



Local Government Association Tasmania

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Barriers to Effective Climate Change Adaptation
Productivity Commission
LB2 Collins Street East
Melbourne VIC 8003

By email: climate-adaptation@pc.gov.au

To Whom It May Concern,

**Productivity Commission Draft Report April 2012:
Barriers to Effective Climate Change Adaptation**

The Local Government Association of Tasmania (LGAT) welcomes the opportunity to comment on the Productivity Commission's Draft Report *Barriers to Effective Climate Change Adaptation*. LGAT broadly supports the key recommendations of the Draft Report, and offers the following further comments for consideration.

Context

LGAT is the representative body of Local Government in Tasmania and incorporated under the Local Government Act 1993, with membership comprising 28 of the 29 Tasmanian councils.

The Association recognises the importance of climate change issues to the community and to Local Government. Tasmanian councils have been responding to the challenges posed by climate change for a number of years with both mitigation and adaptation strategies being implemented in and across municipal areas within the State. The Association supports these activities through coordinating the sharing of information, identification of priority areas, and the development of partnerships across government and industry.

General Comments

The Association notes the previous submission tendered by Clarence City Council in response to the Productivity Commission's 2011 Public Inquiry into the Barriers to Effective Climate Change Adaptation and supports the issues raised within that document as indicative of the barriers being faced by the Local Government sector within Tasmania.

The Association is pleased to note the Productivity Commission's acknowledgment within the Draft Report that the effects of climate change will be experienced largely at a local level and that as a result of this it is likely that Local Government will be responsible for most government adaptation actions and for implementing many of the reforms to remove barriers to adaptation (p.17).

Such recognition provides Local Government with a strong foundation upon which to advocate for greater support and collaboration among the three tiers of government and other key stakeholders for adaptation planning and action.

Provision of Information

LGAT supports Recommendation 6.1 of the Draft Report which advocates for the Australian Government to expand its coordination and dissemination role in relation to natural hazards. Local Government needs a central point of contact to be able to access hazard information and to assure the quality and applicability of that information, and is certainly not in a position to adequately resource the research and analysis of such information within the sector itself.

The centralised coordination of hazard data and consistency of methodologies and communication would facilitate improved application at the Local Government level and provide greater confidence within communities that the responses from government to climate change risks are appropriate. Such information needs to be of a detail and scale that is capable of supporting decision-making at the local level.

Clarification of the Roles and Responsibilities within Government

LGAT strongly supports the Draft Report's finding that there is a lack of understanding or agreement between the three spheres of government as to their respective roles and responsibilities. As pointed out by Clarence City Council in its submission to the Issues Paper in 2011, this problem is highlighted well in the case of coastal management issues within Tasmania. The 'roles and responsibilities of governments' is currently considered as one of the key issues to be resolved within the work being undertaken through the Tasmanian Coastal Adaptation Decision Pathways Project and the Regional Councils Climate Change Adaptation Project; both of these projects have received substantial financial and in kind support from Federal, State and Local Government.

A collaborative, rather than what can sometimes appear to be an adversarial approach, is vital for effective implementation of adaptation actions. Governments need to be contextually clear about where they fit within the larger adaptation governance framework in order to be effective. Local Government needs to be supported in its adaptation role and councils require sufficient resources and capacity to carry out their obligations; in this regard greater guidance and support in the form of funding and information is required from both the State and Federal Governments.

It is important to acknowledge the variation of capacity within the Local Government sector to apply resources to the adaptation agenda. The disparity between larger and smaller, urban and rural councils has been cited on numerous occasions previously as a rationale for seeking Commonwealth assistance towards adaptation planning and action at the Local Government level.

Whilst Commonwealth funding is generally welcome from councils for adaptation planning and action, it is important to acknowledge that there will be circumstances in which Local Government will not be the most appropriate level of government to lead such practices. In this regard, LGAT is pleased to see a balance being sought within the Draft Report between the principle of subsidiarity and the need to identify areas in which other levels of government will in fact be the most appropriate body to lead (p.122).

Legislative Protection for Local Government Decision-Making

LGAT supports draft Recommendations 7.1 and 7.2 and strongly agrees with the finding that legal liability concerns are hindering decision-making and action for Local Government. For example, councils are unsure of their obligations when making land-use planning decisions relating to land that is subject to future climate change risks, and can be reluctant to release information on the potential susceptibility of properties to climatic events because they are concerned that this could decrease affected property values and leave the council vulnerable to litigation.

