

Inquiry into the Stormwater Management Authority

LGA Submission

February 2021

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Introduction

About the LGA

The Local Government Association of South Australia (LGA) welcomes the Statutory Authorities Review Committee's Inquiry into the Stormwater Management Authority (SMA) and appreciates the opportunity to provide this submission.

The LGA is the voice of local government in South Australia, representing all 68 individual councils across the state. We provide leadership, support, representation and advocacy on behalf of South Australian councils, for the benefit of the community.

The LGA is a strong advocate for legislation and policies that achieve better outcomes for councils and the communities they represent. Councils, with appropriate opportunities, can be part of the solution in addressing the challenges Australia faces in ensuring liveable, vibrant and economically prosperous communities.

This submission reflects current LGA policy, which has been developed in consultation with our member councils. More information about the LGA is available on our website at www.lga.sa.gov.au.

Inquiry into the Stormwater Management Authority

The basis of the Inquiry is:

"The Statutory Authorities Review Committee has resolved to inquire into and report on the Stormwater Management Authority, with particular reference to:

- i. the functions of the Stormwater Management Authority pursuant to Schedule 1A of the Local Government Act 1999 (SA);*
- ii. the effectiveness of the Stormwater Management Authority in carrying out its functions, including the application of the Stormwater Management Fund; and*
- iii. any other matters relevant to the operations of the Stormwater Management Authority."*

Functions of the Stormwater Management Authority

The SMA is established under Schedule 1A of the *Local Government Act (1999)*, which, in summary, also:

- gives legislative effect to the Stormwater Management Agreement entered into by the LGA and the State Government in 2013 (latest version);
- establishes the functions of the SMA, being:
 - to work with local authorities to ensure proper functioning of the stormwater management system;
 - contributing to the urban water plan for Adelaide;
 - facilitating stormwater management planning by councils;
 - providing supporting information to councils on environmental issues in management of stormwater;

- facilitating council programs to promote use of stormwater;
- ensure cooperation between public authorities; and
- advising the Minister.
- establishes the SMA Board, which includes nominees from the LGA;
- allows the SMA to establish a technical advisory committee;
- establishes a process for Stormwater Management Plans (SMPs) to be prepared by councils or groups of councils; and
- establishes the Stormwater Management Fund.

Summary of LGA recommendations

Recommendation 1:

The LGA recommends that the Statutory Authorities Review Committee has regard to the reports and recommendations of the Productivity Commission's National Water Inquiry relevant to the scope of its inquiry into the SMA.

Recommendation 2:

The LGA recommends that the Statutory Authorities Review Committee:

- **recognises** the participation of local government and the LGA in the function of the SMA;
- **recommends** no changes to the composition of the SMA as set out in the *Local Government (Stormwater Management Agreement) Amendment Act 2016*; and
- **recommends** that the SMA requests that the Minister formally establishes a Stormwater Advisory Committee as allowed under legislation to further inform and support the work of the Authority.

Recommendation 3:

The LGA recommends that the Statutory Authorities Review Committee:

- **recognises** that the wide array of legislative responsibilities shared across organisations is contributing to a lack of clear leadership, coordination and cohesive approach to stormwater management across South Australia;
- **finds** that a strategic and effective SMA should lead reform into stormwater management; and
- **recommends** that the SMA play a key role in demonstrating the strong leadership required to drive improvements in stormwater management.

Recommendation 4:

The LGA recommends that the Statutory Authorities Review Committee:

- **recognises** that significant improvements have been made to improve the effectiveness of the SMA and that these are ongoing; and
- **considers** further opportunities and makes recommendations:
 - ensuring the SMA has sufficient resources to operate;
 - enabling the SMA to take a more strategic and outcomes-based approach;

- enabling the SMA to be more involved in the delivery of SMPs; and
- progressing the development of service standards.

Recommendation 5:

The LGA recommends that the Statutory Authorities Review Committee considers further funding opportunities and makes recommendations enabling the SMA to investigate funding options.

