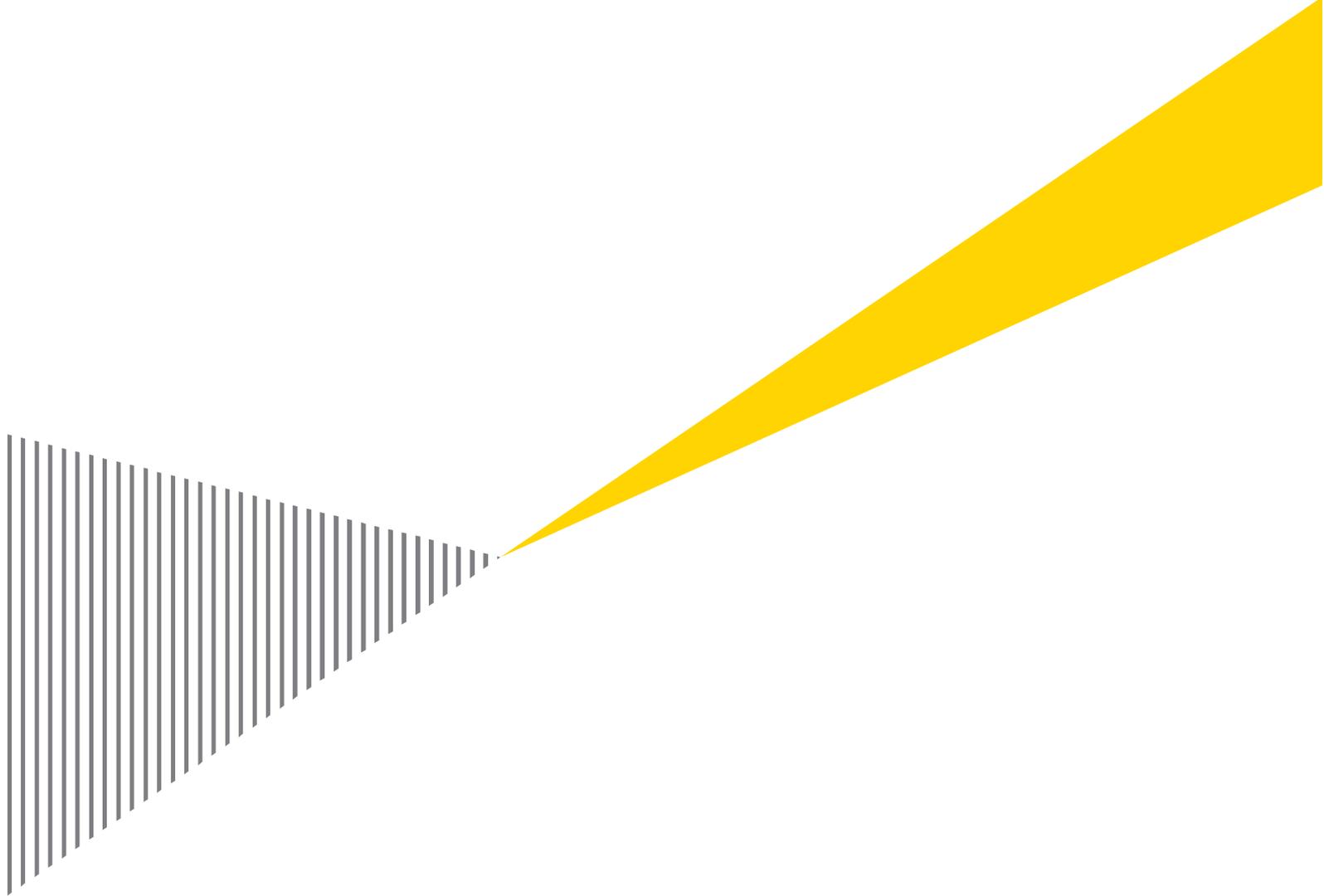


# Steps to recovery

## Queensland flood crisis

19 January 2011



## Immediate considerations

### Business interruption

You may have experienced operational outages, IT interruptions as well as disruption to your manufacturing and processing operations. You will have, or be in the process of, obtaining full functionality in these areas.

