Australian Government
Department of Infrastructure and Regional Development

Deputy Secretary

PDR ID: EC14-000318
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Natural Disaster Funding Arrangements
Productivity Commission
Locked Bag 2
Collins Street East
Melbourne VIC 8003

Dear Commissioners

Subject: Submission to the Productivity Commission inquiry into natural disaster funding arrangements

Please find enclosed the Department of Infrastructure and Regional Development's submission to the Productivity Commission's inquiry into natural disaster funding arrangements.

This submission draws on the Department's experience as the lead Commonwealth agency for infrastructure policy and its role in respect of local government funding. It also draws heavily on the experiences of the National Disaster Recovery Taskforce ('Taskforce'), which was established in 2011 following severe natural disasters in Victoria and Queensland.

The Taskforce oversees the 2010-13 Queensland reconstruction programmes and works closely with the Queensland Government under the National Partnership Agreement for Natural Disaster Reconstruction and Recovery ('NPA'). I note the Queensland Government has made a submission to the inquiry which covers similar topics to those discussed in the Department's submission. The Queensland submission also includes documents relating specifically to the NPA, in particular the 'Current Building and Engineering Standards Framework' and the 'Interim Report on the Local Government Value for Money Pricing Model (Day Labour) Trial'. It should be noted that while these documents relate to the Taskforce's work in Queensland, they are reflective of the Queensland Government's views and do not represent agreed positions between the two governments.

I thank you for the opportunity to participate in this inquiry.

Yours sincerely

Andrew Wilson

20 June 2014

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Australian Government
Department of Infrastructure and Regional Development

Submission to the Productivity Commission Inquiry into Natural Disaster Funding Arrangements

June 2014

Contents

Executive summary

The Department of Infrastructure and Regional Development (the Department) has prepared this submission to provide comment on the efficiency and efficacy of natural disaster funding arrangements. This submission draws on the Department's experience as the lead Commonwealth agency for infrastructure policy, its carriage of the National Disaster Recovery Taskforce (the Taskforce) and its role in respect of local government funding. These responsibilities provide a practical understanding into the application of the Natural Disaster Relief and Recovery Arrangements (NDRRA) and their relationship to broader infrastructure policy.

The Australian Government's infrastructure investment agenda aims to invest in an efficient, safe and sustainable national transport system that enhances the interconnectivity of the national network. This includes ensuring investments are made strategically, mitigate natural disaster risk and reduce the impact of natural disasters on communities.

The majority of public infrastructure is owned by state, territory and local governments and they have responsibility for managing disaster risk associated with these assets. State and territory governments are primarily responsible for administering disaster reconstruction and recovery programmes. States and territories also have responsibility for disaster mitigation; including ensuring land planning regimes properly reflect disaster risk and ensuring appropriate asset management for public infrastructure.

The Australian Government acknowledges the burden faced by state, territory and local governments in the aftermath of severe natural disasters and provides assistance to help communities recover and repair public infrastructure. Funding is provided through the NDRRA, which were originally intended as a financial safety net to support recovery and reconstruction once state and territory governments have exhausted their ability to fund these activities.

The Attorney-General's Department estimates that for disasters since 2006, a total of roughly $10 billion in Commonwealth assistance to states and territories will have been spent by the end of 2015-16 on restoring essential public assets, mostly roads[1]. Further, roughly $8 billion of that will be allocated to one state—Queensland. In this context, the NDRRA appear to have changed from their role as a safety net, to a regular component of infrastructure funding to some states and territories. Any assessment of natural disaster funding arrangements should consider the original goal of Commonwealth disaster funding and whether the NDRRA are still the most effective method of achieving this goal.

Despite the large quantum of NDRRA funding being directed towards repairing or reconstructing infrastructure, it is not subject to the same considerations as the Commonwealth's broader infrastructure investment agenda. Funding under the NDRRA is not prioritised based on the relative importance of the asset and it lacks incentives to encourage disaster risk management and investment in disaster mitigation.

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[1] Attorney-General's Department, Submission to the Productivity Commission Inquiry into Public Infrastructure, February 2014

Through the NDRRA, the Commonwealth provides up to 75 per cent of total funding for repairing or reconstructing public assets after a disaster. Funding is available regardless of whether the asset owner has taken steps to mitigate disaster risk. As a result, there is a strong argument that the NDRRA distorts decision-making around public assets. The funding available under the NDRRA is uncapped and subject to limited Commonwealth oversight. Coupled with a lack of clarity around eligibility criteria, this has led to significant Commonwealth financial exposure.

The Department concludes that future disaster funding arrangements should take fuller consideration of the Australian Government's infrastructure investment agenda, particularly by incorporating clear incentives or requirements for asset owners to manage disaster risk and invest in mitigation. Disaster recovery funding should have clearly defined guidelines and, where there is a significant Commonwealth investment, Commonwealth oversight of disaster reconstruction programmes should be expected. There should be a targeted use of 'betterment' investment in future programmes to assist disaster recovery.

Should the severity of extreme weather events experienced in the last few years continue, the level of damage and extent of Commonwealth funding would remain sizable. It is therefore important for recovery funding to be strategically invested to achieve optimum long-term outcomes, including reduced future damage, quicker recovery, minimal economic impact and that the benefits are apportioned equally across states and territories.

Introduction

The Department of Infrastructure and Regional Development's (the Department) submission to the Productivity Commission inquiry into natural disaster funding arrangements draws on its experience as the lead Commonwealth agency for infrastructure policy and its carriage of the National Disaster Recovery Taskforce (the Taskforce).

Australia has seen increased frequency and severity in natural disasters in recent years, resulting in significant Commonwealth assistance through the NDRRA, particularly for the repair and restoration of roads. This increase has seen instances where disaster funding for infrastructure repair has exceeded that provided through the Commonwealth's targeted infrastructure funding programmes. In 2012-13, NDRRA funding for Queensland's roads was an estimated four times the amount of roads funding provided through the Commonwealth's infrastructure programmes – at roughly $2.98 billion and $0.62 billion respectively.

