

In the matter of the
Commissions Of Inquiry Act 1950

Commission of Inquiry Order (No. 1) 2011

QUEENSLAND FLOODS COMMISSION OF INQUIRY

CLAYTON UTZ--(Ipswich City Council)
2nd Statements of John Adams
#1763302 & Attach JA-1 #1763303
To JA-3 #1763305 File 539764/1
Volume 1 of 1 ORIGINAL

Second Witness Statement of John Stephen Adams

City Planner

Ipswich City Council

QFCI

Date:

28/10/11

Jm

Exhibit Number:

912

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Second Witness Statement of John Stephen Adams

City Planner

Ipswich City Council

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Witness statement of John Stephen Adams

I, **John Stephen Adams**, City Planner of the Ipswich City Council, (variously described throughout this statement as "ICC" or "Council"), 45 Roderick Street, Ipswich in the State of Queensland, affirm as follows:

Introduction

1. This written witness statement is provided as a supplementary statement to my statement dated 2 September 2011 given to this Commission (**JA First Statement**).
2. In this statement I will deal with the following matters:
 - (a) my opinion on how best to address the future management of flood risk in land use planning;
 - (b) issues experienced by Council with the importation of fill from the Ipswich Motorway Upgrade Project;
 - (c) Council response to the Fisher Stewart 2002 Report;
 - (d) Funding of acquisition of high risk flood prone land;
 - (e) Designation of Goodna as a major regional activity centre and the Ipswich CBD as a principal regional activity centre under the South East Queensland Regional Plan 2009-2031 (**SEQRP 2031**);
 - (f) Notification of conditions and advice about flood affected land; and
 - (g) Council's response to the proposed amendments to the Queensland Development Code.

Future Management of Flood Risk in Planning

Review of State Planning Policy 1/03 - Mitigating the adverse impacts of Flood, Bushfire and Landslide

3. A partial review of State Planning Policy 1/03 - Mitigating the adverse impacts of Flood, Bushfire and Landslide (**SPP 1/03**) occurred in the course of an inland flood study which was completed in November 2010 as a joint project of the Department of Environment and Resource Management, the Department of Infrastructure and Planning and the Local Government Association of Queensland. The study resulted in the publication of a document entitled *Increasing Queensland's resilience to inland flooding in a changing climate - Final Report on the Inland Flooding Study* (**Inland Flood Study**).

4. Given the status conferred on a State Planning Policy (SPP) under the Sustainable Planning Act 2009 (SPA), particularly that planning schemes must be made consistent with State Planning Policies and development decisions must not conflict with State Planning Policies where the State Planning Policy has not been incorporated in the scheme, I consider that SPP 1/03 should continue to be used to guide how flooding is to be addressed in planning schemes. In my opinion and following the flooding experienced across South East Queensland in 2011 (2011 Flood Event), a detailed review of SPP 1/03 should be undertaken by State agencies (particularly the Department of Local Government and Planning, Department of Environment and Resource Management and Department of Community Safety) in consultation with affected local governments. Such review should encompass:

- (a) hydraulic, hydrologic and climate parameters, including an agreed approach to appropriate and realistic rainfall and climate change inputs for various regional areas; and
- (b) provisions for flood plain management, including:-
 - (i) a merits based approach which has regard to Ecologically Sustainable Development as defined in section 8 of SPA, balancing social, economic, environmental and flood risk parameters to determine appropriate and sustainable land use and development outcomes which avoid unnecessary sterilisation of flood affected land;
 - (ii) an appropriate suite of both planning scheme and non scheme measures (e.g. evacuation processes and routes) to deal with existing land uses, existing development commitments and infill development within established areas; and
- (c) consideration of: -
 - (i) the benefits of requiring a standard method for undertaking a flood study in determining a Defined Flood Event (DFE);
 - (ii) whether there is a need to specify how frequently a flood study should be reviewed or updated;
 - (iii) whether standard criteria should be developed that outlined the circumstances where a DFE which is higher or lower than 1 percent Annual Exceedance Probability (Q100) is appropriate for residential land use planning.