It is important to notify your insurers that there is a claim at an early stage, but do not be in a hurry to finalise the claim as there may be more damage than you think.

A disaster recovery plan is helpful, if you have one, in putting your contingency plans in place, for example diverting manufacturing or processing to another site or to a reciprocal organisation.

There may be some disruption to your back office processes and accounting system backlogs may accumulate. These processes could be temporarily outsourced or additional resource used to support existing staff.

### Insurance claims: there are specific flood issues

There are special issues to consider where a loss arises as a result of a flood. At Ernst & Young we have a dedicated insurance claims services practice that assists clients with the preparation, presentation and resolution of complex property damage, business interruption and extra expense insurance claims. For further information please contact [paul.fontanot@au.ey.com](mailto:paul.fontanot@au.ey.com).

## Steps to recovery

We understand some of the challenges and issues that you are facing, not only personally but also with your business.

Once the initial shock and trauma associated with the floods has passed and the physical well-being of yourselves, family, friends and work colleagues established, there are likely to be many matters for you to attend to. The following is not an exhaustive list, but does provide guidance on some of the business issues that you may be dealing with right now.

We trust you will find this document helpful. If you do have any questions, please speak to one of the leaders listed on the last page of this document or your usual Ernst & Young contact.

**Jenny Parker**  
Queensland Managing Partner

## My business has flooded - what should I do?

Contact your insurer as soon as possible and let them know that you've incurred damage and that you might lodge a claim. You should allow the insurer or their agents (loss adjusters) access to inspect the damage as soon as possible, preferably before it is cleaned up or repaired.

You have continuing obligations under occupational health and safety laws to ensure the safety of any flood-affected workplace, so take appropriate measures to cordon affected areas (bearing in mind gas and electricity hazards).

Your key priorities should be:

- Restoring your business to normal operations
- Securing cash-flow to sustain your business during shut-down
- Recording details of the damage you've incurred, including costs of recovery and loss of sales, revenue and production

## Notifying your insurer of a claim

Put your insurer on notice of the damage as soon as possible; even if you don't end up lodging a claim, or if there is a delay in quantifying your claim.

You should ask your insurer to waive any requirement that the finalised claim be lodged within an allotted period of time, as claims with business interruption elements can be complicated and quantum figures often can't be finalised for a number of months.

## Restoring normal operations

One of your first priorities will be to focus on restoring your business to normal operations - it's in everyone's interests.

The insurer can be a good source of advice in the first instance about what is covered under the policy and recovery strategies, but we recommend that clients obtain their own independent advice in assisting with the claims process, as the insurer will be concerned with minimising the cost of your claim.

A common error that businesses make is to repair damage before the insurer can inspect it, or failing to keep adequate documentation of the damage they've incurred and the costs to restore the business to normal operations. Make sure you keep memos, photographs and invoices. Set up new codes in your chart of accounts to record idle time and lost sales.

Businesses will need to consider a variety of factors in the post-loss environment, which may include any of the items on the following, not exhaustive list:

- ▶ How to maintain supply of inventory, raw materials and utilities
- ▶ What to do with staff
- ▶ Safety of your premises for staff and the public, including safety of equipment and electrocution hazard
- ▶ Retaining customers/market share and keeping your existing contractual commitments
- ▶ Securing cash flow to fund repairs, salaries and rent during the shutdown period
- ▶ Securing alternative premises while the old one is repaired
- ▶ Security of your premises
- ▶ Cleaning
- ▶ Expert advice, such as lawyers, accountants, engineers and builders
- ▶ Recovery of hard copy and electronic accounting records

## What kind of assistance are the State and Commonwealth Governments offering?

You should monitor State and Commonwealth Government websites regarding what disaster relief assistance they will offer to flood victims. Presently, the following assistance has been offered which may be of little comfort to large, listed companies:

- Relief payments for individuals and families affected by floods
- Small business grants and loans
- Primary producer grants, loans, freight subsidies and fodder

- Grants to local councils for rebuilding important infrastructure, like roads, schools and hospitals

We have included a summary at the back of this sheet, but do not expect them to be particularly relevant to our clients.