Given this level of funding, it is critical that the recovery process be well understood and that funding be strategically invested to achieve optimum long-term outcomes for disaster-affected communities.

Infrastructure investment and disaster resilience

The Australian Government has made a $50 billion commitment to infrastructure investment through to 2019-20. The Infrastructure Investment Programme (IIP) is the key mechanism that will implement this commitment and aims to invest in a safe and sustainable national transport system that enhances the interconnectivity of the national network. The IIP aims to:

(a) Promote sustainable economic growth through increased productivity and safety across Australia by improving connectivity for communities, regions and industry;

(b) Encourage and deliver a consistent, innovative and integrated approach to planning, underpinned by robust analysis, focusing on meeting future passenger and freight needs to improve economic, urban development, safety and environmental outcomes;

(c) Improve practices and systems between governments and industry to reduce the regulatory burden and project costs.

The IIP funds projects of national significance, as well as transport innovation and research projects. It also includes a number of sub-programmes that provide funding to state, territory and local governments for the construction, upgrade and maintenance of land transport infrastructure. Between 2008-09 and 2013-14, approximately $4.9 billion was invested nationally through the Black Spot, Roads to Recovery and National Land Transport Network Maintenance programmes. Under the Roads to Recovery programme in particular, local governments are afforded flexibility as to how funds are used across their networks. Additionally, untied financial assistance grants are provided to local governments, including a component for local roads which can be used at the council's discretion.

The Australian Government's infrastructure investment agenda is underpinned by strategies and measures guided towards best practice in robust planning; assessment; prioritisation; and consideration of optimal financing and funding solutions that will assist in infrastructure project delivery. The consideration of risks including financial risk, contingencies and any conditions imposed on the project by Australian or state and territory laws, such as environmental legislation and building codes are all embedded in the process of appraisal, approval and administration of projects under the IIP.

For example, the Kempsey Bypass project funded through the IIP included robust risk assessment and mitigation in the project planning stage. The project involved constructing a 14.5 kilometre dual carriageway bypass of Kempsey and the township of Frederickton on the mid-north coast of New South Wales, east of the existing Pacific Highway. Managing flood risk was paramount when identifying options for a preferred corridor and the design of the bridge crossing the Macleay River and floodplains. The final design took into account detailed flood modelling and an options assessment. Considerations included change to flood levels, flow velocities, flow paths, land use and heritage impacts, costs and constructability. Flooding risk to local properties was also mitigated by the project.

The comprehensive process of appraisal, approval and administration of projects under the IIP aims to ensure strategic infrastructure investments that contribute to a robust and resilient network.

Infrastructure Australia (IA) also undertakes an assessment of projects seeking Australian Government funding with a capital cost of more than $100 million. This assessment includes consideration of economic, social, environmental and network-wide benefits.

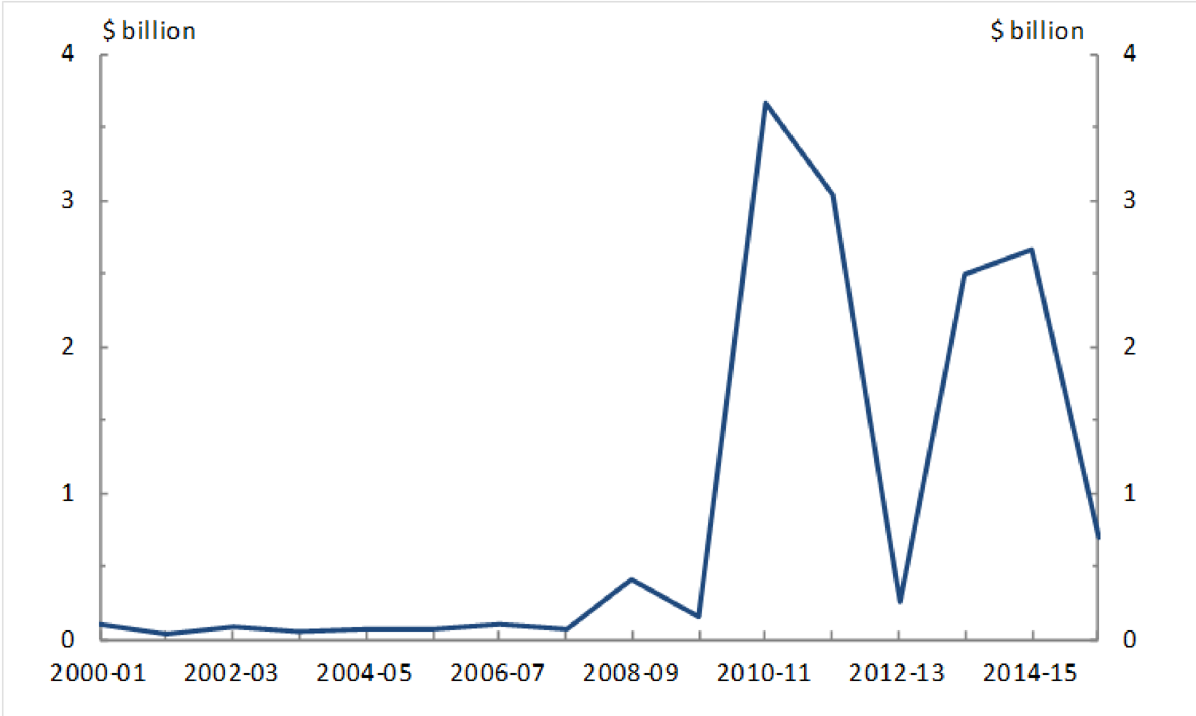
The Deputy Prime Minister and Minister for Infrastructure and Regional Development, has asked IA to undertake a full audit of Australia's asset base, in conjunction with the states and territories, but independent of their project priorities. This audit will feed into a comprehensive 15-year infrastructure plan which is critical in prioritising investment to maximise productivity improvements. Both will be updated every five years to accommodate changes in Australia's infrastructure needs.

