

Review of Launceston Flood Authority

6 February 2019

1.0 Background

- 1.1 The Launceston Flood Authority (“LFA”) was established by the Launceston City Council (“LCC”), on 10 September 2008, replacing and taking over the assets, liabilities, functions, duties and responsibilities of the former Upper Tamar River Improvement Authority. (also a controlling authority established by LCC).
- 1.2 The Purpose of the LFA was to perform all tasks necessary for the construction and maintenance of flood levees, to initiate and manage effective emergency management procedures and to take all necessary measures, so as to address the flood risk to the “flood risk area”, principally by providing a 1 in 200-year level of protection.
- 1.3 The LFA has enjoyed considerable Grant Funding from the Commonwealth and State Governments, to achieve its objectives.
- 1.4 The funding was secured through a Funding Deed with the State Government and LCC in 13 June 2007 for the sum of \$26 million, subject to the LCC committing \$13 million to the project. A budget of \$39 million was primarily for the infrastructure works to mitigate the damage caused from floods, including a levee system, to be built over 6 years.
- 1.5 The eventual cost of the completed works amounted to \$56.1 million, funded by the \$39 million mentioned above, plus a further \$13.5 million in a June 2011 funding commitment, and other funds provided by LCC, grants, and interest earned. The additional funds also allowed dredging of the upper reaches of the Tamar River.
- 1.6 The funding Deed required the LCC to establish the LFA, as a Single Controlling Authority of the LCC under the provisions of the Local Government Act (1993) and to be responsible for design, construction and maintenance of the Invermay flood levee and maintenance of all publicly owned flood levees in the Launceston Flood Protection Scheme, and other functions including emergency management procedures.
- 1.7 The assets created and acquired by the LFA, have been done so on behalf of LCC, and are not included in the Financial Statements of the LFA.
- 1.8 During the 2016/17 year, the Launceston Flood Risk Management Project was completed with a formal sign off, confirming the levee construction was as designed, and the LFA was now to focus on ongoing raking of the upper reaches of the Tamar River and maintenance and reporting on the levee system.

- 1.9 The ongoing funding to the LFA has been secured by the Crown Funding Deed of \$150,000 per year, indexed from June 2008, plus a further \$250,000 per year towards the cost of dredging, indexed from 2006.

2.0 Purpose of Review

- 2.1 The main purpose of the LFA to build the integrated levee system and an overall flood mitigation strategy has now been achieved.
- 2.2 As the LFA is a Single Controlling Authority of the LCC, and it is at the discretion of the LCC to review, amend or even wind-up the LFA.
- 2.3 The LCC has commissioned this review to investigate the future role and function, and governance framework of the LFA.

3.0 Role of Launceston Flood Authority

- 3.1 The LFA has enjoyed a significant public profile, capturing the attention of state and federal governments, to assist the LCC deal with its significant flood risk.
- 3.2 The establishment of the LFA and its previous structure allowed a single purpose focus to carry out schemes, works and undertakings, and exercise the powers of Council, conferred upon it.
- 3.3 The necessary resources have been utilized to deliver the works intended for the LFA.
- 3.4 The public role and focus of the LFA has diminished, now that works are complete.

4.0 Rules of Launceston Flood Authority

- 4.1 In establishing the LFA, LCC had to develop and adopt Rules that guide the governance and operations of the LFA, with respect to powers and functions, directors and meetings of directors, and accountability frameworks.
- 4.2 The Rules of the LFA, while timeless in intent, anticipated the considerable capital project that has now been delivered.

5.0 Governance Structure

- 5.1 The rules provide for 5 Directors, to be appointed by LCC, with the makeup to be as follows:
1. Mayor of Launceston,
 2. General Manager of the LCC,
 3. an independent expert in flood mitigations and levee construction, and
 4. the remaining 2 to be residents with knowledge and competence in the field of activity being undertaken by the LFA.
- 5.2 Terms and appointments of Directors and the Chair are determined by LCC.
- 5.3 The Rules empower the LFA to appoint a Chief Executive, and other staff, as determined necessary.

6.0 Roles and Responsibilities LCC and LFA

- 6.1 The LCC has wide statutory powers, under the Local Government Act, to provide for the health, safety and welfare of the Launceston Municipal Area, to represent and promote the interest of the community and to provide for the peace, order and good government of the municipal area.
- 6.2 The LCC may do anything necessary or convenient to perform its functions.
- 6.3 The Local Government Act empowers the Aldermen of a council collectively have the following functions, (section 28) :
- (a) to develop and monitor the implementation of strategic plans and budgets;
 - (b) to determine and monitor the application of policies, plans and programs for –
 - (i) the efficient and effective provision of services and facilities; and
 - (ii) the efficient and effective management of assets; and
 - (iii) the fair and equitable treatment of employees of the council;
 - (c) to facilitate and encourage the planning and development of the municipal area in the best interests of the community;
 - (d) to appoint and monitor the performance of the general manager;
 - (e) to determine and review the council's resource allocation and expenditure activities;
 - (f) to monitor the manner in which services are provided by the council.
- 6.4 The purpose and functions of the LFA are covered under existing LCC roles and functions.
- 6.5 The LCC can establish Controlling Authorities such as the LFA to do specific tasks
- 6.6 Emergency Management is usually part of the LCC role and Responsibility and the Emergency Management Act 2006, confers powers and functions across a number of authorities.
- 6.7 The LFA does not have sole purpose in any emergency event, and any such events are usually managed the staff of the LCC.

