
Strategic options and management of risk: flood mitigation

Responsible Officer: Group Manager People and Performance (Helen McNeil)

Recommendation

That Council:

1. Endorse the following actions to be taken concurrently:
 - (a) Progress action 1.2.2 of the Delivery Program, being a strategic review of flood mitigation function, incorporating data arising from 2022 flood events, and report back with recommendations in relation to Rous's future role in the region; and
 - (b) Authorise the General Manager to negotiate an interim solution to effectively manage risk associated with Rous's function and operation in urban flood mitigation with respect to the Lismore Levee Scheme (to have effect pending finalisation of (1a)).
2. Reaffirm action 1.2.2 of the Delivery Program and endorse writing to Ballina Shire Council, Lismore City Council and Richmond Valley Council to advise of the strategic review of Flood Mitigation and that it is expected to be completed by June 2024.

Background

In 2016 Rous County Council, Richmond River County Council and Far North Coast County Council combined to form one County Council. This was the result of a voluntary decision at the time by each County, which was endorsed by their respective constituent councils. All functions that were undertaken by, as well as the assets, rights and liabilities of, the former Richmond River County Council and Far North Coast County Council, were transferred to Rous County Council.

Rous's activities in flood mitigation remain aligned with those functions and operations transferred to it in 2016. A strategic review of the flood mitigation function is due to be completed by June 2024. In the meantime, it is recommended that Rous engage with Lismore City Council with the aim of determining an agreed approach to resolving specific known risks associated with the Lismore Levee Scheme and urban flood mitigation generally.

Why action is required

- (i) Flood mitigation operations vary across the Rous footprint (Attachment):
 - urban flood mitigation performed only for the Lismore Levee Scheme
 - rural flood mitigation performed across Ballina Shire, Lismore City and Richmond Valley local government areas
 - no flood mitigation operations provided in Byron Shire local government area.
- (ii) Lismore Levee Scheme not operated or controlled by Rous and no formal delegation of Rous's powers and duties to Lismore City Council.
- (iii) No formal delegation of Rous's powers and duties to Ballina Shire and Richmond Valley Councils.
- (iv) Rous is not a consent authority in relation to land development and approval processes.
- (v) Grant funding policy means that grant applications are no longer required to be made by the relevant flood mitigation authority on behalf of constituent councils.
- (vi) Absence of immediate options to generate income to adequately fund flood mitigation.
- (vii) Desire to reduce and eliminate red tape.
- (viii) Community confusion about roles and responsibilities (Rous v constituent councils v State Government agencies).

What action is proposed

Undertake two actions concurrently:

1. Resolve the strategic issue of Rous's future in flood mitigation by:

Action 1: Progress the planned strategic review of Flood Mitigation as per Delivery program

and

2. Take immediate steps to achieve an interim solution for urban flood mitigation (Lismore Levee Scheme), pending completion of (1) by:

Action 2: Engage with Lismore City Council to agree interim arrangements for the Lismore Levee Scheme

The detail

Action 1: Progress the planned strategic review of Flood Mitigation as per Delivery program

This activity will be led and coordinated by the Planning and Delivery Group. A scope of work is expected to be completed and a consultant appointed in the first half of 2023.

Integrated Planning and Reporting Framework				
Delivery objective				
1. Sustainable delivery				
1.2 Responding and adapting to climate change				
Ref.	Delivery objectives	Activities to get there	What is being measured	Target
1.2.2	We are prepared and able to respond to climate change impacts.	Deliver strategic review of Flood Mitigation function, incorporating data arising from 2022 flood events, and confirm Rous's role in the region.	Strategic review finalised and endorsed	By June 2024
			Rous's role confirmed.	By June 2024

Some background

Richmond River County Council was established as the exclusive flood mitigation authority for the Ballina, Lismore and Richmond Valley local government areas. Historically this meant any state funding for flood infrastructure had to be through the County Council. Over time, the practical purpose of what the flood mitigation authority was responsible for has been lost, as has the exclusivity of local government funding (i.e. the constituent councils can, and have, received flood mitigation funding directly).

