. If development is identified as having a different assessment category under a zone than under an overlay, or under different overlays, the higher assessment category applies.
- (g) Map OV5 identifies land -
 - (i) below the 1 in 20 development line; or
 - (ii) below the 1 in 100 flood line; or
 - (iii) within an urban stormwater flow path area.
- (h) The 1 in 20 development line is based on a long standing flood regulation line, established following the 1974 flood, that applied to the former Ipswich City Council area prior to its amalgamation with the former Moreton Shire.²²⁶
- (i) The Development Constraints Overlays Code is contained at Division 4 of Part 11. It identifies the overall outcomes for the overlay, specific outcomes in relation to the various types of development constraints, and the assessment tables.
- (j) The overall outcomes sought are listed at 11.4.3(2) of the planning scheme. These include:
 - (i) The health and safety of the local government's population, investment in property and long term viability of significant economic resources are protected;
 - (ii) Uses and works are located on land free from significant constraints upon development, or when within such areas, risk to property, health and safety is minimised;
 - (iii) Uses and works are sited, designed and constructed to avoid, minimise or withstand the incidence of a development constraint;
 - (iv) The number of people exposed to a development constraint is minimised.
- (k) The specific outcomes in relation to flooding and urban stormwater flow path areas are contained at 11.4.7 of the planning scheme. Table 11.4.3 sets out the assessment categories and relevant assessment criteria. The specific outcomes are set out separately for land situated:
 - (i) below the 1 in 20 development line for residential uses;
 - (ii) below the 1 in 20 development line for commercial, industrial and other non residential uses;

²²⁶ Page 11-24, Note 11.4.7A.

- (iii) between the 1 in 20 development line and the 1 in 100 flood line for residential uses;
 - (iv) between the 1 in 20 development line and the 1 in 100 flood line for commercial, industrial and other non residential uses.
- (l) The specific outcomes for each of these circumstances are set out in the attached table. Specific outcomes and probable solutions for community infrastructure are also provided at 11.4.7(1)(f) and (2)(f).
- (m) Probable solutions for a specific outcome provides a guide for achieving the outcome in whole or in part. These do not limit the assessment manager's discretion to impose conditions on a development approval. Probable solutions for the following aspects are provided at 11.4.7(2):
 - (i) Electrical installations;
 - (ii) Structural adequacy;
 - (iii) Evacuation routes;
 - (iv) Earthworks;
 - (v) Clearing of vegetation;
 - (vi) Community infrastructure.
- (n) Specific outcomes and probable solutions for community infrastructure are also provided at 11.4.7(1)(f) and (2)(f).
- (o) Assessment categories under Table 11.4.3: Assessment categories and relevant assessment criteria for development constraints overlay are as follows:
 - (i) Relevantly making a material change of use for the following uses or use classes have been identified as code assessable:
 - A. carpark where land is affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay;
 - B. wholesale plant nursery where land affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay;
 - C. single residential situated within a Residential Zone affected by the 1 in 20 development line;
 - D. all other uses not otherwise identified in the table, including commercial and industrial uses;²²⁷
 - E. building work not associated with a material change of use is code assessable unless it is on an existing building and situated outside the defence facilities, operational airspace development constraint overlay and the acceptable solutions of the applicable code for self assessable development are complied with, in which case it is self assessable;

²²⁷ Other uses identified in the table include agriculture, animal husbandry, home based activity, minor utility, night court, park.

- F. reconfiguring a lot and carrying out work for reconfiguring a lot if land is affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay code;
 - G. clearing of more than 100m² of native vegetation in any one year if land is affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay code;
 - H. Earthworks not associated with a material change of use will be code assessable if land is affected by the 1 in 20 development line or 1 in 100 flood line constraints overlay code.
- (ii) the planning scheme acknowledges that development commitments based on former zonings or current approvals for continued residential use, particularly one dwelling per existing lot and therefore single residential within a Residential zone between the 1 in 20 development line and 1 in 100 flood line constraints overlay is self assessable against the Residential Code;²²⁸
- (p) The Reconfiguring a Lot Code is largely the same as that under the 2004 Scheme.
- (q) The planning scheme also allows the local government to request further information in relation to a development application. Planning Scheme Policy 2 sets out the information that may be requested and specifically addresses matters relating to flooding and stormwater flow paths.

²²⁸ 11.4.7 (1) (c) (i).

3.8 Development constraints overlay - flooding

Specific outcomes

	Residential uses		Commercial, industrial and other non residential uses	
Aspect	Land situated below the 1 in 20 development line	Land situated between the 1 in 20 development line and the 1 in 100 flood line	Land situated below the 1 in 20 development line for	Land situated between the 1 in 20 development line and the 1 in 100 flood line
Intensification of use	The intensification of residential uses within flood affected areas is minimised.			
Additional dwellings or lot reconfigurations	Additional dwellings or lot reconfigurations are avoided within areas affected by significant flood flows (ie one metre or more in depth).	Lot reconfigurations creating sites for additional dwellings are avoided in areas situated below the 1 in 100 flood line. Special dispensation may be obtained to erect a second dwelling to house family members on land situated between the 1 in 20 development line and the 1 in 100 flood line.		
Development commitments from former zoning²²⁹	Where a development commitment, based on former zoning provisions, allows additional dwellings to be sited within areas affected by significant flood flows, such	Where a development commitment, based on former zoning provisions, allows a multiple residential use to be sited within areas affected by significant flood flows, such		

²²⁹ Probable solutions for structural adequacy are provided at 11.4.7(2).

	Residential uses		Commercial, industrial and other non residential uses	
Aspect	Land situated below the 1 in 20 development line	Land situated between the 1 in 20 development line and the 1 in 100 flood line	Land situated below the 1 in 20 development line for	Land situated between the 1 in 20 development line and the 1 in 100 flood line
	dwellings are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event of 1 in 100 Average Recurrence Interval.	dwellings are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event of 1 in 100 Average Recurrence Interval.		
Floor levels	Where possible, the floor levels of any habitable rooms of a proposed building are a minimum of 250 mm above the adopted flood level.	Where possible, the floor levels of any habitable rooms of a proposed building are a minimum of 250 mm above the 1 in 100 flood level.		
Design and layout of buildings	The design and layout of residential buildings provides for parking and other low intensive, non habitable uses at ground level and habitable rooms above.	The design and layout of residential buildings provides for parking and other low intensive, non habitable uses at ground level and habitable rooms above.	Where possible, the design and layout of buildings provides for parking and other low intensive, or non habitable uses at ground level and retail, commercial and work areas above.	Where possible, the design and layout of buildings provides for parking and other low intensive, or non habitable uses at ground level and retail, commercial and work areas above.
Plant, equipment and stock location			Expensive plant and equipment and stock are located in the area of the site or building with the greatest flood immunity.	Expensive plant and equipment and stock are located in the area of the site or building with the greatest flood immunity.
Building materials	Building materials used below the 1 in 20 development line are resistant to water damage.	Building materials used below the adopted flood level are resistant to water damage.	Building materials used below the 1 in 20 development line are resistant to water damage.	Building materials used below the adopted flood level are resistant to water damage.

	Residential uses		Commercial, industrial and other non residential uses	
Aspect	Land situated below the 1 in 20 development line	Land situated between the 1 in 20 development line and the 1 in 100 flood line	Land situated below the 1 in 20 development line for	Land situated between the 1 in 20 development line and the 1 in 100 flood line
Siting of buildings	Where possible, buildings and other structures are sited on the highest part of the site.	Where possible, buildings and other structures are sited on the highest part of the site.		
Electrical installations²³⁰			Electrical installations are sited in the area of greatest flood immunity.	
	Electrical installations below the 1 in 20 development line are designed and constructed to withstand submergence in flood water.		Electrical installations below the 1 in 20 development line are designed and constructed to withstand submergence in flood water.	
Access/alternative emergency evacuation routes²³¹	Access routes are designed or alternative emergency evacuation routes are provided so that in the event of a serious incident occupants can escape to a safe and secure area.	Access routes are designed or alternative emergency evacuation routes are provided so that in the event of a serious incident occupants can escape to a safe and secure area.	Access routes are designed or alternative emergency evacuation routes are provided so that in the event of a serious incident occupants can escape to a safe and secure area.	Access routes are designed or alternative emergency evacuation routes are provided so that in the event of a serious incident occupants can escape to a safe and secure area.
Concentration of people			Concentration of people in flood affected areas is minimised.	

²³⁰ Probable solutions have been provided for electrical installations at 11.4.7(2)(a).

²³¹ Probable solutions for evacuation routes are provided at 11.4.7(2)(c).

	Residential uses		Commercial, industrial and other non residential uses	
Aspect	Land situated below the 1 in 20 development line	Land situated between the 1 in 20 development line and the 1 in 100 flood line	Land situated below the 1 in 20 development line for	Land situated between the 1 in 20 development line and the 1 in 100 flood line
Location of buildings²³²			Building are located to avoid areas affected by significant flood flows, or alternatively, are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event of 1 in 100 Average Recurrence Interval.	Building are located to avoid areas affected by significant flood flows, or alternatively, are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event of 1 in 100 Average Recurrence Interval.
Materials stored on site			Materials stored on-site - <ul style="list-style-type: none"> - are readily able to be moved in a flood event; - are not hazardous or noxious, or comprise materials that may cause a deleterious effect on the environment if discharged in a flood event; - where capable of creating a safety 	Materials stored on-site - <ul style="list-style-type: none"> - are readily able to be moved in a flood event; - are not hazardous or noxious, or comprise materials that may cause a deleterious effect on the environment if discharged in a flood event; - where capable of creating a safety

²³² Probable solutions for structural adequacy are provided at 11.4.7(2)(b).

	Residential uses		Commercial, industrial and other non residential uses	
Aspect	Land situated below the 1 in 20 development line	Land situated between the 1 in 20 development line and the 1 in 100 flood line	Land situated below the 1 in 20 development line for	Land situated between the 1 in 20 development line and the 1 in 100 flood line
			hazard by being shifted by flood waters, are contained in order to minimise movement.	hazard by being shifted by flood waters, are contained in order to minimise movement.
Flood hazard for other properties	The development does not increase the flood hazard for other properties within the flood plain.	The development does not increase the flood hazard for other properties within the flood plain.	The development does not increase the flood hazard for other properties within the flood plain.	The development does not increase the flood hazard for other properties within the flood plain.
Land filling and vegetation clearing²³³	Filling of land below the 1 in 20 development line and the clearing of native vegetation within the stream banks are avoided.	Clearing of native vegetation within the stream banks are avoided. Filling is avoided unless the land is located within the 1 in 100 flood line designated 'indicative and subject to further detailed assessment' on OV5 and such filling results in the rehabilitation and repair of the hydrological network and the riparian ecology of the waterway and is appropriately assessed.	Filling of land below the 1 in 20 development line and the clearing of native vegetation within the stream banks are avoided.	Clearing of native vegetation within the stream banks are avoided. Filling is avoided unless the land is located within the 1 in 100 flood line designated 'indicative and subject to further detailed assessment' on OV5 and such filling results in the rehabilitation and repair of the hydrological network and the riparian ecology of the waterway and is appropriately assessed.

²³³ Probable solutions for earthworks and clearing of vegetation are provided at 11.4.7(2)(d) and (e).

statement of policy

1975 — 1985

IPSWICH CITY COUNCIL

U4
994
X21
175



A message from the Mayor of Ipswich - - Ald. A. G. Hastings

I COMMENT THIS STATEMENT OF POLICY AND THE POLICY PLAN
TO THE PEOPLE OF IPSWICH.

THE PLAN IS DESIGNED TO CLEARLY DEFINE THE WAY IN WHICH
THE COUNCIL WOULD LIKE TO SEE LAND WITHIN THE IPSWICH CITY
COUNCIL LOCAL AUTHORITY AREA DEVELOPED OVER THE NEXT TEN
YEARS.

THE COUNCIL'S ADOPTION OF A POLICY PLAN ALLOWS FOR
FLEXIBILITY IN DETERMINING FUTURE LAND USAGE THEREBY
AVOIDING THE MORE RIGID CONTROLS USUALLY EXERCISED UNDER
THE PROVISIONS OF A ZONING PLAN.

THE POLICY PLAN SEEKS TO ACHIEVE THE MOST EFFECTIVE USE OF
LAND WITHIN THE CITY WITH THE INTEREST OF THE PEOPLE BEING
THE OVER-RIDING CONSIDERATION.

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introduction

The City of Ipswich today is on the threshold of becoming one of the largest urban growth centres in Queensland.

The accelerated population growth in the past three (3) years coupled with the establishment of new diversified secondary and tertiary industries, has changed this City, from a small rural town largely dependent on the mining industry, into a much more comprehensive urban centre. The social and economic problems characteristic of all large cities, are now enveloping Ipswich.

The planning control system which has operated with some success for a number of years, is not adequate to deal with increased population, intensified commercial and industrial development, and traffic problems, that may be expected.

It is obvious that there is a need to bring such developments into some proper relationship with the overall future planning of the City. Without this relationship, a great many of the costs would otherwise fall on the planning authority and thus on the community.

The new overall guidance which has been proposed for the city of tomorrow is now represented by the POLICY PLAN.

This important document is the result of intensive studies and evaluations.

It has enabled the responsible Authority to project for the needs and wants of the people in terms of future land use and social requirements up to 1985.

Its successful implementation will depend upon the degree of public support and participation that the citizens of Ipswich are willing to offer.

The POLICY PLAN does not directly control the development or acquisition of land, but it sets out policies guiding future land use for a 1985 population of 120,000.

It allocates land for various uses — for example, residential, industrial, shopping or business; it shows the planning authority's intentions for roads, parks, open spaces and other public uses, as well as existing uses which it is proposed to retain.

It is a statement of the policy of the Council in relation to the desirable use of land, and it is exhibited to the public for suggestions at its inception, and every time it is amended by the Council. It is NOT for any purpose to be considered a rezoning of land.

The structural composition is based on the survey of the area, the surrounding Shires and the Region.

The survey has taken into account the main physical, economic and social characteristics of the area, and included the principal purposes for which the land is used;

The size, composition and distribution of the population, the communications and transport system are all important considerations.

With the planning survey as a basis, the POLICY PLAN contains the general proposals for the future use of land in the local Authority's area and indicate the anticipated comprehensive development of land within the specified period to 1985.

From the Statutory maps or Zoning maps, all future development is referred to the POLICY PLAN which shows the desirable use of the land in question.

In the case where the desirable use of the land on the POLICY PLAN differs from the zoning on the ZONING PLANS and such desirable use may not be permitted within such zone, it would be required to apply to have that land rezoned to the zone equivalent to the desirable use as depicted on the POLICY PLAN. Any such rezoning would be conditional upon agreement to the requirements which the Council may impose in accordance with the Scheme.

Thus the POLICY PLAN becomes a very flexible document; it can be modified and streamlined; it invites public participation when such change occurs; it does not promote speculation as each part of the proposed use shown on the Plan is only a general indication of intention by the Council for use of land in the general area.

urban ecology and location

The City of Ipswich is approximately 40 kilometres from Brisbane City, the State capital.

