



**GRANTHAM FLOODS COMMISSION OF INQUIRY**

**SUBMISSIONS IN REPLY ON BEHALF OF WAGNER INVESTMENTS PTY LTD  
AND WAGNERS AUSTRALIAN OPERATIONS PTY LTD**

**14 September 2015**

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1. These submissions deal with a few matters raised in submissions lodged with the Commission that Wagners should, appropriately, reply to. For convenience, we adopt the same terminology used in the closing submissions made on behalf of Wagners dated 28 August 2015 (*“Wagners’ Closing Submissions”*).
2. As at the date of preparing these submissions in reply, a number of submissions have been uploaded into the Commission’s Data Room as *“Submissions to Commission 2015”*, including from the parties with leave and a number of people who do not have leave. A number of people have lodged multiple submissions.
3. None of the matters raised by the parties with leave or the people who do not have leave but have lodged submissions alter the findings urged in Wagners’ Closing Submissions.
4. Further, subsequent to the conclusion of the public hearings, Dr Macintosh has undertaken further modelling at the request of a party (not Wagners). The results of that further modelling are set out in his further report dated 3 September 2015. The opinions previously expressed by Dr Macintosh have not altered.

## **THE WEST GRANTHAM RESIDENTS SUBMISSIONS**

5. The expressed concerns about the reliability of the modelling are, frankly, baseless<sup>1</sup>. Every single hydrologist has expressed the opinion that the modelling undertaken for this Commission is reliable and in fact very well calibrated to the objective evidence such as photographs, video recordings and post-flood surveys<sup>2</sup>. The concerns asserted in this regard ought to be rejected outright because they contradict the expert evidence<sup>3</sup> and cannot

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<sup>1</sup> Submission made on behalf of the West Grantham Residents from paragraph [29] onwards.

<sup>2</sup> See for example paragraphs [142] to [144], [147] and also paragraphs [152] to [157] of Wagners’ Closing Submissions.

<sup>3</sup> See for example **Szylkarski T17/1356L4-11** *“It contains very extensive - - -?---And very detailed timing. I would say I’m a bit surprised how good some of the timing is. MR SOFRONOFF: Surprised by what?--How good the timing is. You know, to be able to distinguish things to the order of minutes in terms*

stand in the face of the demonstrated calibration of the models with eye-witness accounts, videos and photographs etc<sup>4</sup>.

6. The speculation and expressed concern about the batching plant area<sup>5</sup> finds no support in the expert and survey evidence lead during the public hearings<sup>6</sup>. Subsequent to the conclusion of the public hearings, Dr Macintosh has undertaken further modelling for the “no quarry” case without the topographic features associated with the materials processing, storage and batching plant area (“*the plant area*”)<sup>7</sup>. It appears that Mr Starr has given some

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*of calibration is extremely accurate. We would not normally in a normal flooding study have that level of data or that level of information to calibrate a model, so from a modelling point of view it does indicate that the model is quite well calibrated.” See also Macintosh T17/1324L8 to 1325L10 “Any doubts or any inherent weakness that the modelling might have in relation to taking into account debris and roughness, you've taken into account the timing of the arrival of the flood anyway, haven't you?---More to the point, in my testing of the model to determine that it's functioning properly and so forth for my purposes, one key part of it is if the model produces a simulation outcome which differs from expectations or observations that means there is something in the model which isn't right and isn't simulating properly. This being the case, the model performed and matched up with observations and my expectations as well which therefore indicated that the effects of debris or other factors were not significant for my purposes. The last issue is this. Mr Holt put to you this proposition, not perhaps quite this accurately, but he said to you to the effect that you were modelling a 2011 flood with a quarry - - -?---Yes. - - - and that was obviously an event which occurred?---Yes. Then you were asked to model the 2011 flood without the quarry, and that was an event which did not occur?---Correct. What your evidence was in response to that line of cross-examination was that in modelling the 2011 flood without the quarry you relied upon the 2011 flood modelling with the quarry and then withdrew, in effect, the effect of the quarry?---That is correct, yes. Presumably, if you are doing a comparative model like that the strength or accuracy of your modelling of the 2011 flood without the quarry somewhat depends upon the strength of your modelling of the 2011 flood with the quarry. Do you agree with that?---Yes, I do. You would agree, wouldn't you, with this proposition, that your modelling of the 2011 flood with the quarry is corroborated by a large and reliable body of independent objective evidence?---To an extent. Why I say "to an extent", the eyewitness accounts were faithful and so forth, but the definition of reliable is a subjective one rather than a quantitative one. With your intent, I do agree with you, yes. Would you agree with this. Your modelling of the 2011 with the quarry is corroborated by a good deal of electronic evidence?---Yes, I do. Yes. The electronic evidence, such as the videos, the photographs, are all consistent with and corroborate your modelling. Do you agree with that?---Yes, I do, Mr Davis. I beg your pardon in that regard. Once you're in that position where your 2011 modelling with the quarry is corroborated in that way, that must give you much confidence that your modelling of the 2011 flood without the quarry is reliable?---It does indeed.”*

<sup>4</sup> See in particular Ex. 167 – the validation video.

