



Australian Government

Australian Government Response to the
Senate Legal and Constitutional Affairs Legislation Committee
report:

*National Emergency (2022 New South Wales Floods) Declaration
2022*

November 2024

Introduction

On 30 October 2020, the Royal Commission into National Natural Disaster Arrangements (the Royal Commission) released its Final Report. Recommendation 5.1 stated:

The Australian Government make provision, in legislation, for a declaration of a state of national emergency.

In response to this recommendation, the *National Emergency Declaration Act 2020* (Cth) (the NED Act) and *National Emergency Declaration (Consequential Amendments) Act 2020* (Cth) (together, the Acts) received Royal Assent on 15 December 2020.

The Governor-General made the first national emergency declaration on 11 March 2022 in response to widespread flooding across New South Wales. That declaration is the only national emergency declaration made to date. The Senate Legal and Constitutional Affairs Legislation Committee (the Committee) conducted a statutory review into the national emergency declaration in accordance with section 14A of the NED Act and tabled its report on 8 February 2023, making two recommendations. The Committee's report made reference to an earlier statutory review of the Acts tabled by the Committee on 30 June 2021, which the Government has responded to separately.

Australia's domestic emergency management and geopolitical landscape continues to change significantly. Australia will face more frequent, concurrent and severe weather events, in addition to pervasive challenges to our national interest, including from cyber-attacks and foreign interference.

Considering these changes to Australia's domestic emergency management landscape, the Department of Home Affairs (the Department) undertook a classified non-statutory review of the Commonwealth's emergency management powers (the Department's Non-Statutory Review). The Department's Non-Statutory Review considered whether current Australian Government emergency management legislation and powers, particularly those within the NED Act, are sufficient to support the states and territories, and enable the Australian Government to manage increasingly challenging crisis events. The Department's Non-Statutory Review took account of the Committee's 8 February 2023 Report, as well as the Committee's earlier statutory review of the Acts. The Australian Government is considering the findings of the Department's Non-Statutory Review.

In relation to the Committee's 8 February 2023 Report, the Australian Government agrees to the Report's first recommendation and notes the second recommendation. The Government will consider the Committee's substantive recommendation in the context of any future reforms to the NED Act.

The Australian Government thanks the Committee for considering the operationalisation of the NED Act.

Australian Government Response to the Committee's 8 February 2023 Recommendations

Recommendation 1

The Committee recommends that any changes to the *National Emergency Declaration Act 2020* consider the findings of the two operational reviews conducted by the Senate to date.

Response: The Australian Government **agrees** to this recommendation.

The Australian Government will consider the findings of the Committee's Reviews in the context of any future reforms to the NED Act.

Recommendation 2

The Committee recommends that the Senate takes note of this report.

Response: The Australian Government **notes** this recommendation, as it is a matter for the Senate.