



## **FINANCE AND ADMINISTRATION COMMITTEE**

**Report No. 5: *Disaster Readiness Amendment Bill 2011***

**October 2011**



## **FINANCE AND ADMINISTRATION COMMITTEE**

**Chair** Mr Wayne Wendt MP, Member for Ipswich West

**Deputy Chair** Mr Ray Stevens MP, Member for Mermaid Beach

**Members** Ms Ros Bates MP, Member for Mudgeeraba

Hon Desley Boyle MP, Member for Cairns

Mr Michael Crandon MP, Member for Coomera

Ms Peta-Kaye Croft MP, Member for Broadwater

**Staff** Ms Deborah Jeffrey – Research Director

Ms Josephine Mathers – Principal Research Officer

Mrs Marilyn Freeman – Executive Assistant

Ms Lynette Whelan – Executive Assistant

**Technical Scrutiny** Ms Renee Easten – Research Director

**Secretariat** Ms Dianne Christian, Executive Assistant

**Contact Details** Finance and Administration Committee  
Parliament House  
Alice Street  
Brisbane Qld 4000

**Telephone** 07 3406 7576

**Fax** 07 3406 7500

**Email** [fac@parliament.qld.gov.au](mailto:fac@parliament.qld.gov.au)

**Web** [www.parliament.qld.au/fac](http://www.parliament.qld.au/fac)

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## Chair's Forward

The Premier and Minister for Reconstruction introduced the *Disaster Readiness Amendment Bill 2011* on 11 October 2011 and the House referred the Bill to the Finance and Administration Committee.

The Committee is required to report to the House by 24 October 2011. This provided the Committee with nine working days in which to consider the Bill. The Committee held a public briefing with departmental officers and a public hearing with some of the stakeholders affected by the Bill. Whilst the Committee recognises the importance of having these amendments in place before the next wet season commences, it was unable to call for submissions in order to fully explore the implications of the Bill with affected stakeholders.

The objective of the Bill is to amend a number of Acts in order to implement recommendations of the *Queensland Floods Commission of Inquiry Interim Report* and to improve the State's disaster preparedness ahead of the next wet season.

The amendments are to:

- provide a regulatory framework that enables the Minister to effect a temporary alteration to the full supply level of a dam with an approved flood manual after having sought advice, through the chief executive, from relevant entities;
- make it clear that the chief executive can include in dam safety conditions a requirement about giving general flood information to residents immediately downstream of dams;
- strengthen and streamline disaster management planning and preparation, response and recovery, including through amending the membership of the State Disaster Management Group (SDMG), requiring publication of disaster management plans on websites, and streamlining extensions of declared disaster situations;
- reduce the incidence of people driving on flooded or flood-affected roads; and
- ensure that repairs to community infrastructure can be carried out as quickly as possible to restore the functionality and safety of the infrastructure.

On behalf of the Committee, I wish to thank the departmental officers for their cooperation in providing information to the committee on a timely basis. I also wish to thank those stakeholders who met with and provided information to the committee during the course of the inquiry. This assistance has enabled the committee to provide as full a consideration of the Bill as possible in the time allowed.

Finally, I would like to thank the other Members of the Committee for their continuing hard work and support.



Wayne Wendt MP  
Chair

## Findings and Recommendations

The committee made one recommendation as follows:

**Recommendation 1**

The committee recommends that the *Disaster Readiness Amendment Bill 2011* be passed.

## Glossary of terms and abbreviations

Acts	All Acts referred to in this report refer to Queensland Acts unless otherwise specified
ADF	Australian Defence Force
BOM	Bureau of Meteorology
CEO	Chief Executive Officer
DCS	Department of Community Safety
DDMG	District Disaster Management Group
DERM	Department of Environment and Resource Management
DLGP	Department of Local Government and Planning
DPC	Department of Premier and Cabinet
DTMR	Department of Transport and Main Roads
FAC	Finance and Administration Committee
FLP	Fundamental Legislative Principles under the <i>Legislative Standards Act 1992</i>
LDMG	Local Disaster Management Group
LDMP	Local Disaster Management Plan
LGAQ	Local Government Association of Queensland
RACQ	Royal Automobile Club of Queensland
QFF	Queensland Farmers' Federation
Seqwater	Queensland Bulk Water Supply Authority, trading as Seqwater
SDMG	State Disaster Management Group
SLSQ	Surf Life Saving Queensland
SunWater	SunWater Limited
The Commission	Queensland Floods Commission of Inquiry
The Committee	Finance and Administration Committee



# 1. Introduction

## 1.1 Role of the committee

2. The Finance and Administration Committee (the Committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 16 June 2011.<sup>1</sup> The Committee's primary areas of responsibility are:
  - Premier and Cabinet;
  - Reconstruction;
  - Treasury;
  - Finance;
  - Arts; and
  - Public Works and IT.
3. Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –
  - a) the policy to be given effect by the legislation;
  - b) the application of fundamental legislative principles to the legislation; and
  - c) for subordinate legislation – its lawfulness.
4. Standing Order 132(1) provides that the Committee shall:
  - a) determine whether to recommend that the Bill be passed;
  - b) may recommend amendments to the Bill; and
  - c) consider the application of fundamental legislative principles contained in Part 2 of the *Legislative Standards Act 1992* to the Bill and compliance with Part 4 of the *Legislative Standards Act 1992* regarding explanatory notes.
5. Standing Order 132(2) provides that a report by a portfolio committee on a Bill is to indicate the committee's determinations on the matters set out in Standing Order 132(1).
6. Standing Order 133 provides that a portfolio committee to which a Bill is referred may examine the Bill by any of the following methods:
  - a) calling for and receiving submissions about a Bill;
  - b) holding hearings and taking evidence from witnesses;
  - c) engaging expert or technical assistance and advice; and
  - d) seeking the opinion of other committees in accordance with Standing Order 135.

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<sup>1</sup> *Parliament of Queensland Act 2001*, s.88 and Standing Order 194

## **1.2 Referral**

7. On 11 October 2011, the House referred the Disaster Readiness Amendment Bill 2011 introduced by Hon Anna Bligh MP, the Premier and Minister for Reconstruction, to the Committee for consideration and report.
8. Initially the Committee was required under the Standing Orders to report to the House within six months of the referral, ie 11 April 2012. However, the Committee is now required to report to the House by 24 October 2011, as advised to the House on 13 October 2011.

## **1.3 Committee Process**

9. The Committee's consideration of the Bill included a briefing by departmental officers and a public hearing.
10. The Committee was unable to call for public submissions due to the short time frame allowed for reporting on the Bill agreed to by the House.
11. The Committee also considered expert advice on the Bill's conformance with fundamental legislative principles listed in Section 4 of the *Legislative Standards Act 1992*.

## **1.4 Public briefing**

12. Officers from the Department of Premier and Cabinet (DPC); the Department of Environment and Resource Management (DERM); the Department of Community Safety (DCS); the Department of Transport and Main Roads (DTMR) and the Department of Local Government and Planning (DLGP) briefed the Committee on the Bill on Friday 14 October 2011. The Committee opened this briefing to the general public. A list of witnesses who gave evidence at the public briefing is contained in Appendix 1. A transcript of the briefing has been published on the Committee's website and is available from the committee secretariat.
13. The departments also provided written briefing material on the bill. A copy of this briefing material is published on the Committee's website and is available from the committee secretariat.

## **1.5 Public hearing**

14. The Committee held a public hearing on Wednesday 19 October 2011 at Parliament House, Brisbane. The committee invited the following stakeholder groups to attend the hearing to provide an industry perspective on the practical effects of the amendments:
  - Queensland Farmers' Federation (QFF)
  - Local Government Association of Queensland (LGAQ)
  - Royal Automobile Club of Queensland (RACQ)
  - Queensland Bulk Water Supply Authority, trading as Seqwater
  - SunWater Limited (SunWater)

15. A representative from the QFF was unable to appear at the hearing, however, they provided a written submission to the committee. A copy of this correspondence is contained in Appendix 6.
16. A list of witnesses who gave evidence at the public hearing is contained in Appendix 2. A transcript of proceedings has been published on the Committee's website and is available from the committee secretariat.

## **2. Disaster Readiness Amendment Bill 2011**

17. The objective of the *Disaster Readiness Amendment Bill 2011* is to amend the following Acts in order to implement recommendations of the *Queensland Floods Commission of Inquiry Interim Report* and to improve the State's disaster preparedness ahead of the next wet season:
  - *Water Act 2000*
  - *South East Queensland Water (Restructuring) Act 2007*
  - *Water Supply (Safety and Reliability) Act 2008*
  - *Disaster Management Act 2003*
  - *Transport Infrastructure Act 1994*
  - *Transport Operations (Road Use Management) Act 1995*
  - *Sustainable Planning Act 2009*
18. The amendments are to:
  - provide a regulatory framework that enables the Minister to effect a temporary alteration to the full supply level of a dam with an approved flood manual after having sought advice, through the chief executive, from relevant entities;
  - make it clear that the chief executive can include in dam safety conditions a requirement about giving general flood information to residents immediately downstream of dams;
  - strengthen and streamline disaster management planning and preparation, response and recovery, including through amending the membership of the State Disaster Management Group (SDMG), requiring publication of disaster management plans on websites, and streamlining extensions of declared disaster situations;
  - reduce the incidence of people driving on flooded or flood-affected roads; and
  - ensure that repairs to community infrastructure can be carried out as quickly as possible to restore the functionality and safety of the infrastructure.

19. The Premier and Minister for Reconstruction noted in her speech introducing the Bill that the Queensland Floods Commission of Inquiry (the Commission) released an interim report on 1 August 2011 which focused on flood preparedness to enable early recommendations to be implemented before the next wet season. She noted that this Bill has been prepared to implement the State's legislative response to the interim report and puts in place other improvements to the disaster management framework prior to the summer season.<sup>2</sup> The government published its response to the interim report on 23 August 2011.

### 3. Should the Bill be passed?

20. Pursuant to Standing Order 132, the committee recommends that the Bill be passed.

#### Recommendation 1

The committee recommends that the *Disaster Readiness Amendment Bill 2011* be passed.

