

**A submission to the National Royal Commission into National Natural Disaster Arrangements prepared by the following Australian Firefighter Unions:**



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with the assistance of **Mr Jim Smith AFSM.**

## Introduction

1. This submission to the National Royal Commission into National Natural Disaster Arrangements (**the Royal Commission**) addresses parts (a) to (g) of the Royal Commission Terms of Reference issued on 20 February 2020.
2. The submission represents an agreed position of the four Registered Organisations that provide this submission, being:
  - a. the Fire Brigade Employees' Union of NSW (FBEU);
  - b. the United Firefighters' Union of Queensland (the UFUQ);
  - c. the United Firefighters' Union of South Australia (UFUSA); and
  - d. the United Professional Firefighters' Union of Western Australia (UFUWA).
3. As Registered Industrial Organisations with industrial coverage of firefighters and other employees involved in fire and emergency response services in New South Wales, Queensland, South Australia and Western Australia, the FBEU, UFUQ, UFUSA and UFUWA (**the Unions**) are ideally placed on behalf of all members to provide valuable insight into, and recommendations arising from, the events of the 'Black Summer' bushfires of 2019-2020. Those bushfires directly affected all the members of the Unions that are party to this submission.
4. The 2019-20 bushfire season was one of the longest and most intense series of fire events in the history of Australia. With climate change making weather hotter and drier for longer, more frequent and intense bushfires appear set to increase in the future.
5. Most States and Territories began 2020 facing catastrophic and unprecedented fire conditions. As a result of these fire events home and lives have been lost, roads and telecommunications are cut, and businesses, communities, stock, and wildlife have been destroyed.
6. We are the elected leaders of our professional firefighting unions. We represent the majority (70%) of professional firefighters in Australia. Our members served on fire fronts across Australia, and some have been killed or seriously injured while doing so. Our members have also provided the logistics and support and advice to prepare us for these fires.
7. We have grave concerns about the resourcing and budgets provided to our agencies. We know from first-hand experience we need to be better equipped to fight bushfires as the increase in demand on professional firefighters increases. The protection of life, property and landscape is part of our work and our members' work, and we treat it with the utmost seriousness.

8. It is time for our government to treat fighting fires with the same seriousness that we do.
9. We have seen various failures at fire fronts. These failures were not due to decisions made by frontline staff, but instead, by decisions made prior about budgets and resources.
10. The scope and scale of these fires are a direct consequence of the decisions made in the lead up to them. It is possible that had alternative decisions about resources been made and more resources been allocated, fewer lives and properties could have been lost.
11. The scale of these disasters and the scope of their impact demands a national response. There have been State inquiries into catastrophic fires before where recommendations remain unimplemented. States remain unable to share resources across borders to allow their counterpart agencies to fight fires adequately.
12. Our members, have lost workmates, seen colleagues injured and hospitalised, and in some cases, lost their own homes.
13. Our members are yet to experience the full impact this fire season will have on their physical and mental health. Only in the years to come will the full toll on their bodies and minds become apparent.
14. Bushfires have become a national problem. They burn across borders and impact our national economy. They are unprecedented and a similar season cannot be allowed to begin again. We must learn from these fires.
15. Our Firefighter members responded to bushfires across all four jurisdictions, and it has become apparent through the large volume of requests for emergency response and assistance, that bushfires have become a “core business” for each jurisdiction’s professional firefighters.
16. The new reality of bushfire fighting is not reflected in either the quantum of professional firefighters available to render the required assistance and response, or the fleet and equipment available especially to our professional firefighter fire stations. Appliances within the jurisdictions lack essential bushfire protections, such as Burn Over Protection Systems (**BOPS**).
17. The unions urge the Commissioner to consider the need for significant increases in federal funding in the areas identified in this submission to ensure bushfire resourcing and training is a priority ahead of the next bushfire season.

18. The protection of life, property and landscape is part of our work and our members' work, and we treat it with the utmost seriousness. It is time for all levels of government to do the same.

## **The Unions**

### **Fire Brigades Employees' Union (FBEU)**

19. The Fire Brigade Employees' Union of NSW is a trade union registered under the *Industrial Relations Act 1996* (NSW).
20. Formed in 1910, the FBEU is the most established and democratic firefighting organisation in NSW. The FBEU is Australia's oldest firefighting Union and represents approximately 6300 members in the largest fire and rescue service in Australia, in both metropolitan and regional areas.

### **United Firefighters' Union Queensland (UFUQ)**

21. The United Firefighters' Union of Australia, Union of Employees, Queensland (the UFUQ) is an industrial organisation of employees registered under the *Industrial Relations Act 2016* (Queensland) representing members employed in firefighting (both permanent and retained) as well as fire communication officers.
22. The UFUQ currently has approximately 2600 members comprising permanent firefighters, auxiliary firefighters, scientific officers and fire communication officers.
23. UFUQ members, due to their role in preventing, preparing for and suppressing fire and other emergencies and involvement in many other events, both natural and man-made were by virtue of their employment extensively and directly involved in response to the 'Black Summer' bushfires.
24. The UFUQ has a proud history of representing our members in Queensland and provide this submission on behalf of our members in solidarity with the other unions providing this submission.

### **United Firefighters' Union of South Australia (UFUSA)**

25. The UFUSA is an industrial organisation of employees registered under the *Fair Work 1994* (SA) and *Fair Work Act 2009* (Cth) and represents the industrial interests of approximately 1170 professional firefighters in South Australia.
26. The majority of UFUSA members are full-time or retained firefighters or officers in the South Australia Metropolitan Fire Service (MFS) and are stationed in both metropolitan Adelaide, and regional locations across South Australia.

27. The UFUSA also represents the industrial interests of MFS support personnel, including trades persons responsible for repairs and maintenance to firefighting appliances and equipment, as well as firefighters, officers and watchroom operators employed by Broadspectrum at Edinburgh and Woomera defence facilities.
28. With over 99% of MFS firefighters and officers being members of the UFUSA, the UFUSA is best positioned to represent the first-hand experiences and views of professional firefighters and support personnel in South Australia.

