

QUEENSLAND FLOODS COMMISSION OF INQUIRY

Commissions of Inquiry Act 1950

THIRD AFFIDAVIT

I, **BRADLEY PETER HEATH** of c/- 2649 Logan Road Eight Mile Plains, Brisbane in the State of Queensland, Chief Executive Officer, state on oath:

BACKGROUND

1. I am the Chief Executive Officer ("CEO") of RACQ Insurance Limited (**RACQ Insurance**).
2. This affidavit is provided on behalf of RACQ Insurance in response to a notice dated 25 November 2011 given to me by Justice C E Holmes, Commissioner of Inquiry, pursuant to section 5 of the *Commissions of Inquiry Act 1950* (Qld), to provide information in respect of matters listed in that notice (**Requirement**). Copies of the cover letter forwarding the Requirement and the Requirement itself are exhibited to this affidavit as **Exhibits 1 and 2**.

RESPONSE TO REQUIREMENT

3. The matters set out below are not, or are not necessarily, matters of which I have direct knowledge other than by having regard to the records of RACQ Insurance (which I have done in order to provide this affidavit).
4. I have, with the assistance of others, assembled information and material to respond to the Requirement. I have, however, not been able to personally review all of the material which has been assembled for that purpose or exhibited to this affidavit.
5. For ease of reference I have set out in this affidavit the headings and sub-paragraphs from the Requirement and provided my response to them below.

Page 1

Signed:



AFFIDAVIT
Filed on behalf of RACQ Insurance Limited

Taken by:



COOPER GRACE WARD
Level 21, 400 George Street
Brisbane 4000 Australia
T 61 7 3231 2444
F 61 7 3221 4356

1. **Copies of RACQ Insurance Limited's response to a letter from [REDACTED] to [REDACTED] dated 28 September 2011 and records of any and all subsequent communications between RACQ Insurance Limited (and/or its legal representatives) and the Financial Ombudsman Service, concerning the matters the subject of [REDACTED] letter.**
6. **Exhibit 3** to this affidavit is a copy of an email from [REDACTED] (FOS) to [REDACTED] dated 30 September 2011. The email attached the letter from FOS to RACQ Insurance dated 28 September 2011 and which was exhibited to my second affidavit sworn 20 October 2011 at pages 144 to 150. The email is simply a covering email for the letter and does not contain anything of a substantive nature but is included for the sake of completeness. I can also indicate that although the email refers to a separate letter being sent to [REDACTED] no such letter has been received by him.
7. **Exhibit 4** to this affidavit is copy of a letter from RACQ Insurance to FOS dated 31 October 2011.
8. **Exhibit 5** to this affidavit is a copy of an email from [REDACTED] (FOS) to [REDACTED] (RACQ Insurance) dated 4 November 2011.
9. **Exhibit 6** to this affidavit is a copy of a letter from FOS to RACQ Insurance dated 15 November 2011.
10. I confirm there have been no further communications between RACQ Insurance and FOS relating to that the issues mentioned in paragraph 1 of the Requirement.
2. **Copies of records of any and all communications between RACQ Insurance Limited (and/or its legal representatives) and ASIC, subsequent to a letter from Mr Heath to [REDACTED] dated 28 September 2011, concerning the matters the subject of Mr Heath's letter.**
11. I confirm there have been no further communications between RACQ Insurance and ASIC subsequent to my letter to [REDACTED] dated 28 September 2011 regarding the matters the subject of my letter.

SWORN by **BRADLEY PETER HEATH** on 28 November 2011 at Eight Mile Plains in the presence of:

[REDACTED]
Deponent

[REDACTED]
-Barrister/Solicitor/Justice of the Peace/
Commissioner for Declarations

INDEX

No.	Document	Date	Page
1.	Letter from Queensland Floods Commission of Inquiry	25/11/11	4
2.	Requirement	25/11/11	6
3.	Email from [REDACTED] to [REDACTED]	30/09/11	8
4.	Letter from RACQ Insurance to FOS	31/10/11	10
5.	Email from [REDACTED] to [REDACTED]	04/11/11	60
6.	Letter from FOS to RACQ Insurance	15/11/11	62

Exhibit 1

Our ref: 1788593

25 November 2011

Mr Rocco Russo
Partner
Cooper Grace Ward Lawyers
GPO Box 834
BRISBANE QLD 4001

Dear Mr Russo

**RACQ Insurance Limited – Correspondence with Financial Ombudsman Service and
Australian Securities and Investments Commission**

I refer to the second affidavit of Mr Bradley Heath, sworn 20 October 2011.

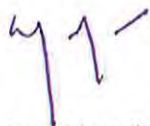
Specifically, I refer to the letter in Exhibit 3 of the affidavit (at page 144) from [REDACTED]
[REDACTED] to [REDACTED] dated 28 September 2011, and note that it requested a response
to matters raised in the letter, by 31 October 2011.

Please find enclosed a Requirement to Mr Heath to provide a copy of RACQ Insurance
Limited's response, and copies of records of any subsequent communications concerning
that matter. The Requirement also stipulates that Mr Heath provide copies of records of any
communications with Australian Securities and Investments Commission (ASIC) subsequent
to Mr Heath's letter to [REDACTED] of ASIC, dated 28 September 2011 (in Exhibit 4 to
the affidavit, at page 161), concerning the matters the subject of that correspondence.

The Commission requires this information as soon as possible, for preparation of its draft
findings and recommendations. Accordingly, the return date for the Requirement is 1 pm,
Monday, 28 November 2011.

Should you have any queries, please contact Mr Lachlan Zangari on telephone [REDACTED]

Yours sincerely



Jane Moynihan
Executive Director

Encl.

400 George Street Brisbane
GPO Box 1738 Brisbane
Queensland 4001 Australia
Telephone 1300 309 634
Facsimile +61 7 3405 9750
www.floodcommission.qld.gov.au
ABN 82 696 762 534

Exhibit 2

Our ref: Doc 1788643

25 November 2011

Mr Bradley Heath
Chief Executive Officer
RACQ Insurance Limited
C/- Mr Rocco Russo
Partner
Cooper Grace Ward
GPO Box 834
BRISBANE QLD 4001

REQUIREMENT TO PROVIDE STATEMENT TO COMMISSION OF INQUIRY

I, Justice Catherine E Holmes, Commissioner of Inquiry, require Mr Bradley Heath, Chief Executive Officer, RACQ Insurance Limited, to provide the following information, documents, records and other things to the Queensland Floods Commission of Inquiry pursuant to section 5 of the *Commissions of Inquiry Act 1950* (Qld):

1. Copies of RACQ Insurance Limited's response to a letter from Ms Rose-Marie Galea to Mr Paul Faulkner, dated 28 September 2011 and records of any and all subsequent communications between RACQ Insurance Limited (and/or its legal representatives) and the Financial Ombudsman Service, concerning the matters the subject of Ms Galea's letter.
2. Copies of records of any and all communications between RACQ Insurance Limited (and/or its legal representatives) and ASIC, subsequent to a letter from Mr Heath to Ms Emma Curtis, dated 28 September 2011, concerning the matters the subject of Mr Heath's letter.

The material is to be provided to the Queensland Floods Commission of Inquiry by 1 pm, Monday, 28 November 2011.

The material can be provided by post, email or by arranging delivery to the Commission by emailing info@floodcommission.qld.gov.au.



Commissioner
Justice C E Holmes

400 George Street Brisbane
GPO Box 1738 Brisbane
Queensland 4001 Australia
Telephone 1300 309 634
Facsimile +61 7 3405 9750
www.floodcommission.qld.gov.au
ABN 82 696 762 534

Exhibit 3

[REDACTED]

From: [REDACTED] FOS.org.au]
Sent: Friday, 30 September 2011 11:50 AM
To: [REDACTED]
Subject: FOSSIC SI ref 258133
Attachments: [REDACTED]@RACQ re 258133 30_9_2011.pdf

Good morning [REDACTED]

Please find attached a letter to you in relation to the issues concerning the release of hydrology reports. I have raised a possible systemic issue about this matter and will also forward a separate letter to [REDACTED] regarding the Code issues.

Please don't hesitate to contact me if you have any queries – [REDACTED]

Kind regards

[REDACTED] Manager - Systemic and Code Review Team, General Insurance
Financial Ombudsman Service Limited
P: [REDACTED] Fax: [REDACTED] Toll Free: 1300 78 08 08 | www.fos.org.au
Please consider the environment before printing this email

IMPORTANT

The contents of this email (including any attachments) are confidential and may contain privileged information. Any unauthorised use of the contents is expressly prohibited. If you have received this email in error, please notify us immediately by Telephone: 1300 78 08 08 (local call) or by email and then destroy the email and any attachments or documents. Our privacy policy is available on our website.

Exhibit 4

31 October 2011

The Manager – Systemic and Code Review Team
General Insurance
Financial Ombudsman Service
GPO Box 3
Melbourne VIC 3001

Attention: [REDACTED]

Email: [REDACTED] [FOS.org.au](mailto:[REDACTED]@FOS.org.au)

Dear [REDACTED]

RACQ Insurance Limited
Alleged possible systemic issue regarding hydrology reports

We refer to your letter dated 28 September 2011 (the Request Letter) to which this letter responds.

Under the heading 'Information required by FOS to assess this matter' the Request Letter identifies a number of issues which we have addressed specifically below. RACQ Insurance has at all times complied with its obligations under the Terms of Reference. It denies that any issue of a systemic (or other) failure exists.

