



**PRODUCTIVITY COMMISSION**  
**DRAFT REPORT**  
**BARRIERS TO EFFECTIVE CLIMATE CHANGE**  
**ADAPTATION**

**SUBMISSION**

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NOTE: This is not an endorsed LGA State Executive Committee document. It has been prepared by the LGA Secretariat for consideration at the LGA State Executive Committee meeting on 19 July 2012.

## **Barriers to Effective Climate Change Adaptation**

### **INTRODUCTION**

#### **Local Government Association of SA (LGA)**

The LGA is a membership organisation for all Councils in South Australia and is the voice of Local Government in this State. The LGA is created by Councils and endorsed by the South Australian Parliament through the South Australian Local Government Act 1999 and is recognised in 29 other South Australian Acts. All 68 Councils are members of the Association, as is Anangu Pitjantjatjara Yankunytjatjara.

The LGA provides representation, quality service and leadership relevant to the needs of member Councils. The LGA also operates specific units/entities providing:

- all public liability and professional indemnity cover for all SA Councils;
- all workers compensation cover for all SA Council employees and associated Local Government bodies;
- asset cover for SA Councils; and
- extensive education and training; industrial relations; procurement; online services and a research and development scheme.

The LGA is involved in the operation of (and establishment of):

- the Local Government Finance Authority;
- Local Super; and
- Public Library Services.

The LGA has a formal State/Local Government Relations Agreement with the Premier of the State, and is a constituent member of the Australian Local Government Association.

#### **Local Government in South Australia**

Local Government in South Australia (SA) comprises 68 Councils of which 19 are metropolitan Councils and 49 are rural or regional Councils. A large land area of the State is not incorporated under the Local Government Act but for the purposes of the Commonwealth Local Government (Financial Assistance) Act comprises five Aboriginal communities and the Outback Communities Authority.

The Constitution Act 1934 (SA), the Local Government Act 1999 (SA), and the Local Government (Elections) Act 1999 (SA) and the City of Adelaide Act 1997 (SA), create the primary legal framework within which Local Government operates and the four-yearly election process which underpins the representative nature of Councils in this State.

The Local Government system in SA is integral to the democratic system of government in Australia, which provides vital economic, social and environmental support for communities. SA Councils manage about \$16 billion of infrastructure and operating expenditures of about \$1.6 billion a year (2010 figures). Councils receive significant Commonwealth and State funding and work in partnership at the local level for communities.

Local Government in SA is typified by:

- high standards of operational competence and accountability;
- sharing resources, working consultatively and cooperatively with other Councils and other spheres of government;
- low net debt and conservative management of finances; and
- expanding roles and increases in standards of service to respond to community demands, other governments and service gaps.

## BACKGROUND

The LGA is pleased to be able to respond to this draft Productivity Commission report on the barriers to effective climate change. Local Government has a strong background in responding to the issue of sustainability and in recent years its focus has been on adaptation to the likely impacts of climate change. To assist Councils in responding to the challenges of climate change the LGA established a 2008-12 Climate Change Strategy targeted at leading the sector in adaptation, mitigation and leadership. Refer to [www.lga.sa.gov.au/goto/climatechange](http://www.lga.sa.gov.au/goto/climatechange) for copy of this strategy.

A flagship project arising from the 2008-12 LGA Climate Change Strategy was the LGA Mutual Liability Scheme (LGAMLS) Climate Adaptation Project (CAP).

Established in mid 2008 the LGAMLS CAP provided SA Councils with a framework to translate climate change impact risks into their business operations, while developing realistic adaptation measures over short and long term planning horizons.

The CAP, in addition to creating an adaptation strategy that can be integrated into Councils' own individual strategic plans (refer to LGA Draft Climate Action Plan Guidelines described below), has enabled the LGAMLS to develop a 'climate adaptation' profile for South Australian Local Government.

South Australia is the only State that has been able to develop a sound 'whole of sector' risk profile based on the Federal Government's Climate Adaptation criteria.

The Program is scheduled to be completed by late 2012. Final outcomes and a summary of the CAP will be delivered via the final Climate Adaptation Report. The LGA Secretariat is currently preparing a draft strategy and action plan, in consultation with LGAMLS based on the key outcomes from the 2010 CAP Interim report. The strategy will be updated following release of the 2012 CAP Final report, which will be provided for consideration of the LGA State Executive Committee at the earliest opportunity.

