

## Statement of Rory John Kelly

I, **Rory John Kelly**, Town Planner, of Level 12, Brisbane Square, 266 George Street, Brisbane, in the State of Queensland, state on oath as follows:

### Introduction

1. Attachment "**RJK-01**" is a copy of a notice from the Commissioner of the Queensland Floods Commission of Inquiry (**Commission**) dated 16 August 2011 requiring me to provide a statement to the Commission by 5:00 pm, 31 August 2011 (**Notice**).
2. The Notice defines the:
  - (a) "Tennyson development site" to mean the sites of the former Tennyson power station and animal research centre; and
  - (b) "Tennyson Reach development" as the Mirvac development at Tennyson including the Tennyson Reach residential development, the State Tennis Centre, parkland and all other land used or available to Mirvac Group.
3. I have adopted the above definitions in this Statement.
4. I am informed that the Commission does not at this stage require me to address any development approvals or other processes associated with the "animal research centre". Accordingly this Statement does not address that topic. However I note that part of the development application for the Tennyson Reach development included the provision of car parking and road access both of which were subdivided from the animal research centre site. The Tennyson development site was subdivided in July 2007 to create Lots 1-8, 100, 101 and 566 on SP195275 and was created by Crown Action Plan. The site was further subdivided in December 2008 to facilitate the completion of the Queensland Tennis Centre and dedication of the internal access road (being an extension to King Arthur Terrace).
5. The Notice requires me to give:
  - (a) a detailed account of all decisions, including reasons for those decisions, made by all employees, contractors and councillors of the Brisbane City Council (**Council**), civic cabinet and the Lord Mayor of Brisbane regarding certain aspects of the Tennyson development site and Tennyson Reach development including the

  
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preliminary development approval and any master plans granted to Mirvac by Council for the Tennyson Reach development; and

- (b) a detailed account of all meetings had (including internal meetings of Team South and meetings involving Team South and any other person) and all assessment reports prepared by Team South with respect to the Tennyson Reach development and the Tennyson development site.

- 6. The Tennyson Reach development was a significant development project and the documentation and information that fall within the scope of the Notice as set out in subparagraphs 5(a) and (b) above is voluminous. In the time available to respond to the Notice, I have attempted to provide to the Commission information relevant to the development assessment, and in particular, information relevant to flooding.
- 7. I am advised by Council's legal advisors that the Commission's focus in this part of its inquiry is on land use planning as it relates to floods and, accordingly, the information given by me in this Statement is concerned primarily with land use planning and flood issues in respect of the Tennyson development site and the Tennyson Reach development. Given my continuous direct involvement in the Tennyson Reach development and my experience and seniority in Development Assessment South, I consider I am the most appropriate Council officer to provide a statement on these issues. In the event further information is required by the Commission, I would be happy to provide it to the extent I am able to do so.
- 8. For the purposes of responding to the Notice and preparing this Statement as outlined above I have, in my position at Council as Regional Manager - Development Assessment South, had access to:

- (a) the business records of Council; and

- (b) Council officers,

to obtain the requisite information. Unless otherwise stated, the matters set out in this Statement are based on my own knowledge and the information derived from the above sources.

- 9. In the time available to respond to the Notice, I have used my best endeavours to review the Development Assessment South files which I expect hold the relevant information on land use

  
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planning and flood issues for the Tennyson Reach development. I have also reviewed what I believe to be the relevant emails sent or received by me which were archived to Council's Groupwise account and which have been able to be retrieved for the purposes of the preparation of this Statement.

10. Unless otherwise stated, the documents attached to this Statement have been collated by me or by Council officers under my direction and instruction.

#### **Qualifications and Roles within Council**

11. I am a town planner and hold a Graduate Diploma in Urban and Regional Planning from QUT.
12. I have been employed by Council since May 1987 when I joined the Council as a Planning Officer. For all of that time, apart from 18 months in City Planning and 7 months in Development Assessment North, I have worked in the planning team known as Development Assessment South. I am currently the Regional Manager of Development Assessment South.
13. At the time of the development application for the Tennyson Reach development I was a Principal Planner in Development Assessment South. In this role I was the senior planning officer with responsibility for ensuring the timely processing of approximately 350 or so development applications being assessed by Development Assessment South at any one time. I had around approximately 20 town planners reporting to me who assisted in the assessment of development applications, and who referred technical or complex planning issues to me. I was expected to be, and I was, involved in development applications that involved a significant community interest or complex issues requiring strategic or policy direction. I was also Council's delegate for development applications that were not elevated to the Team Leader, Development Assessment South or to full Council.
14. By way of background, the Development Assessment branch of the Council is responsible for all aspects of assessment of development applications lodged under the relevant State planning legislation, for making recommendations to Council and elected representatives as to the approval or otherwise of development applications, and the conditions which ought to be imposed on any such approval.
15. Development Assessment's role can be contrasted with the role of the City Planning branch, which has responsibility for development policy and providing development policy advice to

  
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the Development Assessment branch rather than the assessment of particular developments against the Brisbane City Plan 2000 (City Plan).

16. The Development Assessment branch consists of five multidisciplinary teams which include planners and in-house allied professionals such as engineers, ecologists and architects. It also includes a Technical Specialist Team consisting of officers specialising in disciplines such as hydraulics, traffic and ecology. While the file is usually managed by a planner, that officer can and does access the expertise of other professionals in Development Assessment to assist in the assessment process.
17. Development Assessment can also access other specialist groups in Council outside Development Assessment for assistance in particular aspects of an application which call for the input of those specialised areas. Where this occurs, however, Development Assessment remains responsible for the overall conduct of the assessment of the application and any related processes and it retains the discretion to accept or reject advice tendered by other sections of Council.
18. Development Assessment South is one of the regional teams in the Development Assessment branch with responsibility, generally, for developments to the west of the South Eastern Freeway and to the south of the Brisbane River. For that reason, the Tennyson Reach development was within the scope of Development Assessment South's regional area of responsibility.
19. The Tennyson Reach development was a development which involved both significant community interest and multiple issues of varying complexity. Of particular significance for the Tennyson Reach development was that it involved a combined development application for a preliminary approval for a material change of use overriding the planning scheme and development permits for the State Tennis Centre and residential buildings. Where approved, and subject to its conditions, a preliminary approval of this nature overrides the planning scheme in terms of the level of assessment and applicable codes for development, to the extent of any inconsistency with the City Plan. In assessing and approving any such application, Council must consider the proposal against the whole of the planning scheme, including its applicable codes and planning scheme policies as applicable.
20. Because of its importance, I was frequently involved in aspects of the assessment of the development application for the Tennyson Reach development. However, I was not the

  
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planner with direct responsibility for the file. Steven Schwartz held that role but he is no longer an employee of Council. Accordingly, I may not have been directly involved in all meetings and discussions surrounding the development assessment process. I do not specifically recall when I nominated Steven Schwartz as the planner responsible for the file. It might have occurred relatively early in the process as I note (as discussed in paragraph 57 below) that he appears to have attended the very first meeting with Mirvac about the proposal.

21. Whilst the application for the Tennyson Reach development was significant, it was not unique in its complexity compared with other development applications I supervised during the life of the application. Over that period, I supervised approximately 15 to 20 applications of a similar or greater complexity and community interest. Further, the application for the Tennyson Reach development was not particularly contentious at the time and I note from documents I have seen in preparing this Statement that the application only attracted three properly made public submissions. In fact, so far as I recall, the Tennyson Reach development did not become the subject of any particular public interest until the January 2011 flood event.
22. For all of these reasons my recollection of the details in respect of the development application is limited, particularly where I do not have access to documents recording what occurred from time to time. Further, on some occasions, even when I review documents my independent recollection of events may be limited.

**A detailed account of all decisions, including reasons for those decisions, made by all employees, contractors and councillors of the Brisbane City Council, civic cabinet and the Lord Mayor of Brisbane regarding the following aspects of the Tennyson development site and Tennyson Reach development:**

- (a) the tender process run by the State of Queensland**

#### **Summary**

23. So far as I am aware, there were no decisions made by Council or its agents regarding the Tennyson development site or the Tennyson Reach development in respect of the tender process run by the State of Queensland, at least from the perspective of decisions involving substantive participation in the scope and nature of the tender process and the terms and conditions of the tender. If Council did make substantive decisions in respect of the tender process, that was never communicated to me, although I could not rule out the possibility that Council was in some way involved.

  
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24. My review of the documents has revealed, however, that instructions were provided to me as Principal Planner at Development Assessment South to provide advice to tenderers of a general nature about issues which might arise on any development application in respect of the Tennyson Reach development based on a generic development scenario that I developed to provide a reference point for referral to the assessment team. I did this because no detailed plans for the proposed development were provided. I deal with that matter in greater detail further below. However, my involvement in the provision of advice to tenderers did not result in the making by me or any other Council officer of any binding or operative decisions. It simply involved providing the same general guidance on potential planning issues to all tenderers.
25. So far as I recall, the instruction to provide such advice might have come from the Tennyson PowerStation Liaison Officer in City Planning branch, James Coutts, who is no longer an employee of Council. Given the existence of such a position in Council, it is possible that substantive decisions of the kind described in paragraph 23 above were made by Council through, or with the assistance of, the City Planning branch. As I have said, if that did occur, I knew and know nothing about it. I understand that Council is endeavouring to locate any documents relevant to any activities by City Planning branch which might be relevant.