### 4. Examination of the Bill – Amendments to *Disaster Management Act 2003*

21. This section discusses issues raised during the committee's examination of the Bill in respect of the amendments to the *Disaster Management Act 2003*. Part 2 of the Bill amends this Act.
22. Amendments to the *Disaster Management Act 2003* seek to implement recommendations 3.1, 3.6 and 6.1 of the *Queensland Floods Commission of Inquiry Interim Report*.
23. The Commission found that during the 2010/11 floods the Australian Defence Force (ADF) played an important role in the response through the deployment of helicopters to evacuate communities as well as to re-supply isolated communities. It also found that the Red Cross played a significant role in both the response and immediate recovery phase through its management of evacuation centres. The Commission found that the important role these agencies played could be enhanced by their involvement at an earlier stage in the SDMG's preparation and planning for disasters.<sup>3</sup>
24. With respect to local disaster management plans (LDMP) the Commission found that the adequacy of these plans varied at the time of the 2010/11 floods. The Commission considered that these plans needed to be updated, understood by the members of the Local Disaster Management Group (LDMG) and be as accessible as possible to the local community.<sup>4</sup>

<sup>2</sup> Queensland Legislative Assembly, Hon AM Bligh MP, Premier and Minister for Reconstruction, Introduction and Referral to the Finance and Administration Committee, *Parliamentary Debates (Hansard)*, 11 October 2011: 3009

<sup>3</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 116

<sup>4</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 118

25. The Commission noted that essential services encompass the provision of electrical power, drinking water and telecommunications and providers of these services should be included in meetings with disaster management groups at an early stage in order for these providers to be better placed to respond effectively.<sup>5</sup>
26. The Commission made the following recommendations:
- 3.1 *The state disaster management group should include representatives of the Australian Defence Force and the Australian Red Cross in its planning and preparation for the next wet season.*<sup>6</sup>
- 3.6 *Every local government should publish its disaster management plan (and relevant sub-plans) on its website before the next wet season.*<sup>7</sup>
- 6.1 *Local, district and state disaster management groups should include essential services providers in their disaster planning and preparation and in their meetings at an early stage during disasters.*<sup>8</sup>
27. In addition to implementing the Commission recommendations, the Bill includes amendments to improve and streamline disaster management arrangements by clarifying the arrangements for extending a disaster declaration and specifying that District Disaster Management Groups (DDMG) are to review and assess the local disaster management plans.

#### **4.1 Clause 3 – Membership**

28. Clause 3 amends s19 of the *Disaster Management Act 2003*. The clause expands the membership of the SDMG to include representatives of the ADF and the Australian Red Cross Society which were the bodies recommended by the Commission. In addition, it is proposed that the membership of the SDMG also include representatives from the Bureau of Meteorology (BOM) and Surf Life Saving Queensland (SLSQ).
29. The Committee was advised that the organisations to be included on the SDMG were consulted regarding the proposed wording of the amendments to ensure that the representation of each organisation was appropriately framed within the Bill.<sup>9</sup>
30. The department advised that they are currently entering into a memorandum of understanding with SLSQ about bringing their capability to the disaster management equation including flood boat and boat handlers to be deployed into many parts of the state.<sup>10</sup>

<sup>5</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 218, 221

<sup>6</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 116

<sup>7</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 118

<sup>8</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 222

<sup>9</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 17 October 2011: Attachment 1

<sup>10</sup> Mr Mahon, Transcript 14 October 2011: 10

#### **4.2 Clause 4 – District disaster management group functions**

31. Clause 4 expands s23(d) of the Act to require that local disaster management plans prepared by local governments are regularly reviewed and assessed by DDMG.
32. The Committee was advised that as part of the whole implementation process in responding to the Floods Commission of Inquiry recommendations is that a review is being undertaken of all local disaster management plans to ensure consistency with the Disaster Management Act. They further advised that as part of that process, Emergency Management Queensland (EMQ) is undertaking a quality assurance check and all the district disaster coordinators are working closely with their LDMG through that review process.<sup>11</sup>
33. The Committee was advised that this proposed amendment rectifies an existing gap in the legislation. Under s16 of the Act, the chief executive is required to review plans at all levels – SDMG, DDMG and LDMG but there was a gap in that the DDMG was not required to review the plans of the LDMG. The Committee was advised that the proposed review process should identify inconsistencies that might exist between local and district disaster management plans.<sup>12</sup>
34. The Committee was advised that the chair of the LDMG is usually the Chief Executive Officer (CEO) of the local government so this would assist in ensuring that the LDMG is aware of any major planning changes and the local government is aware of any changes to local disaster management plans.<sup>13</sup>

#### **4.3 Clause 5 – Requirement for disaster management groups to consult**

35. Clause 5 inserts a new s48A (pt 2, div 7). This section enables disaster management groups to consult with providers of essential services if the chairperson of that group considers that these providers can help the group perform its functions.

#### **4.4 Clauses 6, 7 and 8 – Plan to be available for inspection**

36. Clause 6 amends s52, Clause 7 amends s56 and Clause 8 amends s60. All these clauses require that a copy of the disaster management plans be placed on the relevant websites, ie departmental, Queensland Police Service and the local government.
37. The Premier and Minister for Reconstruction noted in her introductory speech that the proposed amendments go beyond the Commission's recommendation which only applied to local government. The proposed amendments will require all three disaster management groups – local, district and state – to publish their disaster management plans on their relevant websites.<sup>14</sup>

<sup>11</sup> Ms Castley, Transcript 14 October 2011: 9

<sup>12</sup> Mr Mahon, Transcript 14 October 2011: 9

<sup>13</sup> Mr Mahon, Transcript 14 October 2011: 9

<sup>14</sup> Queensland Legislative Assembly, Hon AM Bligh MP, Premier and Minister for Reconstruction, Introduction and Referral to the Finance and Administration Committee, *Parliamentary Debates (Hansard)*, 11 October 2011: 3010

38. The department advised that the LGAQ was consulted regarding publication of disaster management plans on websites and consultation with essential service providers. LGAQ's response to the interim report accepted these recommendations.<sup>15</sup>
39. The Committee was advised that this amendment requires every level to publish their plans so that it is reviewable by every member of the public who wishes to access that information.<sup>16</sup>

#### **4.5 Clauses 9, 10, 11, 12, 13 and 14 – Extending disaster situation**

40. Clauses 9, 10, 11, 12, 13 and 14 propose to streamline processes for extension of disaster situations in relevant circumstances.

### **5. Examination of the Bill – Amendments to *South East Queensland Water (Restructuring) Act 2007***

41. This section discusses issues raised during the Committee's examination of the Bill in respect of the amendments to the *South East Queensland Water (Restructuring) Act 2007*. Part 3 of the Bill amends this Act.
42. The proposed amendments are consequential amendments due to the proposed amendments to the *Water Act 2000*.

### **6. Examination of the Bill – Amendments to *Sustainable Planning Act 2009***

43. This section discusses issues raised during the Committee's examination of the Bill in respect of the amendments to the *Sustainable Planning Act 2009*. Part 4 of the Bill amends this Act.
44. The department advised the Committee that the proposed amendments are required to clarify that the emergency exemption provisions for exemption from development approvals apply to community infrastructure and not just buildings where it is necessary to act quickly to fix things in disaster circumstances.<sup>17</sup>
45. Sections 575, 576, 578, 580, 581, 582 and 583 of the *Sustainable Planning Act 2009* set out the development offences under the Act. Sections 584, 585 and 586 provide for exemptions to these offences. The proposed amendment adds an exemption to enable work to be carried out for the purpose of the operation or safety of community infrastructure that is not a building.
46. The explanatory notes to the Bill advise that this amendment will facilitate urgent repairs to community infrastructure such as roads and bridges damaged because of an emergency or natural disaster. The amendments will allow work or development to be carried out in an emergency without first having to obtain development approvals under the Act.

<sup>15</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 17 October 2011: Attachment 1

<sup>16</sup> Mr Mahon, Transcript 14 October 2011: 9

<sup>17</sup> Ms Castley, Transcript 14 October 2011: 2

47. The department advised that consultation on the proposed amendment was undertaken with the Planning Institute of Australia, LGAQ, Property Council of Australia and Urban Development Institute of Australia and all stakeholders indicated support for the proposed amendments.<sup>18</sup> The RACQ also indicated their support for the proposed changes.<sup>19</sup>
48. The department advised that the proposed amendments only deals with emergency or disaster response situations for a whole range of community infrastructure such as jetties, roads, pipelines, etcetera, in order to reconnect communities.<sup>20</sup>
49. The explanatory notes identify that consultation regarding proposed amendments was undertaken with key state agency infrastructure providers who support the amendment.
50. In relation to the amendments affecting heritage listed places, the department advised that it is the same exception that is extended to make it clear that even if it is heritage listed this exemption applies. The clause, however, is written so there are some specialist provisions that make sure that soon after the repair is made an application for a development approval is made for the heritage development and that is assessed. There is potential that that approval could be refused and therefore the emergency construction or activity might have to be made good or replaced. This ensures that it is consistent with the objectives of the heritage listing of places.<sup>21</sup>
51. The explanatory notes highlight that the intent of the heritage provision is to enable emergency building work, including demolition, to be carried out as quickly as possible, while ensuring the work is necessary and the impact on heritage significance is reversible or limited to the extent practicable.

## **7. Examination of the Bill – Amendments to *Transport Infrastructure Act 1994***

52. This section discusses issues raised during the Committee's examination of the Bill in respect of the amendments to the *Transport Infrastructure Act 1994*. Part 5 of the Bill amends this Act.
53. The amendments are designed to minimise the incidence of people driving on flooded or flood-affected roads.
54. The Commission noted in its report that Queensland Police received many reports during the 2010/11 floods of drivers ignoring road closure signs and continuing to drive on flooded roads.<sup>22</sup>
55. The Premier and Minister for Reconstruction advised that the proposed amendments to the transport legislation are in response to the lessons learned in relation to the dangers of driving in floodwaters.<sup>23</sup>

<sup>18</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 17 October 2011: Attachment 1

<sup>19</sup> Mr Turner, Transcript 19 October 2011: 7

<sup>20</sup> Ms Castley and Mr Papageorgiou, Transcript 14 October 2011: 7

<sup>21</sup> Mr Papageorgiou, Transcript 14 October 2011: 7

<sup>22</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 123

<sup>23</sup> Queensland Legislative Assembly, Hon AM Bligh MP, Premier and Minister for Reconstruction, Introduction and Referral to the Finance and Administration Committee, *Parliamentary Debates (Hansard)*, 11 October 2011: 3010

56. RACQ highlighted that they receive a lot of complaints about road closures and there are a lot of different definitions about what is safe and people often think they know better. They also noted that driving on a flooded road might cause significant damage to the underlying road, increasing both the cost of and time to repair the road. They acknowledged that the people involved in making a decision about whether a road is open or closed balance all issues including safety and subsequent repair issues and should be trusted to make the right decision.<sup>24</sup>
57. Clause 25 amends s46 of the Act. Clause 25(1) and 25(2) amend the notice requirements for a restricted road use. Clause 25(3) clarifies that an offence will be committed when a person drives past the notice in contravention of a restriction on the notice. This clause also amends the exceptions available. Clause 25(6) deals with the civil liability that may arise out of giving approval to drive past a restricted road use notice.
58. RACQ advised that, with respect to the clause 25(3) amendments, they have applied to be one of the organisations that are allowed through in a disaster area.<sup>25</sup>
59. The department advised that, in developing the proposed amendments, DTMR consulted with a range of stakeholders including LGAQ, the Queensland Trucking Association Limited and the RACQ. They also advised that DTMR will consult with regional councils about the implementation of the new procedures and processes and they have provided an Information Update, explaining the details of the proposed amendments, for circulation to members of the LGAQ state wide.

