

# DISASTER MANAGEMENT AMENDMENT BILL 2014

## Explanatory Notes

### Short title

The short title of the Bill is the Disaster Management Amendment Bill 2014 (the Bill).

### Policy objectives and the reasons for them

Disaster management in this State is governed through disaster management groups and committees. The *Disaster Management Act 2003* establishes disaster management groups and outlines their planning requirements at the local, district and State level. At the State level, the Act creates the State Disaster Management Group (SDMG) which is responsible for a range of high-level disaster management functions.

Committees involved in disaster management may range from Cabinet committees, such as the Disaster Management Cabinet Committee (DMCC), to committees that assist a local disaster management group. In particular, the DMCC was formed after the 2011 south-east Queensland floods to provide high-level governance of Queensland's disaster management arrangements.

During 2014, a disaster management advisory group, chaired by the Department of the Premier and Cabinet examined the governance of disaster management in Queensland. The disaster management advisory group specifically focussed on the interplay of the SDMG with the DMCC.

The disaster management advisory group found that improvements to disaster management governance would be achieved by creating a new Cabinet committee called the Queensland Disaster Management Committee (QDMC). The QDMC will replace the DMCC and SDMG and formally allow direct Ministerial participation in the strategic management of disaster events.

Formation of the QDMC will simplify Queensland's disaster management structure by reducing one layer of governance and allow a direct line of communication between the QDMC and the State Disaster Coordinator and State Recovery Coordinator. This would result in faster and better-informed decision-making during a disaster event.

### Achievement of policy objectives

The objective of creating the QDMC will be met by merging the SDMG with the DMCC. The QDMC will be chaired by the Premier and the Minister for Local Government, Community, Recovery and Resilience is nominated as the deputy chairperson. The QDMC will be comprised of a core group of Ministers who will be supported by their Directors-General. The Bill allows additional Ministers, CEOs and external parties to be invited to the QDMC as required, at the discretion of the Chairperson of the QDMC.

The Bill outlines the proposed membership of the QDMC as follows:

<b>Queensland Disaster Management Committee</b>	
<b>Standing Members (Ministers)</b>	
1.	Premier (Chairperson)
2.	Minister for Local Government, Community Recovery and Resilience (Deputy Chairperson)
3.	Deputy Premier and Minister for State Development, Infrastructure and Planning
4.	Treasurer and Minister for Trade
5.	Minister for Police, Fire and Emergency Services
6.	Minister for Housing and Public Works
7.	Minister for Transport and Main Roads
8.	Minister for Communities, Child Safety and Disability Services
<b>Officials (D-Gs/CEOs)</b>	
9.	Department of the Premier and Cabinet
10.	Department of Local Government, Community Recovery and Resilience
11.	Department of State Development, Infrastructure and Planning
12.	Queensland Treasury and Trade
13.	Queensland Police Service
14.	Queensland Fire and Emergency Services
15.	Public Safety Business Agency
16.	Department of Housing and Public Works
17.	Department of Transport and Main Roads
18.	Department of Communities, Child Safety and Disability Services
<b>Standing Observer</b>	
19.	Inspector General of Emergency Management
<b>Examples of Invitees that may join the QDMC upon invitation by the Chair</b>	
•	Minister for Health
•	Chief Health Officer
•	Minister for Environment and Heritage Protection
•	Director-General of Department of Environment and Heritage Protection
•	Minister for Agriculture, Fisheries and Forestry
•	Director-General of Department of Agriculture, Fisheries and Forestry
<b>Examples of External Representatives that may join the QDMC upon invitation by the Chair</b>	
•	Australian Defence Force
•	Australian Red Cross
•	Bureau of Meteorology
•	Local Government Association of Queensland
•	Surf Life Saving Queensland
<b>Examples of Observers that may join the QDMC upon invitation by the Chair</b>	
•	State Disaster Coordinator, State Recovery Coordinator

The Bill permits the chairperson of the QDMC to invite a person to join the QDMC subject to certain conditions. For example, the State Disaster Coordinator or State Recovery Coordinator may be invited to join the QDMC but only in the capacity as an observer.