Regional Flood Studies

5. State Agencies (particularly the Department of Local Government and Planning, Department of Environment and Resource Management and Department of Community Safety) should undertake catchment based regional flood studies in partnership with the affected local governments. These studies are often beyond the financial capacity of smaller Councils and often tax the financial capacity of larger Councils (such as ICC). Limiting factors for ICC would include:
 - (a) financial and budget constraints;
 - (b) experience and skills matrix of staff;
 - (c) competing projects for staff and financial resources;
 - (d) degree of knowledge of hydraulic factors for areas in a catchment outside the local government area; and
 - (e) reliance on a relatively limited amount of specialist consultants.

6. Regionally based flood studies should:-
 - (a) incorporate a regionally consistent, catchment wide approach to determining likely flooding effects and associated flood plain management, mitigation works and catchment alert / warning systems;
 - (b) be funded by the State; and
 - (c) incorporate appropriate dam management processes, where such processes are capable of having a significant impact on flood mitigation and can be relied upon to be adhered to.

7. The operation of Wivenhoe Dam (and its associated flood storage capacity and water releases) is a very important issue in terms of flood mitigation for planning and development purposes in Ipswich City. The height and volume of flows in the Brisbane River has a major impact in terms of flooding in the Bremer River catchment and the other affected tributary creek lower reaches (eg Six Mile, Goodna and Woogaroo Creeks) during regional flood events. Accordingly, these impacts need to be thoroughly considered as part of any new flood study encompassing the Ipswich Local Government Area. In addition, consideration should also be given to the feasibility and cost/benefit associated with developing additional flood storage and mitigation capacity within the Bremer catchment itself.

Treatment of Earthworks from State projects

8. Across the City of Ipswich, fill sourced from the Ipswich Motorway upgrade project has been placed on land without approval from the ICC.
9. Schedule 4 of the Sustainable Planning Regulation 2009 (**the SPR**) provides that all aspects of development for the maintenance, repair, augmentation, upgrading, duplication or widening of State-controlled road infrastructure is exempt from assessment against a planning scheme. Approval to import fill from the Ipswich Motorway Upgrade Project was therefore not required under the Ipswich Planning Scheme.
10. Members of the public have raised concerns with Council about the importation of fill from the Ipswich Motorway Upgrade Project at a range of locations in Ipswich including:-
 - (a) 40 – 64 Ipswich Boonah Road, Purga (Swifts Rugby League Football Club);
 - (b) 11 Moggill Ferry Road, Riverview;
 - (c) 203 Old Ipswich Road, Riverview;
 - (d) 36 Child Street, Riverview;
 - (e) Corner Church and Woogaroo Streets, Goodna; and
 - (f) Citiswich Estate, Bundamba.
11. The concerns raised relate to queries about the type of development that is proposed and concerns about filling of floodplains, watercourses and overland flow paths.
12. The placement of the fill without approval from state-controlled roadworks projects can result in fill being placed in flood prone areas, stormwater flow paths and environmentally sensitive areas, without any technical assessment by Council of the impacts. The placement of fill in this manner can also create assessment and compliance issues for the receiving landowners, who are required to obtain Council approval to use the land which is the subject of the earthworks, or to undertake further earthworks involving the imported fill. Compliance action by ICC is not always straightforward because of the difficulty in distinguishing the exempt placement of fill and assessable earthworks associated with that fill.
13. Council has raised its concerns with the placement of fill from state-controlled road projects by both letter and discussions with the Department of Transport and Main Roads. See **Attachment JA-1** for copies of Council's correspondence with the Department of Transport and Main Roads.

14. Council also raised this issue at the Local Government Association of Queensland (LGAQ) Conference on 3 June 2011, where it put a motion to LGAQ to make representations to the Department of Infrastructure and Planning and the Department of Transport and Main Roads to review the extent of development exemptions that exist for moving and storing soil from state-controlled roadworks projects. A copy of this motion is contained in **Attachment JA-2**. I understand that this motion has been supported by LGAQ.
15. In my opinion, any exemption for earthworks associated with State Government projects, particularly large transport projects, should be clarified to ensure that the exemption only applies where that fill is being placed within the construction site for those projects.