## **8. Examination of the Bill – Amendments to *Transport Operations (Road Use Management) Act 1995***

60. This section discusses issues raised during the Committee's examination of the Bill in respect of the amendments to the *Transport Operations (Road Use Management) Act 1995*. Part 6 of the Bill amends this Act.
61. The proposed amendments will allow transport inspectors, who are employed by DTMR, to stop any type of vehicle, including cars, to enforce a restricted road use notice and to require drivers to produce their drivers licence.
62. The Committee was advised that transport officers need these powers in emergency situations as police officers get widely stretched. The amendments will allow the inspectors to be able to assist police officers in enforcing the road closures and restrictions in order to assist with public safety and asset protection. Currently inspectors can stop trucks and other heavy vehicles.<sup>26</sup>

<sup>24</sup> Mr Gillespie, Transcript 19 October 2011: 8-9

<sup>25</sup> Mr Turner, Transcript 19 October 2011: 9

<sup>26</sup> Mr Langford, Transcript 14 October 2011: 8

63. The department acknowledged that this can be a highly emotive issue and the objective is to allow the inspectors to take a proactive role before people enter into the flood situation. Transport inspectors take note of high emotion and try to work with people and educate them before they go into this type of situation. However, they acknowledged that transport inspectors, whilst receiving extensive training including managing conflict and emotional communication, are not police officers and they do not have the power to restrain people. Transport inspectors can issue a provisional improvement notice or a fine.<sup>27</sup>

## 9. Examination of the Bill – Amendments to *Water Act 2000*

64. This section discusses issues raised during the committee's examination of the Bill in respect of the amendments to the *Water Act 2000*. Part 7 of the Bill amends the Act.
65. Amendments to the *Water Act 2000* seek to implement recommendations 2.2, 2.3 and 2.4 of the *Queensland Floods Commission of Inquiry Interim Report*.
66. The Commission found that the water agencies and DERM seemed incapable of agreeing upon their respective roles and in that environment, it cannot be left to the water agencies to determine who should provide what advice to the Minister during a consideration of a change in full supply level. The Commission found that given the competing interests, the ultimate decision is one for the accountable Minister and that decision should be made on advice.<sup>28</sup>
67. The Commission made the following recommendations:
- 2.2 *It should be accepted that control over temporary alteration of the full supply level of Wivenhoe, Somerset and North Pine dams is solely the function of the Queensland Government acting through the responsible Minister.*
- 2.3 *The regulatory framework by which the responsible Minister can effect a temporary alteration to full supply level should be simplified.*
- 2.4 *For the purposes of making any decision about a temporary alteration to full supply level, the Minister should receive advice from:*
1. *Seqwater, as to the flood mitigation impacts of such an alteration*
  2. *the Water Grid Manager, as to the security of water supply implications of such an alteration*
  3. *the Water Commission, as to both the flood mitigation impacts and the security of water supply implications of such an alteration*
  4. *DERM as to an analysis of the above advice, its own advice as to dam safety, the regulatory framework and any other matter within its expertise.*<sup>29</sup>
68. The department advised that the government has publicly accepted the sole responsibility, through the Minister, for future control over the temporary alteration of the full supply level of Wivenhoe, Somerset and North Pine dams.<sup>30</sup>

<sup>27</sup> Mr Langford, Transcript 14 October 2011: 8

<sup>28</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 50

<sup>29</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 50

69. The Committee was advised that the amendments to the Water Act are about clarifying the process by which the Minister makes decisions about temporarily reducing the full supply level of the dam and this was an issue dealt with at some length in the Commission's interim report.<sup>31</sup>
70. The explanatory notes state that the proposed amendments are necessary to create the new regulatory framework by which the Minister may alter the full supply level of dams as recommended by the Commission.

### **9.1 Clause 30 – Declaring temporary full supply levels for relevant dams to mitigate potential emergencies**

71. Clause 30 of the Bill inserts a new Chapter 2, Part 2, Division 4 (new ss31, 32, 33, 34, 34A, 34B, 34C, 34D and 34E) to the *Water Act 2000*. This section relates to declaring temporary full supply levels for relevant dams to mitigate potential emergencies. The purpose of this chapter is to minimise potential flood or drought emergencies.
72. Schedule 4 of the Act defines the 'full supply level' to mean the level of the water surface when the water storage is at maximum operating level when not affected by flood.<sup>32</sup> New ss32 and 33 apply if the Minister considers the declaration of a temporary full supply level for a relevant dam and specifies what consultation is required and the obligations of operators.
73. New s34 applies to the chief executive in giving advice to the Minister about whether declaring a temporary full supply level for a relevant dam is likely to mitigate the impacts of a potential flood or drought. New s34A sets out the process under which the Minister may declare a temporary full supply level. New s34B provides that if a temporary full supply level is declared a reference in the resource operations plan to the full supply level for the dam is taken to be a reference to the temporary full supply level. New s34C sets out the obligations of the operator if a temporary full supply level is declared.
74. Seqwater advised the Committee that they have already this year participated in giving advice to the Minister in regard to the decision making process around changes to the full supply level.<sup>33</sup>
75. New s34D requires that the chief executive must review safety requirements within one month, or a shorter period if requested by the Minister in writing, after a full supply level is declared.

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<sup>30</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 17 October 2011: Attachment 1

<sup>31</sup> Ms Castley, Transcript 14 October 2011: 2

<sup>32</sup> *Water Act 2000*, schedule 4

<sup>33</sup> Mr Pruss, Transcript 19 October 2011: 2

76. Seqwater advised the Committee that any adjustments to the full supply level of a dam requires the chief executive to seek advice on dam safety and dam operations before any recommendation is provided to the Minister. Given this requirement they do not envisage any adverse impacts on dam safety from this process. They also advised that the Office of the Dam Safety Regulator is part of the chief executive's department and this should ensure dam safety issues are considered before any recommendations by the chief executive to change the full supply level.<sup>34</sup>
77. New s34E provides that no compensation is payable to any person because of the operation of new chapter 2, part 2, division 4 being inserted into the Act.
78. The department advised that following publication of the Commission's interim report, the Minister for Finance, Natural Resources and the Arts undertook an administrative process to determine if a reduction to the Wivenhoe and North Pine Dams was necessary following the Bureau of Meteorology's seasonal outlook in mid-September 2011. A decision was made not to reduce the full supply levels of the dams.<sup>35</sup>
79. The Committee was advised that the Minister has already made her first announcement about the decision regarding the full supply level of the dam. The proposed legislation supports that process and the next review will take place in November. One of the key things in the amendments is that the Minister has the ability to set a time frame by which the water entities, including Seqwater as the major dam operator, have to respond with their advice. Whilst decisions are not taken lightly, the amendments are about accelerating the advice process and stipulating a time frame which they are legislatively bound to comply with.<sup>36</sup>
80. SunWater advised the Committee that this section will not apply to any of their dams at present. They advised that they do not have any relevant dams with flood mitigation manuals as most of their dams do not have the large gates on them that would allow them to rapidly draw down storage levels. They further advised that to change the configuration on those dams would incur significant cost.<sup>37</sup>

## **9.2 Clause 33 – Amendment of schedule 4 (Dictionary)**

81. Clause 33 amends the dictionary to include definitions relevant to the new chapter 2, part 2, division 4.
82. The Committee noted that there is a typographical error in the definition included for water security. Line 19 should read: 'in relation to a relevant dam for which a temporary full'.

<sup>34</sup> Correspondence to FAC from Mr M Foster, Corporate Relations Manager, Seqwater, dated 20 October 2011

<sup>35</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 17 October 2011: Attachment 1

<sup>36</sup> Ms Castley, Transcript 14 October 2011: 3

<sup>37</sup> Mr Keogh, Transcript 19 October 2011: 1

## 10. Examination of the Bill – Amendments to *Water Supply (Safety and Reliability) Act 2008*

83. This section discusses issues raised during the Committee’s examination of the Bill in respect of the amendments to the *Water Supply (Safety and Reliability) Act 2008*. Part 8 of the Bill amends this Act.
84. The Bill amends s354 of the Act by including a requirement about giving information to the local community situated immediately downstream of the dam about the likely or actual release of water from or flow of water through, the dam as a result of flooding.
85. It should be noted that this section applies to referable dams. The definition of a referable dam is contained in the Act (s341). The department provided the committee with a list of referable dams. It should be noted that most referable dams are owned by either state government entities or local governments. A copy of this list is contained in Appendix 4.
86. The Commission found that time is of the essence for warnings to local residents who are immediately downstream of the dam.<sup>38</sup> The Commission also found that the community as well as local governments and disaster management agencies should be involved in the creation of emergency management procedures, particularly in deciding who requires warnings about dam spillway overflow. Further, it is important that the communications procedures, once set, are known to all involved.<sup>39</sup>
87. The Commission made the following recommendations:
- 4.16 *Dam operators should plan to contact people identified by their emergency action plans about dam outflow in sufficient time for them to be able to respond to the information.*<sup>40</sup>
- 4.17 *Dam operators should ensure each emergency action plan includes a clear statement as to the frequency of, and circumstances in which, warnings will be issued to people listed in the emergency action plan.*<sup>41</sup>
- 4.18 *Dam operators should assess the effectiveness of using SMS and/or email as a bulk instantaneous communication to all people on the notification list while individually contacting those whom it is essential to inform immediately.*<sup>42</sup>
- 4.20 *The operator of each dam should, upon request, provide to any person on the notification list in the emergency action plan an explanation of the arrangements as to the type and frequency of communications required by that plan.*<sup>43</sup>