#### **Involvement of DAS in providing guidance to tenderers**

26. Prior to reviewing the documents relevant to this matter, I had little recollection of Development Assessment South's involvement in providing guidance to tenderers for the Tennyson Reach development. With the assistance of documents from Council records, however, I am able to give an outline of the involvement by Development Assessment South in the tender process, though my independent recollection of these events remains limited.
27. As I summarise above, it appears from documents on the relevant Council file that Council provided advice to tenderers for the Tennyson Reach development, either directly or through the Tennyson PowerStation Liaison Officer in City Planning branch, James Coutts, based on a generic development scenario but without reference to detailed plans for the proposed development. It also appears that I had some contact with at least two of the tenderers, Stockland and Mirvac.
28. In summary, the process which appears to have been followed was:

  
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- (a) I was approached directly by agents for each of Stockland and Mirvac to provide planning guidance on aspects of the proposed developments;
- (b) I referred those matters outside my area of expertise to other officers in Development Assessment South and elsewhere within Council where relevant;
- (c) I collated the responses and provided a consistent response on behalf of Council to the tenderers.

29. I will now outline in more detail what occurred by reference to the documents which appear to me to be of particular relevance.

30. Although I have no independent recollection of it, I note there is a letter on the file from Robert Bird & Partners dated 23 July 2004, marked to my attention. A copy of the letter is attachment "RJK-02". The letter is said to be in relation to "Tennyson Power Station Site Development, Enquiry into Water Sewerage and Stormwater Management" and states:

*"Robert Bird & Partners have been engaged by Stocklands to provide civil engineering advice for the development of a costing plan to support their submission for development rights at the above site.*

*As discussed with you late last week having an understanding of the water and sewerage system capacities is fundamental to addressing the civil infrastructure and development potential of this site.*

...

*As you are aware all matters to this development are confidential and we would appreciate your commitment to maintaining our confidence as we exchange information. Thank you for your attention to this matter and we look forward to your reply."*

31. It appears that at about this time I also received communications from Mirvac in relation to the Tennyson Reach development. The first of the written communications from Mirvac appears to have been an email sent to me by Jill McLauchlan of Brannock & Associates on 26 July 2004, a copy of which is Attachment "RJK-03". It states:

*"Hi Rory,*

  
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*I thought I would send you this email as you probably wonder why you haven't seen a request for a prelodgement meeting come through from me for the Tennyson power station site.*

*The clients have not been ready. However, I am intending to send the forms through tomorrow and hoping we can get a meeting with you sometime next week? As I previously mentioned, due to confidentiality reasons we cannot send through plans ahead of the meeting. Also, we are hoping to only meet with a few of you in the team. We do not want the purchasers etc to attend at this time - purely because of confidentiality reasons."*

32. The file indicates that at about this time I was asked to provide some general advice to the tenderers short-listed by the State based on a specified development scenario. Although I have no specific recollection of it, I believe this instruction was provided by the Tennyson PowerStation Liaison Officer in City Planning branch, James Coutts. I refer to a memorandum from me dated 27 July 2004 to Council officers which records this instruction. A copy of the memorandum is Attachment "RJK-04". It states, relevantly:

*"This matter is highly confidential*

*The State Government is proposing to develop the Tennyson Power Station and as such have selected three preferred developers to submit tenders.*

*...*

*There are no detailed plans outlining the nature of the development...*

*Advice to the tender consultants will need to be generic with the advice based on the a (sic) development scenario for the combined sites...*

*Specific questions to be addressed include:*

- What are the flood levels affecting the site and what are the habital (sic) floor levels?*
- ... "*

33. In the memorandum I also state that I had prepared a list of Bimap (iBimap) and history searches (BIDS Applications/Site History) for the site, copies of which appear on the file. The Council officers to whom the memorandum was addressed are the relevant Council officers who could then have properly addressed the specific questions raised or would have been

  
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aware of technical specialists in Council who would have assisted them in preparing their response.

34. The file contains a handwritten note dated 4 August 2008 by "AB" who I know to be Andrew Blake, an engineer employed in Development Assessment South. A copy of the note is Attachment "RJK-05". The note is in relation to "Tennyson Power Station Redevelopment Hydraulic Issues." The note lists the following:

*"\* the development must address the 'Brisbane River Corridor Planning Policy' located in Appendix 2 of Volume 2 of City Plan.*

*\* 2 separate stormwater catchments exist over the development site.*

*\* there are existing stormwater pipes for both catchments that discharge to the river. the development must provide for overland flow and pipe drainage (QUDM & BCC supplement)*

*\* natural channel design may be an option for the overland flow paths.*

*\* the Q100 flood level from the Brisbane River is 7.9m AHD.*

*\* significant filling of the site will be required to achieve minimum development levels.*

*\* the development must not cause adverse impacts upstream.*

35. I would like to clarify a point of ambiguity in the above extract which is frequently repeated in other documents referred to in this statement. The third last dot point refers to the "Q100" flood level as being 7.9m AHD. In the context of this particular project, that is a misnomer. The relevant flood levels for development affected by river flooding are derived from the highest Defined Flood Level ("DFL"). It is a matter of historical record that while the level which is now reflected by the DFL was in previous years intended to reflect the Q100, in the light of advice received by Council in 2003, the DFL is above Q100. It is frequently the case that Council officers use the term Q100 to loosely refer to the DFL. I note that the flood modelling submitted as part of the development application calculated the Q100 for the Tennyson Reach development between approximately 6.94m to 6.97m AHD.

36. Appearing behind Andrew's note on the file are copies of various iBimap cadastral maps and aerial photographs (1946, 2001 and 2003) showing site boundary, stormwater catchments and waterway planning units copies of which are collectively Attachment "RJK-06".

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37. The file also contains a memorandum dated 6 August 2004 addressed to me from Bruce McArthur in relation to "Tennyson Power Station Redevelopment Hydraulic Issues". A copy of the memorandum is Attachment "RJK-07". Bruce McArthur is an engineer working in Development Assessment South. In the section of the memorandum titled "Stormwater" the information contained in the first five points in Andrew Blake's handwritten note are repeated verbatim. The memorandum then goes on to state:

- *"Filling of site is possible.*
- *Significant filling of the site will be required to achieve minimum development levels as outlined in the Subdivision & Development Guidelines. Refer - Part B Design Requirements, Section 2.4 Earthworks Adjacent to Waterways and Flow Paths.*
- *The development must not prejudice the overland flow path or worsen upstream effects."*

38. I refer to my memorandum dated 6 August 2004 a copy of which is "RJK-08". It comprises a summary prepared by me of the responses provided by Council officers to the specific queries raised concerning the proposed generic development on the site. As stated above, I do not recall whether this information was provided to the tenderers by me directly or through the Tennyson PowerStation liaison officer.

39. I refer in particular to the information set out under the heading "Stormwater" where the following points are noted:

- *The Q100 flood level from the Brisbane River is 7.9m AHD. All residential is to have habital (sic) floor levels above Q100 and have flood free access. A lesser level may be considered for non residential uses.*
- *Filling of site would be permitted provided it can be demonstrated that it does not prejudice the overland flow path, worsen upstream effects or cause the ponding of water on adjoining lands. Significant filling of the site will be required to achieve minimum development levels as outlined in the Subdivision & Development Guidelines. Refer - Part B Design Requirements, Section 2.4 Earthworks Adjacent to Waterways and Flow Paths.*
- *Two separate stormwater catchments have been identified over the development site.*

  
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- *There are existing stormwater pipes for both catchments that discharge to the river. The development must provide for overland flow and pipe drainage [QUDM & BCC Supplement]*
- *Natural channel design may be favourably considered for the overland flow paths through the site."*

40. I observe that the points made about storm water and flooding in my 6 August 2004 memorandum were addressed by the report provided by Mirvac's consulting engineers as part of the development application for the Tennyson Reach development.

**A detailed account of all decisions, including reasons for those decisions, made by all employees, contractors and councillors of the Brisbane City Council, civic cabinet and the Lord Mayor of Brisbane regarding the following aspects of the Tennyson development site and Tennyson Reach development:**

**(b) details of the proposal awarded by the State of Queensland to Mirvac as communicated to Council**

41. This part of the Commission's request seeks information about decisions by Council or its agents regarding the details of the proposal awarded by the State to Mirvac for the Tennyson Reach development as communicated to Council. This question assumes that details of the tender awarded to Mirvac were in fact communicated to Council. So far as I am aware, the terms of the tender and any subsequent contracts or agreements were not provided to Council as such. This is not to say that it was not possible to infer what the tender required, given that one could reasonably assume that the key components of the planned development were reflective of tender conditions.
42. In my role as Principal Planner of Development Assessment South, I was involved in all aspects of the assessment process for the Tennyson Reach development for Council. It was not ever communicated to me what the exact details of the proposal awarded by the State to Mirvac were other than in a generic sense as outlined above.
43. I have no knowledge of, and as previously stated, in the time available I have not been able to identify Council's files relating to any proposal awarded by the State of Queensland with respect to the neighbouring animal research centre site as it relates to the Tennyson Reach development.

  
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**A detailed account of all decisions, including reasons for those decisions, made by all employees, contractors and councillors of the Brisbane City Council, civic cabinet and the Lord Mayor of Brisbane regarding the following aspects of the Tennyson development site and Tennyson Reach development:**

- (c) the preliminary development approval and any master plans granted to Mirvac by Council for the Tennyson Reach development

### Summary

44. The scope of this aspect of the request depends on the nature of the decisions referred to. If one focussed on decisions which had a binding consequence in the development application process, the scope of the request would be quite limited, focussing on the ultimate decision to approve the application. It seems obvious to me that the Commission is interested in a much broader range of decisions. The difficulty, however, is how to confine the scope of the decisions referred to in a way which makes the task imposed by the request manageable. I say that because the process of considering a development application for a preliminary approval that varies the effect of the planning scheme and a development permit of the kind lodged for the Tennyson Reach development involves very many individual judgments and decisions about every step of the process. Further, while I was involved in overseeing the process, I was not involved in all such decisions. Indeed, many decisions would have been made outside Development Assessment South by other officers in Council. The number of documents which might be relevant to the numerous judgments and decisions made in course of the approval process, if documented at all, would be in the hundreds and perhaps thousands.
45. It seems to me that I can best assist the Commission by explaining the key steps in the approval process for the Tennyson Reach development, focusing on the flood and flooding issues which arose, and in that way identify the main decisions taken in the lead up to the formal approval process.