Preliminary Matters

However, before turning to those specific issues, there are various matters in the preamble in the Request Letter to which we wish to respond. In doing so we will attempt to deal with only some matters of significance and not the various other matters with which we disagree but which may in any event not prove material.

First, the hydrology reports prepared for RACQ Insurance were the subject of legal professional privilege. The Request Letter (at the bottom of page 2 in a paragraph which must have some words missing) states that "the principal purpose for obtaining the hydrology reports was to determine whether RACQ was required to indemnify customers... In these circumstances legal professional privilege did not apply...".

We do not accept that the reports were not the subject of legal professional privilege. The dominant purpose for the production of the reports was to enable RACQ Insurance to obtain legal advice from its lawyers. This has been stated to FOS previously in various letters in particular our letters of 12 May and 8 June 2011. While Mr Price (by letter dated 15 June 2011) observed that FOS did not 'accept that [privilege] necessarily applies' he at least seems to have accepted that it was arguable and certainly did not express a concluded contrary view. Moreover, the same letter accepts that the Terms of Reference 'cannot compel a party to disclose information either to FOS or the other party if it is protected by [privilege]'.

To the extent that your Request Letter proceeds on the basis that the reports were withheld even though not privileged it accordingly proceeds on an erroneous foundation. The reports were initially withheld because they were privileged (as well because they contained confidential private information relating to customers).

While we accept that claims for legal professional privilege can be disputed, we respectfully submit that there is no occasion to consider whether the Code of Practice (Code) or Terms of Reference were being breached by failing to provide reports which *are* privileged. If that is what FOS contends can you please let us know.

Secondly, RACQ Insurance does not accept that the Code or the Terms of Reference operate so as to override legal professional privilege. So that this issue can be clear, we would appreciate it if you could please advise if FOS contends that: (i) the existence of legal privilege is not a 'special circumstance' for the purposes of sections 3.4.3 and 6.1.4 of the Code; or (ii) the Terms of Reference (by clause 7.2 or otherwise) permit FOS to require (over objection) the production of documents which are the subject of legal professional privilege.

We had previously understood that FOS did not so contend. In fact, FOS has previously accepted in its letter dated 15 June 2011 that its Terms of Reference cannot compel a party to disclose information to FOS or the other party if it is protected by legal professional privilege.

Quite apart from the issue of legal privilege, as you know the hydrology reports contain schedules which identify various customers by name address and other details. This too is a feature which, RACQ Insurance contends, is a special circumstance entitling it not to have to provide the reports to a customer, or indeed constitutes a reasonable excuse for not doing so under the Code and Terms of Reference. We would appreciate your advising if FOS disagrees with RACQ Insurance's understanding.

Thirdly, at a point (to which we shall return shortly) RACQ Insurance waived the privilege (under the influence of pressure from FOS). However, even prior to that point it provided information to the customers and FOS.

Customers who requested RACQ Insurance's hydrology reports were not given them, because they were privileged. However, they were provided with plain English information sheets which identified the relevant hydrological information for that customers area.

In respect of disputes referred to FOS where hydrology had been relied upon by RACQ Insurance to deny a claim, RACQ Insurance provided to FOS and the Applicant or their lawyers detailed submissions which included a detailed hydrology statement relating specifically to the Applicant's property.

These hydrology statements identified the name and qualifications of the expert who prepared the statement, the basis of the expert's role and engagement, the process the expert followed in considering the inundation of the subject property, a description of the relevant inundation event, the expert's conclusions in respect of the inundation in the relevant catchment, details of the expert's further investigations of the terrain data for the subject property, the expert's response to the specific hydrology issues raised by the Applicant and a conclusion as to the cause of inundation of the subject property.

The hydrology statements fully informed FOS and the Applicant of the hydrology information that was relevant to the dispute and permitted the Applicant to respond to that information and the conclusions formed. The case which RACQ Insurance put to FOS did not depend on the privileged reports but on the particular statements prepared from the dispute.

Applicants were not disadvantaged by not being given a copy of the "full hydrology report". The detailed hydrology statements individualise the "full hydrology reports" which were prepared to describe the inundation mechanisms for entire catchments and to enable claims decisions to be made for as many customers as possible in the shortest possible time. The detailed hydrology statements are more appropriate for use in FOS disputes as they focus on the particular property which is the subject of the dispute.

This should be evident to FOS which has in any event had copies of RACQ Insurance's "full hydrology reports" since on or about 14 July 2011.

We mention these hydrology statements because the Request Letter at times seems not to have had these hydrology statements in mind. FOS refers to the plain English information sheets but makes no reference to the detailed hydrology statements which are the appropriate benchmark for determining whether RACQ Insurance has complied with its obligations under the Terms of Reference.

Had FOS taken into account the detailed hydrology statements it would have seen that those statements fully inform FOS and the Applicant of the relevant hydrology information and permit the Applicant to respond to the issues raised by it.

Fourthly, RACQ Insurance has now (and indeed prior to the Request Letter) provided the hydrology reports to FOS and others. It will continue to do so. It is plainly unreasonable for FOS to require RACQ Insurance to produce documents over its objection that they are privileged, but then to assert RACQ Insurance commits a breach after the documents have been released. RACQ Insurance's conduct in this regard is not a systemic failure of any kind.

But we should, in this context, set out the facts as we know them to be.

1. The issue of releasing the hydrology reports was raised with RACQ Insurance by FOS in an email from John Price to [REDACTED] on 3 May 2011. Mr Price forwarded a copy of an email from a solicitor from the Insurance Law Service which complained that RACQ Insurance's refusal to provide hydrology reports was a breach of clause 3.4.3 of the Code of Practice (Code).
2. On 12 May 2011 Cooper Grace Ward Lawyers (CGW) responded, on behalf of RACQ Insurance, to that email. CGW's letter explained that the reports were not required to be released under clause 3.4.3 of the Code because they were privileged and subject to privacy laws. The letter also provided FOS with copies of the plain English information sheets which RACQ Insurance had been providing to its customers.
3. On 7 June 2011 Mr Price emailed Graham Dale (in relation to a different issue) and stated his view that:

unless an exception applies FOS will require the provision of the complete hydrologist report in disputes where the central issue involves the hydrology. This position has been made clearly to your company in numerous discussions with [REDACTED] as you EDR contact. I am sure I do not need to remind you of your obligations under the terms of reference with respect to the exchange of information or the consequences that can flow in the event material is not provided
4. In response, CGW wrote to Mr Price on 8 June 2011 explaining that the considerations raised in our letter of 12 May 2011 regarding the Code applied equally to the Terms of Reference. That is, RACQ Insurance's position was that the Terms of Reference did not require the release of the reports because the reports were privileged and subject to privacy laws. It also detailed the steps RACQ Insurance was taking to ensure that FOS (and RACQ Insurance's customers) had the best and most relevant information, including specific statements from its hydrologist for each matter before FOS where a hydrology issue was raised.
5. On 15 June 2011 CGW received a letter in reply from Mr Price. The letter acknowledged that FOS's view was that the Terms of Reference did not require the release of privileged documents. However, the letter continued that if RACQ Insurance "elect[ed] not to provide the reports, then this may lead to an adverse inference being found".
6. After that time Mr Dale arranged to meet with Mr Price to discuss the issues.
7. On 4 July 2011 the Mr Heath and Mr Dale of RACQ Insurance met with Mr Price to discuss these issues. At that meeting, Mr Price expressed a view that RACQ Insurance had a legitimate belief that it had provided adequate information to customers up to the time of the meeting.
8. However, in that meeting Mr Price stated that if the hydrology reports were not released FOS would assume they were not being provided because they were prejudicial to RACQ Insurance.
9. Subsequently, in light of Mr Price's comments, RACQ Insurance decided to release the hydrology reports.

10. On 14 July 2011 RACQ Insurance released the reports to FOS and Legal Aid Queensland. The covering letter accompanying the reports stated:

As previously advised, our view is that the regional hydrology reports obtained for our client are subject to legal professional privilege.

However this view is disputed by FOS, which has indicated that its view is that the reports must be disclosed to comply with our client's obligations under the General Insurance Code of Practice. Given FOS' stated position and its indication that a continued failure to provide the reports on the basis of the claim of privilege will lead FOS to drawing inferences adverse to our client, our client proposes providing the reports to FOS and accordingly to your office. In doing so our client is not to be taken to be waiving privilege in any respect.

Enclosed is a disc containing copies of the regional hydrology reports. There is one hydrology report which has just come to hand and which we are considering. This will be provided in the near future. In the meantime, the enclosed disc contains the balance copies of the regional hydrology reports.

They are provided on the basis that they are to be used only for the purposes of reviews of complaints in accordance with the General Insurance Code of Practice and that you will take appropriate steps to protect the privacy of the individuals referred to in the reports.

11. On 15 July 2011 Mr Price emailed Mr Dale noting that privilege was still being claimed in the reports and stated that "as such these reports cannot be exchanged with the applicants or their advisors".
12. This was cleared up immediately. On 18 July 2011 Mr Dale emailed Mr Price and explained that:

Although we still claim privilege over the reports, you are correct that it is our intention that the reports be relied upon in the determination of disputes. We agree to the reports being provided to Insureds and or their representatives who have made complaints in accordance with the Code of Practice ...

