Submission to the

Productivity Commission Inquiry

Natural Disaster Funding Arrangements

on the

Draft Report released 25 September 2014

Local Government Association of Queensland

October 2014

Contents

1. Executive Summary

The Local Government Association of Queensland (LGAQ) is pleased to provide this submission in response to the Productivity Commission's Draft Report.

LGAQ wishes to record its strong opposition to the funding reforms proposed in the draft report. LGAQ considers that the proposals would have an unacceptable (and unsustainable) impact on local government in Queensland. Reducing the Australian Government share of funding for disaster recovery and significantly increasing the small disaster threshold that triggers relief funding would have significant financial impacts for councils across Queensland. **Over the period from 2009 to 2014, Queensland local government would have faced an additional cost of at least $1.3 billion under the draft report proposals.**

LGAQ rejects the view that the availability of Natural Disaster Relief and Recovery Arrangements (NDRRA) funding discourages councils from obtaining insurance. As has been independently verified by the Department of Finance and Deregulation, councils comprehensively insure their civic assets despite the ongoing availability of NDRRA funding for natural disaster damage to those assets. Expecting local governments to take out disaster insurance for roads would result in most councils being subjected to crippling premiums.

LGAQ submits the following key points for consideration by the Productivity Commission (PC) in developing the final report:

1) The current thresholds and assistance rates for NDRRA Category B support should be maintained with the first threshold for 50% Australian Government reimbursement at 0.225% of state revenue and grants and the second threshold for 75% reimbursement at 1.75 times the first threshold;
2) The small disaster criterion (currently $240,000) be maintained and indexed to reflect price movements;
3) The report should recommend that prescriptive, input-based conditions including restrictions on the use of local government employees' labour (day labour) be removed to ensure the most efficient and effective recovery arrangements;
4) There should be increased autonomy for state and local government to manage relief and recovery expenditure in a way that reflects the preferences and characteristics of their communities;
5) Australian Government funding support for mitigation should be increased. Mitigation funding should be distributed amongst states to match the expected benefit from mitigation work;
6) LGAQ supports ongoing programs on both betterment and mitigation, with equal shares between the Commonwealth and State and up to 20% local government funding share. However, the local government share should be flexible, up to a limit, depending on the capacity of the individual council involved;
7) State Governments should provide local governments a statutory exemption from liability for natural hazard management for reasonably-based decision making and actions;
8) The provisions in the Queensland *Sustainable Planning Act 2009* for injurious affection be repealed;
9) Insurance for local government roads including use of non-traditional insurance products is not a viable option for local government due to issues of product availability and cost;
10) LGAQ does not support a requirement that local governments compile and publish detailed registers of road asset condition and maintenance for all roads over which they have jurisdiction (and have these registers independently audited);
11) LGAQ does not support NDRRA funding being conditional on external assessment of the adequacy of individual council asset management plans and their incorporation of natural disaster risk planning;
12) LGAQ does not support funding for essential public assets being primarily based on initially assessed damage and benchmark prices.

2. The Local Government Association of Queensland

This submission has been prepared by the Local Government Association of Queensland (LGAQ) in response to the Productivity Commission draft report on Natural Disaster Funding Arrangements.

The LGAQ is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs.

LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

3. Overview of Productivity Commission Proposals

While LGAQ supports a number of recommendations in the Productivity Commission (PC) draft report, the funding reforms proposed would have an unacceptable (and unsustainable) impact on local government in Queensland.

Reducing the Australian Government share of funding for disaster recovery and increasing the small disaster threshold that triggers relief funding would be expected to have significant financial impacts for councils across Queensland. In addition, expecting local governments to take out disaster insurance for roads would result in most councils being subjected to crippling premiums.

Unfortunately, the draft report does not address the consequences of these funding proposals for local government and communities. Instead, this is simplistically treated as a matter for state governments to address. The impact on local government is left as a matter for each state with the statement (p 19) that "*each state would continue to have full autonomy on how it provides support to its local governments."*

LGAQ submits that the cost burden on individual councils of the draft recommendations will be extreme as state governments are unlikely to directly fund the "gap" left by the reduction of around 25% of Australian Government support. **LGAQ has estimated that, based on events between 2009 and 2014, the additional cost to Queensland councils as a result of the PC proposals would have been at least $1.3 billion** (in excess of $200 million on an annual average basis). For at least 10 councils, the average annual cost would exceed annual general rate revenue. In addition, the 16 indigenous councils with no general rate revenue could face a collective extra annual cost of at least $10 million.

The draft report (p16) suggests that "*there is no clear rationale for the Australian Government to have a higher exposure to natural disaster risks than to other fiscal risks"*. Natural disaster risks are quite different to fiscal support for services such as education and health, yet the report uses these as comparisons to support its argument for reduced Australian Government funding support under NDRRA.

The draft report suggests (p 34) that a marginal reimbursement rate of 75% is excessive. However, Figure 4 (p8) shows that the average level of Australian Government support between 2009/10 and 2012/13 through NDRRA was under 60%. This period covered some extreme natural disasters and the longer term average of Australian Government support would be less than this amount. Additionally, the figures in the draft report do not contain estimates of costs associated with natural disasters which are not currently eligible for funding under the NDRRA. **Indeed, by reducing the Australian Government's reimbursement rate to 50% as proposed and taking into consideration threshold limits and costs ineligible to claim under NDRRA, the effective contribution by the Australian Government drops to an estimated 40% compared with its taxation revenue share of 70%.**

The following sections of this submission provide more detailed comments on specific proposals contained in the draft report.

4. Natural Disaster Relief and Recovery Arrangements Funding

As noted above, LGAQ strongly opposes the draft recommendations in relation to funding arrangements. Draft recommendation 3.1 states that:

The Australian Government should:

reduce its marginal cost sharing contribution rate to disaster recovery outlays to 50 per cent under the Natural Disaster Relief and Recovery Arrangements

increase the triggers for Australian Government assistance (small disaster criterion and annual expenditure threshold).

This recommendation has been made without any comment, consideration or analysis of the possible impact on councils across Australia, particularly smaller, poorly resourced councils in areas more prone to natural disasters. While the Productivity Commission appears to believe that this is simply a matter for each state government, it would appear to be unlikely that state governments would be able to effectively double their financial liability to local government.

The draft report notes (p8) the high degree of Vertical Fiscal Imbalance (VFI) and the need for the Australian Government to bear some natural disaster risk as a "safety net" that reflects the Australian Government's greater ability to bear fiscal shocks (p 113). However, the report then goes on to argue that a marginal contribution rate of 50% would more closely align with the degree of VFI in the Australian Federation (p114).

Under the draft proposals (with 50% rate for expenditure above the proposed $2 million threshold), the Australian Government would potentially contribute no more than 40% of the cost of a natural disaster compared with 60% at present. This potential outcome is not aligned with VFI as shown by **Table 3.1**, which includes GST in state taxation revenue (the Australian Government collects 82% of all taxation revenue when GST is included in their taxation). In fact, the current funding with around 60% coming from the Australian Government is more closely aligned with the degree of VFI.

Table 3.1: Taxation Revenue by Government Sector 2012/13 – with GST as State taxation

Government Sector	Taxation Revenue $ billion	Share %
Australian Government (less GST)	$288.1	69.3%
State Government (inc .GST)	$113.8	27.4%
Local Government	$13.9	3.3%
	$415.8	100.0%

Source: ABS 5506.0

As noted earlier, councils in Queensland would potentially face natural disaster costs well beyond their financial capacity, even with forward provisions to reduce shocks in a disaster year.

The LGAQ notes that the transfer of substantial additional natural disaster costs onto councils simply could not be met through increases in council rates. Councils are already facing substantial reductions in revenue and communities are already experiencing increasing costs of living. A 2013 report on council financial sustainability found that "average rating levels across Queensland Local Governments are at the upper limit of ratepayers' capacity to pay and continuing significant rate increases are likely to be unsustainable…" (AEC 2013 *Factors Impacting Local Government Financial Sustainability: A Council Segment Approach* p54).

Table 3.2 shows LGAQ's estimates of the likely potential minimum average annual cost of natural disaster by council based on 2009 to 2014 events (excludes indigenous councils which have no general rate revenue). The impact of the increased threshold from $240,000 to $2 million cannot be assessed but would obviously make the situation worse than shown.

Over the six year period shown, Queensland councils could have faced additional costs totalling just under $1.3 billion (an average per year of $210.4 million) if Australian Government support had been a flat 50%. Data for the 2011 to 2014 period provides an even higher impact, with the extra cost to councils over that four year period totalling $1.1 billion, or an average annual additional cost of $275 million.

Table 3.2 shows for the non-indigenous councils that:

- 60% of councils could have an additional annual cost from natural disasters equivalent to more than 15% of their annual general rate revenue;
- 40% of councils could have an additional annual cost equivalent to more than 50% of their annual general rate revenue.
- 18% of councils could have additional costs of more than their annual general rate revenue.

Table 3.2: Potential Additional Cost to Council by flat 50% Australian Government funding

	Total NDRRA 2009 to 2014 events $m	Additional annual cost with flat 50% Commonwealth support ($)	Net General Rates 2011/12 ($)	Average Extra Council Annual Cost as % Rate Revenue
Croydon Shire Council	$44.5	$1,853,281	$337,000	549.9%
Diamantina Shire Council	$36.6	$1,526,600	$545,000	280.1%
Cook Shire Council	$185.4	$7,723,064	$2,799,000	275.9%
Barcoo Shire Council	$32.2	$1,340,015	$682,000	196.5%
Richmond Shire Council	$29.5	$1,229,377	$709,000	173.4%
Carpentaria Shire Council	$118.0	$4,917,691	$2,930,000	167.8%
Boulia Shire Council	$29.1	$1,214,477	$751,000	161.7%
Paroo Shire Council	$75.6	$3,149,713	$2,078,000	151.6%
Murweh Shire Council	$74.6	$3,107,414	$2,695,000	115.3%
Balonne Shire Council	$128.2	$5,340,737	$5,160,000	103.5%
Etheridge Shire Council	$49.9	$2,081,186	$2,159,000	96.4%
Flinders Shire Council	$38.7	$1,614,436	$1,709,000	94.5%
McKinlay Shire Council	$41.7	$1,738,332	$1,905,000	91.3%
North Burnett Regional Council	$136.5	$5,688,303	$6,819,000	83.4%
Quilpie Shire Council	$43.9	$1,828,052	$2,202,000	83.0%
Barcaldine Regional Council	$47.6	$1,983,486	$3,335,000	59.5%
Blackall-Tambo Regional Council	$33.8	$1,410,400	$2,390,000	59.0%
Hinchinbrook Shire Council	$187.3	$7,804,661	$13,463,000	58.0%
Bulloo Shire Council	$48.5	$2,020,829	$3,551,000	56.9%
Burke Shire Council	$41.7	$1,739,206	$3,081,000	56.4%
Winton Shire Council	$26.8	$1,115,787	$1,999,000	55.8%
Charters Towers Regional	$90.5	$3,772,668	$7,434,000	50.7%
Lockyer Valley Regional Council	$238.3	$9,927,340	$19,612,000	50.6%
Maranoa Regional Council	$155.7	$6,485,705	$13,206,000	49.1%
Somerset Regional Council	$145.8	$6,073,389	$12,900,000	47.1%
Whitsunday Regional Council	$195.4	$8,143,507	$32,104,000	25.4%
Cassowary Coast Regional	$168.3	$7,010,456	$28,414,000	24.7%
Tablelands Regional Council	$83.5	$3,478,458	$15,414,587	22.6%

	Total NDRRA 2009 to 2014 events $m	Additional annual cost with flat 50% Commonwealth support ($)	Net General Rates 2011/12 ($)	Average Extra Council Annual Cost as % Rate Revenue
South Burnett Regional Council	$97.4	$4,056,495	$18,480,000	22.0%
Scenic Rim Regional Council	$125.0	$5,209,612	$24,945,000	20.9%
Torres Shire Council	$4.2	$174,677	$862,000	20.3%
Banana Shire Council	$80.0	$3,333,687	$16,576,000	20.1%
Western Downs Regional Council	$160.4	$6,681,332	$34,284,000	19.5%
Cloncurry Shire Council	$29.3	$1,222,561	$6,318,000	19.4%
Longreach Regional Council	$17.7	$737,726	$3,915,000	18.8%
Goondiwindi Regional Council	$36.7	$1,528,922	$9,725,000	15.7%
Central Highlands Regional Council	$122.5	$5,103,477	$34,045,000	15.0%
Bundaberg Regional Council	$175.1	$7,296,131	$52,418,000	13.9%
Burdekin Shire Council	$66.7	$2,778,219	$21,293,000	13.0%
Isaac Regional Council	$87.6	$3,650,211	$31,027,000	11.8%
Mackay Regional Council	$232.7	$9,694,026	$83,054,000	11.7%
Gympie Regional Council	$73.6	$3,065,243	$27,314,000	11.2%
Southern Downs Regional Council	$57.3	$2,385,935	$21,436,000	11.1%
Gladstone Regional Council	$146.5	$6,103,879	$56,139,000	10.9%
Mareeba Shire Council	$27.6	$1,150,718	$11,240,414	10.2%
Toowoomba Regional Council	$210.6	$8,775,764	$91,810,000	9.6%
Townsville City Council	$196.3	$8,177,144	$116,020,000	7.0%
Rockhampton Regional Council	$62.5	$2,603,122	$37,928,864	6.9%
Mount Isa City Council	$14.7	$614,202	$9,082,000	6.8%
Douglas Shire Council	$14.0	$584,506	$12,844,095	4.6%
Ipswich City Council	$113.7	$4,737,210	$104,280,000	4.5%
Cairns Regional Council	$62.8	$2,617,085	$89,580,905	2.9%
Fraser Coast Regional Council	$37.1	$1,545,554	$56,183,000	2.8%
Livingstone Shire Council	$8.4	$350,470	$17,898,136	2.0%
Brisbane City Council	$180.3	$7,513,647	$604,101,000	1.2%
Moreton Bay Regional Council	$48.7	$2,030,544	$171,232,000	1.2%
Sunshine Coast Regional Council	$14.5	$606,240	$149,856,587	0.4%
Logan City Council	$8.4	$351,793	$93,714,000	0.4%
Redland City Council	$3.0	$126,361	$73,242,000	0.2%
Gold Coast City Council	$7.4	$309,577	$335,365,000	0.1%
Noosa Shire Council	$0.0	$0	$35,037,413	0.0%
Total Program - LGAs	**$5,274.5**	**$210,434,641.0**	**$2,641,630,000**	**8.0%**

Source: QRA, ** estimated rate revenue for Douglas, Livingstone, Mareeba & Noosa due to de-amalgamation

These are potentially conservative estimates. It is possible that half the non-indigenous councils in Queensland would not be financially sustainable under the draft proposals, with most of these in Northern or Western Queensland.

In addition, the 16 indigenous councils, with no general rate revenue, had over $220 million in NDRRA eligible damage in the 2009 to 2014 period as shown in Table 3.3.

These indigenous councils could face an extra annual cost of at least $10 million which they would have no capacity to fund from own-source revenue.