- 6.8 The LCC is the most resourced authority to deal with any flood event, and the LFA role is minimal, in an operation sense.
- 6.9 The LFA is intended to have an Independent voice on matters associated with its role and function

7.0 Discussion

- 7.1 The LFA was an appropriate authority to deal with the major Levee system and Flood Risk Management Project, having obtained qualified opinions and plans to mitigate the flood risk.
- 7.2 A casual observation of the governance arrangements for the LFA indicates the for all intents and purposes, the LFA has become a Committee of Council. This observation is made from the following points.
 - 7.2.1 The Mayor and General Manager (or his delegate) are Board members of the LFA
 - 7.2.2 The Works and Maintenance of the LFA are delegated to senior officers of the LCC
 - 7.2.3 Senior Officers of LCC have prime responsibility of the Infrastructure Assets of the Municipal Area, including those overseen by the LFA.
 - 7.2.4 There is nothing that the LFA initiates that does not require full consideration by LCC.
- 7.3 The LFA has had a significant role in the past in retaining specialist advice around the flood issues and protection systems for the Launceston Flood Area. The procurement of this independent advice and the independent Chair, has given some validity to the success of the LFA.
- 7.4 The inclusion of the Mayor, as a Board member, has been particularly important, from a political perspective, given the public interest in the flood issue, and his role as spokesperson for Council. The community do not generally understand differing roles.
- 7.5 Now that the \$56.1 million infrastructure has been built and the Launceston Flood Risk Management Project completed, the current LFA Structure appears to be an overreach for the role and function going forward. The care and maintenance role fits within the normal role of Council Officers.
- 7.5 The LFA has a Statutory position in the Launceston Flood Risk Management Act 2015. (“LFRMA”). Many of the powers conferred by the LFRMA to the LFA are usual LCC responsibilities, resulting in the possibility of duplication of effort.
- 7.6 There is a need for a new model to simplify the purpose and function going forward

7.7 In my view, the existing LFA structure has the following issues:

7.7.1 The LFA is now doing the work usual for a Council, (care and maintaining assets)

7.7.2 LFA has become an administrative Authority with capacity to compete to do the routine work of Council, (maintaining assets, including raking of the upper Tamar River)

7.7.3 The existing LFA and the LFRMA can create conflicts of interest for the LCC Senior Officers. The Senior Officers of Council usually take directions from the General Manager of LCC. The LFA can create some confusion over accountabilities. ("Whose directions do the officers respond to, when they are in conflict, or priorities differ.")

7.7.4 In its current structure, the LFA has become a relatively expensive operating model for the limited oversight work envisaged going forward

7.7.5 Duplication of resource and effort is no longer appropriate for the wise use of limited resources, including Board meetings, production of Annual Reports, annual audits, etc.

7.7.6 All of the capital infrastructure obligations to the State and Federal Governments have been completed in accordance with the Funding Deeds.

7.7.7 The need and wisdom in having the Mayor of LCC, as a Board member, is no longer deemed necessary. He can still undertake his 'spokesperson' role as Mayor of LCC.

In looking at a future role for the LFA:

7.7.7 The LFA has the capacity to provide High Level Independent Monitoring the effectiveness of the levee system and the Flood Risk Mitigation Project, including the dredging (raking) works.

7.7.8 The LFA has a role in providing an Advisory role in assisting the LCC Senior Officer's usual function around flood protection and mitigation in protecting the city's interest.

8.0 Recommendations

In reviewing the LFA Rules, Annual Reports, Rules and Funding Deeds, and in consideration of best practice operation, I make the following Recommendations:

8.1 That the Launceston Flood Authority be retained

8.2 Purpose

8.2.1 That the Purpose of the LFA be reviewed to limit its role to:

“To Perform an Independent High Level Monitoring of the strategies and assets deployed to minimize flood impact in the Flood Risk Area of Launceston, including the ongoing dredging (raking) of the upper reaches of the Tamar River.”

8.3 Functions

8.3.1 That the Functions of the LFA be reviewed to limit its functions to:

“Ensuring annual dredging works are completed satisfactorily and determining appropriate measures to assess the ongoing effectiveness of existing levees in Launceston, including the levee maintenance plans the ongoing effectiveness of river dredging plans, and to take appropriate action to procure independent advice, having regard to efficiency of existing levees and other circumstances to repair and maintain levees and levee banks.”

8.4 Governance Structure

8.4.1 That the Governance Structure of the LFA be reviewed to include the following:

8.4.2 The number of Directors be a minimum of 3, consisting of

- General Manager of LCC, or his delegate,
- Two External Members who have the skill sets to carry out the functions of the revised LFA, one of which is elected Chair:
 - One as a High Level Technical Infrastructure Asset Director, and
 - the other as High Level Risk Management/Community Director,
- Other Directors to be considered, from time to time

8.4.3 That all Work required to be undertaken for the Directors, to carry out their role, is undertaken by qualified officers, at arm's length to Council.

8.5 Rule Changes

8.5.1 That the Rules of LFA be substantially reviewed to reflect the above recommendations, including a reduction in Board meetings to no more than 3 or four per year.

8.6 Ministerial Consent

8.6.1 That Ministerial Consent be sought to make the necessary changes to the Rules of the LFA and the Launceston Flood Risk Management Act 2015, to reflect the proposed changes.



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6 February 2019