While the final LGAMLS CAP report is not due until late 2012, the LGA Secretariat has also utilised the July 2010 interim report findings to identify key areas of risk for Councils and leverage Commonwealth funding for two nationally significant projects. In late 2010, the LGA was successful in applying for National Climate Change Adaptation Research Facility funding and in June 2011 Department of Climate Change and Energy Efficiency Coastal Adaptation Decision Pathways (DCCEE CADP) funding. These 2 projects are collectively valued at over \$1.1 million and are outlined in more detail below.

### **LGASA National Climate Change Adaptation Research Facility (NCCARF) Project**

The challenge for Local Governments Australia wide is to adapt to the likely impacts of climate change in a timely and feasible way. Currently there is very little information and no available tools to translate these impacts into Council financial and asset management plans. Councils indicate that they are overwhelmed by the amount of information made available to them on climate change, but do not know how to translate this information into planning processes to improve their capacity to adapt the built environment. The research undertaken in this project will deliver a set of guidelines and technical modeling tools that would fill this gap and provide clear, comparative financial analysis.

The key objectives of this project are to:

- identify key Council assets vulnerable to climate change;
- determine the likely impacts of climate change on Council assets;

- undertake an extensive financial risk modelling exercise including full life-cycle economic analysis of the various options for Councils to reduce climate change asset risk;
- develop the necessary modifications to existing asset management and financial sustainability tools (IPWEA NAMS+) so that Councils may evaluate various climate change action scenarios at the management planning level; and
- guide service level standards through professional associations such as IPWEA.

This project will provide Councils with relevant tools to address recommendation 2 of the LGA MLS Interim Report, which identified the following key points:

- asset and infrastructure management will present the greatest challenge to Local Government in terms of financial sustainability and community expectation;
- the impacts of extreme heat, reduced average rainfall and sea level rise all stand to hasten the rate of deterioration of assets, change maintenance regimes, prompt relocation and demand the construction of new, more resilient infrastructure; and
- asset management planning and careful consideration of climate impacts on the useful life of assets is the key to resilience and sustainability.

The LGAMLS CAP Interim Report identified that over 70% of the risks to Councils from climate change are asset and infrastructure related.

### **LGASA Department of Climate Change and Energy Efficiency Coastal Adaptation Decision Pathways**

The 'First Pass National Assessment' of the risks to Australia's coasts from climate change identified a range of impacts over the coming decades and highlighted the fact that residential buildings valued at approximately \$63 billion, and significant but unquantified numbers and values of other assets, are at risk of inundation from a 1.1 metre sea level rise. Other assets include commercial and recreational land and associated infrastructure such as roads, footpaths, stormwater networks, jetties and marinas – most of which are owned or under the planning jurisdiction or 'care and control' of Local Government.

The LGAMLS CAP Interim Report identified risks associated with planning and development in the coastal zone as a high priority that requires adaptation response. Currently there is no consistent policy response across Australia, nor decision support tools or financial evaluation software to guide Councils on the most cost effective options for the management of these assets into the future.

This LGA project will deliver a decision support tool that includes financial software to enable Councils to determine which management options will be most cost effective in the face of climate change. The project will focus on optimising decision pathways and cost effectiveness for the implementation of policy and the timing of adaptation actions for existing developments. The study will focus on residential and commercial buildings, but will also take into account associated infrastructure including roads, footpaths, sea walls, community facilities (such as parks and recreational land) at risk from sea level rise, increased storm surge impacts and coastal erosion.

Over six stages, the project will review the likely climate change impacts on coastal infrastructure, review existing relevant policies and develop an options based financial management tool to assess the likely costs associated with each policy option within a user friendly decision support tool. The project will model various policy options including the optimum timing for action for four case study Councils across South Australia.

This project will provide Councils with relevant tools to address recommendation one of the LGAMLS CAP Interim Report which identified the following:

- development planning plays an important role in managing the vulnerability of individuals and the community, particularly from those climate change variables that are expected to exacerbate the impacts of coastal inundation and bushfire; and
- coastal mapping, preferably for a range of sea level rise scenarios, should support planning decisions.

