

Alternative Commonwealth Capabilities for Crisis Response Discussion Paper – August 2023

At the time of writing this response to the discussion paper, I am applying for a Doctoral candidature to commence in 2024. To date, I have reached out to several Australian based universities to seek a suitable supervisor for my research question, and am waiting on reply. The focus of my proposed thesis topic is within a review of the existing Australian Emergency Management Arrangements to identify if a harmonised approach could better prepare Australia for an increasing emergency management environment. I recently discussed my proposed thesis topic with the Federal Minister for Emergency Management, Senator Watt, and have received research support for this topic through Ms. Jo Hutchinson, as a representative of the National Emergency Management Agency, once my application is approved.

The intent of my response to the discussion paper is not to answer all of the questions posed seeking a response and recovery capability alternative to the Australian Defence Force (Govt. of Australia, 2023), but to align the intent of my thesis topic with those questions determined relevant.

Acknowledging the primary role of state and territories in emergency response, what longer-term capacities and capabilities does the Commonwealth need to develop to meet the challenges of the evolving strategic environment?

My thought is that the Commonwealth should look to champion required changes to legislation to allow for legislatively supported movement of non-ADF human resources across state and territory borders. Noting the preservation of constitutions, this alignment of systems approach would enable the retention of ‘primary responsibility for protecting life, property and the environment’ (Department of Prime Minister and Cabinet, n.d.), within their jurisdictions, whilst providing a consistency in elements of frameworks currently lacking, and exponentially enable an improved process for the sharing of human resources across states and territories before, during, and after times of emergency. The Australasian Fire Authorities Council (AFAC) National Resource Sharing Centre (NRSC) enables this sharing for emergency services ‘through its creation of partnerships and agreements’ (AFAC, n.d.), notably the Arrangement for Interstate Assistance (AIA), but this is limited to natural hazard events only, and does not afford reflexive integration.

At a national level, what are likely to be the key pressure points or challenges for the Commonwealth responding to competing and concurrent crises?

In finding alternatives to current ADF resourcing I believe that a key challenge for future emergencies will be having the required numbers of human resources to manage these events. Identifying a role such as a ‘hazard management officer’, as a term currently used within the Western Australia Emergency Management Act 2005 (Government of Western Australia, 2005), or howsoever named, that could be recognised in emergency management legislation across all jurisdictions, would allow for direct assimilation into the different emergency management frameworks, and allow enhanced and legislatively supported cross-jurisdictional human resource sharing before, during and after natural hazard emergencies ‘in a future of more frequent, more severe, compounding natural disasters’ (Binskin, Bennett, & Macintosh, 2020); during a period of increasing cyber security threats (Loukas, Gan, & Vuong, 2013); during periods when animal biosecurity impacts threaten the Australian economy (Windsor, 2021); and during periods of multiple other emergency event types.

I believe that enabling personnel from organisations such as interstate emergency services agencies, interstate or federal animal and plant biosecurity agencies, interstate or federal cyber security agencies, interstate or federal health agencies, and disaster relief volunteer groups such as the Red Cross and Disaster Relief Australia (DRA, n.d.), to be classified as an e.g., ‘hazard management officer’ by the lead or hazard management agency for the duration of their involvement, would allow direct assimilation into the jurisdictional emergency management framework and would provide direct protection, as applicable to the relevant legislation.

What changes in the current system are necessary to help Australia have the right capabilities and capacity to handle concurrent crises?

Currently, various emergency management frameworks exist across the Australian jurisdictions, federal, state and territory, inclusive of differing forms of emergency management legislation providing the authority for lead agencies in managing identified hazards, differing forms of policies, plans and procedures, differing peak emergency management bodies and dissimilar terminology such as that of “emergency” and “disaster” (AIDR, 2023). I believe that a review is required of all of these frameworks. The intention of the review I am proposing would be to identify if a harmonised approach across the varied emergency management frameworks could improve the capability for future emergency challenges, as seen through the sharing of human resources, predominantly during the Preparedness, Response and Recovery phases of the emergency management comprehensive approach.

What does the right mix of Commonwealth capabilities look like?