### **United Professional Firefighters' Union Western Australia (UPFUWA)**

29. The United Professional Firefighters Union of WA is an industrial organisation of employees registered under the *Western Australian Industrial Relations Act 1979* (WA) and the *Fair Work Act 2009* (Cth) and represents the industrial interests of professional firefighters and officers across the state of Western Australia.
30. The UPFUWA also represent the industrial interests of fire and emergency communication systems officers, fire safety building surveyors/inspectors, and the firefighters and officers that work for Broadspectrum at the Pearce Air base and Garden Island Naval base near Perth.
31. Having been the industrial body representing the interests of Professional firefighters and support personnel throughout the state of Western Australia for well over 100 years, the UPFUWA is best positioned to know and understand just what is required for our firefighters and for the communities that they protect, from the ravages of catastrophic fire events.
32. We have a long and historic representation of our memberships interests that extends from Parliamentary enquiries, Coronial inquests, Fire Service reviews, and many major incident reviews. The UPFUWA views have always been invited and welcomed, with many of the recommendations that we have put forward being successfully implemented.

### **Publication of submission to members**

33. The unions appreciate the opportunity arising from the Royal Commission to raise the subject matter as contained with this submission addressing the Terms of Reference and advise that upon notification of receipt of our submission, we intend to communicate the submission to the members of each of the unions party to this submission.

## **Apearing before the Commission**

34. Representatives of the unions are willing and able to elaborate on these submissions and/or provide oral or documentary evidence connected with the terms of reference at the Commission's request.

## Response to Terms of Reference

***a. The responsibilities of, and coordination between, the Commonwealth and State, Territory and local Governments relating to preparedness for, response to, resilience to, and recovery from, natural disasters, and what should be done to improve these arrangements, including with respect to resource sharing;***

35. Emergency management is a state responsibility. In this submission the Unions consider whether emergency management in the light of the Australian bushfires of 2019-2020 should remain in the responsibility of the states.

36. The bushfires of 2019-20 were the most severe ever seen in Australia, particularly in the south-east of Australia. There were:

- a. 34 deaths;
- b. Nearly 3000 homes were lost;
- c. Many thousands of buildings were destroyed;
- d. An estimate of 46 million acres burned;
- e. An estimate of \$2 billion insurance claims;
- f. An estimate that a billion animals died;
- g. A huge loss of habitat<sup>1</sup>.

Economists estimate the impact on Australia will be approximately \$3.5 billion.

37. Given the increasing length and intensity of the bushfire season in Australia,<sup>2</sup> it is likely that the next major bushfires will be beyond the capabilities of existing fire services.

38. Bushfires are one of the greatest threats facing Australia as a whole. This must be acknowledged by the Commonwealth government and priority given to closely cooperating with the States and Territories, as well as fire services and firefighter unions on enhancing preparedness for as well as response and resilience to bushfires.

39. Each State remains responsible for emergency management in their jurisdiction. Each fire and emergency service has its own legislation which gives them legislative responsibility for preparedness, prevention, response and recovery in their respective

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<sup>1</sup> Centre for Disaster Philanthropy, 2019-20 Australian Bushfires, February 17, 2020, <https://disasterphilanthropy.org/disaster/2019-australian-wildfires/>

<sup>2</sup> Commonwealth Scientific and Industrial Research Organisation (CSIRO) & Bureau of Meteorology, *2018 State of the Climate Report* (2018) pp 2 and 5; CSIRO, *The 2019-20 bushfires: a CSIRO explainer* (Feb 2020).

combat roles for the whole or part of the State, which is the case when there are two separate fire services in one State. In addition to the specific legislation, each State has a State emergency management system which develops State-wide disaster and recovery plans for bushfire, floods, pandemics etc.

40. At the Commonwealth level, emergency management is the responsibility of the Department of Home Affairs through the Director of Emergency Management Australia. The internet page of Emergency Management Australia, states that State and Territory governments have primary responsibility for protecting life, property and environment within their borders. They have established plans in place to respond to, and recover from, natural and human-caused emergencies.<sup>3</sup>

41. To complement the efforts of State, Territory and International governments responding to a disaster or emergency, the Australian Government can also provide physical and financial assistance. The Australian Government Disaster Response Plan (**COMDISPLAN**) is the major plan to provide assistance to State and Territory requests for assistance. Section 1.4.6 of the COMDISPLAN states:

*Before a request is made under COMDISPLAN a jurisdiction must have exhausted all government, community and commercial options to provide that effect.*<sup>4</sup>

42. The disastrous bushfires of 2019-20 provide an opportunity review this plan and the interaction between the State and Commonwealth government in emergency management. Commonwealth resources can be more proactively supplied to natural disasters without each State having to exhaust all its options before requesting Commonwealth resources.

43. There must be better coordination between the Commonwealth and the States. There is a huge pool of assets available at a Commonwealth level. Bushfires have now become a national issue. In the past, bushfires started in Queensland early in the season then moved down to NSW and then to Victoria and South Australia. This would allow states to assist each other as the fires moved southward. Each state's resources could be shared and utilised throughout the fire season. The 2019-20 bushfires had fires burning simultaneously in each of the states, which meant that the sharing of resources became much more problematic.

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<sup>3</sup> Emergency Management Australia, Overview, <https://www.homeaffairs.gov.au/about-us/our-portfolios/emergency-management/overview>.