Table 3.3: Potential Additional Cost to Indigenous Councils by flat 50% Australian Government funding

	Total NDRRA 2009 to 2014 events ($m)	**Additional annual cost with flat 50% Commonwealth support ($)**
Aurukun Shire Council	$17.2	$715,967
Hope Vale Aboriginal Shire Council	$13.8	$573,534
Kowanyama Aboriginal Shire Council	$23.8	$993,597
Lockhart River Aboriginal Shire Council	$19.6	$815,732
Mapoon Aboriginal Shire Council	$3.9	$162,678
Napranum Aboriginal Shire Council	$5.8	$243,494
Northern Peninsula Area Regional Council	$12.9	$537,196
Pormpuraaw Aboriginal Shire Council	$25.3	$1,055,089
Torres Strait Island Regional Council	$21.4	$891,537
Wujal Wujal Aboriginal Shire Council	$5.2	$216,272
Yarrabah Aboriginal Shire Council	$12.8	$535,090
Doomadgee Aboriginal Shire Council	$9.4	$392,979
Mornington Shire Council	$11.8	$490,967
Palm Island Aboriginal Shire Council	$36.2	$1,507,750
Woorabinda Aboriginal Shire Council	$3.5	$144,260
Cherbourg Aboriginal Shire Council	$1.4	$57,970
TOTAL	$224.0	$9,334,111

Source: QRA

Cassowary Coast Regional Council has stated that *"The Council repair bill for Yasi NDRRA works was $120 million. The Federal contribution was $90 million. With the proposed new model, a shortfall of $30 million would result. The State government has made it clear their contribution can't increase at all, let alone double and local government could not possibly find the lost $30 million."* For Cassowary Coast this one event was more than their annual general rate income.

Councils also spend a significant amount of own-source revenue in relation to natural disaster costs. **Table 3.4** provides details of natural disaster related expenditure in Western Downs Regional Council from 2011 to 2013. Over the three years, total natural disaster related expenditure was in excess of $200 million. Of this expenditure, direct council outlays accounted for almost $25 million or 12.4% of the total. This three year council expenditure was almost equivalent to one year of net general rate revenue at that time.

It is apparent from this example that it is simply not financially feasible for most councils to take on any additional cost burden as a result of the proposals to reduce Australian Government funding. In the case of Western Downs, the proposed flat 50% Australian Government contribution rather than the current arrangements would have potentially resulted in an additional $40 million in disaster related costs over the three year period shown in Table 3.3.

This would have brought the three year total cost to council to around $65 million which is equivalent to almost its total general rate revenue over that three year period.

Western Downs Regional Council Mayor Cr Ray Brown commented that *"… the repair bill for the 2011 event was in excess of $125 million. Had this proposed new model been in place, council would have had to fund an additional $26 million. This would have brought council's total commitment for this one event to $47 million, almost 1.5 times its annual general rate revenue. An impossible amount to fund!"*

Table 3.4: Western Downs Regional Council Natural Disaster related Expenditure 2011 to 2013

2011 Event	**Federal/State contribution**	**Council Contribution**	**Total Expenditure**	**Share Council**
NDRRA eligible works	$104,653,721	$12,197,375	$116,851,096	10.4%
NDRRA non-eligible works		$3,017,308	$3,017,308	100.0%
Mitigation/Betterment works				
Other Disaster Management Expenditure**		$5,914,540	$5,914,540	100.0%
Total	**$104,653,721**	**$21,129,222**	**$125,782,943**	16.8%
2012 Event				
NDRRA eligible works	$2,114,429	$174,795	$2,289,224	7.6%
NDRRA non-eligible works		$1,729,497	$1,729,497	100.0%
Mitigation/Betterment works				
Other Disaster Management Expenditure**		$20,163	$20,163	100.0%
Total	**$2,114,429**	**$1,924,455**	**$4,038,883**	**47.6%**
2013 Event				
NDRRA eligible works	$65,625,013	$168,811	$65,793,824	0.3%
NDRRA non-eligible works		$1,066,269	$1,066,269	100.0%
Mitigation/Betterment works	$3,021,480	$343,955	$3,365,435	10.2%
Other Disaster Management Expenditure**		$246,401	$246,401	100.0%
Total	**$68,646,493**	**$1,825,436**	**$70,471,929**	**2.6%**
Total 2011 to 2013 events				
NDRRA eligible works	$172,393,162	$12,540,981	$184,934,143	6.8%
NDRRA non-eligible works		$5,813,073	$5,813,073	100.0%
Mitigation/Betterment works	$3,021,480	$343,955	$3,365,435	10.2%
Other Disaster Management Expenditure**		$6,181,104	$6,181,104	100.0%
Total 2011 to 2013	**$175,414,643**	**$24,879,113**	**$200,293,756**	**12.4%**

Source: WDRC. ** other disaster planning, relief & recovery, overheads, SES support, etc not included above

The above estimates of potential costs to Queensland councils are without considering any potential impacts from the increase in the small disaster threshold from $240,000 to $2 million.

The increase in the threshold for a disaster event from $240,000 to $2 million could mean that an event impacting on say only one large rural remote area could leave a council facing a recovery cost of up to $2 million without any NDRRA support.

There are at least 11 non-indigenous councils with annual general rate revenue of less than $2 million, many of these with large areas and extensive rural road networks easily damaged by floods. For example, Diamantina Shire has over 1,000 kilometres of road spread over 95,000 square kilometres but with general rate revenue of just over $0.5 million.

The Queensland Reconstruction Authority (QRA) have estimated that an increase to $2m in the small disaster threshold would have meant that, since 2009, 10 NDRRA activated natural disaster would not have met the criteria for activation, impacting 56 local government areas, including 10 indigenous councils.

As noted earlier, there are also 16 indigenous local governments in Queensland which do not have the resources available to contribute to the costs of natural disasters.

The above comments are based on the Option 1 proposal of the draft report. LGAQ considers that the impacts on Queensland councils could be much higher if Option 3 (event basis) was adopted. The nature of climatic conditions in Queensland mean that typically more than one natural disaster event would be expected annually. Even with the lower threshold for an event, with multiple events, the overall contributions by councils would be higher.

As noted in LGAQ's June 2014 submission, the proposed reduction in Australian Government support would be detrimental to the Government's commitment to put in place policies and plans to develop Northern Australia's potential with more investment, infrastructure, jobs and services.

Further. Much evidence suggests that the risk of natural disasters is increasing, particularly in coastal communities in northern Australia. These communities are more exposed to the impact of natural disasters, with potentially greater damage costs than in the past.

In summary, the draft report funding proposals represent a massive cost shift to state, territory and local governments. There would be extreme adverse impacts on communities across Queensland, including but not limited to reduced service levels and / or standards, reduced investment in infrastructure, reductions in local workforces and the consequent flow-on effects for communities and industry.

5. Reducing Prescriptive Conditions

LGAQ agrees with the draft report statement (p17) that *"prescriptive, input-based conditions (such as restrictions on the use of local government employees' labour (day labour)) are preventing state and local government from pursuing the most efficient recovery options".* However, there is no specific recommendation on removing this restriction.

The QRA has recently completed an interim report on day labour trials[1]. The report found that "… *the use of day labour has enabled Queensland councils to deliver NDRRA reconstruction works at a cost below comparable market values, in an accelerated time period and a quality that is fit for purpose"* , and that "… *the use of day labour under the VfM Pricing Model will result in an estimated savings of $120 million saving, with $50 million already saved to date."*.

[1] Interim Report, Local Government Value for Money Pricing Model (Day Labour) Trial, QRA September 2014

LGAQ considers that there should be a specific recommendation on removing the restriction on the use of day labour.

Draft Recommendation 3.1 includes the statement that *"… the Australian Government should provide state and territory governments with increased autonomy to manage relief and recovery expenditure in a way that reflects the preferences and characteristics of their communities."* While LGAQ supports this recommendation, this part of the recommendation is made in the context of the proposed reduced funding rather than a stand-alone recommendation.

6. Increased Support for Mitigation

LGAQ supports the draft recommendation 3.2 that support for mitigation should be increased. However, this should not be made conditional on reduced funding support for recovery. Recovery expenditure 'savings' from mitigation projects in the form of lower disaster recovery expenditure (and broader positive externalities) can only be achieved once mitigation projects have been completed

The recommendation also proposes that any Australian Government support for mitigation should be distributed between states on a per capita basis. This would not appear to have any relationship with the geographic location or frequency of events nor with the potential benefit from mitigation; the draft report does not provide any justification for choosing a per capita distribution.

Table 1 (p5) of the PC report shows the insurance loss by natural hazard between 1970 and 2013. **Table 4.1** shows this on a per capita basis by state. On a per capita basis, the Northern Territory faced the greatest loss followed by Queensland and New South Wales. This suggests that a per capita distribution of mitigation funding might not achieve the greatest benefit in risk reduction and reduced recovery outlays.

Insurance losses do not necessarily reflect the relative potential benefit from mitigation. For example, NSW losses incorporate some significant hail damage costs where mitigation is not feasible and Cyclone Tracy would have impacted dramatically on the Northern Territory figures.

LGAQ believes that mitigation funding should be distributed to match the expected benefit from mitigation work.

Table 4.1: Per capita insurance loss by natural hazard, 1970 to 2013

	Insurance loss $ million	Population	$ per capita
NSW	$10,788	7,439,200	$1,450
Vic	$4,783	5,768,600	$829
Qld	$9,283	4,676,400	$1,985
SA	$327	1,674,700	$195
WA	$1,852	2,535,700	$730
Tas	$271	513,400	$528
NT	$1,652	241,800	$6,832
ACT	$440	382,900	$1,149
Total	**$29,395**	**23,232,700**	**$1,265**

7. Land Use Planning

The draft report states (p29) that "… *State governments could help local governments to better incorporate natural disaster risk management into land use planning decisions by providing additional guidance on how to prioritise the competing objectives of land use planning. Increased transparency and accountability of local government decision making would also assist."*

Overall, the LGAQ considers that land use planning arrangements in Queensland (apart from the matters noted below) are effective in incorporating natural disaster risk management. As the LGAQ June 2014 submission noted, the State Planning Policy includes policy requirements for natural hazards (including coastal hazards) along with supporting mapping. In addition, the QRA publication *Planning for stronger, more resilient floodplains* provides councils with a suite of practical measures.

Notwithstanding, ministerial call-in directive powers have been used to override council decisions refusing development proposals relating to natural hazards leaving councils with potential liability. Under the *Sustainable Planning Act*, councils are still deemed to be the assessment manager regardless that the decision has been made by the Minister. The LGAQ maintains that any intervention by a Minister regarding local government decisions should be restricted to decisions that are not reasonable and / or not made in good faith, irrespective of whether those decisions are made in assessing development applications or in strategic plan making. Any contrary intervention by a Minister must also accept the ongoing risk and liability to the State.

Draft recommendations 4.4 and 4.5 propose greater support from State Governments in relation to land use planning and the built environment.

The LGAQ agrees in-principle with draft recommendation 4.4 although dot point 1 could be better worded as *"clearly articulate the State's whole-of-government natural hazard risk management framework in land use planning and asset management".*

Draft recommendation 4.5 states that *"the onus is on state governments to ensure that local governments in their jurisdiction are sufficiently resourced to effectively implement their land use planning responsibilities. State governments should review the adequacy of local governments' resources and capabilities, and provide further resources and support where they are not adequate.*

The LGAQ endorses draft recommendation 4.5 and maintains that an effective and efficient natural hazard land use planning and asset management risk management framework must be consistent across all spheres of government and be a genuine partnership given the intertwined and complementary jurisdictional responsibilities.

Draft recommendation 4.6 states that "*State governments should provide additional support and guidance to local governments that addresses the extent of local governments' legal liability when releasing natural hazard information and making changes to land use planning regulations."*

Although the LGAQ supports draft recommendation 4.6 in-principle, **the LGAQ recommends that State Governments must provide local governments with a statutory exemption from liability for natural hazard management for reasonably-based decision making and actions.**

Recognising jurisdictional inconsistencies and deficiencies in Queensland legislation, the LGAQ has recently submitted to the Queensland State Government (**Attachment A**) proposed amendments to the Queensland Local Government Act 2009 and City of Brisbane Act 2010 to include an explicit statutory limitation of local governments' exposure to liability for reasonably-based decision making and actions.

Responding to the risks associated with natural hazards is a responsibility of all spheres of government. These responses range from land use planning to disaster responses to asset and infrastructure management. The post-script to any natural hazard invariably asks questions of what has occurred, the damages incurred and what could have been done to mitigate the impacts of natural hazard in the first instance.

These very questions were brought before the Queensland Floods Commission of Inquiry and in its Final Report (March 2012) the findings discussed how existing legislative provisions act as a deterrent for local governments to include natural hazard controls in planning schemes, specifically in the context of compensation and statutory immunity.

As outlined in the *Queensland Floods Commission of Inquiry Final Report 2012* (Section 5.5.1 Statutory immunity), councils in Queensland have no specific statutory protections in relation to the provision of flood information or decisions concerning development of flood-affected land. The LGAQ and other parties contended that uncertainty about local governments' exposure to liability could be relieved by the introduction of a legislative exemption from liability for reasonably based local government decision-making such as that outlined in section 733 of the New South Wales Local Government Act 1993. Although a specific recommendation was not offered in the Final Report, the Commission endorsed the Queensland Government's advice that it would "investigate the viability of introducing legislation similar to section 733 of the Local Government Act 1993 (NSW)." (Section 5.5.1 p. 130)

In summary, existing legislation does not protect councils from claims for damages arising from planning and development decisions and the issue of advice relating to hazard affected land, even though they had acted in accordance with the relevant government policy and in good faith.

This uncertainty has caused a number of councils to adopt conservative approaches to decision-making, whether through ambiguous or inhibited strategic planning processes, or through refusing development applications or imposing superfluous and costly development and building conditions.

As per the identified need for New South Wales councils, an indemnity is required in Queensland that strikes the appropriate balance between protecting the rights of individuals, on the one hand, and the problems encountered by local government, on the other. Protecting actions taken in good faith will encourage councils to be proactive in undertaking 'best practice' approaches to natural hazard management through an appropriate allocation of risk that will increase development certainty and economic growth.

The LGAQ has also provided legal advice to the Queensland State Government outlining why provisions, similar or equivalent to the exemption in section 733 of New South Wales Local Government Act 1993, are required to cover all functions of councils under the Queensland Local Government Act 2009, rather than limiting to Queensland's planning and development legislation (Sustainable Planning Act 2009) only. As highlighted in the advice and most notably, "The NSW exemption is, in effect, a one stop shop…. it was successfully relied upon by local authorities in the case of Douglas & Ors v Bogan Shire Council & Anor to provide immunity in relation to the design and construction of a levee that was overtopped during a flood event."

Ensuring councils are protected from future liability claims will not only unlock red tape in planning and respond to the risks of decision making regarding natural hazards but also result in real and potentially unlimited cost savings of being forced to undertake very expensive mitigation or defence actions in inappropriate locations.

LGAQ supports the draft recommendation 4.7 that "*The provisions in the Queensland Sustainable Planning Act 2009 for injurious affection should be repealed.*" This aligns with the endorsed LGAQ Policy Statement 2013 item: *6.1.1.13 Compensation should not be available where local planning instruments are made or amended to manage risks associated with natural hazards, including flood, bushfire, landslide, storm tide inundation and coastal erosion.*

LGAQ has made a number of submissions to the Queensland Government on this matter but to date no action to remedy this situation has been proposed by the state.