<sup>38</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 138

<sup>39</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 139-140

<sup>40</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 139

<sup>41</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 139

<sup>42</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 139

<sup>43</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 140

- 4.21 *Operators of dams should assess their current compliance with the DERM Queensland Dam Safety Management Guidelines (February 2002), and the ANCOLD Guidelines on Dam Safety Management (August 2003), the Australia Government Emergency Management Planning for Floods Affected by Dams (2009) and if appropriate, comply with those guidelines.*<sup>44</sup>
- 4.22 *Operators should include in their emergency action plan a description of the type of information that will be provided to those on the notification list.*<sup>45</sup>
- 4.23 *Operators of dams should publicise, in a newspaper circulating in the local area and by posting a notice on its website every year before the wet season, the opportunity for local residents immediately downstream of a dam to be included on the existing notification list, and:*
- *consider whether an applicant for notification is so close to the dam that the warning time before water from the dam affects them is less than that available through the emergency management system*
  - *consider whether they can be effectively notified by SMS or email*
  - *if it is necessary to contact the applicant personally, agree with him or her a mode for that communication.*<sup>46</sup>
- 4.24 *The operator of any referable dam and the local disaster management group should develop a common understanding as to their respective roles in a flood event and the type and frequency of information the dam operator will provide to it and local residents.*<sup>47</sup>
88. The explanatory notes highlight that the Commission's recommendations apply to the owners of all referable dams.
89. The explanatory notes also highlight that it is envisaged that a guideline will be prepared and cover matters such as:
- the type of information that a referable dam owner will be required to provide to residents downstream of dams for the purpose of providing warnings and the way in which this information is to be provided; and
  - a requirement, where appropriate, for referable dam owners to advertise for people who wish to be provided with such information, and to maintain/update a register of such people.
90. The department advised that the amendments relate specifically to the conditions that the chief executive is able to impose on the operators of referable dams. The amendment provides a head of power for the chief executive to explicitly place a condition on the licences for those referable dams to ensure that there are appropriate notification arrangements in place for downstream landholders that will be given effect through amendments to the emergency action plan guidelines.<sup>48</sup>

<sup>44</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 140

<sup>45</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 140

<sup>46</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 140

<sup>47</sup> Queensland Floods Commission of Inquiry, *Queensland Floods Commission of Inquiry Interim Report*, August 2011: 140

<sup>48</sup> Mr Hinrichsen, Transcript 14 October 2011: 4

91. The department provided to the Committee a copy of the draft emergency action plan guidelines. A copy of these draft guidelines are contained in Appendix 5.
92. The Committee was advised that the draft guidelines have been produced and circulated to dam owners and representatives of dam owners as part of the consultation process to receive feedback before the guidelines are put into effect.<sup>49</sup>
93. SunWater confirmed that the dam regulator has put out a draft guideline and it very clearly tries to draw who is responsible for communication with downstream communities. They advised that the draft guideline covers the dam owner providing immediate communication to those people within about an hour's travel time for floodwaters downstream of the dam and the LDMG having prime responsibility below that. They advised that on the gated dams they operate they have sirens but that would not extend to communities that would be some distance downstream of the dams and their communication would be through the LDMG.<sup>50</sup>
94. The Committee asked the department whether there would be costs involved in order to comply with the changes. The department advised that there would be costs involved and some costs might be significant, particularly in the case of automated notification requirements for large dams.<sup>51</sup> The department advised that it is expected that the owner of the dam would fund these costs.<sup>52</sup>
95. The department indicated that for private dams there is an ownership spectrum ranging from mining companies to farmers. They advised that there are approximately eight dams in the category of privately owned farm dams used for irrigation purposes that will be affected by the changes.<sup>53</sup>
96. The department also advised that the dam owners are already required to have an emergency action plan so they would be aware of those that could be potentially effected. The proposed amendments add a new dimension which specifically requires them to have arrangements in place to be able to inform downstream landholders who would be affected as a result of either overtopping of the storage or from any other incident. This is in addition to the current arrangements that relate to advising the LDMG.<sup>54</sup>
97. The Committee was advised that the approach to be taken would reflect the risk involved. For example, for smaller dams there may only be a small number of landholders and residents involved so the approach to be taken and reflected in the emergency action plan, might be simpler. The type of arrangement to be put in place would need to be specified in the emergency action plan that the dam owner prepares and submits. It would need to cover those types of circumstances to make sure that there is always a mechanism to be able to give effect to the requirements to the emergency action plan.<sup>55</sup>

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<sup>49</sup> Mr Hinrichsen, Transcript 14 October 2011: 4

<sup>50</sup> Mr Keogh, Transcript 19 October 2011: 10

<sup>51</sup> Mr Hinrichsen, Transcript 14 October 2011: 4

<sup>52</sup> Mr Hinrichsen, Transcript 14 October 2011: 5

<sup>53</sup> Mr Hinrichsen, Transcript 14 October 2011: 5

<sup>54</sup> Mr Hinrichsen, Transcript 14 October 2011: 5

<sup>55</sup> Mr Hinrichsen, Transcript 14 October 2011: 5

98. With regard to the cost implications Seqwater advised the Committee that there will be cost implications for them relating to the provision of community notifications under the draft guidelines. They advised that the final cost will ultimately depend on how many people require notification and the frequency of flood releases. They are working with DERM to finalise this process, however, from their perspective, the cost is secondary to the need to provide relevant community members with the appropriate information in a timely fashion.<sup>56</sup>
99. The LGAQ advised the Committee that the biggest cost to local government dam owners is telemetry devices and extra hydrological studies.<sup>57</sup>
100. SunWater advised that they do not consider the Commission's recommendations to be onerous or a significant change or increase in cost. They consider that there are two areas that could potentially have cost impacts and these are if there is a need to modify infrastructure to allow for lower full-supply levels and the impact on water security in areas that only have one source of water supply.<sup>58</sup>
101. The QFF advised the Committee that DERM has advised them that the Commission's recommendations apply to the owners of five Category 1 referable dams on rural properties which each have a population at risk of two or more persons. They expect that that the number of referable dams on rural properties will increase as DERM widens its search into grazing areas.<sup>59</sup>
102. QFF advised that the implementation of the proposed amendments could mean that property owners would have to:
- Develop, maintain and be able to implement an emergency action plan.
  - Determine the area of potential implementation or other impacts from dam failure.
  - Establish and maintain a communication plan for notification of affected persons at risk.
  - Provide the LDMG with details of the emergency action plan and estimates of downstream impacts.<sup>60</sup>
103. They advised that there are a range of issues that a dam owner could be required to address both on a regular basis and during rainfall. They consider that addressing these issues would come at a significant cost to ensure compliance.<sup>61</sup>

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<sup>56</sup> Correspondence to FAC from Mr M Foster, Corporate Relations Manager, Seqwater, dated 20 October 2011

<sup>57</sup> Mr Hallam, Transcript 19 October 2011: 10

<sup>58</sup> Mr Keogh, Transcript 19 October 2011: 11

<sup>59</sup> Correspondence to FAC from Mr D Galligan, Chief Executive Officer, Queensland Farmers Federation, dated 20 October 2011

<sup>60</sup> Correspondence to FAC from Mr D Galligan, Chief Executive Officer, Queensland Farmers Federation, dated 20 October 2011

<sup>61</sup> Correspondence to FAC from Mr D Galligan, Chief Executive Officer, Queensland Farmers Federation, dated 20 October 2011

104. QFF consider that the costs involved in establishing an effective real time monitoring program to give some warning to impending failure would be excessive and it needs to be recognised that in some cases the landowner may not be resident on the property or close to the referable dam to closely monitor developments. They consider that a practical approach should avoid the need for costly investigations and uncertainty for property owners and they have suggested that DERM investigate these specific options in the implementation phase of the legislation.<sup>62</sup>

### **10.1 Committee Comments**

105. The Committee wishes to highlight to the House that the proposed amendments do not put in place specific mechanisms to be included in individual emergency management plans. Details regarding the type of communication protocols, including SMS, email or other methods or the use of sirens will be negotiated locally to suit individual circumstances.

## **11. Consistency with Fundamental Legislative Principles**

106. The Committee examined the Bill's consistency with the fundamental legislative principles (FLP) under the *Legislative Standards Act 1992*. This section of the report discusses potential breaches of the FLPs identified during the Committee's examination of the Bill and includes any reasons or justifications contained in the explanatory notes and provided by the department.

107. Appendix 3 contains a list of the proposed new offence provisions.

### **11.1 Does the bill have sufficient regard to the rights and liberties of individuals?**

108. Clause 27 of the bill amends s31 of the *Transport Operations (Road Use Management) Act 1995*. Section 31 presently allows transport inspectors from the Department of Transport and Main Roads to direct the drivers of private vehicles to stop their vehicle in specified circumstances (generally to enforce certain transport offences) and generally only during daylight hours. The amendment to s31 will allow transport inspectors to require the driver of a private vehicle to stop the vehicle if the inspector reasonably believes the driver of the vehicle has committed, is committing, or is about to commit, an offence against s46 of the *Transport Infrastructure Act 1994* (driving past a restricted road use notice) or s100 of the *Transport Operations (Road Use Management—Road Rules) Regulation 2009* (driving past a 'no entry' sign).