The Bill further enhances the efficiency of disaster management governance by allowing the membership, meeting requirements and appointments of chairpersons of the QDMC to be prescribed by regulation. This allows for amendments to be more

easily made in response to Machinery of Government changes or to changes in Government and community expectations.

For consistency, the Bill makes amendments to provisions relating to district and local disaster management groups so that the membership, meeting requirements and appointments of chairpersons of these groups can be similarly prescribed by regulation. Aside from these changes, these amendments do not impact upon the operation of district and local disaster management groups.

## **Alternative ways of achieving policy objectives**

There are no other alternatives that would achieve the policy objectives other than through legislative reform.

## **Estimated cost for government implementation**

All costs associated with the implementation of these amendments will be met through existing budgets. There are no anticipated additional costs to the State Government.

## **Consistency with fundamental legislative principles**

The Bill has been drafted with due regard to the fundamental legislative principles as outlined in the *Legislative Standards Act 1992* (the LSA). Section 4(2) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

### ***Whether the legislation has sufficient regard to the institution of Parliament- s 4(2)(b) LSA***

It may be argued that prescribing the membership, meeting requirements and appointments of chairpersons of disaster management groups by regulation is a breach of a fundamental legislative principle as it does not give due regard to the institution of Parliament. These concerns are mitigated, as the DMA will continue to outline the functions that the disaster management groups must perform. This ensures the disaster management groups will remain obligated to perform their functions regardless of the constitution of the groups.

## **Consultation**

Consultation has occurred with the following government departments and agencies:

- the Department of the Premier and Cabinet;
- Queensland Treasury and Trade;
- the Queensland Police Service;
- Queensland Fire and Emergency Services;
- the Office of the Inspector-General of Emergency Management;
- the Department of Communities, Child Safety and Disability Services;
- the Department of Local Government, Community Recovery and Resilience;
- the Public Safety Business Agency;
- the Department of National Parks, Recreation, Sport and Racing;
- the Department of Environment and Heritage Protection;
- the Department of Agriculture, Fisheries and Forestry;
- the Public Service Commission;
- the Department of Housing and Public Works;

- the Department of Transport and Main Roads;
- the Department of State Development, Infrastructure and Planning;
- the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs;
- the Department of Energy and Water Supply;
- the Department of Health;
- the Department of Tourism, Major Events, Small Business and the Commonwealth Games;
- the Department of Education, Training and Employment;
- the Department of Science, Information Technology, Innovation and the Arts;
- the Department of Natural Resources and Mines;
- the Department of Justice and Attorney-General; and
- the Department of Transport and Main Roads.

## **Consistency with legislation of other jurisdictions**

The Bill provides legislative reform to the governance of disaster management in this State and is consequently unique to Queensland. The Bill does not introduce uniform or complementary legislation.

## **Notes on provisions**

### **Part 1 Preliminary**

#### **1 Short title**

Clause 1 provides that when enacted the Bill will be called the *Disaster Management Amendment Act 2014*.

### **Part 2 Amendment of the Disaster Management Act 2003**

#### **2 Act amended**

Clause 2 outlines that this part amends the *Disaster Management Act 2003*.

#### **3 Replacement of pt 2, div 1, hdg (State Disaster Management Group)**

Clause 3 replaces the heading of part 2 division 1 to read 'Queensland Disaster Management Committee'.

#### **4 Replacement of s 17 (Establishment)**

This clause omits reference to the State Disaster Management Group and instead establishes the Queensland Disaster Management Committee which will be tasked with performing functions previously undertaken by the State Disaster Management Group.

This clause also allows the Queensland Disaster Management Committee to be referred to as 'the State group'.

## **5 Amendment of s 18 (Functions)**

Clause 5 removes the obligation of the State group to provide reports and recommendations to the Minister for Police, Fire and Emergency Services. The Minister is a member of the Queensland Disaster Management Committee and therefore, the State group will provide reports and make recommendations as it considers appropriate.

## **6 Replacement of ss 19 and 20**

Clause 6 outlines that the membership of the State group may consist of:

- persons prescribed by regulation to be members of the State group;
- persons invited by the chairperson of the State group to be members of the group;
- persons prescribed to assist the members of the group to carry out their functions; and
- other persons invited by the Chair to assist the members of the group to carry out their functions.