### Summary of the approval process

46. Attachment "RJK-09" is a chronology of events in relation to the Tennyson Reach development. The chronology was prepared by Clayton Utz. I have reviewed the chronology which includes the relevant key dates from a planning perspective and it appears to be accurate.
47. The key steps and dates are as follows:

  
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|                   |  |
|-------------------|--|
| 27 June 2005      | The State of Queensland ( <b>State</b> ) announces Mirvac Queensland Ltd ( <b>Mirvac</b> ) as the preferred developer of the Tennyson Reach development. |
| 6 July 2005       | Commencement of prelodgement process on an informal basis.   |
| 3 October 2005    | Prelodgement process formalised.   |
| 16 November 2005  | Development application lodged by Mirvac.  |
| 9 December 2005   | Amended Acknowledgement Notice issued.   |
| 24 January 2006   | Council sends Information Request to Department of Local Government, Planning, Sport & Recreation.   |
| 1 February 2006   | Referral Co-ordination Information Request issued by Department of Local Government, Planning, Sport & Recreation.                                       |
| 6 April 2006      | Mirvac responds to the Information Request.  |
| 31 May 2006       | Mirvac completes public notification process (compliance notice lodged) - three properly made submissions received.                                      |
| 14 July 2006      | Council extends decision making period.  |
| 31 July 2006      | Mirvac lodges request to change development application.   |
| 8 August 2006     | Acknowledgement Notice issued for changed development application.   |
| 17 August 2006    | Referral Co-ordination Information Request issued by Department of Local Government, Planning, Sport & Recreation.                                       |
| 19 September 2006 | Full Council approves development application subject to conditions.   |

25 September 2006

Decision notice issued.

  
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29 September 2006

Mirvac lodges a request to suspend its appeal period to seek a Negotiated Decision Notice.

6 October 2006

Negotiated Decision Notice issued with amended conditions.

48. I will now turn to describing the key steps in the approval process, focusing on flooding issues, in more detail and stage by stage.

### **The Prelodgement Processes Generally**

49. For development applications that involve complex issues, proposals listed as generally inappropriate impact assessable developments and/or developments involving strong community interest, it is commonplace for prelodgement meetings to take place between Council and the developer prior to a development application being lodged.
50. The purpose of the prelodgement process is to:
- (a) discuss in the early stages of planning and design of a development proposal the major issues which will need to be addressed in the development application;
  - (b) ensure any issues that might delay the assessment of the development application and cause requests for information to issue are addressed upfront in the application;
  - (c) give Council's preliminary view as to the likely overall merits of the proposed development; and
  - (d) provide guidance and direction for the proposed development where possible.
51. The prelodgement process involves the developer submitting to Council a completed prelodgement meeting request form and supporting information which may include photographs of the site, a concept or detailed plan, information relevant to likely impacts of the development, details of solutions to identified issues and how the development responds to the performance criteria in the City Plan.
52. Council charges a fee for each prelodgement meeting which is generally chaired by a Principal Planner from Council's Development Assessment section. Other Council officers outside Development Assessment branch or the Team Leader called on to attend the meeting will

  
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depend upon the nature of the proposed development and the issues raised by the applicant as outlined in the request form.

53. Following the prelodgement meeting, Council officers document the issues discussed and make written recommendations for the proposal. Council then provides this document to the developer. While the prelodgement meeting is designed to provide guidance on the application, it does not pre-empt the outcome of any subsequent development application assessed by Council. At the time of the Tennyson Reach development, such an assessment was carried out in accordance with the now repealed *Integrated Planning Act 1997* and the *Brisbane City Plan 2000*.

#### **Prelodgement Process - Tennyson Reach development**

54. I have no independent recollection of the prelodgement process for the Tennyson Reach development. I can provide an account of it, however, by reference to the documents I have considered relating to that process. My account is based primarily on documents contained in a hard copy file which appears to be a prelodgement file for the Tennyson Reach development. Other documents relevant to the prelodgement process have also been located from various sources in Council and to the extent they have been referred to me, I have included them in this Statement.
55. While a prelodgement process is formally commenced by the relevant request form, in this case it appears from the documentary record that the process of meeting and discussing potential planning issues began in early July 2005 on an informal basis, and was later formalised by the completion by the developer of the appropriate form.
56. In particular it appears that a letter was sent by Mirvac to City Planning branch dated 29 June 2005, confirming that Mirvac had been appointed as preferred developer for the Tennyson Reach development and referring to workshops to be attended by key team members to review the project prior to a formal prelodgement meeting. A copy of the letter is Attachment "RJK-10". This letter is addressed to the City Planning branch, not to Development Assessment South, and refers to discussions about informal meetings prior to the formal prelodgement meeting. It might be that City Planning branch agreed to such a process. I do not recall being a party to any such discussions or agreeing to that proposal, although I might have. It is much more likely that it was City Planning branch who agreed to initiate the relatively informal

  
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process which occurred in this case given that the Tennyson PowerStation Liaison Officer was in City Planning branch.

57. The file indicates that the first of the workshops took place on 6 July 2005. I refer to a Mirvac agenda and a handwritten note to file of that date prepared by Steven Schwartz who then was an Urban Planner in Development Assessment South and who was nominated by me as the Assessment Manager for this project under my direction. Copies of the Mirvac agenda and the handwritten note are Attachments "RJK-11" and "RJK-12" respectively. I note that Steven Schwartz's file note records that this was the initial meeting between Council and Mirvac, that it was proposed there be a series of workshops prior to lodgement to sort out issues, and that the "Initial issues" were that the first two residential "buildings are in waterway corridor" and "water/sewer capacity".

58. The file indicates that further meetings took place between Council and Mirvac. I refer to an email from Dennis Kim, Program Officer, Water Resources sent on 7 September 2005 which refers to a "prelodgement meeting" which was to take place the following day. A copy of the email from Dennis Kim is Attachment "RJK-13". The email states:

*"Brany [Iezzi] and I had a discussion about this site and we do not have major issues except the following issues:*

- Protect waterway health by improving stormwater quality and reducing run-off.*
- Demand management initiatives utilised for all water supply issues and supplement with alternative sources eg. Rainwater tanks.*
- Reduce property run-off by ensuring maximum absorption within property boundaries.*
- Reduce road run-off by increasing absorption on roadsides and slowing velocity*
- Maximising recycling opportunities*

*The rest of flood related issues are guided by Bob Adamson."*

***Further meetings***

59. Notwithstanding the likelihood that further meetings occurred prior to lodgement of the development applications, the files which I have reviewed so far do not contain evidence of them. As I have said, I do not recall attending any such meetings.

  
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*Prelodgement deliberations by Council officers about flooding issues*

60. One matter which is presumably of particular interest to the Commission and which is covered in documents I have seen is the deliberations and dealings by various Council engineers in respect of flooding issues. I refer to the comment by Dennis Kim referenced in paragraph 58 which refers to the "rest of flood related issues" being guided by Bob Adamson. At the relevant time, Bob Adamson was the Principal Hydraulic Engineer in the Technical Services Team in Development Assessment branch. Bob Adamson is no longer an employee of the Council.
61. The documents which I have seen show that there must have been discussions involving Council officers and Mirvac's engineering consultants, GHD.
62. The dealings are reflected in the emails and memoranda contained in Attachment "RJK-14". I do not recall any details about these dealings, although I note (as I would expect) that both Steven Schwartz and I have received some of the emails. In summary, however, it appears that the following occurred:
- (a) Bob Adamson had some informal discussions with GHD in which they outlined the substance of their (presumably preliminary) views on the impacts for flood levels and river conveyance of the development;
  - (b) engineers in Council's City Design branch then had discussions with GHD in the course of which GHD sought, and was provided with, access to part of Council's Mike 11 river model;
  - (c) thereafter, there appears to have been some discussion between Council engineers as to what was required in respect of flood modelling for the development, with the eventual position being reached that it was a matter for Mirvac's engineers to undertake modelling in regard to flow conveyance impacts of the development.
63. The final position appears to be set out in the following email from GHD to Evan Caswell, Senior Engineer, Flood Management Water & Environment, City Design sent on 28 September 2005. The email states:

  
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"Evan,

*We have been asked by Bob Adamson to undertake modelling of the Brisbane River in regard to flow conveyance at the proposed Tennyson Riverside Development Site (old Tennyson Power station). We therefore still require the information that Andrew Vitale requested on the 01/09/05. If you no longer have a copy of this request I can email it again, just let me know.*

*Generally we would need:*

*Mike II model of approx. 2 km upstream and downstream of site, boundary conditions at each end for 50, 100, and any greater ARI events that Council have. This will include in flow hydrographs, and tailwater (level-time) inputs for the critical duration (at the site) only."*

64. I note in that regard that the development application for the Tennyson Reach development was in fact accompanied by a report from GHD which dealt with, amongst other things, flow conveyance impacts of the development.