<sup>4</sup> COMDISPLAN 2017, Australian Government Disaster Plan, 1.4.6, p5

44. Emergency Management Australia has historically operated to assist States to respond to and access Commonwealth assets in the case of international disasters rather than for bushfires threatening Australian homes. The role of Emergency Management Australia needs to be reviewed.
45. Emergency Management Australia must be realigned to proactively assist States threatened by bushfires and not be the last resort when all State and community resources are exhausted.
46. The National Aerial Firefighting Centre (**NAFC**) provides a cooperative national arrangement for combating bushfires. It achieves this by facilitating the coordination and procurement of a fleet of highly specialised firefighting aircraft that are readily available for use by State and Territory emergency service and land management agencies across Australia. This national aircraft fleet complements aerial firefighting resources that are arranged directly by the States and Territories. The National Fleet receives funding support from the Australian Government as well as State and Territory Governments.
47. It is essential that Australia has a fully funded national aerial firefighting capability with a fleet of large air tankers for future bushfires. This funding must cover all costs of firefighting aircraft in conjunction with State air firefighting capacity, all State fire services need to be able to source aircraft at the initial stage of a bushfire without worrying about cost and availability.
48. Currently the Commonwealth Government funds the NAFC with only \$14 million dollars per year, as stated by Greg Mullins from the Emergency Leaders for Climate Action this needs to be a minimum of \$25 million per year and should really be a matching of a dollar for every dollar each State and Territory commit to funding the centre. This would then ensure that Australia has a fleet of large air tankers, smaller fixed and rotary firefighting aircraft and support aircraft suitable for the future.<sup>5</sup>
49. There is a unique opportunity for the Commonwealth Government to provide a large fund specifically to target hazard reduction, mitigation and prevention programs for fire services and land managers. Appropriate funding would allow fire services and land managers to be able to work together in the future to reduce the bushfire risk.

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<sup>5</sup> Greg Mullins, *I tried to warn Scott Morrison about the bushfire disaster. Adapting to climate change isn't enough*, The Guardian, 20 January 2020, <https://www.theguardian.com/commentisfree/2020/jan/20/i-tried-to-warn-scott-morrison-about-the-bushfire-disaster-adapting-to-climate-change-isnt-enough>

50. The Australian Government presently provides funding to State and Territory governments through programs including:

- i. *The Preparing Australia Package* contributed funding for key national emergency management and disaster resilience initiatives. In 2018-19, funding was \$26.1 million, with \$5.0 million provided to States and Territories;
- ii. *The Natural Disaster Relief and Recovery Arrangements* provide assistance with relief and recovery efforts following an eligible natural disaster event. Cash payments to States and territories in 2018-19 totalled \$390.1 million. Allocations vary across jurisdictions and over time depending on the timing and nature of natural disaster events;
- iii. *The Natural Disaster Resilience Program* provided funding to strengthen community resilience to natural disasters. In 2018-19, funding was \$15.1 million.

51. The Australian Government also provides financial support to eligible individuals affected by a disaster, with payments in 2018-19 of \$121.7 million.

52. As can be seen from the above figures the great bulk of Australian Government funding for emergency management is for relief and recovery, over \$500 million with only just over \$40 million for disaster resilience. It would be economically prudent to increase the funding for preparedness, prevention and mitigation programs. Increasing funding to prevention whilst maintaining funding for response is mirrored in other contexts, such as health funding, where it is estimated that for every dollar spent on prevention, five dollars is saved on response.

53. It is difficult to demonstrate the savings that would flow from investment in preventative measures. Further, if those measures prevent bushfires, the cost of response and recovery cannot be easily measured against the cost of prevention. As such, agencies often struggle to quantify the value of prevention, and therefore justify the cost. For this reason, the Commonwealth Government must take the lead in bushfire prevention and reduction.

54. The Commonwealth must work with fire services and land managers to ensure adequate investment is made in prevention, to ameliorate the costs to life, property and the economy resulting from further bushfire events as we saw in 2019-2020.

55. Recovery appears to be one of the few areas in emergency management where the Commonwealth Government has made inroads.

56. As part of Emergency Management Australia, the Commonwealth Government helps individuals and communities recover from disasters with financial support. The type of help available depends on the impacts of the natural disaster.

57. The Commonwealth Government helps eligible individuals with the following:

- i. Disaster Recovery Payment: This is a one-off, non-means tested payment of AUD1000 for eligible adults and AUD400 for eligible children affected by a major disaster either in Australia or overseas;
- ii. Disaster Recovery Allowance: This is a short-term income support payment to help individuals who show that the disaster directly impacted their income.

58. The Commonwealth Government also provides financial support to State and Territory governments in joint cost sharing arrangements for clean-up and recovery.

59. *The National Bushfire Recovery Agency*: The Commonwealth Government has put measures in place so that families and individuals affected by bushfires can access resources quickly to ease the stress during the recovery phase. In addition to the Disaster Recovery Payment and the Disaster Recovery Allowance the following assistance is provided:

- i. Back to school, early education and care assistance;
  - ii. Child Care Assistance;
  - iii. Additional support for volunteer firefighters;
  - iv. Support for job seekers;
  - v. Emergency relief;
  - vi. Financial counselling, help making financial decisions after a bushfire;
  - vii. Health advice;
  - viii. Mental health support;
  - ix. Enhanced Medicare and Aboriginal Community Controlled Health Services;
  - x. Monitoring of Air Quality in affected areas and provision of respiratory protection;
  - xi. Telecommunications and energy support;
  - xii. Additional support for Indigenous Australians;
  - xiii. Tax exemption for Disaster Relief Payments;
  - xiv. ATO administrative relief;
  - xv. Replacement of lost or destroyed passports or citizenship certificates;
- and

xvi. Redeeming damaged banknotes.

60. The National Bushfire Recovery Agency has established a number of stakeholder forums to coordinate local, State, national, charity and business coordination. These forums include:

- a. *Peak Bodies Bushfire Recovery Forum* – to connect advocacy groups, trade associations and industry groups to enable coordinated recovery efforts. Participants include representatives from business, health services, indigenous groups and environmental, agriculture, infrastructure, housing and transport industries;
- b. *State/Federal Coordinators Bushfire Recovery Forum* – to coordinate and optimise recovery efforts between State, Territory and Commonwealth recovery agencies;
- c. *National Charities Bushfire Recovery Forum* – connecting not-for-profits to collectively deliver relief and recovery efforts to bushfire affected communities;
- d. *State/Federal Local Government Areas Bushfire Recovery Forum* – to better understand the needs of local government and the communities they represent.

