

**Sunshine Coast Council
Technical Officer Submission**

**PRODUCTIVITY COMMISSION
DRAFT REPORT**

Barriers to Effective Climate Change Adaptation

June 2012

Executive Summary

This submission responds to the Draft Report which has been prepared by the Productivity Commission in relation to its inquiry into Barriers to Effective Climate Change Adaptation. This submission has been prepared by Sunshine Coast Council officers.

Technical officers involved in developing this submission welcome the findings of the inquiry as the discussion and recommendations highlight the need for an integrated response to current and future climate hazards by all levels of government and the community including business and industry.

Australia's coastal councils are attempting to deal with a complex and difficult range of issues. Responding effectively to climate change is one of the most challenging of these issues. Implementing the recommended responses also has significant potential to increase the capacity of local councils to recognise and respond to the implications of climate change.

With regard to the Draft Report, Council's submission is divided into 4 parts. The first part identifies the foundation for Council's response, the second part responds to the draft recommendations, the third part responds to the requests for further advice and the last part identifies and responds to other issues which were identified by Council staff.

Subject to the comments provided herein, Council generally supports the implementation of the recommendations identified in the Draft Report. With regard to improving productivity, matters which are considered appropriate for further consideration include:

- Recognition that there are opportunities for home and infrastructure owners to implement climate change adaptation initiatives and that there is a need to incorporate consideration of these opportunities into climate change adaptation planning and cost-benefit analysis by all levels of government.
- A recognition that Councils may be up for significant costs if they move to ensure that public facilities and infrastructure are adapted to a more variable climate and the implications that this may have with regard to the nature and scope of the risk management approaches which local governments will be able to support and implement.
- That specific action is taken, as part of a shift to national standards for construction, to introduce requirements for domestic housing designs and construction materials to be utilised in a manner which optimises the resilience of structures to the local climate hazards which they are likely to be exposed to.
- That the design and construction characteristics of all developments respond to the characteristics of local climate hazards (i.e. depths of flooding, depths of storm tide inundation, etc.), identified through high quality data.
- Recognition that many local governments have generated high quality data sets which could be utilised, in preference perhaps to more generic approaches, to determine the design requirements upon which to optimise the resilience of buildings or infrastructure.

Part 1: Foundation for Council Comments

The comments that have been provided are based on:

- Officer involvement in climate change risk assessment and adaptation planning initiatives and associated engagement with consultants, officers from state agencies and other council staff;
- Officer involvement in climate change adaptation research projects;
- Officer involvement in local government related initiatives, at both the state and regional levels, which have been focussed on climate change adaptation;
- Engagement with state agencies and other council staff with regard to policy development which incorporates climate change adaptation;
- Development of the Sunshine Coast Climate Change and Peak Oil Strategy 2010 – 2020 and the associated community engagement processes;
- Officer involvement in coastal management initiatives; and
- Council's involvement in the Sea Change Taskforce.

In particular, the comments of Council staff have been significantly informed through:

- Their participation in the *Pilot Council and Insurance Project on Climate Adaptation Methods* project. This is one of 13 projects which have received funding from the Federal Governments Coastal Adaptation Decision Pathways (CAP) Program which is managed by the Department of Climate Change and Energy Efficiency (DCCEE);
- Interaction with the Insurance Council of Australia during the *Pilot Council and Insurance Project on Climate Adaptation Methods* project; and
- Interaction with the DCCEE, researchers and other professionals which has been facilitated by the DCCEE through the CAP Program.

As a result of their involvement in the CAP Program, the project participants have become more aware of the needs, costs and benefits associated with climate change adaptation. Therefore, the comments provided herein are more specific, than the advice provided in Council's initial submission to the inquiry.

Part 2: Responses to the Draft Recommendations

4.0 Assessing reforms and setting priorities

Draft Recommendation 4.1

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.*

Response

The elements of this recommendation are appropriate.

5.0 Building adaptive capacity

Draft Recommendation 5.1

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.*

Response

Several of the examples provided are relevant to State and Federal Government initiatives (i.e. taxation, conveyancing duties and water sector reform). The relevance of this recommendation for local government policy could be identified. It is expected that local government will need to be provided with advice with regard to determining options for Council to respond to climate change adaptation which facilitates the identification and avoidance of these barriers.