National, state and local government context

National Water Reform

The LGA acknowledges that the Statutory Authorities Review Committee's Inquiry into the SMA coincides with a National Water Inquiry¹ and reflects a larger discussion occurring at the national level.

The Australian Government's Productivity Commission has released its draft report in February 2021, on its Inquiry into progress with the reform of Australia's water resources sector. The Australian Government's Inquiry has been asked to have a particular emphasis on the progress of all Australian governments in achieving the objectives, outcomes and timelines anticipated under the Intergovernmental Agreement on a National Water Initiative.

In 2017, the first *National Water Reform Productivity Commission Inquiry Report*² identified several actions to improve urban water and stormwater management in Australia including:

- Recommendation 3.1(f) – State and Territory Governments should ensure that their entitlement frameworks can incorporate alternative water sources, such as stormwater, wastewater and managed aquifer recharge, so they do not present a barrier to efficient investment in these supply options.
- Recommendation 6.1(b) – State and Territory Governments should: require that decision-making processes are consistent with good planning principles, in particular that they consider all options fully and transparently, including both centralised and decentralised approaches (including indirect and direct potable reuse, and reuse of stormwater), and are adaptive in response to new information.

These recommendations reflect the challenges identified in South Australia and point to opportunities for further reform.

Recommendation 1:

The LGA recommends that the Statutory Authorities Review Committee has regard to the reports and recommendations of the Productivity Commission's National Water Inquiry relevant to the scope of its inquiry into the SMA.

Stormwater management in South Australia

Improved management of stormwater has the potential to offer significant environmental, economic and social benefits to South Australia. However, the ability to capitalise on these opportunities is currently limited by the existing complex governance and institutional arrangements, limited funding and a lack of strategic direction.

We know that prevention is better than cure, and that investment in preventative measures to reduce flooding could reduce the cost of response to the government by more than 50%. It would also reduce the social and personal cost of disasters.³ Flooding is one of the costly natural disasters in South Australia with average annual damages from flooding exceeding \$32M⁴.

Investment in stormwater infrastructure, and the way it is administered, contributes to a sustainable future.

¹ [National Water Reform - Productivity Commission \(pc.gov.au\)](https://www.pc.gov.au/data/assets/pdf_file/0007/228175/water-reform.pdf)

² https://www.pc.gov.au/data/assets/pdf_file/0007/228175/water-reform.pdf

³ <https://www.news.com.au/finance/costs-of-australian-natural-disasters-including-floods-bushfires-cyclones-set-to-23-billion-by-2050/news-story/b1bed924ab3f2afa44466b09a31067ed>

⁴ <https://www.environment.sa.gov.au/topics/water/hazard-management>

The current system for management of stormwater in South Australia is challenged by the wide array of legislative responsibilities shared across organisations and is contributing to a lack of clear leadership, coordination and cohesive approach to stormwater management across South Australia. The current disaggregated stormwater management arrangements, lack of regulation and appropriate funding is exacerbating the risks of flooding.

Local government and stormwater management

Increased rainfall variability and intensity arising from climate change, pressures from infill and greenfield development, as well as more general urban growth, are all increasing the risks posed by stormwater runoff and highlighting gaps and weaknesses in the existing approach to stormwater management in South Australia.

For local government, these pressures present in the immediate term as increased flood risk, and therefore, increasing costs for the maintenance, operations, upgrade and renewal of stormwater infrastructure. These escalating costs are unsustainable and are being borne by ratepayers.

Local government frequently carries most of the costs of stormwater management in the development, operation and maintenance of stormwater infrastructure and for on-ground management solutions. The LGA has been investigating the challenges presented by stormwater management over several years and is well placed to contribute to the solutions.

The LGA is concerned that the current legislative and institutional arrangements that relate to stormwater are shared across multiple pieces of legislation and responsible entities. Because of this fragmented approach, there is a lack of collective vision, integration and coordination. This is limiting the ability to make system-wide, long-term planning decisions and in particular, the ability to appropriately price and fund the operations, maintenance and required upgrades of stormwater infrastructure and services.