<sup>62</sup> Correspondence to FAC from Mr D Galligan, Chief Executive Officer, Queensland Farmers Federation, dated 20 October 2011

109. In respect of disaster readiness, signs may be installed under the above transport legislation to close or restrict access to a flooded road. The amendment to s31 will authorise a transport inspector to stop a private vehicle committing or about to commit an offence against the road closure provisions, where that is necessary to prevent damage to road transport infrastructure or to ensure the safety of road users or other persons. It will also allow inspectors to stop and warn drivers of the existence of a road closure/road restriction sign ahead.
110. The explanatory notes acknowledge that clause 27 is aimed at preventing the hazardous practice of drivers attempting to cross flooded roads, and, because dangerous flooding situations and other critical events can arise at any time, it is important that stop powers be able to be exercised by authorised transport officers at any hour of the day or night as required.
111. Clause 30 inserts a new chapter 2, part 2, division 4 into the *Water Act 2000*. Within proposed division 4, the new s34E provides that no compensation is payable as a result of declaring a temporary full supply level of a dam to mitigate potential emergencies, even though a reduction in the full supply level may impact adversely on water allocation holders.
112. The explanatory notes state (pp.11-12) that:  
*'this provision is considered justified because the public interest in ensuring public safety and mitigation of damage to property in the event of flooding, and loss to the community through water shortages in time of drought, override the interests of individuals that may suffer loss as a result of the provisions. In addition, the decision to alter the full supply level will be made on the basis of the best scientific evidence of emerging weather patterns that are available at the time. Any loss suffered would be the result of changes to weather patterns that could not have been predicted rather than the result of any government policy.'*

**11.2 Are rights, obligations and liberties of individuals dependent on administrative power, only if the power is sufficiently defined and subject to appropriate review?**

113. Clause 30 inserts a new chapter 2, part 2, division 4 into the *Water Act 2000*. Within proposed division 4 will be a new s34A that empowers the Minister, by gazette notice, to declare a temporary full supply level for a relevant dam.
114. No appeal or review right exists in relation to the Minister's decision.
115. The explanatory notes (at p.11) advise that this power to declare a temporary full supply level is considered justified because it is exercised prior to a potential emergency situation, in order to mitigate the effects of an impending flood or drought, and, as such, the alteration to the full supply level must be implemented quickly. The explanatory notes advised further that:  
*'The delay that would be caused by allowing for an appeal would potentially put the community near the relevant dam at significant risk.'*

116. The Committee noted the lack of appeal or review rights and sought additional advice from the department. They advised that the Bill implements recommendation 2.2 of the *Queensland Floods Commission of Inquiry Interim Report* by establishing a clear regulatory framework through which the Minister may initiate a process and make a decision regarding full supply level, having initial regard to factors including meteorological forecasts and the public interest. Any decision would be made in order to mitigate a potential emergency situation based on expert advice, with public safety as a paramount consideration. As such a decision would need to be made in a timely manner to mitigate a potential emergency and an appeal or review process could delay the implementation of the temporary full supply level and therefore have a negative impact on public safety which is highly undesirable.<sup>63</sup>

### **11.3 Does the bill reverse the onus of proof in criminal proceedings without adequate justification?**

117. Clause 25 amends s46 of the *Transport Infrastructure Act 1994* in respect of 'temporary restrictions on the use of State-controlled roads'. The amendments to ss46(4) prohibit a person from driving past a 'restricted road use' notice unless the person (a) has a reasonable excuse, (b) is acting in accordance with a written approval given by the chief executive or police commissioner, or (c) the contravening entry is necessary for the person to carry out authorised road works or road inspections.
118. Accordingly, a person who wants to avoid liability for breaching s46 bears the onus of proving that they fall within the above exculpatory grounds (reasonable excuse, under written authority, or necessary for an authorised purpose). The explanatory notes assert (p.11) that this reversal of onus is justified because the information necessary to establish the exculpatory circumstance is within that person's knowledge.
119. The department advised that regarding the potential reversal of the onus of proof in clause 25, the reasonable excuse provision is re-inserting the existing exculpatory provision for a person who contravenes a restructured road use notice but has a reasonable excuse for doing so. Where a person is acting in accordance with a written approval to drive past a restricted road use notice, it will be a condition of the granting of the approval that the person is required to carry that written approval with them when travelling past the sign. This will allow enforcement officers to ensure only authorised persons travel past the signs and that those persons are travelling in accordance with any conditions imposed on their approval. The information necessary to establish the reasonable excuse or the authorisation will be within the person's knowledge and therefore, any reversal of the onus of proof does not impose an unduly onerous obligation on the person.<sup>64</sup>

<sup>63</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 21 October 2011: 1-2

<sup>64</sup> Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 21 October 2011: 2-3

**11.4 Does the bill provide appropriate protection against self-incrimination?**

120. Clause 30 inserts a new ch.2, part 2, div.4 into the *Water Act 2000*. Within proposed division 4, the new ss32(6) makes it an offence for a dam operator to fail to comply with a notice from the chief executive that required the operator to provide to the chief executive information about the impact of a proposed temporary full supply level on the safety of, and operation of, the relevant dam. Failure to comply with such a notice, without reasonable excuse, attracts a maximum penalty of 200 penalty units (\$20,000).

121. The explanatory notes state (at pp.10-11):

*The provision is considered justified because the information being sought from the dam operator under this provision is essential to the Minister's decision whether to declare a temporary full supply level. The declaration of a temporary full supply level would be made prior to a potential emergency situation in order to mitigate the effects of an impending flood or drought. The level of the new penalty, at 200 penalty units, is considered appropriate as it is commensurate with other penalty provisions in the Water Act 2000 for failure to provide information. In addition, the new penalty includes safeguards to protect the rights of the dam operator by providing that the penalty will only apply where the operator does not have a reasonable excuse for failing to provide the advice.*

122. In respect of the absence of protection against self-incrimination, the notes state (p.11):

*The provision does not include an express protection against self-incrimination as, in practice, only corporations, rather than individuals, would be subject to this provision.*

**11.5 Does the bill confer immunity from proceedings or prosecution without adequate justification?**

123. Clause 25 amends s46 of the *Transport Infrastructure Act 1994* in respect of 'temporary restrictions on the use of State-controlled roads'. The amendments to ss46(4) prohibit a person from driving past a restricted road use notice unless the person (a) has a reasonable excuse, (b) is acting in accordance with a written approval given by the chief executive or police commissioner, or (c) the contravening entry is necessary for the person to carry out authorised road works or road inspections.

124. Proposed new s46(7) provides that civil liability does not attach to the chief executive or police commissioner for giving an approval in ss46(4)(b) [for a person to travel past a restricted road use notice] where the approval was given in good faith without reckless disregard for the possible occurrence of personal injury or loss or damage to property. Where ss46(7) operates to prevent civil liability attaching to the chief executive or police commissioner, that liability will instead attach to the State (ss46(8)).

125. In respect of this limited immunity from civil proceeding, the explanatory notes (pp.12-13) acknowledge that the unpredictable nature of flood events and the consequent broad range of circumstances in which a person may apply to travel past a restricted road use notice, requires some appropriate level of protection from personal liability for decision makers acting in good faith and with due regard to situational imperatives.

**11.6 Does the bill sufficiently subject the exercise of a proposed delegated legislative power (instrument) to the scrutiny of the Legislative Assembly?**

126. Clause 11 inserts a new s67A and clause 14 inserts a new s72A into the *Disaster Management Act 2003* that allows the Minister and the Premier to, by declaration, extend the period of a declared disaster situation by up to 7 days, where it is not practicable to make a regulation before the disaster period ends.
127. The explanatory notes acknowledge that this extension to a disaster declaration (other than by a regulation that comes before the House) potentially infringes on fundamental legislative principles by delegating legislative power. The notes also state however that the power can only be exercised during a declared disaster situation, and only then for the purpose of preventing or minimising loss of life or damage to property, ensuring public safety or order, or in preparing for, responding to, or recovering from, a disaster.
128. The power to extend is only vested in the Premier and Minister, may only occur when it is not practicable for the extension to be approved by regulation, and must be for a maximum period of 7 days. In addition, the Minister, or the Minister and the Premier, must end a disaster situation declaration once satisfied that it is no longer necessary (see ss68 and 73).

**11.7 Explanatory Notes**

129. Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. Subsection 22(1) states that when introducing a bill in the Legislative Assembly, a member must circulate to members an explanatory note for the bill. Section 23 requires an explanatory note for a bill to be in clear and precise language and to include the bill's short title and a brief statement providing certain information.
130. Explanatory notes were tabled with the introduction of the bill. The notes are fairly detailed and contain the information required by s23 and a reasonable level of background information and commentary to facilitate understanding of the bill's aims and genesis.

## 12. Other issues – Urgent consideration of the Bill

131. The Committee was advised that there are some specific reasons for the urgency of the Bill. These reasons include that:

- the amendments to the Disaster Management Act expand the membership of the SDMG and it would be highly desirable for that membership to be settled as soon as possible due to the imminent arrival of the wet season which officially starts on 1 December;<sup>65</sup>
- the amendments to the Water Supply (Safety and Reliability) Act place compliance obligations on dam owners to put in place notification requirements for residents living downstream of the dams and it is desirable to provide as much notice as possible;<sup>66</sup> and
- the amendments to the Transport Infrastructure Act incorporate public safety powers and it would be highly desirable to have these powers in place prior to the wet season.<sup>67</sup>

### 12.1 Committee Comments

132. The Committee recognises the importance of the proposed amendments being put in place prior to the next wet season. However, the Committee has been unable to fully explore the implications with affected stakeholders given the short reporting timeframes.

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<sup>65</sup> Ms Castley, Transcript 14 October 2011: 2

<sup>66</sup> Ms Castley, Transcript 14 October 2011: 3

<sup>67</sup> Ms Castley, Transcript 14 October 2011: 3

## Appendix 1 – List of witnesses at the public briefing on Friday 14 October 2011

Organisation	Witness
Department of Premier and Cabinet	Ms Christine Castley, Executive Director, Floods Commission of Inquiry Delivery Unit Ms Cecelia Nuttall, Director, Floods Commission of Inquiry Delivery Unit
Department of Environment and Resource Management	Mr Lyall Hinrichsen, A/Executive Director, Strategic Water Initiatives Mr Rex Meadowcroft, Director, Water Legislation and Policy, Strategic Water Initiatives Mr Daniel Harris, Executive Officer, Inquiry Recommendations Implementation Group
Department of Community Safety	Mr Gary Mahon, Assistant Director-General, Strategic Policy Division Ms Samantha Laws, A/Director, Policy, Legislative Reform and Child Safety, Strategic Policy Division
Department of Transport and Main Roads	Mr Dennis Walsh, Executive Director, Road System Operations Mr Andrew Langford, A/Director (Service Delivery and Policy) Ms Cathy Tonkin, Principal Advisor (Policy and Legislation), Road Safety, Road Safety and System Management Division
Department of Local Government and Planning	Mr Michael Papageorgiou, Executive Director, Planning Policy Mr James Ross, A/Director, Planning Policy and Legislation

## Appendix 2 – List of witnesses at the public hearing on Wednesday 19 October 2011

<b>Organisation</b>	<b>Witness</b>
Local Government Association of Queensland	Mr Greg Hallam, PSM Chief Executive Officer
Royal Automobile Club of Queensland Limited	Mr Ian Gillespie, Group Chief Executive Officer Mr Paul Turner, General Manager, External Relations
Queensland Bulk Water Supply Authority, trading as Seqwater	Mr Jim Pruss, Executive General Manager, Water Delivery Mr Mike Foster, Corporate Relations Manager
SunWater Ltd	Mr Rob Keogh, Manager, Asset Management Mr Gordon Delaney, Manager, Water Planning and Environment