It is located along the western transportation corridor and covers an area of approximately 115 square kilometres.

The infrastructure of the City includes an efficient railway system, which is planned for early electrification. This will further facilitate the inter and intra movement of population and goods within parameters of the City and into outer areas.

With a growth rate of approximately 2 per cent. compound, Ipswich's

population has been relatively stable since the late 1950's.

By 1971 there were 61,000 persons living in Ipswich. From 1971 to 1974 a sharp increase in subdivision and building permits showed that the population had increased at a rate of 6 per cent. compound per annum.

It is estimated that by 1975 the population in Ipswich will be 70,000 and by 1985 120,000.

The City has taken 120 years to reach its present population. Before the turn of the century, it will have doubled its size.

the policy

The relation and increasing importance of Ipswich City to the Moreton Region becomes apparent when it is realised that while the distance between Brisbane and Ipswich Cities by road is some 40 kilometres, the Ipswich City Centre is within a radius of 30 kilometres from the Brisbane City Centre.

This one factor together with the potentially ideal communications link that already exists between the two cities, indicates that Ipswich must grow and strengthen, not as a suburb of Brisbane, but as an individual City, with its own identity and characteristics.

It must attract people as a place not only to live in, but also to work in, to shop in, to relax in, to be entertained in; it must attract new industries and commerce, both private and public; it must create new employment opportunities for its present and future population.

This is happening right now, but an effort has to be made to increase the diversity of the economy of Ipswich and therefore increase the City's independence and strength.

Ipswich City has historically been known as a coal miners and workers town.

Let it remain that way — but let us make it the best such town in Australia, not dependent entirely on such industries.

the plan

There are seven. (7) major categories of land use shown on the PLAN; these are further divided into a total of 16 uses, namely:—

RURAL

Residential 1
Residential 2
Residential 3
Residential 4

RESIDENTIAL

Local Commercial
Central Commercial 1
Central Commercial 2

COMMERCIAL

INDUSTRIAL

Service Industry
 Light Industry
 General Industry
 Hazardous, Noxious or Offensive Industry

EXTRACTIVE INDUSTRY

OPEN SPACE

Public Open Space
 Private Recreation

SPECIAL USES

the uses

The Rural land shown on the Plan represents that land which it is not considered desirable or practical to develop within the 10 year planning period.

It is not considered feasible for a city with an area of only 115 square kilometres to permanently retain any significant rural areas, and as a result the amount of rural land will be seen to diminish.

The rural land consists mainly of vacant, undeveloped land.

The residential areas shown on the Plan, provide for a population of some 120,000 people in 10 years time. Although the population required to saturate these areas would exceed this figure, it is considered that the majority of these areas will be partially populated in 10 years time.

With an estimated 70,000 people living in Ipswich at present, an increase of 50,000 people is expected in 10 years time.

Residential areas are outlined in the form of neighbourhood units varying in population from 3,000 to 7,000 people, the exact size being influenced by the natural landscape and existing communication system.

Major commercial centres are shown at strategic locations on the Plan, whilst other existing ones have been given existing use rights.

In relation to existing developed areas, the Planners have when possible, endeavoured to consolidate and if necessary enlarge existing commercial

nodes, rather than creating new centres which could affect the livelihood of the existing centres.

Most shopping centres are located on the major roads of the neighbourhood, adjacent to bus stops and other public transport terminals.

The presently undeveloped residential areas, as well as the existing ones, will have provision for general stores, located at strategic positions within the neighbourhood, and designed to serve the daily shopping needs of those who live within easy walking distance of them.

It is intended that the general stores will be located so that the distance to any home does not exceed 500 metres.

Retail space of a typical general store will be of the order of 100 square metres, to which a storekeeper's residence may be attached.

In order that the Council may at its discretion, approve of an application for a general store at a suitable location, the plan will not indicate where the general stores are to be located.

Studies of shopping trends have suggested that the former neighbourhood centres should be reduced in number, thus bringing about the concept of the general store to serve the daily needs of the people and larger commercial centres, designed to serve a population of some 15,000 to 25,000 people, should be established to serve the people's weekly requirements.

The "district" centres serve from three to six neighbourhoods and may contain a large supermarket, a wide range of smaller shops, cafes, a post office, a licensed tavern or hotel, professional offices, clubs, churches, a library, community facilities, a service station and perhaps a swimming pool.

It could also provide an entertainment centre on a relatively small scale.

Adjacent to the district centres will be areas of medium density and residential 3 housing.

The district centres as shown on the plan are at Redbank/Goodna, Bundamba and Booval.

A much larger commercial complex is located at Goodna. This centre is ideally located in relation to Ipswich City Centre, Indooroopilly Shopping Town and Inala, and is at the centre of the rapidly expanding residential areas of Goodna, Gailes and Redbank Plains.

Some 16 hectares of largely undeveloped land adjacent to the Cunningham Highway, has been set aside for this development. It will provide for a high level of shopping, as well as community and social facilities, and will be the second largest commercial centre within the city area.

The Ipswich City Centre, with an area of land of some 26 hectares, lies at the centre of the old City and will play an important role as part of the Moreton Region.

Steps are presently being taken by the Council to provide a City Centre that will work efficiently, be a delight to those who use it, and which will be equipped to draw trade from the entirety of its service area.

A full report titled "IPSWICH PLAZA" provides the background for such steps which will enable some of the city streets to be closed to vehicular traffic and opened up for pedestrian use only.

Within the City Centre, areas along the proposed pedestrian plaza areas have been set aside for a combination of shopping and office development while the outer areas are mainly for office development.

The creation of an outer ring road containing the entire City Centre will alleviate to a large degree, the traffic congestion within the centre. Plans for the constant improvement and growth of the City Centre are being formulated by the Council as matters of priority.

Industrial development has been divided into four (4) categories of service, light, general and hazardous, noxious or offensive industries.

The larger established industrial areas within the City have, where possible, been increased in area to cater for the anticipated population of 120,000 people.

The location of industrial areas throughout the City, as opposed to one large area, contributes towards a better distribution of employment opportunities.

The main industrial centres will be located at Wulkuraka, Churchill, West Ipswich, North Ipswich, Bundamba and Gailes, and adjacent to the proposed south-western expressway.

Open space areas or buffer zones have been provided between such areas of residential development.

As the majority of the existing industrial areas are for general industry, the plan has provided for greatly increased areas of light industry to restore the balance.

The valuable coal fields adjacent to the proposed southern by-pass have been safeguarded by the provision of an extensive extractive area.

This area is one of the most valuable coal mining areas of Queensland and is needed for the supply of power to the Swanbank Powerhouse.

Within these areas are extensive underground and open-cut mining operations which it is envisaged will continue for many years.

Perhaps the most significant single item contained on the POLICY PLAN is the proposed allocation for open space purposes of all land below the level of the 1 in 20 year flood.

The majority of such areas is to be left in the natural state for the enjoyment of the people. Access will be via skirting roads running along the

edges of such areas. The total acreage is of such magnitude that the people of Ipswich will be provided with open space and recreation facilities sufficient to satisfy the needs of its ultimate desirable population of 250,000. The result will be an integrated system of open spaces with complete public access to all rivers and watercourses.

These major open space areas form natural boundaries to residential neighbourhoods and districts.

Within each neighbourhood additional parks are provided to cater for the recreational needs of the people.

The existing parks within the City including Limestone and Queens Parks will be continuously developed to provide useful, interesting and beautiful parks.

One primary school is provided within each neighbourhood wherever possible.

Future secondary school sites are well provided for in all areas.

The major roads within the City are the Cunningham Highway, linking Ipswich and Brisbane, the Warrego Highway linking Ipswich and Toowoomba and the proposed Ipswich southern by-pass linking Ipswich and Warwick.

Another major road is proposed as a western by-pass linking the Warrego Highway and the Ipswich southern by-pass which would complete the major triangular road network.

With the eventual creation of these major roads, a large proportion of through traffic will be taken from the existing roads within the City.

The collector roads have been defined by the plan and generally define neighbourhoods, rather than cut through them.

The residential roads are designed purely to provide access to houses.

Cul-de-sacs are permitted to be of widths as small as 6.5 metres, in order to encourage the type of residential development where through traffic is reduced to a minimum.

Road layouts in new residential areas will take into account not only the natural topography of the land, but also the desirable aspect of all future houses.

The Railway connecting Ipswich to Brisbane at present provides a satisfactory public transport route between the two (2) centres.

The combination of improved shopping and office facilities in the City Centre and electrification of the railway link between Ipswich and Brisbane,

would undoubtedly be a tremendous asset to the economy and employment situation of the City.

The upgrading of the railway would not have the same result for Ipswich without the improved City centre shopping and office facilities.

A co-ordinated rail-bus service to and from the railway stations will be aimed at in order to maximize the advantages of the public transport system.


the conclusion


The Town Planning Scheme for the City of Ipswich is the culmination of intensive studies and analysis for the future requirements of the City.

It purports a more unorthodox approach to Planning than ever before because the Council believes that the process of development for the City must be flexible and adaptable to changes.

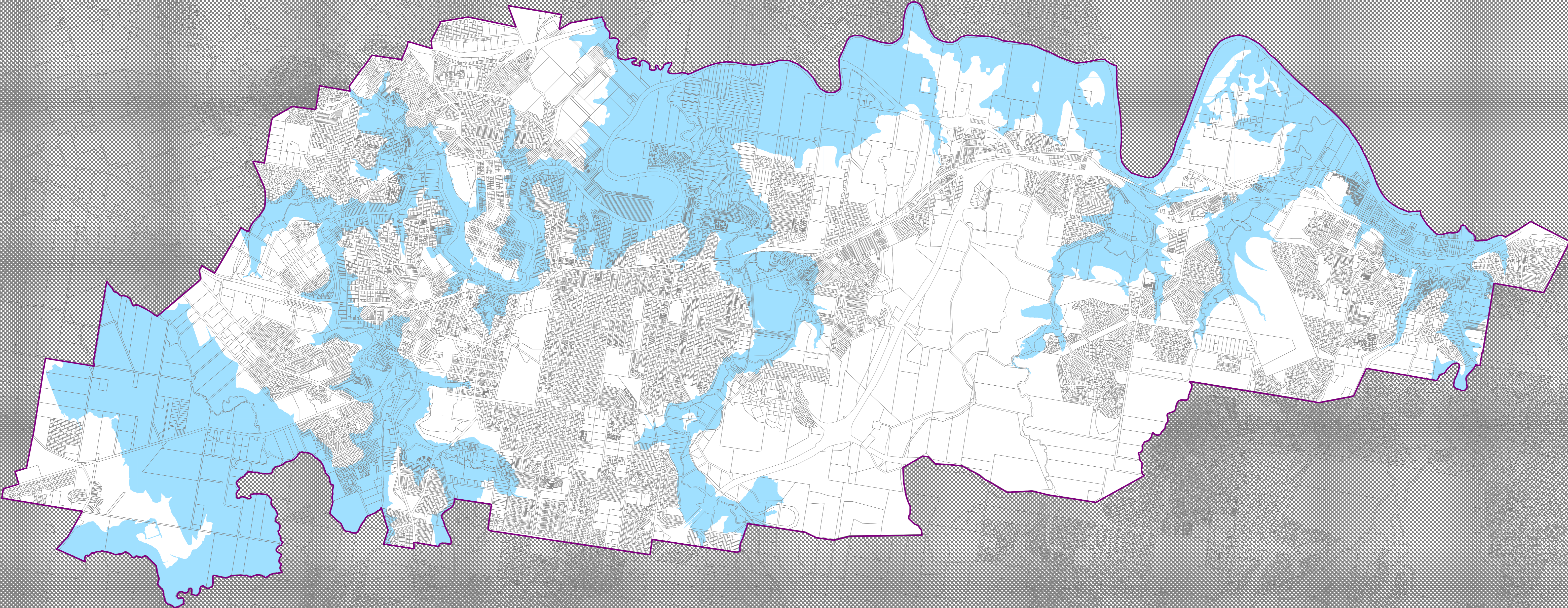
It includes, in addition to the Policy Plan, the required Statutory documents and Maps to control development in the City.

It provides an array of supporting material, designed to inform the public of the intricate complexities of the problem so that they may in turn participate and contribute with us in the task of making this City a better place to live in.

- 

Former LGA Boundary
- 

1974 Flood Area
(Approximately 35% of Former LGA)





**PLANNING
SCHEME
POLICY
FOR
FLOOD
LIABLE OR
DRAINAGE
PROBLEM
LAND**

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PART 1 - BACKGROUND AND INTENT

1. (1) Flooding occurs within the City when the rainfall exceeds the capacity of creeks and rivers to convey runoff. Flooding can generate rapid rises in water levels and warning times can be very short. Both the Brisbane and Bremer Rivers, in addition to a number of tributary creeks are subject to tidal inundation. Accordingly, flood movements downslope, and tidal surges upslope can significantly exacerbate the intensity and duration of a flood event. Warnings can be summarily very short and subject to the accuracy of predicting stream response to rainfall events.
 - (2) Whilst land is a valuable resource, early settlement throughout the Ipswich region was often sited on land that has turned out to be subject to flooding. Continued urbanisation of these earlier communities has resulted in a number of situations where there is high probability of inundation and sometimes large scale damage and community disruption when floods occur.
 - (3) Council's overall flood mitigation strategy is to minimise future flood damage by both structural protection and by planning controls. This policy will outline the planning mechanisms available to minimise future damage and disruption from flooding.
2. (1) This Planning Scheme Policy applies to all flood liable or drainage problem land within the City of Ipswich.
 - (2) It is intended that this policy be used to support the implementation of Council's Town Plan, Strategic Plan, Structure Plans and Council's Corporate and Operational Plans.
 - (3) The intent of the policy is to provide guidance to Council Officers and developers, for the assessment of development applications over flood liable or drainage problem land, including land situated below the **adopted flood level** as specified in the Planning Scheme or a Structure Plan.

PART 2 - PURPOSE OF THE POLICY

3. (1) The essential purpose of the policy is to establish a framework within which incremental decisions, made in the development assessment process, take account of land subject to flooding or effected by drainage problems.

PART 3 - STATUS OF THE POLICY

4. (1) This document was originally prepared under the Local Government (Planning and Environment) Act 1990 as a local planning policy. However, this Act has been repealed and replaced by the Integrated Planning Act 1997 (IPA) as from 30 March 1998. Under the IPA this document is a transitional planning scheme policy.

To make the document easier to use and understand it has been amended to make it more consistent with the Integrated Development Assessment System (IDAS).

IDAS is the system for making, assessing and deciding development applications.

- (2) The policy is intended to supplement the **Planning Scheme** by providing detailed standards for flood liable or drainage problem land, and as such should be read in conjunction with the **Planning Scheme** and with the standards and guidelines as adopted by **Council** from time to time.

PART 4 - DEFINITIONS

5. (1) For the purpose of this **Policy** all definitions used are those contained in the **Planning Scheme**.
- (2) Terms which have been **used** and defined in the **Planning Scheme** are reproduced in this policy in bold type.
- (3) Where clauses from the **Planning Scheme** are used in this policy, they are reproduced in italics.