#### ***The Prelodgement Development Request***

65. On about 3 October 2005, Mirvac lodged a Prelodgement Meeting Development Assessment Request which refers to a pre-organised time for the development assessment meeting as 3 October 2005. A copy of the Prelodgement Meeting Development Assessment Request is Attachment "RJK-15". As I have said, it appears that this form was lodged following a series of meetings between Council and Mirvac to formalise the process and allow for payment of the prelodgement fee. I refer in this regard to a document titled "DTM Scoping Sheet" a copy of which is Attachment "RJK-16". A note appears on the DTM Scoping Sheet in Steven Schwartz's handwriting which records: *"Series of meetings held - file created so that payment could be made."* This confirms my belief that there was such a series of meetings. As I have said, I do not recall being involved in them and I have not seen any relevant documents relating to such meetings; however, given my role in Development Assessment South and the significance of the Tennyson Reach development I would have attended at least one of the meetings, and perhaps more.
66. I refer to the Minute of the DTM held in relation to the Tennyson Reach development on 6 October 2005 which is Attachment "RJK-17". The letters "DTM" stand for "Daily Team Meeting". It is usually at these meetings that tasks relevant to the progress of an application will be allocated. Although I have no recollection of doing so, I expect I would have attended

  
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this meeting with the other Principal Planner in Development Assessment South, Natasha Holland, most likely together with an engineer from Development Assessment South, and I expect I would have invited Steven Schwartz from Development Assessment South. The DTM is a file allocation meeting and I note in this regards that the minute records the Assessment Manager as Steven Schwartz and me as Council's Delegate. As I have said, however, I might have nominated Steven Schwartz as Assessment Manager earlier in the process.

67. In the ordinary course, as I have said in paragraph 53 above, the prelodgement process results in a document being given to the developer. I have not as yet located such a document in respect of the prelodgement process for the Tennyson Reach development. I note that contrary to the usual practice where prelodgement advice has been given in writing, the development application for the Tennyson Reach development does not refer to any prelodgement minutes or written advice. It would be unusual for the parties involved in this development to overlook that matter. Accordingly, I suspect that for some reason there were no such minutes or written advice in this case.

#### **Development Application is Lodged**

68. A development application for the proposed Tennyson Reach development was lodged by Brannock & Associates Pty Ltd on behalf of Mirvac on 16 November 2005. A copy of the development application is Attachment "RJK-18".
69. The development application was for:
- (a) a Preliminary approval for a Material Change of Use overriding the planning scheme under section 3.1.6 of the *Integrated Planning Act 1997* (Qld) for multi-unit dwellings (191 units in 3 buildings), and park;
  - (b) Development Permit for a material change of use for indoor sport and recreation (tennis centre stadium) and outdoor sport and recreation (outdoor courts) and associated uses including office, restaurant, shop and convention centre (function room);
  - (c) Development Permit for a material change of use for multi-unit dwelling (114 units in buildings E & F) and park;

  
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- (d) Development Permit for material change of use for multi-unit dwelling (88 units in building D), shop, restaurant and park; and
  - (e) Development Permit for operational works for disturbance to marine plants.
70. The preliminary approval process that applied through the now repealed *Integrated Planning Act 1997* (Qld) at the time of the development application allowed for development applications to be made that stated the way in which the applicant is seeking to vary the effect of a local planning instrument (which includes a planning scheme) for the land. This was commonly referred to as a "s.3.1.6 Application".
71. A s.3.1.6 application overrides the planning scheme by:
- (a) varying the level of assessment under the planning scheme, so that the preliminary approval could specify the level of assessment (ie. self assessable, code assessable, impact assessable or exempt); and
  - (b) identifying any City Plan or other codes that relate to the development use proposed.
72. To the extent the Preliminary approval specified the level of assessment or identified City Plan or other codes for the development, the preliminary approval would prevail over City Plan to the extent that the preliminary approval was inconsistent with City Plan.
73. The development assessment process for this development application required referral coordination and involved Concurrence and Advice Agencies. I have necessarily focussed on the approval process from the perspective of flood and flooding issues in this statement and do so in the next section.

**A detailed account of all decisions, including reasons for those decisions, made by all employees, contractors and councillors of the Brisbane City Council, civic cabinet and the Lord Mayor of Brisbane regarding the following aspects of the Tennyson development site and Tennyson Reach development:**

- (d) **any investigation or study regarding the effect of flood on the Tennyson Reach development or the effect of the Tennyson Reach development on flooding elsewhere.**

74. I will now turn to setting out in detail the assessment process that was followed in assessing the Tennyson Reach development, focusing as I have said I would, on flooding issues.

  
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75. I should make clear at the start that there is not a formal process of minuting each and every meeting, formal or informal, of Council officers involved in the assessment process either within Development Assessment South or outside the team. The process that is undertaken is essentially an informal process of deliberation and consultation between Council officers, with substantive outcomes or decisions being recorded in writing. In my role as Principal Planner I would have participated in a number of those meetings, in addition to any meetings I was asked to attend by the Assessment Manager, Steven Schwartz.
76. As stated above, Council's file indicates a DTM was held for the Tennyson Reach development during the prelodgement process.
77. A DTM would also have occurred following the lodgement of the development application. The DTM is the first step in project managing the development application through Council's assessment processes and although I have no independent recollection of doing so, it was my responsibility to ensure a DTM occurred.
78. The purpose of the DTM is to identify the key planning issues for review, irrespective of whether the developer had addressed those key issues or not, and to allocate those issues to the relevant Council officers. If a prelodgement process had been undertaken, as had occurred with the Tennyson Reach development, the DTM considers at a preliminary level whether the issues raised during the course of prelodgement have been addressed by the developer. The DTM also identifies whether the development application needs to be referred to strategic planning for approval, whether advice is required from Council officers external to Development Assessment South, and sets time frames for obtaining any such advice.
79. Potential flooding issues either on the proposed development site or otherwise are identified at the DTM. In relation to the Tennyson Reach development, flooding issues had already been identified during the prelodgement phase. Although I have no independent recollection of flooding issues being raised at the DTM, the fact that hydraulic assessment advice was obtained (which appears on the file) indicates that flooding issues were raised at the DTM. While I am confident a DTM occurred, so far I have only been able to locate a formal electronic minute. There are usually handwritten minutes which record the detail of the discussions which are attached to the file. In this case the handwritten note on the file merely refers to a planned internal meeting. I have not been able to locate the minutes of that internal meeting and at present cannot explain why.

  
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80. When Development Assessment South seeks advice from Council officers outside the team, the advice is provided in the form of a memorandum or in an email. It is practice to place copies of memoranda and emails on the file, or to save the emails passing between Council officers from time to time in Council's Groupwise system.
81. In relation to flooding, I refer to a memorandum marked to the attention of Sam Gay, Engineer, Development Assessment South dated 6 January 2006 from Andrew Blake, Hydraulic Engineer, Technical Specialist Team, a copy of which is Attachment "RJK-19". If a development application involves significant flood issues or includes a report on flooding issues, the practice of Development Assessment South's engineers is to refer this aspect of the development application to engineers in the Technical Specialist Team for assessment and recommendations.
82. As appears from Andrew Blake's memorandum, Andrew undertook an assessment of the hydraulic issues raised by Mirvac's development application for the Tennyson Reach development. Having had the opportunity to read the memorandum during the course of preparing this Statement, I note that Andrew Blake identifies some specific matters in respect of flooding issues in his memorandum. Based on my long experience of reading these kinds of memoranda, the effect of it was to impliedly accept that flooding issues other than those specifically referred to had been adequately addressed. The relevant sections of the memorandum are:

## **"2.0 COMMENTS**

### **2.1      *The proposed road must have Q100 flood immunity***

*The proposed road through the site does not have Q100 flood immunity. The entire road must have Q100 flood immunity as stated in the Subdivision and Development Guidelines (Part B, Section 2.2, Table B2.3.1).*

### **2.2      *Q50 inundation extents and overland flow easement required***

*Q50 inundation extents must be provided for the proposed overland flow paths between the buildings to define the overland flow easements required.*

### **2.3      *Underground drainage easements required***

*Underground drainage easements are required for stormwater drainage within the site.*

## **3.0 RECOMMENDATIONS**

  
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- 3.1 Additional information is required as stated in Comment 2.1 above.
- 3.2 Development conditions are required to address Comments 2.2 & 2.3."

83. I refer to the development application which contains in Volume 6 a report by Mirvac's consulting engineers, GHD, titled "Flooding & Stormwater Quality Management". I note that the GHD report refers at section 6.3.3 to use by GHD of Council's Mike II Model Flood Study. As stated above in paragraph 62, the file indicates that two extracted cross sections of Council's model was provided to GHD. These extracts were provided to GHD on 4 October 2005 by Council's City Design.

84. The development application contains the following statement in section 1.8 of Volume 1 Project Overview:

*"The primary hydrologic and hydraulic functions of the Brisbane River that are potentially impacted due to development are:*

- *Floodplain storage; and*
- *Flood conveyance."*

85. It appears from Andrew Blake's memorandum that the impacts of the proposed Tennyson Reach development on flood plain storage and/or flood conveyance were not considered to be problematic by Council's hydraulics engineer and, more importantly, as Council's hydraulics engineer had not queried the methodology adopted by Mirvac's consultant engineers, that the correct flood modelling technology had been applied. As far as I am aware, and based on Andrew Blake's advice, the GHD report was sufficient to satisfy Council that if there were any off-site impacts of flooding caused by the proposed development, they would have no adverse impact.