The 15-year plan will include clearly defined service standards for project delivery, outline short and long-term productivity gains, and identify any complementary projects required to maximise productivity gains. The plan will also articulate a timeframe in which projects will be brought to market, commencing with those projects of highest productivity value.

IA will also evaluate all Australian Government infrastructure expenditure over $100 million, except for Defence projects.

The figure below (over the page) shows the estimated annual cost of natural disaster assistance provided to states and territories from the Australian Government. For the disaster events in Queensland between 2010 and 2013 alone, the Commonwealth cost is estimated at $8.2 billion – $5.1 billion for 2010-11 disasters, $1.3 billion for 2011-12 and $1.8 billion for 2012-13 events.

Figure 1: Commonwealth NDRRA funding to states and territories



Source: Used in the National Commission of Audit, sourced through Department of Finance

The NDRRA were intended as a financial safety net for states and territories impacted by severe natural disaster, but it is worth considering whether the current arrangements are the most effective means for the Commonwealth to provide this assistance. In recent years, the NDRRA have become a regular component of infrastructure funding to some states and territories, and as such their effectiveness in the funding of infrastructure should also be considered.

The Attorney-General's Department estimates that by the end of 2015-16 a total of roughly $10 billion of such Commonwealth assistance to states and territories will have been spent on restoring essential public assets, mostly roads[2]. The NDRRA funds the like-for-like restoration of damaged infrastructure. Where an asset is rebuilt to a better standard following natural disaster, the NDRRA still covers the proportion of costs for like-for-like replacement, with additional works to be covered through other funding sources. But, asset owners are less likely to use restoration works as an opportunity to rebuild assets to a more resilient standard due to the current Commonwealth funding arrangements and guarantee.

While the majority of NDRRA funding is directed towards infrastructure, the policy does not require or encourage states and territories to adhere to the broader principles underpinning the Australian Government's infrastructure investment agenda in the administration of NDRRA funding. In fact, there is a strong case for believing the NDRRA currently lacks incentives to encourage effective asset management, strategic investment in mitigation and works against the principles set out by the broader infrastructure agenda. This is particularly evident when compared with other infrastructure funding, which requires up front consideration of such factors.

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[2] Attorney-General's Department, Submission to the Productivity Commission Inquiry into Public Infrastructure, February 2014

Current natural disaster funding arrangements

There are a number of issues with the administration of the NDRRA which should be considered when determining future arrangements. NDRRA funding is uncapped and subject to only limited Commonwealth oversight. It also lacks clarity with regard to eligibility criteria and appears to discourage investment in mitigation by states and territories.

Disincentive for mitigation and resilience

Disaster recovery and mitigation are the responsibility of the states and territories, but in the aftermath of a declared natural disaster, the Commonwealth can provide the majority of funding for relief and recovery. The NDRRA's Category B funding for like-for-like restoration or replacement of assets (i.e. building the asset back to its pre-disaster standard) does not preclude the re-building of assets to above their pre-disaster standard—it only determines the amount payable under the NDRRA. Asset owners may undertake complementary works, but there is no incentive for them to do so as a like-for-like restoration can be claimed for full reimbursement under the NDRRA. In the Department's experience in overseeing the Victorian and Queensland reconstruction programmes, the majority of restoration works are limited to those costs that can be claimed under the NDRRA and do not include extra funding for mitigation.

The NDRRA do make provision for betterment works, but the Commonwealth funding for betterment is less than that afforded to like-for-like restoration (Category B). In addition, the application process for betterment is complicated in comparison to the process for like-for-like restoration, in which the Commonwealth provides up to 75 per cent of funding with few approval requirements.

In practice, the reduced reimbursement for betterment works and the ready availability of funds from an external source for rebuilding an asset have acted as a disincentive to use restoration works to improve an asset's disaster resilience.

The Productivity Commission recognises this issue in its draft report on public infrastructure funding[3]. The National Commission of Audit goes further, identifying '*the high share of Commonwealth contribution has created perverse incentives for State and local governments to minimise their investment in mitigation measures such as planning and development, capital investment and insuring assets*.'[4] The report goes on to say that without change to the current level of funding, state and local governments are unlikely to alter current behaviours.

Oversight of Commonwealth expenditure

Commonwealth funding under the NDRRA is uncapped, yet it is normally subject to limited Commonwealth oversight.

Reimbursement claims are reviewed by the state/territory audit office up to two years and nine months after the end of the financial year in which the disaster event occurred. This is the only review normally required for NDRRA projects. Special arrangements have been put in place for

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[3] Productivity Commission, *Draft Report – Public Infrastructure*, Volume 1, March 2014
[4] National Commission of Audit, *Towards Responsible Government*, Appendix Volume 2, February 2014

Queensland in recent years, including the Queensland Reconstruction Authority (QRA). Additionally, these audits normally do not focus on eligibility against the NDRRA determination or value for money. Rather, they are fiscal checks that tie reconstruction to a particular disaster event to ensure works are completed within the timeframe required for NDRRA reimbursement. Issues such as out of scope works or excessive treatments, which are likely to increase Commonwealth costs, are not a key consideration.

Even where issues are identified through these audits, this is well after projects are completed and costs are incurred by the delivery agent, making adjustments to the projects impossible.

This issue becomes more prevalent when advance payments are made to jurisdictions. Following extreme natural disasters in recent years, large advance payments were made to both Queensland and Victoria—$4.16 billion and $500 million respectively. While there may be a need to advance funds to states or territories in the wake of natural disaster, large advance payments with no conditions or oversight attached expose the Commonwealth financially and do not meet best practice payment milestone controls.

A National Partnership Agreement (NPA) was formed with Queensland following the disaster events in 2010-11. The NPA established the Inspectorate and Taskforce at the Commonwealth level, as well as the State Government's QRA.

