



AUSTRALIAN LOCAL  
GOVERNMENT ASSOCIATION

Submission to the Productivity Commission on the issues  
paper: *Barriers to effective climate change adaptation.*

16 December 2011

The Australian Local Government Association (ALGA) welcomes the opportunity to make this submission to the Productivity Commission in response to its issues paper *Barriers to Effective Climate Change Adaptation*. Local government has a long-standing interest and involvement in climate change adaptation activities

## **Background**

ALGA is a federated body comprised of the state and territory local government associations, representing over 560 local government authorities across the country. ALGA has consulted its member associations in preparing this Submission. ALGA's submission however reflects a national policy perspective and should be read in conjunction with submissions lodged by individual local government associations and councils.

ALGA's position on climate change is based on a number of principles including:

- ALGA recognises the importance of climate change, the impact of human activity on the composition of the global atmosphere and the urgent need to mitigate the production of greenhouse gas emissions and adapt to climate change that cannot be avoided;
- ALGA recognises the importance of evidence-based policy making. Policies, strategies and actions addressing climate change need to be based on the best available science while recognising the need for sufficient flexibility to adapt as scientific knowledge improves;
- Local government throughout Australia is an instrumental level of government in implementation and mitigation activities at the local and community level. However, the capacity and level of resources of local governments to address climate change vary and additional funding assistance will be required to ensure that 'public good' community assets are managed effectively;
- ALGA supports early action to avoid global surface temperatures rising above 2 degrees (average).
- In regards to mitigation, ALGA supports a price on carbon, in particular a market-based approach to drive reductions in greenhouse gas emissions. ALGA has provided input to the Australian Government on the design of the scheme with the aim of ensuring that it is practical and does not have unintended consequences for local communities;
- ALGA acknowledges that there will be significant impacts resulting from climate change that cannot be avoided. ALGA is committed to support local government's role in adaptation;

- Noting that transformation to a low carbon economy will have significant impacts on businesses, communities and individuals, ALGA supports appropriate adjustment policies and strategies to facilitate this change.

## **Local Government and the Adaptation Agenda**

For more than twenty years many local governments have pursued a range of policies and activities to address climate change in the context of Ecological Sustainable Development (ESD) following the adoption of Local Agenda 21 framework arising out of the 1992 United Nations Summit in Rio

Over this period councils have sought to understand the complex issues of climate change and, importantly, have attempted to develop innovative programs to reduce local emissions (council and community) and to assist their communities to understand the need for concerted action to mitigate and adapt to climate change. While some of these initiatives received small amounts of funding from the Commonwealth and state governments, many of the programs were run at council cost, backed by a strong political commitment to show local leadership on the issue and to address the problem from a grass roots and practical perspective.

Local government performs a diverse role in the system of government within Australia at the local and regional level. In general terms these roles include, but are not limited to:

- owner and operator of significant public assets - local government owns and manages more than 80% of the national roads network, by length, and more than \$200 billion worth of public assets such as halls, jetties etc, and in some states it owns and manages water reticulation systems;
- providers of municipal and other essential public services including emergency management;
- Implementation of planning and building controls for local areas under delegations from state and territory governments;
- manager of public lands and environmental assets; and
- facilitator of community information and business support.

Generally, local governments throughout the country recognise the need to address climate change through both mitigation and adaptation activities. In addressing this challenge councils recognise that a comprehensive response to climate change will engage all the components of the council organisation and will require the backing of all of the local community stakeholders.

However it is important to remember that the impacts of climate change on individual local government areas will vary depending on location, services, assets and current practices. Equally the capacity to address these impacts will also vary, reflecting differences in the availability of information, expertise and resources available at the local government organisation level.

The variation in individual local governments' capacities to address climate change led ALGA to highlight the need for assistance to councils in its annual submissions on the Federal Budget from 2005 onwards.

In these submissions, ALGA has consistently argued for Commonwealth assistance to councils to allow them to both develop climate change adaptation plans and to implement these plans through funding for engineering works, asset modification and strengthening, health risk programs in managing heatwaves and other extreme weather related events, and mitigation works, such as flood levees.

Local government welcomed the Commonwealth's Local Pathways to Adaptation Pathways program established in 2007, which has provided in excess of \$6 million over 4 years to assist councils and groups of councils to conduct Local Adaptation Plans. These plans were generally developed by consultants working for councils and adopted a risk assessment and risk management approach to climate change adaptation.

While this is a positive development, some state and territory local government associations have expressed some concern about the lack of a standardised methodology to develop adaptation plans and note the variability of the outcomes of this work. Subsequently, a number of state and territory local government associations have worked with their insurers to facilitate the rollout of climate change risk assessment and adaptation plans to guide councils work in adaptation.

### **Adaptation at the Inter-Governmental Level**

ALGA welcomed discussions and the Council of Australian Governments (COAG) interest in climate change that began in 2006/07. In particular ALGA was fully supportive of the development of the National Climate Change Adaptation Framework involving all levels of government. From a local government perspective ALGA believed it was important that local action aligned with national and international efforts to address climate change and until this point in time policy signals at the Commonwealth and state levels appeared to lack focus and reflected diverse priorities. This lack of clarity and direction caused confusion and inefficiencies at the local community level.

The COAG focus was subsequently broadened to include consideration of Carbon Pollution Reduction Scheme issues and renewable energy with the establishment of the COAG Climate Change Working Party which was chaired by the then Minister for Climate Change Senator the Hon. Penny Wong.