PART 5 - OBJECTIVES

6. (1) The objectives of this Planning Scheme Policy are:
 - (a) to minimise the damage and disruption caused by development within flood liable or drainage problem land;
 - (b) to discourage further residential development, in particular, from flood liable or drainage problem lands;
 - (c) to ensure that areas subject to inundation and drainage problems are protected from incompatible development;
 - (d) to provide the **Responsible Officer** with enhanced techniques to assess development applications on flood liable or drainage problem land.

PART 6 - VARIATIONS TO DEVELOPMENT STANDARDS

7. (1) The requirements set out in this policy have been formulated to achieve the performance objectives contained in Clause 5 above. However, the **Responsible Officer** or the **Council** may require a variation in the standards in this policy in particular circumstances, and may consider a submission from a developer requesting variation in the standards providing that the proposal achieves the above stated performance objectives whilst always having regard to the following:
- (a) the characteristics of each individual site;
 - (b) the nature of the proposed use;
 - (c) the existing and proposed future development in the area; and
 - (d) the existing and proposed future amenity and character of the area.
- (2) Applicants shall submit in writing their reasons for requesting a variation of the policy standards.

PART 7 - PERFORMANCE CRITERIA AND ACCEPTABLE SOLUTIONS

8. (1) Subject to the provisions of the **planning scheme**, and any relevant structure plan and satisfactory compliance with the requirements below, favourable consideration may be given by Council or the **Responsible Officer** to an application to erect a dwelling on flood liable or drainage problem lands where:
- (a) The area of the allotment upon which the dwelling is proposed to be located is not be within the primary flow hazard area, as determined by the **Responsible Officer**, of any creek, or the Bremer or Brisbane Rivers;
 - (b) The floor level of any habitable rooms of a proposed dwelling shall be a minimum of 250 mm above the **adopted flood level** and is to be established by a Registered Surveyor or Professional Engineer unless determined otherwise by the **Responsible Officer**;
 - (c) The dwelling is to be designed by a Structural Engineer and certified to be capable of withstanding the flood and debris loadings applicable to a rainfall runoff event of an Average Recurrence Interval of 100 years unless otherwise determined by the **Responsible Officer**;
 - (d) The stormwater runoff from the development is to be discharged in a manner and at a point to be approved by the **Responsible Officer**;
 - (e) Vehicular access to the dwelling site shall be constructed to enable flood free access for a 1 in 2 year storm event unless otherwise determined by the **Responsible Officer**;
 - (f) If deemed necessary by the **Responsible Officer**, a Bank Stability Assessment is to be submitted in relation to the long term stability of the site together with any necessary recommendations from an approved Geotechnical consultant. An unsatisfactory report in this regard could result in a refusal of the development application;
 - (g) All building materials used below Council's **adopted flood level** should not be susceptible to water damage unless otherwise determined by the **Responsible Officer**;
 - (h) Subject to the requirements of the supply authority, all electrical wiring, power outlets, switches, etc, should to the maximum extent possible be located above the **adopted flood level**. All electrical wiring installed below the **adopted flood level** should be suitably treated to withstand continuous submergence in water.
 - (i) Car parking in the form of basement parking is unlikely to receive favourable consideration below the **adopted flood level**, unless it is protected against the inflow of water to a level of 500mm above the **adopted flood level**.
 - (j) Any facilities for the permanent storage of hazardous materials should not be established below the adopted flood level unless under special circumstances and with the discretionary approval of Council.
- (2) As a general principle subdivision of land, particularly for residential purposes, below the **adopted flood level** will not receive the favourable consideration of **Council**.
- (3) (a) As a general principle filling of land below the **adopted flood level** will not receive the favourable consideration of **Council** unless otherwise determined by the **Responsible Officer**.
- (b) Where an application for the filling of flood liable or drainage problem land is submitted, the applicant is to provide **Council** with sufficient technical and professionally presented information so that the following matters can be considered and assessed.
- (i) The effects upon the efficiency or capacity of the water course to convey flood waters.
 - (ii) The effects upon lands upstream, downstream, and in the immediate vicinity.
 - (iii) The effects upon the **adopted flood level** profile.
 - (iv) The effects upon any tributaries to the main stream, drainage ditches, and any other drainage facilities or systems.

- (v) Whether additional public expenditures for flood protection or prevention will be required.
 - (vi) Whether the proposed use is for human occupancy.
 - (vii) The potential danger to persons upstream, downstream, and in the immediate vicinity.
 - (viii) Whether any proposed changes in a watercourse will have an adverse environmental effect on the watercourse, including without limitation, streambanks and riparian vegetation.
 - (ix) Whether any proposed water supply and sanitation systems and other utility systems can prevent disease, contamination, and unsanitary or hazardous conditions during a flood.
 - (x) Whether any proposed facility and its contents will be susceptible to flood damage and the effect of such damage.
 - (xi) The relationship of the proposed development to any existing or proposed floodplain management programs.
 - (xii) Whether safe access is available to the property in times of flood for ordinary and emergency vehicles.
 - (xiii) Whether the applicant will provide flood warning systems to notify floodplain occupants of impending floods.
 - (xiv) Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood heights.
 - (xv) Whether the expected heights, velocities, duration, rate of rise, and sediment transport of the floodwaters expected at the site will adversely affect the development of surrounding property.
 - (xvi) Whether fill material is likely to cause environmental harm either directly or indirectly to any receiving environment. The developer shall provide specific details of the source(s), type, and quantity of fill and any necessary certification regarding the leachability of potential contaminants. The developer may also be required to provide specific details of fill capping materials.
 - (xvii) Details on the quality of compaction, in particular the ability of the fill to withstand the expected adopted flood heights, velocities, duration, rate of rise, and sediment transport.
- (4) In respect of impacts identified which need to be managed or controlled, an environmental management plan (EMP) may be required. For each significant environmental issue, environmental impacting activity or significant issues raised by the **Responsible Officer**, the EMP should nominate the following:
- (a) Objective/Target - Nominate what is intended to be achieved (reference should be made to legislation or published sources where available and relevant);
 - (b) Management Strategy - Nominate the overall approach to be taken to meet/maintain the stated objective/target;
 - (c) Tasks/Actions - Describe the steps to be taken to implement the nominated strategy, including any necessary approval applications, funding, consultations, and monitoring;
 - (d) Performance Indicators - Describe the criteria against which the level of achievement of the stated objective/target will be measured;
 - (e) Frequency/Deadline - Nominate a time frame in which each of the tasks/actions are to be carried out and/or completed (eg daily, monthly, prior to commencement of use);
 - (f) Responsible Person/Organisation - Assign responsibility for carrying out each task/action to a relevant person and/or organisation;
 - (g) Reporting and Review - Describe the required reporting and review arrangements (including auditing) for each task (eg how often, by whom, to whom);
 - (h) Corrective Actions - Describe what will be done if the stated objectives/targets are not being met or maintained, including who is responsible for taking the required actions; and
 - (i) All actions within the Environmental Management Plan must be adequately documented for auditing purposes. Such documentation must be readily available to the Responsible Officer upon request.



Queensland
Government

MIN 50621.03- TPA22937

Office of the
Minister for
Local Government and Planning

Mr Jamie Quinn
Chief Executive Officer
Ipswich City Council
PO Box 191
IPSWICH QLD 4305

Dear Mr Quinn

Thank you for your letter of 11 December 2003 requesting reconsideration of State interests in accordance with section 18(2) of Schedule 1 of the *Integrated Planning Act 1997* (IPA) following formal public notification of the proposed planning scheme and Council's consideration of submissions received during the notification period. As you may be aware, the Beattie Government was returned to office on 7 February 2004 and I have been appointed as the new Minister for Local Government and Planning.

In accordance with section 18(4)(a) of Schedule 1 of the IPA I am pleased to advise Council may adopt the proposed Planning Scheme as submitted with modifications on 16 January 2004. Notwithstanding, I note there are a small number of matters raised by the Environmental Protection Agency during the whole of Government review which I would like to see considered and where appropriate addressed as part of further more detailed planning processes and possible future amendments to the planning scheme. These issues relate to incorporation of the South East Queensland Regional Nature Conservation Strategy, urban biodiversity and indigenous cultural heritage measures and buffer distances within the planning scheme.

I understand Council officers have by letter dated 16 January 2004 indicated their general support for these matters to be considered in the future.

Furthermore, I am satisfied the following State Planning Policies are appropriately reflected in the proposed scheme:

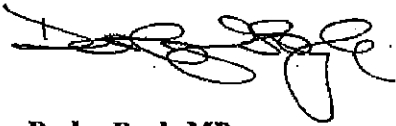
1. State Planning Policy 1/92 Development and the Conservation of Agricultural Land;
2. State Planning Policy 1/02 Development in the Vicinity of Certain Airports and Aviation Facilities;
3. State Planning Policy 2/02 Planning and Managing Development involving Acid Sulfate Soils; and
4. State Planning Policy 1/03 Mitigating the Adverse Impacts of Flood, Bushfire and Landslide.

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Please note this advice also constitutes a notice for section 6.1.54 of the IPA, the effect of which is to enable the Department of Main Roads to continue to impose road conditions, including conditions requiring monetary payment for lessening the cost impacts for infrastructure, in accordance with the transitional rules set out in this section of the IPA.

Finally I would like to commend Council and its officers on working cooperatively with my Department in the preparation of the Ipswich City Council Planning Scheme. I am pleased to further commend Council on an essentially robust and technically comprehensive planning scheme and completion of this major milestone within the revised statutory timeframe of 30 June 2004.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Desley Boyle', with a stylized flourish at the end.

Desley Boyle MP
Minister for Local Government and Planning

Flood Recovery Assistance Package Planning and Development Approval Processes and Fees

Repairing / Replacing Existing Businesses

Question 1 –

My business has been flooded but not damaged. What do I need to do to move back in?

Answer 1 –

There are no special planning or building requirements. Please refer to Council's general flood information package.

Question 2 –

The property has received some flood damage but is still structurally sound, what approvals do I need before moving back in?

Answer 2 –

General

Please refer to the health and safety information contained in Council's general flood information package.

Building Works

- (1) Please read the attached *Guide to Rebuilding After a Flood* prepared by the Building Services Authority (BSA).
- (2) Make sure you contact your insurer and obtain their approval prior to undertaking any major building works.
- (3) A Building Services Authority (BSA) licensed contractor is needed for any building work over the value of \$3,300 (including labour and materials). The licensed builder will be able to advise you on whether building approval is needed for the work.
- (4) Building works approvals may be issued either by licensed private certifiers or Council employed certifiers. A list of building certifiers can be found in the Yellow Pages. To check if your building certifier is appropriately licensed, contact the Building Services Authority on 1300 272 272.
- (5) Where you propose to repair the flood affected building, no planning application is required. However, a building approval may be required from a building certifier for some repairs, particularly if they are structural in nature.
- (6) If the building works involve asbestos sheeting, see attached BSA Fact Sheet.
- (7) If the building has heritage or character protection (if it is located within a Character Zone or listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place), special provisions apply - see notes relating to Heritage / Character Places (Question and Answer 10).

Plumbing Works

- (1) If the work involves reinstating existing fittings (such as hand basins, sinks, taps) in current locations:-
 - (a) no Council plumbing approval is required;

- (b) contact a licensed plumber for installation.
- (2) If the work involves replacing damaged pipes or drains and the associated connection of new fittings, in the same location and design as existing:-
 - (a) Council plumbing approval is required via a simplified, fast track, on site inspection and approval process, arranged through a licensed plumber;
 - (b) Council will not charge a fee for this service (Please contact your licensed plumber).
- (3) Other than as outlined in (1) and (2) above (such as where significant change is proposed to the layout and design of the existing plumbing and drainage) an application and Council approval is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Have your licensed plumber / drainer contact Council's Plumbing Team on 3810 6130 for further information.

Question 3 –

If the property has received major damage as a result of flooding, what do I need to do?

Answer 3 –

Building Works

- (1) Contact a building certifier or professional engineer to determine the extent of any structural damage and whether the building can be repaired or needs to be demolished. A list of building certifiers can be found in the Yellow Pages. To check if your building certifier is appropriately licensed, contact the Building Services Authority on 1300 272 272.
- (2) Make sure you contact your insurer and obtain their approval prior to undertaking any major building works or demolition.
- (3) A Building Services Authority (BSA) licensed contractor is needed for any building work over the value of \$3,300 (including labour and materials).
- (4) Building works approvals (including demolition) may be issued either by licensed private certifiers or Council employed certifiers.
- (5) Please read the attached *Guide to Rebuilding After a Flood* prepared by the Building Services Authority (BSA).
- (6) If the building works involve asbestos sheeting, see attached BSA Fact Sheet.
- (7) Where you propose to repair the flood affected building, no planning application is required. However, building approval is required from a building certifier for repairs which are structural in nature.
- (8) If you need to completely rebuild your business, provided you are replacing your building as it was, on a 'like-for-like' basis you do not need a planning approval. It is recommended that you review the previous floor levels and building materials in an attempt to minimise flood damage in the future. However, if you intend to change the

location, size, materials (if in a character/heritage area), intensity or use of the building, you should review Council's planning scheme to confirm whether these works are assessable and trigger the requirement for a planning approval. For further information about Council planning approvals, please call 3810 6666 and ask to speak to the Duty Planning Officer. A building certifier will need to be engaged to confirm the proposed building complies with the Building Code before construction begins. Certifiers also undertake inspections throughout the construction and are required to provide a sign off once the building has been finished.

- (9) If the building has heritage or character protection (if it is located within a Character Zone or listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place), special provisions apply - see notes relating to Heritage / Character Places (Question and Answer 10).

Plumbing Works

- (1) If the work involves reinstating existing fittings (such as hand basins, sinks, taps) in current locations:-
- (a) no Council plumbing approval is required;
 - (b) contact a licensed plumber for installation.
- (2) If the work involves replacing damaged pipes or drains and the associated connection of new fittings, in the same location and design as existing:-
- (a) Council plumbing approval is required via a simplified, fast track, on site inspection and approval process, arranged through a licensed plumber;
 - (b) Council will not charge a fee for this service (Please contact your licensed plumber).
- (3) Other than as outlined in (1) and (2) above (such as where significant change is proposed to the layout and design of the existing plumbing and drainage) an application and Council approval is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Have your licensed plumber / drainer contact Council's Plumbing Team on 3810 6130 for further information.

Question 4 –

Can I raise the height of my building?

Answer 4 –

Yes, however, you will need a building approval and in some instances, if it exceeds the maximum height allowances specified in Council's planning scheme (particularly in heritage character areas) you may need a planning approval from Council. For further information, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Question 5 –

Do I need approval to relocate the building on my site?

Answer 5 –

You will require planning approval from Council and building approval from a building certifier – see information above in relation to Question and Answer 3.

Question 6 –

Do I need approval to fill my site to achieve better flood protection?

Answer 6 –

Any filling or excavation in flood affected areas (below the 1 in 100 year flood line) requires approval from Council. For further information, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Food Licences

Question 7 –What other approvals do I need to recommence my food business?