This additional oversight has identified a high level of ineligible works being claimed for NDRRA project funding. The Australian National Audit Office (ANAO) reports that the value for money processes developed by QRA and the Inspectorate have identified $1.7 billion in out of scope or ineligible claims, at November 2013[5]; the Commonwealth would have been eligible for almost $1.3 billion of this. The ANAO also noted that the additional work of the Inspectorate and Taskforce has led to a further $100 million in savings across the Queensland reconstruction programme.

These costs would not have easily been identified through the normal NDRRA acquittals process, if at all. The ANAO notes that the establishment of this additional oversight has, for a relatively modest investment, been effective in providing the Australian Government with greater visibility and more timely assurance concerning reconstruction expenditure than would have occurred under the NDRRA. The ANAO also notes the processes developed through this additional oversight could be beneficial to the ongoing administration of disaster funding. This raises the question of the appropriate oversight in the future for NDRRA claims, and the processes and guidelines for claiming reimbursement from the Commonwealth under the NDRRA.

Eligibility guidance

The NDRRA sets out guidelines or rules for the expenditure of funds, which are implemented by delivery agents. But, these guidelines lack definition in relation to the eligibility of cost for reimbursement and the NDRRA is at risk of not being applied consistently. It is important that eligibility is accurately and clearly defined to avoid ambiguity, particularly in the absence of any pre-approval process or eligibility checks.

[5] ANAO Audit Report No.8 2013-14, The Australian Government Reconstruction Inspectorate's Conduct of Value for Money Reviews of Flood Reconstruction Projects in Queensland, November 2013

In the Department's experience there are a number of factors that affect the ability to clearly and consistently apply the NDRRA. These include identifying pre-existing damage against damage caused by disaster and defining what constitutes 'current engineering standards'.

This lack of clarity increases risks for both the Commonwealth and asset owners—either through large increases in costs for the Commonwealth, or for the asset owner, potentially being out of pocket should works be deemed ineligible, particularly where works commenced prior to eligibility checks.

Clearer definition of eligibility criteria would minimise ambiguity and the risk of misinterpretation by states, territories and local governments.

Pre-existing and subsequent damage

The NDRRA reimburses costs to repair damage that is a direct result of a natural disaster, but it is difficult to differentiate between damage that is the direct result of a natural disaster as against the pre-existing condition, particularly for road reconstruction or restoration projects.

The Department, in accordance with the Queensland NPA, has assessed a number of road reconstruction projects for which NDRRA funding was requested, but upon investigation found, in some cases, evidence of significant pre-existing damage, or that the road had been poorly maintained. The provision of Commonwealth funding for disaster-damaged assets is not currently contingent on any demonstration of long-term asset management or planning by the asset owner. This means that any pre-existing damage is not taken into account, nor is there a requirement for asset owners to provide supporting evidence or prove the extent of damage is fully attributable to disaster. The Local Government Reform Fund, a five year Council of Australian Government initiative established in 2009, aimed to improve local government asset management. Outcomes from such a programme may assist the NDRRA by improving the ability to identify the long-term state of assets prior to a disaster.

BIS Shrapnel notes that a "*maintenance delaying mentality*" has become almost the norm for the allocation of road funding, until events such as the 2010-11 Queensland floods expose the gap and lead to a boost in road maintenance work[6]. An avoidance of adequate ongoing maintenance has the potential to increase the impact of natural disasters, as well as the costs attributed to the NDRRA—poorly maintained assets are more likely to be susceptible to damage.

Not only is it difficult to determine the level of damage attributable to the natural disaster, it is often arguable that the level of damage is higher due to the existing damage or poor maintenance.

Additionally, following flooding roads are sometimes not closed to heavy vehicles, resulting in further damage from these vehicles driving on saturated pavements. A decision to keep a road open may be due to its economic significance to the region, for example if it is a transport route for exporting produce or for community access. It is not clear whether in these cases the cost of repairing additional damage caused should be eligible under the NDRRA, particularly where there are competing economic reasons for the road to remain open.

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[6] *Road Maintenance in Australia 2013-2028,* BIS Shrapnel, summary by Daniel Gradwell, published in Australian Resources and Investment, 1 March 2014

The purpose of the NDRRA is to provide assistance with costs resulting from natural disaster, with the Commonwealth recognising its significant financial impact. The NDRRA should not be used as a mechanism to address long-term or ongoing maintenance issues; disaster funding being contingent on strategic long-term management and appropriate maintenance may encourage asset owners to better manage their assets.

Engineering standards

The NDRRA allows for 'restoration or replacement [that] results in the asset being restored or replaced to its pre-disaster standard, in accordance with <u>current building and engineering standards</u>'. But, exactly what constitutes 'current building and engineering standards' is not defined by the NDRRA.

The phrase 'current building and engineering standards' is intended to allow the asset owner a modest level of flexibility to utilise contemporary (rather than obsolete or outdated) construction methodologies and building materials to restore or replace the pre-disaster functionality or utility of an essential public asset. However, this is a broad term that, without definition, has led to differing interpretations and the funding of potentially ineligible works. For example, the term may be interpreted to include any combination of current legislation, standards, codes and guidelines as they apply to established mechanisms, such as in place planning schemes or design and construction manuals.

These issues with the current disaster funding arrangements have led to the risk of significant financial exposure for the Commonwealth where reconstruction is beyond like-for-like. Further, the misinterpretation of guidelines, undertaking of ineligible works and disincentive for mitigation may have resulted in higher than intended Commonwealth funding for disaster reconstruction.

Extent of current arrangements

The NDRRA do not extend to Australia's self-governing territories, such as Christmas Island, the Cocos (Keeling) Islands and Norfolk Island, although a large quantum is of funding is provided by the Australian Government towards the administration of these territories. For example, the Territories Administered Budget does not include an appropriation specifically for assisting the Indian Ocean Territories (including the Christmas and Cocos (Keeling) Islands) to recover from a natural disaster. Any such assistance would be dealt with in an ad-hoc manner in the wake of a natural disaster.