Fisher Stewart 2002 Report

16. Mr Carl Wulff was asked during evidence he gave to this Commission about the Ipswich City Council Natural Disaster Studies Risk Management Program Stage 3 Risk Evaluation and Treatment Report (**the Fisher Stewart 2002 Report**). The Fisher Stewart 2002 Report recognises on Page (vii) of the Executive Summary that the future recommended risk treatment actions require major funding beyond Council's ability (including \$303.5 million for flooding based on 2002 dollars) and that some actions are not within Council's responsibility.
17. In Section 3.2.1 the Fisher Stewart 2002 Report recommends town planning scheme measures to:-
- (a) strictly limit land development below the 20 year ARI flood in existing developed areas;
 - (b) strictly limit land development below the 100 year ARI flood in greenfield areas; and
 - (c) ensure developments take account of access to and egress from these areas during flood.
18. These recommendations are consistent with the Overlay Code for Flooding and Urban Stormwater Flowpath Areas contained in Clause 11.4.7 of the 2004 Ipswich Planning Scheme and the 2006 Ipswich Planning Scheme.
19. The report also advocates the purchase and removal of properties from within primary flow path areas (\$112 million in 2002) and raising of houses affected by the 100 year ARI flood (\$30 million in 2002). The ability for Council to both fund and enforce these proposals was and still is difficult to achieve.

Funding of acquisition of high risk flood prone land

20. In my view, the State and Commonwealth Governments could provide increased financial assistance to acquire high risk flood prone land (below the 1 in 20 development line) within existing urban areas, particularly where such land is capable of forming part of an integrated open space network of park and drainage land.
21. The acquisition of such land is beyond the current financial capacity of most local governments, (including ICC). Purchasing the most frequently affected flood prone land and converting its use to open space has ongoing benefits for all levels of government in terms of reduced expenditure on natural disaster recovery.
22. It is anticipated that the cost associated with the acquisition of land below the 1 in 20 development line in Ipswich would be significant, and potentially in the order of hundreds of millions of dollars.
23. Local flood mitigation works (levee banks, flood gates, etc) could also be eligible for State and Commonwealth Government funding subsidies where it can be demonstrated that such works are capable of protecting existing urban areas (particularly where those areas contain high value community assets, such as within town centres) and do not adversely affect other nearby land.

South East Queensland Regional Plan 2009-2031 (SEQRP 2031)

24. I understand that the Commission may be interested in whether or not the 2011 Flood Event should be considered in the designation under the South East Queensland Regional Plan 2009-2031 (SEQRP 2031) of Goodna as a major regional activity centre and Ipswich CBD as a principal regional activity centre.
25. Under the SEQRP 2031, Goodna is designated as a Major Regional Activity Centre and the Ipswich CBD as a Principal Regional Activity Centre. These designations were also conferred in the previous South East Queensland Regional Plan 2005-2026.
26. Residential development densities for major activity centres such as Goodna are specified in the SEQRP 2031 at around 30-80 dwellings per hectare net. As a major activity centre, Goodna is seen as complementing the principal Regional Activity Centres of Ipswich and Springfield with a sub-regional business service and retail function. The Goodna Major Regional Activity Centre area (comprising the Major Centre and adjoining Residential Medium Density and Special Uses Zones) contains 63ha of which 21.7ha (34%) is situated below the 1 in 100 flood level. 27ha (42.7%) of this area was affected by the January 2011 Flood Event.