### **State Adaptation Framework**

In December 2010, the South Australian Government released its *Draft Climate Change Adaptation Framework*. This is a first step to developing a coordinated and integrated response to climate change in South Australia. Action to address climate change will allow communities, businesses and individuals to minimise any negative impacts but also to identify and benefit from opportunities presented by climate change.

The LGA submitted a response to the draft framework following consultation and a workshop with Councils in March 2011.

Key elements of the LGA submission included:

1. the need to closely integrate climate change adaptation into all key State strategic documents;
2. the role of adaptation and mitigation activities in building more resilient communities;
3. the importance of linking sectoral climate change vulnerability assessments into regional climate change adaptation strategies; and
4. the need for funding commitments from the State and Federal Governments for the up front establishment of adaptation plans and the ongoing implementation of the strategies.

While the State Adaptation Framework outlines the key stakeholders and interrelations associated with progressing regional and/or sectoral adaptation planning processes the State Framework does not provide advice as to how to undertake these programs. To address this gap the LGA is undertaking the development of an Integrated Vulnerability Assessment and Adaptation Planning methodology. This project is outlined in more detail below.

### **LGA Integrated Vulnerability Assessment and Adaptation Planning methodology**

An integrated vulnerability assessment takes the process of undertaking a climate change risk assessment (such as the LGAMLS CAP) one step further. It considers the capacity of the Council and all other key stakeholders in a region to adapt to future climate changes either by reducing sensitivity or exposure to the impact. Actions to address sensitivity or exposure to climate change are then captured in a Regional Adaptation Plan and to date typically involve NRM and RDA Boards and Regional Local Government Associations.

A vulnerability assessment will also consider a variety of compounding impacts, not only the climate ones. For example when determining the vulnerability of a particular ecosystem to climate change the added pressures of pollution, land clearing, pests, diseases and weeds may also be taken into consideration.

To date the Eyre Peninsula and Central Local Government regions and Southern and Western Metropolitan Adelaide regions have begun the process of undertaking this work with the SA Riverland and Lower Lakes Councils engaged in similar processes under the Commonwealth 'Strengthening Basin Communities' Program.

The value for the LGA in undertaking this work is in the delivery of consistent and comparable outcomes from each of the LGA regions and their planning processes. To support this outcome the LGA is working with the State Government and CSIRO. As there is

no such methodology available in Australia, the LGA is also raising awareness of this project with the Commonwealth Government, with the potential that this LGA methodology may be recognised nationally. This project is due by mid 2012.

*The LGA would like to acknowledge the support of the Municipal Association of Victoria in the development of this submission.*

## PRODUCTIVITY COMMISSION DRAFT RECOMMENDATIONS

### 1.1 Draft Recommendation 4.1 - Assessing reforms and setting priorities

*Reforms to address barriers to effective risk management in the current climate should be implemented without delay, where they are likely to deliver net benefits.*

*In relation to barriers to adaptation to uncertain future climate trends, the case is less clear.*

- *Where a reform has low up-front costs and potentially large benefits, albeit with long time periods between the costs being incurred and the benefits being received, there could be a case for preparatory action. The case is likely to be stronger if the reform will deliver benefits under a range of climate change scenarios.*
- *Where measures have high up-front costs, the community is likely to benefit by deferring high-cost options until better information becomes available.*

The LGA supports the recommendation.

The LGA is supportive of appropriate adaptation with 'no regrets' and 'low regrets' outcomes. For example making sure that long lived infrastructure, such as roads, drains and buildings are designed with the likely impacts of climate change in mind.

Significant infrastructure projects involve both long lead times and longevity and as such benefit from early action. The LGA welcomes further Government and industry support to ensure that adaptation actions achieve a balance between appropriate adaptation and the benefits of early action.

### 1.2 Draft Recommendation 5.1 – Building Adaptive Capacity

*Australian governments should implement policies that help the community deal with the current climate by improving the flexibility of the economy. This would also build adaptive capacity for dealing with future climate change. This includes reforms to:*

- *taxes that influence the way resources are used, such as land tax exemptions and conveyancing duty, which could inhibit the mobility of labour, capital, or both*
- *government transfers that reduce incentives to adjust to changing circumstances, such as the reforms recommended in the Commission's 2009 inquiry into drought support*
- *regulations that impose unnecessary costs or inhibit competition or flexibility and could impede climate change adaptation by reducing the ability of firms, households or other organisations to respond to changing circumstances, such as restrictions to water trading.*

The LGA is supportive of this recommendation.