The SMA is central to the system of stormwater management in this State and the LGA is keen to ensure it can fulfill its functions.

LGA policy position

The LGA has worked with our member councils to adopt policy positions, based on robust research and evidence, to recognise their roles and identify how local government can be an important partner in government. The policy statement on stormwater is as follows:

Local government recognises its shared obligation (with state government) to ensure that stormwater infrastructure is provided / maintained to reduce flood risk. Councils shall continue to work with state government to ensure an integrated approach to planning and for adequate funding of stormwater management and flood mitigation on a catchment wide basis.

Functions of the SMA

Stormwater Management Agreement

The SMA is established under the *Local Government (Stormwater Management Agreement) Amendment Act 2016*.

The LGA primarily participates in the SMA through its obligation under the Section 7:

- (1) *The board of the Authority consists of an uneven number of members, being—*
- (a) *a presiding member appointed by the Minister on the nomination of the LGA (with the agreement of the Minister); and*
 - (b) *not less than 6 other members appointed by the Minister (half of whom are to be appointed on the nomination of the Minister and half of whom are to be appointed on the nomination of the LGA).*

Further, the legislative basis for the SMA is the 2006 agreement first entered into between the State Government and the LGA, the '*Agreement between the State of South Australia and the Local Government Association on Stormwater Management*'.⁵ The 2006 Agreement (later version in 2013) was the result of a need to improve and to encourage a partnership approach.

The Agreement:

- clarifies roles and responsibilities between the two parties;
- supports catchment-scale planning;
- provides for establishment of the SMA;
- provides for establishment of the Stormwater Management Fund;
- provides for ongoing State government funding to support the Fund; and
- provides for legislation to enshrine these objectives.

The SMA website makes it clear that:

'stormwater management is a responsibility that is shared between the state government, local government and private landowners. Reflecting this shared responsibility, the South Australian Government and the ...LGA have partnered in the formation of the ...SMA'.⁶

The LGA is committed to this partnership recognising that the SMA is fundamental to the stormwater system and changes to the functions and effectiveness of the SMA can lead to long-lasting system improvements with social, economic and environmental benefits.

The LGA notes that the SMA has not enacted its ability to request that the Minister establishes a Stormwater Advisory Committee to fulfill its function. This represents a significant opportunity for further coordination across government agencies to better support the work of the SMA.

⁵ [AgreementOnStormwaterManagement2013_WEB.pdf \(sma.sa.gov.au\)](#)

⁶ <https://www.sma.sa.gov.au/>

Specifically, the Local Government (Stormwater Management Agreement) Amendment Act 2016 provides for a Stormwater Advisory Committee under Section 15, as follows

- (1) The Minister may, at the request of the Authority, establish a Stormwater Advisory Committee (the Committee) to provide advice to the Authority on technical, planning, policy or legal matters relating to the functions of the Authority in accordance with terms of reference established and maintained under the Stormwater Management Agreement.*
- (2) The Committee will, if established under this clause, consist of members appointed by the Minister (and on conditions and for a term determined by the Minister) of whom—*
 - (a) at least 1 is to be appointed on the nomination of the Minister (and 1 of the members so appointed is to be appointed as the presiding member); and*
 - b) at least 1 and not more than 3 are to be appointed on the nomination of the LGA (provided that the number of members appointed under this paragraph will not exceed the number appointed under paragraph (a)).*

Recommendation 2:

The LGA recommends that the Statutory Authorities Review Committee:

- recognises the participation of local government and the LGA in the function of the SMA;*
- recommends no changes to the composition of the SMA as set out in the Local Government (Stormwater Management Agreement) Amendment Act 2016; and*
- recommends that the SMA requests that the Minister formally establishes a Stormwater Advisory Committee as allowed under legislation to further inform and support the work of the SMA.*

Stormwater Management Authority – a leadership role

One of the most challenging aspects of stormwater management in South Australia is the wide range of legislation and responsibilities spread across organisations.

