



COMMONWEALTH RESPONSE

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11 COMMONWEALTH RESPONSE

Each state and territory is responsible for its own preparation and response to natural disasters. The Commonwealth has no ‘stand alone’ powers in this area. Nonetheless, the Commonwealth plays a role in response to and recovery from disasters. This chapter explores the existing and potential role of the Commonwealth in natural disaster response and recovery and the role it played on 7 February.

DIVISION OF RESPONSIBILITIES

COMMONWEALTH ATTORNEY-GENERAL

11.1 At the Commonwealth level, the Attorney-General is responsible for disaster-related matters. The Commonwealth Attorney-General’s Department is comprised of three groups, one of which is the National Security and Criminal Justice Group. This Group is divided into six divisions:

- (1) National Security – Resilience Policy Division
- (2) Emergency Management Australia (EMA)
- (3) National Security – Capability Development Division
- (4) National Security – Law and Policy Division
- (5) Criminal Justice Division
- (6) International Crime Cooperation Division.¹

11.2 EMA is responsible for ‘the coordination of the operational responses to all hazards including natural disasters, terrorism and pandemics’.² EMA describes its role as follows:

EMA is responsible to the Attorney-General for the coordination of physical emergency and disaster assistance provided by the Australian Government. Such assistance results from a formal request from a State or Territory if government and commercial resources are unable to cope with an emergency or disaster. The Director-General of EMA, after obtaining approval from the Attorney-General, can call on the resources of any other Australian Government Department or Agency, and can request assistance from other States or Territories.³

11.3 EMA’s operations centre, the Incident Management Facility (IMF), coordinates requests for assistance. The IMF has a surge capacity that can be activated during ‘events’.⁴

11.4 The Attorney-General’s Department Coordination Centre (AGDCC) monitors all emergency management and counter terrorism matters around the country. The AGDCC operates 24 hours a day, 7 days a week.⁵

11.5 EMA also has responsibility for the national security hotline, the AGDCC, the Natural Disaster Relief and Recovery section, dignitary protection and protective security.⁶ It has been noted that EMA does not have a legislative mandate, or Cabinet endorsement: ‘the delivery of EMA functions for the most part is the result of goodwill on behalf of other agencies’.⁷

11.6 At the time of the February 2009 fires, EMA had carriage at the Commonwealth level for warnings. Subsequently, on 2 March 2009 (in response to a review of the Department undertaken in 2008) the responsibility for warnings was transferred to the National Security Resilience Policy Division.⁸

INTERGOVERNMENTAL COMMITTEES

11.7 In addition to the role of these agencies, there are intergovernmental committees with representation drawn from the states and territories and Commonwealth, with responsibilities in relation to emergency management, disaster response and security.

11.8 The Ministerial Council for Police and Emergency Management — Emergency Management is chaired by the Commonwealth Attorney-General. It meets annually.

11.9 The Australian Emergency Management Committee (AEMC) comprises the executive officers of each of the state and territory emergency management councils, and chaired by the Secretary of the Commonwealth Attorney-General’s Department.⁹ It usually meets twice a year.

11.10 A number of working groups have been formed to support the work of these committees:

- The Strategic Management Group supports AEMC in the strategic conduct of its role.
- The National Community Safety Working Group is a sub-group of AEMC. It considers 'broad ranging community safety issues, such as public education, communication strategies and development of tools that could be used to assist the community to understand emergency management issues'.¹⁰
- The National Risk Assessment Advisory Group comprises representatives from the states and territories, GeoScience Australia and the Bureau of Meteorology. It 'looks at advancing the capacity to conduct risk assessment and from that, then to be able to plan for mitigating the impact of events'.¹¹ There is also a separate National Flood Risk Assessment Advisory Group.
- The National Spatial and Information Management working group provides support in respect of counter terrorism and critical infrastructure work.¹²

THE 'ALL HAZARDS' APPROACH TO NATURAL DISASTERS

11.11 The Commonwealth's approach to natural disasters is an 'all hazards' approach that aims to ensure that Australia is as prepared for natural disasters (including bushfires) as for other threats to national security and safety.¹³ This is an appropriate approach, given the enormous cost and impact natural disasters have on the Australian community.