Answer 7 –

- (1) If you are reinstating the business like-for-like (such as selling the same kind of food with no changes to the previous kitchen layout), no new food licence application is required but an inspection by Council will be required prior to reopening the business. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (2) If you wish to reinstate your business with some minor changes such as rearranging the counter or kitchen layout, you will need to provide Council with the plan of changes at the time of the recommencement inspection. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (3) If you wish to reinstate your business and make significant changes, a new food licence application is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Please contact Council's Environmental Planning Team on 3810 6888 for further information.
- (4) For further information on Food Licences, please read the attached Fact Sheet or access the web site:
www.lgtoolbox.qld.gov.au/IPSWICHCC/EH/FOODBUSINESSFIXED/Pages/ToolsandResources.aspx

High Risk Personal Appearance Services (HRPAS) (such as Skin Piercing, Tattoo)

Question 8 –

What other approvals do I need to recommence my high risk personal appearance services (HRPAS) business?

Answer 8 –

- (1) If you are reinstating the business like-for-like (with the same layout), no new licence application is required but an inspection by Council will be required prior to reopening the business. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (2) If you wish to reinstate your business with some minor changes such as rearranging the layout, you will need to provide Council with the plan of changes at the time of the recommencement inspection. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (3) If you wish to reinstate your business and make significant changes, a new application is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Please contact Council's Environmental Planning Team on 3810 6888 for further information.
- (4) For further information on High Risk Personal Appearance Services, please read the attached Fact Sheet or access the web site:
www.lgtoolbox.qld.gov.au/lpswichCC/EH/PersonalAppearanceServices/Pages/ToolsandResources.aspx

Environmentally Relevant Activities (ERA) / Flammable and Combustible Activities (F&C)

Question 9 –

What other approvals do I need to recommence my Environmentally Relevant Activity (ERA) or Flammable and Combustible Activity (F&C)?

Answer 9 –

- (1) If you are reinstating the business like-for-like (with the same layout), no new licence application is required but an inspection by Council will be required prior to reopening the business. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (2) If you wish to reinstate your business and make changes, a new application may be required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Please contact Council's Environmental Planning Team on 3810 6888 for further information.

- (3) For further information on Environmentally Relevant Activities, please access the web site:-
www.lgtoolbox.qld.gov.au/IpswichCC/EH/EnvironmentallyRelevantActivities/Pages/ToolsandResources.aspx
- (4) For further information on Flammable and Combustible Activities, please access the web site:-
www.lgtoolbox.qld.gov.au/IpswichCC/EH/FlammableCombustibleLiquids/Pages/ToolsandResources.aspx

Heritage / Character Places

Question 10 –

What special provisions apply for the repair or removal of heritage character buildings and sites?

Answer 10 –

- (1) Heritage Character Places protected under the Ipswich Planning Scheme require Council development approval prior to any building certifier issuing an approval for demolition or removal.
- (2) Any flood damaged heritage character protected place, which is proposed to be demolished or removed must be inspected by Council's Heritage Adviser or Senior Council Planning and Building Staff to determine whether the demolition / removal is warranted. For further information, please contact Council's Development Planning Branch on 3810 6666.
- (3) Where it is considered that demolition or removal of the place is warranted, the Development Planning Manager or City Planner may elect to:-
 - (a) process the matter via Fast Track;
 - (b) reduce the application fee to \$nil.
- (4) Where it is considered that the demolition or removal of the place is not warranted, then normal fees and application processes will apply.
- (5) Planning approval is not required in most cases to undertake internal renovations and repairs or to return the exterior of a character building to its original condition. For further information, please contact Council's Development Planning Branch on 3810 6666.
- (6) No planning approval is required for front (street) boundary fencing which is:-
 - (a) 1.2m or less in height; or
 - (b) between 1.2m and 2.0m in height, provided either materials or the method of construction used provides for a minimum 30% transparency.

For further information, please contact Council's Development Planning Branch on 3810 6666.

Please note: Fences more than 1.8m in height will also require building approval.

For further information contact:

Ipswich City Council

Phone: (07) 3810 6666

www.ipswich.qld.gov.au

- (7) If your property is listed on the Queensland Heritage Register, please contact the Regional Office of the Department of Environment and Resource Management (phone: 3406 2274). For further information on State heritage matters, please access the web site:-
www.derm.qld.gov.au/heritage/index

Approved Plans

Question 11 –

How do I obtain information or a copy of the approved building plans?

Answer 11 –

- (1) If you are aware that your building / structure was built by a building company or approved by a private certifier, then contact that organisation direct.
- (2) Copies of approved building, plumbing, drainage and development plans will be provided to flood affected property owners free of charge by Council on request. For further information please contact Council's Development Planning Branch on 3810 6666.

Question 12 –

I am unable to get approved plans of my building / structure. How do I ensure I am replacing like-for-like?

Answer 12 –

In the absence of approved plans, the use of evidence such as photographs, aerial photography and sewer and drainage plans may be combined to establish 'beyond reasonable doubt' of like-for-like replacement. However, as this is somewhat subjective, where approved building plans are not available, always consult first with a building certifier and Council.



City of
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Australia

Residential Areas

Flood Recovery Assistance Package Planning and Development Approval Processes and Fees

Repairing / Replacing Existing Houses

Question 1 –

My house has been flooded but not damaged. What do I need to do to move back in?

Answer 1 –

There are no special planning or building requirements. Please refer to Council's general flood information package.

Question 2 –

The property has received some flood damage but is still structurally sound, what approvals do I need before moving back in?

Answer 2 –

General

Please refer to the health and safety information contained in Council's general flood information package.

Building Works

- (1) Please read the attached *Guide to Rebuilding After a Flood* prepared by the Building Services Authority (BSA).
- (2) Make sure you contact your insurer and obtain their approval prior to undertaking any major building works.
- (3) A Building Services Authority (BSA) licensed contractor is needed for any building work over the value of \$3,300 (including labour and materials). The licensed builder will be able to advise you on whether building approval is needed for the work.
- (4) Building works approvals may be issued either by licensed private certifiers or Council employed certifiers. A list of building certifiers can be found in the Yellow Pages. To check if your building certifier is appropriately licensed, contact the Building Services Authority on 1300 272 272.
- (5) Where you propose to repair the flood affected dwelling, no planning application is required. However, a building approval may be required from a building certifier for some repairs, particularly if they are structural in nature.
- (6) If the building works involve asbestos sheeting, see attached BSA Fact Sheet.
- (7) If the building has heritage or character protection (if it is located within a Character Zone or listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place), special provisions apply - see notes relating to Heritage / Character Places (Question and Answer 14).

Plumbing Works

- (1) If the work involves reinstating existing fittings (such as bath, sinks, taps) in current locations:-
 - (a) no Council plumbing approval is required;

Residential Areas

- (b) contact a licensed plumber for installation.
- (2) If the work involves replacing damaged pipes or drains and the associated connection of new fittings, in the same location and design as existing:-
 - (a) Council plumbing approval is required via a simplified, fast track, on site inspection and approval process, arranged through a licensed plumber;
 - (b) Council will not charge a fee for this service (Please contact your licensed plumber).
- (3) Other than as outlined in (1) and (2) above (such as where significant change is proposed to the layout and design of the existing plumbing and drainage) an application and Council approval is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Have your licensed plumber / drainer contact Council's Plumbing Team on 3810 6130 for further information.

Question 3 –

If the property has received major damage as a result of flooding, what do I need to do?

Answer 3 –

Building Works

- (1) Contact a building certifier or professional engineer to determine the extent of any structural damage and whether the building can be repaired or needs to be demolished. A list of building certifiers can be found in the Yellow Pages. To check if your building certifier is appropriately licensed, contact the Building Services Authority (BSA) on 1300 272 272.
- (2) Make sure you contact your insurer and obtain their approval prior to undertaking any major building works or demolition.
- (3) A Building Services Authority (BSA) licensed contractor is needed for any building work over the value of \$3,300 (including labour and materials).
- (4) Building works approvals (including demolition) may be issued either by licensed private certifiers or Council employed certifiers.
- (5) Please read the attached *Guide to Rebuilding After a Flood* prepared by the Building Services Authority (BSA).
- (6) If the building works involve asbestos sheeting, see attached BSA Fact Sheet.
- (7) Where you propose to repair the flood affected dwelling, no planning application is required. However, building approval is required from a building certifier for repairs which are structural in nature.
- (8) If you need to completely rebuild your home, provided you are replacing your building as it was, on a 'like-for-like' basis you do not need a planning approval. It is recommended that you review the previous floor levels and building materials in an attempt to minimise flood damage in the future. However, if you intend to change the location, size, materials (if in a character/heritage area) or use of the building, you should review Council's planning scheme to confirm whether these works are

assessable and trigger the requirement for a planning approval. For further information about Council planning approvals, please call 3810 6666 and ask to speak to the Duty Planning Officer. A building certifier will need to be engaged to confirm the proposed building complies with the Building Code before construction begins. Certifiers also undertake inspections throughout the construction and are required to provide a sign off once the building has been finished.

- (9) If the building has heritage or character protection (if it is located within a Character Zone or listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place), special provisions apply - see notes below relating to Heritage / Character Places (Question and Answer 14).

Plumbing Works

- (1) If the work involves reinstating existing fittings (such as bath, sinks, taps) in current locations:-
- (a) no Council plumbing approval is required;
 - (b) contact a licensed plumber for installation.
- (2) If the work involves replacing damaged pipes or drains and the associated connection of new fittings, in the same location and design as existing:-
- (a) Council plumbing approval is required via a simplified, fast track, on site inspection and approval process, arranged through a licensed plumber;
 - (b) Council will not charge a fee for this service (Please contact your licensed plumber).
- (3) Other than as outlined in (1) and (2) above (such as where significant change is proposed to the layout and design of the existing plumbing and drainage) an application and Council approval is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Have your licensed plumber / drainer contact Council's Plumbing Team on 3810 6130 for further information.

Question 4 –

Can I raise the height of my house?

Answer 4 –

Yes, however, you will need a building approval and in some instances, if it exceeds the maximum height allowances specified in Council's planning scheme (particularly in heritage character areas) you may need a planning approval from Council. For further information, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Question 5 –

Do I need approval to relocate my house on my site?

Answer 5 –

- (1) You will require approval from a building certifier – see information above in relation to Question and Answer 3.

Residential Areas

- (2) Generally, no planning approval will be required unless the land is within a Character Zone, the building is listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place, or is affected by a development constraint overlay. For further information regarding zoning and overlays, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Question 6 –

Do I need approval to fill my site to achieve better flood protection?

Answer 6 –

Any filling or excavation in flood affected areas (below the 1 in 100 year flood line) requires approval from Council. For further information, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Outbuildings (eg Sheds and Garages)

Question 7 –

What approvals will I need to either repair, demolish or rebuild any outbuildings such as sheds and garages?

Answer 7 –

Please see information above in relation to repairing and rebuilding houses (Questions and Answers 1 – 3). The building approval process for outbuildings is similar to those mentioned above for houses.

Question 8 –

Can I live in my shed while I rebuild / repair my house?

Answer 8 –

The shed must comply with the requirements of the Building Code of Australia and the Plumbing and Drainage Act in regards to its structural adequacy, provision of facilities (such as kitchen, toilets, shower) and be connected to water and drainage. Consult your building certifier for further information.

Fences

Question 9 –

What approvals will I need to either repair, demolish or rebuild any fences on my property?

Answer 9 –

- (1) Fences less than 1.8m do not normally require Council approval. See Question and Answer 14 below for special provisions for front boundary fencing in Heritage Character Areas.
- (2) Regard should also be had to the Dividing Fences Act to determine cost sharing arrangements between neighbours for side and rear boundary fencing.

For further information contact:
Ipswich City Council
Phone: (07) 3810 6666
www.ipswich.qld.gov.au

Swimming Pools

Question 10 –

What should I do to repair my swimming pool and the pool area fencing?

Answer 10 –

- (1) Contact a licensed pool builder or pool retailer for information and assistance. Do not fully empty the pool until the surrounding area has dried out otherwise the pool structure may rise out of the ground.
- (2) No formal approval is required if:-
 - (a) that part of the pool fence being repaired or replaced is no longer than a total of 2.4m and includes no more than 2 posts; or
 - (b) a Pool Safety Inspector issues a Pool Safety Certificate for minor repairs and the part repaired is no longer than 5m and includes no more than 6 posts. All pool safety fencing must comply with current safety standards. For further information about pool fencing, see www.dip.qld.gov.au/poolfencing

Pontoons and Jetties

Question 11 –

What should I do to repair or replace my pontoon / jetty?

Answer 11 –

- (1) If you are repairing your existing, approved pontoon or jetty to its original condition, no approval is required.
- (2) If you wish to replace or build a new pontoon or jetty, please contact Council's Environmental Planning Team on 3810 6888.

Temporary Homes (such as Caravans)

Question 12 –

Can I put a caravan on my property while I repair or rebuild my house?

Answer 12 –

Yes, providing suitable arrangements are made to access shower, toilet and cooking facilities. Please contact the Environmental Planning Team on 3810 6888 for further information and arrangements for approval.

Residential Areas

Temporary Storage (such as Shipping Containers)

Question 13 –

Can I make arrangements for temporary storage on my property, such as the use of a shipping container?

Answer 13 –

Structures such as garden sheds that are less than 10m² in area and are not higher than 2.4m or have one side longer than 5m do not require building approval. Shipping containers require building approval from a Building Certifier as well as an *Amenity and Aesthetics* approval from Council. Other forms of temporary storage may also require approval depending on size and location. Consult your Building Certifier for further advice.

Heritage / Character Places

Question 14 –

What special provisions apply for the repair or removal of heritage character buildings and sites?

Answer 14 –

- (1) Heritage Character Places protected under the Ipswich Planning Scheme require Council development approval prior to any building certifier issuing an approval for demolition or removal.
- (2) Any flood damaged heritage character protected place, which is proposed to be demolished or removed must be inspected by Council's Heritage Adviser or Senior Council Planning and Building Staff to determine whether the demolition / removal is warranted. For further information, please contact Council's Development Planning Branch on 3810 6666.
- (3) Where it is considered that demolition or removal of the place is warranted, the Development Planning Manager or City Planner may elect to:-
 - (a) process the matter via Fast Track;
 - (b) reduce the application fee to \$nil.
- (4) Where it is considered that the demolition or removal of the place is not warranted, then normal fees and application processes will apply.
- (5) Planning approval is not required in most cases to undertake internal renovations and repairs or to return the exterior of a character building to its original condition. For further information, please contact Council's Development Planning Branch on 3810 6666.

- (6) No planning approval is required for front (street) boundary fencing which is:-
- (a) 1.2m or less in height; or
 - (b) between 1.2m and 2.0m in height, provided either materials or the method of construction used provides for a minimum 30% transparency.

For further information, please contact Council's Development Planning Branch on 3810 6666.

Please note: Fences more than 1.8m in height will also require building approval.

- (7) If your property is listed on the Queensland Heritage Register, please contact the Regional Office of the Department of Environment and Resource Management (phone: 3406 2274). For further information on State heritage matters, please access the web site:-

www.derm.qld.gov.au/heritage/index

Approved Plans

Question 15 –

How do I obtain information or a copy of the approved building plans?