86. In this regard I note that in Volume 1 Project Overview of the development application at section 1.8.1 in relation to "Brisbane River Floodplain Storage" it states:

*"Analysis of the net effect of cut and fill on the site shows that a loss of floodplain storage of approximately 40000 m<sup>3</sup> will result on the site.*

*Analysis of total works on both the subject site and on DPI&F land [animal research centre] shows that loss of floodplain storage will be approximately 36,000 m<sup>3</sup>.*

  
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*Such storage volume represents a minimal percentage of total available floodplain storage in this reach of the Brisbane River. Further, the minimal loss of floodplain storage (approximately 36,000 m<sup>3</sup>) represents only 0.0015% of the total volume of a 100 year ARI flood (approximately 2.4 x 10<sup>9</sup> m<sup>3</sup> as taken from BCC supplied data) at this point in the River.*

*Accordingly, due to:*

- Minimal loss of floodplain storage; and*
- The relative 'disconnectedness' of the site floodplain from the River,*

*it is expected that the proposed development will have no measurable adverse impact upon flood afflux or peak flood flow rate due to loss of floodplain storage."*

87. I also note that at section 1.8.2 in relation to "Brisbane River Flood Conveyance" it states:

*"The proposed development includes river frontage residential buildings and public open space. Four of the proposed buildings (Buildings A, B, C and D) do not encroach forward of the alignment of the existing power station building to the river, and will result in a widening of available active flow path of the River in the upstream portions (Buildings C and D).*

*Buildings E and F project forward of the alignment of the power station building and into the fringe of the active flow path of the River. Loss of available active flow path at this location is approximately 5% and is located in a region of low velocity and disturbed flow.*

*Such reduction in active flow area where velocities are lowest (due to increased friction and various obstructions discussed above) is not expected to result in afflux that will cause worsening of flooding to upstream properties.*

*Further detailed hydraulic modelling using Council's Brisbane River Mike II model is currently being completed in order to quantify any afflux due to the proposed development layout."*

88. In relation to State Planning Policies, the Development Application stated at section 2.6.3:

*"State Planning Policy 1/03 (Mitigating the Adverse Impacts of Flood, Bushfire and Landslide)*

  
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*This Policy aims to minimise the risk of flooding, bushfire and landslide to people, property, economic activity, and the environment. In relation to flooding, GHD has prepared a report which addresses the impacts of flooding on the site.*

*Part of the site is affected by flooding from the Brisbane River. The proposed development has been designed to ensure that all residences are above the Q100 flood level and flood free access is provided to the residences and basements. Access to the Animal Institute [animal research centre] will be constructed to achieve Q100 immunity. The majority of the facilities within the State Tennis Centre will also have Q100 immunity."*

89. Having received Andrew Blake's advice, Development Assessment South would have consistently sought to ensure that the issues raised by Andrew Blake were addressed and that the recommendations made by him were actioned and effected to ensure that the flood immunity level was maintained at the level identified in GHD's report in any subsequent preliminary approval and development permits. In particular, an engineer in Development Assessment South would have ensured that the development conditions required to address points 2.2 and 2.3 of Andrew Blake's memorandum were included in any development approval.
90. In relation to the issue raised by Andrew Blake in point 2.1 of his memorandum, my recollection is that the western part of the proposed road connecting to Softstone Street had Q100 immunity but the eastern part of the proposed road connecting to Fairfield Road did not. As I recall, Council's engineers ultimately accepted the eastern part of the road as not being wholly at Q100 level because of engineering constraints created by the existing Fairfield Road.
91. The reference to Q100 level in this case is a reference to Q100 as determined by the Mike 11 model and not an attempt to refer to the DFL.
92. I refer in this regard to a note to file from Sam Gay to Development Assessment South dated 24 January 2006 which in turn refers to a discussion between Kevin Matthews who was then the Principal Engineer in Development Assessment South and Bob Adamson. A copy of the note to file is Attachment "RJK-20". The note records:

*"Kevin Matthews spoke with Bob Adamson today and they have agreed that the level of the access road for the Tennis centre should only have to meet Q50 levels. Particularly in view of the fact that the level of the existing Fairfield Road is at Q50.*

  
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*They also discussed that it was preferable for the access road to be structurally elevated as opposed to the road corridor being filled up, thus creating an effective dam through the low north east section of the property."*

93. As part of the process of following up on the matters raised by Andrew Blake in his memorandum of 6 January 2006, I refer to a letter sent by facsimile by the Department of Local Government and Planning to Brannock & Associates on behalf of Mirvac on 1 February 2006, a copy of which was sent to Steven Schwartz. A copy of the letter is Attachment "RJK-21". This letter formed the information request coordinated by the State on behalf of the concurrence agencies for the development application. Paragraph 25 of that letter relates to overland flood issues and reflects the acceptance by Council's engineers that Q50 was the acceptable flood level for the eastern end of the access road. The information request relevantly requires the following:

*"Provide a contour plan identifying the extent of batters, at 1 in 4, where fill may be required to construct the access road between Fairfield Road and the Tennis Centre. Also demonstrate how the ponding areas are proposed to drain and how the access road might allow for overland flow. Note the minimum level must accommodate the Q50 flood level and is calculated at 6.7m."*

94. I note that Council's FloodWise Property Report for the Tennyson Reach development indicates a level of 6.6 m AHD. A copy of a FloodWise Property Report for a unit in the Tennyson Reach development dated 14 January 2011 is Attachment "RJK-22". For that reason it seems to me that the reference to 6.7m as Q50 in the above quote is mistaken.
95. Although I cannot explain in detail how it occurred, it is clear from the "As Constructed" plans held by Council that the access road (King Arthur Terrace) for the Tennyson Reach development was in fact constructed at or above Q100. The only part of the road which was below Q100 was the western roundabout providing access to the Tennis Centre car park. Attachment "RJK-23" is a copy of the "As Constructed" plans for the extension to King Arthur Terrace with the area of the road below Q100 shaded in blue on drawings numbered C8242 and C8229.

#### Setback Issues

96. Throughout the development assessment process, there was an issue as to the setback from the Brisbane River of proposed residential buildings E & F. This issue related to the fact that the

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buildings were inside the 20 metre setback from the high water mark required by the Waterways Code. My understanding is that the significance of the 20 metre setback from the high water mark is primarily concerned with riparian amenity, that is, with the biodiversity of the river in its natural state, and not with flood hydrology or hydraulics.

### Development of the Conditions of Approval

97. As will be seen below, the development approvals in this case were substantial documents containing numerous conditions. The conditions package was developed by the following process:

- (a) many of the conditions would have been entered directly into a draft conditions package by various assessment officers in respect of those parts of the development application that were in the scope of their relevant expertise. The conditions relating to flood immunity would have had their genesis in entries made by Sam Gay;
- (b) the next step would have been for Steven Schwartz to review the draft conditions package, insert conditions relevant to his part in the process and to consolidate a draft conditions package;
- (c) that draft would have been provided to me and I would have given it an initial review in the course of which I would likely have amended and varied the draft as I thought appropriate;
- (d) once the draft conditions package had been settled by me with Steven Schwartz, I recall that it was provided to Brannock & Associates to allow Mirvac to make such initial submissions as it thought appropriate. I recall that there was at least one and possibly two conferences in which aspects of the draft conditions package were discussed with Mirvac and Brannock & Associates. Attachment "RJK-24" is a note to file by Steven Schwartz dated 7 September 2006. It comprises four pages of comments on the draft conditions package provided by Mirvac and what appears to me to be brief minutes of one of the conferences. I do not have any recollection of discussions at the meetings with Mirvac about the draft conditions relating to flood immunity and flooding issues, and in particular I recall no discussion about minimum habitable floor levels. I note that Steven Schwartz's note to file does

  
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include a reference to a discussion about the storage of hazardous materials above flood level;

- (e) the conditions package ultimately presented to Council was the result of this process.

98. There are less documents which have so far been located about this process than I would have expected. It might be that there were not many more documents created as the work on the draft package may have been done on-screen during the conferences.

**The Establishment & Coordination (Planning Guidance) Committee (PGC)**

99. During the course of the assessment by Development Assessment South of the development application, I prepared a number of power point presentations with the assistance of Steven Schwartz for presentation to **PGC**. I refer in particular to a power point presentation to the PGC dated 6 February 2006 a copy of which is Attachment "**RJK-25**".

100. I recall that the purpose of the presentation was to inform the PGC of the development application and to seek the PGC's endorsement of recommendations made by Development Assessment South for the redevelopment of the Tennyson development site. It is my practice to present the power point presentation to the PGC myself, and to speak to the PGC based on my knowledge of the matter. I refer to pages 4 & 5 of the power point presentation and note that it identifies "*8 key issues contained in referral coordination advice*" including "*Flooding - Appropriate flood immunity*". I understand the "referral coordination advice" to be the information request letter sent by the State to Brannock & Associates dated 1 February 2006.

101. During the course of preparing this Statement I have reviewed the letter of 1 February 2006 which I understand to be the "referral coordination advice" identified in my power point presentation. I accept that appropriate flood immunity is not in fact an issue contained in the referral coordination advice. I expect that the inclusion of this as a key issue in the presentation in reference to the referral coordination advice was an oversight on my part. However, I believe the reason why I made reference to flood immunity in the presentation is that I was conscious that this would be an issue for the PGC and I wanted to make it clear to the PGC that flooding had been considered and addressed, and that Council's policy on flood immunity was being maintained as regards the Tennyson Reach development.