When inviting a person to be a member of the State group or to assist members of the State group, the Chairperson may make the invitation subject to conditions. For example, the Chairperson may invite a person to be a member only for the period of a specific disaster event.

Allowing the membership of and persons assisting the State group to be prescribed by regulation allows for more ready amendment in the case of Machinery of Government changes in the future.

The clause also outlines that there will be a chairperson and deputy chairperson of the State group. The regulation will prescribe the identity of the members of the State group who will be chairperson and deputy chairperson respectively.

In periods where the chairperson is absent, the chairperson may appoint an acting chairperson. If no acting chairperson is appointed, the deputy chairperson will act in the position of chairperson.

## **7 Amendment of s 21B (State disaster coordinator)**

This clause removes the discretion of the chairperson of the State group to appoint a State disaster coordinator. The amendment ensures that a State disaster coordinator must be appointed at all times. The clause does not amend the class of persons who may be appointed.

This clause obligates the chairperson of the State group to appoint a State disaster coordinator. Consequently, the obligation to notify chairpersons of each relevant district group and each relevant local disaster coordinator of the appointment, or the termination of the appointment, of the State disaster coordinator becomes superfluous. This clause omits these redundant obligations.

## **8 Amendment of s 21D (State recovery coordinator)**

Clause 8 removes the requirement for the chairperson of the State group to consult with the chief executive and the commissioner of the police service prior to appointing a State recovery coordinator. However, the chairperson must be satisfied that it is necessary to appoint a State recovery coordinator and that the person performing this function has the necessary experience or expertise.

Similarly, the chairperson will no longer be required to consult with the chief executive prior to terminating the appointment of a State recovery coordinator if the chairperson is satisfied it is no longer necessary for the State recovery coordinator to be appointed.

## **9 Replacement of ss 24 and 25**

Clause 9 amends section 24 of the *Disaster Management Act 2003* to allow the membership of district disaster groups to be prescribed by regulation.

The clause also amends section 25 of the *Disaster Management Act 2003* to allow the chairperson and deputy chairperson of district disaster groups to be prescribed by regulation.

## **10 Replacement of ss 28B and 28C**

This clause amends section 28B of the *Disaster Management Act 2003* to allow the membership of temporary district disaster groups to be prescribed by regulation.

The clause also amends section 28C of the *Disaster Management Act 2003* to allow the chairperson and deputy chairperson of temporary district disaster groups to be prescribed by regulation.

## **11 Replacement of ss 33 and 34**

Clause 11 amends section 33 of the *Disaster Management Act 2003* to allow the membership of local disaster groups to be prescribed by regulation.

The clause also amends section 34 of the *Disaster Management Act 2003* to allow the chairperson and deputy chairperson of local disaster groups to be prescribed by regulation.

## **12 Amendment of s 37 (Notice about membership of local group)**

Clause 12 is a minor technical amendment to section 37 of the *Disaster Management Act 2003* to clarify that a relevant local government for a local group must give written notice of the members of that local group to the chief executive and to the chairperson of the district group in which the local group is situated.

## **13 Replacement of ss 38-43**

Clause 13 omits sections 38 to 43 inclusive of the *Disaster Management Act 2003*, which deal with the conduct of business and meetings of disaster management

groups. The clause inserts a new section 38 to allow the conduct of business and meetings of disaster management groups to be prescribed by regulation.

#### **14 Amendment of s 44 (Annual report)**

Clause 14 removes the requirement on the State group to provide an annual report to the Minister. Instead, this clause imposes a requirement that the State Group must publish the report on an appropriate website accessible to the public.

Section 44 also outlines the required information to be contained in the annual report. This clause replaces the obligation of the State group to include information in the report that the Minister considers appropriate and, instead, imposes an obligation to include information about disaster management the State group considers appropriate.

#### **15 Omission of s 45 (Minister may give directions)**

Clause 15 omits the ability of the Minister to give the State group written directions about the performance of its functions as the Minister is a member of the Queensland Disaster Management Committee.