8. Insurance

Draft recommendation 3.4 relates to insurance for roads. The recommendation states that *"State, territory and local governments should further investigate non-traditional insurance products for roads. Where they do not already do so, state, territory and local governments should compile and publish detailed registers of road asset condition and maintenance for all roads over which they have jurisdiction (and have these registers independently audited). This may help insurance markets to understand and price the risk. Consideration should be given to the Victorian model in this regard. "*

It is not clear what the relevance of the Victorian model is on insurance for local government roads. As Table 2.6 of the draft report (p91) shows, local government roads in Victoria are not insured as is the case with local roads in all jurisdictions.

The Draft Report makes reference to the 2012 report of the Department of Finance and Deregulation's Review of Insurance Arrangements of State and Territory Governments under the NDRRA Determination 2011 (Review). The LGAQ considers the structure adopted by the Commission to discuss issues identified in the Review does not reasonably reflect the ultimate position appearing in the Department's report.

On page 373 of the Draft Report the statement is made that the Review's technical advisor, KPMG Actuarial, had noted that there was limited evidence that insurance options for roads had been sufficiently explored by all governments. This statement appears in the Draft Report following references to some of the issues identified by the Review concerning the lack of market capacity for traditional insurance arrangements and cost effectiveness of non-traditional options.

It is considered that presenting the KPMG reference in this way suggests that it was a conclusive position arising from the Review. On the contrary, it is the LGAQ's view that the Department, being aware of the extent of insurance and market investigation, proceeded to state the following:

*"While the insurance cover already held by the ACT and VIC is evidence that road assets are an insurable risk, it is clear that this is not a viable option for all jurisdictions."(*p36 of Dept of Finance and Deregulation Review).

Similarly, the Draft Report refers to the Department of Finance and Deregulation's Review putting forward a number of options for funding roads outside traditional insurance. One of those options was parametric insurance. The Draft Report recommends that state, territory and local governments should further investigate non-traditional insurance products for roads and requested that information on products such as parametric insurance be provided to the Commission.

The Department of Finance and Deregulation identified a number of issues with the use of parametric insurance for roads. In relation to cost it stated as follows:

"Historically, parametric products have been found to be more expensive than traditional insurance options." (p37). The Department went on to state that *"A parametric solution for road assets may not be a viable solution for reducing States' exposure in all cases."* (p39).

The Department was not able to identify any overseas examples of governments using non-traditional risk transfer products for roads. In summing up its discussion of both traditional and on non-traditional risk transfer options the Department made the following statement *"However, the limitations of these options indicate that risk transfer for road assets, whether traditional or non-traditional, may not be a viable solution for most jurisdictions."* (p39).

It is essential to take into account that 'basis risk' (in this context the risk involved in modelling and determining the payment trigger) related to non-traditional arrangements will involve increased risks for the insured party. Local government is not in a position to take on those risks, particularly when they involve the capacity to reliably provide essential public assets to the community.

The Executive Summary of the Department's report deals with the issue of insurance for roads assets as follows:

"The Phase 1 review identified that despite the existence of generally well-developed commercial insurance arrangements to protect the non-road assets of States, there remains a significant gap with respect to the insurance of road assets. Detailed investigation by Finance *(emphasis added by LGAQ) into the availability of commercial insurance for road assets and non-traditional insurance options for the transfer of risk identified the following:*

1. *the appetite and capacity of traditional insurance arrangements for road assets in Australia is insufficient;*
2. *non-traditional insurance options are limited in their availability and, even if available, may not be cost - effective; and*
3. *risk transfer options for road infrastructure may not present a viable solution for all jurisdictions in Australia."*(p10)

The Review noted the considerable efforts made by the Queensland and South Australian Governments to obtain market terms for insuring road assets and their inability to obtain cover.

The Draft Report does in part acknowledge the Review's conclusions on availability and cost effectiveness of insurance for roads but then states that there are signs the reinsurance market has developed in recent years such that insurance companies could now have sufficient risk appetite to insure roads through either traditional or non-traditional insurance arrangements. No information specifically dealing with insurance for roads is included in the Draft Report to support this view. Reference is only made to two international publications that include general comments on broad reinsurance market trends.

Local government has strong connections into local and international insurance markets and through those connections is able to make specific threshold determinations on the scope for viably insuring its significant risks. In cases involving well established risks it is unproductive to continue to undertake detailed international marketing exercises, at great cost, to determine a market position.

The LGAQ has already strongly made the point to the Australian Government that repeatedly requiring state and local government to undertake highly expensive international marketing exercises for road insurance is not a productive use of public funds. Particularly in the case of Queensland local government, even if markets could be found the premium required just to cover projected working losses indicated by historical data would be completely prohibitive.

A fundamental issue involved in insuring roads in Queensland is the regular impact of natural disasters demonstrated by NDRRA data. It does not take a marketing exercise to know that many of the councils significantly impacted by natural disaster road damage are those with no capacity to meet the premium cost of insurance capable of covering the cost of damage. The alternative approach of structuring insurance on a state-wide basis in Queensland would involve a risk profile unquestionably leading to the impact on premium of demonstrated annual state-wide losses.

It is the case that traditional insurance market conditions are subject to change. However typical market cycles impact the cost and scope of cover provided by proven insurers more towards the margins rather than producing fundamental shifts in qualitative risk appetite.

The inflow of capital to risk markets resulting from sustained low interest rate policy responses to the Global Financial Crisis is an entirely different scenario. It has resulted in very rapid changes to relationships between reinsurance markets, insurance linked securities and other risk products.

There is absolutely no way of reliably assessing the complete consequences of current policy settings and market conditions let alone relying on the longer term sustainability of any particular market position.

Reducing spreads between risk free rates and returns on insurance linked securities, or very large catastrophe losses, could move the market in a different direction.

It would not be responsible for policy decisions related to ongoing funding programs to be influenced by changed market conditions created by circumstances that are in many respects unprecedented.

8.1.Pushing Councils into Higher Risk Securities

The Draft Report's focus on alternative or non-traditional risk transfer arrangements comes into direct conflict with legislative provisions establishing quite conservative frameworks for dealings between Queensland councils and financial markets.

The *Statutory Bodies Financial Arrangements Act 1982* determines investment powers of Queensland statutory bodies, including local governments. Most councils have Category 1 investment power which limits investments to deposits with financial institutions, Commonwealth or State guaranteed arrangements or other approved arrangements. The investments must be at call or for a fixed term of not more than one year.

Councils whose current financial risk profile only extends to deposits of not more than 12 months duration with regulated institutions cannot reasonably be considered as capable of pursuing parametric insurance arrangements or catastrophe bonds.

8.2.Incentive to Take Out Insurance

The LGAQ strongly objects to the view that availability of NDRRA funding discourages councils from obtaining insurance. As has been independently verified by the Department of Finance and Deregulation, councils comprehensively insure their civic assets despite the ongoing availability of NDRRA funding for natural disaster damage to those assets. This includes councils in North Queensland that have seen very significant increases in their insurance premiums resulting from natural disaster damage.

Most insurance policies for council assets have a sub-limit of $250,000 for flood damage. It may be possible to increase this sub-limit in particular cases but not in a flood prone area. So the councils with a higher risk of flood effectively have no choice but to have a $250,000 sub-limit. It is a similar situation with the policy deductible for named cyclones of $50,000 and above. The insurer will not change this for councils in cyclone areas.

8.3.Victorian Roads

It is the case that State controlled roads in Victoria are insured but local government roads are not. This appears to be acknowledged in the Draft Report at pages 365, 370 and 372. The particular circumstances relating to insurance of Victorian State controlled roads have not flowed to other roads in Victoria let alone to roads in Queensland. Clearly, State controlled roads in Victoria would have a very different risk profile to Queensland roads due to a range of factors including road length, road construction and natural disaster exposure.

The statement in draft recommendation 3.4 that consideration should be given to the Victorian model is a very simplistic position adopted in relation to a complex issue.

The fact that Victorian state controlled roads are insured, despite the availability of NDRRA funding, is not supportive of the often repeated view in the Draft Report that NDRRA funding creates a disincentive for governments to insure roads. The fact that local government civic assets are insured but roads are not reflects the unavailability of cost effective options for cover with acceptable levels of risk.

9. Asset Management

The draft report (p23) suggests that NDRRA funding should be conditional on institutional and governance arrangements that require states to demonstrate 'earned autonomy' including *"local governments having asset registers and asset management plans that incorporate natural disaster risk planning, consistent with their long term financial plans."*

Draft recommendation 3.4 also suggests that *"…local governments should compile and publish detailed registers of road asset condition and maintenance for all roads over which they have jurisdiction (and have these registers independently audited)".*

9.1.Up-to date-asset registers in Queensland Local Government

Under *the Local Government Regulation 2012*, councils are required to prepare and adopt a long-term asset management plan covering a period of at least ten years. Queensland councils, supported by LGAQ, have in recent years significantly improved their asset management practices.

Queensland local governments are required by legislation to value infrastructure assets to meet the requirements of the Australian Accounting standards. Revaluations are required where there has been a material change (typically 5%) in "fair value".

Up to date asset registers are required to be able to undertake these calculations and these are audited by the Queensland Audit Office (QAO) as part of the valuation process.

Asset registers are typically updated annually based on improvement and renewal works performed in the previous 12 month period. The asset register is established in Council's financial/asset management system. The asset register is used to capture life cycle costs of road assets and to facilitate work.

Figure 8.1 shows how construction activities are mapped to the adopted asset structure for operational management and how the data is aggregated for financial reporting purposes and road revaluation.

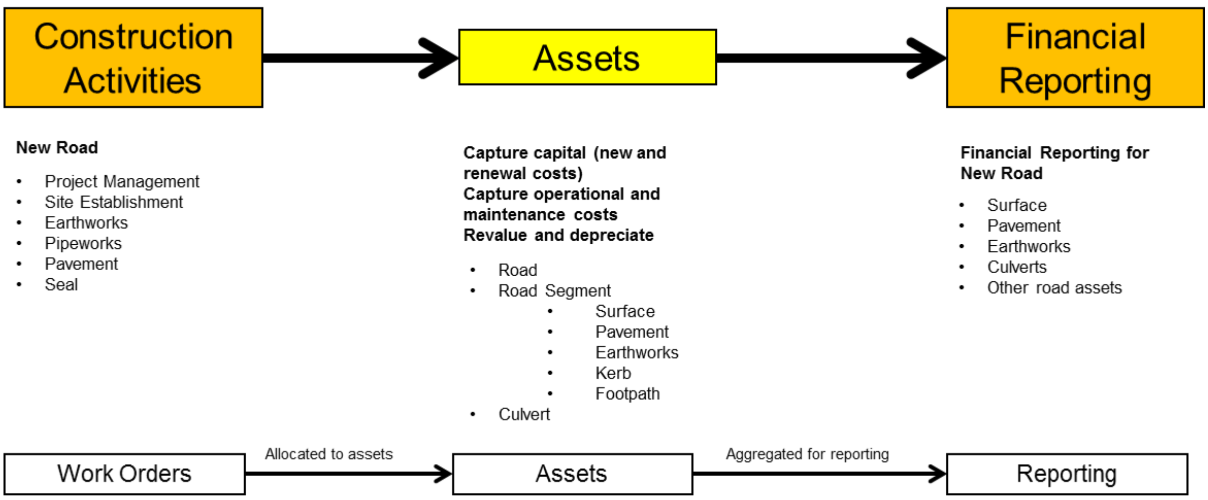


Figure 8.1: Process for Updating Road Asset Registers and Financial Reporting

Condition assessments are undertaken to assist with the determination of when assets will need to be renewed or replaced in the long term financial plan and "fair value" as part of the valuation process. Depending on weather conditions, condition assessments are typically undertaken between 3 to 5 year periods and after major natural disaster events. Condition assessments are expensive and it is not cost effective to undertake them more frequently.

Condition assessment have three important outputs:

- an indication of how the infrastructure assets are contributing to the current performance (level of service) in achieving the designated levels of service;
- the determination of depreciated replacement costs, the rate of consumption of service potential (depreciation), residual life for valuation purposes; and
- input into the strategic asset management process and, in particular, the prioritisation of renewal programs.

The asset register is used to capture life cycle costs of infrastructure assets including construction, renewal and maintenance costs. Local governments utilise life cycle cost records combined with treatment histories as inputs into their strategic asset management process.

9.2.Integration of asset management with local government budgets

The Sustainability and Reporting process for Queensland local governments commenced in 2009 with the implementation of the National Frameworks for Sustainability. These Frameworks seek to ensure that all local governments in Australia adopt long-term financial and asset management planning processes. The concept of sustainability also involves considering the impacts of natural disasters and the local government's current policies on its ability to maintain the desired service levels over the long-term.

In accordance with the *Local Government Act 2009*, the current approach adopted in Queensland is to focus on the ability to maintain financial and infrastructure capital over the long-term (captured in long-term asset management plans and financial forecasts). The emphasis on long-term planning for infrastructure assets strengthens a local government's capacity to plan and determine the long-term requirements for services, service levels and associated costs.

Understanding such future financial commitments assists local governments in the development of strategies that address key decisions surrounding the approach to, not only service provision, but also revenue (including rating methodologies) and borrowing policy formulation.

Accounting reporting needs to be linked to asset management plans formulated through technical expertise in order to support a robust determination of depreciation expense and the forecasts in the long term financial plans.

The QAO has indicated that it is also looking for long term funding estimates to be supported by robust estimates based on documented asset management strategies. The Department of Local Government, Community Recovery and Resilience conducts annual workshops (known as 'Tropical' workshops) designed to assist councils to use the latest illustrative financial statements, provide an understanding of changes to Australian Accounting Standard requirements, and alert officers to relevant audit issues including those raised in the Auditor-General's Annual Report to Parliament. At the 2014 'Tropical' workshops, QAO announced that beginning in 2014-15, it will be auditing the estimates of long term sustainability (based on the Asset Management Plans).

9.3. Incorporation of natural disaster risk management in Queensland Local Government asset management plans

Provision can be made in asset management plans and long term infrastructure financial forecasts in a number of ways:

Renewal and Replacement Forecasts

For long term renewal planning (documented in the asset management plan) and for valuation purposes, an estimate is required on when renewal may be required based on many factors including possible damage by natural disaster. The condition of road assets can be significantly impacted by weather conditions and seasonal cycles.

As illustrated in Figure 8.2, the condition score (and the expected remaining life) will vary depending on the weather patterns experienced over the life cycle of the road. Road pavements which in normal weather conditions could be expected to provide upwards of a 50 year life, can have their remaining life dramatically ended by flood damage or significantly reduced by extended periods of inundation.

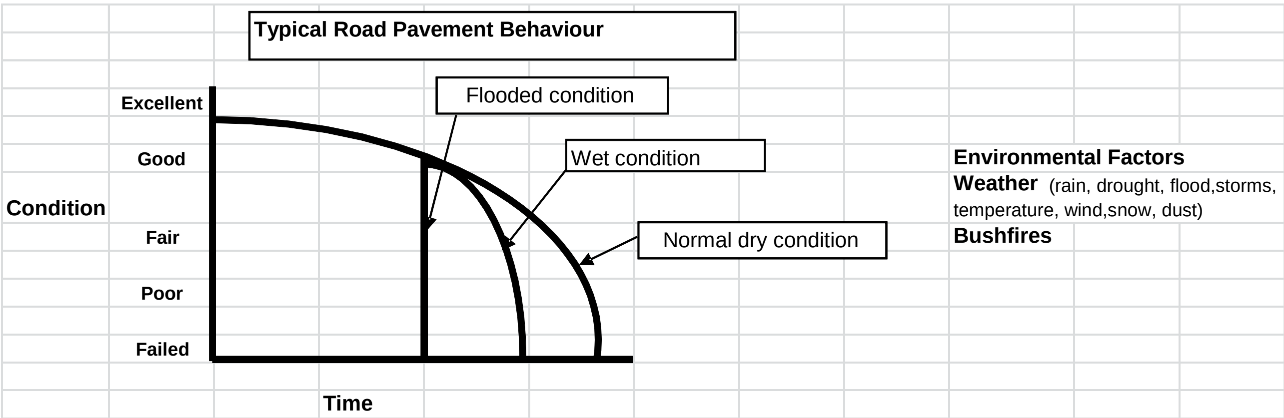


Figure 8.2: The Impact of Environmental Factors on Road Condition
Ref: Graham Jordan 2014

Business risk is widely utilised to guide when intervention should occur. Generally there are multiple possible intervention modes for which business risk can be estimated. For renewal planning the highest business risk is used to select the estimate of remaining useful life.