  
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102. I have also reviewed a power point presentation prepared by me for presentation to the PGC on 11 September 2006. A copy of the presentation is "**RJK-26**". The purpose of the presentation, as I recall and as is stated in the power point document, was to seek the PGC's endorsement of the Officer's recommendation to approve the Tennyson Reach development. On page 5 there is slide titled "Key Issues". To the best of my recollection, the list of key issues was copied over, with some amendments (deleting "Local Plan - Development principles" and including "Contamination") from the power point document previously prepared for presentation to the PGC on 6 February 2006.
103. On page 12 of the power point document, there is a slide titled "*Key issues (cont)*". In relation to "*Flooding*" it states "*Minimum floor levels Resolved.*" I believe that at some stage prior to the PGC presentation I had a discussion with Councillor Helen Abrahams who was then the Local Councillor for the development site and also Chair of the Urban Planning Committee.
104. As Principal Planner in Development Assessment South, I had regular meetings with Councillor Abrahams in her capacity as the Local Ward Councillor in Development Assessment South and as Chair of the Urban Planning Committee. I recall that she raised the issue of flooding at one of those meetings. Although I do not recall my specific response I believe I conveyed that Council's policy of minimum habitable floor levels was to be maintained and that the Tennyson Reach development had been considered by Council's engineers. I believe I might have included the comment "*Minimum floor levels Resolved*" in response to my discussion with Councillor Abrahams. Another possibility is that the comment relates to an issue noted in a note to file by Steven Schwartz dated 7 September 2006 which deals with draft conditions for the DA and states "*maintenance shed is below FL height. Condition to use racks above FL to store hazardous materials*". There might be other explanations, and I cannot be sure. But I have no recollection of any discussion about flooding in the PGC itself.
105. Having reviewed the power point document for the purposes of preparing this Statement, I note that the following words are recorded by hand on the document: "Min Floor Levels Resolved 11 Sept 2006." The handwritten notes were not made by me and I do not recognise the handwriting.
106. The file indicates that there was a meeting of the PGC on 11 September 2006. I have read the agenda for the meeting which refers at item 4 to the address of the proposed Tennyson Reach

  
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development and to me as the presenter of this item. I would have attended that meeting and addressed the PGC on the development application. A copy of the PGC agenda is Attachment "RJK-27". I have also reviewed what I understand to be hand written minutes of the meeting, a copy of which are Attachment "RJK-28". I do not recognise the hand writing. Whilst it is not clear to me what exactly is written, there appears to be no suggestion that there was a discussion by the PGC of flood immunity or related issues.

**Urban Planning & Economic Development Committee (UPED Committee)**

107. After submission to the PGC, the development application is considered by the UPED Committee whose role it is to recommend or not recommend the approval of the development application. In the ordinary course, a report and recommendation on the development application is prepared for the UPED Committee and ultimately for Council. I refer to a document titled "Report and Recommendation on Development Application" by Steven Schwartz which is the report and recommendation on the development application for the Tennyson Reach development. A copy of the report is Attachment "RJK-29". As is my practice, I would have reviewed and critiqued the report and recommendation. While I do not specifically recall doing so, I must have been satisfied with the contents of the document before it was finalised and sent by me to Richard Sivell, Manager of Development Assessment, and Peter Button, Team Leader of Development Assessment South, for sign off.
108. The report and recommendation provides a general summary of relevant considerations for the UPED Committee and Council in considering the development application. I refer to section 8 titled "Issues Relevant to the Application". The issues that are included under this heading are to a degree a matter of judgement for Council officers in identifying matters which have been relevant in the development application or which Council officers consider would be of particular interest to the UPED Committee and Council.
109. I refer to section 8.5 of the report and recommendation which is titled "Flooding" and states:
- "The site is affected by flooding and there are potential impacts on roadways and the proposed residential area. The approval has been conditioned to manage overland flow impacts with swales, bunding and setting minimum habitable floor levels."*
110. This section was included in the report and recommendation because flooding had consistently been identified as an issue. As I state above, however, I was satisfied based on material

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included in support of the development application for the Tennyson Reach development, the development application itself and the assessment by Council's engineers, that flooding issues had been adequately addressed. Nonetheless, flooding was specifically referred to in the report and recommendation because it was likely to be an issue of interest to Council given that the proposed development was on a riverside site.

111. Generally, issues are included in the report and recommendation in order of importance and relevance to the planner. Although I am not able to specifically recall, it is likely that the issue in section 8.1 ("Height (bulk and scale) and Setbacks - Buildings E & F") was a key issue and that "Flooding" in section 8.5 was less pressing, but was included to reassure Council that flooding had been assessed and appropriate conditions recommended.
112. The report and recommendation was attached to a document titled "DECISION OF THE BRISBANE CITY COUNCIL URBAN PLANNING AND ECONOMIC DEVELOPMENT Committee's Recommendation of 19 September 2006" and presented to the UPED Committee for recommendation or not to Council. A copy of the Decision is "**RJK-30**". As is Council's practice, there would have been a meeting of the UPED Committee on 19 September 2006. Although I do not specifically recall doing so, I would have prepared and presented a power point presentation at the meeting, although I have not located a copy of any such document. I have no specific recollection of any discussion at the meeting about flood immunity or flooding issues. The UPED Committee recommended approval by Council of the development application. The development application was approved by Council at a meeting of Council on the afternoon of 19 September 2006. This is evidenced by the fact that the Decision is marked as "Adopted" and stamped "2487/06 Council's Delegate".

**The Development Application approved subject to conditions**

113. The Minutes of Proceedings for the meeting of Council on 19 September 2006 records the recommendation and Council's approval of the development application on pages 109 to 113. A copy of the Minutes of Proceedings is Attachment "**RJK-31**".
114. The development application was approved, subject to a number of conditions.
115. Relevantly to flooding, the development conditions included conditions requiring the following:

  
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- (a) the minimum habitable floor level to be 8.4m AHD (that is 500 mm above the DFL for the site defined by Council as 7.9m AHD);
  - (b) the development to be in accordance with Council's Subdivision and Development Guidelines;
  - (c) the development to be in accordance with approved plans, including elevations.
116. The development approval including its conditions (i.e. the decision notice) as approved by Council is a voluminous document. In fact, there was a Request for a Negotiated Decision Notice given to Council by Mirvac. Such a request defers the applicant's, and subsequently the submitter's, appeal period pending a process of negotiation on conditions in the development approval. As a consequence of that process, Council issued a Negotiated Decision Notice which revised the conditions on the original development approval in a number of respects and replaced the original decision notice. The revision to conditions did not involve revisions to conditions relating to flooding or flood immunity.
117. A copy of the Negotiated Decision Notice dated 9 October 2006 is Attachment "RJK-32". It also includes a schedule listing the changes to the conditions of the original decision notice. Specific conditions relevant to flooding in both the original Decision Notice and Negotiated Decision Notice include:

- (a) preliminary approval for 191 units in 3 buildings and park:

*"12) All proposed residential buildings are to be designed in accordance with Council's "Subdivision and Development Guidelines" to ensure that minimum habitable floor levels are 500mm above the 100 year (ARI) flood level (river and creek flooding) or 500mm above the 50 year (ARI) (overland flow level) whichever is the greater.*

*Minimum non-habitable floor levels are to be not less than 50 year (ARI) or 100 year (ARI) flood levels (which ever is the greater).*

**GUIDELINE**

*This condition is imposed when the site is affected by flooding. The 100 year ARI event is applicable to river and/or creek flooding. If the catchment is localised, the 50 year ARI event will be applicable unless the site is also affected by creek or river*

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*flooding in which case the higher flood level is used. For any other enquiries about this condition, please contact the Engineering Officer."*

- (b) development permit for a material change of use for indoor sport and recreation (tennis centre stadium) and outdoor sport and recreation (outdoor courts) and associated uses including office, restaurant, shop and convention centre (function room):

*"47) Undertake the works on the site in accordance with an Earthworks Plan approved by the Engineering Delegate, Development Assessment.*

*(a) Submit an earthworks plan (and obtain approval from the Engineering Delegate, Development Assessment, prepared by a Registered Professional Engineer of Queensland (RPEQ), and in accordance with Council's "Subdivision and Development Guidelines" demonstrating how the development will comply with this requirement and the following:*

- The location of any cut and/or fill;*
- The quantity of fill to be deposited and finished fill levels;*
- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary;*
- The existing and proposed finished levels (extending into the adjacent properties);*
- Preservation of all drainage structures from the effects of structural loading generated by the earthworks;*
- Protection of adjoining properties and roads from ponding or nuisance from stormwater;*
- That all vehicles exiting from the site will be cleaned and treated so as to prevent material being tracked or deposited on public roads.*

*(b) All fill material placed on the site is to be free of contaminants (as defined by section 11 of the Environmental Protection Act 1994), noxious, hazardous,*

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*deleterious and organic materials. Suitable fill material is deemed to comply with the requirements of clause 4.3, AS 3798, Guidelines on Earthworks for Commercial and Residential Developments.*

*(c) Prepare the following details for presentation to the Council's Engineering Delegate at a pre-start meeting arranged by the consultant supervising the contractor:*

- *The type of fill to be used and the manner in which it is to be compacted;*
- *Details of any proposed access routes to the site which are intended to be used to transport fill to the site;*
- *Engineering details of any haul roads to be built to facilitate the placement of fill on the site;*
- *The contractor is responsible for maintaining the access roads near the site such that they remain free of all fill material and are cleaned as necessary;*
- *Damage to Council assets will need to be repaired at no cost to Council;*
- *Public footpaths fronting the site are to remain safe at all times; and*
- *Compliance with Council's Erosion and Sediment Control Guidelines relating to earthwork's on a construction site.*

*(d) Implement and maintain the provisions of a Site Based Stormwater Management Plan which is consistent with Council's "Subdivision and Development Guidelines" (2000 or later version) and aims to prevent or minimise the contamination of stormwater and the release of contaminated stormwater from the site during construction and operational works.*

