

To	Stakeholders
From	John Price, Ombudsman General Insurance
Date	21 May 2012
Subject	Flash Flooding – within 24 hours of heavy rain – Wivenhoe Dam release

Message

Background

On 23 December 2011 a Memorandum was issued on behalf of the Panel in relation to the broad view adopted when considering whether the heavy rain said to have occurred after 4am on 11 January 2011 was the proximate or effective cause of the W4 Strategy being invoked at Wivenhoe Dam from 8.00am 11 January 2011 and therefore the proximate cause or trigger that has led to the flooding of many of the properties along the reaches of the Brisbane River downstream of the dam.

The broad view was adopted after consideration of detailed submissions in a number of determinations, relevant hydrology, site inspections and the Queensland Flood Commission's Interim Report.

Whilst the Memorandum stressed that it was a broad view and that each individual dispute would be determined on its merits, the aim of the Memorandum was to assist in the early resolution of some disputes.

On Wednesday 25 January 2012 the Queensland Government announced that the Queensland Flood Commission of Inquiry had been recalled to hear new evidence with respect to the management of the Wivenhoe Dam in the days before Brisbane was inundated. On 27 January 2012 we issued a further Memorandum to stakeholders advising that whilst the findings of the Inquiry and the evidence of the engineers to the Inquiry formed only part of the information relied upon by the Panel, we would in the interest of fairness suspend the issuing of further Determinations where the central issue involved policy conditions that provided cover for "flash flooding" caused by or within 24 hours of heavy rainfall/storm.

Upon the Queensland Flood Commission of Inquiry releasing its final report, further submissions were invited and received from relevant stakeholders. The Panel has now had the opportunity to consider the information provided to the Commission of Inquiry, its final report and the submissions to FOS received following that report, as well as submissions received following the Memorandum of 23 December 2011.

Whilst each individual dispute will be determined on the basis of the individual and unique factors relevant to that dispute, the Panel is satisfied that as a broad statement, the evidence supports a view that the heavy rain which occurred from approximately 4am on 11 January 2011 was a proximate or effective cause of the W4 strategy being invoked and therefore a proximate cause or trigger that led to the flooding of many of the properties along the reaches of the Brisbane River downstream of the dam.

Whilst the Panel accepts that the significant weather events affecting Queensland from December 2010 (and earlier) and in particular from 8 January 2011 have contributed to the rising level of the Wivenhoe Dam, the available evidence indicates the releases were being managed to avoid significant flooding of the Brisbane River below the Dam, prior to the heavy rainfall on 11 January 2011.

The evidence indicates that the Wivenhoe Dam operators adopted Strategy W4 at or around 8am on 11 January 2011. The evidence supports the view that a substantial storm passed over the storage area of the Wivenhoe Dam and discharged a large amount of rainfall directly into the storage area of the Wivenhoe Dam from approximately 4am on 11 January 2011.

The evidence confirms that this rainfall resulted in significant increased inflow into the Dam. In the absence of this rainfall it is unlikely the decision to move to the W4 Strategy would have been made at 8am on 11 January 2011.

The adoption of the W4 Strategy resulted in significant increased outflow from the Dam and was a major component of the flood peak that affected the properties along the reaches of the Brisbane River downstream of the Dam.

As in the case of the Memorandum of 23 December 2011, the view adopted within this Memorandum is a broad approach that has regard to all of the information currently available. This broad approach is not for the purpose of determining individual disputes but rather to assist in the early resolution of some disputes.

All individual disputes are considered on their merits, on the basis of relevant information, including individual and unique factors such as site specific hydrology, topography details, timing of inundation and the relevant terms of the policy.

Moving Forward

For those disputes where there has been an exchange of information prior to 27 January 2012, the parties will be notified and afforded an additional 14 days to provide any further material. Other determinations will proceed with the normal course of the exchange of information.

John Price

General Insurance Ombudsman