Currently, there is no ongoing arrangement or framework in place to provide funding for these self-governing territories for recovery and relief following a disaster.

Key areas for consideration

The Department considers that there are a number of key areas for the Productivity Commission to consider:

- There is a need to ensure road access and services are quickly restored to communities following a disaster.
- The parameters for disaster recovery funding should encourage its expenditure to more closely align with the government's broader infrastructure investment agenda.
- Future disaster funding arrangements should encourage risk mitigation, strategic planning and disaster resilience.
- Commonwealth oversight of disaster reconstruction programmes should be increased in proportion to the scale of natural disaster and the size of the Commonwealth contribution, and could include random auditing of reconstruction projects to ensure project level scrutiny. This is particularly important should the current reimbursement based arrangements continue.
- Eligibility criteria for Commonwealth disaster funding should be clearly defined to avoid any ambiguity or misinterpretation.
- Contributions by the different levels of government to fund disaster recovery should reflect the ownership of an asset, its state of repair and the appropriateness of its management plan. Commonwealth funding should not reward poor asset management and full restitution should not be available where damage to an asset is exacerbated by poor management.
- Greater focus on asset maintenance and informed asset management by asset owners is required as a national reform.
- Greater focus in disaster recovery funding by the Commonwealth should be applied to betterment funding to increase asset resilience.

Attachment A – National Disaster Recovery Taskforce learnings

The National Disaster Recovery Taskforce (Taskforce) was established to support the Australian Government Reconstruction Inspectorate (Inspectorate) in overseeing the National Partnership Agreements relating to disaster recovery in Queensland and Victoria, following unprecedented natural disaster damage in those states in early 2011.

These arrangements established a new level of oversight and Commonwealth involvement both in the administration and expenditure of NDRRA funding. The arrangements also agreed exceptions and additions to costs not ordinarily covered by the NDRRA, including the Queensland Local Government Betterment Fund and Local Government Value for Money Pricing Model (Day Labour) trial—both of which are outlined below. A key component of the Taskforce's work is assessing selected NDRRA projects for value for money, including their eligibility under the NDRRA.

Further information about the Inspectorate and its oversight of reconstruction programmes will be presented to the Productivity Commission through the Inspectorate's separate submission to this inquiry.

This attachment outlines some of the key measures established and administered under the Taskforce, some of which may be taken into consideration when developing future disaster funding arrangements.

NDRRA Category D (exceptional circumstances) funding

The Productivity Commission's issues paper asks about the frequency and use of Category D funding, and how this has been decided. Under the National Partnership Agreement with Queensland, Category D packages were provided to assist communities to recover from natural disasters in 2011 and 2013.

Category D concerns funding relief or recovery carried out in circumstances deemed to be exceptional by the Commonwealth. Unlike other categories of NDRRA funding, the level and nature of Commonwealth assistance is determined on a case-by-case basis. Terms and conditions are solely at the Commonwealth's discretion and in recent times have included forms of assistance not normally eligible under the NDRRA.

This can involve advanced funding of particular activities, rather than reimbursement after completion. Category D has enabled the Commonwealth to tailor support to meet specific needs identified by states and territories and their local communities. Such flexibility has helped it to signal to afflicted communities that they are assured of prompt Commonwealth support that will help initiate their recovery.

All Category D funding must be requested by the state or territory government and receive final approval from the Prime Minister.

Funding under these packages was provided for a range of measures, including:

- grants to assist families of those who died as a result of natural disasters, to help with funeral and memorial arrangements;
- community assistance, including targeted mental health and financial counselling;
- environmental Recovery grants;
- project or location-specific grants to assist regions most impacted. For example, assistance for the port of Bundaberg, the reconstruction of Brisbane Ferry terminals and River Walk, and for the relocation of flood-prone houses in Grantham;
- the Rural Resilience Package for business and community support activities;
- concessional loans and grants for business and primary producers;
- the Betterment Fund (outlined below); and
- coverage of day labour costs for local councils (outlined below);

The level of funding and co-contributions from jurisdictions for Category D measures has varied. Likewise, some measures were subject to a capped funding amount, while others were uncapped.

When approving the 2013 package of Category D measures the former Prime Minister stipulated that assistance should be targeted and applications should be requested all at once to allow effective prioritisation. This is in comparison to Category D funding for the 2011 disaster events, which was requested on an ad hoc basis and was subject to fewer targeting and reporting requirements.

Category D assistance is consistent with the National Commission of Audit's recommendation that the Commonwealth adopt a grant-based approach to natural disaster funding[7]. Stipulating a capped funding amount creates a greater sense of accountability for jurisdictions in comparison to the uncapped funding arrangements under Category B. It also allows for the Commonwealth to invest in the upgrading or betterment of assets, as opposed to the like-for-like replacement applied more broadly to NDRRA projects.

Betterment Fund

In 2013, the Commonwealth and Queensland Governments committed $40 million each to a joint Betterment Fund. This $80 million fund provided grants of up to $2 million towards betterment proposals for local government assets damaged by 2013 natural disasters. The process was streamlined in comparison to the existing NDRRA process for betterment funding and, partially due to this, attracted a high level of interest.

The fund was effective in encouraging co-contributions from local governments and capitalising on the opportunity to combine restoration works with betterment costs. Two hundred and twenty projects received funding to enhance asset resilience, in conjunction with undertaking restoration works ordinarily covered by Category B of the NDRRA. The majority of these projects were to make simple improvements to floodways, bridges and drainage, and in most cases co-contributions were made by councils.

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[7] National Commission of Audit, *Towards Responsible Government*, February 2014

While projects under the fund are still being delivered, it is likely that this investment will increase the resilience of the reconstructed assets. This should lead to less the impact on community, as well as reduced restoration and repair costs.

