The December IPWEAQ Engineering for Public Works journal (EPW) ‘New lawful point of discharge test in QUDM 2016. Do you need it?’ by Sarah Hausler and Tony Loveday provided excellent information on the state of play regarding the lawful point of discharge (LPOD) issue. The challenges associated with this issue are difficult to navigate for both local government and the development industry.

The article described that applying a rigid “every development requires a LPOD” by Council can result in:

- increased urban sprawl;
- inefficient use of the land bank;
- refusal of otherwise acceptable or desirable development.

There are already some Council areas where development of land that slopes to an adjoining property has been made effectively impossible by rigid LPOD requirements that do not reflect the law. Application of a rigid approach is also likely to be associated with a community expectation that the Council will be responsible for all neighbourhood disputes about stormwater drainage.’

My experience of the development industry as Manager of Policy with the Urban Development Institute of Australia Queensland (UDIA Queensland) includes a great deal of concern raised by members regarding the difficulties of developing many sites that require agreement to a LPOD by a downstream neighbour/s.

As you will know, the South East Queensland region is expected to be home to 5.3 million people by 2041, an addition of nearly 1.9 million people. In Queensland, we are to expect reach 7.3 million, which is an increase of 2.4 million people. Ensuring that new residents can be accommodated with a compact, diverse supply of affordable and appropriate housing will be a significant challenge. That is why improved solutions to issues such as LPOD and infrastructure connection are critical.

The smallest infill townhouse proposals can often be affected as well as larger developments. In practice many sites are avoided if LPOD is not clear or large sums are required by neighbours to obtain agreement to LPOD. Similarly, a project may be significantly delayed if the downstream neighbour refuses to assist. At present developers practically have no alternatives without the cooperation of neighbours. I understand applying to the Supreme Court would be necessary and costly to seek some redress but with almost nil chance of success.

A similar situation applies in endeavouring to obtain sewer connection through neighbouring land. The situation for larger scale housing supply development in growth areas is often stymied, or much less efficient sewer design is the outcome, if access across neighbouring land is not provided. I understand water agencies may have less power to facilitate this infrastructure than in the past, and councils are very reluctant to use their substantial powers of land resumption. The situation regarding easements and development is also becoming more difficult with a recent court decision requiring all easement right holders to consent to any development on land.

I acknowledge and support the changes made to the Queensland Urban Drainage Manual (QUDM) that are closer to the underlying relevant nuisance prevention law. This is an improvement over the words that may have been leading to the rigid approach referred to.
above and preventing innovative engineering solutions to address the issue. I think however the improvements to QUDM cannot address the fundamental infrastructure access and need difficulty. In some respects, the present situation may become more difficult as council staff require the greater exercise of skill to condition proposals.

What we need is a better way to provide for small and large scale LPOD and other urban infrastructure or at least another way. The UDIA Queensland has asked the State Government to investigate potential legislative change to facilitate a fair access regime to obtain infrastructure on adjoining property, and clarify that appropriate rights and circumstances are available to authorities to develop easements and infrastructure as needed. We would seek a process that allows for developers/neighbours to fairly pursue LPOD, and then only being provided with appropriate compensation and in practical circumstances.

Legislation in other places, such as New South Wales (NSW) may provide a model to assist in Queensland. The NSW Access to Neighbouring Land Act 2000 legislation provides for equitable private access, subject to fair rules.

We don’t think we have yet thought of a complete solution but I raise it in this forum so that IPWEAQ members may put forward ideas and develop the conversation. You may have a solution that could work.

The Queensland Urban Drainage Manual (QUDM) is an engineering guideline that addresses the technical, legal, regulatory and environmental aspects of effective drainage systems. It provides details of appropriate design methods and computational procedures, and covers both hydrologic and hydraulic procedures.

<table>
<thead>
<tr>
<th>Prices (plus GST)</th>
<th>PDF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member (single-user)</td>
<td>200</td>
</tr>
<tr>
<td>Non-member (single-user)</td>
<td>500</td>
</tr>
<tr>
<td>Institutions/corporates/councils (multi-user)</td>
<td>700</td>
</tr>
</tbody>
</table>