



Dedicated to a better Brisbane

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Natural Disaster Funding Arrangements
Productivity Commission
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Email: disaster.funding@pc.gov.au

To Whom it may concern

Thank you for the opportunity to comment on the draft report entitled "Natural Disaster Funding Arrangements".

Unfortunately, the extremely limited period available for comment on this complex and lengthy report has of necessity limited Council's comments and observations to preliminary and very general in nature.

The comments focus on both the financial and on the legislative governance framework within which Council operates.

The paradigm shift from relief and recovery funding to mitigation funding ignores the fact that Brisbane (and many other cities and towns) were historically established on fertile flood plains. While an emphasis on mitigation and betterment work is critical, it is even more critical to acknowledge that the people of Brisbane will regularly confront flood events, and there is only so much that can be done by current technology to protect the existing built environment of the city. While mitigation looks to the future, the needs of current residents in their homes (whether the homes are historic or modern) are paramount.

In terms of the legislative framework, it is critical to recognise that local government planning schemes are made within a framework prescribed in the relevant State planning legislation. If the State instruments do not incorporate provisions for natural disaster risk, local governments are constrained accordingly in their ability to call up those risks in their planning schemes. Local governments can be placed in the difficult situation of facing the risk of vulnerability to appeals if they attempt to apply planning controls for natural disasters which are not referenced in governing State legislation and, conversely, the risk of future liability to affected businesses and residents if they fail to introduce such controls.

Council is forwarding these comments to you mainly as an indication that Council's commitment to, and substantial 'investment' in, natural disaster recovery work is ongoing; and that Council wishes to be included in any inquiry or debate about the allocation of natural disaster funding. The full implications to Council or to the community of the report cannot be assessed at this stage.

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Council's response to the draft report is attached.

Yours sincerely

Colin Jensen
CHIEF EXECUTIVE OFFICER

Att.

Brisbane City Council – Submission to the Productivity Commission on Natural Disaster Funding Arrangements

Draft Recommendation 3.1

The Australian Government should:

- *reduce its marginal cost sharing contribution rate to disaster recovery outlays to 50 per cent under the Natural Disaster Relief and Recovery Arrangements*
- *increase the triggers for Australian Government assistance (small disaster criterion and annual expenditure threshold).*

In conjunction with this reduction in funding assistance, the Australian Government should provide state and territory governments with increased autonomy to manage relief and recovery expenditure in a way that reflects the preferences and characteristics of their communities.

Draft Finding 2.4 indicates that restrictions on reimbursement for input (particularly restriction on reimbursement of day labour) lead to wasteful spending. Finding 2.4 also indicates that NDRRA is biased towards rebuilding damaged assets to pre-disaster standards, and that there are numerous barriers to the use of the betterment provisions. However, these findings are not specifically addressed in the corresponding Draft Recommendation 3.1.

Draft Recommendation 3.1 mainly focuses on reducing Commonwealth's cost sharing contribution (from 75% to 50%) and increasing triggers for Australian Government assistance.

Council is strongly opposed to any reduction in the marginal cost sharing contribution rate.

The geographic reality for Brisbane City Council is that Brisbane was built on a flood plain, and despite the application of state of the art technology and planning strategies to resolve flooding issues¹, flooding still continues. Council believes that it is currently impossible for Council to fully mitigate for flood disaster.

Trends toward mitigation have the potential to see Council continuously 'out of pocket'. Should one natural disaster event be swiftly followed by another, there would be a gradual and inevitable regression, both in Brisbane's physical recovery and Council's financial capacity, over time. Any financial vulnerability would be exacerbated by the proposed amendment to the small disaster criterion from \$240,000 to \$2 million, particularly if multiple floods and storms occurred over a short space of time.

Finally, Council recommends that the restriction on the use of day labour be removed, as one very simple means of cost savings.

Draft Recommendation 3.2

If the Australian Government reduces the relief and recovery funding it provides to state and territory governments, it should increase annual mitigation expenditure gradually to \$200 million, distributed to the states and territories on a per capita basis. The amount of mitigation spending could be adjusted over time to reflect the imputed 'savings' from reduced relief and recovery funding.

Increased mitigation funding should be conditional on matched funding contributions from the states and territories and best-practice institutional and governance arrangements for identifying and selecting mitigation projects. These would include:

¹ Examples of Council's management measures to resolve flood risk are found in Council's response to draft recommendation 4.6

- *project proposals that are supported by robust and transparent evaluations (including cost–benefit analysis and assessment of non-quantifiable impacts), consistent with National Emergency Risk Assessment Guidelines risk assessments and long-term asset management plans, and subject to public consultation and public disclosure of analysis and decisions*
- *considering all alternative or complementary mitigation options (including both structural and non-structural measures)*
- *using private funding sources where it is feasible and efficient to do so (including charging beneficiaries)*
- *partnering with insurers to encourage take-up of adequate private insurance and private mitigation through measures such as improved information sharing and reduced premiums.*

Draft Recommendation 3.2 indicates if there is a decrease in Australian Government funding, then there should be an increase in annual mitigation expenditure gradually to \$200M distributed to states and territories on per capita basis.