61. The Commonwealth Government Recovery model appears to work well, combining large Commonwealth funding and coordination with local community, State, business and charity resources and integrating this into a coordinated national model.

62. This national model is one that should be considered for preparedness, mitigation and prevention programs for bushfire resilience and risk reduction in the future. If Commonwealth funding and coordination could be combined with State governments, fire services, land managers and local governments resources, then great advancements could be made in reducing the bushfire risk in the future.

63. Increases to funding for bushfire resilience also need to be matched by increases in direct funding to the States for response. Whilst all of the proposals for improved preparedness within this submission would have a positive effect on the number of and size and impact of bushfires, these fires will nevertheless occur and as such, specific funding needs for professional firefighters, firefighting equipment, professional and auxiliary/retained fire stations, training and more, must be addressed in future bushfire response measures. One option to consider for new funding sources would be a percentage of mining royalties being allocated to funding for bushfire prevention and response.

**b. Australia's arrangements for improving resilience and adapting to changing climatic conditions, what actions should be taken to mitigate the impacts of natural disasters, and whether accountability for natural disaster risk management, preparedness, resilience and recovery should be enhanced, including through a nationally consistent accountability and reporting framework and national standards;**

64. Since the 1950s the frequency of the extreme heat events has increased approximately fivefold.<sup>6</sup> The cause of these increases is long term climate change.<sup>7</sup>

65. The 2019-20 bushfire season was no exception. 2019 was Australia's warmest and driest year on record with the annual mean temperature 1.52 °C above average.<sup>8</sup> In Spring 2019 Australia recorded the highest accumulated Forest Fire Danger Index (FFDI) on record,<sup>9</sup> and the December accumulated FFDI's for much of Australia.<sup>10</sup>

66. By mid-January 2020, bushfires across Australia had burned through an estimated 18.6 million hectares of land. Over the course of the fire season, 5,900 buildings were destroyed, including over 2,800 homes.<sup>11</sup>

67. Even with immediate carbon emissions mitigation we are still faced with increased days of extreme fire weather, which means that the next major bushfires are projected to be worse than the 2019-20 bushfires.

68. The increase in length and intensity of the bushfire season directly impacts the demand for professional firefighters.<sup>12</sup> As a result of climate change, our members are deployed to more bushfires, more often and for more protracted periods.

69. Increased demand on professional firefighters Australia-wide because of climate change will require a forecasted 8,095 to 10,024 (67% to 83%) increase in the number of professional firefighters in Australia by 2030 depending on the climate change scenario that plays out.<sup>13</sup>

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<sup>6</sup> Bureau of Meteorology, *Annual Climate Statement 2019* (9 Jan 2020).

<sup>7</sup> Commonwealth Scientific and Industrial Research Organisation (CSIRO) & Bureau of Meteorology, *2018 State of the Climate Report* (2018) p 2.

<sup>8</sup> Bureau of Meteorology, *Annual Climate Statement 2019* (9 Jan 2020).

<sup>9</sup> FFDI is widely used as a basis for issuing weather warnings by fire agencies.

<sup>10</sup> Bureau of Meteorology, *Special Climate Statement 73 – extreme heat and fire weather in December 2019 and January 2020* (17 Mar 2020) p 9.

<sup>11</sup> UN Environment Program, *Ten Impacts of the Australian Bushfires* (Jan 2020).

<sup>12</sup> CSIRO, *The 2019-20 bushfires: a CSIRO explainer* (Feb 2020).

<sup>13</sup> National Institute of Economic and Industry Research (NIEIR), *Firefighters and climate change: the human resources dimension of adapting to climate change: final and consolidated report* (February 2013) p 8.

<sup>14</sup> NIEIR, *Firefighters and climate change: the human resources dimension of adapting to climate change: final and consolidated report* (February 2013) pp i & 27.

<b>Table 1 Forecast firefighter demand for Australia based on two climate change scenarios</b>					
	Base	H2 Scenario		H3 Scenario	
	2012	2020	2030	2020	2030
NSW	3826	4741	5728	5175	6759
VIC	2648	3405	4296	3564	4697
QLD	2525	3529	4951	3529	4892
SA	906	1098	1354	1196	1611
WA	1225	1693	2334	1751	2494
TAS	321	337	367	337	395
NT	255	369	522	383	560
ACT	334	435	586	455	656
<b>AUST</b>	<b>12041</b>	<b>15607</b>	<b>20136</b>	<b>16391</b>	<b>22065</b>

Source: ABS Census data/NIEIR forecast.

70. The increased scale and frequency of bushfire events, combined with existing funding pressures, makes it an impossibility for State and Territories to adequately resource and train professional firefighters alone.
71. The Commonwealth Government must fund, alongside State and Territories, an increase in the number of professional firefighters as well as appliances, equipment and training to ensure the projected increased demand for professional firefighting services is met.
72. These firefighters would be located in specific targeted locations based upon each State and Territory's specific response management.

***c. Whether changes are needed to Australia’s legal framework for the involvement of the Commonwealth in responding to national emergencies, including in relation to the following:***

- i. thresholds for, and any obstacles to, State or Territory requests for Commonwealth assistance;***
- ii. whether the Commonwealth Government should have the power to declare a state of national emergency;***
- iii. how any such national declaration would interact with State and Territory emergency management frameworks;***
- iv. whether, in the circumstances of such a national declaration, the Commonwealth Government should have clearer authority to take action (including, but without limitation, through the deployment of the Australian Defence Force) in the national interest.***

### **National Approach for Emergency Management**

73. Associate Professor Michael Eburn, a lecturer in law at ANU, is a leading researcher in the area of emergency services, emergency management and the law. Associate Professor Eburn argues that although responding to disasters is primarily a State role, the Commonwealth has a responsibility to respond to a truly national emergency and this has been recognised by the Auditor-General<sup>14</sup> and the National Catastrophic Disaster Plan (NATCATDISPLAN).
74. Under the NATCATDISPLAN plan, the Commonwealth may take a key role in responding to a catastrophic disaster. Associate Professor Eburn however points out that the plan is not supported by legislation and the Commonwealth has no special or necessary emergency powers to give effect to the plan.
75. Associate Professor Eburn points out the need for legislation, as the Commonwealth has no power to respond or take charge of catastrophic natural disasters. Emergency Management Australia has no statutory authority and must seek approval from the Attorney-General and any other relevant minister before committing Commonwealth resources to a disaster.
76. The Commonwealth could use their prerogative powers “the Executive Power of the Commonwealth” under s.61 of the Constitution<sup>15</sup> but these powers are subject to much debate.

