



THE NATIONAL COUNCIL OF WOMEN OF QUEENSLAND INC.
Established 1905

Patron: Her Excellency The Governor of Queensland
Ms Penelope Wensley AC

Harris Terrace
46 George Street
Brisbane 4000

16 March 2011.

**SUBMISSION BY NATIONAL COUNCIL OF WOMEN QUEENSLAND TO
QUEENSLAND FLOOD COMMISSION OF INQUIRY**

This submission will address (b), and (g) of the published terms of reference, the remaining having been addressed in our previous submission.

- (a) This was covered in our previous submission.
- (b) Please note, that in addressing this criterion we are not denying the insurance companies' rights to make a profit for their shareholders. However their treatment of their clients appears, to many, to be bordering on criminal.

Before being able to comment on the performance of private insurers meeting their obligations, the commission's attention is drawn to the matter of insurance policies as a whole. These documents are contracts between property owners and an insurance company with legally binding conditions for both parties. However, it must be acknowledged by all, that legal documents tend not to be in plain English but tend toward the side of legalese or language used in such a way that the meaning is ambiguous. Various interpretations of these ambiguities highlight loopholes which can be used by companies to avoid payment if they so desire. For example, below is a scan from a household insurance policy. On first glance at the index, the document stated 'Insured Events you are covered for' and contained 4 dot points, one of which was 'Damage caused by weather' commencing on page 28. Page 29 is shown on the next page.

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Insured Events your policy automatically covers you for

Damage caused by weather...

Event	What your policy does not cover
<p>Flash flood and stormwater run-off</p> <p>A sudden flood caused by heavy rain that fell no more than 24 hours prior to the flood</p>	<p>Loss or damage caused:</p> <ul style="list-style-type: none"> x by flood other than flash flood x to swimming pools or spas and their covers, liners and the like x to the water in swimming pools or spas x by water being absorbed through floors, external and internal walls of your home (including rising damp) and any subsequent loss or damage to contents including carpets x by hydrostatic pressure building up below or behind any part of your home or structure including a swimming pool, spa or tank x to garden borders, paths, driveways, paving, free standing or retaining walls (whether or not part of the home), tennis courts and other playing surfaces x caused by storm surge or any other action of the sea x caused by power surge x during the first 48 hours of the initial period of insurance of this policy unless we have issued it to you: <ul style="list-style-type: none"> • in conjunction with your signing a contract to purchase the home, or • to replace a policy with us or another insurer from the date and time that other policy expired.

The definition of 'Flash flood and storm water runoff' is given as 'a sudden flood caused by heavy rain that fell no more than 24 hours prior to the flood'. Under the heading of 'What your Policy does not cover' is a list of dot points, the first of which is Loss or damage caused by flood other than flash flood.

With the 'perfect storm' breaking all rainfall records, surely the majority of the flooding was flash flooding, which the policy appears to say was covered. Where is the line drawn between where flash flooding stops and other flooding starts when much of the early flooding was possibly caused by water backing up from storm drains' inability to handle the amount of water falling from the sky? Once the Wivenhoe Dam gates were opened the flooded areas had no hope of this flash flooding getting away. The question must be asked 'How can an insurance company determine which house is flooded by the river and which flooded by flash flooding under these circumstances'?

With this kind of wording in a policy, it is easy to see where the general public get to believe that 'comprehensive' in the title of an insurance policy means it covers as much

as can be envisaged can happen to property from weather events. The Macquarie Dictionary simply gives the definition as 'of large scope', and is not indicative of holistic coverage. It is believed that real and meaningful definitions of 'flood' and 'flash flood' (given any failure of drainage infrastructure would compound the effect of flash flooding), must be agreed to and published clearly by all insurance companies so that people really know where they stand. If drainage infrastructure fails, this should not be an avenue for insurance companies to avoid payouts, as it is beyond the public's control.

It must be noted that it was announced on TV on Friday 11th March that the Insurance Industry had investigated its own definition of 'flash flooding' and came up with a decision that favored itself. Surely an independent assessment of the definition and its application should be included in this flood inquiry, as it seems grossly inadequate justice for some entity to investigate itself and expect it to find itself in the wrong.

We would like the Commission to also acknowledge that once a building is declared to be in a 'flood affected area', it appears that no other insurance company, other than the one the home owner was originally with, will consider taking on Insurance for the property. It also appears that some homeowners, not affected by the floods, have been denied the ability to change Insurance companies purely because some houses in that post code were affected by flood. Surely, each case should be on its own merit.

It is suggested that a comprehensive insurance policy actually shows flood as a definite inclusive clause but with an opt-out option always being offered at point of quote or sale. This is necessary because flood insurance is expensive e.g. one member of the public told me that because she lives in an area which was affected by the 1974 flood, flood insurance for her would be an extra \$800 a year. If her policy included flood, this would then be a prohibitive cost and therefore insurance like this would be out of the reach of most families. The cost for the complete coverage and the cost for the coverage if the opt-out clause is chosen must be shown very clearly at all times, so that the actions of the insurance company and the coverage that the policy holder has, is clearly understood by all.