The fund is administered by QRA, which prioritises projects and allocate funding.

The Department is developing a framework for the value-for-money assessment of projects under the fund and will apply this to selected projects. The Department will consider whether betterment works are a cost-effective means of improving resilience and will take into account reduced future expenditure on asset restoration, the likely reduction in incidents, injuries and fatalities during and after a natural disaster, and improved asset utility. The Department expects its initial assessment of selected betterment projects to be finalised in the last quarter of 2014.

Day labour

Day labour is the cost of ordinary wages and salaries for state or council employees which the state or council would normally incur. Under the NDRRA, day labour costs – whether council employees are diverted from their normal work or otherwise – are not eligible for reimbursement. NDRRA Determination Clause 5.2.5 (d) specifically excludes state costs attributable to salaries or wages or other ongoing administrative expenditure for which the state would have been liable had a natural disaster event not occurred. This has been the case for many years.

The NDRRA provides additional financial support in response to a disaster, it is not intended as a source of ongoing income for local governments to fund their normal operations. The Commonwealth and state governments fund the cost of relief and recovery from natural disasters on a cost sharing basis once certain minimal thresholds have been met. While it is expected that state and local governments should exhaust their own resources prior to seeking additional Commonwealth support, there is no mechanism within the NDRRA to demonstrate this. The thresholds are very low and do not constitute what the state and local government should contribute.

To minimise the risk of cost shifting, the NDRRA normally excludes ordinary wages. Local governments are expected to redirect permanent employees to reconstruction works where practical and assume the cost of day labour. However, as this cost is not reimbursable, there is an incentive for councils to outsource this work and claim reimbursement through the NDRRA, thus shifting costs to higher levels of government.

Where local governments are subject to frequent natural disasters, recovery works are effectively business-as-usual, meaning they should be planned for, including by local governments hiring permanent staff to undertake this work. Employment regulations and the desire of local governments to employ ongoing staff appear to have led to an increase in the number of permanent staff on some councils. Local governments have stated that due to the inflated permanent workforces, they have the internal capacity to do both general maintenance and reconstruction works, often at reduced costs compared to external contractors. However, it is arguable that the NDRRA disadvantages local governments that plan for disasters as their labour costs are ineligible for reimbursement, while less frequently impacted local governments may contract work and therefore have costs reimbursed.

Reimbursing day labour on an ongoing basis should be considered carefully. There is a risk that amending the current rules around day labour may diminish local governments' sense of their responsibilities and increase the Commonwealth's obligations through effectively rebalancing responsibility for disaster recovery away from local and state governments.

Any policy change to reimburse day labour more generally under the NDRRA should be targeted to specific councils in response to localised conditions and include drivers to ensure that general maintenance costs are not shifted into disaster recovery claims and that council budgets are exhausted prior to accessing Commonwealth assistance.

Day labour trial

In 2012, the Commonwealth and Queensland Governments agreed to the Local Government Value for Money (Day Labour) pricing model trial. This trial allows local government authorities (LGAs) to claim the costs of using internal resources to undertake reconstruction works on eligible assets, where it can be demonstrated that it is better value for money (than using contracted resources) to do so. The trial was implemented in recognition of an exceptional set of circumstances. The increased cost and time escalations arising from the unprecedented scale and severity of disasters in Queensland, combined with competition from the resources industry meant contracted work was in high demand throughout the state, arguably increasing its cost.

An interim assessment of the trial indicates that LGAs have been able to deliver projects below comparable market rates at a total cost reduction of $126 million across reconstruction projects that have a total expenditure of $1.04 billion. This cost reduction is the result of the Commonwealth and Queensland governments agreeing to the additional cost of reimbursing the normally ineligible day labour, currently estimated to be $55 million. While this assessment is based on estimates and may be subject to change, the cost reductions are highly concentrated on a small number of councils. Four of 29 councils account for cost reductions totalling $72.4 million, more than half of the estimated reductions from across the model. It should be noted that this assessment is based on point in time figures, and in many cases estimates, so care should be taken in drawing final conclusions.

Attachment B – Self-Governing territories and disaster funding arrangements

The Department administers the Australian Government's interests and involvement in seven external territories, including the Ashmore and Cartier Islands, Christmas Island, the Cocos (Keeling) Islands and the Coral Sea Islands. The Department also manages the Government's interests on Norfolk Island.

The Australian Government provides a large quantum of funding towards the administration and operation of these jurisdictions, but they are not covered by the NDRRA. The NDRRA provide Commonwealth financial assistance to any State, the Australian Capital Territory or Northern Territory, but do no extend further. For example, the NDRRA for Western Australia do not include Christmas Island and the Cocos (Keeling) Islands, as the Indian Ocean Territories (IOT) do not form part of Western Australia.

Like the states and territories, each of these jurisdictions is responsible for emergency and disaster management. Each has a disaster management plan in place, however, with the exception of Norfolk Island, these plans are not supported by legislation. Australian Government assistance can be requested in the wake of a natural disaster, with each jurisdiction having a point of contact authorised to request Australian Government assistance.

Should financial assistance be requested, there are no mechanisms in place for how funding would be provided or budgeted for. For example, the Territories Administered Budget does not include an appropriation specifically for assisting the IOT recover from a natural disaster. The Emergency Management Ordinances for Christmas and Cocos (Keeling) Islands provide that the Territory Controller (a senior AFP officer) can request physical assistance from the Australian Government (through Emergency Management Australia) under the Commonwealth Government Disaster Response Plan. The ordinances do not mention requests for financial assistance, and they do not deal with funding arrangements for the Territories in the event of an emergency or disaster.

Currently, there is no ongoing arrangement or framework in place to provide funding for these self-governing territories for recovery and relief following a disaster. Any such assistance would be dealt with in an ad-hoc manner in the wake of a natural disaster.