11.12 A number of significant reviews and reports have been produced over the years in relation to natural disasters generally and bushfires, in particular, including:

- House of Representatives Select Committee into the Recent Australian Bushfires, *A Nation Charred: Report on the Inquiry into Bushfires* (October 2003).¹⁴ See also the Australian Government Position, which records the response of the Commonwealth to the recommendations in that report.¹⁵
- Council of Australian Governments (COAG) *National Inquiry on Bushfire Mitigation and Management* (March 2004).¹⁶

11.13 There have also been two significant Commonwealth reports on the issue of national preparedness for natural disasters.

11.14 In 2002, COAG commissioned the *Natural Disasters in Australia: Reforming Mitigation, Relief and Recovery Arrangements Report*.¹⁷ This report identified a framework of 12 reform commitments and made 66 recommendations. The Report also noted the increase in the incidence of natural disasters in Australia:

Australian Natural Disaster Trends

Reliable information on the frequency of disasters in Australia extends only from 1967. Analysis of disasters between that year and 1999 shows that Australia typically encounters approximately eight disasters each year, where the total cost per event is greater than \$10 million. However, since 1980, the average number of disasters of that magnitude has been tending to increase. The worst year was 1998, with 17 recorded events over a \$10 million damage threshold. ... [The] number of natural disasters in Australia, 1967–99, shows an upward trend in disaster frequency over the period. While just over 30 years is a relatively short time frame in which to discern trends, the Bureau of Transport and Regional Economics (BTRE) considers the trend statistically significant.

Across Australia, populations and the built environment continue to develop in hazard-prone areas. Major urban development, particularly in coastal and river valley locations, has continued sometimes without reference to hazard risk assessment and consideration of appropriate mitigation measures, with the result that certain urban developments and essential infrastructure that supports significant populations is at risk of damage from natural disasters.¹⁸

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11.15 The report also called on governments to engage in a ‘paradigm shift’ and to embrace mitigation, rather than focusing on recovery from natural disaster:

The HLG [High Level Group that authored the report] considers that a key to an improved national system for disaster management in Australia is a paradigm shift towards increased, cost effective investment in disaster mitigation by all levels of government.

The HLG also considers it is in the national interest, and the interest of all communities, that each level of government accepts responsibility within its own jurisdiction for natural disaster mitigation in relation to land, property and the environment, assets and infrastructure, agencies and programmes, because of the benefits that can be achieved through mitigation.

State and Territory Governments have the principal role in natural disaster mitigation within their respective jurisdictions. They set the legislative and policy frameworks in key areas such as land use planning and emergency management, and set the policy parameters for investment in infrastructure and for many funding programmes. They have a key role in providing leadership in, and establishing priorities for, disaster mitigation.

Local Government has a vitally important role to play at the community level in assessing risk, determining local investment priorities, and planning and implementing disaster mitigation measures to achieve more sustainable communities, and reduce the loss of life, damage and cost to communities from disasters.

The Commonwealth also has a continuing role in:

- *providing national leadership on mitigation strategies and assessment*
- *providing financial assistance to State, Territories and Local Government for cost-effective, priority disaster risk management*
- *providing financial assistance to States, Territories and Local Government to assist them in meeting their disaster mitigation responsibilities*
- *leading to an overall reduction in damage and costs, thereby benefiting all Australians and all levels of government. In addition, the Commonwealth is considering means by which it might take into account disaster mitigation provisions of States and Territories.*¹⁹

11.16 This report was supported in principle by COAG in December 2003.²⁰ Mr Tony Pearce, Director-General, EMA, indicated that to date, 55 recommendations and eight reform commitments have been implemented, progressed as far as possible or are ‘being incorporated into emergency management practices’. The remaining recommendations and reform commitments are still being progressed.²¹ Further detail on this progress is contained in the *Report on Progress on Recommendations of COAG Natural Disaster Related Reports*.²²

11.17 In October 2005, the Catastrophic Disasters Emergency Management Capability Working Group prepared a report, *Review of Australia’s Ability to Respond to and Recover from Catastrophic Disasters*.²³ The recommendations made in this Report on the need for a national warning system are discussed in Chapter 4.