Business Risk = Consequences if an intervention event is triggered x Likelihood of such an event occurring

Table 8.1 illustrates the different estimation methods used to assess remaining useful life including the assessment of damage from natural disasters for a 50 year old asset with an estimated useful life of 80 years. Based on the example, condition represents the highest business risk and a remaining useful life of 15 years is used for renewal planning purposes for the example asset.

Table 8.1: Example of Estimation of Remaining Useful Life

Intervention Mode	Score	RUL	Likelihood of Intervention	Consequences of Intervention	Business Risk
Condition	4	15	.066	3	.198
Function	3.5	30	.033	4	.132
Utilisation	2	75	.013	2	.026
Damage	1	78	.0128	3	.038
Economic(1)		30	.033	2	.066

RUL= Economic Life – Age(50) Ref: Graham Jordan 2014

It is impossible to predict when natural events will impact particular assets, so provision for natural disasters can only be catered for through external assistance (NDRRA), insurance (if it can be obtained), disaster levies or deferral of programmed works.

(Further background information on how local governments incorporate natural disaster risk planning into the estimation of remaining useful life for works programs and long term financial plans is provided in the attached paper (**Attachment B)** which was prepared for the Queensland Roads and Transport Alliance South West Queensland Asset Management "How To" Manual used for training local government staff.)

Level of Service and Engineering Standards

The level of service and engineering standards adopted for specific assets documented in the asset management plans needs to consider the risk (likelihood and consequences) of damage by natural disasters as one of many drivers (including cost/benefit) of service provision and the capacity of the communities served to pay for the adopted standards.

Where possible and affordable, increased resilience needs to be incorporated for frequently damaged locations. In many areas of Queensland it has not been economical to build in the desired level of resilience. In some cases, no adequate technical solution has yet been developed. For example, there are no nationally accepted guidelines for floodway design despite the fact that there are thousands of such structures around Australia.

There is an expectation from communities of a "minimum community service obligation" which will be provided regardless of economics for access during emergency events. For example, many local governments utilise low level floodways as a low cost stream crossing which in normal conditions provides an adequate level of service for the rural communities that they serve.

Over 58% of the floodways in the Lockyer Valley were badly damaged or destroyed during the 2011 and 2013 flood events. Communities in the Lockyer Valley were isolated for weeks after the loss of these floodways. The Lockyer Valley is also one of the most fertile farming areas in Australia and is a key source of fruit and vegetables for the Australian economy and these flood events caused significant disruptions to food supplies.

As a case study, the University of Southern Queensland is undertaking research into how to improve the resilience of floodways in the Lockyer Valley. (Lokuge, Weena and Setunge, Sujeeva and Karunasena, Warna (2014) "*Investigating the performance of floodway in an extreme flood event*" In: First International Conference on Infrastructure Failures and Consequences, 16-20 Jul 2014, Melbourne, Australia).

10. Benchmark Costs

10.1. Queensland Valuation Benchmark Rate Model

The Department of Transport and Main Roads Queensland (TMR) have developed since 2008-09 a robust road replacement and renewal estimation tool for road valuation. On the initiative of LGAQ, this was extended in 2013 to accommodate local government roads across Queensland through the Queensland Roads and Transport Alliance. The Road Asset Valuation toolbox can be accessed via the following link: http://www.lgaq.asn.au/web/guest/road-asset-valuation-toolbox

The methodology and process developed by TMR accommodates varying climatic, terrain and soil type data and is applied consistently across Queensland. This methodology and process has been accepted by the QAO and is also used by TMR and Queensland local governments to assist with strategic planning.

The rates are developed using "First Principles" estimating techniques incorporating over 2000 road resource costs which are updated twice each year for five cost regions and various soil and environmental zones and for three terrain zones across Queensland. This service is provided by an external independent national quantity surveying company. The rates are allocated to each road segment based on standardised road stereotypes.

The Queensland model currently provides:

- road component unit rates, which accommodate variations by road type, region, climate, soil type and terrain across Queensland;
- rehabilitation rates for the renewal of road components by region across Queensland;
- replacement unit rates for stormwater, culverts, pits, inlets, drains, GPT's, headwalls, floodways, footpaths and kerb and channel by region across Queensland; and
- unit rates for strategic infrastructure planning (including breakdown to plant labour and materials).

The model could be expanded across Australia with the development and expansion of the model work breakdown structures and resource cost libraries. The models are adaptable to suit local variations. The models would need to be extended to cover the most commonly used road restoration treatment scenarios for the various road components typically damaged by natural disasters.

LGAQ also understands that the QRA have developed (and are continuing to refine) benchmark costings. This could also support a benchmark costing approach.

As the draft report notes, there are risks in providing the bulk of funding based on benchmark cost estimates when the full extent of damage may not be known immediately and with costs varying significantly across Australia, particularly in regional and remote areas.

Current arrangements allow adjustments for both actual tendered rates and for scope change to cover valid consequential damage assessments, subject to verification. Without this ability it would be likely that significant risk allocation will need to be built into initial assessments to ensure scope and unit rate values are adequate. Otherwise, the approach could mean a transfer of the risk to State / local governments.

LGAQ does not support funding for essential public assets being primarily based on initially assessed damage and benchmark prices.

Attachment A - LGAQ submission on Statutory Exemption from Liability for Natural Hazards

Statutory Exemption from Liability for Natural Hazards

Submission

Local Government Association of Queensland Ltd

11 September 2014

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individuals' needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Background

Responding to the risks associated with natural hazards is a responsibility of all spheres of government. These responses range from land use planning to disaster responses to asset and infrastructure management. The post-script to any natural hazard invariably asks questions of what has occurred, the damages incurred and what could have been done to mitigate the impacts of natural hazard in the first instance.

These very questions were brought before the Queensland Floods Commission of Inquiry and in its Final Report (March 2012) the findings discussed how existing legislative provisions act as a deterrent for local governments to include natural hazard controls in planning schemes, specifically in the context of compensation and statutory immunity.

As outlined in the Final Report (Section 5.5.1 Statutory immunity), councils in Queensland have no specific statutory protections in relation to the provision of flood information or decisions concerning development of flood-affected land. The LGAQ and other parties contended that uncertainty about local governments' exposure to liability could be relieved by the introduction of a legislative exemption from liability for reasonably based local government decision-making such as that outlined in section 733 of the New South Wales *Local Government Act 1993*. Although a specific recommendation was not offered in the Final Report, the Commission endorsed the Queensland's Government's advice that it would "investigate the viability of introducing legislation similar to section 733 of the *Local Government Act 1993* (NSW)." (Section 5.5.1 p. 130)

In summary, existing legislation does not protect councils from claims for damages arising from planning and development decisions and the issue of advice relating to hazard affected land, even though they had acted in accordance with the relevant government policy and in good faith. This uncertainty has caused a number of councils to adopt conservative approaches to decision-making, whether through ambiguous or inhibited strategic planning processes, or through refusing development applications or imposing superfluous and costly development and building conditions. As per the identified need for New South Wales councils, an indemnity is required in Queensland that strikes the appropriate balance between protecting the rights of individuals, on the one hand, and the problems encountered by local government, on the other. Protecting actions taken in good faith will encourage councils to be proactive in undertaking 'best practice' approaches to natural hazard management through an appropriate allocation of risk that will increase development certainty and economic growth.

The LGAQ provided legal advice, dated 20 May 2013, from King and Company Solicitors to the Department of State Development, Infrastructure and Planning in June 2013 outlining why provisions, similar or equivalent to the exemption in section 733 of New South Wales *Local Government Act 1993*, is required to cover all functions of councils under the Queensland *Local Government Act 2009*, rather than limiting to Queensland's planning and development legislation (*Sustainable Planning Act 2009*) only (**Appendix 1**).

As highlighted in the advice and most notably, "The NSW exemption is, in effect, a one stop shop…. it was successfully relied upon by local authorities in the case of *Douglas & Ors v Bogan Shire Council & Anor* to provide immunity in relation to the design and construction of a levee that was overtopped during a flood event." This is particularly relevant given recent decisions by the State Government to make local government the assessment manager for regulating levees (as detailed below).

Ensuring councils are protected from future liability claims will not only unlock red tape in planning and responding to the risks of decision making regarding natural hazards but also result in real and potentially unlimited cost savings of being forced to undertake very expensive mitigation or defence actions in inappropriate locations.

Recent Queensland Government policy changes

Regulation of Levees

The Queensland Floods Commission of Inquiry Final Report (March 2012) included five recommendations regarding levees, including the recommendation that levees should be regulated.

In response, the new regulatory framework for the construction or modification of levees commenced on 16 May 2014. As a result of the new regulatory arrangements, anyone who builds or modifies a levee bank will be subject to assessment against the applicable development code. Levee banks have been categorised according to the risk they pose to people and property with each category being assigned a level of assessment corresponding to the level of risk. The three risk categories and the corresponding assessment requirements are as follows:

- Category 1 levees have no off-property impacts and are subject to self-assessment.
- Category 2 levees have off-property impacts, but impact on a small resident population. These are subject to code assessment with the local councils being the assessment manager.
- Category 3 levees have off-property impacts and potentially impact on a significant resident population. The local council is the assessment manager for these levees with the Queensland Government being the referral agency for matters of interest to the State.

The LGAQ has consistently maintained that the achievement of a State-wide approach to the assessment and management of levees would be best facilitated by the State Government as done in New South Wales and Victoria, where the State is responsible for managing all floodplain works.

Notwithstanding, the LGAQ wrote to the Minister for Natural Resources and Mines, the Hon. Andrew Cripps MP on the 5 March 2014 reiterating local government concerns as per the LGAQ's representations to the Queensland Floods Commission of Inquiry. The LGAQ submission to the Minister reinforced that any delegated responsibility to local governments for managing natural hazards must include a reciprocal statutory exemption from liability for reasonably-based decision making and actions within the *Local Government Act 2009.*

State Planning Policy Amendments

In 2011 the Bligh State Government introduced the Coastal Protection State Planning Policy (SPP 3/11) requiring all local governments to prepare Coastal Hazard Adaptation Strategies (CHAS) within 5 years of commencement. The CHAS was required to consider a 2100 sea level rise of 0.8metres and 10% wind intensity factor for storm tide. The former State Government also supplied coastal hazard mapping to all local governments from the Gold Coast to Cairns that incorporated the required climate change factors.

The incoming LNP State Government withdrew the SPP 3/11 and introduced a Coastal Protection State Planning Regulatory Provision that removed the requirement for a CHAS but retained the requirement to consider future sea level rise and storm tide hazards and hazard mapping.

In December 2013, the new single State Planning Policy (SPP), removed the mandated climate change factors of 0.8metre sea level rise and 10% increased wind intensity. On the 7 May 2014, the Department of Environment and Heritage Protection also rescinded the hazard mapping that applied these mandated factors.

In response to the State Government's changes to the SPP removing the mandated climate change factors of 0.8metre sea level rise and 10% increased wind intensity, the LGAQ engaged King and Company Solicitors to prepare advice for local governments regarding risk of liability.

What LGAQ is seeking

As highlighted in correspondence to the Hon. David Crisafulli MP, Minister for Local Government, Community Recovery & Resilience, under covering letter dated 9 May 2014 (**Appendix 2**), the advice highlights local governments' current legal obligations and how to minimise future liabilities in regards to consideration of natural hazards, in particular those associated with climate change. In summary:

Councils are obliged to properly consider coastal hazards, such as erosion, storm tide inundation and flooding when preparing planning schemes and assessing development applications.

- Such considerations include the effects of climate change, such as sea level rise and increased wind intensity in worsening existing coastal hazards.
- To limit potential liability, Councils ought to adopt a sea level rise factor in conformity with the Intergovernmental Panel on Climate Change, and obtain suitably qualified expert opinion as to the effect of applying that factor to their region, having regard to local conditions, and to identify properties at risk from natural hazards worsened by climate change, for identification in the planning scheme.
- In the absence of suitably qualified, cogent expert evidence supporting adoption of a sea level rise factor lower than 0.8 metres by 2100 (with 10% increase in wind intensity), adoption of a lower level would not be prudent, and would significantly increase exposure of Councils to liability.

Councils are obliged to make decisions based on the advice of relevant experts which raises serious concerns as to their current and future exposure to liability claims. To remove red-tape and allow councils to facilitate appropriate economic growth and development, the LGAQ proposes a statutory limitation of local governments' exposure to liability for reasonably-based decision making and actions is required.

To be clear, LGAQ is not proposing that the natural hazards' statutory indemnity is in the same form as the indemnity recently introduced into Parliament protecting councils in the administration and enforcement of domestic asbestos matters[2]. The LGAQ understands that the asbestos indemnity is a one-off and unusual in its wide scope. Rather the LGAQ is seeking a protection where claims will be litigated via normal avenues not managed by the State. Furthermore, LGAQ does not have an expectation that the State will assume liability instead of the local government should legal proceedings commence. Instead, the proposed exemption would also apply to the State, as it does under the New South Wales *Local Government Act 1993*.

[2] *Cl 42-46 Health Legislation Amendment Bill 2014*

Proposed Amendments to *Local Government Act 2009* and *City of Brisbane Act 2010*

Exemption from liability – land subject to flood, bushfire, landslide and coastal hazards[3]

(1) This section applies to and in respect of:
- (a) the Crown, a statutory body representing the Crown and a public or local authority constituted by or under any Act; and
- (b) a local government or employee of a local government or any such body or authority; and
- (c) a public servant; and
- (d) a person acting under the direction of a local government or of the Crown or any such body or authority,

in the same way as it applies to and in respect of a local government.

(2) A local government does not incur any liability in respect of an act in good faith by the local government in so far as the act relates to:
- (a) the likelihood of land being flooded; or
- (b) the nature or extent of flooding on land; or
- (c) the effect of flooding upon the use of land.

(3) A local government does not incur any liability in respect of an act in good faith by the local government in so far as the act relates to:
- (a) the likelihood of land being affected by a coastal hazard; or
- (b) the nature or extent of a coastal hazard affecting land; or
- (b) the effect of a coastal hazard upon the use of land.

(4) A local government does not incur any liability in respect of an act in good faith by the local government in so far as the act relates to:
- (a) the likelihood of land being subject to the risk of bushfire; or
- (b) the nature or extent of the risk of bushfire to land; or
- (c) the effect of the risk of bushfire upon the use of land.

