

15 December 2011

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

SUBMISSION TO PRODUCTIVITY COMMISSION

Please find attached Clarence City Council's submission to the Productivity Commission in relation to the Public Enquiry into "Barriers to Effective Climate Change Adaptation" along with two attachments.

Yours sincerely

Andrew Paul
GENERAL MANAGER

Submission to Productivity Commission
Public Inquiry into
“Barriers to Effective Climate Change Adaptation”

December 2011

Clarence City Council

Clarence City Council is situated in Southern Tasmania on the Eastern Shore of the Derwent River with our Southern boundary being Frederick Henry Bay, Storm Bay and the Southern Ocean.

Whilst only 300km² in size Clarence has an extensive ocean and estuarine coastline of 191 kilometres.

Given our geography Clarence is vitally interested in the issue of climate change and in particular it's potential to cause sea level rise and its consequent impacts on our much valued coastal and seaside communities.

In this regard, Council, in 2007, commissioned a major study entitled “Climate Change Impacts on Clarence Coastal Areas”. This study was co-funded by the Australian Government, Tasmanian State Government and Council.

The project was initiated in response to Council and community concerns about erosion of beaches and tidal flooding in coastal areas.

Whilst the study was broad in its scope, one of the key outputs of the project was the investigation of adaptive management options in response to present and future coastal hazards, particularly with reference to how do we beneficially use coastal areas while recognising the long term need to protect, accommodate or retreat as sea levels rise?

The report identified a number of possible adaptive options including:

- planning controls
 - building setbacks
 - minimum floor levels
 - engineered responses
 - different construction techniques
 - development freeze
- physical walls
 - seawalls and the like
 - groynes
 - dune management
- detailed evacuation and emergency management planning
 - community education
 - data collection and studies.

Finally, the report went on to identify a range of Government, Council and community adaptive responses that should be pursued in the short term (0-25 years), medium term (25-75 years) and long term (75 years +).

Council has commenced many of the short term works noted in the 0-5 years range, including amendment to planning schemes, both zones and construction standards and controls, dune and beach rehabilitation works, infrastructure provision (including the sewerage of a medium size coastal community) and community engagement, particularly in relation to ongoing responsibility for coastal adaptation and the funding for adaptive measures.

In pursuing these coastal adaptations and initiatives a number of potential barriers and issues have arisen or become evident:

- there is no clear understanding or agreement between the three tiers of government as to the roles and responsibilities of each tier of government. In this vacuum of understanding it is Local Government that is bearing the brunt of the responsibility;
- in Tasmania there is no adopted Statewide coastal policy to guide Council and community responses to coastal issues. This results in a piecemeal approach by differing Local Governments resulting in variable and confusing standards for developers and the community;
- in Tasmania there is no clear legislated protection for Councils in relation to legal liability for coastal works. This creates a climate of uncertainty for both Council and the community as to responsibility for adaptation controls, works or measures. This vacuum of uncertainty means that the “insurance industry” becomes a principal driver of determining liability and whether action of any sort can or should be implemented. Clearly, it is an unsatisfactory outcome for government and community responses to these issues being determined and driven by a fear of legal liability. I attached a copy of a report prepared for Council by Professor Jan McDonald, Professor of Environmental Law at the University of Tasmania which details our current understanding of the legal issues. Councils must be provided with some legal and liability certainty if we are to continue to work with our communities to resolve these issues. The NSW State legislation appears to be an excellent starting point;
- increased cost for development in identified erosion or coastal inundation zones. Clarence Council, by and large, sought to minimise “no development” zones and has instead placed a requirement for development in certain areas to be structurally certified as suitable for the identified hazard. Anecdotal evidence from builders and developers is that this had added significant cost to building in the identified zones;
- a lack of response from the Tasmanian State Government to hazards and major coastal processes. In July of this year a major storm event aligned with high tides caused significant damage and erosion along our southern coastline. Much of the damage was centred on a small area of coastline and properties fronting Crown land. During the storm, in certain areas up to 8m of the coastal dune system was lost with flooding and some infrastructure loss. The loss of the coastal dune

system has left many properties exposed to flooding and erosion from future much lesser and commonly occurring storm events than experienced in July.

The State Government has consistently refused to assist or support Councils and the community's efforts to rehabilitate the dune systems and coastal protection works to provide even short-medium term protection. A letter from the responsible Minister states, *"The view of the Department is that processes and hazards such as flooding, storms, erosion, landslide, littoral drift, dune mobility and sea level rises are natural processes and the Government does not interfere, nor bear any responsibility"*.

Such an approval places what we believe to be an unfair burden on Council and our community. It would seem logical in many circumstances to implement preventative measures where appropriate rather than to rely on emergency response and management when events occur. At present there appears to be no understanding of the economic benefits of protect versus recover in relation to coastal processes.

Again, this highlights the need for all tiers of Government to have a defined role rather than in the Tasmanian case where the Government's response is clearly being driven by budgetary concerns.

Further, the cost of implementing the adaptive responses detailed in the report are significantly beyond the resources of Clarence Council. There needs to be an agreed national approach to these issues.

As a final submission to the Commission I would like to endorse the submission to your enquiry made by the National Sea Change Task Force that provides a more detailed overview of the issues facing local communities in relation to climate change adaptation.

Should it be deemed appropriate, Council would be willing to provide further information or evidence in support of our submission.

Yours sincerely

Andrew Paul
GENERAL MANAGER

- Attachments:
1. Climate Change Impacts on Clarence Coastal areas – UNSW, Water Research Laboratories and SGS Economics and Planning.
 2. Legal issues for Local Government in addressing erosion risks – a research report for Clarence City Council – Dr Jan McDonald.