COMDISPLAN AND COMMONWEALTH AID

11.18 The Commonwealth’s role in response to and recovery from disasters includes the provision of resources, including funding, to the states and territories for disaster preparedness. Programs administered by the Commonwealth include the Bushfire Mitigation Program, the National Emergency Volunteer Support Fund, the Natural Disaster Mitigation Program and the National Aerial Firefighting Strategy.²⁴

11.19 The Commonwealth also provides additional assistance when the total resources of a state or territory affected by disaster or an emergency cannot reasonably cope.²⁵ The Commonwealth Disaster Response Plan (COMDISPLAN) provides the framework for addressing state and territory requests for Commonwealth assistance arising from a disaster or emergency.²⁶

- 11.20 COMDISPLAN is prepared and maintained by EMA. Coordination of assistance delivered under the plan is organised from the EMA Incident Management Facility.²⁷
- 11.21 Defence resources may also be provided to states and territories without the need for activating the COMDISPLAN. This is done through Defence Assistance to the Civil Community (DACC). DACC1 applies to assistance provided when immediate action is necessary to save human life, alleviate suffering, prevent extensive loss of animal life or prevent widespread loss of or damage to property in a localised emergency. DACC1 assistance may be approved by a local commander using local resources for a period of 24 hours. In principle, DACC1 aid is to be used only until 'state resources can be deployed to the site of the emergency or DACC2 or DACC3 level assistance is sought'.²⁸ Support at the DACC2 or DACC3 level can be provided only by an activation of the COMDISPLAN via an approach to EMA.²⁹
- 11.22 Once requests are made by a state or territory to the Commonwealth for assistance, the necessary liaison with the Attorney-General is able to be executed quickly, and response times are swift.³⁰
- 11.23 The Natural Disaster Relief and Recovery Arrangements are administered by EMA. Under this program, the Commonwealth partially reimburses states and territories for expenditure in relation to a range of natural disaster relief and recovery measures. If a state or territory's costs in respect of a natural disaster event exceed \$240,000, the Commonwealth reimburses 50 per cent (up to threshold limits determined by reference to the state and its revenue). The calculation of this cost is inclusive of eligible personal hardship and distress expenditure (including expenses for food, clothing, accommodation, emergency repairs to housing and replacement of essential household items and personal effects) and psychological and financial counselling expenditure.³¹
- 11.24 The Commonwealth suggested in its submissions that assistance from Defence organisations can only be provided 'where it is requested by a State or Territory and for response to an actual emergency, not in advance of a possible emergency. In any event, Defence assets may not be available at the time of a request for assistance by a State or Territory'.³²
- 11.25 This is certainly the current structure of COMDISPLAN and appears to be the philosophy that underpins the use of Commonwealth resources in aid to the states and territories. However, it is possible that the Commonwealth, states and territories could develop a more cooperative approach to sharing resources in a manner that would prevent and minimise risk, rather than focusing exclusively on response and recovery from disasters at a stage when the disaster is already unfolding. Possible approaches are discussed in more detail below.

COMMONWEALTH RESOURCES FOR DETECTING, TRACKING AND SUPPRESSING FIRES

- 11.26 The Commonwealth has access to a range of resources that could be used to detect, track and suppress fires.
- 11.27 The Commonwealth was asked to provide information on its capacity to provide 'facts, data, images, whether obtained or analysed by means of sentinel bushfire monitoring, satellite imagery, infrared technology, mapping tools or other means capacity of providing information in relation to the risk, location and spread of bushfires in Victoria'.³³ In evidence, Mr Pearce was asked about the capacity of Defence, the Defence Imagery and Geospatial Organisation (DIGO) and GeoScience Australia to assist states and territories to detect and track bushfires.

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11.28 Mr Pearce attested that he did not know precisely what Commonwealth assets were available that might be deployed to assist in detecting, tracking or suppressing fires. He explained that if ever he is approached by a state or territory about their possible deployment, he is obliged to approach other Commonwealth departments to ascertain whether any assistance might be available.³⁴ Mr Pearce stated that the provision of Commonwealth assistance works in the following manner: states and territories identify the function that they need carried out, and make an approach to EMA. EMA then identifies Commonwealth organisations, including the Australian Defence Force and DIGO, which may have the requisite capacity. Mr Pearce said:

I couldn't tell you what they have in regard to assets, all I can tell you is what I put to the agencies is a request for this outcome as been received. They will then identify they have an asset that can achieve the outcome. I wouldn't necessarily know what it is or how they require it, and that could be in an imagery sense [mapping] or otherwise.

