



**LOCAL GOVERNMENT ASSOCIATION OF SOUTH  
AUSTRALIA**

**SUBMISSION**

**Australian Government Productivity Commission**

**Natural Disaster Funding**

**Public Inquiry**

**June 2014**

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## KEY POINTS

### THE LGA WOULD LIKE TO CONVEY TO THE PRODUCTIVITY COMMISSION THE FOLLOWING KEY POINTS:

1. Funding should be directed to improving community resilience to the impact of disasters;
2. Disaster resilience should be recognised as a shared responsibility and funding needs to be equitably apportioned, considering capability, capacity and available revenue;
3. Councils have inextricable links to their communities and should be adequately supported to assist their communities achieve an acceptable level of disaster resilience;
4. The primary objective of the natural disaster relief and recovery arrangements should be the expeditious recovery of the community from the impact of disaster;
5. The disaster funding mix should have a greater focus on mitigation with activities in this area linked to Betterment;
6. Risk assessment should inform and guide Betterment;
7. An equitable insurance model needs to apply across all jurisdictions;
8. A review of the land use planning from a disaster resilience perspective is underway but the critical factor that will determine the success of any review will be the implementation of policy so developed;
9. Less red tape to access disaster funding assistance at both the response (counter disaster operations) and recovery phases, and
10. What constitutes "those expenses in excess of what a Council would be reasonably expected to manage"<sup>1</sup> as the result of expenditure on the restoration of natural disaster damaged assets requires review so that a more realistic funding assistance model is achieved.

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<sup>1</sup> Local Government Disaster Recovery Assistance Guidelines, Department of Treasury and Finance, SA Government 2014, p2.

## 1. INTRODUCTION

The Local Government Association of South Australia (LGA) is recognised as the peak representative body for the 68 Councils in South Australia. The Association provides leadership and representation outwards to State and Federal Governments and other key stakeholders.

The LGA over the course of the last five years has consulted with its member Councils to determine their respective positions on various issues surrounding emergency management including the reviews of the *Emergency Management Act (2004)* and the *Fire and Emergency Services Act (2005)*. The views expressed in this submission have been informed from these prior consultative processes.

A review of disaster recovery assistance to Councils resulted in new Guidelines being released by the State Government in February this year. Application of these new Guidelines to assist disaster impacted Councils has revealed some deficiencies in applying a National model to the Local situation.

The LGA appreciated the opportunity to meet with the Commissioners on 27 May 2014. As a result of the meeting and ensuing discussion and examination of the Issues Paper published by the Productivity Commission, the LGA would like to make the following submission.

## 2. CONTEXT

### Legislative

Councils in South Australia are required by the Local Government Act (1999) (LG Act) section 8 to:

*'give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the community.'*

Hence Councils must develop policy that is consistent with the State emergency management arrangements as described in the State Emergency Management Plan.

Section 7(d) of the LG Act gives guidance to Councils concerning emergency management with a high level function statement in the form of:

*'...a Council is responsible for taking measures to protect its area from natural and other hazards, and to mitigate the effects of such hazards ....'*

There is little other direction within the Act as to how this function should be performed which has led to different interpretations of its intent.

It is proposed that this functional role statement will be interpreted by having regard to the revised Emergency Management Act (EM Act) (yet to be completed) through its objects and principles that require a collective responsibility of all sectors of society, to plan for emergencies. This high level objective when incorporated into the Emergency Management Act will enable the inclusion of a more detailed Council role statement in the State Emergency Management Plan that will be defined and negotiated by agreement between Local Government and the State Government.

## **Councils operating within the Prevention, Preparedness, Response and Recovery Framework (PPRR)**

### **Prevention and Preparedness**

The main disaster risks that Councils are exposed to in South Australia are bushfires, extreme weather and flooding although other hazards do need consideration.

In recent years work has also been performed by metropolitan Councils to understand and plan for earthquake because of the relatively high earthquake risk posed by a major fault system that runs through Adelaide in a North - South direction. The Department for Planning Transport and Infrastructure, as Earthquake Hazard Leader has been instrumental in helping Councils identify and plan for this low likelihood high consequence risk.

Most Councils that are prone to flooding in their areas have recognised this risk and over the years initiated flood mitigation studies that have in many cases led to substantial and expensive flood mitigation infrastructure projects.

Two recent examples are the Bruce Eastick flood retention dam that was constructed on the Gawler River to limit the effects of flooding downstream through a number of Councils. This project was achieved by the collaborative approach of six Councils whose boundaries covered various parts of the river and floodplain.