27. As referenced in the JA First Statement, Council has also adopted new planning controls for Special Opportunity Areas under the Temporary Local Planning Instrument 01/2011 Flooding Regulation (**the TLPI**), which includes the Goodna North and Woogaroo Creek Special Opportunity Areas. While these Special Opportunity Areas sit outside the Goodna Town Centre, their designation as Special Opportunity Areas in the TLPI will allow these areas to transition to non residential uses.
28. The Ipswich City Centre (comprising the City Centre Zones) contains 151ha of which only 14.7ha (9.7%) is situated below the 1 in 100 flood level. 26ha (17%) was affected by the January 2011 Flood Event.
29. In recognition of the Centre's hierarchy in the SEQRP 2031, the Queensland Government and the Council jointly developed the Ipswich City's Regional Centre Strategy which has resulted in a recent amendment of the 2006 Scheme. With the growth of Ripley and Springfield, Ipswich now has the population to support the revitalisation of its CBD. As noted in paragraphs 17.7 and 17.8 of the Queensland Floods Commission of Inquiry Further Submission by the Ipswich City Council dated 28 April 2011 (**the Second Submission**), to facilitate this revitalisation, Council has entered into commercial arrangements for the development of a mixed use precinct of 150,000 m² of gross floor area over a 15 year period. This development is anticipated to incorporate 6 towers of a minimum of 10 storeys each comprising commercial office towers, residential towers plus a regional shopping centre (of approximately 60,000 m² of gross floor area). The State Government has publicly confirmed that it will re-locate a significant number of State public servants to Ipswich. The upgrade of the Ipswich City rail station in Bell Street is expected to occur providing further impetus for this development within the Ipswich CBD .
30. Attachment JA-3 – "Ipswich 2020 and Beyond, City of Centres and Job Generators" illustrates the strategic framework for future urban development within the ICC Local Government Area (**LGA**) which is reflected in the Strategic Framework in part 1 of the Ipswich Planning Scheme.
31. The Ipswich urban development areas are intended to be served by an integrated network of major centres comprising:-
- (a) the Ipswich City Centre and Springfield Town Centre, as regionally significant – Principal Activity Centres;
 - (b) Goodna and Ripley Town Centres, as regionally significant – Major Centres; and
 - (c) Redbank Plains, Booval, Brassall, Yamanto, Walloon and Rosewood as Major Suburban Centres.

32. The Ipswich City Centre is the historic administrative centre for the western corridor of South East Queensland and is centrally located to serve all of the growth corridors in the Ipswich LGA as well as the adjoining LGAs of Scenic Rim, Somerset and Lockyer Valley.
33. These centres are located to service both local and district wide catchments and are well spaced and distributed to serve the planned urban footprint.
34. The Goodna Town Centre is well located, adjoining the Ipswich Motorway and the Ipswich to Brisbane rail line and is strategically positioned to serve the adjoining eastern suburbs of Ipswich. It has capacity to cater for approximately 3000 jobs. As a Town Centre, it provides for a concentration of both non-residential and residential activities that will enable more feasible solutions for flooding to be considered in its development.
35. No major centre in South East Queensland is fully immune from flooding or stormwater drainage events, including Toowoomba and the Brisbane CBD. While the Council recognises that Goodna and the Ipswich City Centre are likely to be flood affected in some events, Council has commissioned engineering assessments to determine the feasibility and likely effectiveness of physical works (eg levees or flood gates) to further improve flooding immunity in both the Ipswich City Centre and at Goodna. These assessments are still underway.

Notification of conditions and advice about flood affected land

36. Property information (including flood information) is readily available on line through Council's website, including:-
- (a) Council's PD Online database;
 - (b) Council's new major flood map search facility; and
 - (c) Council property searches available on the Council website.
37. Information on development conditions is also available through:-
- (a) Council's PD Online database, which provides full details of development decision notices for applications lodged since 1 January 2005, including conditions; and
 - (b) Standard and Full Planning and Development Certificates which can be requested by members of the public for a fee for any identified parcel of land.
38. In my opinion, providing information relating to development conditions on Council's rates notices to alert landowners of development conditions is unlikely to be completely successful, as:-

- (a) the recipients of the notice may disregard the additional information such as conditions on quarterly rates notices;
- (b) the recipients of the notice may not be the occupants of the land;
- (c) it would in many cases be difficult for Council to identify which conditions to highlight out of often quite lengthy decision notices; and
- (d) collating all decision notices to attach to each rates notice would be administratively difficult and time and resource intensive.