Integrated Climate Change Vulnerability Assessment projects (as described in the background material above) being undertaken by SA Councils in conjunction with Regional Development Australia Boards and Natural Resource Management Boards identify not only the key climate vulnerabilities of a region but also identify actions to build community resilience (increase adaptive capacity). These projects will, over time provide the regions, LGA and State Government with information to be able to direct resources and guide policy reform.

### **1.3 Draft Recommendation 6.1 – Information Provision**

*The Australian Government initiative to improve the coordination and dissemination of flood-risk information should be expanded over time to encompass other natural hazards. Guidelines to improve the quality and consistency of risk information should be regularly updated and consider climate change where feasible.*

The LGA supports this recommendation.

Councils are not the 'hazard leaders' however they are well placed to engage with communities to discuss hazards and develop appropriate responses that take into consideration the individual challenges and values of the community.

Improved information on natural hazard risk profiles will assist all stakeholders, including Councils and the community better plan and be prepared for natural hazards. However, the appropriate dissemination of such information is critical.

The coordination role of a consistent hazard approach should include appropriate standards for data collection, modelling methodologies, scale and tolerances as well as temporal guidance about climate change matters such as for storm events causing urban inundation.

Responsibility for consistent hazard mapping should be the responsibility of State and/or Federal Governments, with the translation of this into risk information for different contexts and time periods. Doing so would enable more effective communication of hazard and risk information to Councils and communities.

### **1.4 Draft Recommendation 7.1 – Local Government**

*There is uncertainty about the roles and responsibilities for adaptation by local governments, including in the areas of land-use planning, coastal management, and emergency management. As a first step to clarifying these roles and responsibilities, state and Northern Territory governments should publish a comprehensive list of laws, which delegate regulatory roles to local governments. This would assist state, territory and local governments to assess whether local governments have the capacity to effectively discharge their roles.*

The LGA supports this recommendation.

While it is recognised that the role of Local Government be clarified it is equally important for the role of the State and Federal Governments to be clarified to present a holistic framework.

For example, while planning policies in SA are largely adopted at the Council level, they must align with the policies and strategies that are developed by the State Government under the State Legislative Framework (Development Act 1993). Councils have no autonomous authority to amend or update their development plans as this authority rests with the Minister for Planning.

Emergency management plans are also prepared at the LG regional scale, but are developed with multiple stakeholders with Councils just one of a number of equal partners in their development and implementation. Regional Emergency Management plans must align with the State Emergency Management Plan under the authority of the Emergency Management Act 2004.

Importantly, the resources that Councils are able to apply to climate adaptation are constrained and the capability of Councils varies across the State. When compared to the resources of the State Government it is clear that the delegation of many regulatory roles to Councils presumes capacity that may not exist.

### **1.5 Draft Recommendation 7.2 – Local Government**

*Uncertainty about the legal liability of local governments is emerging as a barrier to effective climate change adaptation. State and Northern Territory governments should clarify the legal liability of local governments regarding climate change adaptation matters and the processes required to manage that liability.*

The LGA supports this recommendation.

Councils, as responsible planning authorities must be reasonably protected from common law liability when acting in good faith, consistent with State policy and guidance materials.

Councils in different States should have a consistent minimum level of protection to assist them in undertaking their roles, duties and functions. This advice must be comprehensive and clear for the breadth of Council activities.

The South Australian Development Act 1993 provides planning authorities with a 'good faith' exemption from certain action relating to acts or omissions after the development has been approved.

The section currently reads:

- "No act or omission in good faith in relation to particular development by –*
- (a) the Minister, the Development Assessment Commission, a Council or other authority under this Act; or*
  - (b) an authorised officer; or*
  - (c) private certifier, after the development has been approved under this Act, subjects that person or body to any liability. "*

The LGA believes that this section of the Act could be amended to extend the scope of the exemption to all acts or omissions (again dependent on 'good faith') in the exercise or purported exercise of its functions under the Act (or limited to liability arising from natural hazards).

There would also need to be consequential changes to related/affected legislation and Regulations.

Suggested changes to legislation will assist to create the foundation for Local Government to operate in a proactive risk management environment rather than a reactive one – without fear of attracting unreasonable and expensive criticism, complaint and/or civil liability claims.