Answer 15 –

- (1) If you are aware that your building / structure was built by a building company or approved by a private certifier, then contact that organisation direct.
- (2) Copies of approved building, plumbing, drainage and development plans will be provided to flood affected property owners free of charge by Council on request. For further information please contact Council's Development Planning Branch on 3810 6666.

Question 16 –

I am unable to get approved plans of my building / structure. How do I ensure I am replacing like-for-like?

Answer 16 –

In the absence of approved plans, the use of evidence such as photographs, aerial photography and sewer and drainage plans may be combined to establish 'beyond reasonable doubt' of like-for-like replacement. However, as this is somewhat subjective, where approved building plans are not available, always consult first with a building certifier and Council.



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Flood Recovery Assistance Package Planning and Development Approval Processes and Fees

Repairing / Replacing Existing Buildings / Uses

Question 1 –

My property has been flooded but not damaged. What do I need to do to recommence?

Answer 1 –

There are no special planning or building requirements. Please refer to Council's general flood information package.

Question 2 –

The property has received some flood damage but is still structurally sound, what approvals do I need before moving back in?

Answer 2 –

General

Please refer to the health and safety information contained in Council's general flood information package.

Building Works

- (1) Please read the attached *Guide to Rebuilding After a Flood* prepared by the Building Services Authority (BSA).
- (2) Make sure you contact your insurer and obtain their approval prior to undertaking any major building works.
- (3) A Building Services Authority (BSA) licensed contractor is needed for any building work over the value of \$3,300 (including labour and materials). The licensed builder will be able to advise you on whether building approval is needed for the work.
- (4) Building works approvals may be issued either by licensed private certifiers or Council employed certifiers. A list of building certifiers can be found in the Yellow Pages. To check if your building certifier is appropriately licensed, contact the Building Services Authority on 1300 272 272.
- (5) Where you propose to repair the flood affected building, no planning application is required. However, a building approval may be required from a building certifier for some repairs, particularly if they are structural in nature.
- (6) If the building works involve asbestos sheeting, see attached BSA Fact Sheet.
- (7) If the building has heritage or character protection (if it is located within a Character Zone or listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place), special provisions apply - see notes relating to Heritage / Character Places (Question and Answer 9).

Plumbing Works

- (1) If the work involves reinstating existing fittings (such as hand basins, sinks, taps) in current locations:-
 - (a) no Council plumbing approval is required;

- (b) contact a licensed plumber for installation.
- (2) If the work involves replacing damaged pipes or drains and the associated connection of new fittings, in the same location and design as existing:-
 - (a) Council plumbing approval is required via a simplified, fast track, on site inspection and approval process, arranged through a licensed plumber;
 - (b) Council will not charge a fee for this service (Please contact your licensed plumber).
- (3) Other than as outlined in (1) and (2) above (such as where significant change is proposed to the layout and design of the existing plumbing and drainage) an application and Council approval is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Have your licensed plumber / drainer contact Council's Plumbing Team on 3810 6130 for further information.

Question 3 –

If the property has received major damage as a result of flooding, what do I need to do?

Answer 3 –

Building Works

- (1) Contact a building certifier or professional engineer to determine the extent of any structural damage and whether the building can be repaired or needs to be demolished. A list of building certifiers can be found in the Yellow Pages. To check if your building certifier is appropriately licensed, contact the Building Services Authority on 1300 272 272.
- (2) Make sure you contact your insurer and obtain their approval prior to undertaking any major building works or demolition.
- (3) A Building Services Authority (BSA) licensed contractor is needed for any building work over the value of \$3,300 (including labour and materials).
- (4) Building works approvals (including demolition) may be issued either by licensed private certifiers or Council employed certifiers.
- (5) Please read the attached *Guide to Rebuilding After a Flood* prepared by the Building Services Authority (BSA).
- (6) If the building works involve asbestos sheeting, see attached BSA Fact Sheet.
- (7) Where you propose to repair the flood affected building, no planning application is required. However, building approval is required from a building certifier for repairs which are structural in nature.
- (8) If you need to completely rebuild your building, provided you are replacing your building as it was, on a 'like-for-like' basis you do not need a planning approval. It is recommended that you review the previous floor levels and building materials in an attempt to minimise flood damage in the future. However, if you intend to change the location, size, materials (if in a character/heritage area), intensity or use of the building, you should review Council's planning scheme to confirm whether these works are

For further information contact:

Ipswich City Council

Phone: (07) 3810 6666

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assessable and trigger the requirement for a planning approval. For further information about Council planning approvals, please call 3810 6666 and ask to speak to the Duty Planning Officer. A building certifier will need to be engaged to confirm the proposed building complies with the Building Code before construction begins. Certifiers also undertake inspections throughout the construction and are required to provide a sign off once the building has been finished.

- (9) If the building has heritage or character protection (if it is located within a Character Zone or listed as a Character Place under the Ipswich Planning Scheme or is a State listed heritage place), special provisions apply - see notes relating to Heritage / Character Places (Question and Answer 9).

Plumbing Works

- (1) If the work involves reinstating existing fittings (such as hand basins, sinks, taps) in current locations:-
- (a) no Council plumbing approval is required;
 - (b) contact a licensed plumber for installation.
- (2) If the work involves replacing damaged pipes or drains and the associated connection of new fittings, in the same location and design as existing:-
- (a) Council plumbing approval is required via a simplified, fast track, on site inspection and approval process, arranged through a licensed plumber;
 - (b) Council will not charge a fee for this service (Please contact your licensed plumber).
- (3) Other than as outlined in (1) and (2) above (such as where significant change is proposed to the layout and design of the existing plumbing and drainage) an application and Council approval is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Have your licensed plumber / drainer contact Council's Plumbing Team on 3810 6130 for further information.

Question 4 –

Can I raise the height of my building?

Answer 4 –

Yes, however, you will need a building approval and in some instances, if it exceeds the maximum height allowances specified in Council's planning scheme (particularly in heritage character areas) you may need a planning approval from Council. For further information, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Question 5 –

Do I need approval to relocate the building on my site?

Answer 5 –

You will require planning approval from Council and building approval from a building certifier – see information above in relation to Question and Answer 3.

Question 6 –

Do I need approval to fill my site to achieve better flood protection?

Answer 6 –

Any filling or excavation in flood affected areas (below the 1 in 100 year flood line) requires approval from Council. For further information, please call 3810 6666 and ask to speak to the Duty Planning Officer.

Food Licences

Question 7 –

What other approvals do I need to recommence my food activity?

Answer 7 –

- (1) If you are reinstating the activity like-for-like (such as the same kind of food with no changes to the previous kitchen layout), no new food licence application is required but an inspection by Council will be required prior to reopening the business. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (2) If you wish to reinstate your activity with some minor changes such as rearranging the counter or kitchen layout, you will need to provide Council with the plan of changes at the time of the recommencement inspection. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (3) If you wish to reinstate your activity and make significant changes, a new food licence application is required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Please contact Council's Environmental Planning Team on 3810 6888 for further information.
- (4) For further information on Food Licences, please read the attached Fact Sheet or access the web site:
www.lgtoolbox.qld.gov.au/IPSWICHCC/EH/FOODBUSINESSFIXED/Pages/ToolsandResources.aspx

Environmentally Relevant Activities (ERA) / Flammable and Combustible Activities (F&C)

Question 8 –

What other approvals do I need to recommence my Environmentally Relevant Activity (ERA) or Flammable and Combustible Activity (F&C)?

Answer 8 –

- (1) If you are reinstating the activity like-for-like (with the same layout), no new licence application is required but an inspection by Council will be required prior to recommencing the activity. Please contact Council's Environmental Planning Team on 3810 6888 when you are ready for the inspection. No fees will apply.
- (2) If you wish to reinstate your activity and make changes, a new application may be required. Council will charge only 50% of its normal application fees and your application will be processed via a Fast Track. Please contact Council's Environmental Planning Team on 3810 6888 for further information.
- (3) For further information on Environmentally Relevant Activities, please access the web site:-
www.lgtoolbox.qld.gov.au/ipswichCC/EH/EnvironmentallyRelevantActivities/Pages/TolsandResources.aspx
- (4) For further information on Flammable and Combustible Activities, please access the web site:-
www.lgtoolbox.qld.gov.au/ipswichCC/EH/FlammableCombustibleLiquids/Pages/ToolsandResources.aspx

Heritage / Character Places

Question 9 –

What special provisions apply for the repair or removal of heritage character buildings and sites?

Answer 9 –

- (1) Heritage Character Places protected under the Ipswich Planning Scheme require Council development approval prior to any building certifier issuing an approval for demolition or removal.
- (2) Any flood damaged heritage character protected place, which is proposed to be demolished or removed must be inspected by Council's Heritage Adviser or Senior Council Planning and Building Staff to determine whether the demolition / removal is warranted. For further information, please contact Council's Development Planning Branch on 3810 6666.
- (3) Where it is considered that demolition or removal of the place is warranted, the Development Planning Manager or City Planner may elect to:-
 - (a) process the matter via Fast Track;
 - (b) reduce the application fee to \$nil.
- (4) Where it is considered that the demolition or removal of the place is not warranted, then normal fees and application processes will apply.
- (5) Planning approval is not required in most cases to undertake internal renovations and repairs or to return the exterior of a character building to its original condition. For further information, please contact Council's Development Planning Branch on 3810 6666.
- (6) No planning approval is required for front (street) boundary fencing which is:-
 - (a) 1.2m or less in height; or
 - (b) between 1.2m and 2.0m in height, provided either materials or the method of construction used provides for a minimum 30% transparency.For further information, please contact Council's Development Planning Branch on 3810 6666.
Please note: Fences more than 1.8m in height will also require building approval.
- (7) If your property is listed on the Queensland Heritage Register, please contact the Regional Office of the Department of Environment and Resource Management (phone: 3406 2274). For further information on State heritage matters, please access the web site:-
www.derm.qld.gov.au/heritage/index

Approved Plans

Question 10 –

How do I obtain information or a copy of the approved building plans?

Answer 10 –

- (1) If you are aware that your building / structure was built by a building company or approved by a private certifier, then contact that organisation direct.
- (2) Copies of approved building, plumbing, drainage and development plans will be provided to flood affected property owners free of charge by Council on request. For further information please contact Council's Development Planning Branch on 3810 6666.

Question 11 –

I am unable to get approved plans of my building / structure. How do I ensure I am replacing like-for-like?

Answer 11 –

In the absence of approved plans, the use of evidence such as photographs, aerial photography and sewer and drainage plans may be combined to establish 'beyond reasonable doubt' of like-for-like replacement. However, as this is somewhat subjective, where approved building plans are not available, always consult first with a building certifier and Council.



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Ipswich City Council

Temporary Local Planning Instrument
01/2011
Flooding Regulation

This Temporary Local Planning Instrument encompasses:

- (1) The replacement of the Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5).
- (2) The replacement of the following sections of the Ipswich Planning Scheme 2006:
 - (a) Part 11, Section 11.4.7 - Flooding and Urban Stormwater Flow Path Areas;
 - (b) Part 11, Table 11.4.3: Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Making a Material Change of Use;
 - (c) Part 11, Table 11.4.4: Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Other Development; and
 - (d) Part 12, Section 12.15.4 - Earthworks Code (including Lot Filling) Clause (8) Flooding and Drainage.
- (3) The inclusion of Special Opportunity Areas for three (3) flood affected precincts.

This is to certify that this is a true and correct copy of Temporary Local Planning Instrument (TLPI) 01/2011 adopted on (insert date) and commenced on (insert date). The TLPI will cease to have effect on (insert date) or when it is repealed in accordance with the provisions of the *Sustainable Planning Act 2009*.

Chief Executive Officer

Date (insert date)

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Part 1 - Short Title

- 1.1 This Temporary Local Planning Instrument (TLPI) may be cited as Temporary Local Planning Instrument 01/2011 (Flooding Regulation).

Part 2 - Purpose of the TLPI

- 2.1 The purpose of this TLPI, made under Chapter 3, Part 3 of the *Sustainable Planning Act 2009*, is to provide improved flood regulation based on a Revised Flood Regulation Line and associated development provisions.
- 2.2 To achieve this purpose, the TLPI will:
- (a) replace the Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5) to incorporate a Revised Flood Regulation Line;
 - (b) replace components of the Ipswich Planning Scheme 2006 to reflect the Revised Flood Regulation Line and enhance the application of existing flood regulations; and
 - (c) include Special Opportunity Areas to encourage the transition of existing flood affected residential areas to low impact non residential uses.

Part 3 - Application of the TLPI

- 3.1 This TLPI applies to the area to which the Ipswich Planning Scheme 2006 applies.
- 3.2 This TLPI overrides the provisions contained in the Ipswich Planning Scheme 2006 to the extent of matters that this TLPI relates to as outlined in Part 7.

Part 4 - Relationship with Planning Scheme

- 4.1 To the extent of any inconsistency between the Ipswich Planning Scheme 2006 and the TLPI, the TLPI prevails.

Part 5 - Duration of the TLPI

- 5.1 This TLPI will have effect in accordance with the *Sustainable Planning Act 2009* for a period not exceeding 12 months from the date of commencement of the TLPI.
- 5.2 This TLPI takes effect from (insert date) and will cease to have effect on (insert date).



Part 6 - Definitions

- 6.1 The terms used in this TLPI have the same meaning as defined in the *Sustainable Planning Act 2009*, unless otherwise defined in this TLPI or the Ipswich Planning Scheme 2006.

Part 7 - Effect of this TLPI

7.1 Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5)

This TLPI suspends the operation of the Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5) dated February 2009 and replaces this Overlay Map with the Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5) dated March 2011 as contained in Attachment 1.

7.2 Part 11, Section 11.4.7 - Flooding and Urban Stormwater Flow Path Areas

This TLPI suspends the operation of the following sections of the Ipswich Planning Scheme 2006:

- (a) Part 11, Section 11.4.7 - Flooding and Urban Stormwater Flow Path Areas;
- (b) Part 11, Table 11.4.3: Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Making a Material Change of Use;
- (c) Part 11, Table 11.4.4: Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Other Development; and
- (d) Part 12, Section 12.15.4 - Earthworks Code (including Lot Filling) Clause (8) Flooding and Drainage;

and replaces these sections with those contained in Attachment 2.

7.3 Special Opportunity Areas

For the duration of this TLPI, the provisions contained in Attachment 3 provide reduced assessment levels for specified uses to encourage the transition of existing flood affected residential areas to low impact, non residential uses. These provisions apply to the areas designated in Attachment 4.



Attachment 1**A. Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5)****NOTE 1**

This TLPI suspends the operation of the Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5) dated February 2009 and replaces this Overlay Map with the attached Flooding and Urban Stormwater Flow Path Areas Overlay Map (OV5) dated March 2011.