13. Mr Dale's email explained that he was currently working through a process to release the reports and that this was quite complex. The reasons for this complexity were as follows:

- (a) The reports were not prepared with a view to their being released to customers – they were prepared to allow RACQ Insurance's lawyers to provide advice on policy coverage.
- (b) There were many reports. The reports for a particular region were completed in stages, based on the amount of information available to the hydrologists at the time (and based on the times when RACQ Insurance had received confirmation from a loss adjuster that the property was one that required hydrology evidence).
- (c) The whole of the reports (which comprised more than 1200 pages) needed to be reviewed to ensure that references to personal information were generally redacted. A procedure needed to be put in place so that if that redacted information was relevant to a particular customer, then the report the customer received included this information.
- (d) A process needed to be put in place to ensure that, where possible, reports would be released on a bulk basis to customers represented by lawyers, and otherwise to insure that unrepresented individuals received copies of the report.

14. On 10 August 2011 Mr Price emailed Mr Dale indicating that Caxton Legal Centre (Caxton) had stated they had not yet received the reports and seeking confirmation from Mr Dale that they would be released to Caxton. Mr Dale replied on 15 August 2011 confirming that the reports were to be supplied to Caxton very shortly.
15. On 19 August 2011 RACQ Insurance sent copies of the reports to Caxton, Insurance Law Service, Denise Maxwell Solicitors, Hall Payne Lawyers and Legal Aid New South Wales. Copies were provided to Maurice Blackburn Lawyers on 22 August 2011. The letter to Caxton provided the reports without any qualification or limitation.
16. On 23 August 2011 CGW received a query from Ms [REDACTED] of Caxton Legal Service complaining that RACQ Insurance was seeking to impose additional obligations on their clients' use of the reports. CGW responded to that request on behalf of RACQ Insurance stating as follows:

The reports have been provided for the purposes of determination/resolution of complaints under the General Insurance Code of Practice. As you have noted, our client has made a claim for privilege in respect of the reports.

Accordingly, our client's expectation is that the reports will be used only for the purposes of determination/resolution of complaints/disputes under the Code.

Our client does not require your clients to specifically state that they accept our client's claim for privilege. The claim for privilege has been made, and if there is any conduct inconsistent with the claim for privilege, that cannot be said to have been done with our client's consent. Accordingly, any such conduct will not, as we see it, have any impact on our client's claim for privilege.

We do not see how our client's request that the reports only be used for the purposes of determination/resolution of complaints/disputes under the Code is in any way onerous. As you know, it is very common for there to be confidential exchanges of information between the parties during the course of disputes on a without prejudice basis. Perhaps you could clarify why this presents a difficulty for your clients and for what other purposes your clients seek to use the reports.

17. [REDACTED] replied indicating that she would be speaking with Mr Price on 24 August 2011 regarding FOS's expectations in relation to confidentiality.

18. On 26 August 2011 [REDACTED] emailed CGW stating that:

I spoke with John Price at some length about this on Wednesday and he confirmed for me that FOS does not expect our clients to keep information received through the FOS process confidential. Part 7 of the FOS Terms of Reference refers to the 'without prejudice' nature of the FOS process but this is not the same as requiring confidentiality.

My impression from my conversation with John Price is that he accepts that some sharing of documents would occur, and that it would not be in breach of the obligations that parties agree to when they submit to the FOS process.

Can you please confirm that your client similarly accepts that the documents may be shared by some of our clients with third parties and that this in no way breaches any obligation owed by our clients to your client?

Once such confirmation is received we will open the envelope from your office containing the disc, which we received on Tuesday of this week (23 August 2011), and begin the process of distributing the relevant information to our clients.

Thank you again for your help to resolve this.

19. In reply the same day, CGW asked [REDACTED] to confirm which third parties or types of third parties she expected her clients would be providing the documents to and the purpose of this. In a telephone call on 30 August 2011 between [REDACTED] of CGW spoke and [REDACTED] she declined to identify those other purposes. [REDACTED] said that in the absence of identifying those other purposes, he would not be able to seek instructions other than instructions to agree to the reports being released to anyone for any purposes whatsoever, which he said he thought might be difficult to obtain. [REDACTED] indicated she intended to talk further to Mr Price to clarify FOS's position.
20. On 9 September 2011 Mr Price emailed Mr Dale stating that it would appear from discussions he had had with Caxton that hydrology reports were still not being provided in a manner consistent with the Code of the Terms of Reference.
21. Mr Dale responded to that email on 14 September 2011 confirming that the reports had been provided to FOS and Caxton and that he did not understand there to be any obstacle to them progressing matters, but that he would review the situation and get back to Mr Price by 19 September 2011.
22. On 16 September 2011 [REDACTED] of Caxton called [REDACTED] and indicated she had received a copy of an email from Mr Dale to Mr Price which indicated that RACQ Insurance was not imposing any additional obligations on the use of the reports. [REDACTED] asked [REDACTED] to forward him a copy of the email [REDACTED] was referring to. Later that day Ms Gardner forwarded [REDACTED] a copy of Mr Dale's email of 14 September 2011.
23. On 19 September 2011 [REDACTED] called [REDACTED] to follow up on the above discussion. [REDACTED] indicated to [REDACTED] that RACQ Insurance's response would be provided that day as was set out in Mr Dale's email.
24. Later that day, CGW wrote to Caxton in response to the query that had been raised. The letter stated:
- Your clients (through you) have the reports. They are given to you (for your clients) in accordance with the Code and Terms of Reference. You (for your clients) may use the reports in whatever way follows from your having them in those circumstances and our client does not wish to separately impose any additional restriction on that use.
25. A copy of this letter was forwarded to Mr Price the same day.

Accordingly, the reports were provided. The initial qualification was that they be used for the very purpose contemplated by the Terms of Reference (and indeed the Code). But whatever might have been the case, any qualifications were removed before the Request Letter was sent.

Questions

Question 1

26. RACQ Insurance has released the relevant hydrology reports to Applicants or their legal representatives.
27. The reports have been redacted where appropriate to protect private information. This approach has been approved by FOS.
28. RACQ Insurance has placed no restrictions on the use of the hydrology reports. The only restrictions that apply to the use of the reports are those which arise as a consequence of their having been provided in accordance with the Code and the Terms of Reference.

Question 2

29. All Applicants who have disputes currently before FOS have received copies of the hydrology reports relevant to their claim.

Question 3

30. Applicants whose disputes relate to hydrology issues were not initially provided with a full hydrology report. These applicants received a detailed hydrology statement. All of these applicants or their solicitors have now received a copy of a full hydrology report. No dispute where hydrology was raised as an issue by the parties has been determined by FOS before the full hydrology report was provided to both FOS and the applicant.

Question 4

31. Information sheets were offered to customers who requested hydrology reports or further details about the hydrology information. They were sent by post under cover of a letter. A copy of the letter used along with copies of the information sheets are attached (**Attachment 1**).
32. RACQ Insurance is continuing to provide these information sheets to customers in addition to the full reports as it believes the information sheets help explain the relevant conclusions that RACQ Insurance has formed about the cause of inundation in their area.

Question 5

33. The circumstances surrounding the disclosure of copies of the full hydrology reports are discussed above. In summary, RACQ Insurance provided detailed hydrology statements to FOS and Applicants. These statements set out the hydrologist's specific findings in respect of the Applicant's property. The full hydrology reports were privileged and contained private information about other policyholders.

Consequently, RACQ Insurance was not obliged to provide FOS or Applicants with copies of these. RACQ Insurance has now provided FOS and Applicants with copies of the full hydrology reports because it felt compelled to do so in the face of FOS' repeated warnings about adverse inferences being made against it by FOS in disputes. Accordingly, there was no "delay" in the release of the full hydrology reports.

Question 6

34. Copies of the covering letters forwarding hydrology reports to Applicants legal representatives are attached (**Attachment 2**). Sample copies of the covering letters used when forwarding hydrology reports to Applicants are also attached (**Attachment 3**).

Question 7

35. For the reasons set out above, RACQ Insurance disputes that its conduct evidences any failure to understand its obligations under the Terms of Reference. A disagreement with FOS about the application of the Terms of Reference is not the same as misunderstanding obligations under the Terms of Reference.

Conclusion

36. RACQ Insurance does not believe there has been any systemic failure to comply with the Code or Terms of Reference.
37. It would seem that FOS may take the view that legal professional privilege did not attach to the hydrology reports. RACQ Insurance took advice on this very issue. It believes that legal professional privilege did apply.
38. In that event, RACQ Insurance did not understand that FOS took the view that the Code or Terms of Reference overrode that claim for privilege. Indeed as we have set out above, it seemed to have been accepted by FOS that neither the Code nor Terms of Reference had that effect.
39. If we are wrong about that and FOS suggests that privilege is abrogated by the Code or Terms of Reference then that is an important point of principle which needs to be resolved: not by FOS but by a court. Please let us know.
40. If, however, FOS does not contend that legal professional privilege is abrogated by the Code or Terms of Reference, then the primary issue seems to be whether the claim to privilege was properly made by RACQ insurance in the first place. As to that-
- (a) given that FOS (by Mr Price) did not assert that there was no proper claim for privilege; and
- (b) (more importantly) as RACQ Insurance contends that it had such a proper claim for privilege,
- it is plain that there is no issue of systemic failure but at most a dispute as to the claim for privilege.

