

# **Local Government NSW Submission Draft Productivity Commission Report Inquiry on Natural Disaster Funding Arrangements**

October 2014

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## Introduction

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all the 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation representing NSW councils and facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

LGNSW welcomes the opportunity to make a submission to the Productivity Commission on the Draft Report on Natural Disaster Funding Arrangements.

LGNSW is also a member of the Australian Local Government Association (ALGA). ALGA is a federation of the Local Government Associations (LGAs) of each state and territory, representing the views of Local Government at the national level. LGNSW and the other LGAs collaborate with ALGA in the preparation of submissions and other representations at the national level.

We also encourage the Productivity Commission to give due consideration to submissions made by individual councils, Regional Organisations of Councils and other Local Government based bodies such as the Floodplain Management Association (FMA).

## LGNSW Core Position

LGNSW reiterates the core positions expressed in its initial submission to the Natural Disaster Funding Arrangements discussion paper. While the draft report contains several findings with which we agree and many recommendations that we support, we find that the overall outcome would be deleterious for Local Government.

LGNSW remains concerned that the Inquiry is being primarily driven by the Australian Government's objective of reducing its financial exposure to natural disasters. LGNSW does not consider cost cutting to be an appropriate basis for the development of a natural disaster funding framework.

Many of the measures proposed in the draft report would simply result in cost shifting from the Australian Government to State and Local Government. This is untenable given the high degree of Vertical Fiscal Imbalance that exists in the Australian taxation system.

LGNSW contends that it is essential that the Australian Government maintain its financial support for natural disaster mitigation, resilience and recovery. It is absolutely critical at the local level. As noted above, Local Government does not have the financial capacity to adequately deal with natural disasters without substantial support from the Australian Government.

However, LGNSW acknowledges that improved efficiency and long term effectiveness are legitimate objectives that should be pursued independently of cost outcomes. LGNSW has long advocated increased spending on mitigation and resilience measures to generate in long run savings. We are encouraged by research (Deloitte et al) that indicates that the long run savings generated by mitigation expenditure are manyfold. The Deloitte research indicates a

multiplier in the order of 50x, perhaps optimistic but certainly compelling. However, these savings are only achieved in the long to very long run, they would do little in terms of cost avoidance in the short to medium term.

## **LGNSW Comments on Findings and Recommendations**

### **BUDGET TREATMENT OF NATURAL DISASTER RISKS**

#### **Draft Finding 2.1**

*The budgetary treatment of natural disaster costs as an unquantified contingent liability means that governments make decisions about natural disaster risk management without having full information about the potential consequences.*

*Where governments make no explicit budgetary provision for the costs of recovery from future natural disasters there is a systematic bias against mitigation and insurance.*

LGNSW agrees with this finding.

#### **Draft Recommendation 3.3**

*The Australian Government should publish estimates of the future costs of natural disasters to its budget in the Statement of Risks. It should also provision through annual appropriation for some base level of natural disaster risks that can be reasonably foreseen. For more catastrophic, less quantifiable risks, it is likely to be more efficient to finance the related costs if and when the risks are realised.*

LGNSW supports this recommendation and would also recommend that the practice be promoted in in all spheres of government. LGNSW also agrees that it is more efficient to finance the costs of less quantifiable risks if or when they arise are realised. This can be achieved through reserves, temporary tax measures or borrowing.

### **FUNDING ARRANGEMENTS FOR RECOVERY**

#### **Draft Finding 2.2**

*Some cost sharing between the Australian and state and territory governments in the form of a fiscal 'safety net' to assist with the cost of natural disasters is inevitable because of vertical fiscal imbalance.*

*The current funding arrangements exceed the requirements for such a safety net.*

- *The current thresholds for funding under the Natural Disaster Relief and Recovery Arrangements (NDRRA) do not constitute a major fiscal burden that exceeds state and territory governments' funding capacity.*
- *The NDRRA 'small disaster criterion' is too low. It captures small, routine events that are unlikely to constitute natural disasters.*
- *A marginal reimbursement rate of 75 per cent is excessive and is not consistent with other cost sharing arrangements in the Federation.*
- *The scope of eligible expenditures under the NDRRA is unclear in some cases, and includes activities that are the core responsibilities of state and territory governments. Ministerial discretion for 'exceptional circumstances' assistance adds more uncertainty around eligible expenditure.*

LGNSW strongly disagrees that current funding arrangements exceed the requirements of a vertical fiscal imbalance safety net. The unpredictability of disaster events distinguishes this cost category from other cost sharing arrangements.

