

LOCAL GOVERNMENT
ASSOCIATION
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Mr John Trowbridge
Chairman
Natural Disaster Insurance Review
c/- The Treasury
Langton Crescent
PARKES ACT 2600

Dear Mr Trowbridge,

The Local Government Association of Queensland Ltd (LGAQ) is the representative body for Local Government in Queensland. The LGAQ welcomes the opportunity to provide comments on certain matters raised in the Natural Disaster Insurance Review Issues Paper.

It would not be appropriate for the LGAQ to provide specific comment on a number of questions in the Issues Paper. Comment is therefore provided on certain issues and themes developed in a number of chapters of the Issues Paper identified as being of relevance to local government.

Chapter 2

Section 2.12 of the Issues Paper recognises difficulties faced by insurers in assessing flood risk due to the uncertainties involved in predicting flood events. However, section 2.18 appears to take a far less understanding approach to planning decisions and infers some level of fault on the part of planning authorities for past decisions. Planning decisions are aligned with community expectations and based on the information available at the time. Quite often that information is historical.

A particular weather event and its consequences arise from a combination of unique meteorological and hydrological factors. The preceding period of rain and the consequent level of ground saturation combined with the degree of severity and duration of an event in a particular catchment and also adjoining catchments which ultimately join up, can produce situations which could not have been reasonably predicted. The complexity of predicting weather event outcomes is complicated by the impacts of land use changes, which can be modelled but not necessarily accurately identified for any potential circumstance.

Past planning decisions are always questioned following major natural disaster events. But such disasters typically involve the interaction of numerous factors that produce an outcome unique to that event. There will always be differences between the information that planning authorities can responsibly take into account and make available, and the outcome of any given natural disaster event. The LGAQ does not accept that any reasonable link exists between past planning decisions and the structure and funding arrangements for any flood insurance model.



Whilst all event outcomes cannot be reliably predicted it would also be the case that some homeowners are not aware of the existing information relating to the risk of their home flooding. In a number of cases there will be a difference between the information that a homeowner has about flooding and the information they are able to obtain after reasonable enquiry.

Chapter 3

It is not agreed that that a moral hazard issue exists in relation to councils undertaking risk mitigation. Local Government in Queensland plays a central role in preparing for and responding to natural disasters. Many aspects of the role are specified in legislation or documents that implement and support legislative objectives.

The Queensland *Disaster Management Act 2003* requires councils to undertake a broad range of disaster management and disaster operation functions. The functions include approving a Local Disaster Management Plan and establishing a Local Disaster Management Group. The Act defines “disaster management” as:

“arrangements about managing the potential adverse effects of an event, including, for example, arrangements for mitigating, preventing, preparing for, responding to and recovery from disaster”

Under the *Sustainable Planning Act 2003* (SPA), councils across the State play an important role in land use planning by:

- a. Preparing and administering local planning instruments;
- b. Assessing development applications;
- c. Planning for and providing infrastructure essential for development; and
- d. Ensuring compliance with the SPA and taking appropriate enforcement action where necessary.

The SPA provides for development of State Planning Policies which councils must ensure are reflected in local planning schemes and during the process of assessing development applications. State Planning Policy 1/03 deals with mitigating the adverse impacts of flood, bushfire and landslide. Councils have an obligation to ensure that flood hazards are adequately considered in planning schemes and when making decisions about development.

The Commonwealth’s Natural Disaster Relief and Recovery Arrangements (NDRRA) Determination 2011 details arrangements for natural disaster recovery and relief available to the States. In order to fully access natural disaster funding available for restoration or replacement of public assets, councils must have developed and implemented natural disaster mitigation strategies in respect of likely or recurring disasters. It is also noted in the context of issues raised in Chapter 18 that NDRRA funding received by councils predominantly relates to infrastructure damage that is not covered by insurance and cannot, in any cost effective way for councils, be covered by insurance.

Obligations imposed on councils by the Commonwealth and Queensland Governments are of course in addition to local community expectations relating to natural disaster mitigation. Those expectations continually evolve in light of events such as the Queensland floods and cyclone Yasi. Local government is also directly involved in development and implementation of national mitigation strategies through COAG processes.