(5) A local government does not incur any liability in respect of an act in good faith by the local government in so far as the act relates to:
- (a) the likelihood of land being subject to the risk of landslide; or
- (b) the nature or extent of the risk of landslide to land; or
- (c) the effect of the risk of landslide upon the use of land.

(6) Without limiting subsections (2), (3), (4) and (5), those subsections apply to:
- (a) the approval or refusal of a development application, or the determination of a request for compliance assessment, under the Planning Act, including for a levee bank; and
- (b) the imposition of any condition in relation to an application or request referred to in paragraph (a); and
- (c) omitting to enforce a development offence under the Planning Act; and
- (d) the carrying out of a building certifying function under the Building Act; and

[3] New section 235A of the *Local Government Act 2009* and new section 216A of the *City of Brisbane Act 2010*.

(e) the carrying out of flood mitigation works; and
(f) the carrying out of coastal protection work; and
(g) the carrying out of bushfire hazard mitigation works; and
(h) the carrying out of landslide hazard mitigation works; and
(i) omitting to upgrade flood mitigation works or coastal protection work in response to projected or actual impacts of climate change; and
(j) omitting to undertake action to enforce the removal of illegal or unauthorised structures that results in erosion of a beach or land adjacent to a beach; and
(k) the provision of information relating to climate change or sea level rise; and
(l) an act regarding the carrying out or maintenance of emergency work under section 585 of the Planning Act; and
(m) an act in the exercise of a local government's functions under this or any other Act.

(7) Without limiting any other circumstances in which a local government may have acted in good faith, a local government is, unless the contrary is proved, taken to have acted in good faith for the purposes of this section if the act was substantially in accordance with the principles contained in a relevant guideline made under subsection (8).

(8) For the purposes of this section, the Minister may, from time to time, make a guideline that is prescribed by a regulation:
(a) relating to the management of flood liable land; or
(b) relating to the management of the coastal zone; or
(c) relating to the management of land subject to the risk of bushfire; or
(d) relating to the management of land subject to the risk of landslide.

(9) A copy of the guideline must be available for public inspection, free of charge, at the office of a local government during ordinary office hours.

(10) In this section:
"act" means anything done or omitted to be done, including the furnishing of advice.
"coastal hazard" has the same meaning as in the *Coastal Protection and Management Act 1995*, and includes storm tide inundation and coastal erosion, as defined in the State Planning Policy.
"coastal protection work" means any permanent or periodic work undertaken primarily to manage the impacts of coastal hazards, including altering physical coastal processes such as sediment transport.
"coastal zone" has the same meaning as in the *Coastal Protection and Management Act 1995*.
"State Planning Policy" means a State planning policy made under the Planning Act.

(11) For clarity, this section does not exempt a local government from an obligation to pay reasonable compensation under the Planning Act.
Examples –
1 Compensation for reduced value of interest in land for a change to a planning scheme.
2 Compensation for an erroneous planning and development certificate.

Attachment B - Estimating Remaining Useful Life

Graham Jordan B Eng.,BEcon.,MBA, CPEng.,RPEQ, October 2014

Background

The services and the service delivery standards that local governments provide are linked to the vision or the community outcomes that the local government desires for its community. Planning the replacement of local government infrastructure is a complex task balancing the community expectations and demands with an assessment of the costs, benefits and risks for competing projects. Figure 3 illustrates the asset management framework used to plan, deliver, maintain and dispose of community infrastructure.

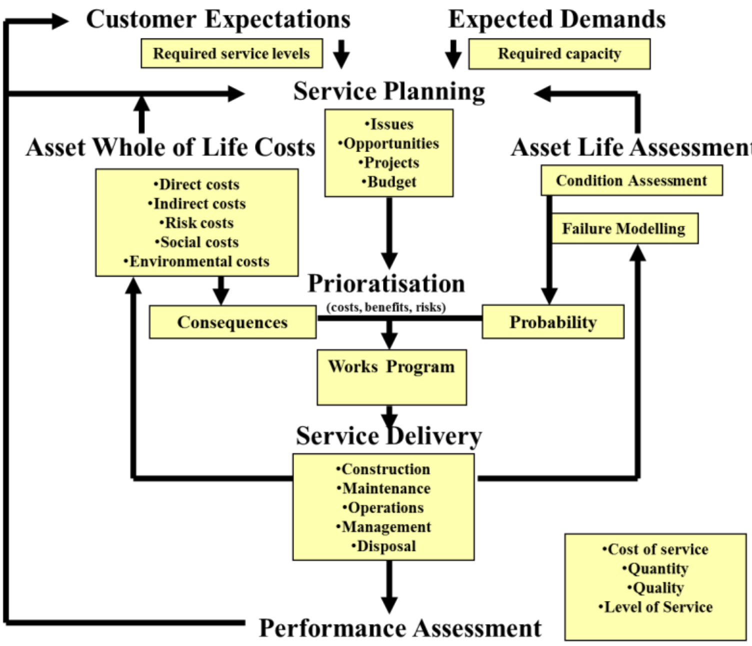


Figure 3: Asset Management Framework

Estimating remaining useful life (RUL) is the most critical element of infrastructure renewal planning and is a critical input into valuation calculations. Infrastructure assets are characterised by being able to provide services over a very long period of time commonly called the asset life cycle and feature a non -linear deterioration or decay profile. It is difficult to predict, with a great degree of confidence, when the asset will fail or when there will be a sharp decline in the level of service. Failure in asset management terminology means the inability to do what users want it to do.

Renewal

There are many events that may trigger intervention. The Asset Manager needs to know the likely events which will require intervention and the indicators of such events.

Intervention events can be broadly grouped into:

- interventions that are required because demand and standards have risen;
- interventions that are required because asset performance has fallen;
- interventions caused by external events such as natural disasters; and
- interventions that are required as a consequence of the failure of another asset.

Infrastructure assets deteriorate gradually over time and ultimately fail. Apart from “demand” obsolescence driven by functional, technical and commercial factors (the effects of which are independent of time) the rate of deterioration or “wear and tear” is determined by various external environmental factors[4] under which the infrastructure asset operates. The impact of these factors may cause the rate of deterioration over time to be non-uniform and to vary from the expected.

Condition deterioration[5] represents the natural deterioration of infrastructure assets with time over the asset life cycle in any given environment. Intervention is required when the condition of the asset is insufficient to allow adequate performance. The other intervention events can be triggered at any time in the life cycle prior to the physical asset condition deteriorating beyond the intervention point. A common example of this is capacity upgrades. The existing asset can still be in good condition but it no longer meets the demand or the standard of service required.

Estimating Remaining Useful Life

Remaining useful life can be estimated by a number of methodologies ranging from direct estimates from experts experienced in the operation and maintenance of the assets through to sophisticated models using multiple factors. Remaining useful life estimates are a critical input into the estimation of business risk. Business risk is widely utilised to guide when intervention should occur. Generally there are multiple possible intervention modes for which business risk can be estimated. For renewal planning the highest business risk is used to select the estimate of remaining useful life.

> **Business Risk** = Consequences if an intervention event is triggered x Likelihood of such an event occurring

Consequences[6] are assessed using criteria drawn from safety, environment, economic and social factors. Likelihood of intervention is a function of predicted remaining useful life.

Likelihood of Intervention =1/RUL

Direct Estimate

This is the simplest method but is subject to high variability if assessments are undertaken by different people. In this method, an appropriately qualified expert provides an estimate of remaining useful life. In arriving at the estimate the expert may consider the asset condition, maintenance history, knowledge of future works, and future loadings and demand. The start point for direct estimation, are the estimates of component useful lives used for valuation. An example is provided in Table 2. These estimates are based on local experience and knowledge of treatment performance. Treatment history can be a valuable source to assist with these estimates.

[4] External environmental factors include climate, weather, flooding, drought, soil type, proximity to the coastline, topography, service demand, user types.

[5] The physical condition of the asset is such that the asset no longer has the structural integrity and characteristics to provide the designated standard of service.

[6]Consequences are best assessed using detailed actuary information for particular failure modes to give a full assessment of the likely economic consequences of the failure. In the absence of such data, more qualitative approaches can be used based on the significant risk areas.

Table 2: Road Components Standard Useful Lives

Component	Material	Useful Life		Influencing Factors
		Lower	Upper	
Surfacing	Spray Seal	8	30	• Temperature • Rainfall • Subgrade • Traffic
	Asphalt	20	50	
Pavement	Sealed - Granular	20	100	• Subgrade • Climate • Traffic, volume, type and growth rate • Pavement quality • Pavement depth • Construction standard • Maintenance strategy
Pavement	Unsealed - Granular	8	20	• Subgrade • Climate • Traffic • Pavement quality
Pavement	Concrete	50	120	• Subgrade • Climate • Traffic • Concrete strength • Construction standard
Earthworks		100	Indefinite	• Strategic planning

Estimate based on Condition

In this method condition ratings are undertaken using rating scores which are appropriate for the asset. An example system is provided in Attachment A. If condition ratings are undertaken over an extended period, it is possible to develop deterioration models similar to Figure 4 which can be used to estimate remaining useful life. Otherwise, the example table provided in Attachment A can be used to estimate remaining useful life. Consequences can be calculated using the ratings provided in Attachment B.

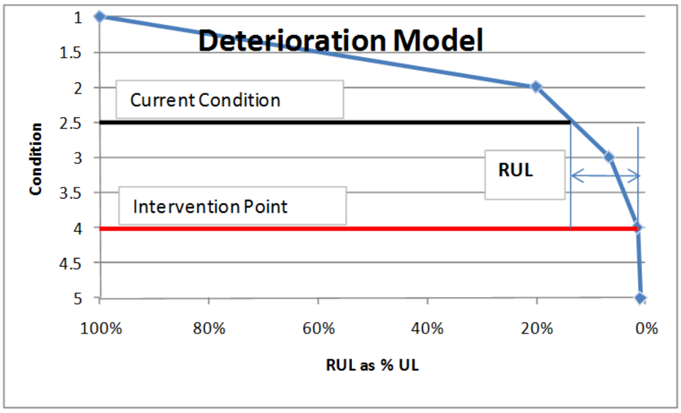


Figure 4: Estimating Remaining Useful Life based on Condition

Estimate based on Function

In this method ratings of current functionality are undertaken using a table similar to Attachment A. Remaining useful life can be estimated based on the functional rating. Consequences can be calculated using the ratings provided in Attachment B.

Estimate based on Utilisation

In this method ratings of current utilisation are undertaken using a table similar to Attachment A. Remaining useful life can be estimated based on the utilisation rating. Consequences can be calculated using the ratings provided in Attachment B.

Estimate based on Damage

In this method ratings of damage (flooding, climate) are undertaken using a table similar to Attachment A. Remaining useful life can be estimated based on the utilisation rating. Consequences can be calculated using the ratings provided in Attachment B.

Estimate based on Economic Analysis using Defect or Condition Modelling

In this method, a defect model is developed for each asset group. e.g. water mains pipe breaks per 100km. At the asset group level the defect rate is kept less than the acceptable maximum defect score (set by the customer service level). e.g. number of pipe breaks per 100km per year. This is achieved by managing the weighted average age of the asset by renewal/replacement or network growth. From the model, it is possible to estimate the length of new main that needs to be replaced to maintain the weighted average age. An example is provided in Figure 5.

For estimating the remaining useful life of individual assets, the defect model is used to estimate the projected defect rate. The economic life is reached when the cost of the replacement is less than the accumulated cost of repairs. An example is provided in Figure 6. Consequences can be calculated using the ratings provided in Attachment B.

	Cummulative No. of Breaks per 100km	Age	Average No. of Breaks per 100km	Condition	% of Useful Life
	0	0	0.24	0.00	0%
	24	10	5.14	0.49	14%
	53	14.7	7.44	0.72	21%
	98	20	10.04	0.98	29%
	199	28.5	14.20	1.40	41%
	220	30	14.93	1.47	43%
	392	40	19.83	1.96	57%
	612	50	24.73	2.45	71%
	881	60	29.62	2.94	86%
Optimum Life	1200	70	34.52	3.43	100%
	1567	80	39.42	3.92	114%
	1983	90	44.31	4.41	129%
	2448	100	49.21	4.90	143%
	2962	110	54.11	5.39	157%
	3526	120	59.00	5.88	171%
	4138	130	63.90	6.37	186%
	4799	140	68.80	6.86	200%
	5509	150	73.69	7.34	214%

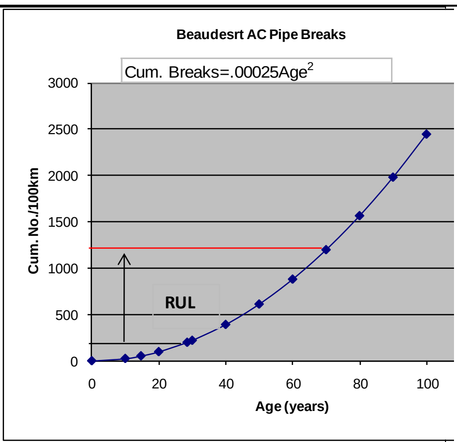
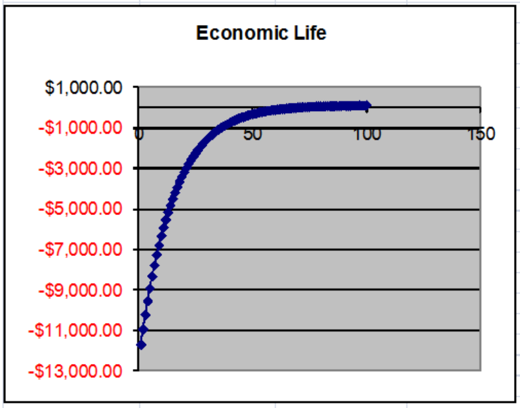


Figure 5: Example Water Main Defect Model

	per 100m					
	0.29					
Optimum Economic Life	70		Assume Main costs $ to replace			$ 12,500.00
Economic Life	70	years	Assume each breakage costs $			$ 1,000.00
Intervention point	34.52	Breaks/100km	Discount Rate			7%
Total Repair Cost	-$1,268.94					
PV of Repair Cost	-$105.92					
PV of Replacement	-$109.66					
Nett PV	3.74					
NPV (Repair and initial cost)	-$12,605.92					
NPV in perpetuity	-$12,717.49					
Annuity Factor	14.16	Initial & Repair	Renewal	Repair		
Annuity	-$890.22	-$890.22	-$7.74	-$7.48	-$15.22	
Straight Line Depreciation	-$178.57		-$178.57			
Annual Repair Cost	-$18.13					
Annual Cost	-$196.70					



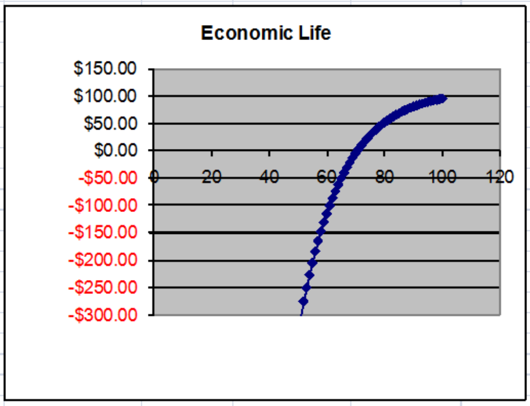


Figure 6: Example of Estimation of Economic Life Using Defect Model

Renewal Schedule

These estimates of remaining life are used to prepare a preliminary renewal schedule. The predicted renewal dates are then discussed with experienced field personnel and adjusted to reflect their knowledge to fine tune the schedule. The schedule may also be adjusted to accommodate any other planned works in the area. An example of a renewal schedule is provided in Figure 7.