The uncertainty extends to situations where councils must consider whether or not to install protective structures to combat the effects of natural hazards which will no doubt be exacerbated by climate change; the knowledge that a council will have a continuing legal obligation to maintain these structures then raises the issue of their resource capacity to finance such ongoing, and likely increasing, costs.

LGAT supports Information Request 7.1 for further information in relation to the NSW legislative approach which limits legal liability for Local Government decision-making in relation to climate change, provided the responsible council is acting in good faith, consistent with State policy and best available information.

There have been legal research reports commissioned within Tasmania both at the local and regional level that endorse further consideration of the current legislative framework in place within New South Wales, as well as raising the possibility of amendment of the Local Government Act (Tas) 1993 to insert a section equivalent to s733 of the Local Government Act (NSW) 1993.

Planning and Building Regulation

LGAT supports Draft Recommendation 8.1 that "land-use planning systems should be revised to ensure that they are sufficiently flexible to enable a risk management approach to incorporating climate change risks into planning decisions."

The Association notes that the Tasmanian State Government is presently developing a State Framework for mitigating the impacts of natural hazards through land use planning within its Division of Local Government, Security and Emergency Management. The Framework ultimately aims to provide policy guidance that can be translated into clear controls for land use planning and development and covers natural hazards including landslip, coastal hazards, flooding and bushfire.

However this work still faces a number of hurdles which must be overcome; these include effective elucidation of the policy into the legislated land use planning requirements of councils, and the need to acknowledge and prepare for possible future community reactions to the categorisation of land by hazard risk, given the likely implications for land values.

The Association has also long advocated for the State to provide stronger direction in relation to planning for climate change. Resolution of some of the issues outlined earlier may better enable the State Government to produce effective and useful land use planning policies, such as a State Coastal Policy.

Review of the Natural Disaster Relief and Recovery Arrangements

LGAT is supportive of a review of the current NDRRA which extends to an examination of alternative arrangements or funding models. Further, LGAT endorses the comments made by the Municipal Association of Victoria in its submission to this section of the Draft Report particularly in relation to 'Salaries and Wages'.

The Tasmanian State Government has recently initiated a review of Local Government relief provisions under the Tasmanian Relief and Recovery Arrangements. The purpose of this review is to address a number of issues including ambiguous activation conditions; insufficient data collection practices leading to a lack of understanding of costs measurements and funding needs; retrospective provisions for compounding events over time, and; a lack of a betterment policy position.

The current Commonwealth arrangement for funding betterment of eligible council-owned infrastructure (1/3 Commonwealth, 2/3 State) is a cause for concern within Tasmania; with the development of a State policy on betterment being imminent, it is important that a Commonwealth funding model be flexible to ensure betterment rather than restoration.

A review of the current Commonwealth funding model would be welcomed, in particular reviewing whether, by providing greater financial assistance for betterment (i.e. in the form of providing a higher proportion of the costs), it will reduce the long term expenditure; this approach would be an alternative to what appears to happen often presently, which is the provision of assistance in infrastructure investments that entail restoring assets in their current location, and to an insufficient standard, to combat the hazards intensified by climate change impacts.

National Policy Coordination

LGAT supports the Productivity Commission's acknowledgement at p. 249 that effective climate change adaptation will involve policy responses from all levels of Government and that most policies related to climate change adaptation will be the responsibility of local, state and territory governments.

There is concern with the Commissions' comment that it "does not see any specific role for the Department of Climate Change and Energy Efficiency (DCCEE) in climate change adaptation". Some further clarification as to whether this statement refers to the DCCEE's role in coordinating national policy, or in a broader context is sought. It is submitted that, as the Commonwealth Department with arguably the greatest opportunity to access the relevant stakeholders within the climate change adaptation space across government and industry, the DCCEE could in fact prove a useful and critical player in coordinating national policy and approach.

LGAT notes the submission of Mr Ian Carruthers, in particular his comments in relation to governance, and supports further consideration of the DCCEE's role in the coordination of adaptation policy at the national level. Added impetus attaches to such an approach in light of the COAG Select Committee's tenure being due to wind up in April 2013. The need for a stable and continuing body to lead in this area is crucial to ensure that recommendations from the Productivity Commission's report are considered and acted upon.

Yours sincerely

Katrena Stephenson
POLICY DIRECTOR