#### **Draft Finding 2.4**

*Prescriptive requirements in the Natural Disaster Relief and Recovery Arrangements (NDRRA) limit the scope for cost shifting, but also impose administrative costs.*

- *The reimbursement model under the NDRRA reduces the incentives for state, territory and Local Governments to implement the most cost effective options for disaster recovery.*
- *Restrictions on reimbursement for inputs for reconstruction (such as restrictions on reimbursing the use of 'day labour') lead to wasteful spending.*
- *The bias in the NDRRA toward rebuilding damaged assets to their pre disaster standard leads to excessive reconstruction expenditure.*
- *There are numerous barriers to the use of the Betterment provisions.*
- *A lack of clarity around what constitutes 'current building and engineering standards' leads to inconsistent application of the clause and inequitable outcomes*

LGNSW agrees that there is a need to move away from prescriptive arrangements. It is wasteful to rebuild vulnerable assets to their pre disaster standard, they should be rebuilt to more resilient standards or where there is the opportunity, alternative solutions should be considered. These could range from relocating to abandoning assets. Further, while State and Federal Governments voice support for the principle of "betterment", it is effectively obstructed by current processes. Restrictions on the use of day labour have also proven to be counter-productive.

#### **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*

LGNSW does not support a reduction in the Commonwealth marginal cost sharing contribution rate to 50 per cent or changes to the small disaster criterion and annual expenditure threshold.

While this recommendation is directed towards state governments, it inevitably has implications for Local Government. The Commission notes that 'Each state would continue to have full autonomy on how it provides support to its Local Governments' (pg 19). The impact on state government budgets will be significant and will be mirrored in the flow on to councils. This leaves councils in a vulnerable and uncertain situation where they will rely on the goodwill of state governments to determine how and when support will be distributed.

LGNSW also contends that for any reduction in Australian Government funding contributions for disaster relief and recovery should be offset by a proportionate increase in the Australian Government's contribution to disaster mitigation funding.

## FUNDING ARRANGEMENTS FOR MITIGATION

### 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:*

- *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 nonstructural 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*

As stated at the outset, LGNSW support increased mitigation funding however, councils have varied but limited financial resources and the take up would depend on the amount councils would be required to co contribute to access this funding and the costs of projects in their areas. LGNSW considers that funding allocations should be prioritised and not based on a council's capacity to contribute. Further, as noted previously, mitigation savings are only achieved in the long to very long run, they do little in terms of cost avoidance in the short to medium term.

## INTERACTION WITH FEDERAL FINANCIAL RELATIONS

### Draft Recommendation 3.6

*The Commonwealth Grants Commission should revisit its assessment of 'average state policy' and accompanying accountability requirements for natural disaster policies once the Australian Government has announced its decision regarding relief and recovery funding arrangements. LGNSW has no comment on this recommendation.*

## GOVERNMENT INSURANCE

### Draft Finding 2.3

*There are several impediments to state, territory and Local Governments taking out adequate insurance for their road assets against natural disaster damage.*

- *The current natural disaster funding arrangements reduce the incentive for state, territory and Local Governments to insure their assets.*
- *Most state, territory and asset registers are not adequate for the requirements of insurers.*

- *Most state, territory and Local Governments have not fully explored the use of non traditional insurance instruments for insuring roads.*

LGNSW disagrees with these findings in relation to Local Government.

While councils generally have adequate insurance arrangements for buildings and other property, they do not as a rule, insure roads and bridges. It is not common practice for governments (local, state or national) to insure these types of assets anywhere in Australia or anywhere else in the world according to insurance industry experts. Consequently, this type of insurance is not readily available in the commercial market.

This raises a number of issues for Local Government, chief of those being the potentially enormous increase in insurance costs to councils and ultimately ratepayers. It should be noted that the local road network in NSW exceeds 146,000 km and Local Government is also responsible for another 18,500 km of regional roads a total of nearly 165,000 km. NSW councils are responsible for around 85% of the state's road network. This would be an enormous insurance proposition.