<sup>5</sup> Submission made on behalf of the West Grantham Residents at paragraphs [33] to [35].

<sup>6</sup> In this regard, we repeat and rely on paragraph [140] of Wagners’ Closing Submissions.

<sup>7</sup> Macintosh report dated 03.09.15 at section 3, see paragraph [16].

advice to Dr Macintosh about the topography of the plant area<sup>8</sup>. Dr Macintosh's conclusion about further modelling (excerpted below) supports the conclusions urged by Wagners:

*"24 I have interpreted these hydrographs by comparing the No Quarry Operations scenario against the results of the No Quarry scenario as set out in my previous reports. My views are summarized as follows:*

- no change to delay times to the Most Likely scenario case;*
- a slight reduction in the peak flow rate in Lockyer Creek of about 60m<sup>3</sup>/s (2%);*
- a small increase in the peak flow rate in the Western Overbank of about 110m<sup>3</sup>/s (10%);*
- no apparent change in the peak flow rate in the South Western Overbank;*
- a reduction in peak flow depth and flow intensity at near 25 Quarry Access Road of about 0.2m (15%) and 0.6m<sup>2</sup>/s (20%) respectively, compared to the No Quarry case;*
- no apparent change to depth or flow intensity at the other reference locations.*

...

*26. The observed reduction in flow depth and intensity at near 25 Quarry Access Road is the largest change across the reporting locations. This location is closest to the Grantham Quarry and I therefore considered it necessary to review the effect of the No Quarry Operations scenario at the 7 additional reference points (shown as red dots in Figure 1.2). I have produced plots of flow depth and intensity at these locations for the cases of No Quarry, No Quarry Operations and Most Likely for comparison, Figures 3.5 to 3.11.*

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<sup>8</sup> Macintosh report dated 03.09.15 at section 3, see paragraphs [19] and [20].

27. *I have interpreted the information presented in the above plots by making comparison between No Quarry and No Quarry Operations scenarios. My views are summarized as follows:*

- *there is no apparent change to flow depth and intensity at the locations of Ryman, Gallagher and Produce Paddock;*
- *at the Mallon reporting location, there is a reduction in depth of less than about 0.1m and a reduction in intensity of less than about 0.1m<sup>2</sup>/s;*
- *at the Sippel reporting location, there is a reduction in depth of less than about 0.2m and a reduction in intensity of less than about 0.2m<sup>2</sup>/s;*
- *at the Besley reporting location, there is a reduction in depth of up to about 0.3m and a reduction in intensity of up to about 0.3m<sup>2</sup>/s, with the greatest reduction being on the rising limb of the hydrographs; and*
- *at the Gillespie reporting location, there is a reduction in depth of less than about 0.2m and a reduction in intensity of less than about 0.5m<sup>2</sup>/s”*

7. The submission that the terms of reference have not been adequately addressed by the experts should be rejected<sup>9</sup>. Not a single expert expressed the opinion that the hydrological investigations needed to be expanded to determine what impact the Grantham Sandplant had on the flooding. Further, it was not stated or suggested by Mr Starr that his geotechnical investigation was inadequate<sup>10</sup> in respect of determining the natural topography of the Grantham Sandplant. Nor was it put to Mr Starr by Senior Counsel acting for the West Grantham Residents (or any other party) that his investigation in this regard was inadequate. In fact, Senior Counsel for the West Grantham Residents cross-examined Mr Starr about a 1981 survey<sup>11</sup> and put to him that the survey plan accorded generally with what Mr Starr had extrapolated. Mr Starr agreed that they were “*not far away.*”<sup>12</sup> It is

<sup>9</sup> Submission made on behalf of the West Grantham Residents at paragraphs [38] and [43].

<sup>10</sup> Submission made on behalf of the West Grantham Residents at paragraph [43].