The *Water Proofing the West* (Adelaide) project is a region wide system which will harvest, treat and store stormwater in specific locations, and then distribute the recycled stormwater through to demand areas through parts of the City of Charles Sturt area (a large Western Metro Council).

Councils involved with both these projects committed substantial funds of their own to construct the required infrastructure.

Councils have an important and historic role to play in bushfire management. Local Government officers are on the ground, they know their local terrain, the local hotspots and the locals who are recalcitrant in protecting their homes, properties and neighbours from the threat of bushfire.

There are 59 Councils in South Australia that annually engage in bushfire management activities that cost the sector millions of dollars. Expenditure by Councils on bushfire prevention activities can be roughly divided between compliance and maintenance of land under their care control and management.

Approximately 100 qualified Council fire prevention officers work in the compliance space - which is about ensuring landowners maintain their properties in such a way that they do not pose a significant bushfire risk.

The maintenance of Council land and reserves, roadsides and fire tracks and the like as well as the performance of the compliance function represents a significant proportion of the annual Council budget for which little if any recompense is received from State funding sources.

### **Response**

Councils have a limited role in response operations in South Australia. Primarily they provide support to the emergency services, especially so during bushfires and floods. In usual circumstances participation in response operations is short term and doesn't normally represent

a high cost to Councils. There have been occasions however, such as the Gawler River floods in 2005, the Kangaroo Island bushfires in 2007 and the Bangor bushfires this year when the campaigns were long and ran into weeks or months. These long term campaigns can have a significant impact on Council resources and programs and a State/Federal funding mechanism to support Councils at these times is considered essential by the LGA.

Councils supporting the emergency services in times of emergencies in South Australia has been a vexed question because of issues surrounding work health and safety and the possibility of worker's compensation liability arising from Council workers being injured as a result of participation in response operations. Funding the possible liability that may arise from the participation in emergency operations has been a long standing issue for Councils. Negotiations with the State are on-going.

### **Recovery**

There has been an increasing realisation by Councils that they have an important role to play in the recovery of their communities after disaster events. Not just from the perspective of the reconstruction of damaged infrastructure but from the perspective of ensuring psychosocial wellbeing of their disaster affected residents. Recent examples in South Australia where Councils have taken a lead are the Stockport flood of 2010 and the bushfires this year at Bangor and the Eden Valley. The LGA is of the view that readily available funding should be available to help Councils assist their communities in the recovery process.

### **Local Government Disaster Fund (LGDF)**

The Fund was established in 1990 with its funding stream coming from a State imposed Financial Institution Duties Tax (FID). Its purpose was to help councils remediate damage sustained to uninsurable infrastructure, e.g. roads, bridges, culverts, drainage etc., as a result of natural disasters. The damage sustained had to be beyond the capacity of the council to manage from its own resources. The Fund was considered a fund of last resort, i.e. where funding for remediation was not available from other sources such as through insurance.

Applications made to the Fund were assessed on individual merits and each council was expected to contribute towards the restoration cost. Damage sustained had to exceed 5% of a Council's general rate revenue to qualify for assistance and each Council was expected to commit the equivalent of 10% of its annual works budget toward the restoration bill in any one year. The Fund also offered an independent engineer to work with the affected Councils to provide advice and assistance and, where necessary, to determine applications for assistance.

The Fund built up a fixed capital investment pool of approximately \$43 million but after the introduction of GST in 2000 when the FID was abolished did not have an income stream other than interest earned from its capital fund. The annual allocation to assist disaster impacted Councils roughly equated to the annual interest earnings.

Widespread storms in December 2010 and into 2011, over the mid-north of South Australia caused extensive flood damage to a number of adjoining Council regions, including Clare and Gilbert Valleys, Goyder, Barossa, Mid-Murray, Light and Peterborough. Claims on the LGDF from these events reduced the funds base to some \$25 million dollars which was not seen as being of sufficient magnitude to ensure its sustainability.

As a result of this conclusion and after consultation with the Local Government sector the State Government introduced the Local Government Disaster Recovery Assistance Guidelines. These Guidelines are based on the Federal to State funding model as contained within NDRRA.

Application of the new arrangements have led to the identification of a number of issues:

- Councils being required to make a larger contribution to the restoration cost of the damage assets than under the LGDF;
- No capping on the contribution required from Councils;
- Difficulty in accessing immediate financial assistance during and immediately after the event – i.e. counter disaster operations, recovery assistance and
- More bureaucratic and time consuming administration.

### 3. OBJECTIVES OF NATURAL DISASTER FUNDING ARRANGEMENTS

The primary objective of natural disaster funding arrangements should be the creation of more disaster resilient communities.