...

I am not saying [that I don't know what they can do], I am saying I know the Commonwealth can provide support in a whole raft of areas including imagery but what elements or imagery, what technical solutions they use to actually deliver it I don't know, and nor do I have to.³⁵

11.29 The Commission heard limited evidence about Commonwealth resources that are available on mapping and imagery. For example, GeoScience Australia's satellite generated mapping tool products are available on public websites and are already provided to the Department of Sustainability and Environment. There was discussion also of the Australian Army's 1TopoSurvey Squadron, where members briefed Ms Edwards (of the Australasian Fire and Emergency Service Authorities Council), after the 7 February fires on their 'rapid response' capacity in mapping.³⁶ It appears that there is scope for the Commonwealth and the states and territories to liaise more actively on how resources might be used more effectively during bushfire response and recovery.

11.30 Section 6B of the *Intelligence Services Act 2001* (Cth) provides that one of the functions of DIGO is 'to provide to ... State authorities ... (i) imagery and other geospatial products ...; (ii) assistance in relation to the production of such imagery or products; (iii) assistance in relation to the performance by those authorities or bodies of emergency response functions'. Emergency response functions are defined under the Act as including the 'response to natural disasters'.

11.31 DIGO's assistance was not sought by Victoria on 7 February.³⁷ This is surprising, given that the magnitude of the disaster unfolding in Victoria was clear by mid-afternoon. A question that may be considered in further hearings is whether the Victorian fire services should have sought Commonwealth aid including the assistance of DIGO or Defence imagery during the day. There may also, of course, be a question as to the availability and utility of particular Commonwealth resources at that time.

11.32 The approach adopted thus far to Commonwealth support to natural disasters appears to have been more reactive than proactive. The overarching philosophy is focused on state and territory resources being exhausted prior to any requests for Commonwealth assistance being made. As a result, the Commonwealth does not engage with the states and territories in planning for high fire risk days, nor do the states and territories ask the Commonwealth to pre-position resources on days of predicted extreme fire danger.

11.33 There is room for greater engagement between the states and territories and the Commonwealth on the steps that might be taken before and during disasters. For bushfires, in particular, more planning is needed to consider what resources might be requested by the states and territories during the fire season and whether they are likely to be available or appropriate. The annual bushfire season provides a focus, and a guide, on when action is more likely to be required.

11.34 In this regard, the Commonwealth proposed in submissions the following recommendations:

- The Commonwealth in partnership with Victoria and other high fire risk jurisdictions should facilitate discussions between relevant Commonwealth agencies (including EMA, Defence and GeoScience Australia) and state and territory fire services to identify ways in which appropriate Commonwealth resources might be applied more effectively in bushfire emergencies, including investigating the potential for these resources to be used for detecting, tracking and suppressing bushfires.³⁸
- The Commonwealth, through EMA, provide twice yearly briefings to state and territory agencies regarding arrangements to support jurisdictions in times of seasonal emergencies including bushfire. These briefings should include the arrangements for all relevant Commonwealth agencies, including Defence. State and territory representatives should advise their relevant Ministers and agency Chief Officers (including fire services) of the outcomes of these briefings.³⁹

11.35 The suggested approach is appropriate, and recognises that there is room for greater cooperation and planning between governments in responding to bushfire risk in Victoria. The Commission welcomes this development.

RECOMMENDATION 11.1

The Commonwealth facilitate discussions between relevant Commonwealth agencies (including Emergency Management Australia, Defence, Defence Imagery Geospatial Organisation and Geoscience Australia) and state and territory fire services to identify ways in which Commonwealth resources might be applied more rapidly and effectively during extremely dangerous bushfires, including investigating the potential for these resources to be used for detecting, tracking and suppressing bushfires.

RECOMMENDATION 11.2

The Commonwealth, through Emergency Management Australia, provide briefings at least once a year to state and territory agencies regarding arrangements available (including through Defence) to support jurisdictions during disasters and emergencies, including bushfires. State and territory representatives should advise relevant Ministers and the Chief Officers of emergency services (including fire services) of the outcomes of these briefings.