<sup>11</sup> The survey plan was part of Ex 94 at page 28 (statement of Mr Flint declared 24.07.15).

<sup>12</sup> **Starr** T12/1040L15 to 1041L9 “*Mr Starr, could we look at plate 21 which you say is an extrapolation, and have put next to that exhibit 94 IF-2 at page 28. Whilst they come, Mr Starr, exhibit 94 at page 28 is a survey that was taken of this area on 6 August 1981? ---Alright. Have you seen that survey*

noted that Mr Starr has prepared a further report dated 2 September 2015 that considers, amongst other things, the topography of the batching plant area and concludes, in effect, that there is no effect to the conclusions he reached in his first report<sup>13</sup>. In any event, it is noted that Mr Starr has undertaken further work to determine the topography of the plant area<sup>14</sup> and as noted above, that has been taken into account by Dr Macintosh in his new report dated 3 September 2015.

8. There is no “*debate*” or “*conjecture*” about the magnitude of the impact of the bunds to the flow and intensity of the flood<sup>15</sup>. That has been comprehensively dealt with by the expert evidence which is, in effect, that there was little to no effect on the rate of increase of flood depth or intensity<sup>16</sup>.

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*previously?---No, I have not seen it. Rather than putting those up there, if we can just go to that survey which is page 28 of Mr Flint's statement which is exhibit 54. It's exhibit 94, IF-2 on page 28. Your plate 21 is extrapolations you have made from certain measurements including the photographs?---Yes. So, can I ask, is the 81 survey something that has just been found today? It's been around for a while but it hasn't got to your position before today? --Alright. Okay. Presumably since 1981 it's been around. It's page 28 of the exhibit. The exhibit is IF-2 and it's page 28 of IF-2?--- Thank you. It's the last of those three pages. That's right, item 13 on page 28. You've got to go to the exhibit and it's item 13 on the exhibit, which you've got on the right-hand side. It's two pages on. That's it. Thank you. It may be difficult for you. The next page please. If you could just bring that out. We see that that is a survey of 6 August 1981. If we can just pop that out so we can just get the measurements a bit more fully. Just up a little bit. Thank you. I know you haven't got your extrapolation in plate 21 there with you but looking at that do the survey marks that appear on that, or that survey plan, does that appear to accord generally with what you extrapolated?---I think that survey line in probably taken along the fence. Yes?---And they would be slightly lower than the figures I've assessed for the top of the terrace. And the measurements within the area, they generally accord with what your extrapolation was?---They're not far away. Yes. I'm looking - apart from the fence line, I'm looking in this area here because I've said that I think I know what the topography is here. I'm not so sure here.”*

<sup>13</sup> Starr report dated 02.09.15.

<sup>14</sup> Starr report dated 02.09.15.

<sup>15</sup> Submission made on behalf of the West Grantham Residents at paragraphs [10], [11], [70c.] and [70d.].

<sup>16</sup> Ex 144 – the figures in Dr Macintosh’s supplementary report dated 17.08.15 which indicate that the Grantham Sandplant had little to no impact on depth or intensity.

9. Finally, this Inquiry is not a compliance audit<sup>17</sup> of Wagners' operations at the Grantham Sandplant. When the bunds were created and by whom and whether or not Wagners or any predecessor did or did not comply with the various permits are not matters which fall within the terms of reference and are not relevant<sup>18</sup>. Alternatively, the evidence is inadequate to support an adverse finding against Wagners<sup>19</sup>. Further, there are reasons why as a matter of discretion, no such findings ought to be made and we deal with that under the heading "*No Findings ought to be made on Ancillary Matters*" below.

## THE GRANTHAM FAMILIES SUBMISSIONS

10. As to the submissions about the timing of creation of the bunds<sup>20</sup> and asserted breach of conditions<sup>21</sup>, we repeat paragraphs 8 and 9 above.
11. It appears that the force and validity of the expert evidence and the modelling the experts have undertaken is accepted by the Grantham Families<sup>22</sup>. That is not surprising given the extent to which the modelling has been calibrated with the objective evidence collected by the residents during this devastating natural disaster<sup>23</sup>. The examples given<sup>24</sup> of asserted differences between Dr Macintosh's model and images are, with respect, unfair and of no assistance to the Commission<sup>25</sup>. Firstly, the model in question was flow intensity, not depth.

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<sup>17</sup> Submission made on behalf of the West Grantham Residents at paragraphs [9] and [13] to [28].

<sup>18</sup> In this regard, we repeat and rely on paragraphs [19] to [31] of Wagners' Closing Submissions.