## Staff

The Fair Work Act 2009 provides the framework for all workplace relations in Australia. Under the Act, if your business has been affected by flooding, you may be able to change employment arrangements, including standing down staff.

Fair Work Australia (<http://www.fairwork.gov.au/media-centre/latest-news/pages/20110105-Has-your-work-been-affected-by-floods-or-other-natural-disasters.aspx>) has information to assist flood-affected employers, including:

- provisions for standing down employees
- entitlements for employees taking leave to support other family members
- community service leave eligibility

Business interruption insurance policies may cover a portion of the cost of paying salaried staff during any shutdown period.

Before you stand down your staff, consider the long-term effects on your business, including the consequences for after you have returned to normal operations.

## Is flood damage covered by insurance?

Different policies may use different definitions of the term “flood”.

You should review your insurance policies and consult with your insurer, as some policies specifically exclude flood damage. You should obtain independent legal advice, if necessary.

## What costs will my insurance policy cover?

Every business will have its customised insurance arrangements; although there are many similarities, each insurance policy will be different. The client should check with their broker or insurer regarding what losses are covered and in what amount.

Losses that may be covered under a typical Industrial Special Risks policy might include:

- ▶ Property damage repair/replacement (usually restored to the condition/specifications of the asset prior to the floods, rather than an improved, latest technology model)

- ▶ Business interruption, on either production form/gross earnings or gross profits methods (some allow the insured a choice). Wages/salaries may fall within this category
- ▶ The additional costs of restoring the business to normal operations

## Interim Payments

Businesses can be hit hard by disasters - they not only lose revenue, but they also have to fund the cost of repairs. Management should prioritise securing cash-flow during the post-disaster period, including negotiating an interim payment from the insurer.

Property damage insurance claims are usually simpler to resolve than business interruption claims and represent the best opportunity to obtain funds from the insurer promptly. Clients should **not** wait until their business interruption claim is ready before lodging their property damage claim.

A well-prepared claim that includes all of the right documentation, in an easy-to-read format that accords with the policy and common insurance industry practice will speed the claims process and facilitate early settlement of claims.

## Mitigating your loss

Clients will have a duty under the policy to mitigate their losses; that may include using their own salaried staff to undertake repairs and restore normal operations. Generally, insurers will not directly reimburse the insured for the cost of using salaried staff, unless those staff have been diverted from productive (revenue generating) pursuits or have been paid to work overtime.

An insurer will generally pay additional costs incurred to restore the business to normal operations, but not if those additional costs are more expensive than leaving the business shutdown.

## Preparing a Claim

You can never capture too much information about your claim. Each loss is different, but you typically need documentation detailing:

- ▶ What damage has occurred
- ▶ How the damage has affected your business
- ▶ What measures you've taken to mitigate your loss and restore your business to normal operations
- ▶ The costs of repairs and additional costs of restoring your business to normal
- ▶ Lost sales and lost revenue
- ▶ Lost production

- ▶ Changes in inventory
- ▶ Written estimates and purchase order for property repairs
- ▶ Invoices for property repairs
- ▶ Lease contracts for equipment, buildings or property
- ▶ Historical production, inventory and sales information
- ▶ Forecasted production, inventory and sales information
- ▶ Financial documentation like Profit & Loss statements, etc
- ▶ Staff idle time
- ▶ Over time wages/ salaries paid to staff

During the adjustment of a claim, insurance adjuster's will often request vast amounts of data and information from a claimant. To the extent that this information is pertinent to the claim then it should be provided. Before this information is provided however, an insured would be well advised to understand why the data is being requested, how it might be used, it's applicability to the loss, and how it relates to the claim being presented. The insured should also provide the data with an explanation of the proper context, so chances of the information being misinterpreted are reduced.

