

DONALD A. KNOX

WATER DAMAGE & INSURANCE IN QUEENSLAND

In early 1966 I was elected by the 40-odd Insurance Company Managers for the usual 3-year term to the Insurance Underwriters' Association in Queensland. No remuneration was paid, only a cup of tea for our usual Friday morning meetings.

What a time it was with the change from Pounds, Shillings & Pence in Australia to Dollars & Cents. Everything went metric.

This meant we had to review and replace every Rate Book, Policy Document, Proposals, etc. We had an Insurance Commissioner in Brisbane and his Representative sat in on all our meetings. In 1968 I was elected Chairman and I decided we should standardise the Definitions of Water Damage for ALL Insurers in Queensland.

After several weeks of investigation, my 2-man sub-Committee & I lodged our six-part Recommendations, which were approved by the full Committee, and then went to the Insurance Commissioner. It was approved by the Commissioner and Gazetted, making it Law for ALL Insurers in Queensland.

It is my understanding they have never been changed or rescinded. (See the Precip of Water Damage Definitions). ****

Before proceeding further, I want to make it perfectly clear that I retired over 10 years ago and I have NO connection or affiliation with any Insurance Company or Broker, Political Party, Mortgagee or Financial organisation.

My sincere condolences go to the families and friends of those who died during the Floods and Cyclones, and to those who suffered total or partial property losses in these calamities.

BRISBANE RIVER FLOODS 1974 and 2011

The comparison between these two calamities is so similar that one questions "Don't we learn our lessons?".

Both floods came with two distinct levels of flooding some two or three days apart.

The first (1) level was natural water from Rain, Cyclonic and local which overloaded rivers causing low level flooding.

The second (2) level occurred when the sluice gates were fully opened at Somerset Dam in 1974 and Wivenhoe in 2011.

Whereas the first (1) level involved hundreds of properties, the second (2) involved thousands of properties, many of which would not have flooded at all if the water in the dams had been allowed out early enough, a little at a time.

We know what and why the water was NOT let out early in 1974, but our January 2011 level two (2) was avoidable.

Right up to January and since, the Courier Mail has been telling us we had 100% Capacity in our dams. Why didn't our Dam Water Supply people heed the WARNING given in October and early November 2010 that we were in for the greatest WET AND DESTRUCTIVE CYCLONES in probably 100 YEARS?

Why didn't our people heed this WARNING? Perhaps there was Government interference to not open the sluice gates at Wivenhoe?

Remove from Government to an Independent Authority.

After years of drought, and absolute minimum water levels in our dams, we then had 100% levels. Who had the courage or initiative to flush 25% away?

A lot of finger pointing has taken place, but we need a Royal Commission to determine who and how many parties are responsible.

Meanwhile Insurance Companies should pay all claims where FLOOD was insured. They have the Legal Rights to recover on Claims where a third party has been established as the cause of an Insured loss.

It should be noted that after the 1974 Flood there was little problem with Insurers paying for Flood Damage where insured. No doubt due to the 1968 Definition which applied to ALL Underwriters.

PRECIS OF DEFINITIONS OF WATER DAMAGE (ADOPTED IN 1968)

A. FLOOD

Inundation/overflow of normal confines of water containments such as Rivers, Creeks, Lakes, Pools, Ponds, Dams, Weirs and the like, including large man-made open drains on the site of a natural creek allowing water runoff to a river or other reservoir.

NB. The above items can be fed by water from B & C below, or from water flowing downstream from an earlier happening (an A) in another area. An optional extra.

B. STORM &/OR TEMPEST including CYCLONES, Tornadoes, Windstorms, Rainwater falling naturally from the sky, Hail and Snow. Excluding loss or damage by the sea.

NB. Normal cover with Household Building &/or Contents.

C. GROUND WATER (NOT FLOOD). After Rainwater B reaches the ground including overflow from roads, gutters, driveways, burst water mains external to insured property.

NB. Again normal cover with Household Building &/or Contents policies.

D. BUILDING WATER SYSTEMS. Fresh Drainage and Sewage Water in the insured Building &/or Contents, including Appliances, due to bursting or overflowing of the Systems, and including reverse pressure from External Drainage Systems connected to the insured premises.

NB. Applies to Commercial and Domestic premises.

E. SEA WATER. Inundation by the sea due to tidal changes, rising and irruption from Cyclones and Tsunami (EXCLUDED).

NB. NOT usually insured.

F. COMMERCIAL USE OF WATER. This envisages Water in Manufacturing, Cleaning, Cooling, etc.

NB. Not applicable to this exercise.

-----\$\$\$\$\$\$\$\$-----



WATER DAMAGE & INSURANCE IN QUEENSLAND

Continuing my comments on the Brisbane floods, let us look at the parties involved.