#### **16 Amendment of s 48 (Committees)**

Section 48 of the *Disaster Management Act 2003* allows the Minister to establish committees to perform the functions outlined in the section and to appoint persons to those committees. This clause extends the ability to establish committees and to appoint persons onto those committees to the Chairperson of the State group.

#### **17 Amendment of s 143 (Delegations)**

Clause 17 makes a minor technical amendment to remove a reference to section 45(1) of the *Disaster Management Act 2003* from section 143 of the *Disaster Management Act 2003*. This amendment is a consequence of clause 15 of the Bill which omits section 45 of the *Disaster Management Act 2003*.

#### **18 Replacement of pt 14, div 2, sdiv 4, hdg (Transitional provisions for Disaster Management and Other Legislation Amendment Act 2010)**

This clause amends the heading of part 14, division 2, subdivision 4 of the *Disaster Management Act 2003* to reflect the insertion of transitional provisions resulting from amendments contained in this Bill. The current transitional provisions contained between section 166 and section 173 inclusive, relate to amendments made in 2010 to the *Disaster Management Act 2003*.

The clause restructures the current transitional provisions from being contained within subdivision 4 of division 2; to being contained within a new division 3, subdivision 1 of part 14 of the *Disaster Management Act 2003*. This will allow transitional provisions related to this Bill to be included as part 14, division 3, subdivision 2.

**19 Amendment of s 166 (Definitions for sdiv 4)**

This clause amends the heading of section 166 of the *Disaster Management Act 2003* to reflect the restructuring of the division referred to in the explanatory notes to clause 18.

**20 Insertion of new pt 14, div 3, sdiv 2**

This clause inserts transitional provisions into the *Disaster Management Act 2003* as a consequence of the amendments in this Bill. These provisions will be contained within part 14, division 3, subdivision 2. The clause inserts definitions relevant to the transitional provisions contained within subdivision 2.

This clause has the effect of dissolving the State Disaster Management Group (the former State group) upon commencement of the provisions. The State Disaster Management Group is replaced by the Queensland Disaster Management Committee (the current State group) in clause 4. Any references to the former State group in other Acts or documents will be taken to be a reference to the current State group, if the context permits.

The clause also outlines that the State disaster management plan, prepared by the former State group, is taken to have been prepared by the current State group for the purposes of section 49 of the *Disaster Management Act 2003*. This provision will ensure a seamless transition from the former State group to the current State group and allow the State disaster management plan to continue in operation.

Further, the clause outlines that the appointment of a person to the position of State disaster coordinator or State recovery coordinator immediately before the commencement of the provisions, will continue as if the appointment were made under the amended provisions of this Bill. This clause ensures the appointment of a State disaster or recovery coordinator is not affected by the Bill.

Similarly, the membership of district, temporary district or local disaster groups and the appointments of respective chairpersons and deputy chairpersons immediately before the commencement of the provisions, continue unaffected by these amendments.

**21 Amendment of schedule (Dictionary)**

This clause replaces the current definition of *chairperson* to reflect that a chairperson of a respective disaster management group will be appointed by regulation.

**Part 3 Other matters****22 Making of *Disaster Management Regulation 2014***

This clause provides that, upon commencement of the Bill, schedule 1 will establish the *Disaster Management Regulation 2014*.



**23 Automatic repeal**

This clause is a technical clause which outlines that for the purposes of section 22C of the *Acts Interpretation Act 1954*, this Bill will be an amending Act upon passage.

**Schedule 1 Disaster Management Regulation 2014**

**Part 1 Preliminary**

**1 Short title**

This clause outlines that the regulation upon commencement will be known as the *Disaster Management Regulation 2014*.

**Part 2 Disaster management groups – membership and other matters**

**2 Members of State group—Act, s 19**

This clause prescribes that the members of the State group include the Premier and the Ministers administering the Acts outlined in this clause.

**3 Persons to assist or carry out other activities relating to the State group—Act, s 19A**

This clause prescribes the persons who are to assist the State group in carrying out the functions of the State group.

The clause also establishes the Inspector-General of Emergency Management as an observer of the State group.