#### **GUIDELINES**

*This condition is imposed for applications when significant earthworks are proposed in conjunction with a development proposal. Site Based Stormwater Management Plans (that address short and long term stormwater management from a quality and quantity perspective) may be part of Environmental Management*

  
**Rory John Kelly**

  
**Witness**

*Plans (EMPs) and include ESC Programs/Management Plans. For any enquiries about this condition, please contact the Engineering Delegate, Development Assessment."*

*"53) Run off from the site and run off concentrated on the site from local catchments for storms up to the 50 year (ARI) flood event and for a 100 year (ARI) flood event for creek and river flooding, is to be managed in accordance with approved drainage plans and Council's "Subdivision and Development Guidelines" so as not to have any adverse effect on neighbouring properties.*

*(a) Design and construct all buildings to have the appropriate freeboard in accordance with the Council's "Subdivision and Development Guidelines" so as to not to be flooded during a 50 year (ARI) local flood event of a 100 year (ARI) creek or river flood event whichever is the higher flood level;*

*(b) Submit engineering plans and calculations, prepared by a Registered Professional Engineer Qld (RPEQ) and in accordance with the Council's "Subdivision and Development Guidelines", demonstrating how the development will comply with this requirement. Such plans are to show adequate survey information on areas adjoining the site with particular attention to ponding of water and overland flow paths and building pads. Additionally, the submitted information is to determine the extent of any stormwater drainage works and the width of any overland flow easements. Obtain approval for the design from the Engineering Delegate, Development Assessment, Development and Regulatory Services;*

*(c) Complete the works in accordance with the approved engineering plans; and*

*(d) Submit "As Constructed" plans including an asset register (if required), approved by a Registered Professional Engineer of Queensland (RPEQ) (to a standard specified in Council's "Subdivision and Development Guidelines") certifying that the works have been completed in accordance with the approved design and any approved modifications.*

#### **GUIDELINE**

**Rory John Kelly**

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**Witness**

*This condition is intended to ensue that the design of the subject development accounts for the stormwater run off and/or if stormwater drainage patterns in the vicinity of the site require improvements. For any enquiries about this condition, please contact the Engineering Delegate, Development Assessment."*

*"57) Design and construct all proposed buildings in accordance with Council's "Subdivision and Development Guidelines" to ensure that minimum habitable floor levels are 500mm above the 100 year (ARI) flood level (river and creek flooding) or 500mm above the 50 year (ARI) (overland flow level) whichever is the greater.*

- All service sheds must ensure that the storage level for chemical purposes are to be not less than 500mm above the 50 year (ARI) or 100 year (ARI) flood levels (which ever is the greater)."*

#### **GUIDELINE**

*This condition is impose when the site is affected by flooding. The 100 year ARI event is applicable to river and/or creek flooding. If the catchment is localised, the 50 year ARI event will be applicable unless the site is also affected by creek or river flooding in which case the higher flood level is to be used. For flood level information, Council Flood Reports are now available from any of Council's Customer Service Centres and Regional Business Centres. The new Flood Report provides the latest flood information for a nominated property plus other useful information about flooding and your development."*

- (c) development permit for a material change of use for multi-unit dwelling (114 units in buildings E & F) and park:

*"97) The overall height of the proposed buildings are to be in accordance with the following requirements:*

*(a) Construct the floor levels generally in accordance with the floor levels on the approved elevations and sections 00-DA0003 rev D, 41-DA1600 rev C, 41-DA1601 rev C, 31-DA 1600 rev D, 31-DA1601 rev D, with the minimum building height (including lift overruns, roof plant, and 'pop-up' structures) not to exceed the following:*

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**Witness**

***Minimum Habitable Flood Level: 8.40 AHD***

***Car Park Podium: 15.00 AHD***

***Building E: 45.52 AHD***

***Building F: 42.50 AHD and 31.50 AHD for the stepped section to level 7***

*(b) Submit certification from a licensed surveyor that the as-constructed floor levels and maximum building heights are in accordance with part (a) of this condition. This information is to be submitted to the Delegate, Development Assessment Team.*

***GUIDELINE***

*This condition is imposed to ensure the flood levels and maximum overall height of the proposed building is in accordance with the development approval. The relaxation of the maximum height limit is to permit a minor encroachment of the roof line. This encroachment shall not exceed 200mm and is only permitted for the area shown on the approved plan and is not to extend further than this area. For any enquiries about this condition, please contact the Development Assessment Team Architect."*

*"121) Undertake the works on the site in accordance with an Earthworks Plan approved by the Engineering Delegate, Development Assessment.*

*(a) Submit an earthworks plan (and obtain approval from the Engineering Delegate, Development Assessment, prepared by a Registered Professional Engineer of Queensland (RPEQ), and in accordance with Council's "Subdivision and Development Guidelines" demonstrating how the development will comply with this requirement and the following:*

- The location of any cut and/or fill;*
- The quantity of fill to be deposited and finished fill levels;*
- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary;*

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**Witness**

- *The existing and proposed finished levels (extending into the adjacent properties);*
- *Preservation of all drainage structures from the effects of structural loading generated by the earthworks;*
- *Protection of adjoining properties and roads from ponding or nuisance from stormwater;*
- *That all vehicles exiting from the site will be cleaned and treated so as to prevent material being tracked or deposited on public roads.*

*(b) All fill material placed on the site is to be free of contaminants (as defined by section 11 of the Environmental Protection Act 1994), noxious, hazardous, deleterious and organic materials. Suitable fill material is deemed to comply with the requirements of clause 4.3, AS 3798, Guidelines on Earthworks for Commercial and Residential Developments.*

*(c) Prepare the following details for presentation to the Council's Engineering Delegate at a pre-start meeting arranged by the consultant supervising the contractor:*

- *The type of fill to be used and the manner in which it is to be compacted;*
- *Details of any proposed access routes to the site which are intended to be used to transport fill to the site;*
- *Engineering details of any haul roads to be built to facilitate the placement of fill on the site;*
- *The contractor is responsible for maintaining the access roads near the site such that they remain free of all fill material and are cleaned as necessary;*
- *Damage to Council assets will need to be repaired at no cost to Council;*
- *Public footpaths fronting the site are to remain safe at all times; and*

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Witness

- *Compliance with Council's Erosion and Sediment Control Guidelines relating to earthwork's on a construction site.*

*(d) Implement and maintain the provisions of a Site Based Stormwater Management Plan which is consistent with Council's "Subdivision and Development Guidelines" (2000 or later version) and aims to prevent or minimise the contamination of stormwater and the release of contaminated stormwater from the site during construction and operational works.*

#### **GUIDELINES**

*This condition is imposed for applications when significant earthworks are proposed in conjunction with a development proposal. Site Based Stormwater Management Plans (that address short and long term stormwater management from a quality and quantity perspective) may be part of Environmental Management Plans (EMPs) and include ESC Programs/Management Plans. For any enquiries about this condition, please contact the Engineering Delegate, Development and Regulatory Services."*

*"131) Run off from the site and run off concentrated on the site from local catchments for storms up to the 50 year (ARI) flood event and for 100 year (ARI) flood event for creek and river flooding, is to be managed in accordance with approved drainage plans and Council's "Subdivision and Development Guidelines" so as not to have any adverse effect on neighbouring properties.*

*(a) Design and construct all buildings to have the appropriate freeboard in accordance with the Council's "Subdivision and Development Guidelines" so as not to be flooded during a 50 year (ARI) local flood event or 100 year (ARI) creek or river flood event whichever is the higher flood level;*

*(b) Submit engineering plans and calculations, prepared by Registered Professional Engineer Qld (RPEQ) and in accordance with the Council's "Subdivision and Development Guidelines", demonstrating how the development will comply with this requirement. Such plans are to show adequate survey information on areas adjoining the site with particular attention to ponding of water and overland flowpaths and building pads. Additionally, the submitted*

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**Witness**

*information is to determine the extent of any stormwater drainage works and the width of any overland flow easements. Obtain approval for the design from the Engineering Delegate, Development Assessment, Development and Regulatory Services;*

*(c) Complete the works in accordance with the approved engineering plans; and*

*(d) Submit "As Constructed" plans including an asset register (if required), approved by a Registered Professional Engineer of Queensland (RPEQ) (to a standard specified in Council's "Subdivision and Development Guidelines") certifying that the works have been completed in accordance with the approved design and any approved modifications.*

#### **GUIDELINE**

*This condition is intended to ensure that the design of the subject development accounts for the stormwater run off and/or if stormwater drainage patterns in the vicinity of the site require improvements. For any enquiries about this condition, please contact the Engineering Delegate, Development and Regulatory Services."*

*"132) Design and construct all proposed buildings in accordance with Council's "Subdivision and Development Guidelines" to ensure that minimum habitable floor levels are 500 mm above the 100 year (ARI) flood level (river and creek flooding) or 500 mm above the 50 year (ARI) (overland flow level) whichever is the greater.*

- *Minimum non-habitable floor levels are to be not less than 300mm above the 50 year (ARI) or 100 year (ARI) flood levels (which ever is the greater).*

#### **GUIDELINE**

*This condition is imposed when the site is affected by flooding. The 100 year ARI event is applicable to river and/or creek flooding. If the catchment is localised, the 50 year ARI event will be applicable unless the site is also affected by creek or river flooding in which case the higher flood level is to be used. For flood level information, Council Flood Reports are now available from any of Council's*

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**Witness**



*Customer Service Centres and Regional Business Centres. The new Flood Report provides the latest flood information for a nominated property plus other useful information about flooding and your development."*