In accordance with ‘S106. Saving of Constitutions’ (Parliamentary Education Office, 2010), each of the original six states were to retain their existing constitutions upon Federation, which is often cited as where the retention of the right to protect their own citizens is established (Department of Prime Minister and Cabinet, n.d.; & Government of Australia, 2023). However, in Western Australia, nil reference to specifically protecting its citizens from emergency events exists in either the Constitution Act of 1889 or the Constitution Amendment Act of 1899. In considering that legislation such as the Emergency Management Act 2005 (Government of Western Australia, 2005), now exists to provide protection for Western Australian citizens, the assumption is that other state or territory-based legislation would provide the same, for the protection of those citizens, with this assumption an objective to be tested in my proposed review.

In stating the above, I believe that the Commonwealth should hold responsibility for human resource coordination for each of the states and territories, inclusive of the six mainland states, three mainland territories, and eight offshore territories, when emergency situations warrant it. According to NEMA (n.d.), the ‘National Situation Room (NSR) is a secure and critical coordination facility directly connected to State and Territory emergency centres, providing 24/7 all-hazard situational awareness, impact analysis and decision support to Government’. Effectively, the NSR is established to support coordination, with the focus currently on ‘monitoring and reporting on natural disaster events across Australia (flood, bushfire, cyclone, heatwave and earthquakes) ...’ (Dept. of Home Affairs, n.d.). As identified earlier though, as the AFAC NRSC manages the AIA across Australia, the extent of the NSR role in coordination of human resources for natural hazard events remains uncertain in my mind. My thought would be for the NRSC to be substituted with an enhanced NSR within this role of such national importance.

According to the Dept. of Home Affairs (n.d.), there is also an ‘all-hazards’ focus, with ‘monitoring and reporting on security incidents including cyber, significant demonstrations, impacts to critical infrastructure, space weather and space debris re-entry’. I am uncertain if there are agencies similar to the AFAC with the NRSC that provide coordinating services for cyber-security attacks, plant or animal biosecurity events, or space debris re-entry events impacting across multiple jurisdictions. This consideration would also be tested through my review. Irrespective, my thought would be to enhance the capability of the NSR to enable the coordination for all human resources for any and all emergency event that could affect the protection of the Australian population.

How could we harness the critical role of volunteers and civilian groups under this model?

By affording them guaranteed protections applicable to a ‘hazard management officer’ under the relevant legislation. As an example, under the Emergency Management Act 2005 (Govt. of Western Australia, 2005), if any volunteer or personnel from a group such as the Red Cross were to be appointed as a ‘hazard management officer’, then they would be afforded the protection of that Act, and thereby the State Government of Western Australia for all activities and actions taken in relation to the emergency event whilst appointed under that Act. This would be entirely different to activities under what is understood as ‘Good Samaritan laws’, i.e., where ‘a person who is acting in good faith in providing assistance to someone in need is protected from any personal liability in an emergency situation’ (Law Partners, n.d.). Those are individuals assisting in a one-off situation. My proposal identifies personnel moving from one jurisdiction to another to provide protracted assistance in an emergency situation either before, during, or after the event, and any uncertainty of protection from liability whilst working within these other jurisdictions would be removed through appointment under state or territory-based legislation.

How do these models supplement, but not replicate, existing models operating at a state and territory and local level?

Each state and territory within Australia have an established agency, or lead agency to manage the effects from emergency events, as applicable under jurisdictional legislation. Each of the agencies have personnel appointed under different industrial mechanisms. In Western Australia, as an example, personnel with the Department of Fire and Emergency Services (DFES), are employed under the mechanisms applicable to the Fire and Emergency Services (FES) Act as either public service officers, as operational staff, or as wages staff (Govt. of Western Australia, 1998). Whilst it is expected that operational staff would be active in providing the human resources available to manage emergency events within the jurisdiction, the FES Act also enables the other staff mentioned to supplement resources within non-operational roles such as those within Pre-Formed Teams (DFES, n.d.). These personnel all work under the provisions of the FES Act, and are afforded protection from liability for their actions during emergencies within Western Australia.

