



**SUPPLEMENTARY SUBMISSION  
TO  
QUEENSLAND FLOOD COMMISSION OF INQUIRY**

**Local Government Association of Queensland Ltd**

**September 2011**

## 1. Introduction

- 1.1. This submission has been prepared by the Local Government Association of Queensland (LGAQ). The LGAQ Submission to the Inquiry (Submission #2) in April 2011 focused on aspects of land use planning and steps that could be taken to minimise flood impacts on infrastructure and property.
- 1.2. This submission focuses further on TOR (g), in particular on flood plain management issues and development control.

## 2. Flood Plain Management and Development Control

- 2.1. In Submission #2, it was noted there is an urgent need for reliable flood data across the entire State and a need for funding to update flood studies to consider a range of flood events including up to the Probable Maximum Flood (PMF) as defined in *SPP1/03*, along with associated flood mapping.
- 2.2. Since Submission #2 was prepared, the Queensland Reconstruction Authority (QRA), in conjunction with the Department of Environment and Resource Management (DERM), has drafted interim measures to support floodplain management in existing planning schemes. The LGAQ supports the intent of the QRA's approach, which provides a toolkit for councils that includes interim planning scheme measures and supporting mapping for those councils who currently do not have appropriate mapping.
- 2.3. The QRA draft toolkit includes an Interim Floodplain Assessment Overlay (Floodplain Maps) and an Interim Floodplain Assessment Overlay Model Code.
- 2.4. The LGAQ has worked with the QRA in refining the draft toolkit, making a number of suggestions which have been incorporated in the draft documents. The draft toolkit is anticipated to be released for public consultation in the near future and following feedback from councils, the LGAQ will continue its partnership with the QRA in the finalisation of the toolkit.
- 2.5. While the QRA work does not provide a Defined Flood Event (DFE), it does help to identify flood hazard areas where more detailed consideration is required. The identified flood hazard area using the QRA draft toolkit is more in line with the Probable Maximum Flood (PMF), although there can be no guarantee the approach will identify all areas that may be subject to flooding.
- 2.6. The work of the QRA highlights the importance of State support in the flood mapping task and overall State leadership in the floodplain management process. In NSW, the State Government takes this leadership approach, setting guidelines as well as providing a large proportion of the funding necessary for flood studies at the local level.

- 2.7. The LGAQ has previously noted that many councils do not have the resources to undertake detailed flood studies. The QRA interim approach is a desirable one, providing tools for councils that need this support, but does not overcome the issue in relation to ongoing funding and other support to councils in improving floodplain management.
- 2.8. Part 2 of the QRA approach is intended to provide a flood study template to help inform the strategic planning process, standardised floodplain management provisions and advice on transition strategies for land uses, zoning recommendations and other key land use policy matters. Although this will be important in the drafting of new planning schemes, it still does not address funding issues or liability matters.
- 2.9. As previously noted, in NSW there is a legislative exemption from liability for reasonably-based local government decision-making (s733 NSW LGA 1993). The LGAQ considers that such an approach to removing uncertainties in relation to liability and injurious affection is also necessary in Queensland. Existence of such legislation would encourage councils to be proactive in undertaking 'best practice' approaches to flood plain management through an appropriate allocation of risk. It would also support implementation of recommendations from the Inquiry such as publishing the most up-to-date flood and climate change impact information, despite the inherent uncertainties associated with both flood modelling and climate change predictions.
- 2.10. Another issue in flood plain management in rural areas is that developments are likely to be related to mining or agriculture and often involve construction of levees. Under the *Water Act 2000*, the State Government has limited its responsibility to structures directly affecting bed and banks.
- 2.11. In 1994, the State Government completed an investigation into the management of the Lower Balonne River Floodplain (Connell Wagner, May 1994), which included in the brief a requirement to investigate an appropriate statutory framework for effective implementation of the plan. This report recommended amendments of the former *Water Resources Act* as a method of managing floodplains. However in the 2000 update of this Act, this recommendation was not enacted. The result is that for many floodplains in Queensland, there is little if any control and unregulated levee banks and other works are being carried out without legislative requirement for assessment of impacts on flooding.
- 2.12. In New South Wales and Victoria, the State Government controls and manages all floodplain works through appropriate legislation. The LGAQ therefore strongly believe the State should take responsibility for floodplain areas in the same manner as is done elsewhere in Australia. This will require legislative change. Attachment A provides a background summary of the NSW Flood Risk Management framework.