The key pieces of South Australian legislation that include a specific role or requirement for managing stormwater (services) are:

- Local Government Act 1999 (SA), in particular the Stormwater Management Agreement and Schedule 1A of the Local Government Act 1999 (SA)*
- Metropolitan Drainage Act 1935 (SA)*
- South-Western Suburbs Drainage Act 1959 (SA)*
- South Eastern Water Conservation and Drainage Act 1992*
- Landscape South Australia Act 2019 (SA)*
- Environment Protection Act 1993 (SA) and Environment Protection (Water Quality) Policy 2015*
- Emergency Management Act 2004 (SA)*
- Planning, Development and Infrastructure Act 2016 (SA)*

Table 1 in *Attachment A*, provides a summary of the roles and responsibilities of the organisations that play a role in stormwater management, including local government authorities and their subsidiaries, the Department for Environment and Water (DEW), Attorney-General's Department, Department for Infrastructure and Transport, the Environment Protection Authority (EPA), Landscape Boards, SA Water and the SMA.

The array of legislation and responsibilities across numerous agencies contributes to fragmented decision making and a lack of consistent and strategic management. Current governance arrangements result in:

- lack of clear/agreed definition of stormwater and stormwater management;
- lack of agreed benchmarking of acceptable risk or failure rates;
- no delineation between retrospective and prospective stormwater management; and
- no clear pathway for elevating or identifying when responsibilities shift from local government to State Government.

Recommendation 3:

The LGA recommends that the Statutory Authorities Review Committee:

- *recognises that the wide array of legislative responsibilities shared across organisations is contributing to a lack of clear leadership, coordination and cohesive approach to stormwater management across South Australia;*
- *finds that a strategic and effective SMA should lead reform into stormwater management; and*
- *recommends that the SMA play a key role in demonstrating the strong leadership required to drive improvements in stormwater management.*

The SMA is well placed to fulfill this function and this Inquiry is a positive step in this direction. The SMA requires adequate funding to ensure it is well-resourced to fulfill its responsibilities under the Act, support local government and lead reform. It would also enable the SMA to review and update its strategic plan to be more deliberate and ambitious to drive reform.

The LGA acknowledges that the SMA has made efforts towards this by redesigning its grants program in 'rounds' to enable a more strategic approach.

The LGA supports more proactive involvement of the SMA in the oversight, coordination, and delivery of SMPs.

A more integrated and better regulated approach to water management, where stormwater is considered as part of the broader urban water cycle management, is required to manage risks and realise the potential benefits from stormwater.

Effectiveness of the SMA

The LGA appreciates the efforts of the SMA Board members as well as its staff. Comments about the effectiveness of the SMA do not reflect on the commitment and abilities of these people but more about the opportunities they have to expand the role of the SMA to enable it to work more proactively.

The SMA has recently been able to increase its staffing levels, which is welcomed by the LGA. The LGA is pleased about the recent revision of supporting documentation such as the *Stormwater Management Planning Guidelines*. The LGA welcomes the willingness of SMA staff and Board members to progress issues as they arise.

The SMA is currently consulting councils about its revised Stormwater Management Planning Guidelines, and also advising councils about proposed changes to applications to the Stormwater Management Fund and the LGA is working with its members to provide a response.

The LGA acknowledges that the revised Guidelines are a significant update to the original guidelines issued in 2007. The Guidelines have been reviewed to provide 'step by step' guidance to support applicants in delivery of these complex projects. The Guidelines also align with the supporting draft template brief, a key new resource which gives all applicants a common starting point.

In addition to the Guidelines, the SMA has prepared several new supporting resources:

- *Circular 1: Flood Modelling* provides guidance on matters that should be considered when undertaking flood modelling in South Australia, whether it is for the preparation of a SMP or not.
- *Circular 3: Stormwater Asset Data* provides guidance on the minimum stormwater asset data attributes typically required in the preparation of a SMP.
- The *SMP Template Project Brief* provides a template project brief for councils or groups of councils commissioning the preparation of a SMP. The project brief is intended to be 'modular' and can be tailored to meet specific project requirements. Use of the template brief is optional.