<sup>19</sup> In this regard, we repeat and rely on paragraphs [32] to [121] of Wagners' Closing Submissions.

<sup>20</sup> Submission made on behalf of the Grantham Families at paragraphs 4 iii, 5iii and [20] to [24].

<sup>21</sup> Submission made on behalf of the Grantham Families at paragraphs [33] to [43].

<sup>22</sup> Submission made on behalf of the Grantham Families at paragraph [93] and [97].

<sup>23</sup> The only inconsistency between the modelling and the eye-witness accounts is the aspects of Mr Warburton's evidence that are addressed by Dr Newton in paragraphs [42] to [51] of his supplementary report (Ex 166),

<sup>24</sup> Submission made on behalf of the Grantham Families at paragraphs [99] and [100].

<sup>25</sup> **Szylkarski** T17/1379L20-36. "*MR TOBIN: If, in fact, the model has that type of error in it, that would concern you as to the conclusions that the model draws. Is that correct?---I would say that this is sort of within my expectation of the accuracy of the model. The reason I say that, without knowing the results exactly, and I do caution that - I mean, I'm not sure exactly what time this is, but as it was a fast-moving flood we need to ensure that we have the right time. In addition to that, if this depth is - and this is flow intensity that we're looking at here - but if this depth is, you know, of the order of .1*



Secondly, when one examines the legend to Dr Macintosh's model, it is seen that for the blue colour in question, it has a range starting at zero. Finally, it is not at all clear that the image shown to Mr Szylkarski was in respect of the same moment in time as the model was showing. There is, with respect, nothing for the Commission to be cautious<sup>26</sup> about with respect to the expert hydrological evidence prepared for this Inquiry.

## **AMANDA GEARING**

12. Ms Gearing does not have leave to appear and has lodged two submissions with the Commission<sup>27</sup>. Ms Gearing is a freelance journalist, has no engineering qualifications and was not a witness to any of the events in Grantham on 10 January 2011.
13. Dr Macintosh addresses further speculative matters raised by Ms Gearing in his new report dated 3 September 2015<sup>28</sup> and concludes, in effect, that none of them indicate that the Grantham Sandplant caused the devastation in Grantham, or are irrelevant and otherwise do not cause Dr Macintosh to change the opinions expressed in his first report.
14. Ms Gearing invites a finding of illegal operations by Wagners<sup>29</sup>. In this regard we repeat and rely on paragraphs 8 and 9 above and the matters articulated under the heading "No Findings ought to be made on Ancillary Matters" below.

## **BRENDAN PENDERGAST**

15. Mr Pendergast is a solicitor at Maddens. The document lodged by him with the Commission in July 2015 offers no analysis of any of the evidence which was undoubtedly available to

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*metres deep, whilst it might show a very large colouring of blue area here that may not correlate exactly to that area. If it's only .1 of a metre deep, the volume of water is very small. MR SOFRONOFF: But the dark blue is from zero to one, isn't it?---And that's, yes, flow intensity. Some water was zero to one, and it's the pale blue that's one to two, so the area in deep blue in the model could have anything on it from - - -?---Zero to one."*

<sup>26</sup> Submission made on behalf of the Grantham Families at paragraphs [91] to [101].

<sup>27</sup> Lodged 17.07.15 and 24.08.15.

<sup>28</sup> Macintosh report dated 03.09.15 at section 12.

<sup>29</sup> **Gearing** submissions dated 24.08.15 under heading 7.

him at the time. All this document does is make assertions as to what the Commission should investigate. These submissions are of no assistance to the Commission. As to the terms of reference and the matters to be investigated, we repeat and rely on the matters set out in paragraphs 19 to 31 of Wagners' Closing Submissions.

## **JIM GALLETLY**

16. Dr Galletly has lodged four sets of submissions. Dr Galletly says he is a "PhD Agricultural Ecologist (Hydrology)". Dr Galletly has provided a letter dated 5 August 2015 outlining his qualifications to the Commission. It is apparent that his qualification and experience are in respect of soil, farm planning and erosion – not flooding or flood modelling.
17. It is submitted that the Commission should place no weight on the submission made Dr Galletly because he:
- (i) is not an expert in a relevant area of science;
  - (ii) does not analyse the eye-witness accounts or the objective evidence such as photographs, videos or post-flood surveys; and
  - (iii) does not undertake any calibration of that objective evidence with the theories and statements that he makes in his various submissions.
18. Dr Macintosh, in contrast, is an expert in the relevant sense. It is noted that Dr Macintosh, in his new report dated 3 September 2015,<sup>30</sup> addresses a number of matters raised by Dr Galletly and concludes that the matters do not change or alter the opinions Dr Macintosh has previously expressed or are otherwise irrelevant.