### 3. Resourcing Councils to Better Manage Flooding Issues

- 3.1. The LGAQ is also concerned that the issue of resourcing councils to better manage flood events is not being given adequate attention. Recommendation 4.13 of the Commission's Interim Report, states that *"...Councils should ensure that residents and businesses can clearly understand the impact of predicted flood levels on their property. This may include one or more of the following methods:*
- *information on rates notices about flooding at individual properties*
  - *geospatial mapping, available to the public, that depicts inundation at certain river heights*
  - *flood markers*
  - *flood flag maps and floodwise property reports*
  - *colour coded maps*
  - *information that relates gauge heights with the level of flooding to be expected at a property."*
- 3.2. For many councils, the resources to achieve the above recommendation may not be available. While the LGAQ has sought State Government funding support to implement recommendations from the Inquiry, funding to support the type of recommendation noted above has not been provided. For 2011-12, the State Government prioritised up to \$5 million of the Local Government Grants and Subsidies Program (LGGSP) for capital acquisitions to support disaster preparedness; including the provision of flood warning systems (including sirens, ALERT and SMS warnings) and the provision of additional flood and rainfall gauges. Whilst welcome this funding is only available to councils that can demonstrate limited capacity to self-fund the requirement. In comparison, the Victorian Government provided a \$38 million partnership support package for councils in that state following the 2009 Black Saturday bushfires.
- 3.3. The LGAQ considers the issue of funding and resourcing as critical and that approaches from other States may be relevant to Queensland.

## ATTACHMENT A – BACKGROUND ON NSW FLOOD RISK MANAGEMENT

### Overall Process

Local Government in New South Wales has the primary responsibility for controlling the development of flood prone land and managing flood prone areas. NSW Government through the Office of Environment and Heritage (OEH) and the State Emergency Service also play important roles in managing flood risk across the State. The State Government assists councils by providing financial support under this program, the direction provided by the Floodplain Development Manual and the standard floodplain risk management documents.

In addition, the OEH provides technical support for the development and implementation of Floodplain Risk Management Plans (FRMPs) by councils to enable them to manage flood risk in their communities. The OEH provides advice and support to councils on policy, modelling, management options, planning and environmental considerations and supports councils in their bid to involve and educate the community about flood risk.

The OEH has a number of key roles in this area that relate to:

- Development of flood policy, including the NSW Government's Flood Prone Land Policy and Floodplain Development Manual 2005 and associated technical and operation policy to aid councils in the management of flood risk. This involves interaction with a range of State and Commonwealth agencies, Local Government and the floodplain risk management industry.
- Working with local councils to better manage flood-prone land in coastal areas and urban communities in inland NSW. The OEH does this by providing funding and technical assistance for the preparation and implementation of floodplain risk management plans through the State Government's Floodplain Management Program.
- Rural floodplain management planning within floodplains designated under Part 8 of the *Water Act 1912* (to be replaced by provisions within the *Water Management Act 2000*). The OEH prepares statutory floodplain management plans under the Water Act that set out schemes for the management of floodwaters. These plans, developed in consultation with local farming communities help to provide farmers with knowledge about their risk exposure and examine ways they can manage this risk while maintaining the flooding regimes to waterways and flood-dependent ecosystems. Licensing of works and compliance functions under Part 8 of the *Water Act 1912* (to be replaced by provisions within the *Water Management Act 2000*) are the responsibility of the NSW Office of Water (NOW), which uses rural floodplain management plans as the basis for assessing works applications.
- Managing the provision of river gauging networks across the State to enable the delivery of flood warnings to NSW communities. These gauging systems enable the Bureau of Meteorology to provide flood predictions to the State Emergency Service to enable it to issue flood warnings to the residents of NSW. These warnings enable people to react appropriately to flooding as it occurs. This reduces the danger of flooding to the community and individuals and may provide them an opportunity to reduce their flood damage through appropriate and timely actions.