Councils are not lacking in incentive to plan for and undertake natural disaster mitigation. Issues relating to the availability and cost of flood insurance are not factors in the determination of mitigation strategies by councils. The primary determining factor is availability of funding. As will be discussed below, local government does not have the capacity to take on any funding responsibilities related to the availability of flood insurance.

Chapter 4

The Issues Paper quite reasonably suggests that the insurance market is unlikely to make affordable flood insurance available to all homeowners who would wish to have it.

If it is determined that a desirable public benefit would arise from an insurance outcome that is not achievable through the existing market environment then the relevant regulatory authorities should accept responsibility for moving the market in the desired direction. The Commonwealth and Queensland Government's have a regulatory and/or taxation interest in general insurance. Local government does not.

Whilst some moral hazard issues on the part of homeowners may arise from subsidising flood insurance in high risk areas, community benefits would arise from an insurance arrangement that efficiently supported repair or rebuilding of flood damaged homes. The benefits would be relevant to most, if not all, of the broad range of responses required from all levels of government and the general community to major floods.

Local government financial sustainability has been the subject of studies in most States. A national study was also commissioned by the Australian Local Government Association and undertaken by PricewaterhouseCoopers (PWC)¹. The PWC study found that, without reforms, up to 30% of local government councils might not be sustainable. This is broadly consistent with the results of the state-based reports that between 25% and 40% of councils in those states could be financially unsustainable.

The PWC study identifies how local government is responding to rising community expectations by providing a growing range of essential services and infrastructure that underpin local communities. Factors involved in the growth of services include Commonwealth and State inducements and the withdrawal of services by other levels of government. This expansion of services, coupled with growth in input prices generally exceeding the average rate of revenue growth, has seen a significant number of councils develop financial operating deficits.

In Queensland a report on the financial sustainability of local government was published in October 2008 by the Queensland Treasury Corporation² and that report again identified significant levels of local government financial stress. Added to this stress is the cost of the recent natural disasters. Current estimates of damage to local government infrastructure caused by the Queensland floods and cyclone Yasi exceed \$2 billion. Resource demands for the massive reconstruction effort in Queensland will inevitably see local government construction costs increase.

¹ **National Financial Sustainability Study of Local Government** - Australian Local Government Association November 2006

² **Financial Stability in Queensland Local Government** – Queensland Treasury Corporation, October 2008



Local government is not in a position to take on further funding obligations that should properly be met by other levels of government.

It has already been noted in the comments on Chapter 3 that Queensland councils must respond to a range of obligations and incentives related to risk mitigation and management of flood risks. There would be no logic in attempting to create a cost message for councils relating to risk mitigation given that prudent and considered funding allocations have already occurred in response to the existing obligations. A measure seeking to manipulate local government expenditure decisions would either place additional pressure on already stressed council budgets, or create artificial distortions in council funding allocations and service delivery.

The LGAQ also strongly opposes any proposal for local government to act as a collection vehicle for a flood insurance subsidy levy. On transparency and efficiency grounds, the level of government that imposes a tax or levy should shoulder the responsibility for collecting it.

As a means of collecting funding for a flood insurance model, property rates would be a particularly blunt instrument for a risk based issue and pose numerous administrative, data management and cost challenges. These include determining the application of additional charges to the large number of property rating categories, application of discount and remission policies, valuation changes, dealing with vacant land, application to Commonwealth and State property, ownership transfers and indigenous council areas. The administrative task would be significant.

There would also be numerous equity arguments relating to ratepayers in relatively low income and low flood risk areas being seen to be subsidising the cost of insurance for ratepayers in very high income areas that are subject to very high flood risk.

The most direct and equitable means of collecting any funds required for a flood insurance model would be through a national natural disaster funding arrangement. This would recognise that the entire community, through a variety of personal and government responses, currently contributes to natural disaster recovery costs. A national funding model based on a transparent, straight forward and centrally implemented funding source would facilitate creation of an efficient interface with insurers for managing issues such allocation of costs to individual policies based on risk or other criteria, and the potential promotion of pricing arrangements that leave scope for premium competition between insurers.

Arguments relating to the impact of additional costs on insurance policies, such as State fire service levies, on the take up of insurance by homeowners are only relevant in the context of the existing insurance market. It would appear inevitable that to achieve objectives related to the availability of flood insurance some level of market intervention will be required. Part of that intervention would include adoption of measures that prevented funding arrangements undermining the intervention's primary objectives.