It remains unclear if personnel deploying from another jurisdictional agency have this same protection. The Western Australian Government’s deployment of Incident Management Team (IMT) personnel to assist with the NSW floods of 2022 (The West Australian, 2022), and the NSW Government’s deployment of IMT personnel (NSW Government, 2023), to assist with the Broome floods of 2023 are recent examples of the sharing of fire and emergency service resources through the AIA, without clearly defined legislative integration into the jurisdictional emergency management framework being deployed to.

What gaps currently exist in state and territory emergency management capability?

I believe the biggest gap is the lack of a coordination from a federal approach during situations of major emergency across jurisdictions. Within Western Australia the highest level of emergency is currently a Level 3 incident as identified in the State Emergency Management Plan (Govt. of Western Australia, 2023).

'In accordance with incident management principles, incidents are broadly classified into three levels, namely Level 1, Level 2 and Level 3 incidents. This ensures all agencies involved have a common understanding of the potential and/or actual severity of the incident...' (ibid).

Using the example of a significant bushfire emergency under the Western Australian State Hazard Plan – Fire (Govt. of Western Australia, 2022), I believe that the likelihood of national coordination could be activated at a Level 3 incident.

'Level 3 fire incidents have a high level of complexity that are protracted, large and resource intensive. They may affect community assets and/or critical infrastructure and attract significant community, media and political interest. These incidents will usually involve delegation of all the incident management functions' (ibid).

I say could, because it is likely that the Hazard Management Agency with legislated responsibility to manage these events at that level i.e., the Fire and Emergency Services Commissioner (Govt. of Western Australia, 2005), should have the capability to do so for a single event, or for a complex i.e., 'two or more individual incidents located in the same general area'... (Creman, 2020). However, in the situation of 'the severe weather event resulting in four simultaneous Level 3 bushfires across Western Australia' (AIDR, 2022), over one protracted period, I believe that the *national coordination* of human resources should be applicable, and be managed through the NSR. Having established officers from an enhanced NEMA presence in each state and territory to liaise with the NSR from within the lead agencies command/control centre e.g., the DFES State Operations Centre (DFES, 2019), and having the applicable legislation required to enable this, forms part of the review that I am intending through my Doctorate research.

To enable further clarity however, the other point could be the proposal of a new 'level', being e.g., a 'Level 4 incident'. This could be made consistent across all jurisdictions as an incident requiring national resourcing, with intent being the involvement of the NSR in a coordination role, and could read something like *'Level 4 incidents have a significant level of complexity that have the heightened potential to exhaust jurisdictional resources due to their nature. A Level 4 incident may be activated as part of a single jurisdiction-wide event, or may be called due to a combination of multiple lower-level concurrent events. This level requires coordination through the National Situation Room and collaboration across the relevant jurisdictional agency and elements of the National Emergency Management Agency'*. Whether or not a National Emergency Declaration (Binskin, Bennett, & Macintosh, 2020), would be included when a Level 4 incident is called is another consideration as part of my proposed research question.

Please do not hesitate to contact me, as I would be happy to discuss any of the considerations raised within this response further with applicable representatives.