The LGA takes this opportunity to highlight opportunities to improve the effectiveness of the SMA, including:

Ensuring the SMA has sufficient resources to operate.

The LGA welcomes recent increases in staffing. The SMA needs to monitor staffing levels to ensure the SMA can be proactive in its role, such as driving further reforms and taking a proactive and strategic approach to stormwater management.

Enabling the SMA to take a more strategic and outcomes-based approach.

This would include reviewing and updating the existing SMA strategic plan. The new plan should align with other state plans, provide an updated narrative and focus more on outcomes and priorities for the coming agreed term (i.e. five years). Such an approach would move the role of the SMA away from being a 'grant' funder to being a more proactive strategic planning and coordination entity. The SMA could then proactively seek partnerships to implement projects. Competition for funding will be further challenged as the demand is likely to increase as more SMPs are completed and these projects compete for the limited pool of funds.

Enabling the SMA to be more involved in the delivery of SMPs.

This would involve looking for opportunities for the SMA to take a more proactive role in coordinating and facilitating the delivery of the SMPs with local government. This approach would enable greater consistency of approaches across regions and provide economies of scale.

Progress the development of service standards.

The implementation of SMPs provides an opportunity to also implement agreed levels of service. The SMA could be more proactive in working with councils to develop agreed levels of service and avoid duplication.

Recommendation 4:

The LGA recommends that the Statutory Authorities Review Committee:

- *recognises that significant improvements have been made to the improve the effectiveness of the SMA and that these are ongoing; and*
- *considers further opportunities and makes recommendations:*
 - *ensuring the SMA has sufficient resources to operate;*
 - *enabling the SMA to take a more strategic and outcomes-based approach;*
 - *enabling the SMA to be more involved in the delivery of SMPs; and*
 - *progress the development of service standards.*

Funding

Lack of State Government funding for stormwater management is an issue for local government, which currently bears the brunt of funding this infrastructure. The LGA urges the SMA to investigate funding options for the Stormwater Management Fund to support a strategic approach to stormwater management in this state. The cost of stormwater is currently levied through local government rates, natural resources management levies and general taxation.

A 2018 report for the SMA, the *Adelaide Metropolitan Area Stormwater Infrastructure Valuation Review*, concluded that reported replacement value of local government-managed stormwater network infrastructure within the Adelaide metropolitan area is \$3.3 billion and State-owned assets are estimated at \$0.9 billion, for a collective total of \$4.2 billion. The value of stormwater infrastructure represents approximately 20% of all infrastructure owned by local government and equates to an average of \$5400 value per property.

The LGA called for an increase to the Stormwater Management Fund in its *2019-2020 and 2020-2021 State Budget Submissions*, which argued for the need for an annual increase from \$5M to at least \$12M per annum. That submission also argues that the Federal Government should also be a funding partner in stormwater management.

Recommendation 5:

- *The LGA recommends that the Statutory Authorities Review Committee considers further funding opportunities and makes recommendations enabling the SMA to investigate funding options.*

Conclusion

The LGA welcomes the Inquiry by the Statutory Authorities Review Committee and would be pleased to address the Committee on any issues in this Submission. The LGA Secretariat urges the Inquiry to investigate the opportunities for improvement of the stormwater system in South Australia, which would have significant environmental, economic and social benefits.