39. Alternatives that could be considered to provide landowners with relevant information on development conditions on acquisition of a property include:-

- (a) requiring all business property transfers to obtain at least a Standard Planning and Development Certificate and all other property transfers (residential) to obtain a Limited Town Planning Certificate (which must include zoning and constraints overlay information as well as known flood levels), similar to the requirement for road worthy certificates for motor vehicle transfers; or
- (b) notations on the Certificate of Title of development approvals, which would be discoverable upon a standard titles search.

Queensland Design Code Issues

40. I have sighted the statement of Glen Thomas Brumby dated 15 September 2011 provided to this Commission. With respect to paragraphs 37 to 57 of this statement, I make the following comments:

- (a) In my view, it is important that Local Government retains its role as assessment manager for development on flood affected land. This should be achieved principally through relevant planning scheme provisions informed by a review of SPP 1/03 rather than through mandatory building code provisions which are assessed by a private certifier.
- (b) Building design and placement, including associated streetscape impacts and prescribed heights for habitable floor levels are important planning matters, particularly when dealing with infill development within existing urban areas. Building design issues can impact on housing affordability, visual amenity, overlooking and the potential to develop small lot housing to meet SEQRP 2031 housing targets. These matters of building design, habitable floor levels and

building placement are best dealt with by local government in the context of the local planning scheme.

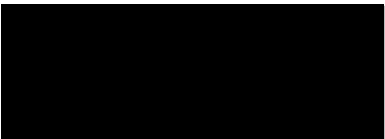
- (c) State wide, mandatory building code provisions (assessed by private certifiers) should relate principally to structural adequacy, use of flood resistant materials (i.e. non porous) and construction techniques (for example, no cavity walls).
- (d) Practical exemptions need to be available for extensions to existing buildings and minor outbuildings (for example, garages, sheds, carports).
- (e) It is considered reasonable that the Queensland Development Code (QDC) include a default provision requiring habitable rooms to be constructed 500 mm above the DFE. However where the DFE is more than one storey, for example, 2.5m above ground level, the building design and habitable floor levels should be assessed by the local government because of the potential impact on streetscape and amenity.
- (f) Building design and habitable floor levels for extensions or alterations to heritage or character places should also be assessed by local government as there will need to be an assessment of the potential cultural heritage and streetscape impacts.
- (g) For additions to buildings, the requirements to raise habitable floor levels for building extensions should only apply to major extensions such as those more than 50m² gross floor area.
- (h) It would be preferable to undertake a regulatory impact assessment to determine the likely costs prior to implementing mandatory building provisions relating to flooding in the QDC.
- (i) Glen Brumby's suggestion to require engineering certification for building works within flood affected areas subject to a flow rate of greater than 1.5m per second has merit, but is likely to be problematic to implement in the short term owing to the lack of availability of this data and cost of procuring that data in many local government areas.
- (j) Once new flood studies are undertaken, this information is likely to be able to be determined and mapped. However, if such a provision were to be introduced as a blanket mandatory requirement of the QDC, most building works in flood affected areas would therefore need to have a hydrology study undertaken. This would be a significant cost to applicants. It would be preferable if the provisions apply only once the local government has maps available which depict high flow areas (more than 1.5m per second), as opposed to back water inundation.

Amendments to SPA

41. In the Second Submission at paragraphs 1.4, 11.2 and 18.5, Council indicated the constraint to implementing amendments to the planning scheme to address flood related issues was the exposure of Council to claims for compensation for injurious affection. Whilst the Sustainable Planning Act 2009 (SPA) has reduced exposure to compensation for local governments, SPA should be amended to be clear that no compensation is payable (for example for injurious affection or loss of yield) should a local planning instrument be amended for the purposes of natural disaster mitigation.

AFFIRMED this ^{25th day jda SF} of October 2011 at Ipswich in the State of Queensland in the presence of:

...



John Stephen Adams (Deponent)

...