LGNSW is concerned that many seem to accept that it is desirable to establish insurance arrangements for council road and bridge infrastructure and therefore reduce reliance on NDRRA funding. At present the Australian Government is sharing the financial risks associated with natural disaster. LGNSW argues this is appropriate given the much wider tax base and ability to spread the risk over a wider geographic area. A reduction in the financial risk borne by the Commonwealth will increase the risks and costs borne by councils (cost shifting). There is not likely to be an overall saving for taxpayers, just a shifting of the burden from federal taxes to local taxes (rates), with those in areas most vulnerable to natural disasters bearing the highest insurance costs.

LGNSW does not accept the conclusion that the NDRRA reduces the incentive for Local Government to take out insurance. As noted previously, Local Government does typically insure buildings plant and other assets with the exception of the road network. The fact that over 50% of NSW council assets are roads and bridges distorts the insurance picture. As has been established, there are quite rational reasons for not insuring the road network that are independent of the NDRRA including the:

- Unavailability of commercial insurance;
- Prohibitive cost if it was available; and
- Geographic inequity.

It is also arguable that premiums paid on insurance would be better spent on roads would be better invested in mitigation works on the roads.

It is agreed local road asset data, although improving, would not be consistently of the standard required by insurers.

It is questionable if viable non-traditional insurance options exist for Local Government roads. LGNSW is not aware of the market laying out any such options.

#### **Draft Recommendation 3.4**

*State, territory and Local Governments should further investigate non -traditional insurance products for roads. Where they do not already do so, state, territory and s should compile and*

*publish detailed registers of road asset condition and maintenance for all roads over which they have jurisdiction (and have these registers independently audited). This may help insurance markets to understand and price the risk. Consideration should be given to the Victorian model in this regard.*

See above.

## **MANAGING SHARED RISKS**

### **Draft Finding 2.6**

*The Australian Government Disaster Recovery Payment (AGDRP) is significantly higher than the Crisis Payment that is provided to assist income support recipients with the impacts of traumatic events. As such, the AGDRP may be higher than necessary to meet the emergency needs of people affected by natural disasters.*

*Eligibility criteria for the AGDRP tend to be adjusted following a major natural disaster and have progressively become broader in their scope. Ministerial discretion over the eligibility criteria has led to inconsistent and inequitable treatment of people in comparable circumstances and has contributed to increased program costs.*

*There is overlap and duplication between the AGDRP and state and territory government emergency assistance to individuals. The Australian Government is better placed than the states and territories to provide emergency assistance to individuals in an efficient and timely manner.*

LGNSW generally agrees with this finding, though it questions that appropriateness of using the Crisis Payment as a benchmark for assessing the level of the AGDRP.

LGNSW agrees that ministerial discretion over the AGDRP eligibility has led to distortion and inconsistency. On occasions this has raised the bar, creating public expectations of progressively higher levels of entitlement and locking in increased costs.

### **Draft Finding 2.7**

*The case for government assistance to businesses and primary producers after a natural disaster is weak.*

*If governments do provide assistance to businesses and primary producers, untied grants are a more efficient, effective and equitable instrument than loans and subsidies.*

LGNSW does not accept this proposition. Our experience in NSW indicates that rapid recovery of primary production and businesses is vital for overall community recovery, particularly in rural and regional areas.

### **Draft Recommendation 3.5**

*The Australian Government should:*

- *cease reimbursement to state and territory governments under the Natural Disaster Relief and Recovery Arrangements for relief payments for emergency food, clothing or temporary accommodation and assistance to businesses and primary producers (including concessional loans, subsidies, grants and clean up and recovery grants)*



- *reduce the amount provided under the Australian Government Disaster Recovery Payment (AGDRP). The Australian Government Crisis Payment may provide a reasonable benchmark in this regard*
- *legislate the eligibility criteria for the AGDRP and the Disaster Recovery Allowance and make these not subject to Ministerial discretion.*

LGNSW is opposed to this recommendation.

The Commission's recommendation to terminate reimbursement for the more immediate state and territory government personal hardship and distress payments and clean-up and recovery grants for businesses in favour of the inconsistently applied Commonwealth AGDRP is not supported. LGNSW does support greater consistency and less ministerial discretion in the AGDRP arrangements.

#### **Draft Finding 4.1**

*The availability of information on natural hazards and exposure has improved significantly in recent years, especially in relation to floods. However, there is scope for greater coordination and prioritisation of natural hazard research activities across governments and research institutions.*

LGNSW agrees with this finding but notes that there is significant ongoing improvement already underway.