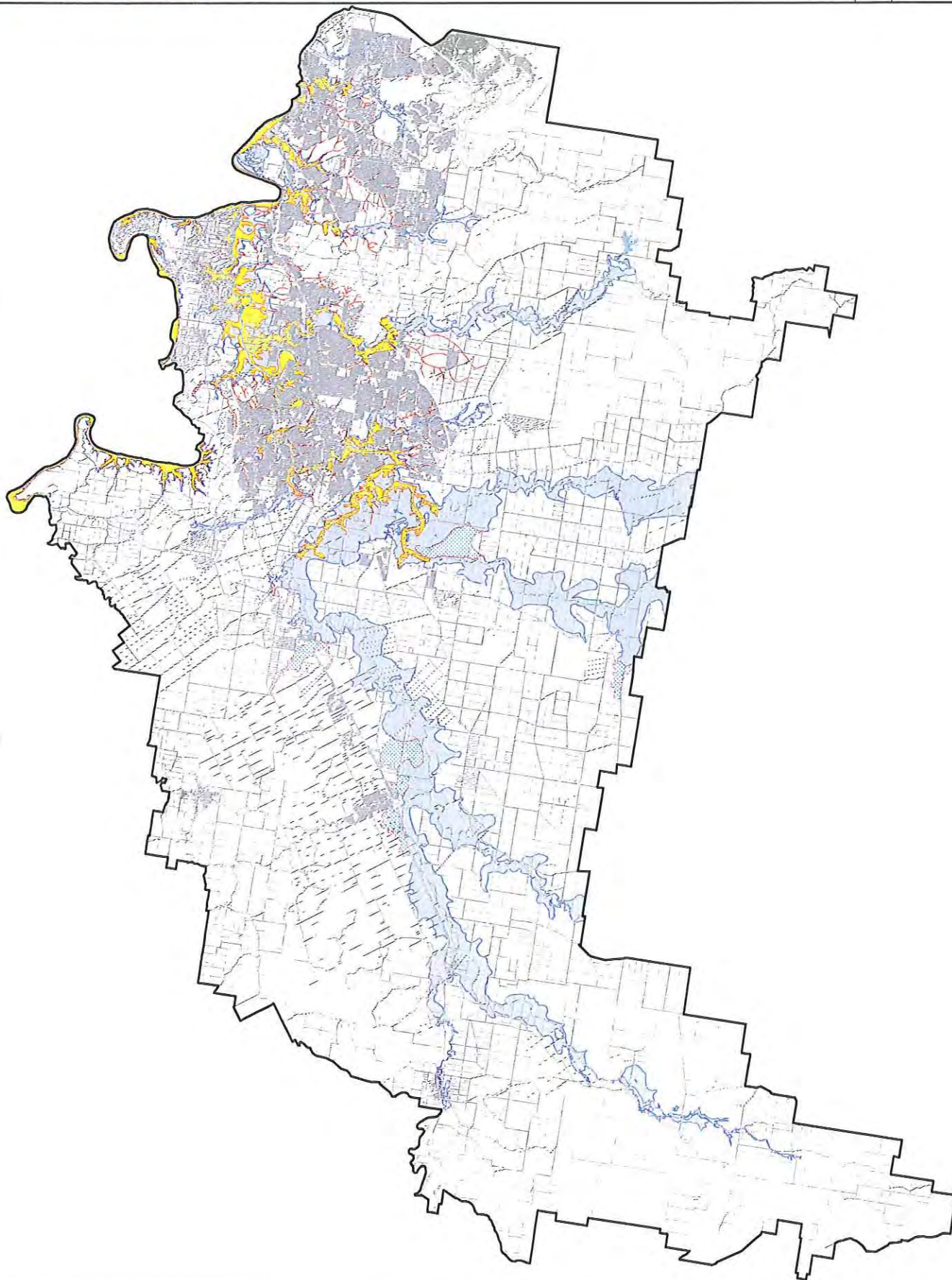




OVERLAY MAP

Flooding and Urban Stormwater Flow Path Areas

- Adopted Flood Regulation Line
- 1 in 20 Development Line
- Urban Stormwater Flow Path Areas
- Indicative and Subject to Further Detailed Assessment
- River / Watercourse
- City Boundary



NOTE: Further details in relation to this map may be obtained from the Ipswich City Council Geographic Information System.



OV5

Scale 1:160,000
March 2011

Attachment 2

A. Part 11, Section 11.4.7 - Flooding and Urban Stormwater Flow Path Areas

This Temporary Local Planning Instrument suspends the operation of Part 11, Section 11.4.7 - Flooding and Urban Stormwater Flow Path Areas of the Ipswich Planning Scheme 2006 and replaces it with the following:

11.4.7 Flooding and Urban Stormwater Flow Path Areas

NOTE 11.4.7A

- (1) The provisions of this section apply to land identified on Map OV5 as being—
 - (a) below the 1 in 20 development line; or
 - (b) below the adopted flood regulation line; or
 - (c) within an urban stormwater flow path area.
- (2) Flood affected areas and urban stormwater flow path areas are depicted in two ways on the overlay maps—
 - (a) unbroken lines – representing 'known' constraints as determined by a technical report, or study or an actual flood event; and
 - (b) broken lines – indicative and subject to further detailed assessment as part of a development application.
- (3) The 1 in 20 development line is based on a long standing flood regulation line, established following the 1974 flood, that applied to the former Ipswich City Council area prior to its amalgamation with the former Moreton Shire.
- (4) In some cases, further information will need to be submitted to the local government, such as a flood assessment, for consideration as part of the development assessment process.
- (5) Further information on the requirements for a flood assessment are contained in Planning Scheme Policy 2—Information Local Government May Request.

(1) Specific Outcomes

(a) Land Situated Below the 1 in 20 Development Line – Residential Uses

- (i) There is no intensification of residential uses within flood affected areas on land situated below the 1 in 20 development line, including the provision of an auxiliary unit.
- (ii) Where a development commitment, based on former zoning provisions, allows a dwelling to be sited within areas affected by significant flood flows (i.e. one metre or more in depth), such dwellings are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event equivalent to the adopted flood regulation line.

NOTE 11.4.7B

Where no flow and velocity information is known for the adopted flood regulation line (modelled or otherwise) the maximum known flows and velocities are to be used for flood events in consultation with Council.

- (iii) Unless otherwise determined by Council, the floor levels of any habitable rooms of a proposed building are a minimum of 500mm above the adopted flood regulation line, whilst having regard to the visual amenity and streetscape impacts on nearby dwellings, associated with the raising of floor levels and the resulting height of buildings.
- (iv) The design and layout of residential buildings provides for—
 - (A) parking and other low intensive, non habitable uses at ground level (e.g. temporary storage of readily removable items); and
 - (B) habitable rooms above, to increase flood immunity.
- (v) The areas below habitable rooms—



- (A) are to be left open so as not to impede flood flows;
 - (B) may be used for the parking of vehicles or the storage of large items that are readily able to be moved in the event of a flood;
 - (C) may be screened for security purposes using timber battens where such screening does not impede flood flows; and
 - (D) may use timber batten gates such that the gates do not impede flood flows, with the use of solid fill gates, roll-a-doors or tilt doors to be avoided.
- (vi) The building materials and surface treatments used below the adopted flood regulation line are resistant to water damage and do not include wall cavities that may be susceptible to the intrusion of water and sediment.

NOTE 11.4.7C

Flood resistant materials such as core filled concrete block / brick are to be used as alternatives to materials such as gyprock / particle board to minimise replacement / repair and provide for ease of cleaning in the event of a flood.

- (vii) Buildings and other structures are sited on the highest part of the site to increase flood immunity.
 - (viii) Electrical installations are sited in the area of greatest flood immunity.
 - (ix) Electrical switchboards, main data servers and the like are positioned above the adopted flood regulation line with all electrical and data installations below this level designed and constructed to withstand submergence in flood water.
 - (x) Access routes are designed or alternative emergency evacuation routes are provided so that in a flood event occupants can escape to a safe and secure area.
 - (xi) The development does not increase the flood hazard (e.g. by way of increased depth, duration or velocity of flood waters or a reduction in warning times) for other properties within a flood plain.
 - (xii) There is no filling of land or reduction of flood storage capacity below the 1 in 20 development line.
 - (xiii) The clearing of native vegetation within the stream banks is avoided.
- (b) **Land Situated Below the 1 in 20 Development Line – Commercial, Industrial and Other Non Residential Uses**
- (i) Where possible, the design and layout of buildings provides for—
 - (A) parking, or other low intensive, or non habitable uses at ground level; and
 - (B) retail, commercial and work areas above the parking areas, to increase flood immunity.
 - (ii) Expensive plant and equipment and stock are located in the area of the site or building with the greatest flood immunity.

NOTE 11.4.7D

Owners/applicants should undertake their own risk assessment to determine the floor level that maximises flood immunity having regard to the above.

- (iii) The building materials and surface treatments used below the adopted flood regulation line are resistant to water damage and do not include wall cavities that may be susceptible to the intrusion of water and sediment.

NOTE 11.4.7E

Flood resistant materials such as core filled concrete block / brick are to be used as alternatives to materials such as gyprock / particle board to minimise replacement / repair and provide for ease of cleaning in the event of a flood.

- (iv) Electrical installations are sited in the area of greatest flood immunity.
- (v) Electrical switchboards, main data servers and the like are positioned above the adopted flood regulation line with all electrical and data installations below this level designed and constructed to withstand submergence in flood water.



- (vi) Access routes are designed or alternative emergency evacuation routes are provided so that in a flood event occupants can escape to a safe and secure area.
- (vii) The concentration of people in flood affected areas, particularly within areas affected by significant flood flows (i.e. one metre or more in depth), is avoided unless it can be demonstrated that the overall use is appropriate, eg sporting fields, and where there is likely to be adequate warning and access to a safe evacuation route in the event of a flood.
- (viii) Buildings are located to avoid areas affected by significant flood flows (i.e. one metre or more in depth), or where there is no alternative, buildings are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event equivalent to the adopted flood regulation line.

NOTE 11.4.7F

Where no flow and velocity information is known for the adopted flood regulation line (modelled or otherwise) the maximum known flows and velocities are to be used for flood events in consultation with Council.

- (ix) Materials stored on-site—
 - (A) are those that are readily able to be moved in a flood event;
 - (B) are not hazardous or noxious, or comprise materials that may cause a deleterious effect on the environment if discharged in a flood event; and
 - (C) where capable of creating a safety hazard by being shifted by flood waters, are contained in order to minimise movement in times of flood.
- (x) The development does not increase the flood hazard (e.g. by way of increased depth, duration or velocity of flood waters or a reduction in warning times) for other properties.
- (xi) There is no filling of land or reduction of flood storage capacity below the 1 in 20 development line.
- (xii) The clearing of native vegetation within the stream banks is avoided.

(c) Land Situated Between the 1 in 20 Development Line and the Adopted Flood Regulation Line – Residential Uses

- (i) The planning scheme acknowledges development commitments, based on former zonings or current approvals, for continued residential use.
- (ii) There is no intensification of residential uses within flood affected areas on land situated below the adopted flood regulation line, including the development of dual occupancy, multiple residential uses, and the reconfiguration of land to create additional lots.
- (iii) Special dispensation may be obtained to erect an ancillary unit or a second dwelling to house family members on land situated between the 1 in 20 development line and the adopted flood regulation line based on the extent of flood immunity achieved.
- (iv) Where a development commitment, based on former zoning provisions, allows a dwelling to be sited within areas affected by significant flood flows (i.e. one metre or more in depth), such dwellings are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event equivalent to the adopted flood regulation line.

NOTE 11.4.7G

Where no flow and velocity information is known for the adopted flood regulation line (modelled or otherwise) the maximum known flows and velocities are to be used for flood events in consultation with Council.

- (v) Unless otherwise determined by Council, the floor levels of any habitable rooms of a proposed building are a minimum of 500mm above the adopted flood regulation line, whilst having regard to the visual amenity and streetscape impacts on nearby dwellings, associated with the raising of floor levels and the resulting height of buildings.



- (vi) The design and layout of residential buildings provides for—
 - (A) parking and other low intensive, non habitable uses at ground level (e.g. temporary storage of readily removable items); and
 - (B) habitable rooms above, to increase flood immunity.
- (vii) The areas below habitable rooms—
 - (A) are to be left open so as not to impede flood flows;
 - (B) may be used for the parking of vehicles or the storage of large items that are readily able to be moved in the event of a flood;
 - (C) may be screened for security purposes using timber battens where such screening does not impede flood flows; and
 - (D) may use timber batten gates such that the gates do not impede flood flows, with the use of solid fill gates, roll-a-doors or tilt doors to be avoided.
- (viii) The building materials and surface treatments used below the adopted flood regulation line are resistant to water damage and do not include wall cavities that may be susceptible to the intrusion of water and sediment.

NOTE 11.4.7H

Flood resistant materials such as core filled concrete block / brick are to be used as alternatives to materials such as gyprock / particle board to minimise replacement / repair and provide for ease of cleaning in the event of a flood.

- (ix) Buildings and other structures are sited on the highest part of the site to increase flood immunity.
- (x) Electrical installations are sited in the area of greatest flood immunity.
- (xi) Electrical switchboards, main data servers and the like are positioned above the adopted flood regulation line with all electrical and data installations below this level designed and constructed to withstand submergence in flood water.
- (xii) Access routes are designed or alternative emergency evacuation routes are provided so that in a flood event occupants can escape to a safe and secure area.
- (xiii) The development does not increase the flood hazard (e.g. by way of increased depth, duration or velocity of flood waters or a reduction in warning times) for other properties.
- (xiv) The clearing of native vegetation within the stream banks is avoided.
- (xv) There are no earthworks (including filling) on land below the adopted flood regulation line, unless:
 - (A) the land is located above the 1 in 20 development line; and
 - (B) such earthworks result in the rehabilitation and repair of the hydrological network and the riparian ecology of the waterway; and
 - (C) an assessment, undertaken by a suitably qualified consultant, demonstrates that the reforming of the land does not negatively impact on the overall hydrology, hydraulics and flood capacity of the waterway and does not in any way result in the reduction of flood storage capacity on the site.

NOTE 11.4.7I

Council and the community have particular concerns about the cumulative adverse impact of any fill undertaken below the adopted flood regulation line.

(d) Land Situated Between the 1 in 20 Development Line and the Adopted Flood Regulation Line – Commercial, Industrial and Other Non Residential Uses

- (i) The design and layout of buildings provides for—
 - (A) parking, or other low intensive, or non habitable uses at ground level; and
 - (B) retail, commercial and work areas above the parking areas, to increase flood immunity.
- (ii) Expensive plant and equipment and stock are located in the area of the site or building with the greatest flood immunity.



NOTE 11.4.7J

Owners/applicants should undertake their own risk assessment to determine the floor level that maximises flood immunity having regard to the above.

- (iii) The building materials and surface treatments used below the adopted flood regulation line are resistant to water damage and do not include wall cavities that may be susceptible to the intrusion of water and sediment.

NOTE 11.4.7K

Flood resistant materials such as core filled concrete block / brick are to be used as alternatives to materials such as gyprock / particle board to minimise replacement / repair and provide for ease of cleaning in the event of a flood.