Whilst the intent of the *National Partnership Agreement to Deliver a Seamless National Economy* is noted and supported, consideration to recognise that implementation of these initiatives is undertaken in such a manner that the initiatives themselves do not create barriers with regard to effective climate change adaptation is recommended. Supporting points include:

- A review of the documents associated with the *National Partnership Agreement to Deliver a Seamless National Economy* indicates that, with the exception of the energy and water reform, there appears to be limited consideration of climate hazards and climate change implications with regard to several of these initiatives.

Climate change considerations need to be integrated into the legislation and reform processes to assist with opportunities for effective adaptation. This is supported by Recommendations 8.1 and 8.2.

- Involvement in climate change adaptation initiatives and engagement with the Insurance Council of Australia has highlighted the need for proposed development to recognise and respond to the characteristics of both current and future climate hazards (i.e. depths of flooding, depths of storm tide inundation, etc.) at the locality scale.

While it is appropriate to respond to large climate events such as cyclones on a broader scale, the mapping of potential extent of current and future flooding, storm tide inundation and other hazards clearly indicates, that any response needs to address the local characteristics of these hazards.

- Evaluations of several low lying coastal areas have identified that temporal shifts in building design and the construction materials being used for domestic housing has resulted in a growing stock of residential dwellings which are not resilient to the current climate hazards which they are likely to be exposed to, particularly in low lying coastal areas.

While it still needs to be determined whether this change is related to nationalising standards for construction codes or other reforms or simply a change in consumer preferences (e.g. loss of the Queenslander style to more solid masonry forms common in southern states), by recognising and responding to the characteristics of climate change hazards (i.e. depths of flooding, depths of storm tide inundation, etc.) in the design and construction of development at the locality scale would aid this resilience.

6.0 Information provision

Draft Recommendation 6.1

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 take climate change into account where feasible.

Response

The elements of this recommendation are appropriate.

In addition, Council iterates advice which has been provided to Geosciences Australia with regard to providing the public with access to flood-risk information.

A suggestion is for the Geosciences Australia portal to provide a link to the repository of the relevant data owner. This would enable Council to appropriately inform those interested in accessing the data with relevant up to date information showing the method behind the development of the data and any limitations or conditions of its use.

7.0 Local government

Draft Recommendation 7.1

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.

Response

It is recommended that this be expanded to include the need for a formal process involving all levels of government in order to determine the roles and responsibilities for adaptation by local governments and include the capacity of local governments in terms of what funding and resourcing would be required so that all local governments can adequately undertake their roles and responsibilities.

Draft Recommendation 7.2

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.

Response

It is recommended that this point be expanded.

It would be beneficial for local governments to be involved in any discussions with regard to the legal liability of local governments. This approach is essential if local government perspectives are to be recognised and responded to in the review process.

8.0 Planning and building regulation

Draft Recommendation 8.1

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.*

Response

The elements of this recommendation are appropriate.

Further information on 'time bound' or 'trigger bound' tools for enabling flexible land use planning regulation that respond to the impacts of climate change would be highly useful, particularly for local governments preparing detailed adaptation strategies for coastal hazard risks.

Draft Recommendation 8.2

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.

Response

It is recommended that this point be expanded.

As indicated in Council's comments regarding recommendation 5.1, there is a need to ensure that the National Construction Code, and its associated standards, incorporate provisions that promote construction which will optimise the resilience of domestic dwellings and other structures which are located in current and future hazard zones.

Draft Recommendation 8.3

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.

Response

Council supports this recommendation.

In addition, it is recommended that this Select Council on Climate Change should be informed by current research and adaptation planning initiatives which are being led by local governments.

More specifically, to consider outputs which are being generated from the 13 projects which have received funding via the Federal Governments Coastal Adaptation Decision Pathways Program, managed by the Department of Climate Change and Energy Efficiency (DCCEE). These are collectively referred to as the CAP projects.

Sunshine Coast Council is undertaking one of these CAP projects, the *Pilot Council and Insurance Project on Climate Adaptation Methods* project and, at this point, involvement in the project has significantly informed Council staff with regard to the costs and benefits associated with potential responses to managing the risks of climate change to existing settlements.

Emergency management

Draft Recommendation 10.1

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.

Response

On the basis of the information provided, Council supports this recommendation.

The role of insurance

Draft Recommendation 12.1

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.

Response

On the basis of the information provided, Council supports this recommendation.

Draft Recommendation 12.2

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.

Response

On the basis of the information provided, Council supports this recommendation.

Draft Recommendation 12.3

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.

Response

On the basis of the information provided, Council supports this recommendation.

Reform priorities

Draft Recommendation 13.1

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' Select Council on Climate Change, and any successor, should coordinate policy responses in areas where cooperation between levels of government is required.