### Appendix 3 – List of proposed new offence provisions

Clause	Proposed offence	Proposed maximum penalty
25 (4)	A person must not drive past a restricted road use notice erected or displayed under subsection (1) in contravention of the notice, unless the person has a reasonable excuse, is acting in accordance with a written approval given by the chief executive/ police commissioner or is carrying out road works or inspecting a road for the chief executive, and the contravention is necessary for the person to carry out the road works or inspect the road.	200 penalty units (\$20,000)
32 (6)	The operator must comply with the notice unless the operator has a reasonable excuse.	200 penalty units (\$20,000)

## Appendix 4 – List of referable dams

Referable Dams					
RDR	Dam Name	Owner Type	Purpose	Location	Population at Risk
651	Forest Lake Dam	Local Government	Recreation	Brisbane	188
257	Copperlode Falls Dam	Local Government	Water supply - Irrigation	Cairns	>100
520	McKinnon Creek Flood Detention Dam	Local Government	Water supply - Water service provider	Edmonton	>100
1946	Moody Creek Detention Basin Dam	Local Government	Flood mitigation	Cairns	73
364	Chinaman Creek Dam	Local Government	Flood mitigation	Cloncurry	9
1785	Town Dam - Lakeland	Local Government	Water supply - Water service provider	Lakeland Downs	47
43	Tallebudgera Creek Dam	Local Government	Water supply - Irrigation	Burleigh Heads	93
535	Biggera Creek Flood Detention Basin	Local Government	Water supply - Stock and domestic	Southport	2781
1648	Loders Creek Flood Detention Basin	Local Government	Flood mitigation	Labrador	255
1945	Rosewood Detention Basin	Local Government	Flood mitigation	Rosewood	143
1981	Marburg Detention Basin	Local Government	Flood mitigation	Marburg	173
366	Theresa Creek Dam	Local Government	Water supply - Water service provider	Clermont	12
22	Middle Creek Dam	Local Government	Water supply - Water service provider	Sarina	53
2002	Crystal Waters Upper and Lower Dams	Local Government	Recreation	Thornlands	6
1826	Kelly's Offstream Storage	Local Government	Water supply - Water service provider	Yeppoon	5
1839	Mount Morgan Water Supply - No. 7 Dam	Local Government	Water conservation	Mount Morgan	253
657	Gordonbrook Dam	Local Government	Water supply - Water service provider	Kingaroy	2-100
252	Connolly Dam	Local Government	Water supply - Water service provider	Warwick	29
356	Storm King Dam	Local Government	Water supply - Water service provider	Stanhope	179
1198	Wild River Dam	Local Government	Water supply - Water service provider	Herberton	35
253	Cooby Creek Dam	Local Government	Water supply - Water service provider	Toowoomba	547
259	Cressbrook Creek Dam	Local Government	Water supply - Water service provider	Toowoomba	266
339	Persaverance Creek Dam	Local Government	Water supply - Water service provider	Toowoomba	226
337	Paluma Dam	Local Government	Water supply - Water service provider	Paluma	2-100
344	Ross River Dam	Local Government	Recreation	Townsville	>100
309	Lenthalls Dam	Local Government	Water supply - Water service provider	Maryborough	270
634	Eli Creek Effluent Reuse Storage Dam	Local Government	Flood mitigation	Harvey Bay	15
235	Bundoora Dam	Mining	Water supply - Irrigation	Middlemount	200
1822	South Walker Mine - Down Dip Dam	Mining	Water supply - Stock and domestic	Coppabella	6
1952	Suh's Creek Dam	Mining	Water supply - Industrial	Ravenswood	111
389	Dairymple Bay Coal Terminal - Quarry Dam	Mining	Water supply - Water service provider	Sarina	40
416	Perry River Dam	Mining	Water conservation	Mount Perry	3
222	Environmental Dam	Mining	Water supply - Industrial	Bair Athol	3
406	Blackwater Coal Mine - Rockland Creek Dam	Mining	Water supply - Industrial	Blackwater	11
766	Newlands Coal Mine - Cerito Creek Dam	Mining	Flood mitigation	Glendon	10
174	Leichhardt River Dam	Mining	Water supply - Water service provider	Mount Isa	2-100
701	Rifle Creek Dam	Mining	Water supply - Industrial	Mount Isa	2-100
1755	Andrew Deguara Holdings Pty Ltd Property Dam	Private	Water supply - Stock and domestic	Mount Ossa	3
1350	Russell Property Irrigation Dam	Private	Water supply - Industrial	Rollleston	16
1487	Cubbie Station - Top Shed Dam	Private	Water supply - Irrigation	Durrumbandi	8
2016	Springfield Lakes - High Level Lake	Private	Recreation	Springfield	82
2277	Springfield Lakes - Low Level Lake	Private	Recreation	Springfield	82
654	Gap Creek Dam	Private	Water supply - Stock and domestic	Lindeman Island	55
1007	Dashwood Property Dam	Private	Water supply - Industrial		
521	Lake Mitchell Dam	Private	Water supply - Stock and domestic	Drillham	6
			Water supply - Stock and domestic	Mareeba	9
			Flood mitigation		
850	Stanwell Water Supply Dam	Queensland Government	Water supply - Industrial	Stanwell	22
1450	Spliyard Creek Dam	Queensland Government	Water supply - Industrial	Farmvale	23
1491	Tarong Power Station - Cooling Water Dam	Queensland Government	Water supply - Industrial	Yarraman	18
1493	Meandu Creek Dam	Queensland Government	Water supply - Industrial	Yarraman	29
1510	Koomboolomba Dam	Queensland Government	Hydroelectricity	Ravenshoe	600
1643	Swanbank Power Station - Cooling Water Dam	Queensland Government	Water supply - Industrial	Ipswich	61
278	Glenyon Dam	Queensland Government	Water supply - Water service provider	Silver Spur	110
			Water supply - Irrigation		
211	Awoonga High Dam	Queensland Government	Water supply - Industrial	Benaraby	>100
			Water supply - Water service provider		
			Recreation		
44	Lake MacDonald Dam	Queensland Government	Water supply - Water service provider	Cooroy	354
210	Atkinson Dam	Queensland Government	Water supply - Stock and domestic	Lowood	47
			Water supply - Irrigation		
214	Baron Pocket Dam	Queensland Government	Water supply - Water service provider	Montville	464
			Downstream release		
217	Bill Gunn Dam	Queensland Government	Water Supply - Stock and domestic	Laidley	>100
			Water supply - Irrigation		
228	Bouramba Dam	Queensland Government	Water supply - Stock and domestic	Imbil	>100
			Water supply - Irrigation		
			Water supply - Water service provider		
			Water supply - Industrial		
244	Cedar Pocket Dam	Queensland Government	Water supply - Stock and domestic	Gympie	2-100
			Water supply - Irrigation		
249	Clarendon Dam	Queensland Government	Water supply - Stock and domestic	Gatton	>100
			Water supply - Irrigation		
255	Cooloolabin Dam	Queensland Government	Water supply - Water service provider	Cooloolabin	155
264	Enoggera Dam	Queensland Government	Water supply - Water service provider	The Gap	>100
267	Ewen Maddock Dam	Queensland Government	Recreation	Landsborough	1160
312	Little Nerang Dam	Queensland Government	Water supply - Water service provider	Neranwood	2-100
318	Maroon Dam	Queensland Government	Water supply - Stock and domestic	Boonah	>100
			Water supply - Irrigation		
			Water supply - Water service provider		
			Water supply - Industrial		
323	Moogerah Dam	Queensland Government	Water supply - Stock and domestic	Kalbar	>100
			Water supply - Irrigation		
			Water supply - Water service provider		
			Water supply - Industrial		
334	North Pine Dam	Queensland Government	Water supply - Water service provider	Whiteside	>100
			Recreation		
349	Sideling Creek Dam	Queensland Government	Water supply - Water service provider	Petrie	4936
354	Somerset Dam	Queensland Government	Water supply - Water service provider	Somerset Dam	>100
			Flood mitigation		
			Recreation		
377	Wivenhoe Dam	Queensland Government	Water supply - Water service provider	Fermvale	>100
			Flood mitigation		

Key
Local Government
Mining
Private
Queensland Government

476	Gold Creek Dam	Queensland Government	Water supply - Water service provider	Brookfield	146
706	Hinze Dam	Queensland Government	Water supply - Water service provider	Nerang	120000
713	Lake Manchester Dam	Queensland Government	Water supply - Water service provider Recreation	Brisbane	1273
715	Leslie Harrison Dam	Queensland Government	Water supply - Water service provider	Capalaba	2400
730	Poona Dam	Queensland Government	Water supply - Water service provider	Nambour	6
731	Wappa Dam	Queensland Government	Water supply - Water service provider	Yandina	126
2259	Wyralong Dam	Queensland Government	Water supply - Water service provider	Beaudesert	2125
2263	Bromelton Off-Stream Storage	Queensland Government	Water supply - Water service provider	Beaudesert	6
2279	Nindoolbah Dam	Queensland Government	Recreation	Beaudesert	3
36	Leslie Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Warwick	>100
219	Bjelke-Petersen Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Murgon	>100
227	Boondooma Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Proston	>100
236	Burdekin Falls Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Ravenswood	>100 (Cat 2)
239	Callide Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Biloela	>100 (Cat 2)
242	Cania Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Monto	>100
254	Coolmunda Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Coolmunda	>100
266	Eungella Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Eungella	2-100
268	EJ Beardmore Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	St George	>100
269	Fairbairn Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Emerald	>100
272	Fred Haigh Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Gin Gin	>100
297	Julius Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Water service provider Water supply - Industrial	Mount Isa	78
301	Kinchant Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation	North Eton	>100
340	Peter Faust Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Proserpine	>100
370	Tinaroo Falls Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Atherton	>100
378	Wuruma Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Eidsvold	114
527	Kroombit Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider	Biloela	>100
874	Taemburra Dam	Queensland Government	Water Supply - Stock and domestic Water supply - Irrigation Water supply - Water service provider Water supply - Industrial	Mirani	>100
1997	Paradise Dam	Queensland Government	Water supply - Irrigation	Booyal	235
2031	Woongarra Balancing Storage	Queensland Government	Water supply - Irrigation	Bundaberg	9
2033	Moura Offstream Storage	Queensland Government	Water supply - Industrial	Moura	32
2233	Isis Balancing Storage	Queensland Government	Water supply - Irrigation	Cordalba	32
96	Ibis Dam	Queensland Government	Water supply - Stock and domestic Water supply - Water service provider	Irvinebank	75
256	Copperfield River Gorge Dam	Queensland Government	Water supply - Industrial	Kidston	15
258	Corella Dam	Queensland Government	Surface water retention	Cloncurry	10
401	Crooks Dam	Queensland Government	Water supply - Stock and domestic Recreation	Mount Garnet	17
883	Wyndham Dam	Queensland Government	Water supply - Stock and domestic Recreation	Mount Garnet	70

Source: Correspondence to FAC from Mr J Bradley, Director-General, Department of Premier and Cabinet, dated 17 October 2011: Attachment 2a

## Appendix 5 – Draft Emergency action planning guidelines

### Emergency action planning

#### 9.1 Introduction

Where required by development permit conditions (or relevant legislation) for a referable dam, an emergency action plan (EAP) shall be prepared and updated in accordance with this section and the relevant development permit condition (or relevant legislation). An EAP is a formal plan that:

- identifies emergency conditions that could endanger the integrity of the dam and that require immediate action.
- prescribes procedures that should be followed by the dam owner and operating personnel in the event of an emergency or if there are significant changes to releases or outflows (including their likely timing) from the dam during floods. Examples of such 'trigger events' could be:
  - the commencement of floodwater flowing over a spillway,
  - a flow rate which was likely to submerge a locally significant road,
  - exceedence of the maximum flow on record,
  - dam inflows that may be rising much more rapidly than is usually experienced.
- provides timely warning to appropriate emergency management agencies for their implementation of protection measures for downstream communities and to residents immediately downstream of the dam.