In 2016, on the dissolution of Richmond River County Council, the functions and operations of that council within the local government areas of Ballina, Lismore and Richmond Valley transferred to Rous. No review of what flood mitigation activities Rous would become accountable for was considered at this time, with Rous assuming Richmond River County Council's (poorly defined) role without amendment. It is critically important for a strategic review of Rous's flood mitigation role in the region to identify the most beneficial model for service delivery to ensure effective and optimal service provision for the region. If this is Rous, then the review must deliver recommendations around what the objectives and scope of flood mitigation should be, supported by appropriate governance and operational changes that will ensure it will be able to sustainably deliver the defined objectives.

Action 2: Engage with Lismore City Council to agree interim arrangements for the Lismore Levee Scheme

This activity will be led initially by the General Manager, Phillip Rudd. While Action 1 is underway, it is necessary to ensure that interim arrangements for the Lismore Levee Scheme are in place. This includes engaging with Lismore City Council to confirm a position on the treatment of matters such as asset renewal and strategic planning. This is necessary to minimise existing and future risk and will require, among other things, consideration of:

- (i) Charging methodology and basis
- (ii) Adherence to Australian accounting standards
- (iii) Asset renewal and strategic planning
- (iv) The existing Memorandum of Understanding (MoU) between the former Richmond River County Council and Lismore City Council
- (v) Service Level Agreement
- (vi) Formal conferral and acceptance of delegation
- (vii) Disaster funding arrangements.

The target is to have an agreed position determined no later than 31 March 2023 to inform budget processes. A further report will be provided to Council's April 2023 meeting.

Some background

The construction of the Lismore Levee Scheme was approved at or around 1999. It was a government funded scheme designed to protect the central business district of Lismore against floods of a 1:10 year occurrence. The former Richmond River County Council was a stakeholder in the project at the time, largely due to a requirement by the NSW Government that grant funding be applied for and remitted only via the relevant local flood mitigation authority. That requirement has since changed whereby the involvement of the local flood mitigation authority is no longer mandatory.

Information regarding background to the Lismore Levee Scheme was provided to Council in a workshop on 14 September 2022. This included details of the MoU between the former Richmond River County Council and Lismore City Council. The MoU was signed on 30 June 2016, shortly prior to Richmond River County Council being dissolved and its functions and operations being taken up by Rous. It governs matters relating to the maintenance and operation of the Lismore Levee.

The MoU has met a need at an operational level however it was not designed to, nor does it address, important matters such as arrangements for the long term financial and asset management of the Scheme. While Rous and Lismore City Council may each hold views on this, a mutually agreed position has not been confirmed. Action 2 is designed to address the known risk, pending a long-term outcome from Action 1.

Finance

The accounting and budgeting for Rous's flood mitigation business creates significant uncertainty in the businesses long-term financial plan. There is also a question of whether the current accounting treatment meets Australian accounting standards.

It should be noted that Rous is currently undertaking a review of revenue and fee methodology across the business (including reviewing Rous's bulk water charging methodology for 2023/24 and beyond). Similarly, it is proposed that weed biosecurity charging will be reviewed in conjunction with the next Integrated Planning and Reporting Framework cycle which also coincides with the next NSW Weeds Action Program period (2025/26). Therefore, it is prudent that the charging methodology for the flood mitigation business should also be considered.

Legal

At this stage it is premature to comment on the implications from a legal perspective of Action 1 and Action 2.

Consultation

The proposed approach outlined in this report (Action 1 and Action 2) was prepared in consultation with relevant Rous staff and management. It is designed to address short and long term risk by offering an interim solution pending an outcome on the long term strategic action.

Action 1 is embodied in the Integrated Planning and Reporting Framework. The Business Activity Strategic Plan, one part of the Framework, was developed with input from constituent council councillors and management as well as Rous councillors, management and staff. Following that, the draft Integrated Planning and Reporting Framework was placed on public exhibition and submissions from the public invited. No submissions were received that resulted in changes to this aspect of Rous's delivery priorities or objectives.

Attachment: Rous Flood Mitigation service area – urban and rural