Response

It is recommended that formalising the roles and responsibilities of the Australia Government should have due regard to:

- a) Outcomes associated with determination of roles and responsibilities for adaptation for local governments (Recommendation 7.1); and
- b) Support required by some local governments with regard to ensuring that they have the capacity or can access support which provides the capacity to effectively respond to the roles and responsibilities which are determined to be relevant for adaptation by local governments.

On the basis of the information provided, Council supports the later part of this recommendation.

Responses to Information Requests

Hazard risk information

Information request 6.1

How useful are property title documents, property certificates, rates notices and rental contracts as means for communicating natural hazard risk information to households and businesses? What alternatives are available? What costs and risks would state and local governments incur in providing such information?

Response

Council communicates natural hazard risk information to households and businesses using the following approaches through:

- Flood searches (when requested)
- Disaster awareness programs with a particular focus on flooding and inundation (Annual, multimedia community announcements)
- Hazard overlays which are contained with Council's planning schemes (Accessible to the public via Council's online GIS system)

Council has not evaluated the usefulness of property title documents, property certificates, rates notices and rental contracts as means for communicating natural hazard risk information to households and businesses as yet.

Local governments' legal liability

Information request 7.1

The Commission notes the current arrangements in New South Wales to limit the legal liability of local governments through the Civil Liability Act 2003 (NSW) and the Local Government Act 1979 (NSW), and seeks further information on whether this approach (or alternatives) could fully address the legal liability issues facing local governments in other jurisdictions when dealing with climate change adaptation.

Response

Council has not undertaken an assessment to determine whether current arrangements in New South Wales to limit the legal liability of local governments would be sufficient to fully address the legal liability issues for the Sunshine Coast Council.

In the absence of a specific assessment, Council is reliant on the information provided in Baker and McKenzie 2011.

Provided that policy specific considerations are addressed for each state, limiting the legal liability of local governments using similar arrangements to those which are being utilised in New South Wales would appear to have the potential to aid local governments in progress climate change adaptation through land use planning approaches.

In real terms though, the capacity to this type of initiative to fully address legal liability issues facing local governments will only be determined if it withstands legal scrutiny, both now and in the future.

Planning and building regulation

Information request 8.1

To what extent do current state and territory land-use planning frameworks facilitate or impede the use of different land-use planning tools, such as time-limited development approvals or 'triggers'? What changes are required to state and territory planning frameworks to address any impediments?

Response

Council has not evaluated these issues in full. The following observations are made and also relate to components of draft Recommendation 8.1.

The Queensland Coastal Plan's State Planning Policy 3/11 provides information on timeframes of risks for projected sea level rise for a given planning period (2050, 2060 2070 etc) and expected asset life for proposed development types. This enables an assessment of the practical design life of a given development in the context of future coastal erosion threat. It does not however acknowledge that development entitlements once acted upon often remain indefinitely and the policy does not prevent the future intensification of development in existing high hazard urban areas. A number of solutions are offered to assist in mitigating any increased risk.

While the policy goes some way to providing a flexible risk-based planning approach, Council considers that the State's coastal policy needs to provide local government with more policy support to adequately address risks of climate change and coastal hazards in existing settlements in high hazard risk areas. The policy relies on individual councils preparing coastal hazard adaptation strategies for inclusion in their land use planning schemes. While the state policy provides guidance for adaptation options such as sea walls and sand nourishment (which can have the effective of shifting the risks and cost to local government), further policy to facilitate other land use planning tools to address climate uncertainties would be beneficial. No reference has been made to time-based or trigger-based land use planning measures.

Further information on 'time bound' or 'trigger bound' tools for enabling flexible land use planning regulation that respond to the impacts of climate change would be helpful for local governments.

In addition, changes to the Queensland *Sustainable Planning Act* to address injurious affection and liability issues relating to climate related planning decisions made by local governments are recommended.

Information request 8.2

The Commission seeks views on individual, business and community preferences for managing the risks of climate change for existing settlements.

- *What levels of climate change risk are appropriate for existing settlements? Does this differ for private and public assets?*
- *What approaches should governments take to ensure these levels of 'acceptable' risk are maintained?*
- *In what circumstances should governments use 'protect', 'accommodate' or 'retreat' options for managing climate change risks to existing settlements?*

Response

Council expects to evaluate a number of these issues through public consultation processes which will be undertaken as part of Council's approach to adaptation planning.