COMMONWEALTH INVOLVEMENT UP TO AND ON 7 FEBRUARY

LEAD UP TO 7 FEBRUARY

- 11.36 During late January and early February 2009, EMA was monitoring and responding to a number of significant events around Australia including bushfires in Victoria, South Australia, New South Wales and Western Australia, severe flooding in south-east Queensland, a major oil spill off the coast of south-east Queensland, tropical cyclones off the coasts of Queensland and Western Australia and a major telecommunications infrastructure failure due to flooding in Western Australia.⁴⁰ As a result, the IMF had already been activated and was operating. Its role on 7 February involved monitoring developments (including the bushfires in Victoria) and communicating with the states and territories where disasters and emergencies were occurring.
- 11.37 The role of the AGDCC on 7 February was to gather information on various emergencies unfolding around the country, provide reports to senior national decision makers and provide support to EMA as required.⁴¹ The IMF prepared event briefings during the day, aimed at informing Commonwealth agencies about the heatwave and potential for bushfires.⁴² It also prepared national bushfire situation updates which it issued on a number of occasions during early February.⁴³

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EVENTS OF 7 FEBRUARY

- 11.38 At 6:41pm, a DACC1 request for assistance for bulldozers was made by direct approach to the Australian Defence Force. At 7:01pm this was updated to an urgent request by the Divisional Emergency Response Coordinator at Bendigo, to assist with the Redesdale fire. The Police Forward Command log notes that a response to this request had not been received by 7:32pm.⁴⁴ At 8:40pm, the Australian Defence Force was informed the bulldozers were no longer required.⁴⁵
- 11.39 At 10:52pm, the AGDCC issued a hazard impact event notification to individuals in the Attorney-General's Department, Prime Minister and Cabinet, and other Commonwealth Departments with responsibility for disaster management and support (including Centrelink, Defence and Health). The notification advised that there had been fatalities in the Victorian bushfires.⁴⁶
- 11.40 At 11:00pm Mr Pearce attended Parliament House and met with the Prime Minister and the National Security Advisor to brief them on the events in Victoria and to advise on the Commonwealth resources that might be made available to Victoria. The Prime Minister told Mr Pearce that he 'expected EMA to ensure that all requests for Commonwealth Assistance from Victoria were expedited'.⁴⁷
- 11.41 The Prime Minister contacted the Victorian Premier that evening. It was agreed the Prime Minister would attend Victoria the next morning and visit affected areas.⁴⁸
- 11.42 At 11:38pm, Mr Greg Lovell, Director of Planning and Coordination for EMA contacted the Victorian State Emergency Response Coordination Centre (SERCC) to request approval to send an EMA liaison officer to the SERCC. That request was approved.⁴⁹ Mr Pearce was asked whether consideration had been given to getting a liaison officer to the SERCC during the day on 7 February. He said, '[w]e weren't asked to provide one. So therefore, had we not requested [that] we actually put one in there for their benefit and ours, we wouldn't have had one there at all'.⁵⁰

ACTIVATION OF COMDISPLAN ON 8 FEBRUARY

- 11.43 At 6:19am on 8 February, the Attorney-General authorised Mr Pearce to activate COMDISPLAN in response to a request from Victoria. The first formal request was for 150 mattresses and portable beds for use in an emergency relief centre in the Shire of Baw Baw.⁵¹
- 11.44 In the days and weeks that followed, the Commonwealth was involved in the deployment of considerable resources directed to the recovery effort in Victoria. Assistance provided ranged from: heavy machinery; field and temporary accommodation; Defence personnel and others to assist in search and recovery efforts; specialist forensic assistance including odontologist support; services to sustain displaced people including through Centrelink and the Department of Families, Housing, Community Services and Indigenous Affairs; and subsequently bushfire researchers.⁵² EMA also managed the international offers of assistance made to Victoria.⁵³
- 11.45 The Commission notes the provision of considerable resources by the Commonwealth to the bushfire recovery effort — commencing in the hours after the fires and continuing to the present, including through the Office of the Parliamentary Secretary for Victorian Bushfire Recovery.