ALGA has been concerned, however, that the focus of public and political debate over the past three to four years has been almost exclusively on mitigation policy and in particular putting a price on carbon emissions. Whilst this is understandable to a certain extent it has nevertheless meant that intergovernmental work on adaptation has been less developed than it potentially could have been. ALGA is hopeful that the passage of the clean energy package legislation, this Productivity Commission Inquiry and the formation of the new COAG Select Council for Climate Change will provide further impetus to reinvigorate collaborative work on agreed priorities for adaptation.

### **Identification of needs**

This submission does not intend to comment on the market economics that are comprehensively outlined in the Productivity Commission's Issues Paper. However,

through almost a decade of work on climate change within the local government sector, it has become clear that the greatest barrier to market based solutions in the area of adaptation is a lack of information and consistent and reliable knowledge. In particular, there is a lack of relevant data at a scale and at sufficient reliability to allow informed decisions at the local and regional level. Improving data and information at the local and regional level remains a high priority need.

While ALGA welcomed the establishment of the National Centre for Climate Change Adaptation and later the National Climate Change Adaptation Research Facility (NCCARF), there has, during the past five years, been a proliferation of research on climate change and related issues. ALGA, on behalf of the sector has been approached frequently to support research projects that while generally worthy appeared too often to be researcher driven, with an imperative for international publication in order to attract Australian research grants, and not necessarily designed to address practical issues of priority concern to councils and the diverse communities and stakeholders they seek to serve..

The task of managing scientific information, discovery and applied science remains a significant challenge for the research community and local government. ALGA welcomes NCCARF's efforts in this regard with the establishment of the local government portal but further work will be needed between the NCCARF, the research community and local government to optimise the outcomes from public expenditure in this field.

In April 2010 ALGA held a National Climate Change Local Government Leaders Forum. The Forum was attended by key state and territory local government association climate change policy experts, invited representatives from leading councils from all states and territories, and senior officials from the Department of Climate Change and Energy Efficiency, CSIRO and the BOM. The purpose of the Forum was to identify strategic priorities and new ways of assisting councils to address climate change. The Forum identified nine national policy outputs which have been incorporated into an ALGA *Climate Change Implementation Plan 2010 – 2014*. (Attachment 1) The outputs include:

1. Improved local data and information to assist councils to address climate change;
2. Accelerate risk assessment and risk management planning across local government;
3. Embedding climate change into local government strategic and corporate plans;
4. Integration of council plans with regional plans;
5. A shared approach to legal liability and litigation arising from climate change;
6. Greater clarity on roles and responsibilities in particular on the management of public assets;
7. A national technology platform to share information, resources, templates, ideas and plans;
8. Nationally consistent communication and locally relevant education templates; and
9. Policy alignment between the three levels of government.

While the Implementation Plan does not provide a complete answer to address the complex challenges and opportunities of climate change, it provides a strong national framework to help councils to play their role, in partnership with other levels of government, business and their communities in the coming years.

ALGA is working in collaboration with its member state and territory local government associations on the delivery of these outputs over the next three years. Many of the outcomes will require partnerships with other levels of government as well as selected stakeholders.

## **Regulatory Barriers**

One of the highest priority issues confronting councils identified by ALGA's Climate Change Forum in April 2010, and included in the ALGA Action Plan adopted for 2011 – 2014, is uncertainty about legal liability. This matter was also identified as an important issue in the 2009 report *Managing our Coastal Zone in a Changing Climate: The Time to Act is Now* by the House of Representatives Standing Committee on Climate Change, Water, Environment and the Arts.

In April 2011 ALGA resolved to commission a project to explore Climate Change Adaptation and Local Government liability issues. Following an approach to the Department of Climate Change and Energy Efficiency, additional funds were provided to expand the scope of the project. ALGA subsequently engaged Baker & McKenzie Solicitors to prepare a report to assist ALGA, in collaboration with State and Territory local government associations to:

- identify areas of potential legal risk and the liability of councils associated with State and local government laws in relation to climate change – with a particular reference to coastal areas;
- identify legal or other strategies to mitigate these risks;
- identify where legislation or policy frameworks create barriers to effective adaptation or promotes maladaptation; and
- provide an assessment of potential models or national approaches to reduce or remove these risks to councils.

The Project outcome was a final report *Local Council Risk of Liability in the Face of Climate Change – Addressing Uncertainty – A Report to the Australian Local Government Association, July 2011* Baker & McKenzie and it is available under the publications tab at the ALGA website [www.alga.asn.au](http://www.alga.asn.au)

Based on this report, ALGA has reaffirmed its view that legal uncertainty is a key barrier against more proactive climate change adaptation programs. It is now ALGA policy to advocate that the NSW local government legislative model removing liability from councils, provided they acted in good faith, be adopted by other jurisdictions.

## Conclusion

This submission is a brief response to just some of the issues contained in the Productivity Commission's Issues Paper. ALGA believes that there is a need for a more focussed discussion on adaptation to climate change between all levels of government and the broader community. Adaptation needs to be a shared goal, and policy alignment between governments is essential to optimise the opportunities and address the challenges faced by local communities as a consequence of climate change. Research effort needs to be more focussed on practical outcomes and data and information developed at the lowest necessary level of granularity to assist councils to make informed decision on locally relevant and robust datasets.

The capacity constraints of local government to address climate change must be acknowledged and effective partnerships between levels of government and the community will need to be developed to share the risks and implement cost effective plans over time to build the resilience of local infrastructure and communities.

ALGA looks forward to responding to the Commission's Draft report on this important topic. Should you require any further information regarding this submission, please contact Rolf Fenner, Senior Policy Adviser or Adrian Beresford –Wylie, Chief Executive.

Attachment 1      *ALGA Climate Change Implementation Plan 2010 – 2014.*