Information request 8.3

The Commission is seeking submissions on gaps or overlaps between land-use planning and building regulations that may act as barriers to adaptation.

Response

The following points have regard to gaps or overlaps between land-use planning and building regulations that may act as barriers to adaptation:

- While cyclones are an exception because of their broad regional impacts, the risk associated with many current and future climate hazards varies on a locality by locality basis. As a result, there is a need to ensure that the National Construction Code, and its associated standards, incorporate provisions which promote construction which optimises the resilience of domestic dwellings and other structures which are located in current and future hazard zones. In particular, the codes should consider the characteristics of the climate hazards to which the construction will be exposed to at the locality scale.
- Whilst the Queensland Government has implemented legislation which enables the prescription of appropriate floor levels for flood, storm tide inundation is addressed through separate policies and appropriate legislation which enables the specification of levels which respond to this hazard has yet to be developed.

Infrastructure

Information request 9.1

Are there any examples where the economic regulation of infrastructure has impeded investments to facilitate adaptation?

Response

Council officers are not aware of any examples where the economic regulation of infrastructure has impeded investments to facilitate adaptation.

Other Matters

Consistency in planning regulation across different jurisdictions

Within the discussion regarding “consistency in planning regulation across different jurisdictions” it is indicated that:

“Inquiry participants raised concerns that climate change risks are not being consistently managed or monitored in land-use planning schemes (Coasts and Climate Change Council, sub. 30; Housing Industry Association, sub. 69; Mornington Peninsula Shire, sub. 16), particularly in the context of different sea-level rise benchmarks developed by the Australian Government and some state governments (Clarence City Council, sub. 10; Council of Capital City Lord Mayors, sub. 67) (table 8.1). For example, the Sunshine Coast Council (sub. 53) felt that the existence of different sea-level rise benchmarks across jurisdictions divided opinions within local governments, led to significant time and effort being expended to develop local government policy responses and impeded the process of adaptation to coastal hazards.”

Sunshine Coast Council would request that further clarity is provided with regard to the context of the reference. Council is concerned that the current wording could be interpreted as a criticism of the use of different sea-level rise benchmarks in coastal planning policies being implemented by each of the State governments. This was not the intent of Council’s comments. The comment was directed around differing sea level rise benchmarks in Queensland coastal policy versus individual local governments’ policy.

Other Issues relevant to Productivity

Council has identified the following additional issues for inclusion into future versions of the Report:

- a) There is a strong focus on the opportunities which are available to all levels of government to respond to climate change. There also needs to be recognition and consideration of the opportunities for home and infrastructure owners to implement their own response to a changing climate (i.e. retrofitting houses and other assets) and the implications this has with regard to preparing and implementing a co-ordinated response which achieves a net benefit for the community.
- b) There needs to be further exploration of the market forces that are likely to prevail as a result of multiple climate adaptation initiatives that are likely to prevail over time.

What will be the adaptive capacity of householders if there are increases in rates, taxes and insurance premiums which are applied by governments and

the insurance industry as they respond to climate change? How is this likely to evolve over the short, medium and long-term?

- c) Councils are likely to be up for significant costs as they move to ensure that public facilities and infrastructure are adapted to be resilient to future climate scenarios. In many cases, these assets are already at greater risk from current climate hazards than a large proportion of the private assets. With regard to a risk management approach, this has implications for priority setting for adaptation activities (e.g. coastal infrastructure assets) which still need to be quantified.
- d) Over time, there has been a change in the design of structures and the construction materials being used for domestic housing which has resulted in a growing stock of residential dwellings which are not resilient to the local climate hazards which they are likely to be exposed to (i.e. the transition from the traditional “Queenslander” designs which were more flood resilient to brick veneer, slab on ground designs which are not as flood resilient). This has significant implications with regard to protecting asset values and insurability.
- e) There is a growing need to ensure that design and construction characteristics of all development recognises and responds to the characteristics of local climate hazards (i.e. depths of flooding, depths of storm tide inundation, etc.) and that this applies with regard to both new structures and the renovation of new structures. With regard to this, there should be recognition that many local governments have generated high quality hazard data sets which could be used to inform all development with regard to risks associated with climate hazards and could be used in preference to more generic approaches developed at the state or national level.

References

Baker and McKenzie 2011, Local Councils' Risk of Liability in the Face of Climate Change - Resolving Uncertainties. A Report for the Australian Local Government Association, <http://www.climatechange.gov.au/publications/localgovt/resolving-uncertainty.aspx> (accessed 19 March 2012).