Contact

Please direct any queries about this submission to Katherine Russell, Senior Policy Officer at:

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Attachment A**Table 1: Summary of responsibilities and key relevant legislation**

Organisation	Responsibilities	Key relevant legislation
Local government	<ul style="list-style-type: none"> • Take measures (including building and maintenance of infrastructure) to protect their local government area from natural hazards, including flooding from stormwater runoff • Have a role to “manage, develop, protect, restore, enhance and conserve the environment in an ecologically sustainable manner ...” which extends to how stormwater is managed, driving much of the activity in harvesting across the State over recent decades • Play a critical role in the land use planning process through their development and administration of development plans, which determine where and what kind of development can occur, including in flood prone areas • Have a role in maintaining some roads (and stormwater fixtures installed to protect roads) 	<i>Local Government Act 1999 (SA)</i> <i>Planning, Development and Infrastructure Act 2016 (SA)</i> <i>Metropolitan Drainage Act 1935 (SA)</i> <i>South-Western Suburbs Drainage Act 1959 (SA)</i>
SMA	<ul style="list-style-type: none"> • Provide oversight and coordination of stormwater management, including prioritisation of infrastructure works • Assist State and local government in preparing policies and best practice • Facilitate and coordinate preparation of stormwater management plans (SMP) with local government • Provide funding under the Stormwater Management Fund (SMF) to support local government in the delivery of SMPs 	The Stormwater Management Agreement and Schedule 1A of the <i>Local Government Act 1999 (SA)</i>
DEW	<ul style="list-style-type: none"> • Flood management hazard leader with specific duties in state-wide emergency flood management planning, including the development of a Hazard Plan • Responsible for leading the development of state-wide strategy (such as the urban water strategy) and oversight of implementation of state-wide water policy, <i>Water for Good</i> • Management of specific stormwater assets identified in the Stormwater Management Agreement (e.g. Patawalonga) 	State emergency management plan under the <i>Emergency Management Act 2004 (SA)</i> Stormwater Management Agreement
Landscape Boards	<ul style="list-style-type: none"> • Have special powers to carry out works, including works undertaken for the purposes of stormwater management or flood mitigation 	<i>Section 30 Landscape South Australia Act 2019 (SA)</i>
EPA	<ul style="list-style-type: none"> • Responsible for the protection of the environment, including from a water quality perspective • Responsible for issuing and managing licenses as well as mitigation of non-point source pollutions 	<i>Environment Protection Act 1993 (SA)</i> and Environment Protection (Water Quality Policy) 2015

<p>Attorney-General's Department and Department for Infrastructure and Transport</p>	<ul style="list-style-type: none"> • Responsible for overseeing the development and land use planning across the State • Manages approximately 25 percent of SA's road network • Develops stormwater design standards and guidelines 	<p><i>Planning, Development and Infrastructure Act 2016 (SA)</i></p>
<p>SA Water</p>	<ul style="list-style-type: none"> • Responsible for the Sturt River Flood Control Dam, and the parts of Adelaide watercourses that it manages pursuant to the <i>Metropolitan Drainage Act 1935 (SA)</i> and the <i>South Western Suburbs Drainage Act 1959 (SA)</i> 	<p><i>South Western Suburbs Drainage Act 1959 (SA)</i></p> <p><i>Metropolitan Drainage Act 1935 (SA)</i></p> <p>Schedule 1 of the Stormwater Management Agreement</p>
<p>SA State Emergency Services</p>	<ul style="list-style-type: none"> • Flood emergency control agency, responsible for coordinating emergency response following a flooding event 	<p>State emergency management plan under the <i>Emergency Management Act 2004 (SA)</i></p>
<p>SA Department for Health and Wellbeing</p>	<ul style="list-style-type: none"> • Responsible for developing policy and providing advice to other agencies and the public to prevent or minimise the adverse health effects of environmental hazards in the South Australian community, including providing advice to water providers, local councils, government agencies, and the public on the health implications of recycled water use (including stormwater reuse) 	<p>South Australian Recycled Water Guidelines 2012</p>
<p>Private Landowners</p>	<ul style="list-style-type: none"> • Landowners, including owners of strata title property and other private landowners, have responsibilities for the condition of watercourses which pass through their land 	<p><i>Environment Protection Act 1993 (SA)</i> and Water Quality Policy</p> <p><i>Natural Resources Management Act 2004 (SA)</i></p>



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