Chapter 9

As noted in the Issues Paper, the insurance industry states that access to flood mapping will assist in making flood insurance more widely available. The LGAQ accepts that improved availability of flood mapping will assist insurers.



But it is also agreed that making flood mapping available to insurers will not fully address limitations on the availability and, very importantly, on the affordability of flood insurance.

The likely solution appears to require nationally coordinated intervention supported by accurate, consistent and actively maintained flood data. Local government will have a role to play in the solution, but it is not, and nor should it on any appropriate grounds be expected to lead and resource the solution's flood data requirements.

Queensland councils do not have an obligation to prepare flood information to a specific standard. Councils must have regard to provisions of State Planning Policy 1/03 relating to natural hazard management areas when making decisions about certain forms of development. However there are different ways councils can go about doing that. Preparing and maintaining high quality flood mapping is a desirable approach but it is complex and expensive. Due to technical and financial constraints, many councils must strike a balance between the nature of information required for planning decisions in the local context, and the available funding. As a result, a consistent state wide standard of local government flood risk data does not exist.

The existing regulatory arrangements in Queensland recognise the importance of addressing flood risks, but also recognise that this must occur within the constraints of each council's financial capacity and be consistent with local circumstances. Whilst there is merit in developing a single standard for flood mapping, that initiative in itself would not alter the financial capacity of councils to produce mapping to the specified standard. If every council had the capacity to produce flood information to the level produced by Brisbane City Council then they would most likely do so. But most other councils do not have the flood mapping resourcing capability of Brisbane City.

In addition to financial limitations on development of flood data there are other considerations involved in councils releasing the information they do have. Public funds have been used to develop the data and concerns have existed over reliable demonstration of the level of public benefit that would arise from its release to insurers. This is particularly the case where data is requested without offer of payment.

The question arises as to why insurers do not invest in the risk information considered important to their business operations. It is understood that the Suncorp Group has been able to offer flood cover to retail clients throughout Queensland insuring with the Suncorp brand. It is assumed that this has been a business decision made by Suncorp based on information the company has on relevant issues such as risk and reinsurance. But it would appear that flood cover is not generally available through one or more of Suncorp Group's other retail brands. Other insurers make their own decisions about the information they consider necessary to acquire and the products they offer. That is the insurance market in operation and local government does not have any regulatory role in that market. Councils should not be expected to provide the data that insurers may require when making business decisions on products that will be offered in the market.

There are also concerns over potential liability exposures that may arise from councils releasing flood data. As noted above, there is a significant challenge involved in the initial development of flood data but then also in maintaining its relevance to changing landscapes. At any point in time there would be varying levels of accuracy and currency in the flood data held by many councils. The provision of that data to commercial enterprises for use in business decision making is seen by many councils as an unwarranted risk.



It is easy to dismiss such concerns by referencing available mechanisms for limiting or avoiding liability. But local government has extensive experience in liability litigation through the operation of the Queensland Local Government Mutual Liability Pool and is well aware of the costs that can be involved in dealing with litigation that arises despite the best efforts devoted to limiting liability exposure.

The LGAQ completely rejects any suggestion of an obligation requiring councils to alter expenditure priorities and potentially increase liability risk exposures in order to ensure information is available for the commercial business purposes of insurers.

At present the only central source of data relevant to flood risk in Queensland is the Queensland Department of Environment and Resource Management (DERM). Effective flood mapping involves the overlay of multiple layers of data. Some of that state wide data is held by DERM. Following the recent Queensland floods it is believed that steps may be taken to further develop the data held by DERM to make it more effective in identifying flood risk. This would be highly relevant in the context of considering options for high quality, consistent flood data. It would also be relevant to ensuring there is centralised and consistent data relating to all natural disaster risks.

Ultimately, the development of nationally consistent flood mapping that meets the varying needs of government and industry must be centrally managed and resourced. Local government supports a national approach to flood modelling and COAG may be seen as a national coordination option.

Should you require any additional information in relation the LGAQ's comments please don't hesitate to contact Mr David Swan, Manager Commercial Solutions at david_swan@lgaq.asn.au or on 07 3000 2262.

Yours sincerely,

Greg Hallam PSM
CHIEF EXECUTIVE OFFICER