- (iv) Buildings and other structures are sited on the highest part of the site to increase flood immunity.
- (v) Electrical installations are sited in the area of greatest flood immunity.
- (vi) Electrical switchboards, main data servers and the like are positioned above the adopted flood regulation line with all electrical and data installations below this level designed and constructed to withstand submergence in flood water.
- (vii) Access routes are designed or alternative emergency evacuation routes are provided so that in a flood event occupants can escape to a safe and secure area.
- (viii) Buildings are located to avoid areas affected by significant flood flows (i.e. one metre or more in depth), or where there is no alternative, buildings are designed to be capable of withstanding the static and dynamic loads, including debris loads, applicable to a flood event equivalent to the adopted flood regulation line.

NOTE 11.4.7L

Where no flow and velocity information is known for the adopted flood regulation line (modelled or otherwise) the maximum known flows and velocities are to be used for flood events in consultation with Council.

- (ix) Materials stored on-site—
 - (A) are those that are readily able to be moved in a flood event;
 - (B) are not hazardous or noxious, or comprise materials that may cause a deleterious effect on the environment if discharged in a flood event; and
 - (C) where capable of creating a safety hazard by being shifted by flood waters, are contained in order to minimise movement in times of flood.
- (x) The development does not increase the flood hazard (e.g. by way of increased depth, duration or velocity of flood waters or a reduction in warning times) for other properties.
- (xi) The clearing of native vegetation within the stream banks is avoided.
- (xii) There are no earthworks (including filling) on land below the adopted flood regulation line, unless:
 - (A) the land is located above the 1 in 20 development line; and
 - (B) such earthworks result in the rehabilitation and repair of the hydrological network and the riparian ecology of the waterway; and
 - (C) an assessment, undertaken by a suitably qualified consultant, demonstrates that the reforming of the land does not negatively impact on the overall hydrology, hydraulics and flood capacity of the waterway and does not in any way result in the reduction of flood storage capacity on the site.

NOTE 11.4.7M

Council and the community have particular concerns about the cumulative adverse impact of any fill undertaken below the adopted flood regulation line.



(e) Urban Stormwater Flow Path Areas**NOTE 11.4.7N**

- (1) Stormwater flows can affect the amenity of a property and its improvements if adequate provision is not made to address stormwater flows being generated on, or upstream of the property.
- (2) In addition, situations can arise that may result in risk to life and significant damage to the property or its improvements if adequate consideration is not given to external stormwater flows during the design and construction of new uses and works.

- (i) Access routes are designed or alternative evacuation routes are provided so that in the event of a serious incident occupants can escape to a safe and secure area.
- (ii) Adequate stormwater drainage infrastructure and suitable overland flow paths are provided to carry the 1 in 100 Average Recurrence Interval (ARI) stormwater flow through the property while providing a freeboard of 500mm on the floors of all habitable areas and minimising damage owing to scouring from excessive flow velocities.
- (iii) Buildings and other works are designed and located so that nearby properties are not affected by any surcharge/afflux generated as a result of the buildings or other works.
- (iv) Buildings and other works are designed and located to accommodate existing and proposed stormwater drainage infrastructure and overland flow paths.
- (v) Any damage to existing stormwater drainage infrastructure and overland flow paths resulting from building and other works are rectified prior to the commencement of the new use.

(f) Community Infrastructure

- (i) Key elements of community infrastructure are able to function effectively during and immediately after flood hazard events.

(2)**Probable Solutions****(a) Electrical Installations**

- (i) The incoming power supply, including all metering equipment is, where possible, located above the adopted flood regulation line.
- (ii) Electrical switchboards, main data servers and the like are positioned above the adopted flood regulation line with all electrical and data installations below this level designed and constructed to withstand submergence in flood water.
- (iii) All wiring, power outlets and switches are, to the maximum extent possible, located above the adopted flood regulation line.
- (iv) All conduits located below the adopted flood regulation line are installed so that they will be self-draining.
- (v) Heating and air conditioning systems are, to the maximum extent possible, located above the adopted flood regulation line.

(b) Structural Adequacy

- (i) Buildings are designed to provide the following minimum safety factors when subjected to significant flood flows (i.e. one metre or more in depth)—
 - (A) 1.5 against failure by sliding or over turning; and
 - (B) 1.33 against flotation.
- (ii) Footings and foundations are designed to take account of any reduced bearing capacity on account of submerged soil.

(c) Evacuation Routes

- (i) At least one road access will remain passable for the performance of emergency evacuations at a level of no more than 300mm below the adopted flood regulation line.

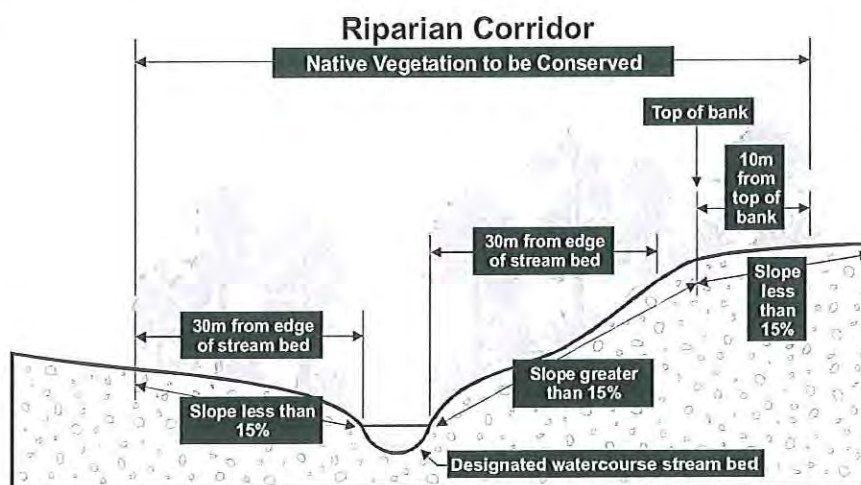
(d) Earthworks

- (i) Earthworks do not negatively affect flood conveyance characteristics or reduce flood storage capacity through the importation of fill to the site, or any alteration to a watercourse or floodway.



- (e) **Clearing of Vegetation**
 - (i) Clearing of vegetation does not involve the removal of native vegetation from land within a Designated Watercourse or land within 30m of a Designated Watercourse or within 10 metres of the top of the bank of a Designated Watercourse where the slope of the bank exceeds 15% (refer Figure 11.4.12).
- (f) **Community Infrastructure**
 - (i) Key elements of community infrastructure are sited and designed to achieve the levels of flood immunity as set out in the State Planning Policy and associated Guidelines for Natural Disaster Mitigation.

Figure 11.4.12: Defining Extent of Riparian Corridor for Protection of Native Vegetation



B. Part 11, Table 11.4.3 - Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Making a Material Change of Use and Table 11.4.4 - Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Other Development

This Temporary Local Planning Instrument suspends the operation of Part 11, Table 11.4.3 - Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Making a Material Change of Use and Table 11.4.4 - Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Other Development of the Ipswich Planning Scheme 2006 and replaces it with the following:



Table 11.4.3: Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Making a Material Change of Use

Column 1 Defined use or use class	Column 2 Assessment category	Column 3 Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
Agriculture	Code Assessable if the land is located within the defence facilities development constraint overlay— (a) and within an unexploded ordnance area (refer Map OV7E); or (b) the use involves turf farming, a vineyard or fruit farming within 8km of the air base runway (refer Map OV7B). Exempt otherwise.	Development Constraints Overlays Code (Part 11, division 4)
Animal Husbandry	Exempt	
Carpark	Code Assessable, where land affected by the— (a) difficult topography development constraint overlay (refer Map OV4); or (b) 1 in 20 development line or adopted flood regulation line constraints overlays (refer Map OV5); or (c) urban stormwater flow path area development constraint overlay (refer Map OV5); or (d) buffers to highways and regional transport corridors development constraint overlay (refer Map OV6); or (e) unexploded ordnance development constraint overlay (refer Map OV7E). Exempt, otherwise.	Development Constraints Overlays Code (Part 11, division 4) Parking Code (Part 12, division 9)
Forestry	Exempt, where land affected by the— (a) key resource areas, haul routes and existing mines development constraint overlay (refer Map OV2); or (b) bushfire risk areas development constraint overlay (refer Map OV1); or (c) high pressure oil and pipelines development constraint overlay (refer Map OV11). Code Assessable otherwise.	Development Constraints Overlays Code (Part 11, division 4)
Home Based Activity	Exempt	
Minor Utility	Exempt	
Night Court	Code Assessable where the land is located within the defence facilities development constraint overlay and within the operational airspace, explosive storage safety area or public safety area of the Amberley Air Base (refer Maps OV7A, OV7B and OV7D). Exempt otherwise.	Development Constraints Overlays Code (Part 11, division 4)



Column 1 Defined use or use class	Column 2 Assessment category	Column 3 Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
Park	Code Assessable where the land is located within the defence facilities development constraint overlay and within the— (a) operational airspace, explosive storage safety area or public safety area of the Amberley Air Base (refer Maps OV7A, OV7B and OV7D); or (b) unexploded ordnance area (refer Map OV7E). Exempt otherwise.	Development Constraints Overlays Code (Part 11, division 4) Recreation and Entertainment Code (Part 12, division 11)
Plant Nursery (wholesale)	Code Assessable where land affected by— (a) difficult topography development constraint overlay (refer Map OV4); or (b) 1 in 20 development line or adopted flood regulation line constraints overlays (refer Map OV5); or (c) urban stormwater flow path area development constraint overlay (refer Map OV5); or (d) unexploded ordnance development constraint overlay (refer Map OV7E); or (e) operational airspace development constraint overlay (refer Map OV7A and OV7B). Exempt otherwise.	Development Constraints Overlays Code (Part 11, division 4)
Single Residential	Self Assessable, if— (a) within the High Pressure Pipelines Overlay (refer Map OV11); or (b) situated within a Residential Zone, and— (i) within the rail corridor overlay (refer Map OV14); or (ii) within the existing and committed residential areas as mapped on the 2006 Australia Noise Exposure Forecast (ANEF) Contours Overlay (Refer Map OV7C). Code Assessable otherwise.	If Self Assessable—acceptable solutions for Single Residential in section 12.6.5(8) in the Residential Code (Part 12, division 6). If Code Assessable—Development Constraints Overlays Code (Part 11, division 4).
Other (defined use or use class)	Assessment Category	Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
All, except uses otherwise identified in this Table.	Code Assessable	Development Constraints Overlays Code (Part 11, division 4)



Table 11.4.4: Assessment Categories and Relevant Assessment Criteria for Development Constraints Overlays—Other Development

Column 1 Type of development	Column 2 Assessment category	Column 3 Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
Carrying out building work not associated with a material change of use	<p>Self Assessable, if—</p> <ul style="list-style-type: none"> (a) building work on an existing building on site; and (b) the land is situated outside the defence facilities, operational airspace development constraint overlay (refer Map OV7A and OV7B); and (c) the acceptable solutions of the applicable code for self assessable development are complied with; and (d) is not an auxiliary unit. <p>Code Assessable otherwise.</p>	<p>If Self Assessable—Planning Scheme Building Matters Code (Part 12, division 16).</p> <p>If Code Assessable—</p> <ul style="list-style-type: none"> (a) Development Constraints Overlays Code (Part 11, division 4); (b) Planning Scheme Building Matters Code (Part 12, division 16).
Clearing of Vegetation—not associated with a material change of use	<p>Exempt, if land affected by the—</p> <ul style="list-style-type: none"> (a) bushfire risk areas development constraint overlay (refer Map OV1); or (b) key resource areas, haul routes and existing mines development constraint overlay and comprising a Known Resource (refer Map OV2); or (c) high pressure oil and gas pipelines development constraints overlay (refer Map OV11); or (d) high voltage electricity transmission lines development constraints overlay (refer Map OV13); or (e) defence facilities development constraint overlay (refer Maps OV7A to OV7E). <p>Self Assessable, if—</p> <ul style="list-style-type: none"> (a) the acceptable solutions of the applicable code for Self Assessable development are complied with; and (b) involving clearing of less than 100m² in area in any one year; and (c) situated within— <ul style="list-style-type: none"> (i) key resource areas, haul routes and existing mines development constraint overlay and comprising a Key Resource Area; or (ii) difficult topography development constraint overlay (refer Map OV4); or (iii) the 1 in 20 development line or adopted flood regulation line constraints overlay (refer Map OV5); or (iv) urban stormwater flow path area development constraint overlay (refer Map OV5); or (v) buffers to highway and regional transport corridors development constraint overlay (refer Map OV6); 	<p>If Self Assessable—acceptable solutions applicable to clauses (1) to (4) in column 2 of Table 12.4.1 in the Vegetation Management Code (Part 12, division 4).</p> <p>If Code Assessable—</p> <ul style="list-style-type: none"> (a) Development Constraints Overlays Code (Part 11, division 4); (b) Vegetation Management Code (Part 12, division 4).



Column 1 Type of development	Column 2 Assessment category	Column 3 Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
	<p>or</p> <p>(vi) motorsports buffers development constraint overlay (refer Map OV8); or</p> <p>(vii) wastewater treatment buffers development constraint overlay (refer Map OV9); or</p> <p>(viii) Swanbank Power Station buffer development constraint overlay (refer Map OV10); or</p> <p>(ix) Warrill Creek Water Catchment development constraint overlay (refer Map OV12).</p> <p>Code Assessable otherwise.</p>	
Earthworks—not associated with a material change of use	<p>Code Assessable, if land affected by the—</p> <p>(a) difficult topography development constraint overlay (refer Map OV4); or</p> <p>(b) 1 in 20 development line or adopted flood regulation line constraints overlays (refer Map OV5); or</p> <p>(c) urban stormwater flow path area development constraint overlay (refer Map OV5).</p> <p>Exempt, otherwise.</p>	<p>Development Constraints Overlays Code (Part 11, division 4)</p> <p>Earthworks Code (Part 12, division 15)</p>
Minor Building Work	Exempt	
Placing advertising device on premises	<p>Code Assessable, if situated within the buffers to highways and regional transport corridors development constraints overlay (refer Map OV6).</p> <p>Exempt, otherwise.</p>	<p>Development Constraints Overlays Code (Part 11, division 4)</p> <p>Advertising Devices Code (Part 12, division 14)</p>
Reconfiguring a lot	Code Assessable	<p>Development Constraints Overlays Code (Part 11, division 4)</p> <p>Reconfiguring a Lot Code (Part 12, division 5)</p>
Carrying out work for reconfiguring a lot	Code Assessable	<p>Development Constraints Overlays Code (Part 1, division 4)</p> <p>Reconfiguring a Lot Code (Part 12, division 5)</p>
Other	Exempt	



C. Part 12, Section 12.15.4 - Earthworks Code (including Lot Filling) Clause (8) Flooding and Drainage

This Temporary Local Planning Instrument suspends the operation of Part 12, Section 12.15.4 – Earthworks Code (including Lot Filling) Clause (8) Flooding and Drainage of the Ipswich Planning Scheme 2006 and replaces it with the following:

Flooding and Drainage

(8) Specific Outcomes

- (a) There are no earthworks (including filling) on land below the adopted flood regulation line, unless:
 - (i) the land is located above the 1 in 20 development line; and
 - (ii) such earthworks result in the rehabilitation and repair of the hydrological network and the riparian ecology of the waterway; and
 - (iii) an assessment, undertaken by a suitably qualified consultant, demonstrates that the reforming of the land does not negatively impact on the overall hydrology, hydraulics and flood capacity of the waterway and does not in any way result in the reduction of flood storage capacity on the site.
- (b) Earthworks —
 - (i) do not cause any increase in flooding or drainage problems;
 - (ii) do not cause an impediment to flood waters; or
 - (iii) do not negatively impact upstream or down stream properties.
- (c) Earthworks are avoided in natural gullies and overland flow paths.