Identication				Location	Renewal Schedule			
Database_ID	SUBCATEGORY1	ADDRESS_3	ADDRESS_2	ADDRESS_1	Useful Life	Year_Installed	Replacement_Year1	Renewal/Replacement_Cost
Isaac Sealed-Surface553	Sealed-Surface	Dysart	Eastern	Barrett Street	10	1999	2010	$4,706
Isaac Sealed-Surface698	Sealed-Surface	Dysart	Eastern	Beatty Crt	10	1999	2010	$2,094
Isaac Unsealed-Pavemen	Unsealed-Pavement	Region	Eastern	Redrock Rd	9	2006	2010	$36,403
Isaac Unsealed-Pavemen	Unsealed-Pavement	Region	Eastern	Tinerta Rd.	10	2002	2010	$1,527
Isaac Sign4586	Sign	GLENDEN	Northern	Golf Club	10	1983	2010	$216
Isaac Sign6114	Sign	GLENDEN	Northern	Kurrajong	10	1983	2010	$216
Isaac Guide Posts9349	Guide Posts	Clermont	Western	Russell Park Road	5	2005	2010	$374
Isaac Medians7464	Medians	CLERMONT	Western	Mimosa Street	0	1970	2010	$587
Isaac Sealed-Surface238	Sealed-Surface	CLERMONT	Western	Clermont-Ruby Vale	12	2000	2010	$50,613
Isaac Unsealed-Pavemen	Unsealed-Pavement	CLERMONT	Western	Albert	9	2004	2010	$26,597
Isaac Unsealed-Pavemen	Unsealed-Pavement	CLERMONT	Western	Alpha Bypass	9	2004	2010	$104,534
Isaac Unsealed-Pavemen	Unsealed-Pavement	CLERMONT	Western	Appo's Road	9	1996	2010	$46,545
Isaac Unsealed-Pavemen	Unsealed-Pavement	Clermont	Western	Avalon	9	2004	2010	$14,130

Figure 7: Developing a Renewal Schedule

Example Calculation

Table 3 illustrates the different estimation methods and the recommended approach for estimating remaining useful life based on business risk for a 50 year old asset with an estimated useful life of 80 years. Note that different consequences apply to the different intervention modes. Based on the example, condition represents the highest business risk and a remaining useful life of 15 years is used for renewal planning purposes.

Table 3: Example of Estimation of Remaining Useful Life

Intervention Mode	Score	RUL	Likelihood of Intervention	Consequences of Intervention	Business Risk
Condition	4	15	.066	3	.198
Function	3.5	30	.033	4	.132
Utilisation	2	75	.013	2	.026
Damage	1	78	.0128	3	.038
Economic[1]		30	.033	2	.066

(1) RUL= Economic Life – Age(50)

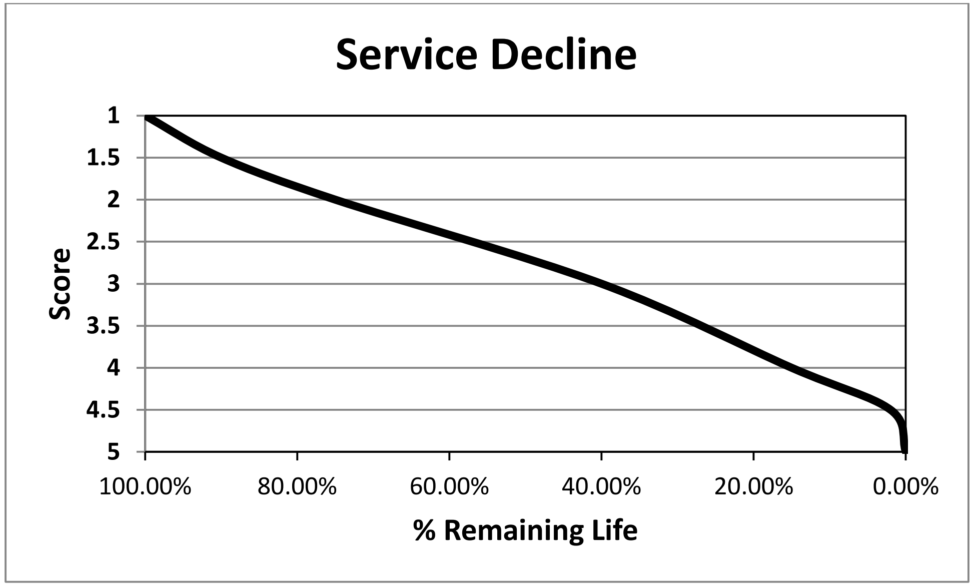
Attachment 1: Assessment of Remaining Useful Life

The score from the table can be used to estimate the percentage of effective life remaining.

Assumed life		100 yrs	10 yrs	80 yrs	20 yrs
Score	% Life Remaining	Remaining Useful Life			
1	100	100	10	80	20
1.5	90	90	9	72	18
2	75	75	7.5	60	15
3	40	40	4	32	8
4	15	15	1.5	12	3
4.5	1 year	1	1	1	1
5	0	0	0	0	0

Assumed Life x Percentage Life Remaining = Remaining Useful Life

		Condition			Function			Capacity / Utilisation		Damage
SCORE	Potential to meet LoS	Condition	Wear	Maintenance Requirement	Functionality	Obsolescence (Technology)	Regulatory	Capacity	Utilisation	Climatic Influence/ Economic benefit to repair
1	Excellent	A "new" assets or an asset recently rehabilitated back to new condition	Negligible wear	No problem beyond normal maintenance	Easily performing required function	Up-to-date	Meets regulatory requirement	Easily meeting existing and future load	Repeatedly utilised	No damage
2	Good	Deterioration still minor in nature and causing no serviceability problems.	All wear within design tolerance	No problem beyond normal maintenance	Adequately performing required function	Acceptable	Meets regulatory requirement	Adequately meeting existing and future load	Frequently utilised	Aesthetic damage only eg watermarked, minor vandalism
3	Fair	Deterioration in condition is obvious and there would be some serviceability loss	Wear approaching allowable limits	Problem that will require future attention	Performing function but possibly not effectively	Dated but meeting need.	Minor regulatory infraction. Modification may meet short-term need	Usually meets existing load; occasional intervention with financial consequence	Moderate utilisation; reduced economic benefit	Moderate damage. Repair is cost effective but does not return full functionality
4	Poor	Deterioration would be quite severe and would start to limit the serviceability of an asset.	Wear beyond allowable limits	Problem identified requiring immediate attention	At lowest level of acceptability in performing required function	Out-of-date, just tolerable	Regulatory requirement necessitates planned renewal	Frequently fails to meet existing load. Unlikely to meet future load.	Infrequent utilisation; poor economic benefit	Damage necessitates planned renewal. Not cost effective to repair
5	Failed	Failed	Substantial deterioration	Dangerous or Broken down	Not performing function	Redundant	Does not meet regulatory requirement	Unable to meet existing or future load	Not utilised	Damaged to point of intervention


Service Decline
Score
1
1.5
2
2.5
3
3.5
4
4.5
5
100.00%
80.00%
60.00%
40.00%
20.00%
0.00%
% Remaining Life

Attachment 2 - Assessment of Risk Consequences

Consequences if intervention occurs

	Risk Consequences
	People Safety
1	No impact
2	Property damage only
3	Injuries and compensation claims
4	Extensive serious injuries
5	Death
	People Efficiency
1	No impact
2	Minor inconvenience
3	Moderate inconvenience
4	Major inconvenience
5	Total disruption
	Service Provider
1	Complaint/less than $1,000
2	Report/$1,000-$10,000
3	Formal Investigation/$10,000-$50,000
4	Legal action/$50,000 -$1,000,000
5	Judicial enquiry/>$1,000,000
	Local Economy
1	No impact
2	Minor financial loss
3	Moderate financial loss
4	Major financial loss
5	Community collapse
	Local Environment
1	No impact
2	Minor impact
3	Moderate
4	Major
5	Environmental disaster

Example

Risk Consequence Factor	Risk Consequence Score	Weight	Weighted Score	Total Score
People Safety	4	.25	1	
People Efficiency	3	.25	.75	
Service Provider	2	.25	.5	**3.5**
Local Economy	4	.25	1	
Local Environment	1	.25	.25	

Attachment C - Extracts of member council comments / submissions

Banana Shire Council, 13 October 2014

1. ***A flat reimbursement rate by the Commonwealth to the State of 50% (from 75%) for expenditure above a new threshold, that would be doubled to 0.45% of state revenue.***
   Banana Shire sees this as another form of cost shifting. State's such as Queensland that are prone to regular extreme weather events (such as cyclones) have a limited capacity to fund recurring damage. The ability of Local Government to pay say 25% of these costs is questioned, especially in areas that have relatively regular events e.g. Far North & Central Qld cyclones & flooding. States and Local Government do not have adequate taxation powers to fill the pending void.

2. ***An increase in the small disaster threshold to $2 million (up from $240,000)***
   Again this appears to be placing undue hardship on Queensland Councils that are in high risk areas and subject to reasonably regular events. $2 million seems to be very excessive.

3. ***An increase in annual mitigation expenditure gradually to $200 million, distributed to the states and territories on a per capita basis (to be off-set against recovery funding)***
   Good in theory but realistically there is only so much mitigation that can be done. The location of some cities and towns is problematic in itself (and a historical problem). The proposed off-set against recovery is also of concern. Are they presuming that mitigation is going to substantially reduce recovery claims. This is very dependent on the size and magnitude of the specific event. In Theodore in the 2010/11 floods the Dawson River reached a level never seen before in recorded history resulting in the town being evacuated. This may not happen for another 100 years, it may happen next week. Mitigation will have very limited effect on such events. Additional funding for mitigation is welcome, but it should not be at the expense of funding for recovery and asset restoration.

4. ***Australian Government funding for natural disaster mitigation and recovery should be conditional on institutional and governance arrangements***
   This seems to be preparing yet more bureaucratic layers of requirements and regulations on Local Government. Most of the disaster related issues are as a result of historic decisions taken many years ago, such as locations of towns, roads, infrastructure etc. Have concerns with the general thrust of this recommendation. Appears good in theory but will it be used against Local Government in future disaster situations where a Council may not have adhered to these guidelines. Also concerns that such requirements may not necessarily address community needs and expectations with regard to project selection. Overall concern at tying future disaster funding to having these institutional and governance arrangements in place. To be blunt it appears to be setting in place a process to give the Federal Government a basis to reject funding applications/claims in the event of a disaster.

5. ***Recognising the importance of planning to risk management and mitigation, the provisions in the Queensland Sustainable Planning Act 2009 for injurious affection should be repealed***
   There would appear to be some merit to this proposal. However, where property etc has been purchased in good faith with a view to future development etc what is the recourse to the owner if they are not allowed to develop this property due to the suggested legislative changes. The court/appeal process also needs to be considered with such a proposal as the Planning & Environment Court can overturn Council decisions.

6. ***Increased investigation and take-up of asset insurance opportunities***
   Not sure if such insurance actually exists, and if it did, there is concern that the cost would be prohibitive. Far North Queensland has been having ongoing issues with household insurance as a consequence of cyclones in recent years. Banana Shire Council has some 4,000 km of road network and associated infrastructure, a lot of which is susceptible to flooding etc. One can only hazard a guess as to what this would cost to insure. Once again, this suggestion has problems due to the unique nature of Queensland and its strong susceptibility to natural disasters.

7. ***Recognition that restrictions on reimbursement for some inputs for reconstruction (such as restrictions on reimbursing the use of 'day labour') lead to wasteful spending***
   The current regime that very much limits the use of day labour is a nonsense. Councils in the majority of cases provide good value for money on such projects. Perhaps external contractors should be scrutinised more closely. Perhaps energies could be better directed towards ensuring that monies are expended on eligible projects.

Cassowary Coast Regional Council, Mayor Bill Shannon, 1 October 2014

"… the proposed arbitrary reduction in direct contributions from Federal government to NDRRA rebuilding would itself be a disaster for the Cassowary Coast Region.

A ready example was provided by Yasi. A major cyclone has massive effects over a wide region. It is simply impossible to build assets such as roads, bridges and culverts so that damage is meaningfully and significantly reduced, or to buy adequate insurance, If you could, the premium would be unaffordable. Yasi could equally have come ashore at Cairns or Townsville, and who is going to pay for those cities to be moved inland, or all the roads and buildings jacked-up out of the way of a tidal surge, so that the damage is mitigated?

The Council repair bill for Yasi NDRRA works was $120 million. The Federal contribution was $90 million. With the proposed new model a shortfall of $30 million would result. The State government has made it clear their contribution can't increase at all, let alone double and local government could not possibly find the lost $30 million. The result would be disaster for the Cassowary Coast Region, and I contend for all of Far North Queensland.

Both the federal and state governments say they want to develop Northern Australia, but if the draft recommendations proceed without substantial modification, they might as well forget about us, as apparently too many in the south already have."

Diamantina Shire Council, 13 October 2014

Diamantina Shire Council is a small and remote Council situated in the Channel Country of far central west Queensland. Some quick statistics of the shire are as follows:

Population	292
Shire Area	95,000km^2
General Rates (Gross)	$687,800
Total Recurrent Revenue	$12.3M
Budgeted Operating Deficit 2014/15	$3.1M
Staff	68 FTE (inc.13 vacancies)
Shire Road Length	1,039km
Sealed	27km
Gravel	1012km
Within Floodplain	48%
Total Road Asset value	$86.9M

The following table sets out Natural Disaster Events (all flooding) in the shire since 2006 and the extent of damage sustained.

Natural Disaster Event		Council Roads	DTMR Roads
Description	**Year**	**Approved Value**	**Approved Value**
Qld Monsoonal Flooding March 2011 (7N)]	Mar-11	$ 41,180,924	$ 24,014,103
Qld Monsoonal Flooding April 2010 (7H)	Apr-10	$ 14,976,920	$ 20,432,286
Communities within South West Qld affected by rain and flooding Sept 2010	Sep-10	$ 963,736	$ 583,478
Qld Monsoonal Flooding Feb 2009	Jan-09	$ 8,854,022	$ 9,476,166
Communities within South West Qld affected by rain and flooding June 2008	Jun-08	$ 2,937,418	$ 1,069,938
Southwest Qld Storms Feb 2008	Feb-08		$ 1,811,557
Central and Western Qld Storms & Flooding Dec 2007	Dec-07	$ 1,086,230	
Communities affected by Northern and Western Flooding Jan 2007	Jan-07	$ 9,076,386	$ 6,996,767
Tropical Cyclones and Flooding March 2006	Mar-06	$ 276,589	$ 769,773
TOTAL above		**$79,352,225**	**$65,154,068**

Use of Council Resources

Council supports the inclusion of day labour as an eligible cost in the restoration of public assets. In addition, the use of Council machinery should also be eligible for reimbursement. Council strongly supports the use of Full Cost Pricing (in accordance with National Competition Policy principles) in determining the eligibility for labour and machinery costs such that all relevant oncosts are also eligible. This ensures that the true cost of restoring the asset is recognised and reimbursed to Council whilst being able to readily compare this cost to that of a Contractor, demonstrating Value for Money.

Insuring Roads

The reality for Council is that 48% of Council controlled roads are located within a flood plain resulting in some level of damage from flooding events. This puts the estimated value of roads within floodplains at $41.7M. These unsealed roads have multiple sites along their length where floodways are constructed given the nature of the topography.