Attachment C – Case study: Queensland Infrastructure funding in 2012-13

The following comparison demonstrates the quantum of infrastructure funding provided to the Queensland Government through the NDRRA, relative to that provided under other Commonwealth programmes.

In total, the Australian Government provided approximately $3.6 billion in funding for road transport infrastructure in Queensland in 2012-13. This includes assistance through the NDRRA, Financial Assistance Grants and programmes under the Commonwealth's broader infrastructure investments.

Between 2009 and July 2013 the estimated total value of road projects submitted to the Queensland Reconstruction Authority (QRA) to receive assistance under the NDRRA was $10.12 billion.

Given the nature of the NDRRA it is difficult to determine the actual spend for 2012-13 (there is no requirement for project type to be identified), a conservative estimate of $2.98 billion is included, based on figures from the Queensland Government's Capital Budget Statement and on a proportion of damage.

Table 1: Commonwealth infrastructure funding to Queensland – 2012-13

Programme	State	Local Govt	
NDRRA	$1480m	$1500m *	
Infrastructure and FAGs funding			
Financial Assistance Grants Untied (Roads)		$123.17m**	
Nation Network Investment Roads	$411.73m		
Off Network Roads	$6.33m		
Regional Infrastructure Fund (roads)	$74.00m		
Black Spots	$12.68m		
Roads to Recovery	$59.76m		
Sub Total	**$564.5m**	**$123.17m**	
Total Roads Funding	**$2044m**	**$1623.17m**	**$3660 million**

*Estimate based on QLD Capital Budget Statement and proportion of damage.

**The aggregate grant payment for Queensland for 2012-13.

The above table demonstrates that approximately 80 per cent of the total $3.6 billion in Commonwealth funding provided to Queensland's local roads in 2012-13 is attributable to the NDRRA. The other 20 per cent was provided through ongoing programmes that allow local governments to prioritise funding to and does not restrict the maintenance or building of roads to a standard that may be susceptible to natural disaster. The other 80 per cent provided through the NDRRA is for the like-for-like replacement of assets and does not incorporate mitigation. While asset owners are not prevented from undertaking complementary mitigation works, the current arrangements do not incentivise this.

Furthermore, under the NDRRA this $2.98 billion is subject to limited oversight and eligibility checks —rather than being subject to the level of scrutiny ordinarily afforded to Commonwealth funding programmes, NDRRA funds are uncapped and provided on a reimbursement basis.

Attachment D – Transport infrastructure investment

The Australian Government's IIP aims to invest in a safe, sustainable national transport system to enhance the interconnectivity of transport networks of significant economic opportunity across Australia.

This attachment outlines various strategies and mechanisms, and their broader considerations relative to disaster mitigation currently being pursued by the Australian Government.

Building network resilience

The Department is working with state, territory and local governments to strengthen long-term infrastructure planning, which includes stronger network resilience with appropriate implementation of risk mitigation strategies.

Although planning and development controls are implemented through state, territory and local governments, the Australian Government, through the Department, encourages the incorporation of disaster resilience principles into land use planning and building permit processes.

The Department engages with states and territories on hazard resilience considerations during the reconstruction or upgrade of infrastructure. For example, recent Bruce Highway upgrades have reduced flood risk and improved the reliability of what constitutes Queensland's main road artery.

The Transport and Infrastructure Council (under the Council of Australian Governments) is also focussing on carefully assessed, targeted and timely transport infrastructure investments that offer potentially large productivity gains. This necessitates the integration of infrastructure planning with land use planning; the prioritisation of projects to ensure that the right project is delivered at the right time; and project selection through robust assessment processes that incorporate appropriate consideration of risk factors and mitigation strategies.

Facilitating and encouraging better planning across governments should lead to increased network resilience over time, resulting in a potential reduction in disaster damage. Forward planning such as this assists asset owners to understand what should be replaced and how, reducing the time to commence reconstruction.

Critical Infrastructure Networks

In order to better manage both foreseeable and unforeseen or unexpected risks to critical infrastructure assets, supply chains and networks, the Australian Government has developed a National Critical Infrastructure Resilience strategy. This strategy adopts an "all hazards" approach, i.e. government engagement is focussed on assisting owners and operators of critical infrastructure to increase their resilience and protect their assets by:

- identifying, analysing and managing cross sectoral interdependencies; and
- coordinating with other levels of government working on critical infrastructure planning.

Although the planning and protection of critical infrastructure from acts of terrorism is a special focus of the strategy, it extends to natural disasters. It also reflects how disruption to critical infrastructure in one sector can have severe cascading impacts on critical infrastructure in other sectors.

Although the Attorney-General's Department is the lead agency for critical infrastructure protection and policy across the Australian Government, the Department provides the main interface with owners and operators of critical infrastructure across the offshore oil and gas, maritime, aviation and surface transport sectors. This stakeholder engagement supports the sharing of information on threats and vulnerabilities, and collaboration on appropriate measures to mitigate risk and increase resilience on an all-hazards basis.

A copy of the strategy can be found at www.tisn.gov.au

National Strategy for Disaster Resilience

The importance of a strategic and well planned resilience-based approach to infrastructure policy is articulated in the National Strategy for Disaster Resilience, endorsed by the Council of Australian Governments in February 2011. The strategy sets out priorities for action by all levels of government that will reduce risks posed by such natural hazards as cyclones, storms, bushfires and floods; and which will better support communities recovering from disasters. It stresses the importance of joint coordination, mutual learning, planning, and assessment of infrastructure capability and capacity.

One of the strategy's key objectives is the 'reduction of risk in the built environment'. It specifically recognises that responsible land use and strategic planning which anticipates risk factors and local vulnerabilities can reduce the likelihood of natural hazards impacting on communities.

More information on the National Strategy for Disaster Resilience is available at www.ag.gov.au/EmergencyManagement/Pages/NationalStrategyForDisasterResilience.aspx

Governance and risk mitigation

The IIP is administered under the *Nation Building Program (National Land Transport) Act 2009*. The Department's Notes on Administration (NOA) for the IIP set out the administrative processes that support its implementation. These are focussed on the appraisal and approval of projects, including consideration of project and financial risk.