#### **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.*

LGNSW conditionally support

As well as being far more cost effective, it would also be more far 'user friendly' and more accessible to property owners if the relevant risk management information was held by a central body/portal either at the national by state level. All spheres of government should be encouraged to use such a portal to disseminate their information.

#### **Draft Recommendation 4.2**

*State and territory governments, s and insurers should explore opportunities for collaboration and partnerships. Partnerships, for example, could be formed through the Insurance Council of Australia and state based 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 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.*

LGNSW supports collaboration and partnerships in principle. However, this area remains complicated with issues such as legal liability, data quality, sectoral rivalry, distrust, inconsistency in usage and interpretation of data and the debate about public and private benefits. LGNSW recommends that improved collaboration and partnership be a focus of further research.

#### **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).*

LGNSW support ion principle.

LGNSW believes that all relevant hazard information should be readily available to all property owners and purchasers. It should be revealed in planning documents relating to the land and be readily available for vendor disclosure. Nevertheless, it is important any building assessment criteria do not become overly burdensome for Local Government to check and maintain.

## **REGULATING THE BUILT ENVIRONMENT**

#### **Draft Recommendation 4.4**

*State governments should:*

- *clearly articulate the statewide natural hazard risk appetite in land use planning policy frameworks*
- *provide Local Government 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.*

LGNSW strongly supports this recommendation and considers it to be imperative that the state governments provide a framework which defines the level of risk acceptability and provides guidance in managing competing land use objectives. Furthermore, the guidance should be binding on both local and state governments.

#### **Draft Recommendation 4.5**

*The onus is on state governments to ensure that s 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.*

LGNSW fully support this recommendation.

Many planning and building fees in NSW are regulated by the state government, with many not having been reviewed or Consumer Price Index adjusted in over a decade. At the same time the regulatory burden on councils has grown significantly. The combined effect has led to sub optimal regulatory practices and/or distortion of resource allocation.

#### **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.*

LGNSW fully supports this recommendation. It should be noted that NSW legislation already provides protection to planning officers where decisions are made in good faith.

#### **Draft Recommendation 4.10**

*All governments should put in place best practice institutional and governance arrangements for the provision of public infrastructure, including road infrastructure. These should include:*

- *stronger processes for project selection that incorporate requirements for cost–benefit analyses that are independently scrutinised and publicly released*
- *consideration of natural disaster risk in project selection*
- *a clearer link between road user preferences and maintenance and investment decisions.*

LGNSW supports the recommended criteria in principle. The considerations are fully consistent with the direction that NSW councils are heading under the Integrated Planning and Reporting (IPR) requirements introduced in recent years.

However, decisions should not be solely made on cost benefit criteria as they fail to accurately capture other important social, environmental and cultural values. Further, the allocation of costs and benefits may also become blurred across a Local Government area and beyond into adjoining areas.

## **INSURANCE**

#### **Draft Recommendation 4.8**

*State and territory taxes and levies on general insurance should be phased out and replaced with less distortionary taxes.*

LGNSW supports this recommendation.

The Association supports the removal any barriers which restrict the take up of insurance. LGNSW also advocates the replacement of insurance and Local Government based Emergency Services levies with a broad based property tax. NSW is the only mainland state that has not made this move.

#### **Draft Recommendation 4.9**

*Insurers should provide additional information to households regarding their insurance policies, the natural hazards they face and possible costs of rebuilding after a natural disaster. This work could be led by the Insurance Council of Australia to ensure consistency in the provision of information across insurers.*

LGNSW strongly supports this recommendation.

The Association believes that it is important that property owners understand how their insurance premiums are calculated and informed of measures that they take to reduce their premiums.

## **Conclusion**

LGNSW urges the Productivity Commission to take into account the vulnerability of Local Government when finalising its recommendations. Councils widely vary in scale and capacity and disaster risk does not always coincide with a council's scale and capacity. Local Government has a narrow revenue base at best, and in NSW is also subject to state imposed restrictions (i.e. rate pegging). What may seem to be relatively modest cuts in support at a national or state level are likely to be magnified at the local level. Local Government has a central and unavoidable role in disaster recovery. Councils cannot just walk away from the responsibility. They are part of the recovering community, they are stuck with the costs. A shift towards increased mitigation funding is supported, but it cannot be used to justify a large reduction in recovery funding in the short to medium term.