Clearly, options for (and merits of) legislative reform in this area should be further considered and the LGA intends to consult with member Councils to further develop this position.

### **1.6 Draft Recommendation 8.1 – Planning and Building Regulation**

*As a priority, land-use planning systems should be revised to ensure that they are sufficiently flexible to enable a risk management approach to incorporating climate change risks into planning decisions. In doing this, consideration should be given to:*

- transparent and rigorous community consultation processes that enable an understanding of the community's acceptable levels of risk for different types of land use*
- the timeframe of risks and the expected life time of proposed land use*
- the costs and benefits of different types of land use.*

The LGA supports this recommendation.

As described above Council development plans must align with the State policies, strategies and Development Act 1993. To enable consistency of application the LGA supports the inclusion of land use planning climate change risk into the State Development Act 1993 and supporting policies and material.

### **1.7 Draft Recommendation 8.2 – Planning and Building Regulation**

*As a priority, the Building Ministers' Forum should ensure that the National Construction Code and associated standards (including those developed by Standards Australia) take climate change impacts into account. As soon as practicable:*

- the Building Ministers' Forum should provide a formal response to the Australian Building Codes Board's 2010 review of the Building Code of Australia under climate change*
- the Australian Building Codes Board should develop a formal work program that outlines its approach to incorporating climate change in the National Construction Code over time. This work program should reflect any formal government response to the 2010 review of the Building Code of Australia.*

*The Australian Government should give consideration to the public funding requirements for the Australian Building Codes Board and Standards Australia to undertake this work.*

The LGA supports this recommendation.

This foundational work and research would provide a basis for Local Government to work further with bodies such as the Institute of Public Works and Engineering Australia to update standards for roads, bridges, footpaths and local drainage to incorporate climate change impacts.

### **1.8 Draft Recommendation 8.3 – Planning and Building Regulation**

*The Council of Australian Governments' Select Council on Climate Change should consider, as part of its adaptation work plan, appropriate responses to managing the risks of climate change to existing settlements in high-hazard risk areas.*

The LGA supports this recommendation.

Consideration should be not only on high-hazard risk areas, but also on areas with significant net economic benefit to the State and the Nation. For example, some areas of the State may not necessarily be the highest-hazard risk areas, but the magnitude of the economic impact is very high due to current investment and economic activity.

### **1.9 Draft Recommendation – Emergency Management**

*The Australian Government should commission an independent public review of the Natural Disaster Relief and Recovery Arrangements. This review should commence as soon as possible and desirably produce a preliminary report by the end of October 2012. The review should consider whether the arrangements lead to inadequate infrastructure investments or insurance decisions, or reduce the incentives of state and territory governments to appropriately manage their risks. It should also examine alternative arrangements or funding models.*

The LGA supports this recommendation.

The LGA would like to see such a review extended to address the inequity of funding support provided to different jurisdictions.

### **1.10 Draft Recommendation 12.1 – The Role of Insurance**

*State and territory taxes and levies on general insurance constitute a barrier to effective adaptation to climate change. State and territory governments should phase out these taxes and replace them with less distortionary taxes.*

The LGA does not have view on this recommendation.

### **1.11 Draft Recommendation 12.2 – The Role of Insurance**

*The Australian Government should only proceed with reforms that require all household insurers to offer flood cover if it can be demonstrated that the benefits to the wider community would exceed the costs. These benefits and costs should be assessed, and any reforms implemented, after barriers to effective climate change adaptation in other policy areas are addressed.*

The LGA supports this recommendation.

### **1.12 Draft Recommendation 12.3 – The Role of Insurance**

*Governments should not subsidise premiums for household or business property insurance, whether directly or by underwriting risks. This would impose a barrier to effective adaptation to climate change.*

The LGA does not have view on this recommendation.

### **1.13 Draft Recommendation 13.1 – Reform Priorities**

*The Australian Government should focus on national policy responses in areas such as emergency management, research and information provision. Existing agencies will have a role in managing policy responses in these areas.*

*The Council of Australian Governments' (COAG) Select Council on Climate Change, and any successor, should coordinate policy responses in areas where cooperation between levels of government is required.*

The LGA supports the first element of this recommendation.

The LGA does not support a COAG Select Council on Climate Change coordinated policy response. State and Local Government legislation across planning, emergency management, and water management for example, varies from State to State, so the response is best coordinated at those levels.