**4 Chairperson and deputy chairperson of the State group—Act, s 20**

This clause prescribes the Premier as the chairperson of the State group and the Minister administering the *Local Government Act 2009* as the deputy chair of the State group.

**5 Membership of district groups—Act, s 24**

This clause prescribes the membership of district groups. This clause does not change the composition of district groups that was previously outlined in section 24 of the *Disaster Management Act 2003*.

**6 Chairperson and deputy chairperson of district groups—Act, s 25**

This clause prescribes that the chairperson and deputy chairperson of a district group are appointed by the commissioner of the police service. This clause does not change the process by which these persons are appointed as previously outlined in section 25

of the *Disaster Management Act 2003*. However, minor amendments are made to comply with modern drafting practices.

**7 Membership of temporary district groups—Act, s 28B**

This clause prescribes the membership of temporary district groups which were previously provided under section 28B of the *Disaster Management Act 2003*. This clause does not change the current composition of temporary district groups.

**8 Chairperson and deputy chairperson of temporary district groups—Act, s 28C**

This clause prescribes that the chairperson and deputy chairperson of a temporary district group are appointed by the chairperson of the State group. The chairperson must consult with the commissioner of the police service prior to making the appointment and be satisfied the person has the necessary expertise or experience to perform the role.

This clause does not change the process by which these persons are appointed as previously outlined in section 28C of the *Disaster Management Act 2003*. However, minor amendments are made to comply with modern drafting practices.

**9 Membership of local groups—Act, s 33**

This clause prescribes the membership of local groups which were previously provided under section 33 of the *Disaster Management Act 2003*. This clause does not change the current composition of local groups.

**10 Chairperson and deputy chairperson of local groups—Act, s 34**

This clause prescribes that the chairperson and deputy chairperson of a local group are appointed by the relevant local government and that the chairperson must be a councillor of a local government

This clause does not change the process by which these persons are appointed as previously outlined in section 34 of the *Disaster Management Act 2003*. However, minor amendments are made to comply with modern drafting practices.

*A relevant local government* is defined in the schedule to the *Disaster Management Act 2003* as the local government, or combined local government that establishes the group under section 29 of that Act.

## **Part 3 Business and meetings of disaster management groups**

### **11 Purpose of pt 3**

This clause outlines that part 3 of the schedule prescribes the way a disaster management group must conduct the group's business and meetings, for the purposes of section 38 of the *Disaster Management Act 2003*.

### **12 Times and places of meetings**

This clause prescribes the times and places and other requirements for disaster management group meetings. This requirement was previously located in section 39 of the *Disaster Management Act 2003*.

This clause makes a minor technical amendment to clarify that a chairperson of a local group must call a meeting if asked to do so by the chairperson of the district group for the disaster district in which the local group is situated.

### **13 Quorum**

This clause prescribes the quorum requirements for disaster management group meetings which were previously located in section 40 of the *Disaster Management Act 2003*.

### **14 Meeting deputies for particular members**

This clause outlines that a member of a disaster management group may, with the approval of the chairperson of the group, appoint another person to be their meeting deputy, or proxy. The approval of the chairperson is required prior to appointing a meeting deputy.

This requirement was previously provided for in section 40A of the *Disaster Management Act 2003*.

### **15 Deputies for officials of State group**

This clause allows persons assisting the State group under the new section 19A of the *Disaster Management Act 2003* contained in clause 6 of the Bill, to appoint meeting deputies or proxies to attend meetings of the State group. The approval of the chairperson of the State group is required prior to a meeting deputy being appointed.

For the purposes of this section, the term 'official of the State group' means a person prescribed under clause 3 of the schedule to this Bill or a person invited by the chairperson of the State group under clause 6 of the Bill.

### **16 Presiding at meetings**

This clause outlines who is to preside at meetings of disaster management groups as previously outlined in section 41 of the *Disaster Management Act 2003*.

**17 Conduct of meetings**

This clause prescribes the manner in which meetings of disaster management groups may be held as previously outlined in section 42 of the *Disaster Management Act 2003*.

**18 Minutes**

Clause 18 obliges a disaster management group to keep minutes of its meetings as previously outlined in section 43 of the *Disaster Management Act 2003*.