

BRISBANE • MELBOURNE • SYDNEY



1 March 2012

Queensland Floods Commission of Enquiry  
PO Box 1738  
**BRISBANE QLD 4001**

Attention: Ms Kyla Hayden and Ms Lyn Moon

Dear Ms Hayden and Ms Moon

**Queensland Floods Commission of Inquiry**

We refer to your letter of 28 February 2012 regarding the spreadsheet exhibited to Mr Ayre's Sixth Statement dated 30 January 2012 (exhibit 1048).

We enclose our clients' response.

Yours sincerely

A handwritten signature in blue ink that reads 'Holding Redlich'.

**HOLDING REDLICH**

Partner Toby Boys  
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**By e-mail**

Kyla.Hayden

Lyn.Moon

## QUEENSLAND FLOODS COMMISSION OF INQUIRY

### RESPONSE OF MR AYRE AND SUNWATER LIMITED

#### Request for a response

1. On 28 February 2012 the Commission sent a letter to Holding Redlich Lawyers seeking Mr Ayre's response and any submissions in relation to the spreadsheet titled 'SDWD-201101190700-RAComments' ("the spreadsheet").
2. The spreadsheet was included on the CD-Rom which is Exhibit 2 to Mr Ayre's Sixth Statement (which became Exhibit 1048 in the Commission). That statement (and the documents attached to it) was provided in response to the requirement issued by the Commission on 25 January 2012.
3. Mr Ayre does not recall naming the spreadsheet, but he believes that the name "SDWD-201101190700-RAComments" derives from the following:
  - a. The document is an excel spreadsheet, that appears to have been started as one of the gate operations spreadsheets.
  - b. The term "RA-comments" was probably added to the existing name of the document by Mr Ayre so as to identify it for himself as a copy which includes his own comments.
  - c. "SDWD" followed by a number by reference to a date indicates that the document was originally a gate operations spreadsheet for Somerset Dam and Wivenhoe Dam;
  - d. The numbers found in the name of the gate operations spreadsheet by convention refer to the last date of rainfall data recorded. For example, a spreadsheet which is saved with the number "20110119" usually means that the recorded rainfall

information is up to and including 19 January 2011. Mr Ayre has no reason to believe that that was not the reason for the number in the name of this spreadsheet;

- e. The date and time referred to in the file name is not necessarily the date and time that the document was created. The annotations to the spreadsheet were unlikely to have been made on 19 January 2011 as Mr Ayre was not rostered on duty that day, however, the document is still given that name because it follows the naming convention;
  - f. The number "0700" in the name of a gate operations spreadsheet follows the same naming convention, and represents the time that the relevant rainfall model was made.
4. Mr Ayre has no independent recollection of when he annotated this spreadsheet. He believes that it was likely to be after 19 January 2011, and notes, but cannot confirm the information contained in the letter from the Commission that the document was created and last modified on 19 February 2011 at 11.57.22am.
  5. The only evidence about the spreadsheet is that Mr Ayre created the spreadsheet as his own 'aide'.<sup>1</sup> It was not a formal document or record, and was not relied upon or put forward by Mr Ayre as being an accurate account of the flood event.
  6. We are instructed that:
    - a. Mr Ayre created the spreadsheet as a working document. He annotated the spreadsheet with comments as his own working notes about the flood event well after the event. Mr Ayre instructs that those comments were not finalized, and remained in draft form, as he did not complete his review of the event in this particular document. Mr Ayre instructs that he completed his review of the event in the document titled "Schedule 1" to his

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<sup>1</sup> See paragraph 16 of Sixth Statement of Robert Ayre, 30 January 2012, (Exhibit 1048)

Supplementary Statement dated 23 March 2011. That document was finalized after a complete review of the flood event and all of the necessary data.

- b. Mr Ayre did not annotate the spreadsheet during the flood event.
  - c. The comments annotated in the spreadsheet are Mr Ayre's preliminary shorthand notes.
  - d. In annotating the spreadsheet, Mr Ayre has engaged in a post event analysis. Mr Ayre believes that in working on the spreadsheet, he reviewed some of the data (but not all of the data), and then inserted comments at various points to enable him to see, in a preliminary way, the progression of the event in timeline form.
  - e. Mr Ayre did not prepare that document with the intention that it be relied upon by others as being an official final account. He did not provide the document to any of the other flood engineers.
  - f. Mr Ayre did not annotate the document in consultation with any of the other flood engineers.
7. In respect to the comments contained in the spreadsheet, we are instructed that Mr Ayre cannot now recall why he included individual comments in the places that he did or why he included the words that he did in those comments. In particular, he cannot recall precisely what data or other information he had regard to in drafting those comments.
8. His recollection, however, is that the process he adopted was not (and was not intended to be) a detailed, complete review of all of the data that was necessary to be able to create a definitive analysis of the event.
9. Mr Ayre acknowledges that the spreadsheet wrongly attributes strategy labels for the event in places. However, as said above, it was not intended to be (and it is not) a definitive and detailed analysis of the

flood event. It was a starting point in his personal review of the event, not the final conclusion.

### **Submissions**

10. We submit that the annotations to the spreadsheet should not be used to determine what Mr Ayre's state of mind was during the flood event because.
  - a. They are not a contemporaneous record, but were created post event.
  - b. The spreadsheet was not annotated following a complete review of all the data, and was not intended to be anything other than Mr Ayre's own initial working notes as an aide on reviewing that data.
  - c. The annotations were not prepared for others or provided to any of the other flood engineers for comment or review.
  - d. The annotations were not presented to management as a record of the event.
  - e. The annotations were not prepared for the purposes of providing the complete account of the event, nor, given the magnitude of such a task, could this single sample be expected to be complete and final.
  - f. The method used in annotating the spreadsheet, by inserting comments, is consistent with this being a preliminary analysis of the event, rather than a final or settled account of the event, which might find its place in a dedicated column.
  - g. The annotations had not undergone the careful reviewing process, editing and cross checking that would be expected in a final version.

### **What use can be made of the spreadsheet?**

11. We submit that the annotations to the spreadsheet can be used to make the following findings:
  - a. That Mr Ayre undertook a post event analysis;
  - b. That the analysis was for his own edification, and was preliminary in nature;
  - c. That the analysis as exemplified in the annotations contained in the spreadsheet was not a detailed review of all of the data;
  - d. That that analysis contained in the spreadsheet is an initial draft with working notes.
  - e. That analysis was not completed in the spreadsheet, but rather, was finalized in the spreadsheets contained in Schedule 1 of Mr Ayre's supplementary statement sworn 23 March 2011.
  - f. When, after an event, one makes a record of preliminary observations, it is common for there to be omissions and that corrections will need to be made at a later time when all data is available. There is nothing sinister in this.
  
12. We submit that the annotations to the spreadsheet should not be used to make any findings that:
  - a. Those annotations are evidence of Mr Ayre's state of mind as to strategies actually used during the flood event; or
  - b. The spreadsheet is evidence of Mr Ayre's having reached a final conclusion, post event, as to what strategies were being applied at particular times.