An increase in funding for mitigation and betterment is supported, but not on the basis that it is dependent upon decreased funding for relief and recovery.

Draft Recommendations 4.1 – 4.3

DRAFT RECOMMENDATION 4.1

When collecting new natural hazard data or undertaking modelling, all levels of governments should:

- *make information publicly available where it is used for their own risk management and/or there are significant public benefits from doing so*
- *use private sector providers where cost effective, and use licencing arrangements that allow for public dissemination. Where there are costs involved in obtaining intellectual property rights for existing data, governments should weigh up these costs against the public benefits of making the data freely accessible*
- *apply cost recovery where governments are best placed to collect or analyse specialist data for which the benefits accrue mostly to private sector users.*

DRAFT RECOMMENDATION 4.2

State and territory governments, local governments and insurers should explore opportunities for collaboration and partnerships. Partnerships, for example, could be formed through the Insurance Council of Australia and state based local government associations (or regional organisations of councils). Consideration could be given to the Trusted Information Sharing Network model, and involve:

- *governments sharing natural hazard data that they already hold and undertaking land use planning and mitigation to reduce risk exposure and vulnerability*
- *insurers sharing expertise and information (for example, claims data) to inform land use planning and mitigation*
- *collaboration to inform households of the risks that they face and adequacy of their insurance to fully cover rebuilding costs, and to encourage private funding of mitigation through incentives such as reduced premiums.*

DRAFT RECOMMENDATION 4.3

State and territory governments should hasten implementation of the Enhancing Disaster Resilience in the Built Environment Roadmap, including reviewing the regulatory components of vendor disclosure statements. Furthermore, the Land Use Planning and Building Codes Taskforce should consider possibilities for regular, low cost dissemination of hazard information to households by governments and insurers (for example, the work of the Insurance Council of Australia to develop natural hazard ratings at a household level).

Recommendations 4.1 – 4.3 cover greater coordination and prioritisation of natural hazard research (including hazard data modelling and making information publicly available).

These recommendations are generally supported, so long as appropriate legal, financial and tax structures can be developed.

Draft Recommendations 4.4 – 4.5

DRAFT RECOMMENDATION 4.4

State governments should:

- *clearly articulate the statewide natural hazard risk appetite in land use planning policy frameworks*
- *provide local governments with guidance on how to prioritise competing objectives within land use planning*
- *provide local government with guidance on how to integrate land use planning and building standards. Consideration should be given to Victoria's Integrated Planning and Building Framework for Bushfire in this regard.*

Furthermore, local governments should publish the reasoning behind development assessment decisions.

DRAFT RECOMMENDATION 4.5

The onus is on state governments to ensure that local governments in their jurisdiction are sufficiently resourced to effectively implement their land use planning responsibilities. State governments should review the adequacy of local governments' resources and capabilities, and provide further resources and support where they are not adequate.

Council's comments are contained in the body of the letter.

Draft Recommendation 4.6

State governments should provide additional support and guidance to local governments that addresses the extent of local governments' legal liability when releasing natural hazard information and making changes to land use planning regulations.

Using flood risk as a pertinent Brisbane example, Council applies a mixture of management measures, of which disaster management is just one, to manage flood risk. Council's strategy also includes consideration of land use planning policies to ensure development appropriately considers and manages flood hazard, provision of simple, accessible, fit-for-purpose flood information that links risks to actions that can minimise the impact of flooding, and structural mitigation works. Council puts an enormous amount of effort into providing information about flood hazards to residents and businesses, ranging from awareness maps and historical flood data to detailed property based planning and building models for planning and development purposes.

However, despite this approach, existing legislation does not protect Council from claims for damages arising from planning and development decisions and the issue of advice relating to hazard affected land, even though Council has acted in accordance with the management measures outlined above, with relevant government policy, and in good faith.

A statutory limitation of local governments' exposure to liability for reasonably-based decision making and actions is required.

Draft Recommendation 4.7

The provisions in the Queensland Sustainable Planning Act 2009 for injurious affection should be repealed.

This recommendation is supported.

The injurious affection provisions of Queensland's *Sustainable Planning Act 2009* create limitations when dealing with matters of risk management and mitigation. Injurious affection implications were also raised as an issue for investigation coming out of the *Queensland Floods Commission of Inquiry*.