41. The dispute as to this one issue is not a failure at all, but cannot be a systemic one simply because the claim to legal professional privilege is relevant to a number of disputes before FOS.
42. The only remaining issue then concerns the way in which the hydrology reports were subsequently provided to FOS, customers and their lawyers. We have addressed this above. For a party with a claim (or even disputed claim) of privilege to seek to try, for what has proved to be a very short period, to assert the waiver was not unqualified does not suggest a systemic failure at all.
43. RACQ Insurance is, of course willing, to co-operate with FOS as far as possible to resolve the enquiries the subject of the Request Letter. We trust that what we have set out above does so, but if you need further information please let us know.

Yours faithfully



Bradley Heath
Chief Executive Officer
RACQ Insurance Limited

ATTACHMENT 1

RACQ Insurance Ltd
ABN: 50 009 704 152
2649 Logan Rd, Eight Mile Plains, QLD 4113
PO Box 3004, Logan City, QLD 4114
Telephone 137 202 Facsimile (07) 3031 2750

Click here to enter a date.

Insured/s name
Insured/s address
Insured/s address

Dear Insured/s name,

Household Insurance

Policy Number: Insert Policy Number
Claim Number: HHClaim number

Thank you for your request for further information in relation to RACQ Insurance's assessment of your claim.

In response to that request, we **enclose** a report by RACQ Insurance on the flooding which occurred in your region. This report outlines the conclusions that RACQ Insurance has reached in relation to hydrological issues relevant to the region, which we have applied to your particular property and claim.

We hope this further clarifies RACQ Insurance's decision on your claim.

If you have any questions or need more information, please call us on 137 202.

Sincerely,

Claims officers name
Customer Service Officer

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO BRISBANE FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with some further details of the investigations it has carried out into the flooding which occurred in Brisbane in January 2011.

RACQ Insurance's Investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Brisbane. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Brisbane and the rate and speed at which water flowed through that catchment.

The key results

2. A substantial amount of rain fell in the Brisbane River catchment above Wivenhoe Dam both before, but particularly over the period 9, 10 and 11 January 2011 commencing at approximately 9am on 9 January 2011. This rain caused significant inflows into the Wivenhoe Dam, the level of which is reported to have peaked at approximately before midnight on 11 January 2011.
3. There were significant discharges of this water from the Wivenhoe Dam which flowed into the Brisbane River which worked its way down the River towards Brisbane. A substantial amount of rain also fell in the Bremer River catchment from around 6.00am on 11 January 2011. This rain travelled down the Bremer River towards the junction of the Bremer River and the Brisbane River.
4. The Bremer River contributed in the order of 15% to 25% of the Brisbane River's peak flow. This is a necessarily imprecise figure because some important data is still not available to us.
5. Due to the high Brisbane River tailwater levels there was some attenuation of the peak flow rate in the lower reaches of the Bremer River. This means that the overall contribution of the Bremer River to the Brisbane River is likely to be less than the above estimate but we cannot presently say by how much less.
6. A small proportion of the overall depth of the Brisbane River prior to 6.00am on 12 January 2011 may be partially attributable to the rain that fell in the Bremer River catchment on 11 January 2011. However, the overwhelming influence on the flooding of the Brisbane River was the rain which fell some days earlier and its subsequent release from the Wivenhoe Dam.
7. After 6.00am on 12 January 2011, the Brisbane River continued to rise to its peak level of 4.45m (recorded at the Brisbane City Gauge at approximately 4.00am on 13 January 2011).

Impact on application of policy

8. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
9. The majority of properties that reported damage in Brisbane were inundated as a result of the release of water from Wivenhoe Dam that followed the rainfall in the Brisbane River catchment that commenced on 9 January 2011.
10. This does not meet the requirements of "Flash flood or stormwater run-off" as defined in RACQ's standard policy. Claims for loss or damage in Brisbane will, therefore, generally not be covered.
11. There may be some properties which have suffered damage at different times or as a result of different causes specific to their location. Decisions on these claims will be made on a case by case basis.

AJW10091926 3728852v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO MIDDLE BRISBANE RIVER REACHES FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policy holders with details of the investigations it has carried out into the flooding which occurred across the Middle Brisbane River Reaches region (**Middle Brisbane**) in January 2011. Middle Brisbane includes the areas of Fernvale, Lowood, Wivenhoe Pocket and other locations in the vicinity of these areas.

RACQ Insurance's Investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Middle Brisbane. These investigations have included site investigations of each insured's property by loss adjusters and, in some cases, hydrologists and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Middle Brisbane and the rate and speed at which water flowed through that catchment.

The key results

2. There were two events that occurred on 11 January 2011 causing inundation in Middle Brisbane:
 - (a) the overflowing of local creeks and streams and the presence of stormwater run-off attributable to significant rain that fell over the Middle Brisbane catchment area between approximately 4:00am and 3:00pm on 11 January 2011 (**First Event**);
 - (b) the rising Brisbane River after approximately 4:00 pm on 11 January 2011 which was caused by significant releases of water from Wivenhoe Dam. The majority of the water released from Wivenhoe Dam at this time had fallen as rain over the Wivenhoe Dam catchment area on 9 January 2011 or earlier (**Second Event**).
3. While the First Event and Second Event occurred on the same day, they are distinct events and the inundation from the First Event had largely receded prior to the commencement of the Second Event.

Impact on application of the policy

4. RACQ Insurance's standard policy (**Policy**) provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined in the Policy as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
5. Damage suffered during the First Event was a result of flooding that was attributable to rain that fell within 24 hours of the flood occurring. Damage caused by the First Event will be covered by the Policy as it meets the definition of "Flash flood or stormwater run-off".
6. Damage caused by the Second Event was a result of direct inundation of rising waters from the Brisbane River. The water which caused this inundation had generally fallen as rain on or before 9 January 2011 and was stored in the Wivenhoe Dam before being released on 11 January 2011.
7. Accordingly, this rain had fallen more than 24 hours prior to the inundation occurring and damage caused to properties by the Second Event will not be covered by the Policy.

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO BUNDABERG FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in the Bundaberg region in December 2010.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in the Bundaberg region. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for the Bundaberg region and the rate and speed at which water flowed through that catchment.

The key results

2. A substantial amount of rain fell in the Burnett River catchment area (south of Bundaberg) between 16 December 2010 and 19 December 2010. This rain caused the Burnett River catchment to be saturated.
3. There was further substantial rainfall in the Burnett River catchment between 22 and 28 December 2010. The heaviest rain fell on the morning of 25 December 2010. This rainfall was associated with a moist easterly flow brought into the region by Cyclone Tasha which was first declared a tropical low on 24 December 2010.
4. The Burnett River levels rose and ultimately peaked on 30 December 2010.
5. There was localised rainfall in Bundaberg on 27 and 28 December 2010. However, this rain had no appreciable effect on the peak flood level on 30 December 2010.
6. The rain which fell between 22 and 28 December 2010 (and particularly the rain on 25 December 2010) was the principal cause of inundation in Bundaberg which peaked on 30 December 2010.

Impact on application of policy

7. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
8. The majority of properties that reported damage in the Bundaberg region were inundated as a result of flooding due to rain that fell more than 24 hours prior to the flood occurring (i.e. rain which fell between 22 and 28 December 2010) and are therefore not covered by the Policy.
9. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. Decisions on these claims will be made on a case by case basis.

AJW10091926 3728865v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO THE CABOOLTURE REGION

This document has been prepared by RACQ Insurance Limited to provide its policyholders with some further details of the investigations it has carried out into the flooding which occurred in the Caboolture region in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in the Caboolture region (comprising the area in and around the Bureau of Meteorology stations at Wamuran, Upper Caboolture, Caboolture WTP, Round Mt AL, Morayfield AL, Burpengary AL WTP, Beachmere and Browns Creek). These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment for the Caboolture region and the rate and speed at which water flowed through the catchment.

The key results

2. A substantial amount of rain fell in the Caboolture region on 11 January 2011, with the heaviest rain falling between approximately 5.00am and 2.00pm on 11 January 2011.
3. The rainfall intensities recorded over the western areas in the Caboolture region were significantly higher than those recorded near the coast and to the southwest of Caboolture.
4. Peak inundation levels were recorded at a number of the Bureau of Meteorology stations in the Caboolture region, including Upper Caboolture at 10.00am on 11 January 2011 (within 5 hours of the commencement of the rainfall event), Caboolture WTP at approximately 1.30pm on 11 January 2011 (within 8 hours of the commencement of the rainfall event) and for all areas downstream of these locations within 12 – 14 hours of the commencement of the rainfall event.
5. There are some parts of the Caboolture region that are not directly connected with a water course that had a water level gauge. However, the nature of the rainfall patterns in the Caboolture region, including those areas where rain and water level gauges are available, suggests that peak inundation would have occurred in these areas within the course of the (9 hour) rainfall event.

Impact on application of policy

6. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
7. The majority of properties that reported damage in the Caboolture region were inundated as a result of flooding due to rain that fell within 24 hours of the flood occurring and are, therefore, covered by the Policy.
8. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. Decisions on these claims will be made on a case by case basis.

AJW10091926 3732481v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO CHINCHILLA FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Chinchilla in December 2010 and January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Chinchilla. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Chinchilla and the rate and speed at which water flowed through that catchment.

The key results

2. Chinchilla was inundated by two different flood events, which peaked on 28 December 2010 and 12 January 2011 respectively.