The National Strategy for Disaster Resilience '*emphasises the principle of shared responsibility between governments, business, communities and individuals*' and goes on to say that '*this is distinct from relying on increasing government intervention, which is unsustainable and may actually undermine community resilience*'.

The LGA contends that to achieve this change the disaster funding model will need to change to a model that recognises and supports mitigation to a far greater degree.

### 4. FUNDING AND THRESHOLD LEVELS FOR APPLICATION OF NDRRA

The Issues Paper contains the following table itemising thresholds for the various jurisdictions.

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>NT</i>	<i>ACT</i>
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
First threshold	140	107	103	56	36	11	11	9
Second threshold	246	187	180	99	62	18	19	16

The above figures are percentages of State revenues at which Federal disaster assistance is provided to the States. After the first threshold the funding split is 50:50, when the second threshold is reached the Commonwealth provides 75% of the damage cost above the threshold amount.

The model does not reflect risk (the likelihood of damage being sustained) because it is based on State revenue. As an example the T1 threshold for South Australia is \$36 million and for QLD, T1 is \$103 million. South Australia pays for approx. 93% of its disaster recovery cost while the recovery cost for QLD has been in the billions, yet the trigger difference is only \$67 million - a hardly equitable situation.

A more equitable formula would reflect both the revenue and the level of risk.

The National Commission of Audit (2014b) prefers that the Disaster Recovery Allowance be abolished and the NDRRA replaced with a grant provided after each major natural disaster.

This is a major break from existing policy and doesn't provide a safety net to the States should a catastrophic event occur.



For large events in excess of \$500 million damage cost, South Australia would be left with 66 - 75 % of restoration cost.

## 5. FUNDING RESPONSIBILITIES

As attested to in the Issues Paper *'in recent years the costs of NDRRA have been at historically high levels. For example, over \$5 billion has been reimbursed to Queensland (up to 2012 13) since the major floods and cyclones in 2010/2011, and around \$775 million to Victoria following the 2009 bushfires and 2011 floods'*.

The majority of this expenditure has been for the restoration or replacement of essential public assets, especially damaged roads. Flood damage to road infrastructure has a major impact on Councils and their communities. In many instances the damage is unavoidable and when severe, can lead to often not realised consequences such as community isolation and economic costs.

Councils in South Australia historically have responded to the best of their ability to reduce these impacts by repairing infrastructure as soon as possible within the confines of often limited financial capacity. To coin a recent popular term they do as much 'heavy lifting' as their financial resources allow. The financial resources of Councils are invariably linked to the socio economic capacity of their communities. Councils cannot increase rates above a certain level without public outcry, regardless for what purpose the proposed increase might be used.

## 6. MITIGATION FUNDING AND ALLOCATING RESOURCES TO RISK MANAGEMENT

The Issues Paper states that:

*'Deloitte Access Economics (2013) estimated that the annual economic cost of natural disasters would rise from \$6 billion in 2012 to \$12 billion by 2030 and \$23 billion by 2050. It also estimated that increased Australian Government expenditure on pre disaster resilience (of around \$250 million per year) would reduce these costs by more than 50 per cent by 2050. It recommended increased identification and prioritisation of mitigation activities.'*

Australian Government spending on the National Partnerships Agreement for National Disaster Resilience (NPANDR) is small relative to natural disaster recovery expenditure. Under the Agreement, many of the funds were spent on projects relating to emergency services capability and risk assessment rather than physical mitigation infrastructure.

The simple reason is that the funds available are too small to be applicable to major projects e.g. the South Australian allocation of approximately \$2-3 million annually is insignificant compared to the cost of a major mitigation project such as the Brown Hill Keswick Creek Flood Mitigation Scheme which has a project estimated cost of \$150 million.

South Australia does not set grant limits within the limited funding that is available. Grants are determined on merit and available funds.

Agreement for a Federal funding model will always be difficult to achieve. It will probably require two components so that some form of equity is assured for the smaller States. The two components could be based on a) population and b) risk. The proportion of the two components

will undoubtedly be controversial but regardless of this the application for funding should be competitive and based on risk.

Current funding under the National Partnership Agreement for National Disaster Resilience is regarded by the LGA as inadequate to achieve the resilience strategies that it espouses. The proposal alluded to above by Deloitte Access Economics of around \$250 million a year would be a good starting point.

The LGA has noted the discussion about accounting for mitigation as opposed to recovery costs in the budget forward estimates and can only recommend that a more realistic structural budget be adopted to recognise the true cost of recovery.

