

TITLE: [E-CM] Responses to the Recommendations of the Independent Review of the New South Wales State Emergency Service Operational Response, Northern Rivers Floods, March 2017

SUBMITTED BY: Roads and Stormwater

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Leaving a Legacy
1.2	Asset Protection
1.2.1	Floodplain Management - To manage the risk of flooding and its impacts for property owners and the community.

ROLE: Advocate

SUMMARY OF REPORT:

Following the March / April 2017 flooding in the Northern Rivers, an independent review of the NSW State Emergency Service's (SES) response and management of flooding was conducted by former NSW Police Deputy Commissioner Dave Owens. The report, which was publicly released in August 2017, contains 36 recommendations. The SES also released a document detailing its response to these recommendations.

The Owens' Report was tabled at the 1 September 2017 meeting of the Floodplain Management Committee. The Committee made the following recommendation, which was subsequently adopted by Council at 13 December 2017 meeting:

"That Council officers prepare a report to the Floodplain Management Committee and Council with responses to the recommendations of the Independent Review of the NSW State Emergency Service Operational Response Northern Rivers Floods March 2017 as they pertain to Tweed Shire."

This report has been prepared in response to the resolution.

RECOMMENDATION:

That Council accepts, as the basis for a submission to the New South Wales State Emergency Service, the recommended responses to the *Independent Review of the NSW State Emergency Service Operational Response, Northern Rivers Floods March 2017* (the Owens' Report) as detailed in the report attachment, and including the amendments of the Floodplain Management Committee.

REPORT:

Following the March / April 2017 flooding in the Northern Rivers, an independent review of the NSW State Emergency Service's (SES) response and management of flooding was conducted by former NSW Police Deputy Commissioner Dave Owens. The report, entitled "*Independent Review of the NSW State Emergency Service Operational Response, Northern Rivers Floods March 2017*" (the Owens' Report) was publicly released in August 2017, containing 36 recommendations. The SES also released a document detailing its response to these recommendations.

The Owens' Report was tabled at the 1 September 2017 meeting of the Floodplain Management Committee. The Committee made the following recommendation (by majority vote), which was subsequently adopted by Council at 13 December 2017 meeting:

"That Council officers prepare a report to the Floodplain Management Committee and Council with responses to the recommendations of the Independent Review of the NSW State Emergency Service Operational Response Northern Rivers Floods March 2017 as they pertain to Tweed Shire."

In response to this resolution, the Table Attachment summarises the Owens' Report recommendations, the SES responses, and recommended Tweed Shire Council responses for those recommendations that pertain to our communities.

A draft of this report was tabled to the Floodplain Management Committee meeting of 16 February 2018. The Committee resolved to make several amendments to the report and attachment. These amendments have been highlighted. Refer to the meeting minutes for detail of the Committee discussions regarding this report.

Of the 36 recommendations, 14 were considered relevant to Council, with the others being operational matters for SES consideration.

Of those recommendations, all but one is supported (refer to attachment for rationale):

No.	Owens' Recommendation	Recommended Council Response
2	That the NSW SES, in concert with the Tweed Shire Council locates suitable premises for the NSW SES Murwillumbah Unit	Recommendation supported.
12	That the Bureau of Meteorology uses a specified time for levee overtopping or flood peak in the release of the Flood Warnings as per the NSW Flood Plan.	Recommendation supported.
13	That the BoM include notification of faulty gauges on all subsequent Flood Warning Notices, rather than simply removing the gauge reading from the Flood Warning Notices.	Recommendation supported.
14	That the NSW SES considers a review of the design of the Flood Bulletins to have levee overtopping information clearly identified at the top of the bulletin.	Recommendation supported.
15	That the NSW SES reinforces with staff the importance of having the issued time on the Flood Bulletin, as opposed to the prepared time.	Recommendation supported.
16	That the NSW SES reinforces with staff the	Recommendation supported.

	importance of ensuring data on Flood Bulletins is accurate.	
17	That the NSW SES reviews the format of the current Flood Bulletins, through the Warnings Working Group.	Recommendation supported.
22	That the NSW SES considers reinforcing the need amongst staff to ensure that when an EOC is established, that an appropriate liaison officer is provided.	Recommendation supported.
29	That the Tweed Shire Flood Emergency Sub Plan 2014 is revised to include a definition of Incident Controller.	Recommendation supported.
30	That the Tweed Shire Flood Emergency Sub Plan 2014, Volume 2, annexures and maps are updated as they currently reflect the Tweed Shire Local Flood Plan 2008.	Recommendation supported.
31	That the NSW SES liaises with the appropriate NSW Government Agencies to ensure stronger linkages are forged at a local level between emergency responders, local councils and community development professionals.	Recommendation supported.
32	That the NSW SES supports the additional funding for an additional community engagement staff member for the Richmond Tweed Region.	Recommendation supported.
33	That NSW SES ensures that media 'blackouts' do not occur during major events, rather the media is harnessed to ensure the timely delivery of messaging.	Recommendation supported.
36	That the NSW SES becomes a recognised authority for land use planning purposes, having greater involvement in floodplain development with Local Councils and that their input is mandatory before any consent by council is given in flood planning areas.	Recommendation not supported.

Recommendation 2 regarding SES Accommodation in Murwillumbah will be the subject of a future report to Council, once current investigations and negotiations for a site, including requests for State assistance, are suitably progressed.