28 December 2010 event

3. Charleys Creek had an elevated water level on the days leading up to the peak.
4. Heavy rainfall commenced in the catchment at approximately 2.00am on 23 December 2010. Its impact on the level of Charleys Creek was small and the water had largely drained away within 24 hours.
5. Further rainfall commenced at approximately 6.00pm on 25 December 2010. The level of Charleys Creek did not change materially within the next 24 hours. The water level did not rise above the Major flood height (6 metres) until around 3.00am on 27 December 2010 and it did not peak (at 7.24 metres) until around 6.00am on 28 December 2010 (approximately 60 hours after the second rainfall event commenced).

12 January 2011 event

6. Further heavy rain fell in the catchment from around 12.00pm on 10 January 2011.
7. 24 hours after the commencement of this rainfall, the level of Charleys Creek increased significantly to approximately 6.53 metres. The level of Charleys Creek then continued to rise in the absence of any further rain, peaking at approximately 7.00am on 12 January 2011 at 7.45 metres (approximately 31 hours after the commencement of the rainfall).

Impact on application of policy

8. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
9. The majority of properties that reported damage in Chinchilla on 28 December 2010 were inundated as a result of flooding due to rain that fell outside 24 hours of the flood occurring. These claims will, therefore, not be covered by the policy.
10. The majority of properties that were inundated on 28 December 2010 were inundated for a second time on 12 January 2011. As noted, the inundation on 12 January 2011 was the result of rain that fell within 24 hours of the flood occurring and is therefore covered by the policy. Therefore, any damage that can be shown to have been caused *exclusively* by the 12 January 2011 flooding will be covered under the policy.

Individual Properties

11. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQI is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO DALBY FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Dalby in December 2010 and January 2011.

RACQ Insurance's Investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Dalby. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Dalby and the rate and speed at which water flowed through that catchment.

The key results

2. Dalby was inundated by three different flood events occurring on 20 December 2010, 27 December 2010 and 10 January 2011.

20 December 2010 Event

3. Rain starting in the catchment around 8.00pm on 16 December 2010 had the effect of elevating the Myall Creek water levels.
4. By around 6.00am on 20 December 2010 the Myall Creek water level had risen to approximately 2.3 metres. It reached its peak of 2.84 metres at around 2.00pm on 20 December 2010.

27 December 2010 Event

5. The level of the Myall Creek was slightly elevated by earlier rainfall.
6. The inundation peak on 27 December 2010 was a result of rain falling between approximately 7.00pm on 25 December 2010 and approximately 2.00pm on 27 December 2010. By 7.00pm on 26 December 2010 (24 hours after the rain commenced), the water level was approximately the same as that at the commencement of the rainfall – around 0.74 metres.
7. From this time, as a result of further heavy rain, the Myall Creek water level began to rise again. The water level peaked at 3.54 metres at approximately 7.00pm on 27 December 2010 (48 hours after commencement of the rainfall event).
8. The majority of the rainfall that led to the peak fell in the period 32 hours preceding it.

10 January 2011 Event

9. The level of the Myall Creek was elevated due to rain falling on 6 and 7 January 2011. This rain caused the Myall Creek level to rise to a height of approximately 2.54 metres at around 7.00am on 7 January 2011. By around 3.00pm on 9 January 2011, most of this water had drained away.
10. Heavy rain starting falling at approximately 11.00am on 9 January 2011. By approximately 11.00am on 10 January 2011 the Myall Creek water level had risen considerably to 3.39 metres. The water level peaked at 3.74 metres at approximately 5.00pm on 10 January 2011 (32 hours after the rainfall commenced).
11. The peak water level was attributable to rain that commenced falling more than 24 hours before the peak, but significant rain continued to fall within 24 hours of the peak and which caused Myall Creek to continue to rise to its ultimate peak.

Impact on application of policy

12. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.

13. Damage caused by the water level reaching 2.3 metres at the Myall Creek gauge around 20 December 2010 would be a result of rain that fell within 24 hours of the flood. To the extent that claims relate to damage caused by this water level, they will be covered by the policy.
14. The dominant cause of damage caused by the water levels beyond this (ie above 2.3 metres and up to the peak level of 2.94 metres at the Myall Creek gauge) on 20 December 2010 was rain that fell more than 24 hours earlier. Accordingly, a claim for such damage is not be covered by the policy.
15. The flood that occurred on 27 December 2010, which peaked at 3.54 metres at approximately 7.00pm on 27 December 2010, was caused by rain which had commenced falling 48 hours earlier. Consequently, damage caused by this flood will not be covered by the policy.
16. Any damage caused *exclusively* by the water level of 3.5 metres at approximately 12noon on 10 January 2011 will be covered. Damage caused thereafter is not covered as this will have resulted from rain that fell more than 24 hours before that damage occurred.

Individual Properties

17. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQI is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

JET10091926 3775163v1

**REPORT BY RACQ INSURANCE LIMITED ON ITS
INVESTIGATIONS INTO IPSWICH FLOODS
(UPPER BREMER RIVER CATCHMENT AREA)**

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Ipswich (in the upper Bremer River catchment area) in January 2011.

RACQ Insurance's Investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Ipswich (downstream of the Bremer and Brisbane River). These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Ipswich and the rate and speed at which water flowed through that catchment.

The key results

2. A substantial amount of rain fell in the Bremer River catchment from around 6.00am on 11 January 2011. At approximately 5.00pm on 11 January 2011 the Bremer River peaked at Walloon at 31.87m.
3. This water travelled down the Bremer River towards to the junction of the Bremer and Brisbane Rivers and, in the areas approaching the junction of the Bremer and Brisbane Rivers, began to interact with the Brisbane River.
4. However, there are some upstream areas of the Bremer River (those covered by this report) where the Bremer River is unlikely to have been materially affected by the Brisbane river, and therefore any inundation is attributable to the rain which fell in the Bremer River catchment from around 6.00am on 11 January 2011.

Impact on application of policy

5. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
6. As stated above, the upstream areas of the Bremer River covered by this report were flooded by rain which fell not more than 24 hours earlier (starting at 6.00am on 11 January 2011).
7. The flooding in these upstream areas meets the requirements of "Flash flood or stormwater run-off" as defined in RACQI's standard policy and is therefore covered.

Individual Properties

8. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQI is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

AJW10091926 3740966v1

**REPORT BY RACQ INSURANCE LIMITED ON ITS
INVESTIGATIONS INTO IPSWICH FLOODS
(APPROACHING THE BREMER RIVER AND BRISBANE RIVER JUNCTION)**

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Ipswich (approaching the Bremer River and Brisbane River junction) in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Ipswich (approaching the Bremer River and Brisbane River junction). These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Ipswich and the rate and speed at which water flowed through that catchment.

The key results

2. A substantial amount of rain fell in the Bremer River catchment from around 6.00am on 11 January 2011. At approximately 5.00pm on 11 January 2011 the Bremer River peaked at Walloon at 31.87m.
3. This water travelled down the Bremer River causing inundation to some properties upstream of the junction of the Bremer and Brisbane Rivers.
4. As this water headed down the Bremer River towards the junction with the Brisbane River, the Brisbane River started to have a major effect. The level of the Brisbane River was elevated at this time due to earlier rain and releases from the Wivenhoe Dam due in particular to rain which fell in the dam's catchment area from around 6.00am on 9 January 2011. The elevated level of the Brisbane River meant that the water from the Bremer River could not flow into the Brisbane River at the same rate as it normally would.
5. Accordingly, for properties along the Bremer River approaching the junction with the Brisbane River, there were two mechanisms contributing to the flooding – one being the rain which had recently fallen in the Bremer River catchment and the other being the elevated level of the Brisbane River which inhibited that water's flow into the Brisbane River.
6. The peak of the Bremer River at One Mile (21.35m AHD) at approximately 1.00am on 12 January 2011 was attributable to the combined effects of flow from the Bremer River and the elevated levels of the Brisbane River. Likewise, the shape of the gauge results for the Bremer River at Ipswich is similar to the general shape of the Brisbane River gauge results at the Brisbane River Moggill Gauge, indicating that the Brisbane River was having a major influence on the levels of the Bremer River in this area.

Impact on application of policy

7. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
8. As noted, the area comprising areas of the Bremer River approaching the junction of the Bremer River and the Brisbane River were flooded by a combination of:
 - (a) the rain in the upper part of the catchment (which had occurred within 24 hours); and
 - (b) the effect of the elevated levels of the Brisbane River (which was caused by the release of water from the Wivenhoe Dam following rain which fell more than 24 hours before the event).
9. As the rain which fell within 24 hours was not the dominant cause of the flooding in this area, it does not meet the requirements of "Flash flood or stormwater run-off" as defined in RACQ's standard policy and is therefore not covered.

Individual Properties

10. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQI is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

AJW10091926 3741104v1

**REPORT BY RACQ INSURANCE LIMITED ON ITS
INVESTIGATIONS INTO IPSWICH FLOODS
(DOWNSTREAM OF THE BREMER AND BRISBANE RIVER JUNCTION)**

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Ipswich (downstream of the Bremer and Brisbane River junction) in January 2011.

RACQ Insurance's Investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Ipswich (downstream of the Bremer and Brisbane River junction). These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Ipswich and the rate and speed at which water flowed through that catchment.