NOTE 12.15.4F

- (1) Council and the community have particular concerns about the cumulative adverse impact of any fill undertaken below the adopted flood regulation line.
- (2) If any property may be adversely affected in respect to drainage, written notification of the proposal should be given to the affected property owner and written comments from that property owner submitted to the Local Government.
- (3) In some cases, further information such as a hydraulic study will need to be submitted to the Local Government for consideration as part of the development assessment process.
- (4) Further information on the requirements for the specific technical assessments are contained in Planning Scheme Policy 2—Information Local Government May Request.



Attachment 3

A. Assessment Criteria Applicable to Special Opportunity Areas

NOTE 1

The following Specific Outcomes are applicable to uses identified for reduced assessment levels to encourage the transition of existing flood affected residential areas to low impact, non residential uses.

The following Specific Outcomes apply to the Special Opportunity Areas designated in Attachment 4:

Special Opportunity Areas

Specific Outcomes

- (1) Further intensification of residential uses is avoided and existing residential uses are transitioned to low impact, non residential uses.
- (2) Non residential uses do not have a significant detrimental impact on the amenity of nearby residents, including through the generation of—
 - (i) odours;
 - (ii) noise;
 - (iii) waste products;
 - (iv) dust;
 - (v) traffic;
 - (vi) electrical interference; or
 - (vii) lighting.
- (3) Non residential uses do not detract from the achievement of the designated network of major centres, neighbourhood centres and local retail and commercial areas as depicted in Schedule 7, Map 3.
- (4) Building heights are generally limited to no more than two storeys, unless in having regard to the flood impact across the land, it is demonstrated that an additional building height is appropriate with—
 - (i) the character and visual amenity of the surrounding area and streetscape;
 - (ii) the extent of fall across the land and nearby land; and
 - (iii) the desired scale and intensity of the development.

B. Assessment Categories and Relevant Assessment Criteria for Special Opportunity Areas—Making a Material Change of Use

This TLPI replaces the existing Assessment Categories and Relevant Assessment Criteria Tables contained in the Ipswich Planning Scheme 2006 for the uses identified in Table 1 below for land within the Special Opportunity Areas as designated in Attachment 4. The Ipswich Planning Scheme 2006 shall be used for all other uses in the designated Special Opportunity Areas in conjunction with Table 11.4.3 and Table 11.4.4 in Attachment 2.



Table 1: Assessment Categories and Relevant Assessment Criteria for Special Opportunity Areas—Making a Material Change of Use

Column 1 Defined use or use class ¹	Column 2 Assessment category	Column 3 Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
NON RESIDENTIAL USES		
Business Use	Exempt if— (a) a business use located within an existing building approved or lawfully used for a business use; and (b) operating between the hours of 6.00 a.m. and 10.00 p.m.; and (c) the requisite number of parking spaces are provided for the use in accordance with Table 12.9.1 of the Parking Code (Part 12, division 9). Code Assessable otherwise.	Relevant Urban Areas Code (Part 4) Commercial and Industrial Code (Part 12, division 7) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)
Carpark	Code Assessable	Relevant Urban Areas Code (Part 4) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)
Community Use	Code Assessable	Relevant Urban Areas Code (Part 4) Recreation and Entertainment Code (Part 12, division 11) Community Use Code (Part 12, division 12) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)
Entertainment Use	Code Assessable	Relevant Urban Areas Code (Part 4) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)
General Store	Code Assessable	Relevant Urban Areas Code (Part 4) Commercial and Industrial Code (Part 12, division 7) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)
Night Court	Code Assessable	Relevant Urban Areas Code (Part 4) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)
Plant Nursery (Wholesale)	Code Assessable	Relevant Urban Areas Code (Part 4) Commercial and Industrial Code (Part 12, division 7) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)

¹ See Ipswich Planning Scheme 2006, Schedule 1 (dictionary), division 1 (defined uses and use classes).



Column 1 Defined use or use class ²	Column 2 Assessment category	Column 3 Relevant assessment criteria—applicable code if development is self-assessable or requires code assessment
NON RESIDENTIAL USES		
Recreation Use (excluding motor sports)	Impact Assessable if motor sports. Code Assessable otherwise.	Relevant Urban Areas Code (Part 4) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9) Recreation and Entertainment Code (Part 12, division 11)
Service Trades Use	Code Assessable	Relevant Urban Areas Code (Part 4) Commercial and Industrial Code (Part 12, division 7) Development Constraints Overlay Code (Part 11, Section 11.4.7 as outlined in Attachment 2) Parking Code (Part 12, division 9)

NOTE 2

- (1) Appropriate non residential uses encouraged within the Special Opportunity Areas may include—
- (a) bulky goods sales;
 - (b) garden centre;
 - (c) plant nursery; and
 - (d) vehicle sales premises.
- (2) Inappropriate non residential uses that are not likely be approved within the Special Opportunity Areas are those that would be heavily impacted by flooding and include—
- (a) crematorium;
 - (b) funeral premises;
 - (c) hospital;
 - (d) self storage units; and
 - (e) warehousing.

² See Ipswich Planning Scheme 2006, Schedule 1 (dictionary), division 1 (defined uses and use classes).



Attachment 4**A. Special Opportunity Areas Maps****NOTE 1**

- (1) For the duration of this TLPI, the provisions contained in Attachment 3 apply to the attached Special Opportunity Areas (Special Opportunity Maps 1 and 2) providing reduced assessment levels for specified uses to encourage the transition of existing flood affected residential areas to low impact, non residential uses.
- (2) The Goodna North area contains an existing mix of residential and non residential uses and is also designated as a potential neighbourhood centre site on Map 3, Schedule 7.
- (3) The Woogaroo Creek area contains a caravan park with dwellings particularly susceptible to flooding – transitioning of this area to non residential uses is considered to be a particularly high priority.
- (4) The Mihi Creek area comprises a small existing mixed use precinct immediately adjoining Mihi Creek, Brassall.

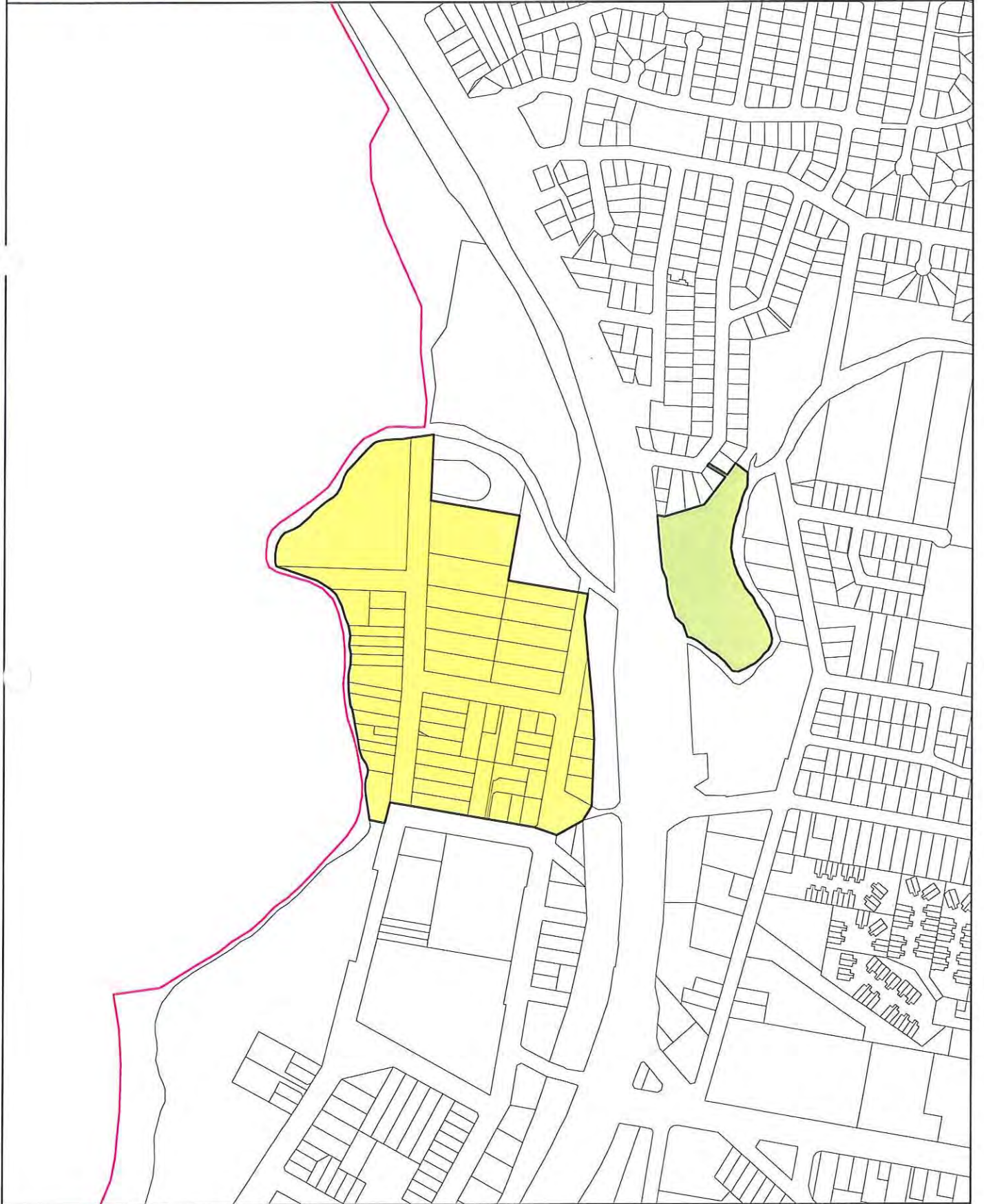


- Wingstone Creek Special Opportunity Area
- Clonville North Special Opportunity Area
- KC LGA Boundary



0 100 200
meters

Scale 1:5,000
March 2011





Ipswich Planning Scheme

Special Opportunity Areas Map 2

Will Creek Special Opportunity Area



ECC Local Boundary



0 25 50
metres

Scale 1:2,000
March 2011



Attachment B

TLPI Process

Process to make a temporary local planning instrument

Stage 1 Proposal

Step 1. Local government proposes to prepare a temporary local planning instrument.
(20 business days)



Step 2. Minister considers the proposal.
(20 business days)



Stage 2 Adoption

Step 3. Local government decides whether to adopt.
(10 business days)

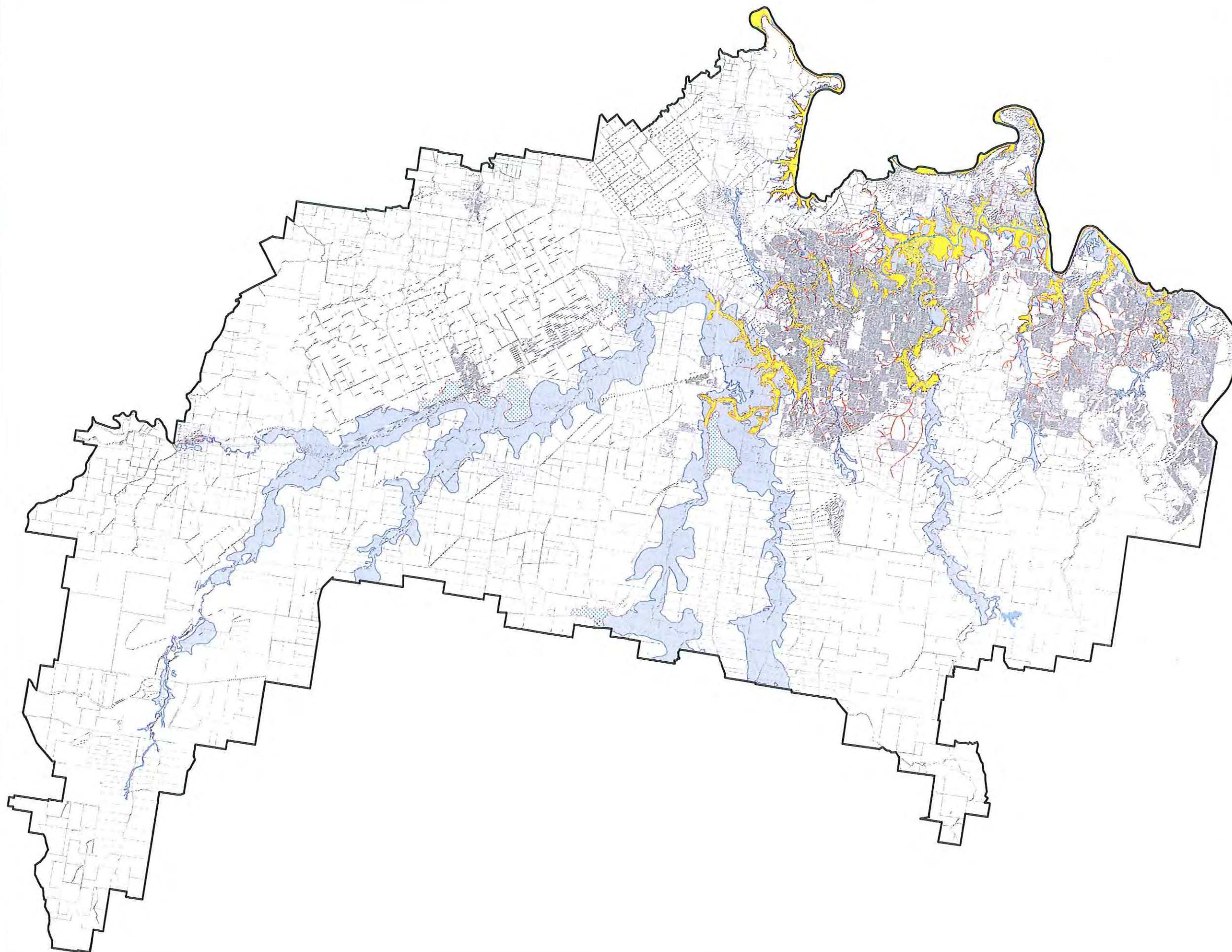


Step 4. Public notification.
(5 business days)

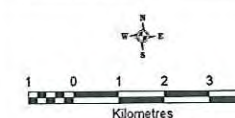
Figure 3. Process for making a temporary local planning instrument

Flooding and Urban Stormwater Flow Path Areas

-  Adopted Flood Regulation Line
-  1 in 20 Development Line
-  Urban Stormwater Flow Path Areas
-  Indicative and Subject to Further Detailed Assessment
-  River / Watercourse
-  City Boundary



NOTE: Further details in relation to this map may be obtained from the Ipswich City Council Geographic Information System.



March 2011