



Natural Disaster Relief and Recovery Arrangements

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***Report from Regional Directors of Engineering Committee to
NOROC General Managers Group***

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Introduction

In May 2009, widespread flooding occurred in the North Coast Region of NSW, resulting in the Premier declaring a Natural Disaster, followed by the declaration of 14 LGAs as areas of Natural Disaster including all NOROC LGAs.

On 24 May 2009, the Premier appointed Mr Ken Moroney as Recovery Coordinator for the North Coast Floods.

In August 2009, Mr Moroney presented his report entitled "Recovery Coordinator's Report on the Mid-North and Far North Coast Flood Recovery May 2009" to the Premier. The Report concentrates largely on 'social' recovery via Recovery Committees, Recovery Centres etc, but 1 of its 21 recommendations touches on the element of recovery of most interest to Regional Directors of Engineering being:

"12. That the Report on the effectiveness of the Natural Disaster Relief and Recovery Arrangements during the North Coast Floods (May 2009) (Appendix 10) be considered in light of any current or future reviews of the NDRRA at State/National level."

Appendix 10 is "A review of the Natural Disaster Relief and Recovery Arrangements during the North Coast Floods of 30 March – 1 April 2009 and 20-22 May 2009" (September 2009, amended May 2010) by Blunden Consultancy Services P/L which leads us to our area of interest and that interest can largely be summed up in one word – 'betterment'.

What is Betterment?

The Report states "*Financial Assistance is available for betterment works*" and further, "*The NDRRA defines betterment as the replacement or restoration of an essential public asset to a more disaster resilient standard than its pre-disaster standard*".

The Report goes on to state:

"An anomaly exists in the NDRRA funding between the Commonwealth and State Governments for betterment works. If eligible expenditure exceeds the State's first threshold Commonwealth will fund only one-third of the betterment cost compared to half of the replacement or repair cost to restore the asset to its pre-disaster condition. There are benefits to the State and the Commonwealth if betterment works are completed and an appropriate incentive would be funding betterment works on a dollar for dollar basis similar to personal hardship and distress."

Does Betterment Actually Exist?

The PW Natural Disaster Relief Program states "*Additional cost incurred by Councils beyond that level in restoring an asset to a higher standard (improvement or betterment) will be borne by Councils and is not eligible for assistance*".

The RMS Natural Disaster Arrangements states:

"In those cases where an asset is restored or replaced to a higher standard... Natural Disaster Financial Assistance will generally be limited to that component of the estimate of cost attributed to restoring the asset to the pre-damage standard"

The 'Natural Disaster Assistance Arrangements within NSW' document states (p17):

"An asset is to be restored to its pre-disaster standard, in accordance with current building and engineering standards. An asset can be restored to a more disaster-resilient standard if it can be shown that this is cost effective basis and will mitigate the impact of future natural disasters."

Engineering staff at various NOROC Councils have experiences of RMS staff verbally advising not to make claims for betterment as they wouldn't be approved. Staff also have experience of different approaches to betterment being taken by different RMS staff. For example Lismore City Council (LCC) staff dealt with three RMS representatives following the May 2009 floods who took different approaches to betterment and as a result:

- Some land slip claims involving major bulk earthworks to remove existing failed pavement and subsoil material and replacing with rock drainage levels and new pavement so that the restorations had a higher safety factor than the pre-flood condition (i.e. betterment) were approved.
- Replacement of culverts with concrete pipes, box culverts or bridge structures to meet current design standards and waterways requirements were not approved due to being betterment and advised that funds would only be available for replacement to pre-flood condition.

Correspondence also exists in most of our Councils of RMS representatives clearly stating that the RMS will not support contributions to betterment.

Finally, Garry Hemsworth from LCC was present at a meeting where Anthony Albanese 'talked up' betterment provisions.

So the answer seems to be that betterment exists in both legislation and practice but is resisted by state government staff at the coalface for reason unknown to us.

Issues and Recommendations

1. Replacement of Assets to Current Engineering/Building & Environmental Standards

Issue: Replacement of infrastructure should be to current engineering standards and should meet all legislative (particularly environmental) requirements. Replacement to current engineering standard is included in the Natural Disaster Assistance Arrangements but this needs to be emphasized and legislative/environmental standards added. Replacement to these standards should not be viewed as betterment but as baseline replacement.

Comment: Assets need to be upgraded to "current/modern day" standards in relation to the use of current materials such as concrete, steel or composite materials to replace timber bridges.

Changed environmental requirements that now have to be complied with, such as the need to provide fish passage, the presence of endangered species etc, impact on the restoration cost and should be 100% funded as baseline replacement.

Heritage and cultural assessments, particularly aboriginal involvement, are becoming significant factors that need to be included.

Major restoration work may trigger the need for large and costly environmental assessments. The cost of these should be included as part of the restoration funding.

Recommendation: Support amending the Natural Disaster Assistance Arrangements to better define/emphasize replacement of assets to current building and engineering standards and include replacement to current legislative/environmental standards.

2. Saturated Pavements

Issue: Saturated pavement failure should be recognition as legitimate flood damage.

Comment: It is very difficult to have failed saturated pavement approved by the RMS as they require the pavement to be inundated before a claim will even be considered. The RMS fails to recognise that if water sits either side of a pavement for days and traffic continues to use the pavement, particularly large trucks, the pavement will eventually fail.

This can be exacerbated when diversions occur, directing more traffic onto roads such that their carrying capacity is exceeded.