The frequency and extent of damage is dependent upon the nature of the flood and which river catchments experience the flooding. The nature of the flood can change each event depending on the amount of rain that has fallen and where and when it fell and in what river catchments this has occurred. Flooding lasts for months in some areas with even DTMR roads being impassable for many weeks.

If insurance of road assets was to become mandatory, Council would struggle to comply. Given that there is a reasonable probability that damage will be sustained to the roads on the floodplains within the shire, it is likely that:

- Council will not be able to get insurance for these sections of road; or
- The premium will be significant when compared to the nett general rates collected. This would necessitate a significant rise in general rates to pay for the premium by the 14 rural ratepayers and/or a reduction in the standard of the road.

Mitigation

In our particular situation, there is very little scope to complete betterment on our flood plain roads. This is due to their low traffic volumes and the cost (given our remoteness) to improve vast lengths of road. Gravel floodways are the only real option for our topography allowing little scope for mitigation. Where betterment was contemplated, Council would need to consider whether it could afford the higher standard of asset given its share of construction betterment costs and how it would fund the ongoing whole of life cost.

Option 1

The effect of future Natural Disaster Funding Arrangements on the Diamantina Shire Council, based on Option 1 (the Commissions preferred option), will depend on how the Queensland Government chooses to implement the changes imposed on them by the Federal government. eg. If a higher trigger amount is imposed on the State, it is reasonable to assume that this higher trigger amount will be passed onto local government through a higher trigger amount.

Of more concern is the recommendation that the Federal governments reduce their contribution from 75% to 50%. This would then mean that 'someone else' has to fund the additional 25%. If the state passes this 25% over to Local Government to fund, Diamantina Shire Council does not have the financial capacity to do this. If this were the case, based on flood damage occurring over the next 8 years as happened in the previous 8 years, Council would need to find $19.8M over the 9 year period to 2014, during which there were 3 years with no flood damage. This is $2.2M per year. When compared to our nett annual general rates of $687,800, it is clear that Council would need to take out insurance (which may not be possible or affordable), raise rates (which means a rate increase of more than 300%) or not fix the roads.

To take into account the significant variance in the capacity fund natural disaster restoration, Council recommends stepped/threshold approach to local government co-contribution which is linked to Australian classification of local government. Eg Rural Remote Small, Rural Agricultural Large.

This would mitigate a lot of the impact on the small shires who don't have the capacity to pay and put a bigger emphasis on larger shires to focus on mitigation.

Specific Information Sought

1. Council maintains an up to date Road Asset Register
2. Council plans to conduct normal maintenance on shire roads throughout the year. Gravel resheeting is focused on non-floodplain area.
3. Council uses day labour and machinery for all counter disaster operations, other than an SES boat and Rural Fire Brigade Truck.

Gold Coast City Council, 17 October 2014

… concerns relate to a general trend evident within the PC draft report of responsibilities and costs of recovery from disasters being shifted from Commonwealth to State jurisdictions, and a consequential increase in the burden of cost that will be borne by local government. This reply provides some detail to these concerns.

On NDRRA Funding Contributions

The City of Gold Coast supports LGAQ's opposition to PC Draft recommendation 3.1 that:

> *The Australian Government should:*
>
> - *Reduce its marginal cost sharing contribution rate to disaster recovery outlays to 50 per cent under the Natural Disaster Relief and Recovery Arrangements*
> - *Increase the triggers for Australian Government assistance (small disaster criterion and annual expenditure threshold.*

In its opposition to this recommendation, the City of Gold Coast supports the following principles:

- That disaster recovery is a shared responsibility between three levels of government – Commonwealth, State and Local.
- That the financial burden of disaster recovery should be shared by levels of government in a manner that reflects their capacity to contribute.
- That the burden of recovery should not fall disproportionately on a State or local government jurisdiction because of their geographical location.
- That proportion of taxation revenue raised is an adequate measure of capacity to contribute.

As such, the City of Gold Coast supports maintaining the current Commonwealth contribution at 60%, which is closer to the 69% of taxation revenue raised by the Commonwealth, than the proposed reduced Commonwealth contribution of the draft PC recommendation.

While Table 3.2 of the LGAQ response shows that the City of Gold Coast would experience the second lowest additional cost burden (0.1%) among Queensland local governments if the draft PC report recommendations had been implemented during 2009-2014, this statistic may under-estimate the recommendation's long term impact on this Council. The five year period to 2014 has been a relatively benign disaster period for the Gold Coast, with the city experiencing only one disaster event that triggered NDRRA funding support which was ex Tropical Cyclone Oswald, January 2013.

On Reducing Prescriptive Conditions around NDRRA

The City of Gold Coast supports LGAQ's recommendation to remove the restriction on the use of day labour for disaster response and recovery. This Council notes that the use of day labour is justifiable by its readiness for deployment, agility and flexibility to provide rapid response during the initial phases of a disaster. By contrast, to deploy external resources incurs procurement lead-times as contractors are selected and contracts are prepared. While this might be acceptable for mid and long-term disaster recovery, this is not acceptable during the initial phases of disaster response when priorities focus on emergent works to make a disrupted community safe and, at least, minimally functional.

On Increased Support for Mitigation

The City of Gold Coast supports LGAQ's comments with respect to draft Recommendation 3.2. That is, the City of Gold Coast:

- supports increasing mitigation funding
- considers that mitigation funding models should be risk-based, and not operated on a per capita basis

On Land Use Planning

The City of Gold supports LGAQ's feedback with respect to land use planning. As reflected in our City's Local Disaster Management Plan, Council notes that effective land use planning is an important strategic approach to disaster mitigation. As such, Council supports strengthening the links between disaster risk assessment and land use planning, and the building of local government capacity across the State to deliver effective planning schemes with controls and mitigations that are reflective of their community's risk profiles.

The City of Gold Coast supports in principle the LGAQ recommendation that the Queensland Government introduce legislation to offer statutory immunities to local government for actions undertaken to prepare, implement and maintain effective land use planning.

On Insurance

The City of Gold Coast provides, maintains and operates public infrastructure assets. These include government buildings, transport assets, water treatment and distribution networks, to name a few.

As outlined in the LGAQ response to the draft PC report, the City of Gold Coast does not accept that NDRRA is a replacement for insurance. While insurance is a strategy to manage some or all costs associated with loss-related risks, NDRRA is a program that seeks cost-sharing between levels of government for public infrastructure losses that result from natural disasters.

With respect to local insurance of road infrastructure, the City of Gold Coast fundamentally agrees with the LGAQ position on this point. Insisting that local governments insure their local roads will provide an undue and disproportionate financial burden on local government to manage the financial risks associated with losses in these assets due to natural disasters.

On Improving Asset Management

The City of Gold Coast supports in principle the draft PC recommendations that seek to enhance the processes by which assets are managed and the transparency of asset condition reports. The City of Gold Coast has recently implemented new business-as-usual processes and registers that more effectively capture asset condition and damage reports, and asset life cycle costs.

On Levels Of Service And Engineering Standards

The City of Gold Coast agrees with the caution expressed by LGAQ with respect to levels of service and engineering standards for infrastructure assets. Engineering design for an asset should be based on minimum regulated standards, its natural disaster risk exposure, required levels of community service and the capacity of the community to pay for the asset. While it might be ideal for all of a community's assets to be designed and constructed to be immune to all disasters, this is generally both impractical and unaffordable.

Likewise, while it might be desirable to enhance the resilience of frequently damaged assets, as recommended within the draft PC report, local government generally does not hold sufficient funds to enhance the resilience of all vulnerable assets.

The City of Gold Coast therefore recommends that the LGAQ strengthen its call on Commonwealth and State governments to increase funding to assist local governments enhance resilience of vulnerable important assets.

Consideration also needs to be given to the circumstance where current engineering standards differ from pre-disaster standards during the reconstruction of assets damaged by disasters under NDRRA.

On Benchmark Costs

The City of Gold Coast has no objection in principle to LGAQ's endorsement of parametric benchmark models for estimating the value of assets and damage due to natural disasters. Parametric models allow for the value of assets to be quickly estimated, which is important when estimating whether or not NDRRA trigger thresholds are likely to have been met within the short timeframes available under State reporting processes. As such, the City of Gold Coast supports LGAQ's endorsement of QRA's continued development of benchmark rates and its wider application nationally.

However, the caution offered by this Council is that parametric models should never replace actual tracking of costs and conducting detailed valuations. They alone should not be used to determine Value for Money, nor actual revenue to be received under NDRRA.

Further it should be noted that local government holds a large variety of asset types, and care will be required to understand the nature of these assets if an appropriate range of benchmark costs are to be developed.

Gympie Regional Council, 13 October 2014

In recent years the Gympie Region has been subjected to four declared flood disasters. If the recommendation to cap the Australian Government funding to 50% had been in place, Gympie Regional Council would have needed to make up a shortfall of some $16 million over these four events. These events were:

- Queensland flooding, tropical cyclones Tasha and Anthony – November 2010 and February 2011.
- North Coast Storms, flooding and East Coast hybrid low – 24 February – 7 March 2012.
- Tropical Cyclone Oswald and associated rainfall and flooding – 21-29 January 2013.
- Central and Southern Queensland low – 25 February – 5 March 2013

Year	Total Damage Bill	Estimated funding if capped	Potential Shortfall to Council
2011	$32 Million	$24 Million	$8 Million
2012	$7 Million	$5 Million	$2 Million
2013	$26 Million	$20 Million	$6 Million
		Total:	$16 Million

Based on the above figures, it is unlikely that after similar events that Council would be in a position to repair all damaged infrastructure, and the infrastructure that would be prioritised for repair would not be able to be repaired in the same timeframes as has been possible to date. This would significantly impact on the community's short and long term recovery.

Council is supportive of the comments/recommendations within the Commission's report that seek to provide more autonomy to state and territory governments to manage the relief and recovery expenditure and the ability for local government to use 'day labour'.

Lockyer Valley Regional Council, 17 October 2014

More transparent budget treatment of Natural Disaster Risk:

It is considered financially unachievable to consider that Lockyer Valley Regional Council, based upon its size and current revenue constraints, as having the ability to fund any portion of the proposed 25% reduction in Federal contribution, let alone having the ability to set aside funding to self-manage the impact of future events, beyond minor events as occurred in 2014.

If the proposed arrangements existed in 2011 and 2013, and the full proposed 25% cost shift was imposed on local governments, then Lockyer Valley Regional Council would have had to fund the following scenarios:

- $42.5 million in 2011, of the final estimated program cost of $170 million (including CDO, Emergent and reconstruction works); and
- A further $15 million in 2013, of the current estimated program cost of $60 million.

As a percentage of its annual budget, this level of funding represents 88% (2011) and 31% (2013) of its current revenue base.

Lockyer Valley Regional Council does not have the financial capability to meet the proposed changes, without incurring massive levels of debt, which is evidenced by the current scenario where Council is currently carrying an $11 million debt to finance recovery activities of the 2011 event. This burden is being borne by the Lockyer Valley community through increased rates, and reducing levels of service for some time into the future.

Reducing Australian Government post-disaster (recovery & restoration) support to provide sharper incentives to invest in mitigation and insurance.

… Lockyer Valley Regional Council is pleased that the Productivity Commission recognises that it is inevitable that assistance from the Federal Government will be required to assist with the cost of natural events because of the vertical fiscal imbalance, though it clearly believes that current arrangements are in the favour of state governments as "current thresholds do not "constitute a major fiscal burden of state funding capacity". While this belief would hold true for one-off events, the quick succession of the 2011, 2012 and 2013 events in Queensland shows that the fiscal capacity of a state (and local governments) to respond within itself can be quickly eroded.

… Lockyer Valley Regional Council does not support the exclusion of Business and Primary Producers from funding arrangements, as it will greatly impact on the recovery of its local community, especially when commercial insurance is not available or is cost prohibitive to business owners due to the on-going impacts of 2011 and 2013 natural events. Council suggests that greater focus needs to be placed on better defining eligibility criteria and ensuring the equitable and consistent application of funding across future events.

Increasing Australian Government support for mitigation:

Lockyer Valley Regional Council considers itself as being at the leading edge of building resilient communities through its understanding of the regional and local hazard risks that impact its community, and actively identifying appropriate regional and local mitigation initiatives. Example of the initiatives undertaken to date, include:

- Relocating Grantham township post 2011 event to remove this community out of the known hazard zone. The impact from the 2013 event was minimal in relation to the Grantham community;
- Undertaking numerous Hazard Risk studies across the Lockyer Valley region to identify and understand the community risk profile as well as the identification of not only local solutions (ie: levee banks) but also regional solutions, such as major detention basins and reengineering of current infrastructure.

Presently, the overarching constraint to seeing future initiatives implemented is obtaining the necessary levels of private and public funding to achieve desired outcomes.

Council believes that any sustainable reduction in the long-term response and recovery funding burden will only occur if greater emphasis is placed on a coordinated approach by all levels of government (and the community) to the reduction of natural hazard risks in our local communities and to associated infrastructure.

… This view can only occur if a greater level of political leadership occurs with outcome focused funding, instead of the proposed per capita approach, is made available to:

- Understand the current natural risks to the community and inform the community of the risks;
- Fund Value for Money (VFM) outcome based mitigation projects (structural and non-structural as well as regional and local solutions) to reduce hazard risk;
- Understand the impact of development approvals in terms of natural risks as well as associated financial risks created;
- Establishing partnerships with insurers as part of the mitigation decision-making process;
- Looking at private and public partnership options to fund required outcomes.

Accountability frameworks the reduce prescriptiveness and gives states more "earned autonomy" on how to best undertake recovery and mitigation

Lockyer Valley Regional Council agrees that the scope of eligible expenditure needs to be better defined and clarified to ensure that the core responsibilities during response and recovery phrases (as defined in Disaster Management Act 2003 and Local Disaster Management Plans) are adequately covered. This will create a common understanding and certainty of eligibility across different events, thus reducing the level of administration and negotiation to obtain reimbursement, and providing some certainty around event recovery and response decision-making.

Council fully supports the reduction of the prescriptive requirements of current agreements as this will reduce current levels of Program Management Office costs and provide greater funding to "on-ground" solutions. Greater clarification around what can be rebuilt (as well as what should be rebuilt) needs to be achieved if funding wastage is to be adequately addressed. While, as indicated, what constitutes "current standards" is key to determining disaster funding, it is also just as important that this review also considers how a clear, transparent and consistent methodology for determining what should be rebuilt can be put in place that consolidates the current "value for money" and "betterment" considerations, with a better alignment with good asset management and risk mitigation for rebuilding decision-making.

It appears that the Federal Government is pushing for a up-front one-off capped payment (based on initial damage estimates), which will transfer the "delivery" risk to State / Local Governments for management as part of the overall management of the recovery and restoration program. While council is supportive of this approach, this risk transfer would need to be offset to some degree by the:

- Setting of 'acceptable standards" and standard activity costs (regionalised to reflect locality cost issues within the 60 federal regions);
- Ability / freedom to take a "whole of network" program approach to restoration and recovery, based upon demonstrating and achieving asset management and hazard reduction outcomes.