The key results

2. A substantial amount of rain fell in the Bremer River catchment from around 6.00am on 11 January 2011. At approximately 5.00pm on 11 January 2011 the Bremer River peaked at Walloon at 31.87m.
3. This water travelled down the Bremer River towards the junction of the Bremer and Brisbane Rivers.
4. There are some areas of Ipswich downstream of the junction between the Bremer River and the Brisbane River (such as Goodna) which were inundated. The Brisbane River Moggill Gauge indicates that the peak water level around this area occurred around 3.00pm on 12 January 2011.
5. This flooding was attributable to the release of water from the Wivenhoe Dam. Some of the rain which began falling in the Bremer River catchment around 6.00am on 11 January 2011 would have flowed into the Brisbane River by this point, but the overwhelming cause of the flooding in these areas was the flood water from the Brisbane River that had been released from Wivenhoe Dam in particular as a result of the heavy rain that had fallen in the dam's catchment area since 6.00 am on 9 January 2011.

Impact on application of policy

6. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
7. As noted, the areas around Goodna, where the peak inundation by the Brisbane River occurred at around 3.00pm on 12 January 2011.
8. The dominant cause of this inundation was the rain which fell in the Wivenhoe Dam catchment in particular the rain commencing around 6.00am on 9 January 2011 which was then released into the Brisbane River.
9. Damage caused to properties by this event is not covered under the policy.

Individual Properties

10. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQ Insurance is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

AJW10091926 3741123v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO THE LOWER LOCKYER VALLEY FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in the Lower Lockyer Valley in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in the Lower Lockyer Valley. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for the Lower Lockyer Valley and the rate and speed at which water flowed through that catchment.
2. The Lower Lockyer includes the following:
 - (a) Lockyer Creek Reach from the Catchment Divide to Gatton;
 - (b) Laidley Creek extending downstream to Laidley; and
 - (c) Downstream Reaches to Brisbane River junction.

The key results

Lockyer Creek Reach from the Catchment Divide to Gatton

3. A substantial amount of rain fell in the Lockyer Creek Reach from the Catchment Divide to Gatton over the period 5 January 2011 to 11 January 2011, with the heaviest rain falling between 9 January 2011 and 11 January 2011.
4. The rainfall and river gauge data that is available for this area indicates that each rainfall event had an impact on the catchment causing flood peaks within 24 hours of each rainfall event.

Laidley Creek extending downstream to Laidley

5. A substantial amount of rain fell in Laidley Creek extending downstream to Laidley over the period 5 January 2011 to 11 January 2011, with the heaviest rain falling between 9 January 2011 and 11 January 2011.
6. The rainfall and river gauge data that is available for this area indicates that each rainfall event had an impact on the catchment causing flood peaks within 24 hours of each rainfall event.

Downstream Reaches to Brisbane River junction

7. A substantial amount of rain fell in Downstream Reaches to Brisbane River junction over the period 5 January 2011 to 11 January 2011, with the heaviest rain falling between 9 January 2011 and 11 January 2011.
8. The peak water level which occurred at approximately midnight on 6 January 2011, was attributable to rainfall which fell in the preceding 24 hours.
9. The peak water level which occurred at approximately 06:00 on 10 January 2011, was attributable to rainfall which fell in the preceding 24 hours augmenting somewhat elevated water levels themselves caused by rain which had fallen earlier than the preceding 24 hours.
10. The peak water level which occurred at approximately 18:00 on 11 January 2011, was attributable to rainfall which fell in the preceding 24 hours augmenting substantially elevated water levels themselves caused by rain which had fallen earlier than the preceding 24 hours.

Impact on application of policy

11. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
12. The majority of properties that reported damage in the Lockyer Creek Reach from the Catchment Divide to Gatton and Laidley Creek extending downstream to Laidley were inundated as a result of flooding due to rain that fell within 24 hours of the flood occurring. These claims will, therefore, be covered by the Policy.
13. For properties that reported damage in the Downstream Reaches to Brisbane River junction, the inundation was the result of rain that fell both within, and outside of, 24 hours of the flood occurring.
14. Without accessing further information and undertaking further investigations it is not possible at this stage to confirm whether the requirements of "Flash flood or stormwater run-off" as defined in RACQ's standard policy are satisfied. Further investigations are being undertaken to assess the cause of inundation for properties in this part of the Lower Lockyer Valley.
15. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. Decisions on these claims will be made on a case by case basis.

AJW10091926 3732475v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO MORETON BAY FLOODS.

This document has been prepared by RACQ Insurance Limited to provide its policyholders with some further details of the investigations it has carried out into the flooding which occurred in the "Moreton Bay investigation area" in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in the Moreton Bay investigation area (comprising the area in and around the Bureau of Meteorology stations at Baxters Creek, Dayboro WTP, Kobbie Creek AL, Mt Samson, Lake Kurwongbah, North Pine Dam, Cedar Creek, Mt Glorious, Samford Village, Upper Kedron and Deagon). These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment for the Moreton Bay investigation area and the rate and speed at which water flowed through the catchment.

The key results

2. A substantial amount of rain fell in the Moreton Bay investigation area, commencing at approximately 5.00am on 11 January 2011 and continuing until approximately 2.00pm on the same day.
3. Peak inundation levels were recorded at a number of the Bureau of Meteorology stations in the Moreton Bay investigation area (including, Baxters Creek, Kobbie Creek, Cedar Creek, North Pine Dam, Samford Village, Lake Kurwongbah and Deagon) within 9 hours of the commencement of the rainfall event.
4. In some parts of the Moreton Bay investigation area, there were multiple rain events which led to local river/creek systems peaking more than once. This is reflected at the rain and river gauges at North Pine Dam, Lake Kurwongbah and Samford Village amongst others.
5. In each case, the peak in the river level caused by the rain event receded quickly before the subsequent rain event led to a further peak in the river/creek.
6. There are some parts of the Moreton Bay investigation area that are not directly connected with a water course that had a water level gauge. However, the nature of the rainfall patterns in the Moreton Bay investigation area, including those areas where rain and water level gauges are available, suggests that peak inundation would have occurred in these areas within the course of the (9 hour) rainfall event.

Impact on application of policy

7. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
8. The majority of properties that reported damage in the Moreton Bay investigation area were inundated as a result of rain that fell within 24 hours of the flood occurring and are, therefore, covered by the Policy.
9. There may be some properties within the Moreton Bay investigation area which have suffered damage which is not explained by the mechanisms set out above but which occurred at different times or as a result of different causes specific to their location. Decisions on these claims will be made on a case by case basis.

AJW10091926 3732486v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO OAKEY FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Oakey in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Oakey. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Oakey and the rate and speed at which water flowed through that catchment.

The key results

2. Significant rain fell in the Oakey Creek catchment over the period from 9 to 11 January 2011. Other moderate rainfalls were also experienced in the preceding four days.
3. The heaviest rain fell in the catchment over three main periods at around noon to 11.00pm on 9 January 2011, noon to 6.00pm on 10 January 2011 and midnight on 10 January 2011 to noon on 11 January 2011.
4. Stream gauging station data has been requested but has not been made available at this point. However, the rainfall data and other available evidence indicates that:
 - (a) it is most likely that the 9 and 10 January 2011 rainfall resulted in elevated levels in Oakey Creek. However, the Creek did not reach a level to cause flooding on 10 January 2011;
 - (b) the 11 January 2011 rainfall further increased Oakey Creek discharges and inundation of the Town occurred;
 - (c) the inundation that occurred on 11 January 2011 was a result of the rainfall that occurred over 9, 10 and 11 January 2011.
5. However, without this stream gauging data, it is not possible to identify the specific time at which the flood waters rose to a level which caused damage to property.

Impact on application of policy

6. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
7. Without accessing further river gauge information, it is not possible at this stage to confirm whether the requirements of "Flash flood or stormwater run-off", as defined in RACQ's standard policy, is satisfied. Further investigations are being undertaken to assess the cause of inundation for properties in Oakey.

JET10091926 3775230v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO ROCKHAMPTON FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with some further details of the investigations it has carried out into the flooding which occurred in Rockhampton in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Rockhampton. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Rockhampton and the rate and speed at which water flowed through that catchment.

The key results

2. The Fitzroy River was elevated during December 2010. It reached a Moderate flood level on 14 December 2010 which peaked at 7.65m on 16 December 2010. This was attributable primarily to the cumulative rainfall that fell between 1 to 4 December 2010 with some further contribution from rainfall on 11 and 12 December 2010.
3. The river then fell to 5.5m on 23 December 2010 and from there began to rise due to the widespread rainfall occurring from 23 to 28 December 2010. This rainfall was associated with a moist easterly flow brought into the region by Cyclone Tasha, which was first declared a tropical low on 24 December 2010.
4. The Fitzroy River then flooded with a peak at 9.2m on or about 4 January 2011. The period of time that the river was in flood was substantial. It maintained levels of over 9m till 11 January 2011 and was over the Major flood level of 8.5m for the period from 1 to 14 January 2011.
5. There was local rainfall in the City of Rockhampton around the times that the Fitzroy River level was peaking (eg on 6 January 2011). However, this rainfall was of a relatively low intensity and occurred after the flood had peaked.

Impact on application of policy

6. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
7. RACQ Insurance's findings indicate that the flooding which occurred in Rockhampton in January 2011 was the result of rain which had fallen between 23 and 28 December 2010. As this rain fell more than 24 hours before the flooding, it does not meet the requirements of "Flash flood or stormwater run-off" as defined in RACQI's standard policy and is therefore not covered by the Policy.