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<sup>30</sup> Macintosh report dated 03.09.15 at section 9.

## JOHN (SEAN) GILLESPIE

19. Mr Gillespie gave evidence during the public hearings<sup>31</sup> and it is understood that he forms part of the group represented by Maddens (i.e. the West Grantham Residents)<sup>32</sup>. Mr Gillespie is a “*self-taught*”<sup>33</sup> mechanical engineer and has no qualifications in any relevant science. The views expressed by Mr Gillespie are not based on scientific analysis. The factual matters to which he refers to in his submissions have been dealt with by the various experts, including Mr Mackenzie who gave a written report<sup>34</sup> and was cross-examined<sup>35</sup> in respect of what was likely to have caused the power-pole on the western embankment to snap. The opinions expressed by the experts should be accepted.
20. We note that Dr Macintosh addresses the submissions made by Mr Gillespie, as well as the evidence given by Mr Gillespie, in his new report dated 3 September 2015<sup>36</sup>. The matters raised by Mr Gillespie do not alter the opinions which Dr Macintosh has previously expressed.

## KENNETH PEARCE

21. By email, Mr Pearce says that he is an engineer and asserts, without analysis, that the failure of an embankment can produce a surge with a force far in excess of that possible from floodwater or the failing embankment on its own and offers his assistance. Assertions of this kind are of no assistance to the Commission and should not be given any weight.

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<sup>31</sup> On Day 6.

<sup>32</sup> List of parties granted leave to appear provided by the Commission on 20 July 2015.

<sup>33</sup> **Gillespie** T6/538L25-29 “*Observing the damage to your property and the movement of that crane - sorry, you've got qualifications in engineering. Is that correct?---No, I'm basically self-taught, but I've been doing it for about 30 years, so I nearly know a little bit about it.*”

<sup>34</sup> Ex 55.

<sup>35</sup> Day 9.

<sup>36</sup> Macintosh report dated 03.09.15 at section 11.

## **LISA SPIERLING**

22. Ms Spierling makes submissions in relation to the timing of access into Grantham from Gatton at 2:30pm-3:00pm. These are matters that appear to have been resolved give the evidence of Ms Fifoot.

## **MAX WINDERS - MWA ENVIRONMENTAL**

23. The submissions of Mr Winders of MWA Environmental are of no assistance to the Commission because they simply do not address, analyse or otherwise seek to consider any of the evidence from the eye-witnesses or the objective evidence or undertake any form of modelling based on or by reference to the evidence. Mr Winders offers commentary on DHI's first report and some very early flood modelling undertaken by DHI that was not prepared by reference to the evidence, but again for self-evident reasons, this is of no assistance to the Commission.

## **JACOBS**

24. We understand that Jacobs is the organisation which acquired the company formerly known as SKM. By letter dated 28 August 2015, Jacobs makes various statements defending the reports prepared by Dr Jordan. Given the evidence ultimately given by Mr Szylkarski, Wagners makes no submission about the matters raised in this letter.

## **PJ GALLAGHER**

25. Mr Gallagher gave evidence during the public hearings<sup>37</sup> and it is understood that he forms part of the group represented by Maddens (i.e. the West Grantham Residents)<sup>38</sup>. Mr Gallagher is not an engineer or otherwise possessed of any relevant expertise.

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<sup>37</sup> On Day 6.

<sup>38</sup> List of parties granted leave to appear provided by the Commission on 20 July 2015.

26. Mr Gallagher makes a number of assertions to the effect that it is his opinion that the Grantham Sandplant is responsible for damage caused by the flood. The various assertions made by Mr Gallagher are not supported by the expert evidence. It is noted that Mr Gallagher's Senior Counsel cross-examined the experts called to give oral evidence and did not require Dr Newton to be called for cross-examination.

## OTHER SUBMISSIONS

27. There are a number of submissions which have been lodged with the Commission that deal with matters that are either outside the terms of reference for which Wagners have been granted leave<sup>39</sup> or otherwise, with respect, are of no assistance to the Commission<sup>40</sup>.