Brad Slater

References

- Australasian Fire Authorities Council. (n.d.). National Resource Sharing Centre. *Retrieved from internet 30/07/2023.* <https://www.afac.com.au/initiative/nrsc>
- Australian Institute for Disaster Resilience. (2023). Australian Emergency Management Arrangements. Australian Disaster Resilience Handbook Collection 2023. *Retrieved from internet 18/08/2023.* https://knowledge.aidr.org.au/media/10162/handbook_aema_web_2023.pdf
- Australian Institute for Disaster Resilience. (2022). Bushfire - Western Australia. *Retrieved from internet 25/08/2023.* <https://knowledge.aidr.org.au/resources/bushfire-western-australia-february-2022/>
- Binskin, M., Bennett, A., & Macintosh, A. (2020). Royal commission into national natural disaster arrangements report. *Canberra: Commonwealth of Australia.* pp 1-594.
- Cremen, A. (2020). What is a 'Complex Incident'? Wildfire names and other commonly used terms explained. *Retrieved from internet 27/08/2023.* <https://www.abc10.com/article/news/local/wildfire/what-is-a-complex-fire-wildfire-names-and-other-commonly-used-terms-explained/>
- Department of Fire and Emergency Services. (n.d.). Employment and Volunteering. *Retrieved from internet 25/08/2023.* <https://www.dfes.wa.gov.au/careers-and-volunteering>
- Department of Fire and Emergency Services. (2019). Western Australian Fire and Emergency Service Manual Part Two: State Operations Centre. *Retrieved from internet 25/08/2023.* <https://naturaldisaster.royalcommission.gov.au/system/files/2020-07/FES.005.001.0011.pdf>
- Department of Home Affairs. (n.d.). Temporary Employment Register - National Situation Room Officer (Shift Position). *Retrieved from internet 25/08/2023.* <https://jobs.homeaffairs.gov.au/nema/job/Boro-Temporary-Employment-Register-National-Situation-Room-Officer-%28Shift-Position%29-ACT/936895510/>
- Department of Prime Minister and Cabinet. (n.d.). A national approach to national disasters. *Retrieved from internet 09/07/2023.* <https://www.pmc.gov.au/publications/national-approach-national-disasters>
- Disaster Relief Australia. (n.d.). Our story. *Retrieved from internet 18/08/2023.* <https://disasterreliefaus.org/our-story/>

Government of Australia. (2023). Alternative Commonwealth Capabilities for Crisis Response. *Retrieved from internet 25/08/2023.*

<https://www.homeaffairs.gov.au/reports-and-pubs/files/alternative-clth-capabilities-crisis-response.pdf>

Government of Western Australia. (1889). Constitution Act 1889. *Retrieved from internet 25/08/2023.*

https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_185_homepage.html

Government of Western Australia. (1899). Constitution Amendment Act 1899. *Retrieved from internet 25/08/2023.*

https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a173.html

Government of Western Australia. (2005). Emergency Management Act 2005. *Retrieved from internet 18/08/2023.*

https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_294_homepage.html

Government of Western Australia. (1998). Fire and Emergency Services Act. *Retrieved from internet 25/08/2023.*

https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a1899.html

Government of Western Australia. (2023). State Emergency Management Plan. *Retrieved from internet 27/08/2023.*

<https://www.wa.gov.au/system/files/2023-05/state-emergency-management-plan.pdf>

Government of Western Australia. (2022). State Hazard Plan – Fire. *Retrieved from internet 25/08/2023.*

<https://www.wa.gov.au/system/files/2022-12/State-Hazard-Plan-Fire.pdf>

Law Partners. (n.d.). Personal Liability and Why You Shouldn't be Scared to be a Good Samaritan. *Retrieved from internet 25/08/2023.*

<https://lawpartners.com.au/blog/personal-liability-and-why-you-shouldnt-be-scared-to-be-a-good-samaritan>

Loukas, G., Gan, D., & Vuong, T. (2013). A review of cyber threats and defence approaches in emergency management. *Future Internet*, vol.5(2), pp. 205-236.

National Emergency Management Agency. (n.d.). Behind Australia's crisis response management. *Retrieved from internet 25/08/2023.*

<https://nema.gov.au/stories-national-situation-room-upgrade>

NSW Government. (2023). Fire and Rescue NSW to assist the flood relief in Broome – Sydney Airport. *Retrieved from internet 09/07/2023.*

<https://www.fire.nsw.gov.au/incident.php?record=recuNay5DLWk3O5p4>

Parliamentary Education Office. (2010). Australia's constitution. *With overview and notes by the Australian Government Solicitor*. pp. 1-50.

The West Australian. (2022). WA sends two more emergency teams to NSW to help with flood recovery. Retrieved from internet 09/07/2023. <https://thewest.com.au/news/wa/wa-sends-two-more-emergency-teams-to-nsw-to-help-with-flood-recovery-c-5958867>

Windsor, P. A. (2021). Progress with livestock welfare in extensive production systems: lessons from Australia. *Frontiers in Veterinary Science*, vol.8, pp. 1-9. 674482.