

Katrina Graham

[REDACTED]
[REDACTED]
[REDACTED]

24 March 2025

To whom it may concern

Submission: Targeted amendments to the Local Government Act 1993 Local Government Priority Reform Program 2024-26 Discussion paper.

Except for confidential personal contact details this submission may be made public.

This submission is made from the perspective of a long-term practitioner (25 years) within Tasmanian local government sector specializing in climate change mitigation from 2000 and climate change adaptation from 2009 to current. It is written through the framing of climate change as an issue of significant consequence for the local government sector covering its:

- Evolution from an environmental, non-financial' issue, to one that presents material risks and opportunities within mainstream investment horizons (and political cycles)
- Financial and legal imperatives that underpin the need for proactivity in both climate change adaptation (impact risk management and strategy) and mitigation (emissions reduction)
- Key to efficient risk management and value capture through a whole-of-council approach

As a corollary Tasmanian local government climate action should be viewed through the following dimensions:

- strategically planning for not only damage to council owned assets and built infrastructure, but also additional demands from damage to private assets.
- balancing economic transitional risks to budget, with the possibility of declining revenues with increases in expenditure.
- management of increased exposure to litigation where climate change risks haven't previously been taken into consideration

This submission primarily focuses on *Strategic Priority 2: Driving a high-performing, transparent and accountable sector*, though it is considered Strategic Priority 1 will also benefit overall through consideration of climate change roles set out by Australian Government¹ for local government as follows:

- Deliver adaptation responses that align to state and Australian Government legislation to promote adaptation as required including the application of relevant codes, such as the Building Code of Australia.
- Provide information about relevant climate change risks and contribute appropriate resources to prepare, prevent, respond and recover from detrimental climatic impacts.
- Inform other levels of government about the on-the-ground needs of local and regional communities.
- Manage risks and impacts to public assets owned and managed by local governments and to local government service delivery.²

Overall, the targeted reforms are supported and recognised as providing a critical step change for the local government sector which has, and is, challenged through increasing 'climate' expectations set against

¹ https://www.dceew.gov.au/climate-change/policy/adaptation#toc_5 viewed 25/03/2025

² It is noted that these relate to climate change adaptation however can be readily updated to include emission reduction.

institutional and regulatory barriers. Recent work by Tasmanian council led regional climate programs has specifically identified that in the absence of a clear 'climate' role has resulted in the following:

- Increasing service delivery demands and community expectations
- Need support in the form of funding, collaboration, legislation and systems thinking capacity
- Climate programs are variable and contested spaces
- Role of councils and climate action not well understood
- Lack of authorizing environment within councils to drive transitional and organisational change

With regard to: 7. *Introducing a contemporary role statement and a charter for local government* the following comments are made:

It is considered that the proposed Charter provides a pragmatic approach which engenders and builds trust critical to enabling councils to play an effective role in supporting cohesive communities that can thrive in an increasingly challenging environment.

However, to be truly effective climate change should be considered more broadly beyond the lens of *promoting the social, economic, and environmental sustainability of local communities*. Climate change has significant implications and will directly and indirectly drive decision-making, and financial consequences, across all statements/dot points contained within the role statement. The proposed wording, and its positioning narrow casts climate change rather than reflecting it as an issue requiring an organisational-wide transformational approach.

It is noteworthy that the Tasmanian local government sector has been actively responding to climate change since the early 2000's. Conservatively, to date, it has invested over \$20 million explicitly on climate programs. This has included activities such as engaging sustainability and/or climate officers to develop responses; investment in energy saving and renewables across council assets such as solar panels, hybrid/electric vehicles; preparing strategies and plans; undertaking climate risk and adaptation planning (over 50 CCAPs based on ISO 31000 risk management have been completed for Tasmanian councils), establishing and funding regional councils collaborations to support the coordination of effort and increase capability; and engaging legal advice. Indirectly the sector's investment is way more than double this due to the costs to council for responding to, and recovering from increasing natural hazards such as bushfire, storms and floods and coastal erosion, future proofing of assets against floods, bushfires and sea level rise impacts.

This investment and action were, and are, driven by the knowledge that a key consideration in the face of climate change is potential liability that councils are exposed to in discharging their various statutory roles, powers and functions as climate hazards continue to intensify. It is noted that MAV Insurance³, 2023, has provided advice that councils have a duty of care in the context of climate change adaptation which may arise in the context of:

- Development approvals – where the risk of harm was 'foreseeable'.
- The provision of protective standards in planning schemes e.g. regarding flood protection.
- Failure to maintain or build infrastructure e.g. stormwater systems.
- The provision, or lack thereof, of information which is considered by a court to be negligent.

Tasmanian councils have been 'on notice' for the need to act on climate change since 2011 following a report to the Australian Local Government Association⁴ by Baker and McKenzie which outlined actions that councils may follow to reduce liability. These include:

³ MAV Insurance Fact Sheet: Liability Risk & Climate Change Adaptation

⁴ Local Councils Risk of Liability in the Face of Climate Change Resolving Uncertainties; a report for the Australian Local Government Association, Baker and McKenzie, 22 July 2011.