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<sup>14</sup> Eburn, Michael, *Responding to Catastrophic Disasters and the need for Commonwealth Legislation*, Canberra Law Review 2011, Vol 10, Issue 3, p.83. See also Eburn, Michael et al, *The Potential Role of the Commonwealth in Responding to Catastrophic Disasters* (Bushfire & Natural Hazards CRC, May 2019).

<sup>15</sup> *Ibid*, p.87

77. There is historical precedent for the Commonwealth exercising such power. In 1974, the recovery effort for Cyclone Tracy was commanded by the Director General of the Commonwealth Natural Disasters Organisation because it was 'a national disaster of major dimensions'. As this intervention was held to be within the purview of the Commonwealth's executive powers, it follows that the making of laws incidental to managing national disasters of 'major dimensions' would be a valid exercise of its legislative powers<sup>16</sup>.
78. Legislation from Canada and the USA serve as models that could be used in the Australian context and incorporated into equivalent legislation.<sup>17</sup>
79. In Australia, emergency management legislation should facilitate decision-making by a single person, e.g. a National Coordinator, who is vested with all the powers of the Commonwealth. It would be important however that the person who declares the state of emergency (e.g. the Governor General) be independent from the National Coordinator.
80. The declaration of a national emergency should also be subject to Parliamentary review. The powers granted in emergency legislation are wide-reaching and are intended to be used when the response to an emergency cannot be adequately managed under other law.
81. Commonwealth legislation should establish the decision-making body (e.g. a National Coordinator) as a statutory authority with clearly defined roles,<sup>18</sup> with the creation and appointment of such a body subject to further consultation with stakeholders.
82. The object for any Commonwealth Act should be to assist the States with disaster preparation and support in a national emergency with, e.g., a National Coordinator invested with all the powers of the Commonwealth to support this emergency. The States and Territories retain the control and decision making regarding operational response in their jurisdiction, with the Commonwealth providing the necessary support as required to the jurisdictions.
83. The threshold in the Commonwealth legislation should be similar to the Canadian legislation, that is the catastrophic natural disaster must either affect people outside the State it occurs in; or directly affects the Commonwealth Government; or it is declared a national emergency by the Governor-General.

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<sup>16</sup> *ibid*, p.91

<sup>17</sup> *ibid*, p.97-98

<sup>18</sup> *ibid*, p.101

84. Similar to the legislation enacted in the USA and Canada, a declaration of a national emergency would need to be made for the legislation to come into force. This would differ from a state of national emergency. As States can already declare states of emergency, a declaration of a state of national emergency would not be required unless conditions reached a drastic stage.
85. To declare a state of national emergency there would be a requirement that a national emergency had already been declared by the Commonwealth and that the Commonwealth was already providing considerable support to at least one State. For the national declaration to be made there would need to be a state of emergency already in force in at least one State; or a request for State of national emergency from at least one State; or the conditions were such that it was beyond the capabilities of one or more States.
86. The legislation would have to be clear and unambiguous that for a devastating natural disaster of catastrophic proportions the Commonwealth Government has the authority to take action to support the States and Territories in their response needs. This is best summed up in the last paragraph of Associate Professor Eburn's paper when he states:

*The Australian community, would be better served by a clear legislative statement detailing who, on behalf of the Commonwealth, is empowered to exercise the necessary, extraordinary emergency powers that will be required when responding to an unlikely, but devastating, national disaster. Legislation should identify what powers may be exercised, in what circumstances they may be called upon and establish systems of review to ensure that they have been used appropriately.<sup>19</sup>*

### **National Approach to Training and Standards**

87. There is currently no standardisation, or consistency in Australia for recruitment, training, response (including both response times and weight of attack), communications, command and control protocols, firefighting and emergency response equipment, and other fire and emergency standards.
88. The unions propose establishment of a National Standards Authority, a not for profit, self-funded organisation to provide research into, and guidance materials and standards on, all aspects of fire and emergency management in Australia.

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<sup>19</sup> *ibid*, p.102

89. The model proposed for the National Standards Authority can draw on the work of the NFPA in the USA and Canada. The NFPA provide guidance materials, codes and standards with the aim of preventing loss of life, property, and economic loss, due to fire and related hazards.
90. At a minimum, a national approach to training needs to be considered. At present all emergency service organisations are spending great amounts of their budgets running their own Registered Training Organisations.
91. A national training organisation could possibly alleviate these costs and deliver qualifications from the certificate level through to degree level in all areas of firefighting and emergency management. Any such national training organisation must be run collaboratively with unions and industry.
92. Emergency management is now about seamless integration of service delivery by different combat agencies. As bushfires and natural disasters occur, they draw an integrated response from many agencies, States and countries.
93. Consistency in approach could be achieved by a national training organisation, overseen by representatives from the State fire services, unions, and industry, developing courses and setting qualifications for each level and role in emergency management.
94. Along with training, national standards need to be developed for incident management roles which clearly show the qualifications and experience needed for each operational role. The National system of Level 1, 2 and 3 Incident Controllers is a starting point for expanding these qualifications to other operational roles at level 1, 2 and 3 incidents.
95. These standards need to be developed collaboratively with industry and unions, and must reflect the high standards in place for career professional firefighters in each state and territory jurisdiction.
96. Professional firefighter experience needs to be recognised in this system, as having qualifications in non-fire incidents does not automatically qualify a person for incident control or operations and command roles at bushfires.
97. A national system of incident management qualifications and certification is required to ensure consistency as staff from different States providing assistance will increase in the future.