In answer to the Issues Paper's question: '*Do Local Governments in particular have appropriate capabilities to undertake cost benefit analysis of mitigation activities?*'

South Australian Councils have varying capacities and capabilities to perform this analysis. The extensive and intensive Zone Emergency Risk Assessment Project, led by the State, has been enthusiastically supported by Councils and is an important first step towards improving the capacity of Councils to analyse disaster risk.

To conclude the LGA would like to emphasize a quote used in the Issues Paper:

*'... the low levels of expenditure on mitigation, and the potential for disaster-mitigation expenditure to reduce very high levels of recovery expenditure, suggest that a greater emphasis on prevention would increase the wellbeing of the community (PC 2013, p. 256).'*

## **7. INSURANCE**

It is acknowledged that all states except the ACT and Victoria lack insurance for road assets. The recommendation that all jurisdictions adopt a common framework for identifying cost effective insurance options was examined in 2011 and concluded as impractical.

South Australian Councils have been moving towards insurance of all built assets apart from roads. The Insurance Review conducted in 2011 demonstrated that an economic argument was difficult to mount for road insurance. Premiums indicated by insurers would so be high that they would be out of the reach of Councils.

As far as a National scheme is concerned, South Australia would end up subsidising the eastern States because of the size and frequency of flooding events in those jurisdictions.

## **8. BETTERMENT**

As described in the Issues Paper 'betterment' activities (under the NDRRA) receive no budget allocation, and must be funded by savings elsewhere in the Attorney-General's portfolio. It is suggested that these budget accounting conventions lead to an inherent reluctance by bureaucracy to sympathetically consider betterment applications.

Hence there are rarely submissions made for the application of betterment provisions. Logistically the focus of the impacted Council is to try and restore normal functioning to its disaster impacted community which usually means getting infrastructure repaired as soon as possible. The current requirements within NDRRA to apply for betterment are onerous and time

consuming which delays restoration of infrastructure and community recovery, hence Councils are reluctant to go down this path even when recognising that there may be substantial benefits.

The argument for betterment should be linked to mitigation and identification of risk and should occur before the event so that when the event does happen the argument for betterment has already been examined and either rejected or supported.

## **9. LAND USE PLANNING**

### **Are land use planning and infrastructure policies consistent with effective natural disaster risk management?**

The terms of reference ask the Commission to consider 'options for urban planning, land-use policy and infrastructure investment that support cost effective risk management'.

Previously the Commission has identified some potential weaknesses in land-use planning systems, including that they are not always sufficiently flexible to enable a risk management approach and that some Local Governments may not have the resources to administer more sophisticated risk based planning systems (PC 2013). Others have pointed to possible information asymmetries, and whether Governments have or are willing to disclose the full extent of natural disaster risk when undertaking planning and land-release activities.

Both State and Local Governments in South Australia have recognised the need to enhance disaster resilience in the built environment through the State's land use planning system. The LGA is currently part of a working group, which has been established by the Department of Planning Transport and Infrastructure to further consider a series of recommendations to improve the performance of the planning system in relation to disaster resilience. Key recommendations that are supported by the LGA include:

- Improving access to accurate and consistent data sets and hazard mapping across all Councils;
- A clearly articulated and consistently enforced policy position regarding the zoning of areas that are vulnerable to hazards;
- Reviewing the construction standards of all development in vulnerable areas;
- Reviewing the Planning Policy Library to ensure that best practice standards are enforced; and
- Ensuring that Councils receive clear direction from other agencies in relation to disaster resilience through statutory referral processes for rezoning and development assessment.

Funding and resourcing are considered to be the most significant barriers to achieving these recommendations. The LGA takes the view that Local Government cannot be asked to provide a disproportionate share of funding and resourcing responsibility. Strong collaboration is required between all spheres of Government to ensure that agreed roles and responsibilities are clearly articulated and equitably apportioned.

South Australia does not have a legislated or formalised process for guiding infrastructure funding and provision associated with a new development. Servicing of developments generally relies on adhoc negotiations between the developer and State and Local Government, which may not support cost effective risk management. The LGA is working with the development industry peak bodies to develop infrastructure funding and provision guidelines and appropriate risk management strategies will need to be incorporated in this work.