- Keeping up to date on general climate change science and information, particularly in relation to potential risks from natural hazards.
- Developing clear and certain criteria for decision making to increase public confidence that decisions are made based on the best available scientific evidence.
- Exercising reasonable care when making planning decisions, taking care to ensure relevant facts are known and understood, and reasons for decisions are clear, accurate and documented.
- Increasing public consultation, as this may improve transparency around decision-making processes and limit administrative review; and
- Facilitating the provision of up-to-date information to property owners on potential risks to property.

In the Tasmanian local government context legal advice⁵ was sought by the Southern Tasmanian Councils Authority, in 2011, from Shaun McElwaine + Associates, to guide Regional Climate Change Adaptation Planning⁶ project (RCCAP); on the:

- Role of councils as a planning authority
- Management of asset base and other functions/services
- Liability and defenses available
- Level of action to effectively discharge duties
- How to reduce level of exposure
- Legislative reform

The advice, which was shared state-wide to all Tasmanian councils, along with extension of the RCCAP preparation of climate change adaptation plans, advised council's that:

- They were exposed through *Civil Liability* for decision-making
- The development of Climate Change Adaptation Planning was a positive step
- The adoption of Climate Change Adaptation Planning set the standard for action
- The need for State leadership by legislation and a comprehensive policy response

Viewed from this perspectives climate change can be seen as a significant driver for responses across all the role statements and presents a most significant threat to the sector in terms of financial and potential liability impacts.

It is worth noting that the question has been raised as to why the sector's substantive climate efforts have not 'stuck'. Direct experience, and independent review, indicate that whilst strategic projects and initiatives are found to be robust and fit for purpose, the absence of a clear head of power, clarity of roles and responsibilities and acknowledgement/championing by state and peak organizations; reliance on (or not) political support, and a highly changeable policy landscape has resulted in climate action being discretionary and largely considered in a silo and environmental issue rather than one of direct financial and legal dimensions across the entirety of an organization. As such whilst the inclusion of climate change in the Charter is considered an important step, it needs to be considered at a across all aspects of the charter akin to how sustainability provides the scaffolding for and intent of the *Resource Management Planning System*.

With *Regard Detail* the following comments are made:

Overall, the proposed *Reform Detail* is seen as a positive step in establishing the parameters and framing of matters to be formally addressed, including climate change.

It is noteworthy that the local government sector has already completed a substantive portfolio of climate work (see Appendices 1- 3, and as noted in the body of this submission). This should be embedded as foundations for

⁵ **Regional Councils Climate Change Adaptation Project Legal Advice, 2011 SM+A Shaun McElwaine + Associates**

⁶ https://recfit.tas.gov.au/what_is_recfit/climate_change/adapting/local_government_adaptation_planning

the 'climate element' of the reform process and its engagement to realise efficiencies, leverage from the established knowledge base, avoid ad hoc and 'populist' outcomes.

It is a concern that this is non-binding particularly given the potential the potential liability that the sector faces in terms of 'climate' decision-making, and as such the need for a foundational baseline that supports local decision making from an evidence-base.

I look forward to the progression and proposed consultation on this much needed reform for the critical function of the Tasmanian local government sector and the creation of thriving and resilient communities in a changing climate.

Yours faithfully

Katrina Graham (B Soc Sci SEAP)

APPENDIX 1- Tasmanian Councils and climate action

The following table outlines key themes, sectors and descriptors of responses that frames local government key areas for climate action.

Theme	Corporate/Community	Description
Leadership	Community (municipal / regional)	As the tier of government closest to, and most trusted by, communities lead and share knowledge/expertise across communities to: build capacity, coordinate and avoid duplication of effort for mitigation and adaptation responses, develop policy and advocate to State and Federal Government, research sector and peak organisations
	Organisational Leadership	Provide authorizing environment within council that enables and supports the integration of climate action across the organisation's governance, strategic and operational functions, through top-down and bottom-up engagement and reporting.
Adaptation	Corporate (council) adaptation	Increase the capacity of councils to: • protect and future proof their assets/services; • respond to increased and intensified natural hazards: flooding, bushfire, sea level rise, heat and storms; • reduce exposure to potential liability in decisions making; • minimise financial risks which arise from the transition to a low carbon economy and increased natural disasters
	Community (municipal / regional)	Assist and facilitate community resilience building and adaptive capacity by providing information on local climate change risks to enable informed decision making and risk assessment
Emissions (and energy) reduction (Mitigation)	Corporate (council)	Emissions and energy reduction reducing energy and emissions across council owned assets, buildings, fleet and services; to realise cost savings
	Community (municipal / regional)	Provide and support programs to influence and assist households, business, commercial and community groups to reduce emissions and energy use and realise cost savings

APPENDIX 2- Programs delivered by Tasmanian councils from 2000 onwards

The Tasmanian local government sector has been engaged in climate action since 2000. During this time conservatively over \$20 million has been invested by Tasmanian councils to develop responses to manage their greenhouse gas emissions and, across human resources, consultants, programs and

The table below provide a high-level overview of key programs that have been delivered to relevant to and informing the CCRMF. NB this is a high-level summary; more detailed and comprehensive detail is available on request.