98. Each of these matters and many more related to fire and emergency response, including the recovery role of the National Bushfire Recovery Agency can be captured within the roles of a National Standards Authority.

***d. Any relevant matter reasonably incidental to a matter referred to in paragraphs (a) to (c)***

99. The unions believe that there was a lack of resources available to combat these fires in the initial phases and in on-going mitigation and bushfire prevention. A much greater commitment to the number of professional firefighters is required throughout Australia.
100. Fire services and fire unions have over the last decade made numerous proposals to increase staffing, stations, appliances, equipment and training on the urban/bushfire interface and in regional areas, as well as the capacity of professional firefighter stations to deploy staff and appliances to fight bushfires. These proposals need to be revisited to ensure that there is an adequate, timely response to initial calls to bush and grass fires in the future.
101. The Commonwealth government needs to start planning for increasing fire danger in Australia and prepare for extreme fire conditions in the future. This means having communities, emergency services and health prepared for the severity of bushfires in the future.
102. Preparedness, prevention and education will play a big part in risk reduction. A major part of this risk reduction and increased response needs to be an increasing number of firefighters, appliances, equipment and training.<sup>20</sup> The current numbers and practices we have now will not sustain Australia beyond 2020.
103. The resource sharing that Australia has enjoyed in the past amongst the States and internationally will not continue in the future as fire seasons are lengthening all over the world. The scale and extent of the bushfires in 2019-20 indicate that all States might be actively fighting bushfires beyond their capabilities at the same time.

**Fatigue Management**

104. A critical area that is often overlooked or unable to be managed effectively is fatigue management of crews and incident management teams. This may be because of the sheer size of the incident or the number of crews available at any given time to give real effect to timely fatigue management protocols.
105. Analysis of major incident reviews and Coroners' inquests highlight fundamental mistakes that have led to significant loss of life and property because of poor decision

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<sup>20</sup> See also section (b).

making and or lack of information vital to safeguard crews from wind changes or critical weather patterns.

106. Fatigue is usually at the core of why these mistakes occur. Too many fire services rely on too few firefighters to do critical work and many don't have contingencies built in to ensure that fatigue can be managed over long periods of time.
107. With incidents that go over many days, crew hours need to be constantly logged and monitored with rest periods being periodically taken by all crews and incident management teams. This is vital to reduce the effects of fatigue.
108. Sleep deprivation is a major contributor to fatigue and it is internationally recognised that a person who has not slept for 17 hours or more is equivalent to having 0.05 ml of alcohol in their blood stream. The impact increases the more sleep deprived the person is. It is critically important that incident management teams' factor this into their plans and ensure all crews have at least 8 hours break between shifts and that this process is managed and logged.

### **Mental health of firefighters**

109. A national approach is required for prevention, resilience and adequate treatments for mental health issues amongst all firefighters. A national approach could consider the States working with the Department of Defence and Veteran Affairs to develop programs together and produce cost-effective programs that may be applicable to all.
110. The framework developed by Victoria after the Black Saturday Fires, and improved over 10 years of implementation, could provide the basis for a national program funded and resourced by the Commonwealth Government and the States to benefit all. A part of this program would need to be specific programs for emergency first responders, these programs could be aligned with Commonwealth programs for ADF personnel and veterans.

***e. The findings and recommendations (including any assessment of the adequacy and extent of their implementation) of other reports and inquiries that you consider relevant, including any available State or Territory inquiries relating to the 2019-2020 bushfire season, to avoid duplication wherever possible;***

111. There are numerous inquiries that are being held concurrently with this Royal Commission arising out of the 2019-20 bushfire season.<sup>21</sup> The Unions are lodging submissions into all three both jointly and separately. The closing dates for all three inquiries are very close together.
112. The Unions call on the Royal Commission to work with the Commonwealth Senate Inquiry, the NSW Inquiry, the SA Review and any other reviews taking place to ensure consistency.
113. Two separate reports from the Western Australian Coroner into bushfire fatalities in the Great Southern Region of Western Australia that were issued in June 2017 and November 2019 should be considered by the Royal Commission. The Esperance Fires Report has strong recommendations on resourcing.<sup>22</sup>
114. Further, there have been over 300 inquiries and reviews relating to emergency management/natural disasters from 1887 to 2017. Between 2009 and 2015, the Bushfire and Natural Hazards CRC catalogues 55 inquiries, amassing a total of 1,336 recommendations. It would be impossible for us to properly assess all the recommendations relating to Bushfires and Natural Hazards for inclusion in this submission.
115. Notwithstanding the above, we have extracted some key recommendations from 2 recent inquiries and reviews. We submit that the Royal Commission should review these recommendations to ascertain whether they were implemented, and if so, how effectively.

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<sup>21</sup> For example, Cth Senate Finance and Public Administration Committees Inquiry into Lessons to be learned in relation to the Australian bushfire season 2019-20; NSW Independent Inquiry Bushfire Inquiry; SA Independent Review into South Australia's 2019-20 Bushfire Season.

<sup>22</sup>[https://www.coronerscourt.wa.gov.au/linquest\\_into\\_the\\_deaths\\_of\\_kym\\_brett\\_curnow\\_thomas\\_leslie\\_bu\\_tcher\\_julie\\_kohrs\\_lichte\\_and\\_anna\\_sushchova\\_winter.aspx](https://www.coronerscourt.wa.gov.au/linquest_into_the_deaths_of_kym_brett_curnow_thomas_leslie_bu_tcher_julie_kohrs_lichte_and_anna_sushchova_winter.aspx) and [https://www.coronerscourt.wa.gov.au/linquest\\_into\\_the\\_death\\_of\\_wendy\\_bearfoot.aspx](https://www.coronerscourt.wa.gov.au/linquest_into_the_death_of_wendy_bearfoot.aspx)

***Parliamentary Environment and Communications References Committee 2016: Response to and lessons learnt from, recent fires in remote Tasmanian wilderness affecting the Tasmanian Wilderness World Heritage Area.***

116. There are three critical recommendations from the *Parliamentary Environment and Communications References Committee 2016: Response to and lessons learnt from, recent fires in remote Tasmanian wilderness affecting the Tasmanian Wilderness World Heritage Area* that the Unions want the Royal Commission to consider:

*a. Recommendation 1: The committee recommends that the Australian Government: recognise that climate change has increased fire conditions in south-eastern Australia and the risk to natural and cultural values in the Tasmanian Wilderness World Heritage Area;*

117. For the reasons we have outlined above, it is of critical importance that any review into the bushfires of 2019/20 and any preparation for future bushfire seasons must be done in recognition of the increase in the occurrence of severe fire weather and the length of the fire season caused by climate change.