AJW10091926 3728860v1

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO THE SUNSHINE COAST FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred on the Sunshine Coast in January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods on the Sunshine Coast. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Sunshine Coast and the rate and speed at which water flowed through that catchment.

The key results

2. The most significant rainfall event for this region occurred on 11 January 2011. The area gauges for Palmwoods, Warana bridge, Nambour and West Woombye experienced three peaks of rainfall on 9, 10 and 11 January 2011.
3. At the Warana bridge Nambour and West Woombye gauges each peak had subsided before the next significant rainfall event occurred.
4. The Palmwoods Sports Ground station, before the 11 January 2011 event, the water had receded to the minor flood level of 3.5 meters. The peak on 11 January 2011 was recorded at 5.0 meters gauge datum. This inundation occurred in less than twenty-four hours.
5. The Tewantin gauge shows that there were two peaks, 9 January and 11 January 2011. The 9 January 2011 peak was not above the anticipated high tide level and the 11 January event was only slightly above (less than 0.2 meters). This downpour could have exceeded the capacity of the stormwater system.
6. The Picnic Point station had one peak on 11 January 2011 with minor rainfall occurring in the days prior to the inundation. The gauge maintained higher levels than expected due to the freshwater discharge from the Maroochy River system. Due to the intensity of the rain, it is possible that the stormwater drainage system would have failed.

Impact on application of policy

7. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
8. Any damage that arises from the flood events detailed above is likely to fall within the definition of Flash flood or stormwater run-off. To the extent that claims relate to damage caused by these inundations, they will be covered by the policy.

Individual Properties

9. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQI is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO REGIONAL FITZROY FLOODS (THEODORE)

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Regional Fitzroy (Theodore) in December 2010/January 2011.

RACQ Insurance's investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Regional Fitzroy (Theodore). These investigations have included site investigations of each insured property by loss adjusters, site inspections of selected properties by hydrologists and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for the Fitzroy River and the rate and speed at which water flowed through that catchment.

The key results

2. Theodore was inundated to varying extents during the period from 23 December 2010 to 7 January 2011. The inundation of Theodore peaked on 1 January 2011 when the level of the Dawson River at Theodore was recorded at 14.7 metres.
3. Heavy rainfall commenced in the upper reaches of the Theodore Catchment (at Injune and Taroom) on 17 December 2010 and continued falling until 19 December 2010. As a result of this rain, the levels of the Dawson River had risen well above the Major Flood Level of 12 metres on 23 December 2010.
4. A rainfall event on 22 December 2010 maintained the high levels of the Dawson River.
5. Further rain falling throughout the upper catchment on 25 and 26 December 2010 caused the Dawson River to continue to rise. The river reached 14.4 metres at approximately 5.00am on 28 December 2010, which is more than 2 metres over the major flood level (when the township of Theodore was evacuated).
6. The Dawson River receded slightly, only to rise again to the ultimate peak of 14.7 metres on 1 January 2011. This was again the result of rain that had commenced falling more than 24 hours earlier.
7. The high tailwater level in the Dawson River may have had a significant effect on the levels of Castle Creek, adjacent to the Theodore township. However, given that the rain that caused the overflow of both those waterways had commenced falling more than 24 hours before those events occurred, their respective contributions to the inundation of Theodore is not relevant.

Impact on application of policy

8. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.
9. Each of the claims received by RACQ Insurance reporting damage in Theodore over the period from 23 December 2010 to 1 January 2011 were inundated as a result of flooding due to rain that fell outside 24 hours of the flood occurring. These claims will, therefore, not be covered by the policy.

REPORT BY RACQ INSURANCE LIMITED ON ITS INVESTIGATIONS INTO WARWICK FLOODS

This document has been prepared by RACQ Insurance Limited to provide its policyholders with details of the investigations it has carried out into the flooding which occurred in Warwick in December 2010 and January 2011.

RACQ Insurance's Investigations

1. RACQ Insurance has carried out extensive investigations into the floods in Warwick. These investigations have included site investigations of each insured property by loss adjusters and an analysis of relevant hydrology data, including rainfall measurements, river heights, the topography of the catchment area for Warwick and the rate and speed at which water flowed through that catchment.

The key results

2. Warwick was inundated by two different flood events, which peaked on 27 December 2010 and 11 January 2011 respectively.

27 December 2010

3. Rain in the catchment starting around 1.00am on 26 December 2010 had the effect of elevating the Condamine River levels (at the Warwick and Murrays Bridge gauges). This rainfall continued for approximately 37 hours until around 2.00pm on 27 December 2010.
4. 24 hours after the commencement of this rain, the Condamine River level was approximately 2.56m at the Warwick gauge, well below the Minor flood level of 4.0 metres.
5. The Condamine River level did not reach the Major flood level height of 6 metres until around 4.30pm on 27 December 2010 (approximately 40.5 hours after rainfall commencement).
6. The maximum inundation level of 7.09m at Warwick occurred at around 9.00pm on 27 December 2010 (44 hours after the rainfall commenced). The majority of the rainfall that led to this peak fell in the period commencing within 24 hours of the peak occurring.

11 January 2011

7. The 11 January 2011 event was attributable to the combined effect of a number of storms commencing at around 4.00am on 6 January 2011. The first storm caused the Condamine River to rise, with each successive storm either increasing or maintaining the elevated water level.
8. Between around 4.00am on 6 January 2011 and 3.00pm on around 10 January 2011, the maximum height of the Condamine River was approximately 3.3 metres (below the Minor flood level of 4 metres).
9. A storm commencing at around 6.00am on 10 January 2011 resulted in the Condamine River reaching the Moderate flood level of 5 metres at around 10.00pm on 10 January 2011 and a further storm commencing around 8.00am on 11 January 2011 contributed to the Condamine River level peaking at 7.73 metres at around 8.00pm on 11 January 2011.
10. The majority of the rainfall that led to this peak fell in the period commencing within 24 hours of the peak occurring.

Impact on application of policy

11. RACQ Insurance's standard policy provides coverage for loss or damage caused by "Flash flood or stormwater run-off". That expression is defined as "A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flash flood or stormwater run-off". Otherwise, RACQ Insurance's standard policy does not cover flooding.

12. The flooding on both 27 December 2010 and 11 January 2011 was contributed to by rain which fell more than 24 hours earlier, however, our investigations lead us to conclude that the real cause of the peak flooding on those days was heavy rain that fell within 24 hours of those peaks occurring.
13. Accordingly, both of these flood events meet the requirements of "Flash flood and stormwater run off" as defined in RACQ's standard policy and are therefore covered.

Individual Properties

14. There may be some areas which have suffered damage at different times or as a result of different causes specific to their location. RACQ is continuing to investigate these areas and decisions on these claims will be made on a case by case basis.

AJW10091926 3775154v1

ATTACHMENT 2



COOPER GRACE WARD
LAWYERS

Our Ref: CGW 10098073

14 July 2011

Mr Anthony Reilly
Chief Executive Officer
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BY DELIVERY

Dear Mr Reilly

RACQ Insurance Limited

As previously advised, our view is that the regional hydrology reports obtained for our client are subject to legal professional privilege.

However this view is disputed by FOS, which has indicated that its view is that the reports must be disclosed to comply with our client's obligations under the General Insurance Code of Practice. Given FOS' stated position and its indication that a continued failure to provide the reports on the basis of the claim of privilege will lead FOS to drawing inferences adverse to our client, our client proposes providing the reports to FOS and accordingly to your office. In doing so our client is not to be taken to be waiving privilege in any respect.

Enclosed is a disc containing copies of the regional hydrology reports. There is one hydrology report which has just come to hand and which we are considering. This will be provided in the near future. In the meantime, the enclosed disc contains the balance copies of the regional hydrology reports.

They are provided on the basis that they are to be used only for the purposes of reviews of complaints in accordance with the General Insurance Code of Practice and that you will take appropriate steps to protect the privacy of the individuals referred to in the reports.

Yours faithfully

COOPER GRACE WARD

Chris Ward
Managing Partner

T
F
E

CGW10098073 3958352v1





COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914
Your Ref: DLM:2110139

19 August 2011

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Dear Colleague

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your clients' details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Claim Number	Region	Schedule
[REDACTED]	Brisbane	Schedule A

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

Michael May
Senior Associate

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F
E

[REDACTED]
Rocco Russo
Partner

ECA210094914 4018093v1





COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914

19 August 2011

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Dear Colleague

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your client's claim.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your client's details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
[REDACTED]	[REDACTED]	Brisbane	Schedule A

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

Michael May
Senior Associate

T
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[REDACTED]
Rocco Russo
Partner

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COOPER GRACE WARD

AWYERS

Our Ref: MJM:RXR 10094914

19 August 2011

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Dear Jodi

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We will write to you separately, for each customer affected by the redactions, identifying how they have been affected.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
[REDACTED]	[REDACTED]	Brisbane	Schedule A
[REDACTED]	[REDACTED]	Ipswich	Schedule B Part 1
[REDACTED]	[REDACTED]	Middle Brisbane	Schedule A
[REDACTED]	[REDACTED]	Brisbane	Schedule A
[REDACTED]	[REDACTED]	Ipswich	Schedule B Part 1
[REDACTED]	[REDACTED]	Ipswich	Schedule A
[REDACTED]	[REDACTED]	Brisbane	Schedule A
[REDACTED]	[REDACTED]	Ipswich	Schedule A
Gourley, M	[REDACTED]	Brisbane	Schedule A
[REDACTED]	[REDACTED]	Brisbane	Schedule A
[REDACTED]	[REDACTED]	Ipswich	Schedule B Part 1