## **10. DIFFERENT TREATMENT BETWEEN JURISDICTIONS FOR RECOVERY**

Review of assistance levels and triggers in other jurisdictions has revealed to the LGA that there is an inconsistent approach to assisting Councils recover from the impacts of disasters. The thresholds for providing assistance to Councils in South Australia are much higher than in other States e.g. in South Australia a Council with a rate revenue of \$5 million does not receive assistance until the damage cost exceeds \$150,000 and there is no contribution cap whereas in Western Australia the same sized Council has a threshold of approx. \$50,000 and only has to contribute a maximum of \$141,000.<sup>2</sup>

Whilst the LGA recognises that the cost of recovery from disasters needs to be shared it is also of the view that unnecessarily high financial imposts on Councils (especially small rural Councils) can have long term effects on Council works programs that may either result in the delay or cancellation of other works programs that can have flow on consequences to the community.

## **11. RISK ASSESSMENT**

The current and previous NPANDR require each State or Territory to publish a natural disaster risk assessment and agree an implementation plan with the Australian Government. Hence the major risk assessment work the South Australian Government has been doing at both the Zone and State level.

As mentioned previously Councils have supported the Zone Emergency Risk Assessment Project and have been integral to its success. The identification of treatments and the implementation of a comprehensive risk treatment plan is the next major step in this project. However regardless of the merits of the planning this project has initiated, its success will ultimately rely on access to funding that up until the present has been reliant on an annual funding cycle that has no long term sustainability built into it.

## **12. OWN LABOUR AND EXHAUSTION OF COUNCIL RESOURCES**

The South Australian Local Government Disaster Assistance Guidelines<sup>3</sup> states that:

*'Fundamental to the government's assistance is the concept of extraordinary expenditure, i.e., those expenses in excess of what a council would be reasonably expected to manage within its resource capacity.'*

*Councils are expected to direct their own resources in undertaking eligible measures, and only where additional resources are needed should a Council claim assistance from the Government.*

*Normal administrative and operational expenditure, such as wages and salaries of regular employees and the use of council owned equipment, whether diverted from their normal work or otherwise, are generally not eligible for Government assistance.'*

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<sup>2</sup> Western Australia Natural Disaster Relief and Recovery Arrangements March 2014

<sup>3</sup> Local Government Disaster Recovery Assistance Guidelines, Department of Treasury and Finance, SA Government 2014

The inability to be able to claim 'own labour and plant costs' is a contentious issue with Councils. The Guidelines state that there is an expectation that Councils should expend their own resources before accessing State assistance. For Councils to do this after major events means abolishing or significantly reducing current programs because of the need to finance recovery activities. The flow on effect of cancelled programs often means that the whole Council area is affected, not just the disaster impacted area.

### **13. CONTRIBUTION CAPPING FOR LOCAL GOVERNMENT**

Currently the State assistance model does not incorporate a cap to limit the Council contribution to restoration cost of essential public assets. This will be a difficult issue for small rural Councils in South Australia that have limited financial capacity to absorb what could be considerably high costs. There is an 'extraordinary circumstances' clause in the current Local Government Disaster Recovery Assistance Guidelines but application of them is at the discretion of the Minister.

### **14. COUNTER DISASTER OPERATIONS**

There is invariably an immediate need during and after a disaster event for Councils to perform counter disaster operations. Current Guidelines in South Australia exclude Councils from claiming costs associated with 'own wages and plant costs' yet the cost of these operations can be substantial with the expenditure significantly affecting the 'bottom line' of the Council budget. Unrealistically the Guidelines state:

*'A council should proceed with counter disaster operations irrespective of government assistance where it is considered necessary to protect communities and ensure public health and safety in public urban areas.'*

This conundrum is a difficult one faced by Councils, don't perform the works and be damned by their communities or perform the work and expend otherwise allocated funds with little hope of financial assistance to compensate the cost of the emergency response.

### **15. DEFINITION OF ESSENTIAL PUBLIC ASSETS**

The LGA generally agrees with the definition of essential public assets and the listed examples in the Issues Paper however it also believes that sporting, recreational or community facilities (for example, playgrounds and associated facilities) should be included. Experience in disaster recovery has shown that the restoration of these types of facilities are instrumental in helping community recovery as they act as an important medium through which 'community fabric' is restored.

In most cases such assets would be insured but in circumstances where they haven't been they should not be excluded from consideration for assistance.

## APPENDIX

Attendees at the meeting with the Productivity Commission on 27 May 2014 held in Adelaide

### Commission

Commissioners	Karen Chester and Jonathan Coppel
Assistant Commissioner	Mary Cavar
Research Economist	Isfaaq Timol

### Local Government Association

Wendy Campana	CEO LGA
Gary Okely	General Manager, Local Government Risk Services
Pat Gerace	Executive Director, LGA
Lisa Teburea	Director, Planning and Community Services, LGA
Neville Hyatt	Senior Policy Officer, LGA