*b. Recommendation 3: The committee recommends that the Australian Government, in conjunction with State and Territory governments, investigate a national remote area firefighting capability, to support Australian fire agencies.*

118. We submit that creating, maintaining and enhancing a national remote area firefighting capability with national priorities may assist in getting remote area fires controlled much quicker.

*c. Recommendation 4: The committee recommends that the Australian Government commit to long-term funding for the National Aerial Firefighting Centre of an amount that is at least equal to government's current contribution, rising in line with the Consumer Price Index.*

119. It is essential that the correct level of funding is supplied so that a national fleet of large air tankers and smaller fixed wing aircraft and rotary aircraft are available for the nation's firefighters. Whilst aircraft are expensive, we can no longer rely on overseas resources as their fire seasons are also extending. The costs invested in a national aerial firefighting fleet may be offset with reduced disaster costs.

***Senate Select Committee on Agriculture and Related Industries. (Commonwealth) 2010: Into the incidence of bushfires across Australia.***

120. The Unions would like the Royal Commission to consider the following recommendations from the *Senate Select Committee on Agriculture and Related Industries. (Commonwealth) 2010: Into the incidence of bushfires across Australia.*

*d. Recommendation 1: The Commonwealth Government examine potential new arrangements for Commonwealth involvement in the development and implementation of a national policy for bushfire management.*

121. Recommendation 1 recommends the development and implementation of a national policy for bushfire management. Many such policies exist already, such as the national bushfire management policies for forests and the COAG National Strategy for Disaster Resilience. These policies promote a holistic approach with shared responsibility.

122. The problem is that there is uncertainty regarding which policy is the national policy. For example, it could be the National Bushfire Management Policy Statement for Forests and Rangelands, the CAOAG National Strategy for Disaster Resilience, the AFAC Supporting Resilient Communities Through Risk Reduction or even the *Environment Protection and Biodiversity Conversation Act 1999 (EPBC Act)*.

123. A National Bushfire Management Policy must be clear that this is the definitive policy and like the National Construction Code, it must be complied with. A National Bushfire Management Policy must be strategic in that it sets planning requirements that must be complied with and that it also refers to national bushfire building codes and standards that must be complied with. It must state where buildings can and cannot be built and it must define how landscapes should be managed.

124. The overarching national policy must refer to national planning codes, national building codes and national landscape management codes. These codes must have a certain amount of flexibility for various state variations but at least a standard national code and policy allows for consistency throughout the country.

*e. Recommendation 5: The Commonwealth seek agreement from the States and territories that would enable it to evaluate the adequacy of fuel reduction programs applied by public land management agencies in high bushfire risk areas and audit their implementation against the program's stated objectives.*

*f. Recommendation 9: Further Commonwealth funding for bushfire suppression be made conditional on State fire agencies agreeing to the Commonwealth evaluating and auditing their fuel reduction programs.*

- g. Recommendation 12: The Commonwealth encourages further research into prescribed burning and its effectiveness and into alternative bushfire mitigation approaches through improved bushfire risk understanding at the asset level.*
  - h. Recommendation 14: The Productivity Commission be tasked to assess the economic effects of recent major bushfires on the Australian economy to determine the cost effectiveness of prescribed burning as a mitigation strategy. Recommendations 5, 9, 12 and 14 relate to prescribed burning and associated funding models.*
125. The Unions submit that prescribed burning ought not to be treated as the panacea that solves all future bushfires. It is one tool in the arsenal of tools for the reduction of severity of bushfires. Prescribed burning must be combined with the other tools such as cleared asset protection zones, mechanical hazard reduction and proper planning giving more separation between structures and the bush.
126. Also, land management agencies and fire services are already stretched to the limits trying to do what they do now. If land and fuel management are to be carried out effectively so that the next major Australian bushfire season is not worse than the 2019/20 season then significant funding and resourcing need to be put into land management agencies and fire services so that these risk reduction programs can be implemented and their initial response to bushfires is greatly increased.
- i. Recommendation 7: The Commonwealth consult with local, State and Territory government planning authorities on the development and dissemination of a house loss risk index for households in Australia's highest risk bushfire areas.*
  - j. Recommendation 10: The Commonwealth assist the states with bushfire training for land managers and volunteers by co-ordinating curriculum development and delivery of a national bushfire accreditation course, to be delivered by the relevant State agencies.*
  - k. Recommendation 11: The Commonwealth organise the co-operation of State land management and fire agencies to provide the practical training aspect of the curriculum as part of a national bushfire accreditation course.*
127. Recommendations 10 and 11 recommend developing a national bushfire accreditation course for all land management and fire services to use and certify staff and volunteers.

- l. This is essential, the 2019-20 bushfires saw staff and volunteers from many fire services, land agencies, emergency services and various states working together on large fires. This means all firefighters need to have a national basic training to attend fires and then each level of command and operational incident management need to have agreed national accreditations that clearly show the training, knowledge and experience required for that role.
  - m. *Recommendation 13: At the conclusion of the current Bushfire CRC funding agreement the Commonwealth establish a new permanent bushfire research institute.*
  - n. *Recommendation 15: The committee recommends that the Commonwealth co-ordinate a national approach to the pooling of ground firefighting resources across agencies and jurisdictions to maximise the efficiency of their use.*
128. Recommendation 15 recommends a national pooling of ground firefighting resources for more efficient use. This would require plans from each area and district showing what can be released and what is required to remain. From there, all fire and land managers could provide agency plans that would be submitted to the national plan and coordinator.
129. The unions submit that a federally funded increase of professional firefighters employed by, and to work in, each State and Territory, would create a pool of resources to allow for calls for deployment numbers as required.