			Brisbane	Schedule A
			Brisbane	Schedule A
			Brisbane	Schedule A
			Ipswich	Schedule B Part 1
			Ipswich	Schedule B Part 1
			Ipswich	Schedule A
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			Brisbane	Schedule A
			Brisbane	Schedule A
			Brisbane	Schedule A
			Ipswich	Schedule A
			Ipswich	Schedule A
			Ipswich	Schedule B Part 1
			Brisbane	Schedule A
			Ipswich	Schedule A
			Ipswich	Schedule A

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

Michael May
Senior Associate

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Rocco Russo
Partner

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COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914

19 August 2011

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Dear Colleagues

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We will write to you separately, for each customer affected by the redactions, identifying how they have been affected.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
		Lower Lockyer	Schedule B Part 2
		Ipswich	Schedule B Part 1
		Emerald	Schedule A
		Ipswich	Schedule B Part 1
		Ipswich	Schedule A
		Ipswich	Schedule B Part 1
		Brisbane	Schedule A
		Ipswich	Schedule A
		Ipswich	Schedule B Part 1
		Ipswich	Schedule B Part 1
		Brisbane	Schedule A



Mr Anthony Reilly
Chief Executive Officer
Legal Aid Queensland
Page 2

Cooper Grace Ward

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any Insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those Insureds.

Yours faithfully
COOPER GRACE WARD

[Redacted Signature]

Michael May
Senior Associate

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E [Redacted]

[Redacted Signature]

Rocco Russo
Partner

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COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914

19 August 2011

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Dear Colleagues

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your clients' details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
[REDACTED]	[REDACTED]	Ipswich	Schedule A

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

[REDACTED]
Michael May
Senior Associate

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Rocco Russo
Partner

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COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914

19 August 2011

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Dear Colleagues

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your clients' details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Claim Number	Region	Schedule
[REDACTED]	Ipswich	Schedule B Part 1

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

[REDACTED]
Michael May
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COOPER GRACE WARD
LAWYERS

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19 August 2011

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Dear Colleagues

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your clients' details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
[REDACTED]	[REDACTED]	Ipswich	[REDACTED]

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

Michael May
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Recco Russo
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COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914

22 August 2011

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Dear Colleagues

RACQ Insurance Limited re Queensland Floods Response

Our client has instructed us to provide to you copies of the hydrology reports relevant to your clients' claims.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to each of your clients.

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your clients' details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
[REDACTED]	[REDACTED]	Brisbane	Schedule A
[REDACTED]	[REDACTED]	Brisbane	Schedule A

This CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully

COOPER GRACE WARD

Michael May
Senior Associate

T
F
E

[REDACTED]
Rocco Russo
Partner

ECA210094914 4020476v1





COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914
Your Ref:

18 October 2011

Insurance Law Service
Consumer Credit Legal Centre
PO Box 538
SURREY HILLS NSW 2010

Level 21, 400 George Street
Brisbane 4000 Australia

GPO Box 834, Brisbane 4001

T 61 7 3231 2444

F 61 7 3221 4356

www.cgw.com.au

ABN 95 591 906 639

Dear Colleagues

RACQ Insurance Limited re [REDACTED] - Claim Number [REDACTED]

We refer to our letter to you dated 19 August 2011 providing copies of the hydrology reports on which our client's claim decisions were made.

The table in that letter omitted to include one of your clients, [REDACTED]

[REDACTED] claim was included in Schedule B Part 1 of the Ipswich reports of which we have already provided you with copies.

Obviously, as [REDACTED] claim has now been accepted as flash flood, this information may no longer be required. However, having noticed the omission, we believe it is appropriate to provide this correction.

Please do not hesitate to contact us if you have any questions regarding this matter.

Yours faithfully

COOPER GRACE WARD

Michael May
Senior Associate

T
F
E

Rocco Russo
Partner

ECA210094914 4125666v1





COOPER GRACE WARD
LAWYERS

Our Ref: MJM:RXR 10094914
Your Ref:

31 October 2011

Katie Ho
Legal Aid New South Wales
Suite 1, Level 2
25 Smart Street
FAIRFIELD NSW 2156

Level 21, 400 George Street
Brisbane 4000 Australia

GPO Box 834, Brisbane 4001

T 61 7 3231 2444
F 61 7 3221 4356

www.cgw.com.au

ABN 95 591 906 639

Dear Colleagues

RACQ Insurance Limited re [REDACTED] - Claim Number [REDACTED]

We refer to our client's letter to you dated 13 October 2011.

That letter stated that your client had been provided with hydrology reports that our client considered in making its decision on your client's claim. We have now realised that, in fact, those reports had not been provided to your client.

Accordingly, we enclose a CD with the compilations of the reports for the regions that relate to [REDACTED]

You will note that some of the names in those reports have been redacted for privacy reasons. We confirm that none of your clients' details have been redacted.

Additionally, the reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. However, in the table below, we have set out those clients who, based on our records, you are currently acting for and the schedules in which each of your client's claims were ultimately determined to be in.

Name	Claim Number	Region	Schedule
[REDACTED]	[REDACTED]	Ipswich	Schedule B Part 1

Please do not hesitate to contact us if you have any questions regarding this matter.

The CD enclosed with this letter does not include the reports for regions in which you do not have clients. Accordingly, if you act for any insured other than those listed above, we would be grateful if you would let us know so that we can provide you with the reports and schedule information for those insureds.

Yours faithfully
COOPER GRACE WARD

Michael May
Senior Associate

T
F
E

Rocco Russo
Partner

ECA210094914 4125668v1



ATTACHMENT 3

RACQ Insurance Ltd
ABN: 50 009 704 152
2649 Logan Rd, Eight Mile Plains, QLD 4113
PO Box 3004, Logan City, QLD 4114
Telephone 137 202 Facsimile (07) 3031 2750

31 October 2011

Mr A Customer
[REDACTED] Logan Road
EIGHT MILE PLAINS QLD 4113

Mr A Customer,

Household Insurance

Policy Number: [REDACTED]

Claim Number: [REDACTED]

We refer to your insurance claim reference number indicated above.

We now enclose for your information a copy of the hydrology report(s) relating to the region in which your property is located.

The reports refer to schedules. Those schedules have been removed for privacy reasons. We confirm, however, that your property was ultimately determined to be in Brisbane, Schedule A.

The reports contain detailed technical information. To assist you in understanding the relevant issues, we enclose a copy of an information sheet we have prepared which summarises our hydrological conclusions in respect of your region.

Sincerely,

[REDACTED]
Operations Support Manager
Personal Insurance Claims

RACQ Insurance Ltd
ABN: 50 009 704 152
2649 Logan Rd, Eight Mile Plains, QLD 4113
PO Box 3004, Logan City, QLD 4114
Telephone 137 202 Facsimile (07) 3031 2750

31 October 2011

Mr A Customer
[REDACTED] Logan Road
EIGHT MILE PLAINS QLD 4113

Mr A Customer,

Household Insurance

Policy Number: [REDACTED]

Claim Number: [REDACTED]

We refer to your insurance claim reference number indicated above.

We now enclose for your information a copy of the hydrology report(s) relating to the region in which your property is located.

The reports refer to schedules containing personal information of customers. Those schedules have therefore been removed for privacy reasons. We confirm, however, that your property was ultimately determined to be in Brisbane, Schedule A.

Additionally, as these reports are being provided to many of our customers, we have masked the personal information of a number of our customers. So that you can understand the reports as they relate to your claim, you should be aware that your personal details have been masked at page 1 of the report dated 14 March 2011 and page 1 of the report dated 25 March 2011.

The reports contain detailed technical information. To assist you in understanding the relevant issues, we enclose a copy of an information sheet we have prepared which summarises our hydrological conclusions in respect of your region.

Sincerely,

[REDACTED]
**Operations Support Manager
Personal Insurance Claims**

CAT L22 7/11

Exhibit 5

[REDACTED]
[REDACTED]
From: [REDACTED] FOS.org.au
Sent: Friday, 4 November 2011 9:51 AM
To: [REDACTED]
Subject: Acknowledging Letter

Dear [REDACTED]

We confirm receipt of the letter dated 31 October signed by your CEO, in relation to hydrology reports.

[REDACTED] will respond at her earliest opportunity.

Kind regards

[REDACTED] Assistant to Systemic & Code Review Team, Legal
& Ombudsman - General Insurance
Financial Ombudsman Service
T: [REDACTED] Toll Free: 1300 78 08 08 | www.fos.org.au
Please consider the environment before printing this email

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Exhibit 6



15 November 2011

Mr Bradley Heath
Chief Executive Officer
RACQ Insurance Limited
P O Box 4
Springwood QLD 4127

Dear Mr Heath

Possible Systemic Issue: Failure to exchange information – hydrology reports
Reference No: 258133

Thank you for your letter dated 31 October 2011 which I received on 3 November 2011.

FOS is currently considering your response and will contact you again at the earliest opportunity.

Please don't hesitate to contact me on [REDACTED] if you have any queries in the interim.

Yours sincerely

Manager – Systemic and Code Review Team, General Insurance.

SICTFSP