Despite premiums being paid for, in some cases 20 years or more without claim, another scheme on the part of the insurance companies appears to be to delay payment until they see what the Government is proposing to pay those who have damage covered by insurance policies. As late as 8th March, the Premier was stating on TV that if a policy holder was paid an amount by an insurance company, the home owner would only be paid the difference between the insurance payout and the maximum amount the Government deems it will pay. With the insurance companies holding out to see what the Government will pay, and the Government holding out to see what the insurance companies will pay, homeowners could be in a catch 22 situation, in some case with no money and no home for the foreseeable future. This is a disgrace in a so-called civilized society.

Additionally, the moment a distribution based on a means test is approached, it makes a mockery of the so-called equality for all that we are led to believe we are entitled to under Australian law. This is particularly relevant if the means test is based on income and marital status, as opposed to assets owned (principal place of residence being excluded from any calculations). It must be acknowledged that if someone has more than one residence and owns luxury items, there is perhaps the ability to liquidate an asset to pay for some repairs, whereas someone who has the bare basics (or nothing at all) does not. It would be better if there were no means test at all and that equality ruled, but it is also acknowledged that there are many people who will rot any system. This appears to be the basic reason for means-testing action - so that the best use of the Premier's appeal money is achieved.

A Government buy-back option was mentioned by one member, but for her, this was prohibitive because if she was paid what could now be a flood effected value (as opposed to what it could have been valued at before the event occurred), she would still have a \$200,000 mortgage to pay off on a house that she no longer owned, with nowhere to live because she would have insufficient funds after paying the mortgage to enable her to obtain a loan to buy another home.

Another issue that has been raised is Governments and Councils insuring against infrastructure damage (called Re-Insurance). At the moment this is not really a viable option. To quote a statement issued by the Deputy Premier and Attorney General, The Honorable Paul Lucas, on 3 March, 2011, in speaking on this subject:

“Make no mistake – insurance of this type – if you can get it, is not delivered by local insurers over the counter. It is delivered by international insurance conglomerates that do it to make a profit.

Some council areas – like Dalby, Emerald and Gympie - flood so regularly that the premiums for their ratepayers will be astronomical.

The Federal Government itself doesn't have natural disaster reinsurance, a decision made by the Howard Government. Will they now have to seek reinsurance, along with all states, territories and local councils?

Overseas insurance companies would be licking their lips”.

Subsequently this would mean Australian families will be financing overseas profits. People are already suffering, not just through the flooding and other natural disasters, but from the huge hike in the cost of living since the Global Financial Crisis and privatisation e.g. water, electricity, fuel and food. The crisis for families is still going on, and a flood or disaster levy will only compound existing stressors on families.

The suggestion that the Government handle its own funding of disaster relief should be considered. The fund could be established by a loan from the Futures Fund that was set up by a previous Federal Government, as it has never been clear to many of the public what this Futures Fund was to cover. Further funds could be set aside each year from the budget, and with wise investment, the cumulative effect would be a good basis for national disaster relief. The question however as to whether the Futures Fund still exists must necessarily be addressed. A flow-on from this question is that any reinsurance scheme based on an allocation from the Budget must be quarantined and used only for that. This would require agreement from both the major political parties that this money would not be used for any other purpose, and that funding must be guaranteed to be allocated each year regardless of which Party is in Government.

(c) This was addressed in our previous submission.

(d) This criterion cannot be adequately addressed by anyone not closely involved with these services and therefore no comment will be given in this submission.

(e) This was addressed in our previous submission

(f) This was addressed in our previous submission

(g) Flood maps may not have been in existence following the 1841 and 1893 floods, and so much development has gone on since then, that the only basis we, the general public, had for knowing the exact areas likely to be affected by major flooding were the maps produced after the 1974 flood. Given that Wivenhoe Dam was advertised to be the answer to preventing flooding of that nature ever again, a sense of complacency appears to have fallen over the thinking of government, councils, developers and the public. This is understandable for the general public, as we can only base our decisions on the so-called 'expert knowledge' of the professionals.

However, it was stated on a current affairs program on TV just after the flooding, that there have been at least two sets of flood maps in existence over the previous years, with the possibility of a different one being used by the developers in seeking permission to develop land, than the governing bodies use in assessing those applications. It appears that some councils or individuals have ignored both sets of maps and approved the applications for many thousands of properties on land which flooded in the 1841, 1893 and the 1974 floods and, in doing so, have put many thousands of families in the situation they are in today. It is acknowledged that people must be responsible for checking the flood map before they build or buy, but if the information the TV announcer gave was based on sound research, the question must be asked as to what map people were shown and by whom, when flood prone land was developed. It is suggested with this submission that this point be carefully looked at in hindsight by this inquiry, and, should any negligence, wrongdoing or definite

misinformation be discovered, that the companies, councils or individuals responsible be prosecuted for any misconduct.

The members of NCWQ thank you for the opportunity to put forward our concerns on flood and flood insurance issues to this inquiry.



Lyn Pysden
Legislative Advisor
NCWQ
16 March 2011.

For



President
NCWQ