Information Sharing

Lockyer Valley Regional Council agrees with recommendations to consolidate/collate natural hazard risk information between all levels of government, insurers and other key stakeholders to establish a common "knowledge-base". This point of truth will enable the generation of a common understanding between all parties, providing the basis of partnerships to manage natural risks within our community. Current technology should enhance the quick achievement of this outcome. Again, the establishment of funding to allow Local Governments to achieve this outcome, as well as funding the platform for standardisation of mapping and consistent hazard identification is required.

To further enable this initiative, it is suggested that the State Government provide local governments with a statutory exemption from liability for natural hazard management for reasonably-based decision making and actions, such as the provision of information.

Regulating the built environment

As evidenced from the 2011 and 2013 floods, the lack of regulation of the built environment from the last major event in 1974, especially in terms of mitigation of natural risks, saw an increased community exposure to natural hazards and consequently resulting in increased relief and recovery burden on disaster management agencies.

A more consistent and supported approach across all levels of government is required urgently if the projected growth forecasts (especially SEQ) are to be managed appropriately to ensure that the current levels of the community's natural risk exposure is not multiplied and future relief and recovery funding liabilities increased.

… Implementation of a better funding model for mitigation will require a change in approach to current "developer contributions" framework to ensure adequate contribution funding, as well as consideration of appropriate funding models so that insurers and public contributions can be obtained to undertake required mitigation works.

Council supports the removal of the "injurious affection" from the Queensland Sustainable Planning Act 2009, as this will assist in addressing potential further risks from potential changes to current planning decisions to enable natural hazard risk mitigation to occur.

The focus by the Productivity Commission on this area may be a precursor to the limiting of any future response and recovery funding to State/Local Governments on the grounds of inappropriate planning approvals – risk of impacted community / infrastructure lies with the decision maker. How will allowing the future construction of an estate in known flood zones, be viewed in the future? This view is further supported by the recommendations that Local Governments publish reasoning behind development assessments – will this need to include a natural risk statement, including the "impact" estimate based on previous events and benefit of mitigation conditions imposed?

Mackay Regional Council, 15 October 2014

Funding arrangements for recovery

… As a coastal community in tropical north Queensland Mackay faces increasing climate and weather related risks and consequently is more exposed to the impact of natural disasters. For example:

- Climate change is projected to amplify existing climate related risks such as a rise in sea level by between 0.53m and 0.97m by 2100 (*IPCC, 2014 Summary for policymakers*)
- Previous guidelines from the Queensland Government which have been used in Mackay Regional Council's storm tide study recommended a 0.8m sea level rise and an increase in cyclone maximum potential intensity by 10 percent by 2100 due to climate change (*Queensland Coastal Plan – Coastal Hazards Guideline DERM Qld Government 2012*)
- Local governments should factor in a 5 percent increase in rainfall intensity per degree of global warming using the following temperature increases and timing: 2^0 C by 2050, 3^0 by 2070 and 4^0 by 2100 (*Increasing Queensland's resilience to inland flooding in a changing climate: Final report on the inland flooding study Qld Government, 2010*)

The risk of natural disasters is increasing, and the Council is responding accordingly by factoring these risks into its enterprise risk management processes, its infrastructure planning, long term financial planning, and its planning scheme.

… The Council strongly opposes the proposed funding model as it does not take in account the unacceptable consequences on local governments, particularly those such as Mackay Regional Council which face greater natural disaster risks both in terms of likelihood and consequence and have limited scope to increase revenue.

… A reduction in the reimbursement rates together with the proposed increase in the small disaster criterion and the annual state government thresholds, when passed through to local government is likely to make the restoration of essential public assets, particularly roads, unaffordable. If left unchanged it is likely to have deleterious effects on the communities and economies of regional Australia particularly areas that face higher risks and have the least capacity to respond to natural disasters.

The current arrangements discourage betterment which includes many sensible practices that provide longer term mitigation effects. For example, Councils have traditionally been required to undertaken like-for-like road repairs on NDRRA projects as betterment costs have had to be fully borne by the Council and any subsequent damages at these locations did not qualify for NDRRA funding.

This has been exacerbated by 'fitness for purpose' construction standard designs, effectively limiting road design to 10-year traffic loadings. In addition, funding does not allow for the installation of sub-surface drains which are essential for the proper performance of pavements.

… the proposal to calculate payments 'up-front' based on an assessment of damage places an unreasonable share of the risk of incorrect estimation on local government.

Upfront cost assessments without ability for later adjustments could lead to significant over estimation in order to cover market rates given that the unit rates for such works would be relatively unknown at the stage of initial assessment given no ability exists to test the market at this point in time as well as the impact for scope adjustment to cover consequential damage. The current arrangement allows adjustments for both actual tendered rates and for scope creep to cover valid consequential damage assessments subject to verification. Without this ability it would be assumed that significant risk allocation will need to be built into initial assessments to ensure scope and unit rate values are adequate.

Government Insurance

… In contrast to the Victorian state government and the ACT examples it is understood that the Queensland state government was unsuccessful in obtaining insurance for its network of state roads. The Council has made approaches to its insurer who has advised that past investigations along these lines for local governments have had the same outcome. In summary, it is very likely that insurance for Queensland local roads will be discounted as a viable option; even if insurance were available for local road networks, the premiums would be prohibitively expensive.

Infrastructure

… Draft Recommendation 4.10 which calls for a clearer link to road user preferences in maintenance and investment decisions is supported. However if applied rigidly, selecting projects to be funded based on a net community benefit test as proposed may adversely affect the Council's rural and unsealed road network infrastructure.

These roads link rural and remote properties and localities but have small traffic loadings so the gross social and economic benefits community benefits generated would be limited. Without a qualification to the community benefit test these roads would have limited access to funds and would be outside the Council's ability to fund proper restoration after significant events.

This would result in the lowering of asset and service standards on these networks and ultimately higher rehabilitation and reconstruction costs in the longer term. The same principle applies to urban regional networks which would be in competition with larger population and traffic centres including the state road network.

Moreton Bay Regional Council (MBRC), 13 October 2014

Do state, territory and local governments maintain up to date asset registers?

Yes, it is a legislative requirement.

How is asset management planning integrated into state, territory and local government budgets?

The planning undertaken by asset management formulates a long term priority plan that informs the budget as to the timeliness of asset capital expenditure and maintenance activities.

How do state, territory and local governments' asset management plans incorporate natural disaster risk management?

MBRC's current asset management plans incorporate natural disaster implications in the risk assessment for each of the main asset categories, for example, stormwater drainage and transport.

To what extent do councils utilise day labour and own equipment for community recovery activities, such as counter disaster operations?

MBRC will use its day labour resources (staff, plant and equipment) on all tasks associated with community recovery activities. It would seek to supplement these resources with external resources, depending upon the scale and intensity of event/s.

An increase in the small disaster threshold to $2 million (up from $240,000):

The table below details payments to date (2011-2013), though there are still more approvals and further payments to come through. Note that 2013 has included some Betterment Approvals.

Events	2011	2012	2013
CDO	114,469	60,829	58,202
REPA	28,652,562	0	5,013,010
Total	28,767,031	60,829	5,071,212

MBRC does not support the increase in the small disaster threshold.

An increase annual mitigation expenditure gradually to $200 million, distributed to the states and territories on a per capita basis (to be off-set against recovery funding):

Distribution on a per capita basis is too simplistic, if you consider a comparison between Victoria and Queensland to illustrate the point. Victoria has a much smaller land area and associated length of infrastructure e.g. roads. Victoria experiences major bushfires and significant flood events. Queensland has cyclones/major flooding/bush fires. At a basic level, the potential for infrastructure damage in Queensland appears to be higher than Victoria, BUT on a per capita basis Victoria would receive more funding. It is recommended that a funding distribution model should account for:

The extent and value of the infrastructure networks

- Population
- Decentralisation
- Disaster types

MBRC would support a model that allows greater funding of mitigation activities.

MBRC also recommends that this annual funding increase to $200 million occurs immediately, and is not increased gradually. Recent projects identified by Queensland local governments to undertake mitigation or betterment related activities were deemed to exceed $1 billion in value. Given this, the $200 million annual expenditure limit is quite minor in comparison to the funding required for these types of activities. How would the shortfall be funded, particularly when the Australian government has the greatest capacity for revenue generation 70:23:7 (Federal/State/Local Government)?

Australian Government funding for natural disaster mitigation and recovery should be conditional on institutional and governance arrangements, including:

- *local governments having asset registers and asset management plans that incorporate natural disaster risk planning, consistent with their long term financial plans;*
- a *clearer link between road-user preferences and maintenance and investment decisions;*
- *consideration of natural disaster risk in project selection;*

MBRC would support these recommendations as these governance arrangements are currently in place for any new projects. The challenge for MBRC is managing legacy projects built to lesser standards.

Recognising the importance of planning to risk management and mitigation, the provisions in the Queensland Sustainable Planning Act 2009 for injurious affection should be repealed:

MBRC supports the repeal for injurious affection and supports the recommendation that the State government should clarify the legal liability of local governments in relation to sharing natural hazard information. MBRC also requests LGAQ lobby the State government to put mechanisms in place to reduce the amount of local government decisions that are being overturned by the State government to allow development to occur in high-risk areas.

***Increased investigation and take-up of asset insurance opportunities*:**

Historically, investigations into implementing insurance opportunities have been deemed to be too expensive. LGAQ advises that no State or Territory in Australia has insurance for roads. The cost of insurance would be prohibitive and costs would escalate following a natural disaster or multiple natural disasters within a relatively short timeframe e.g. cyclones in North Queensland.

Recognition that restrictions on reimbursement for some inputs for reconstruction (such as restrictions on reimbursing the use of 'day labour) lead to wasteful spending:

MBRC believes it is a more cost effective solution for all parties to utilise council day labour in this way. MBRC is fully supportive of the implementation of an ongoing arrangement to reimburse the use of council day-labour. MBRC supports the LGAQ to lobby the State and Federal governments to develop a system that represents best value for money for the Australian taxpayer.

Toowoomba Regional Council, 14 October 2014

Toowoomba Regional Council welcomes the Commission's recommendations to more adequately fund disaster mitigation works but are concerned about moves which would see the Commonwealth withdraw from responsibilities in contributing its share of funding to disaster recovery and restoration.

Mixed messages for local communities in the report (of course noting this is only the draft report) the drive from the Australian Government seems more about reducing its financial exposure, than anything to do with improving the outcomes of disaster affected communities.

Day Labour

- We welcome the condemnation of the bureaucratic restrictions on local councils not being funded to use their own staff to recover from natural disasters, and are pleased that it is recognised as inefficient and goes against the grain of good accountancy principles.
- We agree that local councils should have more autonomy in how they respond and recover from disasters, including how they use their own staff in the clean-up and rebuilding.
- We welcome the Commission's recommendation that using so-called 'day labour' for community recovery should be fully eligible for disaster funding. Using day labour for disaster recovery actually saves taxpayers money and restoration work can commence immediately.

Mitigation

- We also welcome the focus on mitigation and being proactive rather than reactive, however this needs to be funded appropriately and needs to be far more than the proposed $200M/year and will require commitment as ongoing funding from both the Australian and State Governments for many years to come. The backlog is enormous if the aim is to improve the disaster resilience of community infrastructure.
- The current Betterment Program and Category D grants along with additional Council complementary funding has enabled TRC to undertake significant improvements in rebuilding more resilient community infrastructure. These works are of substantial benefit to the community and will significantly mitigate damage and subsequent cost impacts from any future flood events (both directly and indirectly).
- Australian and State Government subsidies to Local Government for flood mitigation infrastructure was drastically reduced in the last decade prior to the 2011 floods and under the current arrangements significant mitigation has been simply unaffordable.

Insurance

- The commission's proposal regarding insurance against disasters are concerning and to be frank, are impractical for communities who are regularly in the path of cyclones and floods. Any insurance coverage for local road networks would have to be facilitated through the Australian Government to be both equitable and affordable.

Policy Reform

- We strongly welcome all the recommendations regarding land use planning, building and regulatory reform. In particular, draft recommendation 4.7 – "*The provisions in the Queensland Sustainable Planning Act 2009 for injurious affection should be repealed"* is a must do.

Funding

- We are very concerned at the Commission's proposal that Commonwealth funding of disaster relief be reduced to 50 percent. This is a totally unaffordable outcome for State & Local Government which will then need to shoulder the majority of financial burden as well as the community socio-economic burden of natural disasters.
- We believe the arrangements should remain 75% Federal and 25% State as the true cost is different in reality and Local Governments do bear between 10-20% of final costs for essential infrastructure alone (eg. roads) depending on the event.
- Additionally, the majority of community recovery costs are also covered by local government, local community organisations and individuals.

Townsville City Council, 16 October 2014

Mitigation versus repair.

It is difficult to argue with the principle that prevention is better than cure, however in applying this to disaster management the other considerations of risk assessment and value for money will always dictate the latent risk that each individual community will live with and prepare themselves for. In our case the highest cost disaster risk is from cyclones. It is extremely difficult to estimate the level of damage from any particular cyclone against a statistical annual exceedance probability. Given that damage can be caused by all or any of three main contributors, being - high wind, heavy rainfall and tidal surge, the selection of a range of mitigation options, notwithstanding the latter will always be extremely expensive and environmentally intrusive, will not guarantee a statistical level of protection, over the long term.

Regardless of any suite of mitigation measures chosen to address each disaster category, in the vast majority of cases, a residual risk will remain, which means that a community preparedness and recovery program must also be in place. This is particularly the case for cyclones, and it is argued will always remain the predominant mitigation strategy for this disaster category. It can be seen that whilst there has been a higher than normal recovery cost for cyclone damage, even if the costs of the Brisbane floods are excluded, over the last five years there has been no loss of life in North Queensland. This is testament to the success of the disaster management and community preparedness practises that are currently in place, and are always being improved.

Asset Management principles.

It is mandatory for all local governments in Queensland to have asset management plans in place for all asset categories under Council's control. Councils are annually measured on their asset management maturity, and their financial ratios related to asset expenditure versus depreciation. Whilst Townsville City Council constantly performs against these measures, it must always be borne in mind that it too, like the collective Local Government across Australia, has a backlog in asset condition. This is particularly evident in the road network and stormwater drainage categories, which is acknowledged by the Federal Government in seeing the need to continue with the highly successful Roads To Recovery program.

In addition, Councils must always assess the costs of what needs to be done to achieve a reliable asset network versus the ability of their communities to pay. This is particularly the case for small rural communities.

Obviously, if the cost to live in a regional city is exorbitantly expensive, then nobody would choose to migrate there, and there would be counterproductive consequences to the Federal Regional Development agenda.

Third Party Insurance of Public Infrastructure.

To put any consideration of this suggestion in context, it needs to be borne in mind that nearly all individuals and body corporates in North Queensland are now struggling to procure adequate and affordable disaster insurance, if in fact, they can secure any cover at all. This predicament is well known and debated in the public arena, and the Federal Government has joined the investigation into a solution. Given the recent history of disaster recovery costs, there would be no worse time than at present to go to the market place, in the hope of procuring reasonable and affordable cover for public assets.

Therefore, whilst this suggestion may generate a reasonable business case proposition in some parts of Australia, it is definitely not so, in Townsville.

Change in Federal contribution to Natural Disaster Recovery Arrangements

Whilst an increased Federal contribution toward mitigation programs would be welcomed, and has been debated for decades, the amounts suggested in the recommendation report, when spread across Australia, would not address current latent risks in North Queensland, to the point where the Federal contribution to the Recovery funding formula could be reduced, for decades, as communities would remain exposed to these costs until such time as the very expensive mitigation strategies were in place.

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