The NOA specify what considerations must be taken into account in calculating project costs under the IIP. This includes addressing risk and contingencies and any conditions imposed on the project under Australian or state and territory laws, such as environmental legislation and building codes.

Projects are assessed by the Department from information contained in Project Proposal Report (PPR) submissions received from the relevant state or territory government. The PPR format requires jurisdictions to identify major risks and to propose mitigation strategies for specific phases of the project and for the overall project. Dependent on the nature of the individual project, this may include reference to natural disasters.

Further guidance is provided through Austroads and the Rail Industry Safety and Standards Board (RISSB). Austroads represents the association of Australian and New Zealand road transport and traffic authorities, with membership consisting of the eight Australian state and territory road transport and traffic authorities, the Department, the Australian Local Government Association and the New Zealand Transport Agency. RISSB is wholly owned by the Australasian Railway Association.

Both organisations assist infrastructure managers in developing and managing major assets. Natural disaster considerations, such as dealing with flooding, are incorporated into this guidance. They provide standards, rules, codes of practice and guidelines which have national application (noting however that this guidance is non-binding, so may or may not be promoted by jurisdictions).

Part 2 of the *Austroads Guide to Road Design* takes into consideration runoff and drainage, including information on flood levels/discharges and water management practices on adjoining land. Part 5 of the *Guide to Road Design* further details flood immunity considerations. For more information, refer to http://www.austroads.com.au/

RISSB develops and manages an Australian Code of Practice that promotes standardisation in the rail industry. Like Austroads, its guidance takes into account general risks and drainage that may be caused by flooding. For more information, refer to http://www.rissb.com.au/

Economics of road maintenance

The Bureau of Infrastructure, Transport and Regional Economics is currently undertaking a research project on the economics of road maintenance that will contribute to an understanding of the relative merits of expenditure on the maintenance of existing infrastructure as against investment in new infrastructure. This is likely to help provide a firmer evidence-based understanding of appropriate priorities for disaster mitigation and reconstruction.

The study will cover optimising the capital-maintenance trade-off and the timing, form and quantity of maintenance. It will discuss the consequences of underspending on maintenance, defining and estimating maintenance deficits and the means of minimising impact of underspending. It will include a case study of the non-urban sections of the National Land Transport Network (NLTN) in Victoria.

The study is expected to be released in late 2014.

Funding programmes

In addition to funding specific projects, the IIP comprises sub-programmes that provide funding to state, territory and local governments for the construction, upgrade and maintenance of land transport infrastructure. The Department also administers Financial Assistance Grants to local governments.

Under these programmes, particularly Roads to Recovery and Financial Assistance Grants, local governments are provided discretion as to how the funding is used across its local roads network.

An outline of these programmes is provided below.

Black Spot programme

The Black Spot programme provides funding for safety works such as roundabouts, crash barriers and street lights at locations where serious crashes are likely. Total funding from 2008-09 to 2013-14 averaged $83.7 million per annum. Each state and territory receives a share of the total funding, based on population and crash data.

State and territory governments, councils, community groups and individuals can nominate a black spot for funding.

Roads to Recovery programme

The Roads to Recovery programme provides funding directly to local councils for road works chosen by the councils and to states and territories for roads in areas where there are no councils. Total funding for this programme over the six years to 2013-14 averaged $350 million per annum. Each funding recipient has a set allocation of funding over the life of the programme.

The payments to councils are based on a formula which takes into account their expenditure to date and projected funding requirements, usually for the next three months from the commencement of the reporting period. Councils are also required to maintain their level of roads expenditure from their own sources of revenue to ensure that Roads to Recovery projects are additional to road works which would otherwise have been undertaken.

National Land Transport Network Maintenance programme

States and territories are required to maintain roads on the NTLN and the Australian Government provides an annual allocation of funds to assist in the maintenance of network roads. This funding is shared by the jurisdictions under an agreed formula, based on equal weightings for lane length, total vehicles travelled and total heavy vehicle use. Over the six years to 2013-14, national funding under the programme averaged $381 million.

States/territories are required to provide their formula data by 31 December each year to enable the calculation of the shares of the maintenance funding for the following financial year.

Jurisdictions provide data on the condition of the National Network by 30 September each year. This data is then assessed by using two indicators: Riding Quality Indicator (RQI) and Preventative Maintenance Indicator (PMI).

States/territories are free to choose the location and scope of maintenance works undertaken on network roads.

Financial Assistance Grants

In addition to these infrastructure programmes, the Australian Government has provided over $41 billion in untied funding under the Financial Assistance Grant (FAGs) programme to local government since 1974-75. There are two components under the programme, a general purpose component which is distributed between the states and territories according to population (i.e. on a per capita basis), and an identified local road component which is distributed between the states and territories according to fixed historical shares. Both components of the FAGs programme are untied in the hands of local governments, which are free to spend them according to local priorities.

In 2013-14, the Australian Government allocated $2.2 billion in untied funding under the programme FAGs to local government, allowing councils to spend the funds according to local priorities.

Local Government asset management

The Australian Government's Local Government Reform Fund (LGRF) was a five year (from 2009-10) Council of Australian Governments initiative that helped local governments to deliver and manage infrastructure, including by taking account of disaster recovery and resilience planning.

Local governments provide a varied and complex network of infrastructure assets that include roads, bridges, footpaths, stormwater drainage and recreational and community facilities. The long-lived nature of many such assets and their need for ongoing maintenance raises a requirement for well-developed asset management plans that incorporate disaster recovery and resilience planning.

Under the LGRF funding was provided to local governments around Australia to improve their asset and financial management capabilities, and to encourage greater collaboration between councils. Outcomes from such a programme may assist the NDRRA by improving the ability to identify the long-term state of assets prior to a disaster.