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<sup>39</sup> **McGuire** dated 03.07.15 (deals with issues about Rural Fire Rescue Services); **Webb** dated 22.07.15 (deals with issue involving rescue response times); **Rogencamp** dated 24.07.15 (deals with evidence given by Mayor Jones); **Stuart Damrow** dated 04.08.15 (not a resident of Grantham – lives at Ma Ma Creek and raises concerns about lack of warning)

<sup>40</sup> **Smith** dated 25.08.15 (from Port Macquarie NSW offering some comments on various flooding matters); **Wode** dated 09.07.15 (offers advice about a colour coded flood classification system) ; **Kelly** dated 14.08.15 (offers commentary on what he observed about the flood whilst watching TV footage); **Garrard** dated 14.07.15 (deals with impacts on the Lockyer Creek caused by a 2006 fire); **McEwan** dated 22.07.15 (offers assistance to the Commission for selection of appropriate engineering assistance); **Hodgkinson** dated 24.06.15 (a chartered accountant who was not at Grantham and makes comments about dams, such as Wivenhoe and other floods); **Jay Anderson**, undated (does not live at Grantham and not present during the floods, offers observations about things he has read in the media); **Katherine Plint** from Hannahs Foundation dated 03.08.15 (a charity that deals with water safety and victim support – discusses the charity and offers comments about post-disaster assistance that was or should have been provided); **Lee-Ann Crowley** dated 06.08.15 (states that the floods were caused by the afflictions of oppressive assaults on her and members in the community); [REDACTED] dated 03.07.15 (retired Energex worker who does not say he was present at Grantham and makes comments, without any analysis of any facts or objective evidence about there being a lot of water and debris water flow being blocked); **Lynette Rashleigh Thompson** dated 10.08.15 (deals with her concerns about a variety of topics other than the flood. It is not apparent that she was present during the flood); **Nadesu Kailainathan** email dated 17.08.15 (email noting that author is an experienced engineer and then attaches a number of communications and linked-in hyperlinks on correspondence he has written about flooding); **Neil Pennell** dated 05.06.15 (not at flood in Grantham and has no qualifications or training in meteorology or hydrology – offers commentary on various media stories and internet posts he's read about the flood); **Neville Jones** dated 27.07.15 (suggest soil investigation be undertaken); **Robert Bowyer** of various dates (states that he is from One Nation; does not indicate any relevant expertise and does not appear to have been at Grantham during the flood and is not a resident of Grantham. Mr Bowyer does not offer any submission that can be of any assistance to the Commission. [REDACTED])

## **NO FINDINGS OUGHT TO BE MADE ON ANCILLARY MATTERS**

28. Two ancillary issues about the bunds on the western embankment were agitated in the evidence:
- (i) Were the bunds placed in breach of permits?
  - (ii) Were the bunds created by Wagners or added to by Wagners during the time that it owned and operated the Grantham Sandplant?
29. Wagners' primary submission is that neither of these issues is within the terms of reference. However, if Wagners is wrong about that, then we submit that findings ought not to be made on those two issues.
30. There is no doubt that this Inquiry, by its terms of reference, is obliged to inquire into the cause of the flooding which occurred in Grantham on 10 January 2011. That necessarily requires an investigation as to the physical characteristics of the bunds and their location. Whether the bunds were lawfully created does not assist in that inquiry. Questions as to how long the bunds had been in place are similarly irrelevant.
31. The weight of evidence received by the Inquiry overwhelmingly points to the conclusion that the bunds did not contribute to the loss of life or devastation caused by the flood to Grantham. That being the case, the bunds were, effectively, irrelevant to the flood. Surely, if the bunds were irrelevant to the flood, the ancillary issues that we have identified are similarly irrelevant.
32. Documents uploaded to the Inquiry website show that certain sections of the media have relentlessly pursued Wagners and have made all manner of allegations against it. Wagners submits that the bunds were created before it purchased the Grantham Sandplant and the

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14.08.15 and 15.08.15 (a retired engineer who offers observations about matters he read and saw in the media – he was not at Grantham and does not analyse any of the evidence).

creation of the bunds was not in breach of the permits. However any finding even remotely contrary to the interests of Wagners on either of these two topics is likely to re-invigorate hysterical reporting by parts of the media. This Inquiry is about finding the cause of the flooding so that the people of Grantham (and Wagners) can have closure. No findings should be made in respect of the ancillary matters.

## **CONCLUSION**

33. None of the matters raised by the parties with leave or the people who do not have leave but have lodged submissions alter the findings urged in Wagners' Closing Submissions.

**Peter Davis QC and Nicholas Andreatidis**

Counsel for Wagner Investments Pty Ltd and Wagners Australian Operations Pty Ltd