## **The value of independence**

Underinsurance is unfortunately all too common in Australia. Underinsurance occurs where the insurance cover you have doesn't cover the full value of the assets insured. The principle of underinsurance further penalises business owners by deeming the business to be self-insuring.

Other risks that your business face may not be covered at all.

When disaster strikes, many businesses turn to their broker for advice and claim preparation services. But that same broker may have placed the cover in the first instance and may experience a conflict of interest if your insurance recovery is less than it ought to be because the broker designed you an inadequate insurance program.

It can be particularly valuable to get independent advice from business specialists concerning some of the more subjective or discretionary elements of a claim, like valuations, trends in business profits and some heads of cover.

## **I'm an Ernst & Young audit client - can Ernst & Young assist me?**

Yes. We can assist audit clients with advice on insurance claims preparation. We'll need to consult beforehand to ensure that appropriate safeguards are in place.

## **Fee neutrality**

Many business interruption policies provide for the cost of forensic accountants to prepare your insurance claim. Review your policy to determine if the insurer will reimburse you for reasonable claims preparation costs.

## **Your operating cash flows**

### **Bank facility extensions**

Your cash flows may be materially adversely affected. You should contact your operating funding provider (e.g. your bank) in the first instance and arrange extension of existing facilities and deferment of loan repayments where possible. When making an insurance claim try to obtain payment on account from the insurer as soon as is practical.

### **Asset replacement**

You may need immediate replacement of some assets to allow your business to continue to trade. You may also have a requirement to acquire temporary assets or effect repairs pending a full assessment of your claim and or the delivery of the final solution. For significant repairs or replacement of assets, or where the assets are specialised and/or may take a time to replace, you are likely to require advice as to the best method of proceeding with this. This advice will take into account the specific requirements of your insurance policy, the condition of your business and premises and the availability of the replacement assets.

Where assets are leased then you should check the terms of your lease regarding repair and or replacement as well as the terms of your insurance policy.

### **Property**

Damage to property will require the cooperation of the landlord, tenant and local authorities where remediation is undertaken.

The required action will depend on the level of damage to the building, which may or may not allow the building to be occupied.

### **For lessors**

You will need to estimate the total impact of rental loss and associated costs (re letting fees and unrecovered operating expenses, for example) and any flow on impacts that may be claimable in relation to a changed tenancy profile. This could be a material issue as the loss won't simply result in lost rent. The flow on impact on asset value loss could be significant. Ernst & Young property valuation specialists are available to assist you with this estimation.

### **For lessees**

Our property valuation specialists can assist you with interpreting leases in terms of obligations and liabilities associated with reduced occupancy rights, and analysing the financial impact of this.

## **Retrospective and post flood valuations**

Our property valuation specialists can prepare retrospective and post flood valuations to estimate the potential value of the loss.

## **Other considerations**

There are a range of issues to consider in the medium-term. These may include:

### **Taxation**

Unfortunately tax issues will not go away because of the floods. There are a number of tax issues that businesses will need to consider as a result of the flooding. There will be GST, payroll tax and income tax issues to consider. Some examples of the issues that may arise are:

- ▶ Receipt of insurance proceeds, including business interruption, loss of profits, additional cost of working and replacement of assets
- ▶ Receipt of grants/subsidies
- ▶ Repairs and maintenance

There will be a number of other issues that will arise in specific circumstances and we recommend that you obtain the appropriate specialised tax advice to achieve a good result.

### **Financial reporting**

For those with statutory financial reporting requirements your reporting of the estimated material financial impacts of the flooding will need to be considered, including subsequent events disclosures, accounting for loss of profits claims, and accounting for impaired and replacement assets.

### **Disaster recovery planning**

Many of our clients have disaster recovery plans in place. Some of you have told us they were of significant help in that first week of recovery while some of you identified weaknesses in your plans, or areas that were not adequately addressed. Others have experienced adverse consequences through having no plan in place. Remember to document your experiences now, so that you are able to update, expand, or commence disaster recovery planning in due course.

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