Organisation	Program	Time	Comment	# Tas councils
ICLEI / Aust Govt	Cities for Climate Protection	1999- 2008	A national voluntary local government program to reduce greenhouse gas emissions	6
Aust Govt / CCA	Local Adaptation Pathways	2008	A national competitive grant climate adaptation program	9
STCA	Regional Climate Change Initiative	2010- ongoing	Coordinate climate action through a shared systems and processes	12
STCA, (DPAC) TCCO & LGAT	Regional Climate Change Adaptation Program	2012- 2015	Coordinate climate adaptation planning and establish a shared base line and resources	29
ReCFIT / TCCO	Climate Resilient Councils	2017	Assessment of Tasmanian council's climate governance	17
STCA	Regional Coastal Strategy	2020	Coordinate a strategic approach to coastal hazards through across common themes and principles	10
CCA, NTARC & STCA	Statewide proposal for Local Government climate change action	2022	Endorsed by the Minister and included in the TCCAP to coordinate adaptation and mitigation and build capacity	29
STCA	Southern Councils Climate Collaboration	2022- 2024	Coordinate climate adaptation and mitigation and establish a shared base line	11
STCA & NTARC	Climate Change Information for Decision Makers	2022	Municipal climate profiles prepared by CFT across climate indices identified by councils	20
NTARC	Northern Councils Climate Collaboration	2022 (est)	Coordinate climate action through a shared base line and processes	8
NTARC	Corporate Climate Adaptation Plan	2024	Coordinate climate adaptation through a standard approach to identify climate risk and adaptation responses	8
NTARC	Corporate Carbon and Energy Footprints (2019 – 2023)	2024	Coordinate council's emissions reduction and capacity to prepare CCEF and actions	8

CCA Cradle Coast Authority

NTARC Northern Tasmanian Alliance for Resilient Councils

STCA Southern Tasmanian Councils Authority

TCCO Tasmanian Climate Change Office (DPAC& RECFIT)

APPENDIX 3 High level of summary of climate program coverage across Tasmanian councils.

The table below show the coverage of climate action across local governments as of March 2025.

Council	Climate Change Officer	Climate Change in Strategic Plan	Corporate Footprint	Community Carbon Footprint	Climate Adaptation Plan/Strategy	Coastal Strategy
NTARC						
Break O Day	NTARC Support	✓	✓	-	2014 & 2024	Pending
Dorset	Other duties	✓	✓	-	2014 & 2024	Pending
Flinders Island	Other duties	✓	✓	-	2014 & 2024	Pending
George Town	Other duties	✓	✓	-	2014 & 2024	Pending
Launceston City	Dedicated role	✓	✓	✓	2014 & 2024	Pending
Meander Valley	NTARC Support	✓	✓	-	2014 & 2024	N/A
Northern Midlands	NTARC Support	✓	✓	-	2014 & 2024	N/A
West Tamar	NTARC Support	✓	✓	-	2014 & 2024	Pending-
-						
Burnie	-	✓	-	-	2014	-
CCA						-
Central Coast	-	✓	-	-	2014	-
Circular Head	Other duties	-	Underway	-	2014	-
Devonport City	Other duties	✓	Underway	✓^	2014	-
Kentish	-	✓	-	-	2014	-
King Island	-	✓	-	-	2014	-
Latrobe	-	✓	-	-	2014	-
Waratah Wynyard	-	✓	-	-	2014	-
West Coast	-	-	✓	-	2014	-
STCA						
Brighton	Dedicated role	✓	✓	✓^	2014 & 2024	✓
Central Highlands	-	✓	✓	✓^	2014 & 2024	N/A
Clarence City	Dedicated role	✓	✓	✓^	2014 & 2024	✓
Derwent Valley	-	✓	✓	✓^	2014 & 2024	✓
Glamorgan Spring Bay	-	✓	✓	✓^	2014 & 2024	✓
Glenorchy	Other duties	✓	✓	✓^	2014 & 2024	✓
Hobart City	Dedicated roles	✓	✓	✓^	2014 & 2024	✓
Huon Valley	Dedicated role	✓	✓	✓^	2014 & 2024	✓
Kingborough	Dedicated role	✓	✓	✓^	2014 & 2024	✓
Sorell	Other duties	✓	✓	✓^	2014 & 2024	✓
Southern Midlands	Other duties	✓	✓	✓^	2014 & 2024	N/A
Tasman	Other duties	✓	✓	✓^	2014 & 2024	✓