Another issue is that pavement failure is not necessarily instantaneous and may take some time to show up.

Recommendation: Negotiations be held with the RMS to allow an acceptance that pavement failure as a result of saturation is a legitimate item for inclusion in a flood damage claim and that an extended period be negotiated to allow this item to be included in the claim.

3. Betterment Works

Issue: Beyond the increase scope of baseline replacement, betterment should allow for consideration of preventative improvements and works such as stream reshaping and debris removal.

Comment: There is the need to increase the capacity of bridges and culverts that are regularly damaged. Bridge approaches are also regularly damaged where the flood frequency to which the old structures were designed was to a much lower standard than is required today. There was an acceptance in the rural community in past times that structures would be regularly washed out in floods and then subsequently repaired, but this is not accepted by society now and on many roads the traffic has increased so that the cost to society is now much greater.

Riverbank scouring in close proximity to road shoulders/pavements has the potential to result in severely damaged roads in future floods and that damage would be included in those future claims. Costs, not to mention social/economic disruption, would be reduced if riverbank reshaping and protection was approved as betterment following the initial flood.

Recommendation: That NDRR Arrangements include preventative improvements to structures and natural features in the definition of betterment.

4. Better Cost-Benefit Analysis

Issue: The process of applying for betterment to provide a greater level of disaster resilience needs to be formalized and should include a benefit/cost analysis assessment.

Comment: This addresses the issue that almost every asset could be replaced in a form that was more disaster resistant, but Councils need to apply a quantitative test to ensure we are disciplined in not making excessive or unrealistic claims. Natural Disaster Mitigation Program (NDMP) funding is made available periodically to reduce the impact of natural disasters and could be utilized to top up NDRA funding to provide for disaster-resilience betterment.

It is recognized that it is unlikely that disaster events will coincide with the NDMP funding cycle. More flexibility would be required in this program to allow these funds to be of assistance to Councils to help fund betterment.

Recommendation: Support amending the Natural Disaster Assistance Arrangements to incorporate guidelines for betterment applications (or at least a reference to such guidelines) including a structured cost-benefit analysis assessment, and the use of NDMP funding towards funding betterment for disaster resilience outcomes and more flexibility be allowed with the funding cycle of the NDMP so that these funds can be used as a natural disaster occurs.

5. Support for Betterment

Issue: The support for betterment by politicians and senior bureaucrats is not filtering down to those staff dealing with natural disaster claims.

Comment: Failure to receive betterment funding may be viewed at senior bureaucracy and Ministerial level as the result of poor submissions by local government when in practice it is the result of the approach taken by agency staff.

Recommendation: Request that relevant politicians and department heads reinforce support within their Authorities for incorporating current engineering/environmental standards into baseline replacement, and for betterment where analysis indicates that a pre-determined level of benefit is achieved.

6. Inconsistencies between Disaster Arrangements

Issue: Inconsistencies between the 'RTA Natural Disasters Arrangements' (December 2008), the 'Department of Commerce Natural Disaster Relief Program' and the 'Natural Disaster Assistance Arrangements within NSW' documents.

Comment: Inconsistent approaches between agencies creates uncertainties and inconsistent outcomes.

Recommendation: Support a review of the RMS and PW documents to bring them into line with Natural Disaster Assistance Arrangements, as strengthened in accordance with other relevant recommendations in the report.

7. Recognition of Additional Damage after Declaration and Within 21 Day Period

Issue: Guidelines do not recognize additional damage caused by further rain and storms after the initial declaration date and within the 21 day emergency works period.

Comment: Guidelines should recognize the potential for damage of this nature so it can be eligible for assistance.

Recommendation: Support amendment to the guidelines to cover additional damage caused within the 21 day emergency period.

8. Definition of Emergency Work

Issue: Guidelines state that only work necessary to facilitate passage for emergency vehicles and essential service installations; and for the passage of essential food supplies and perishable food can be classified as emergency road works.

Comment: Sounds good, but who knows in advance of all roads that may be required for emergency vehicle access etc and as a result Councils aim to restore all access within reason in the emergency period.

Recommendation: Support amendment to all guidelines to permit the opportunity to restore access to all areas, within reason, during the emergency period.

9. Restriction on Use of Day Labour in the initial 21 day period

Issue: This restriction is only applied by PW and means that Councils cannot claim for the cost of their day labour undertaking natural disaster recovery work in normal working hours in that period. The RMS have no such restriction.

Comment: This creates two problems:

- Firstly, it is inconsistent.
- Secondly, while staff are working on recovery they are not working on the projects for which they are budgeted. This impacts on the budget of those projects and may require future overtime (and additional costs) to complete works programs.

Recommendation: Support to adoption of a consistent approach to the use of day labour in the initial 21 day period which will require adoption by the PW.

10. Impact on Waste Facilities

Issue: Landfill charges, including state government waste levy, are required to be paid on all flood material deposited at landfill.

Comment: These charges should be viewed as legitimate and claimable disaster costs particularly in instances where the operating life of the landfill asset is reduced.

Recommendation: Landfill fees should be allowed as a legitimate cost in a flood damage claim.

11. Claims for Water and Sewer Assets

Issue: Water and sewer activities are classified as “trading undertakings” and so are not eligible for disaster funding.

Comment: Most Councils water and sewer trading activities do not return a dividend to the General Fund and therefore the cost of repairing damage is borne by users.

Recommendation: Consideration be given to allow the inclusion of the repair of damage to water and sewer assets into a disaster claim.