

29th July 2016

Ms Shona Prior
Tasmanian Climate Change Office
GPO Box 123
HOBART 7001

By email: climatechange@dpac.tas.gov.au

Dear Shona

Review of the Climate Change (State Action) Act 2008.

Thank you for the opportunity to provide this submission on the review of the *Climate Change (State Action) Act 2008* (the Act). The Local Government Association of Tasmania (LGAT) is incorporated under the *Local Government Act 1993* and is the representative body for Local Government in Tasmania.

The objectives of LGAT are:-

- To promote the efficient administration and operation of Local Government in the State of Tasmania;
- To watch over and protect the interests, rights and privileges of municipal Councils in the State of Tasmania;
- To foster and promote relationships between Local Government in the State of Tasmania with both the Government of Tasmania and the Government of the Commonwealth of Australia;
- To represent the interests of the members of the Association generally, and in such particular matters as may be referred to the Association by its members; and
- To provide such support services to the members of the Association as the Association may by resolution in meeting determine.

LGAT is aware of, and fully supports, a number of councils that have made their own submissions to the consultation process. This submission should be read as complimentary to these submissions but does not replace any view expressed by an individual council.

General Comments

LGAT and the councils we represent are concerned about the implications and impact of climate change and global warming on our community. Since the last review of the Act in 2012, Tasmania has experienced a cascade of climate related events that have had significant implications for many of Tasmania's communities and industries. In addition, there have also been several significant national and international developments in climate change policy. This makes the current review very timely and of significant importance.

It must be recognised that Local Government is the sphere of government closest to the community, where climate change impacts are already being experienced. Local Government also has the most significant role in assisting communities to understand and manage risks and adapt to long term changes in the climate.

It has long been the position of the Local Government sector that legal liability concerns are hindering decision-making and action for councils. While there is no way to avoid frivolous or strategic litigation from developers, having greater clarity and comfort with the arrangements provided by the State Government would assist councils in their activities. Councils have historically been unclear as to their obligations when making land-use planning decisions relating to land that is subject to future climate change risks. The uncertainty extends to situations where councils must consider whether or not to install protective structures to combat the effects of natural hazards which will no doubt be exacerbated by climate change. The knowledge that a council will have a continuing legal obligation to maintain these structures then raises the issue of their resource capacity to finance such ongoing, and likely increasing, costs.

At the national level, LGAT is advised that the Australian Local Government Association (ALGA) has been asked by the Adaptation Working Group under the auspices of the Meeting of Environment Ministers (MEM) to lead work on the legal liability of councils and to explore possible avenues for national consistency and reform to ensure good-faith and best-evidence planning decisions are protected from litigation. The ALGA Secretariat is proposed to prepare a paper for the working group, following discussions with State Local Government Associations later in 2016.

It is also LGAT's understanding that the work currently being undertaken by the State Government through the Office of Security and Emergency Management, specifically the consideration of natural hazard risks in land use planning and building control is geared towards providing a more appropriate level of guidance for both State and Local Government decisions makers and will form the basis for a 'common approach'. While this work is strongly supported, it will only apply to new development and will not address the legacy issues associated with existing development and the broader imperative of strategically shaping climate change adaptation responses.

LGAT members continue to raise the New South Wales legislative approach which limits legal liability for Local Government decision-making in relation to climate change, provided the responsible council is acting in good faith, consistent with State policy and best available information. Such an approach was also advocated by the Productivity Commission 2015¹. There have been legal research reports commissioned within Tasmania both at the local and regional level that endorse further consideration of the current legislative framework in place within NSW.

¹ Productivity Commission Inquiry into Natural Disaster Funding (May 2015) RECOMMENDATION 4.6

State governments, where they have not already done so, should provide local governments with statutory protection from liability for releasing natural hazard information and making changes to local planning schemes where such actions have been taken 'in good faith' and in accordance with state planning policy and legislation.

Specific Feedback

The following table provides direct feedback to the questions suggested in the *Discussion Paper - Independent review of the Climate Change (State Action) Act 2008* released by the Tasmanian Climate Change Office:

Question	Response
<p>Question 1: The Act aims to help Tasmania respond to the challenges posed by climate change. What do you consider are the critical challenges to which this legislation and Government action should respond?</p>	<p>Critical challenges include:</p> <ul style="list-style-type: none"> • Adaptation - the Act has generally focussed on mitigation actions, but Local Government in particular must assist local communities with adjusting and adapting to the inevitable effects of climate change. • How to anticipate, mitigate and respond to extreme weather events. • Community, business, industry (including agriculture and forestry) and Local Government engagement and support for transitioning to a low-emissions economy and living. • Support policy and strategies to manage biodiversity in changing climate scenarios. • Energy industry, networks and market restructuring.
<p>Question 2: How successful do you think the Act has been in influencing action on climate change within Tasmania?</p>	<p>The current objectives of the Act are worthwhile. However they are very broad and it is not clear how any Act would achieve some of the objectives, such as promoting research and development. Consequently, the Local Government sector feels the Act has been of limited influence. Where it does appear to have assisted is in the mitigation space and enabling the Government to drive related activities, particularly in conjunction with an emissions reduction target. However it does not cover all areas of potential and desirable actions, such as adaptation, and in this sense it has potential capacity to achieve greater influence if its coverage is extended.</p>
<p>Question 3: What amendments may the Act require to further drive action on climate change?</p>	<p>There needs to be a greater emphasis on:</p> <ul style="list-style-type: none"> • Leadership; • Clarification of roles and responsibilities of all sectors in relation to climate change; • The provision of quality information and projections on climate change impacts to support decision making; • Increasing renewable energy sector

	<p>targets; and</p> <ul style="list-style-type: none"> • Connecting emissions production to the planning process through provisions which link to EMPCA and LUPAA – ensuring these issues are able to be considered through relevant standards in that legislation and subsidiary planning schemes (similarly to odour and noise).
<p>Question 4: The Act creates a narrative on how the state regards the challenges posed by climate change. How do you think the Act can provide a narrative which helps to project Tasmania's clean-green liveable brand?</p>	<p>The Act could acknowledge the opportunities that can be leveraged as a result of the State's natural advantages. However, this needs to be tempered by the recognition that climate change itself will put these advantages at risk.</p> <p>With land use change and forestry identified in the review as the major contributors to climate change in Tasmania, these processes should be highlighted and managed to both protect the Tasmanian brand and make effective reductions in emissions.</p> <p>Progressing towards a 100% renewable energy target would gain national and international acclaim for Tasmania, thereby raising the profile of our clean, green image and brand.</p>
<p>Question 5: With Tasmania providing just 0.3% of national emissions, how important is it that the Act supports the achievement of national and international targets for climate change?</p>	<p>This is very important; the clean and green Tasmanian brand has no integrity without the State taking emission reduction seriously. However, it is not the percentage of emissions that should be of primary concern but rather, the philosophy of society towards energy use in the present and the future.</p> <p>The State Government has a leadership role to play, and also the capacity to facilitate and enable innovation within industry in response to emission reduction targets. The aim of supporting broader targets will ensure that efforts are focussed on potential opportunities.</p> <p>Tasmania is well placed to be a leader in climate science and planning.</p>
<p>Question 6: Should the Act recognise the possibility of 2°C of warming as a means of driving action on climate resilience?</p>	<p>Such an approach may be supported, provided that the Act also acknowledges and reflects that the target limit for warming pursuant to COP 21 is 1.5 degrees, recognising that this target, if achieved, will significantly reduce the risks and impacts of</p>

	<p>climate change.</p> <p>However, there would be some value in also working on the assumption of greater change to insure our resilience. Tasmania's capacity to innovate, capitalise on any relative advantages, and a continuing drive for renewable energy will demonstrate our intention to meet climate change challenges. Tasmania has the capacity to be proactive in managing risks and opportunities.</p>
<p>Question 7: What should the Act include to help Tasmania build resilience to climate change?</p>	<p>Clear recognition of climate change impacts, stated mitigation measures and a greater reference to adaptation strategies that incorporate targets and timeframes are desirable.</p> <p>Some specific ideas raised by the sector are:</p> <ul style="list-style-type: none"> • Set prudent thresholds for future sea-level rise impacts. • Diversification of renewable energy sources and supply for Tasmania, with a greater emphasis on localised renewable energy options. • Influence on other legislative and regulatory systems to expedite responses to events and to review them to ensure they are adapting to climate change by supporting mitigation and adaptation. For example, new invasive species incursions or technology and innovation opportunities. • Support for low-energy transitions in the transport sector, for example rail. • A state "Adaptation Facility" to provide a long-term insurance fund to help the Tasmanian community adapt and recover following future shocks and events. • Ensuring appropriate consideration of the major contributors to climate change in Tasmania (e.g. forestry and land use change).
<p>Question 8: How can the Act facilitate action on climate change at state and local levels and among businesses and the broader Tasmanian community?</p>	<p>Some measures would be:</p> <ul style="list-style-type: none"> • Clarification of roles and responsibilities and commensurate and appropriate funding of those roles. • Resolving concerns about and issues stemming from a lack of indemnity. • Defining and promoting the energy use philosophy of the State and