The standards used for design, construction, operation, maintenance and inspection of dams are intended to minimise the risk of dam failure. However, as unusual circumstances could result in dam failure, dam owners need to identify conditions which could lead to failure situations and which may require dam safety emergency planning.

In addition to emergencies at the dam, people and property downstream of dams may be affected by changes to releases or outflows from dams during their normal operation during floods. In cases where there is insufficient time due to the close proximity of these people to the dam, to notify them through existing emergency management systems (e.g. through the use of 'Emergency Alert' or via the media), EAPs should identify the downstream limit for people who will be notified by the dam owner and communication processes for the dam owner to notify such people directly.

Emergency planning takes place at two levels:

- to prescribe activities at the dam—known as the EAP which is prepared and operated by the dam owner, and
- to prescribe activities below or beyond the dam—known as a disaster management plan, which is prepared and operated by the appropriate Local Disaster Management Group ("LDMG") with significant input from the dam owner.

An EAP should indicate who is responsible for undertaking particular actions under emergency circumstances and must be tailored to the conditions at each dam.

#### 9.2 Dam owner's role

A dam owner should:

- develop and maintain the EAP as a controlled document
- in all emergencies and significant changes in releases or outflows during floods, respond in accordance with the EAP
- determine the area of potential inundation or other impact from dam failure for use within the disaster management plan
- establish and maintain a communication plan for the timely notification of affected persons during impending and actual emergencies or significant changes in releases or outflows from dams during floods.

- provide the LDMG with details of emergency response actions at the dam (for example, flood releases) and estimates of their downstream impacts
- ensure the EAP is functional and staff are familiar with the EAP.

### 9.3 Process for developing an EAP

When developing an EAP, the following steps should be taken by, or on behalf of, the dam owner:

- determine and identify those conditions that could forewarn of an emergency or of significant changes in releases or outflows from dams during floods and specify the actions to be taken and by whom under what circumstances
- in consultation with the LDMG for the impacted area, identify all jurisdictions, agencies and individuals who should be involved in the EAP (for example local governments, the Queensland Police Service and downstream residents)
- identify response actions to be taken by dam personnel in response to potential emergencies or significant changes in releases or outflows from dams during floods
- identify any necessary resources, special tools, equipment, keys and indicate where they can be located if required in an emergency
- list and prioritise all persons and entities (including contact details) involved in the notification process and the roles and responsibilities assigned to them (for example, a flow chart may be used)
- identify primary and secondary communication systems, both internal (between persons at the dam) and external (between dam personnel and outside entities or persons)
- develop a draft of the EAP
- hold meetings with all parties (including emergency management agencies) included in the notification list to review the draft EAP
- make any revisions, obtain the necessary plan approval and disseminate the EAP to those who have responsibilities under the EAP
- test and revise the EAP at regular (not less than yearly) intervals.

### 9.4 Issues to be considered in emergency action plans

An EAP needs to be easily identified. Consequently, it is recommended that the EAP is contained in a hard covered A4 sized folder, colour coded red.

The issues to be included in an EAP should be as follows:

#### 1. Distribution control sheet (which is page 1)

Details of the parties to whom the EAP is issued should be listed on the distribution control sheet.

It is important that the current EAP is issued to a number of parties including

- dam operator
- specific dam personnel with roles in EAP
- chief executive, DERM
- LDMGs
- Executive Director, Emergency Management Queensland
- local governments which may be affected by the emergency or significant changes in releases or outflows from dams during floods.

#### 2. Title page/Cover sheet

#### 3. Table of contents

#### 4. Notification listing or flowchart

Two notification listings or flowcharts should be developed - one for emergencies at the dam and one for significant changes in releases or outflows from the dam during floods. (Alternative approaches that achieve the same outcome could also be used.) These listings or flow charts should clearly summarise the following:

- Who is responsible for notifying each dam owner representative(s) and/or emergency management official(s) and others (for example, residents located immediately downstream of a dam)?
- What is the prioritised order in which individuals are to be notified?
- Who is to be notified?

As the persons to be notified of significant changes in releases or outflows from dams during floods will vary depending on the nature and timing of the release or outflow, various scenarios will need to be developed, and answers to the above dot points will vary for each scenario.

The listing or flowchart should include current individual names, position titles, office and home telephone numbers, alternative contacts and means of communication. Radio frequencies and call signs should be detailed where applicable.

The number of persons to be notified by each responsible individual on the flowchart should be governed by what other responsibilities the person has been assigned. It is usually recommended that any one individual not be responsible for contacting more than three or four others.

The following parties should be considered for inclusion in the notification listing or flowchart:

- dam owner
- local emergency management officials (such as LDMG) and other organisations
- appropriate state emergency management agencies
- residents and property owners located immediately downstream of the dam within the boundary of potential inundation where available warning time is very limited
- local governments which may be affected
- operators of other dams or water retention facilities which may be affected
- managers and operators of recreation facilities which may be affected
- Bureau of Meteorology.

The decision as to who needs to be contacted will depend on the scale and timing of the potential impacts.

#### 5. Roles and responsibilities

The responsibilities of the following parties should be specified:

- dam owner
- dam operator
- other dam personnel with a role to play in the EAP (including standby officers where appropriate).

Specific roles, which should be addressed in terms of responsibilities, include:

- notification of local counter disaster agencies (such as LDMG) and dissemination of information to the media and public
- warning of the need of evacuation (for example, in the case of a resident located just downstream of the dam the dam owner may need to notify that person directly)
- on-site monitoring of the situation at the dam and keeping parties informed of developing conditions at the dam from time to time
- other actions (for example, opening of the gates etc where appropriate)
- follow-up evaluation after the emergency (including an emergency event report).

## 6. Area map

This map should show all access routes to the storage during fair and adverse weather conditions, identifying travel times and distances.

## 7. Drawing of the storage catchment area

## 8. Emergency events and action list

Typical emergency or potential problem identification includes but is not limited to:

Problem	General characteristics	When and what to check
Overtopping imminent	Storage full and water level rising	During periods of excessive rainfall—check water levels and rates of rise
Wave erosion	Beaching or notching of the upstream face of embankments by waves generated over long periods of strong wind	During or after periods of strong wind—inspect upstream face of embankment.
Toe erosion	Erosion of embankment toe by spillway discharge or diversion flows	During and after large rainfalls—inspect embankment toe.
Gullying	No armouring or vegetation cover on embankment batters or poor drainage	During and after large rainfalls—inspect embankment batters for damage to armouring or vegetation cover.
Loss of storage contents	Excessive loss from the storage and/or occasionally increased seepage or increased groundwater levels near the storage	During routine monitoring—look for environmental changes such as vegetation damage, salt scalds, etc.
Seepage erosion or piping	Progressive internal erosion of the embankment or foundation to form an open conduit or pipe	During routine inspection or after unaccountable increases in seepage flows—look for an emission point.
New springs, seeps or boggy areas	Evidence of internal changes in seepage control (could be initial signs of piping failure)	During routine inspection—look for 'evergreen' spots, boggy ground or pools of water.
Rapid increases or cloudy appearance of seepage	Seepage flow through the storage embankment is clouding and increasing (piping failure has started)	After detection of cloudy water at seepage monitoring points—look for the source of cloudy water.
Increase in gallery seepage	Increase in the normal rate of gallery seepage	After detection—check for differential movement or cracking in concrete components.
Foundation failure	Sliding, rotation or settlement of part or entire dam	During routine inspections or immediately after earthquakes—inspect for evidence of foundation movement or displacement immediately adjacent to dam.
Slide in downstream slope	Slide in the downstream face	During routine inspection—look for cracks or scarps near the crest and bulges at the toe.
Flow slide	Collapse and flow of soil around the	During routine inspection and especially with sedimentary/colluvial

	storage periphery	soils—look for material displacement around the storage rim.
Landslide	Mass movement of soil or rock from slopes and valley walls around the storage	During routine inspection—look for material displacement.
Movement or cracking in structural concrete work	Failure of mechanical components such as pipes, gates etc	During routine inspection or when mechanical problems such as a burst pipe or a jammed gate occur—look for any movement or cracking of the structural concrete work to determine the cause.
Failure of appurtenant structures or operating equipment	Loss of ability to supply water or discharge floods safely	After detecting an operational anomaly—identify and investigate the cause.
Abnormal instrument readings (if installed)	A sudden change in the values of instrument readings	On detection—check for equipment malfunction and investigate the cause.
Algal blooms	Blue green opaque nature of near surface and shallow water	During routine inspections particularly in the summer months—look for rapid colour change of the storage to a blue green opaque nature.
Chemical spills	Dead fish and other aquatic life in storage, or a strange odour or colouration	On detection—identify and investigate the cause.

In the event of such problems occurring, it may be appropriate for more detailed inspections by properly qualified dam engineers. If the problems are likely to cause failure of the dam and loss of storage, the EAP should be activated.