(Solicitor)

Attachment JA-1

Your reference
Our reference 6L:DMJ
Contact Officer Glenn Gellatly
Telephone 3810 7295



Ipswich City Council

45 Roderick St
PO Box 191
Ipswich QLD 4305
Australia

Tel (07) 3810 6666
Fax (07) 3810 6731
Email council@ipswich.qld.gov.au
Web www.ipswich.qld.gov.au

[REDACTED]
Project Manager, Ipswich Motorway
Upgrade, (Dinmore to Goodna)
PO Box 70
Springhill QLD 4004

30 July 2010

Dear Sir/Madam

Re: Fill from State Road Projects

In light of the numerous State controlled road upgrade projects within the Ipswich City Council area, this correspondence promotes information available from Ipswich City Council, to inform the responsible placement of excess fill/spoil from the roadworks projects, and identify approvals required for subsequent development.

Council is committed to taking positive steps in working together with the State Government, its contractors and landowners to protect the local environment, amenity of local residents and maintain the integrity of development within Ipswich. To assist Council in this endeavour it is requested that you distribute this advice, to your contractors and landowners receiving fill on their lands associated with State controlled road projects in Ipswich City.

It is acknowledged the placement of spoil associated with works on a State controlled road is deemed not to be development under the Sustainable Planning Act 2009, and Council approval is not required. At the same time, placement of fill in constrained areas may prejudice subsequent development on the site, requiring expensive relocation of the spoil. Also, the subsequent new or intensification of existing use, may trigger development approvals under the planning scheme. To inform all parties of the constraints on the site, and any subsequent development approvals, DTMR, your contractors and the recipients of fill are encouraged to contact Council before the placement of fill to seek advice on these matters.

Council is able to provide information, free of charge to DTMR, your contractors and recipients of spoil/fill from the state controlled road projects, regarding the location of infrastructure, flood prone areas, stormwater flow paths and environmentally sensitive areas to inform the appropriate placement of fill material. Planning advice on subsequent development approvals is also available from Council free of charge. To source this information and advice, please contact Council's Planning and Development Department on (07) 3810 6888.

Please note that this correspondence is intended for distribution to relevant parties as necessary.

Yours sincerely

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes.

DEVELOPMENT PLANNING MANAGER

Attachment JA-2

Title: DTMR Development Exemptions for Moving/Storing Soil From State Controlled Road Roadworks

Motion: That the Local Government Association of Queensland make representations to the Queensland Government Department of Transport and Main Roads and Department of Infrastructure and Planning requesting the review of the extent of development exemptions which exist for moving and storing soil from state-controlled road roadworks.

Background: Councils (particularly in high growth areas) are experiencing increasing instances where large quantities of earthworks are being deposited onto private land by DTMR as a result of maintenance, repair, augmentation, upgrading, duplication or widening of State-controlled road infrastructure (and ancillary works). This activity may not be declared to be development of a particular type by the instruments referred to in section 232(2) of the *Sustainable Planning Act 2009* (SPA).

Local Governments are not consulted on the placement of fill, or the potential impacts on the receiving environments such as damage to riparian creek corridors, erosion and sediment control and unknown and unquantified impact of earthworks on flood events. Additionally, concerns exist about the expectations of land owners that subsequent development using the fill is exempt development. This may result in development offences.