	<p>reflecting that in policy development</p> <ul style="list-style-type: none"> • Establishing a framework for land use and development and emergency management decision-makers to give them prudent benchmarks for climate change related hazards and legal certainty for their decisions. • Require decisions in other areas of government to consider and account for climate change mitigation and adaptation implications. This might include prudent Planning Scheme provisions.
<p>Question 9: To what extent should Tasmania rely on the Land Use-Land Use Change Forestry emissions sector to achieve its emissions reduction target?</p>	<p>Land Use-Land Use Change Forestry emissions should be accounted for. However, the emissions reduction target shouldn't rely on a single sector, but include multiple sectors such as building, transport, agriculture, waste management etc.</p> <p>Reductions in Land Use-Land Use Change Forestry emissions should not be used in emissions accounting to offset emissions from fossil fuel sources. These negative emissions are largely only returning what was on the land originally, before fossil fuels were burnt on mass.</p> <p>The value of Land Use-Land Use Change Forestry emissions reductions are as a driver for landscape scale native reforestation, and the capture of atmospheric carbon.</p>
<p>Question 10: What 2050 emissions reduction target would you consider is consistent with Tasmania seeking to be an international leader on climate change?</p>	<p>The Local Government sector supports adherence to the current 60% reduction on 1990 levels by 2050 as a minimum, with a review of performance in 3-5 year's time. However, consideration should be given to an overall net zero emissions target for Tasmania. It is appropriate for Tasmania to strive to achieve such a position given our natural advantages in relation to renewable energy, our geographical position, our coastal infrastructure concentration and scientific links.</p>
<p>Question 11: Should Tasmania's targets account for emissions and abatement associated with its importation and export of electricity?</p>	<p>Yes. If we are contributing to mainland emissions then we should take responsibility for that and also look at greater energy independence or cleaner external suppliers. When Tasmania exports clean electricity this should be recorded as credited abatement for Tasmania.</p>
<p>Question 12: What other types of emissions reduction target should be considered (e.g.</p>	<p>All levels of Government should have realistic, reportable and reviewable emission</p>

<p>interim, sectoral, energy efficiency, mandatory/voluntary)?</p>	<p>reduction targets as we should be leaders in emission reduction and energy efficiency. The emissions targets should consider the move towards 100% renewable energy generation and increasing capacity of electric vehicles to service passenger movements.</p> <p>Business, industry and community emissions targets should be voluntary (but with incentives and support), have interim targets and be set at the sectoral level. This should include identifying sectors that need to provide detailed reporting on emissions to Government, and the targets and framework for such reporting.</p>
<p>Question 13: How willing would your business, community group, Local Government or region be to commit to pledges to reduce emissions?</p>	<p>A number of Tasmanian councils are interested in or have already established their own emission reduction targets, however it is preferable that the State Government does not impose mandated Local Government targets as there are varying degrees of capacity across the sector. One of the first barriers is not having capacity for emissions monitoring and accounting. The Act may have a role in providing the information infrastructure and frameworks for local level emissions monitoring and accounting by extending its targets, reporting and mainstreaming provisions.</p> <p>Outside of specific pledges many Tasmanian councils are already very active in reducing their emissions. For example, councils in the northern region are in the process of replacing their urban area street lights with LEDs, which will accrue a significant reduction in energy usage. The Association has commenced the State-wide rollout of this project.</p>
<p>Question 14: What do you consider might be appropriate principles to guide government decision-making which influences climate risks and greenhouse gas emissions?</p>	<p>It is important to start by seeking consistency across governments. In addition to other States' guiding principle approaches, it will be useful to take into account the National Climate Resilience and Adaptation Strategy 2015 Guiding Principles, i.e.</p> <ul style="list-style-type: none"> • Shared responsibility - Governments at all levels, businesses, communities and individuals all have important roles to play. • Evidence-based, risk management approach - Apply the best available

	<p>science.</p> <ul style="list-style-type: none"> • Factor climate risk into decisions - consider the current climate and future change in all our decisions. • Collaborative, values-based choices - respect the knowledge and experience of those affected, and involve them in decision-making. • Assist the vulnerable - support those who are vulnerable to disaster risk and climate change. • Revisit decisions and outcomes over time - review actions regularly, look for flexible choices and opportunities. <p>Other key considerations raised by the sector are:</p> <ul style="list-style-type: none"> • Diversify and decentralise renewable energy options. • Promote the use of electric vehicles as passenger cars. • Reject options such as coal or coal seam gas production in Tasmania (with the additional benefits of promoting our clean green brand). • Work cooperatively with the agricultural and forestry sectors to manage climate change risk – make mitigation and adaptation major considerations. • Monitor and reciprocate as appropriate on emerging best practice at national and international levels.
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Contact Details

LGAT appreciates the opportunity to provide feedback and welcomes the opportunity to continue to work with the Tasmanian Climate Change Office and other key agencies in relation to this matter. If you wish to discuss or have any questions then please contact Melanie Brown, Senior Policy Officer, Local Government Association on 6233 5961 or melanie.brown@lgat.tas.gov.au

Yours sincerely

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CHIEF EXECUTIVE OFFICER