#### 9. Dam failure inundation map

- Dam failure inundation maps should be developed at a scale sufficient to be used for identifying downstream premises within the area subject to possible danger.
- Inundated areas should be clearly identified for the various failure scenarios analysed.
- It may be appropriate to supplement the inundation on the maps with water surface profiles showing the elevation before failure, the peak water surface elevation after failure, and the location of structure at critical locations.
- A narrative description of the areas affected by the dam can be included to clarify unusual conditions.
- The best available topographic map should be used. The expected inundation following the assumed failure should be delineated on the map.
- The accuracy and limitation of the information supplied on the inundation maps and how best to use the maps should be described.
- Inundation maps should be updated periodically to reflect changes in downstream areas.
- Include any other pertinent information as a result of coordination with the appropriate emergency management authorities.

#### 10. Any other charts, rating tables, considered by the dam owner as necessary

Other charts and rating tables may include charts developed in the hydrological analysis for the dam or during spillway design.

## 9.5 Special provisions for releases and outflows from dams during floods

This provision applies only to releases and outflows from dams, including releases over spillways, through gates or by other means, during the course of a flood, where the release or outflow is not caused by dam failure. The safety of people or property immediately downstream of the dam may be affected by such releases or outflows and there may be insufficient time for normal emergency management system warning processes to operate. Special notification procedures are required in these instances. This involves:

- Development of range of scenarios for areas immediately downstream of the dam which may be affected by significant changes of releases or outflows from the dam during floods.
- Scenarios are to consider likely nature and timing of releases or outflows during floods
- The dam owner should be invited by the LDMG responsible for the area immediately below the dam, to meetings of that group, relating to floods. If this does not occur, the dam owner must contact that LDMG, seeking attendance at group meetings.
- The dam owner and the LDMG should develop an agreed understanding of their respective roles in a flood event and the type and frequency of information the dam owner will provide to it and residents immediately downstream of the dam. This is of critical importance to help ensure residents are notified in a timely manner and that they know from whom, and how, to access information other than flow e.g. evacuation routes, flood height information.
- The notification process to be agreed between the dam owner and LDMG and consist of the following:
  - Annual review of people in need of additional warnings separate to those available through the emergency management system, with notification process to comprise:
    - Annual public invitation for residents identified through scenario process to be included in dam owner notification lists. Where the only persons or property at risk are those on the property where the dam is located, it is not necessary to undertake a public invitation process.
    - Applications only accepted from residents in areas where there is insufficient time for normal emergency management system notification processes to operate.
    - Applicants to indicate preferred communication channels for notification.
    - If the dam owner considers it is necessary to personally contact a particular person, agree with him or her, a mode for that communication.
  - Agreed frequency and circumstances in which warnings are issued
  - Agreed warning content for each circumstance.
- Dam owner to provide to any person on the notification list, on request, an explanation of the arrangements as to the type and frequency of communications required by the plan.
- The definition of who may be covered by the term 'immediately downstream from the dam' is a matter that requires negotiation and resolution by the dam owner and the LDMG. However, Emergency Management Australia (Manual 23) entitled 'Emergency Management Planning for Floods Affected by Dams', page 18 notes:
 

'Warning time for evacuation needs to be considered in time blocks of not less than one hour to ensure that action plans can be realistically implemented'.
- Given this comment, it could be reasonable for the dam owner and the LDMG to use a distance of one hour's travel time downstream from the dam as the 'cut-off' for notification by dam owners.

## 9.6 Emergency event report

Where required by the development permit conditions, an emergency event report containing the

following should be completed following an emergency and submitted to the chief executive in accordance with this section and the relevant development permit condition:

- a description of the event
- instrumentation readings (where appropriate)
- description of any observed damage
- photographs
- the EAP
- details of communication which took place during the emergency
- comment on the adequacy of the EAP
- any recommendations or suggested changes to the EAP.

Where required by the safety conditions, each emergency event report must be submitted to the regulator within the time nominated in the conditions.

Dam owners have the responsibility for implementing the recommendations contained in the emergency event report. Comprehensive inspections, and ultimately audits undertaken by the regulator, will evaluate the dam owner's response to emergency event reports.

## 9.7 Local disaster management plan

The Department of Community Safety, through Emergency Management Queensland (EMQ) coordinates State-level disaster planning in Queensland. If an emergency occurs with a dam which will constitute a disaster [or if there are to be significant changes to releases or outflows from the dam during floods](#), the local disaster management plan will apply. The police will generally be in charge of any necessary evacuations and they will be supported by the State Emergency Service. Local disaster management plans should be linked to the EAP prepared for each dam. Dam owners should co-operate with the disaster district agencies (LDMG) and the community when preparing local disaster management plans.

For further information on emergency management planning, refer to Guide 23 Emergency Management Planning for Floods Affected by Dams published by Emergency Management Australia.

## 9.8 Testing and reviewing

To ensure EAP are kept up to date and effective, they need to be maintained by:

- Testing
  - EAP should be tested periodically by conducting a drill simulating emergency conditions [and significant changes in releases or outflows during floods](#) (exercises). Such tests can be either field or desk top exercises and are used to refresh and train those likely to be involved if an event occurs.
  - Operational staff at dams should participate in exercises annually. Larger scale exercises involving coordination between the disaster management agencies and other authorities should be conducted at least every five years.
- Updating the EAP
  - A periodic review of the overall plan should be conducted to assess its workability and efficiency (that is, timeliness), and to plan for the improvement of weak areas. For example, telephone contact details should be reviewed and updated at least on an annual basis.
  - The EAP should be reviewed for adequacy at least every five years as part of the comprehensive five-yearly inspection.
  - Once the EAP has been revised, the updated version (or the affected pages) should be distributed to all involved parties. The distribution of copies of the EAP and the notification flowchart (if issued separately) must be controlled and documented to ensure simultaneous updating of all copies. Updates should be made promptly. In addition, it is recommended that

the entire EAP is reprinted and distributed to all parties at least every five years.

DRAFT

## Appendix 6 – Copy of correspondence from the Queensland Farmers' Federation



### QFF MEMBERS

Australian Prawn  
Farmers Association

CANEGROWERS

Cotton Australia

Growcom

Nursery & Garden  
Industry Queensland

Qld Chicken Growers  
Association

Qld Dairyfarmers'  
Organisation

### ASSOCIATE MEMBERS

Queensland Chicken  
Meat Council

Flower Association of  
Queensland Inc.

Pork Queensland Inc.

Fitzroy Food & Fibre  
Association

Pioneer Valley Water  
Co-operative Limited

Central Downs  
Irrigators Limited

Burdekin River  
Irrigators Area  
Committee

Emerging Primary  
Industries Groups

- Biological Farmers  
of Australia
- Queensland  
Aquaculture  
Industries  
Federation

20<sup>th</sup> October 2011

Finance and Administration Committee  
c/o Jo Mathers  
Principal Research Officer  
Queensland Parliamentary Service  
Parliament House  
George Street  
BRISBANE QLD 4000  
<mailto:jo.mathers@parliament.qld.gov.au>

### RE: Briefing for Submission to Finance and Administration Committee's public hearing into the Disaster Readiness Amendment Bill

Thank you for the opportunity to provide this submission on the Bill to amend the *Water Supply (Safety and Reliability) Act 2008* and in particular the measures to reflect the Flood Commission's finding that residents living immediately downstream of dams require warnings from dam operators because spillway outflow can increase quickly as the result of heavy rain in the catchment.

As outlined in the Explanatory Notes, 'the Bill provides the chief executive with the power to impose an obligation (by way of a dam safety condition) on owners of referable dams to provide information about flow events to residents downstream of dams. Currently, information provision requirements in the Act only require the owners of dams to provide information to the chief executive for the purpose of regulating the safety of dams. It is envisaged that a guideline will be prepared and that it will cover matters such as:

- the type of information that a referable dam owner will be required to provide to residents downstream of dams for the purpose of providing
- warnings and the way in which this information is to be provided; and
- a requirement, where appropriate, for referable dam owners to advertise for people who wish to be provided with such information, and to maintain/update a register of such people. If, for example, all of the residents immediately downstream of the dam reside on the owner's property, then there would be no need to advertise.

The Office of the Water Supply Regulator within DERM has advised QFF that at this time the Commission's recommendations apply to the owners of five Category 1 referable dams on rural properties which each have a population at risk of two or more persons. The remaining 101 referable dams are irrigation, urban or industrial/mining dams that are operated by water providers such as SunWater or individual companies such as mining companies. It is expected that the number of referable dams on rural properties will increase as DERM widens its search into grazing areas.

Queensland Farmers' Federation Ltd. A.C.N. 055 764 488 A.B.N. 44 055 764 488  
Level 6, 183 North Quay (PO Box 12009, George St) Brisbane QLD 4003  
Phone: 07 3837 4747 Fax: 07 3236 4100 Email: [qfarmers@qff.org.au](mailto:qfarmers@qff.org.au)  
Web Site: <http://www.qff.org.au>

DERM also advise that four of the rural dams have their population at risk located on the same property as the dam. Two dams are on irrigation properties and the other two are more likely to be grazing or dry land farming operations. The fifth dam has population at risk on separate properties downstream of the dam.

QFF submits that the implementation of this proposed regulation could mean that property owners would have to:

- a) Develop, maintain and be able to implement an emergency action plan.
- b) Determine the area of potential implementation or other impacts from dam failure.
- c) Establish and maintain a communication plan for notification of affected persons at risk.
- d) Provide the Local Disaster Management Group with details of the emergency action plan and estimates of downstream impacts.

There are a range of issues that a rural dam owner could be required to address both on a regular basis and during rainfall. Addressing these issues would come at a significant cost to insure compliance with the requirements of the regulation. However where the only population at risk is on farm, it should not be difficult or too costly for dam owners to implement a routine monitoring of the dam and evacuation procedures for those accommodated near the structures at risk. Any guidelines that are developed by the Government should outline such simple and practical measures and not leave it up to the owners to clarify these issues. These owners may also be willing to investigate and implement measures to protect buildings from dam failure and thereby be working towards removing the dam from referable dam status. The cost of these measures would be a matter for the owner to consider.

In cases where the population at risk is downstream, it is unclear to QFF how a landowner could implement the proposed requirements, particularly during excessive rainfall events. The costs involved in establishing an effective real time monitoring program to give some warning of impending failure would be excessive. It also needs to be recognised that in some cases the landowner may not be resident on the property or close to the referable dam to closely monitor developments. At best a routine inspection program should be conducted with some allowance for more frequent inspections when a dam is approaching full capacity or is by-washing with a requirement that landowners give notification when it is likely that water will be released. QFF submit that a practical approach should avoid the need for costly investigations and uncertainty for property owners and we would recommend that the Government require DERM to investigate these specific options in the implementation phase of the legislation.

Yours sincerely



Dan Galligan  
Chief Executive Officer

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