With regard to Recommendation 2, the Floodplain Management Committee resolved:
That Council formally approaches the Murwillumbah Showground Trust requesting use of their land off Banner Street as an alternate site for SES Accommodation in Murwillumbah, and enlist the support of the Local Member Thomas George MP.

Recommendation 36 regarding the SES's role in land use planning was the subject to significant debate in the Floodplain Management Committee. Some members strongly supported a mandatory referral role as recommended by the Owens' Report, in order to prevent incompatible floodplain development occurring in the floodplain, as had occurred in the past. However other committee members, including Council officers, were cautious about supporting this recommendation, given that most of these problems are legacy issues of old developments and land use zones, and felt that Council has a suite of rigorous controls that if applied consistently, should meet this aim without the need for mandatory

referral to SES. There were also concerns that the SES organisation as it is currently structured and resourced is not capable of performing the proposed statutory referral role.

In NSW Councils are generally the entities responsible for floodplain management. This is closely linked with each Council's role under the Environmental Planning and Assessment Act as consent authority for land use planning matters. It also recognises that each floodplain community is different, with varying flood risk exposures and policies, which need to be developed and implemented locally, rather than centrally.

Council policies concerning floodplain management, including flood studies and floodplain risk management plans are required under the NSW Floodplain Development Manual to go through a specific process with oversight by the Floodplain Management Committee. SES is a member of the committee. SES are also provided the opportunity to comment on land use planning strategies and other exhibited plans such as LEP amendments, rezonings and Development Control Plans (DCPs). This is considered to be the appropriate point for the SES to provide input on land use planning on the floodplain, under the current legislative framework and resource capabilities of the agency.

It is considered beyond the capability of SES as they are currently constituted to adequately perform the mandatory referral authority role for each application for flood prone development. As such, Recommendation 36 should not be supported.

In order for the SES to perform such a role, a number of significant changes would be required:

- 1) as foreshadowed in the SES response to the Owens' Report, the State Emergency Service Act would need to be amended to expand the role of the SES. Amendment to the Environmental Planning and Assessment Act would also be necessary, to recognise the SES as a referral agency. The legislation would have to determine who prevails in matters where the SES, Council as the local planning authority and/or the NSW Flood Prone Land Policy disagree or are inconsistent.
- 2) to perform the role, the SES would need to be adequately staffed with expertise in land use planning, hydraulic engineering, floodplain risk management and building codes and specifications.
- 3) the scope of their regulatory role would need to be specified, such that the SES would only advise on matters directly relating to suitability of a specific proposal with regard to emergency management and evacuation capability up to the probable maximum flood event (for example).
- 4) the SES would need to be suitably resourced for ongoing regulation and compliance, in order to follow up on controls it imposes on development.

While the Owens' Report references the referral role of the NSW Rural Fire Service (RFS), the RFS does not deal with every application on bush fire prone development, and their role is limited in applying a standard code (Planning for Bushfire Prevention) and recommending standard conditions. It took the RFS many years to adjust to performing this referral role in the land use planning system. It is considered that there are too many differences and complexities between bushfire and flood risk for such a referral model to be directly translatable between these agencies. There are too many localised differences between flood risks, development impacts and policies across the State.

With regard to Recommendation 36, the Floodplain Management Committee resolved:

That Tweed Shire Council adopts a policy that requires its planners to confer and consult with the Local Tweed Shire SES Controllers in all cases involving residential development of all types that are proposed to be built on land below the Probable Maximum Flood.

The Floodplain Management Committee also discussed the relevance of a submission made by the Lismore Citizens Group (LCG, "Recommendations to the Bureau of Meteorology", 31/1/2018) to Tweed communities and resolved to incorporate the 6 LCG recommendations into Council's response to items 12, 14 and 31.

For more information on any of the recommendations, the full version of the Owens' Report is available on the SES website <https://www.ses.nsw.gov.au/about-us/access-to-information/>

OPTIONS:

1. Accept the Tweed Shire Council responses as recommended in the report attachment, including highlighted Floodplain Management Committee amendments, as the basis for a submission to the SES.
2. Accept the Tweed Shire Council responses as recommended in the report attachment, excluding some or all of the Floodplain Management Committee amendments, as the basis for a submission to the SES.
3. Amend the Tweed Shire Council responses as recommended in the report attachment, as the basis for a submission to the SES.
4. Note the Owens' Report with no subsequent submission to the SES.

Option 1 is the recommendation of this report.

CONCLUSION:

The Owens' Report was produced to provide an independent assessment of the NSW State Emergency Services' response and management of the March and April 2017 flooding including the Tweed Shire. At the request of the Floodplain Management Committee, this report is provided to summarise and respond to each of the 36 recommendations of the report. Based on these responses, Council may choose to provide a formal response to the SES, or simply acknowledge the report.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Recommendation 2 regarding accommodation for the SES in Murwillumbah has significant financial implications for Council. Some funding is available as works carried forward from previous years' budgets. However further financial assistance will need to be requested from State Government Agencies in order to fully fund a new site and/or building. This will be subject to a separate report in the future when negotiations are suitably progressed with the State.

c. Legal:

Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Owens' Report Recommendations and Responses Table
(ECM <<Insert DataWorks Document Number here>>)