(Ref: <http://www.environment.nsw.gov.au/floodplains/index.htm>)

## Flood Prone Land Policy

The primary objective of the NSW Flood Prone Land Policy is:

- Flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding its development; and
- If all development applications and proposals for rezoning of flood prone land are assessed according to rigid and prescriptive criteria, some appropriate proposals may be unnecessarily disallowed or restricted and equally quite inappropriate proposals may be allowed.

To achieve its primary objective, the policy provides for:

- Financial assistance by the NSW Government for works to reduce potential flood damage and personal danger in existing developed areas;
- Technical support from the State Government to councils in ensuring the management of flood prone land is consistent with flood risk and that such development does not cause undue future distress to individuals or unduly increase potential flood liability to them or the community;
- Emergency management and flood recovery programs and their linkage with the flood risk management process; and
- Protection of councils, government agencies and their staff against claims for damages resulting from their issuing advice or granting approvals on floodplains, providing such action was taken in accordance with the principles and guidelines of the Floodplain Development Manual.

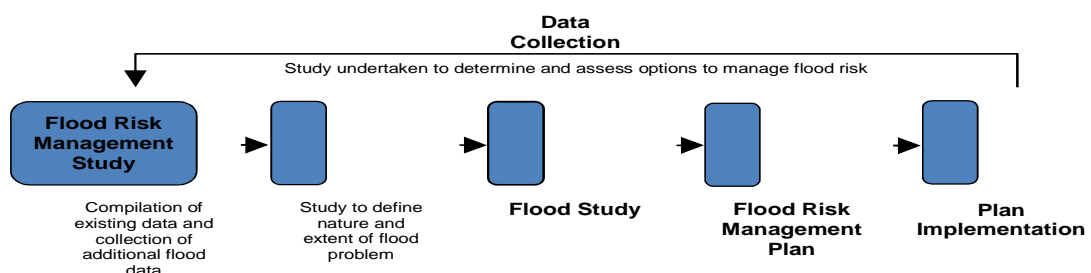
(Ref: Floodplain Development Manual, 2005)

## Floodplain Development Manual

The Floodplain Development Manual supports the NSW Government’s Flood Prone Land Policy in providing for the development of sustainable strategies for managing human occupation and use of the floodplain considering risk management principles which are based upon a hierarchy of avoidance, minimisation (using planning controls) and mitigation works. The Manual provides Councils with a framework for implementing the Flood Prone Land Policy.

### *Floodplain Risk Management Process*

As with other local planning processes, management plan formulation and implementation is generally a Council responsibility. The figure below illustrates the process.



The Plan making processes under the NSW *Environmental Planning and Assessment Act* (EPA Act) such as that leading to the preparation of Local Environmental Plans (LEP) and Development Control Plans (DCP) operate independently to the preparation of the FRMPs under the Floodplain Development Manual. Normally once the FRMP has been adopted, council can subsequently implement the recommendations of the Flood Risk Management Plan which may include the preparations of an LEP and DCP under the EPA Act. In addition the outcomes of the flood risk management process can provide further information input into the more detailed assessment of individual development proposals and more importantly general strategic planning projects.

(Ref: Grech and Bewsher, 2009).

### **References**

Grech and Bewsher 2009, Land-Use Planning for Floodplains in NSW – It's Time to Change the FRM Process, Joint 49<sup>th</sup> Annual Floodplain Management Authorities Conference 2009

<http://www.environment.nsw.gov.au/floodplains/index.htm>)

Floodplain Development Manual, 2005 Floodplain Development Manual: the management of flood liable land, NSW Department of Land and Water Conservation 2005