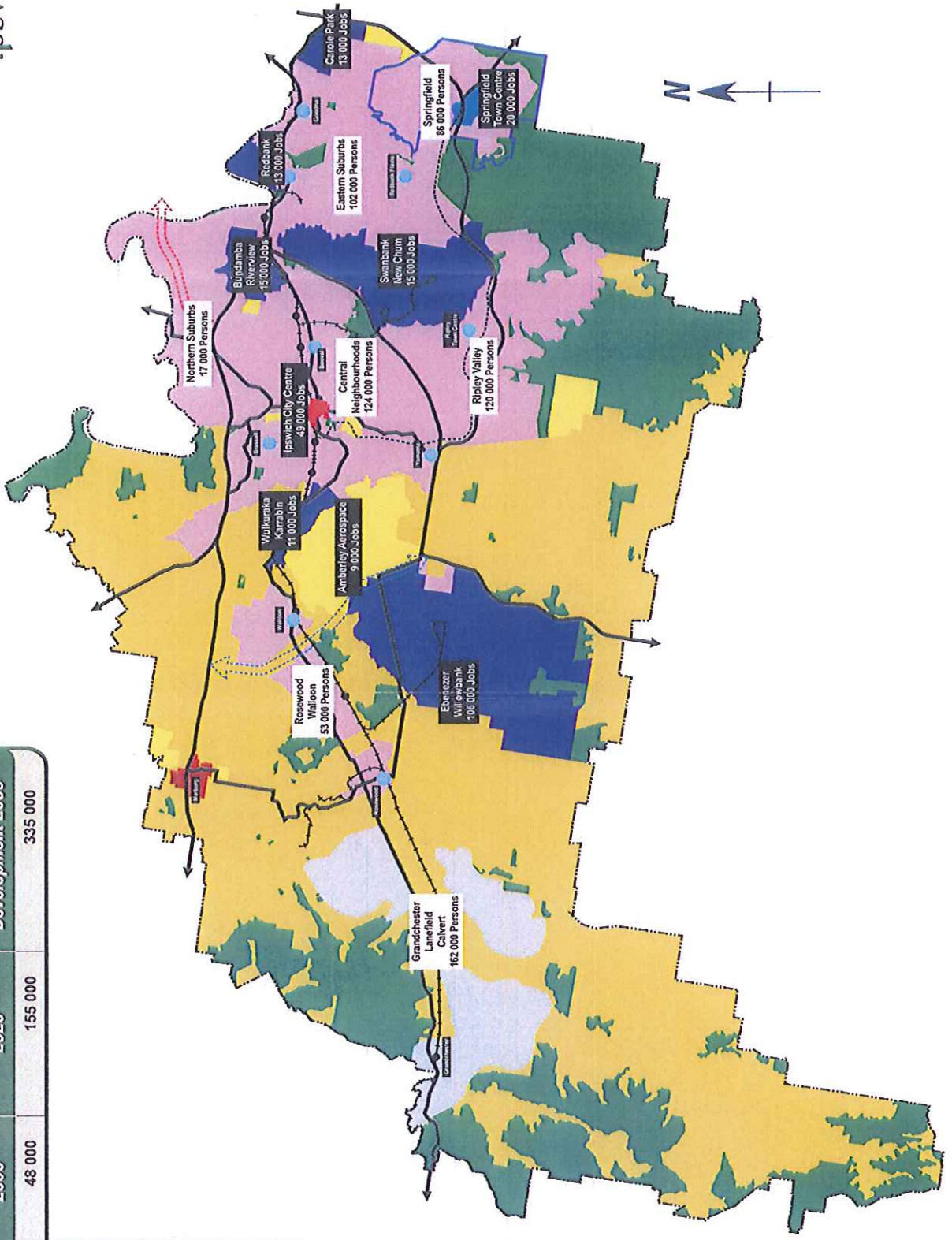
It is strongly recommended that amendments be made to legislation for the placement of fill from state controlled roads to constitute assessable development and the activities undertaken are appropriately considered and/or appropriately assessed to determine they do not impact on the environment; and do not create unrealistic development expectations for private individuals on receiving lands. If amendments to legislation are not supported by Queensland Government, then notification to the relevant local government is sought regarding the intention to carry out such activity, providing opportunity for representations to be made by the local government and local community about the intended activity and determination if subsequent earthworks and uses require development approval.

Attachment JA-3

IPSWICH 2020 & BEYOND

City of Centres & Job Generators

Population 2008		Population 2026		Population Ultimate Development 2056+	
Population	155 500	318 000 - 347 000	675 000	Jobs	48 000
Jobs	48 000	155 000	335 000	Jobs	155 000
				Jobs	48 000



July 2008 **Legend**

- Existing and Future Living Areas
- Future Urban Investigation Areas
- Employment Areas
- Rural Areas
- Greenhouse Areas
- Special Use Areas
- Transition Areas
- Ipswich Central CBD
- Springfield Town Centre (Citywide CBD)
- Other Major Centres
- Existing Highway / Regional Transport Corridor
- Proposed Highway / Regional Transport Corridor
- Proposed Transport Corridor
- Regional Transport Corridor (to be further investigated)
- Existing Railway & Stations
- Proposed Railway to Ipswich
- Proposed Light Rail Corridor
- City Boundary