- (d) development permit for material change of use for multi-unit dwelling (88 units in building D), shop, restaurant and park:

*"164) The overall height of the proposed buildings are to be in accordance with the following requirements:*

*(a) Construct the floor levels generally in accordance with the floor levels on the approved elevations and sections 00-DA0003 rev D, 41-DA1600 rev C, 41-DA1601 rev C, 31-DA 1600 rev D, 31-DA1601 rev D, with the minimum building height (including lift overruns, roof plant, and 'pop-up structures) not to exceed the following:*

***Minimum Habitable Flood Level: 8.40 AHD***

***Car Park Podium: 15.00 AHD***

***Building D: 48.52 AHD and 40.50 AHD for the eastern stepped section and 39.50 AHD for the western stepped section.***

*(b) Submit certification from a licensed surveyor that the as-constructed floor levels and maximum building heights are in accordance with part (a) of this condition. This information is to be submitted to the Delegate, Development Assessment Team.*

**GUIDELINE**

*This condition is imposed to ensure the flood levels and maximum overall height of the proposed building is in accordance with the development approval. The relaxation of the maximum height limit is to permit a minor encroachment of the roof line. This encroachment shall not exceed 200mm and is only permitted for the area shown on the approved plan and is not to extend further than this area. For any enquiries about this condition, please contact the Development Assessment Team Architect."*

  
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*"188) Undertake the works on the site in accordance with an Earthworks Plan approved by the Engineering Delegate, Development Assessment.*

*(a) Submit an earthworks plan (and obtain approval from the Engineering Delegate, Development Assessment, prepared by a Registered Professional Engineer of Queensland (RPEQ), and in accordance with Council's "Subdivision and Development Guidelines" demonstrating how the development will comply with this requirement and the following:*

- The location of any cut and/or fill;*
- The quantity of fill to be deposited and finished fill levels;*
- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary;*
- The existing and proposed finished levels (extending into the adjacent properties);*
- Preservation of all drainage structures from the effects of structural loading generated by the earthworks;*
- Protection of adjoining properties and roads from ponding or nuisance from stormwater;*
- That all vehicles exiting from the site will be cleaned and treated so as to prevent material being tracked or deposited on public roads.*

*(b) All fill material placed on the site is to be free of contaminants (as defined by section 11 of the Environmental Protection Act 1994), noxious, hazardous, deleterious and organic materials. Suitable fill material is deemed to comply with the requirements of clause 4.3, AS 3798, Guidelines on Earthworks for Commercial and Residential Developments.*

*(c) Prepare the following details for presentation to the Council's Engineering Delegate at a pre-start meeting arranged by the consultant supervising the contractor:*

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- *The type of fill to be used and the manner in which it is to be compacted;*
- *Details of any proposed access routes to the site which are intended to be used to transport fill to the site;*
- *Engineering details of any haul roads to be built to facilitate the placement of fill on the site;*
- *The contractor is responsible for maintaining the access roads near the site such that they remain free of all fill material and are cleaned as necessary;*
- *Damage to Council assets will need to be repaired at no cost to Council;*
- *Public footpaths fronting the site are to remain safe at all times; and*
- *Compliance with Council's Erosion and Sediment Control Guidelines relating to earthwork's on a construction site.*

*(d) Implement and maintain the provisions of a Site Based Stormwater Management Plan which is consistent with Council's "Subdivision and Development Guidelines" (2000 or later version) and aims to prevent or minimise the contamination of stormwater and the release of contaminated stormwater from the site during construction and operational works.*

#### **GUIDELINES**

*This condition is imposed for applications when significant earthworks are proposed in conjunction with a development proposal. Site Based Stormwater Management Plans (that address short and long term stormwater management from a quality and quantity perspective) may be part of Environmental Management Plans (EMPs) and include ESC Programs/Management Plans. For any enquiries about this condition, please contact the Engineering Delegate, Development and Regulatory Services."*

*"198) Run off from the site and run off concentrated on the site from local catchments for storms up to the 50 year (ARI) flood event and for 100 year (ARI)*

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**Witness**

*flood event for creek and river flooding, is to be managed in accordance with approved drainage plans and Council's "Subdivision and Development Guidelines" so as not to have any adverse effect on neighbouring properties.*

*(a) Design and construct all buildings to have the appropriate freeboard in accordance with the Council's "Subdivision and Development Guidelines" so as not to be flooded during a 50 year (ARI) local flood event or 100 year (ARI) creek or river flood event whichever is the higher flood level;*

*(b) Submit engineering plans and calculations, prepared by Registered Professional Engineer Qld (RPEQ) and in accordance with the Council's "Subdivision and Development Guidelines", demonstrating how the development will comply with this requirement. Such plans are to show adequate survey information on areas adjoining the site with particular attention to ponding of water and overland flowpaths and building pads. Additionally, the submitted information is to determine the extent of any stormwater drainage works and the width of any overland flow easements. Obtain approval for the design from the Engineering Delegate, Development Assessment, Development and Regulatory Services;*

*(c) Complete the works in accordance with the approved engineering plans; and*

*(d) Submit "As Constructed" plans including an asset register (if required), approved by a Registered Professional Engineer of Queensland (RPEQ) (to a standard specified in Council's "Subdivision and Development Guidelines") certifying that the works have been completed in accordance with the approved design and any approved modifications.*

#### **GUIDELINE**

*This condition is intended to ensure that the design of the subject development accounts for the stormwater run off and/or if stormwater drainage patterns in the vicinity of the site require improvements. For any enquiries about this condition, please contact the Engineering Delegate, Development and Regulatory Services."*

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**Witness**

*"199) Design and construct all proposed buildings in accordance with Council's "Subdivision and Development Guidelines" to ensure that minimum habitable floor levels are 500 mm above the 100 year (ARI) flood level (river and creek flooding) or 500 mm above the 50 year (ARI) (overland flow level) whichever is the greater.*

- *Minimum non-habitable floor levels are to be not less than 300mm above the 50 year (ARI) or 100 year (ARI) flood levels (which ever is the greater).*

#### **GUIDELINE**

*This condition is imposed when the site is affected by flooding. The 100 year ARI event is applicable to river and/or creek flooding. If the catchment is localised, the 50 year ARI event will be applicable unless the site is also affected by creek or river flooding in which case the higher flood level is to be used. For flood level information, Council Flood Reports are now available from any of Council's Customer Service Centres and Regional Business Centres. The new Flood Report provides the latest flood information for a nominated property plus other useful information about flooding and your development."*

118. Subsequent to the development approval for the Tennyson Reach development, a number of applications to amend the development approval have been received and assessed by Council. Subject to the matters set out in paragraph 119 below in respect of the amendment application in subparagraph (c), those applications and subsequent approvals do not relate to flooding impacts. For completeness the amendment applications relate to:

- (a) design of the buildings;
- (b) design and height of the roof of the Tennis Stadium;
- (c) shade structures to concourse and café, spectator seating and shade to external courts, BBQ area, material storage and undercroft storage rooms;
- (d) enclosure of roofed terrace area and cover of two show courts (permanent shade structure),
- (e) proposed maintenance workshop on lower level of the gymnasium;

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- (f) enclosure of the bulk bin recycling store adjacent to the gymnasium;
- (g) revised roof design of the compactor structure; and
- (h) changes to conditions in relation to minor increase in gross floor area for buildings E and F, unit configurations, parkland contributions, parkland design plan, access easements, community management strategy, on-site managers unit, parkland landscape management plan, detailed plan in relation to pedestrian and bicycle pathways, permanent shade structures, plant and equipment certification, footpaths, acoustic levels and acoustic works, restaurant noise, hours of construction, road intersection, gymnasium design and timing of land dedication.

119. During the course of my preparation for this statement and following a review of the relevant files (as mentioned in paragraph 9 above) it has come to my attention that:

- (a) the amendment application referred to in subparagraph 118(c) when approved included an approval relating to some storage and other non-habitable areas for the Tennis Centre might have included some consideration of flood impacts. The approval was given on 9 October 2009;
- (b) a current application for a Request for Permissible Change to a Development (dated 21 June 2011) seeking an approval for, amongst other changes, an expansion of change room facilities, new storage areas and other non-habitable areas forming part of the Tennis Centre, will likely include a consideration of flood impacts. In particular there will be a consideration of whether the current, as constructed, facilities comply with the conditions imposed by the Negotiated Decision Notice dated 9 October 2006 and the Subdivision and Development Guidelines.

120. I do not yet have a final view in relation to the matters set out in subparagraph 119(b) above, however I am currently investigating the matter and as soon as I have a final view I will provide the Commission with a supplementary statement addressing this issue as well as the approval mentioned in subparagraph 119(a) above.

  
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A detailed account of all meetings had (including internal meetings of Team South and meetings involving Team South and any other person) and all assessment reports prepared by Team South with respect to the Tennyson Reach development and the Tennyson development site.

121. Until appointed as Regional Manager two years ago, all of my involvement in the development assessment processes for the Tennyson Reach development was as Lead Principal Planner or Principal Planner, Development Assessment South. As I have explained in a number of instances, I do not have a detailed recollection of individual discussions and meetings and it would be unusual for notes to be kept of those meetings and discussions. I have endeavoured in this Statement to set out the material meetings, events and documents impacting on the assessment process by Development Assessment South of the Tennyson Reach development, focusing on flooding issues.
122. To the extent that I am reasonably able to respond to this question, I believe I have done so in this Statement. I would be happy to address further specific issues that might be brought to my attention.

DATED 31 August 2011.

  
Rory John Kelly

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Witness 