- f. Ways in which Australia could achieve greater national coordination and accountability — through common national standards, rule-making, reporting and data-sharing — with respect to key preparedness and resilience responsibilities, including for the following:***
- i. land management, including hazard reduction measures;***
  - ii. wildlife management and species conservation, including biodiversity, habitat protection and restoration;***
  - iii. land-use planning, zoning and development approval (including building standards), urban safety, construction of public infrastructure, and the incorporation of natural disaster considerations;***

130. The Unions submit that there are multiple ways in which Australia could achieve greater national coordination.

#### **National policy for bushfire management**

131. We refer to Recommendation 1 from the 2010 Senate Inquiry: *“The Commonwealth Government examine potential new arrangements for Commonwealth involvement in the development and implementation of a national policy for bushfire management”*.
132. Regardless of whether this was or was not implemented after this recommendation, it certainly needs to be implemented now. A total review of bushfire management is required.
133. Bushfire management is more than just prescribed burning it is management of the land with sufficient resources to reduce the bushfire risk. Over the last 20 years resources for national parks and State forests have been savagely reduced, there is no longer the staff to manage the land.
134. The Commonwealth Government needs to develop a national bushfire management plan in conjunction with the States and fund resources to carry out this plan.
135. As well as continuing to fund programs to aid in recovery after disasters, funds need to be invested in preparation, planning and mitigation. Funding needs to be allocated to staff and resources for the land managers so they can manage the landscape, carry out the initial hazard reduction work during the week and allow volunteers to carry out already prepared prescribed burns on the weekend. Plans need to be developed at a national, then State and local levels, setting priorities, but plans are of no use unless there are resources to carry them out.

## **Reduction of emissions and management of public and private landscapes**

136. Wildlife management, habitat protection and biodiversity etc, will come if we start to fund landscape management, instead of having huge fires that have wiped out an estimated 1 billion animals in Australia this fire season we can have manageable bushfires.
137. This will need to be hand in hand with reducing carbon emissions so that we are not worsening climatic conditions even more. Reducing carbon emissions and properly managing the public and private landscape are the only ways to ensure that in the future, we will have the capability to prevent and control bushfires.

## **Review of the bushfire planning system**

138. There is likely to be tension between the desire to rebuild destroyed buildings promptly through the complying development process and long-term bushfire planning that will stop these new buildings being burnt again in future bushfires.
139. Firefighters are asked again and again to try to protect buildings in areas they should never have been built in. With the predictions that our next major fire season will be worse than the 2019/20 season, we need to reassess where and what should be built in the future to prevent thousands of homes from being lost in the next major bushfires.
140. Following the Victorian 2009 Black Saturday fires, a voluntary buy-back scheme was put in place to prevent many houses being built in high bushfire risk areas, perhaps this sort of policy should be considered for all of Australia.
141. It is an anomaly that the only building codes that are not national are the bushfire building codes. These are administered by the States and the State fire services, which for the areas they cover are basically the rural fire services.
142. If we look at NSW, they have had Planning for Bushfire Protection (PBP) since 2006. Planning for Bushfire Protection (PBP) is a document which provides guidelines and requirements for developing on bushfire prone land. It is used by councils, town planners, developers etc. and NSW fire authorities when assessing and approving buildings in bushfire prone land. PFB is used in conjunction with bushfire mapping and AS.3959 Construction of buildings in bushfire – prone areas. The aim of PBP is to provide for the protection of human life and to minimise the impacts on property from the threat of bushfire.

143. Due to the huge increase in scale and intensity of the 2019/20 bushfires both the Planning for Bushfire Protection 2019 document and AS.3959 Construction of buildings in bushfire – prone areas need to be critically reviewed and revised, taking into account increased intensity of bushfires, the increased rate of spread and the sheer extent of these fires. When reviewing this document and the Australian Standard for building in bushfire prone areas it must be taken into account that the PBS 2006 and AS.3959 have now been in place for well over 10 years, yet these regulations appeared to have made little difference this bushfire season with an unprecedented 2500 homes lost.
  
144. Perhaps it is now time to consider a national approach, through a National Standards Authority. Guidance documents and standards could be developed to support other construction standards, where building in bushfire prone areas becomes part of the *National Construction Code*, with a limited compliance role in breaches through the State environmental acts. If all buildings in bushfire prone areas were part of the *National Construction Code* and a stricter planning regime was in place for the building of residential and commercial buildings in bushfire prone areas this could reduce the number of homes and buildings lost in future bushfires. Variations for each State would allow for local differences.

***g. Any ways in which the traditional land and fire management practices of Indigenous Australians could improve Australia's resilience to natural disasters.***

145. Traditional land and fire management practices of Indigenous Australians should be adopted and incorporated into bushfire/ land management strategies. Traditional techniques are being used in the Northern Territory, NSW, Queensland and Western Australia to manage park areas<sup>23</sup>.
146. Evidence emerged in media reports from the Black Summer bushfires of properties, habitats and people saved with the proactive use of “Cultural burning” practices<sup>24</sup>.
147. Cultural burning is different and distinguishable from “prescribed burning” practices. As is the case with any bushfire mitigation strategy, greater adoption and implementation of Indigenous land and fire management practices need to be underpinned by a sufficient level of resources.

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<sup>23</sup> There are numerous publicly available policy resources on this subject at the Australian Disaster Resilience Knowledge Hub..

<sup>24</sup> For example Report Isabella Higgins ABC Radio AM Program 18 January 2020, Australian Story Monday 13 April 2020