INSURANCE. Although there is a very obvious prejudice against the Insurance Companies, it is important to ALL of us that they remain strong and liquid. Remember we could have further **CYCLONES AND FLOODS** during this season - also the enormous growth in bushland right up to housing areas could create the atmosphere for **BUSHFIRES** in Queensland and Northern NSW.

Insurance Companies are dependant on their International Re-Insurers to pick up the tab for our major insurance calamities. If they detect errors or weaknesses in our management of affairs, then the Re-Insurance premiums to our Companies will rise, and that means premiums direct to the Insureds for House, Contents and Motor Vehicles will also rise.

Don't expect Insurers to pay for **RISKS** they specifically **EXCLUDE**, or for Risks available at an Extra Premium if not taken. Ex-gratis payments are for Governments to make in calamities.

However, I have become very concerned about the behaviour and performance of some Insurers involved in our January 2011 Flood and Cyclone insurances.

Apparently at least one Insurer is using different covers for Queensland insurances to what they are using in NSW. I have made three phone calls to the General Manager for the Insurance Council in Sydney (they closed their office in Brisbane some years ago and no longer have a Representative here), and that gentleman declines to talk to me or return my calls!!! (In spite of advertising that they are available 24 hours a day!!!)

To protect the people of Queensland, both Commercial and Domestic, with the Insurance Policies they must effect, we should firstly appoint a totally independent Insurance Commissioner for ALL Insurances issued on risks in Queensland.

The Commissioner should require ALL Insurers to lodge a sample Policy with him that clearly states what risks the Policy covers and what the Policy excludes. Where the insurance includes a risk, the Insurance Policy is to include a **CLEAR DEFINITION**. The name of the ultimate **UNDERWRITER** must be shown.

This requirement would NOT in any way indicate what and what not an Insurance Company is to insure. Nor does it place any requirement on Insurers on what or in what manner they charge a premium for the risks they are insuring.

Insurance is a competitive business and will find its own levels.

MORTGAGEES. These are a wide ranging group of parties such as Banks, Insurance Companies, Building Societies, Credit Unions, Finance Companies to mention some of the organisations who grant loans for housing. A mortgage document is drawn up and signed by the two parties to this legal document, the Mortgagor (the borrower), then the Mortgagee.

All mortgages have two special clauses:

1. The building structure **MUST BE INSURED**. Normal specifications follow including **FLOOD, STORM & TEMPEST, CYCLONES** etc. The Insurer has to be approved by the Mortgagee, who also has first call on any claim payment (to make sure repairs are carried out).
2. The clause relating to payments and dates also has a nasty that in the event that the Mortgagor doesn't meet his obligations of payments within a specified time, the Mortgagee will assume ownership of the property.

Imagine now an owner/Mortgagor who can't meet payments in Clause 2. Say his house has been wrecked in a **FLOOD**, he's lost his job because the Flood also wrecked his place of employment or he has just lost a total crop of fruit or similar, and won't have any money for months.

The Insurer (in Clause 1.) refuses to pay because the property insured was not damaged in the first flood and the damage occurred in the second "wave", which was "man made" when the sluice gates were opened!!

My point is Insurance is not always simple, but in these sorts of problems the Mortgagee - the Pseudo Owner - should step into the owner's shoes and use his weight and status to fight for an amicable settlement.

A household insurance policy provides for temporary accommodation for the occupant if an insured event is involved. Surely in these situations the Mortgagee can pick up the tab for the temporary accommodation, knowing he will recoup when the claim is settled - or accept the penalty for the omission of FLOOD on the Insurance Policy that with their expertise, they should have noted on their copy of the Insurance Policy.

SUMMARY

The volunteers who turned out to clear up after the floods in Brisbane, Ipswich, Toowoomba and the country areas, as well as North Queensland's Cyclones, made us feel proud of them and showed the whole world about what a Queenslanders means.

It seems to me that the lack of Water Management caused more houses and commercial buildings to be inundated with flood waters, but also virtually ALL properties suffered more damage than they would have with proper Water Management.

The performance of those Insurance Companies who have rejected claims when an option was taken and paid for is UNACCEPTABLE. They should pay so repairs or replacement can commence and take recovery action later.

As there is NO Insurance Council in Queensland, we should consider appointing an Insurance Commissioner, or in lieu some existing Government Appointee, to call for ALL Insurance Companies trading in Queensland to submit a sample policy with Definitions of the Covers and Exclusions they apply.

Mortgagees should combine together to compare notes on the holdups from the Insurance Companies. For instance, those Mortgagees who have failed to cover Flood should pick up the costs of repairing or replacing buildings. They are pseudo owners and should be meeting their obligations.

That also applies to the Mortgagees providing for the temporary accommodation of their Mortgagors.

Which brings me to some advice I give to people who say they can't read or understand Insurance Policies. Appoint a local Insurance Broker to advise you and manage your various policies for you. They have a legal responsibility to you and not to the Insurer.

-----\$\$\$\$\$\$\$\$-----

