



FINAL REPORT

Report to the Minister for Police and Emergency Services
on ACT Government coordination and response during the
2019-20 Bushfire Season

August 2020



ACT
Government



Mr Mick Gentleman MLA
Minister for Police and Emergency Services
GPO Box 1020
Canberra, ACT 2601

Dear Minister,

In accordance with the Terms Of Reference agreed by the Chief Minister on 15 June 2020, I present a report which provides observations and insights about the 'Whole of ACT Government' coordination and response as it relates to the 2019-20 bushfire season.

As directed, I consulted with all Security and Emergency Management Senior Officials Group members, ACT Government Service Directorates, relevant ACT utilities providers, local and Commonwealth agencies as well as representatives from the Rural Landholders Association.

The review focused on the period between 2 January and 9 February 2020, when a State of Alert or State of Emergency had been declared for parts or all of the ACT. The review looked at the effectiveness of the whole of Government response and provides advice on recommended legislative changes, operational emergency management arrangements and coordination across the ACT Emergency Services Agency and across the ACT Government, local, state and Commonwealth agencies.

All invited participants provided collaborative, considered observations and recommendations aimed at ensuring that the ACT community is prepared, protected and able to recover when emergency situations arise.

The observations, insights and recommendations in this review build on the sound framework currently in place in the ACT and aim to enable the continuous improvement of this to ensure continued success in the future.

I would like to take this opportunity to thank all those people across directorates and agencies who provided support and assistance to me in gathering information and providing constructive suggestions and feedback. It demonstrates the desire across all people involved in emergency management to actively seek out ways to continuously improve how we protect our community. Their input made this report a product I can confidently present to you for your consideration.

Yours sincerely


Ray Johnson APM
Deputy Commissioner
ACT Emergency Services Agency

7 August 2020

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1 Introduction

1.1 The 2019-20 bushfire and storm season produced some of the most extraordinary weather conditions in Australia's history. Large parts of Australia were impacted by significant fires with unpredictable and dangerous fire behaviours fuelled by hot, dry and windy conditions. The conditions meant fires started easily and were difficult to contain.

1.2 The ACT was not exempt from these conditions and subsequently felt the impact both within Territory borders and across the surrounding regions. From August 2019 until the end of the bushfire season on 31 March 2020, the ACT:

- supported other States (Queensland, NSW) in their emergency responses;
- assisted displaced persons as a result of losses interstate;
- responded to severe weather events (extreme heat, storms and poor air quality due to regional bushfires);
- managed potential fire threats (24 Total Fire Ban days); and
- responded to bushfires within Territory boundaries.

1.3 In the ACT no lives were lost, no houses destroyed and comparatively minimal infrastructure lost which is quite an achievement considering the fire situation faced during this year's season. We achieved this, not by accident or by chance but through good preparation and a concerted effort through a Whole of Government delivery of a well-coordinated response.

1.4 That said, for the rural landholders who bore the brunt of the lost infrastructure along with the impact on income providing vegetation and pasture, the impact was significant to them and is likely to have long reaching effects. Namadgi National Park has also seen a significant swath of destruction including the loss of \$10.2 million of insurable assets. This will require detailed and considered rehabilitation to address both the immediate impact and the long term recovery of this important ecological and cultural area.

1.5 The ACT *Emergencies Act 2004* and supporting *ACT Emergency Plan 2014* provide the ACT Government and Government agencies the framework and authority to undertake prevention, preparation, response and recovery activities before, during and after an emergency. As identified in the *ACT Emergency Plan 2014*, a valuable component of this is to:

“analyse the response to and impacts of emergencies for future learning and adjust strategies where this new information and knowledge will result in improved outcomes.”¹

1.6 In progressing this review it is important to note that in emergencies such as bushfires, many good, capable and dedicated people step up and take responsibility for dealing with the

¹ ACT Emergency Plan (2014) 3.4.3.4

emergency on behalf of their community. They may be paid or unpaid; they might be on a fire appliance, in an ambulance, engaging with the public or holding a leadership role. This is no small matter and must be accounted for. Those decent and capable people who make decisions and act in good faith almost never have the same luxury of time afforded to those of us undertaking a review. Their decisions and actions are often progressed in difficult and unfamiliar situations, when working in uncertain environments and often without the benefit of full situational awareness.

1.7 As such, it would be a mistake to examine any deficiency observed through the lens of individual fault and blame. Good decisions come from wisdom, knowledge and experience. It is reasonable to accept that decision makers and action takers in an emergency do so in good faith and to the best of their abilities. It is also reasonable for them to expect that when they do so, their professional reputation and self-worth are not at risk should things not go precisely to plan. Deficiencies in a response or identified areas of improvement should be examined in the context of improving the emergency management system, unless there is objective evidence of negligence. There needs to be an acknowledgement that there will always be opportunities for improvement and the importance of an organisational culture of continuous improvement and review, facilitated by open and honest dialogue about how we can do better.

2 Review process

2.1 On 29 April 2020, the ACT Government announced a whole of ACT Government review of the bushfire season to be focused on the effectiveness of the Whole of Government (WHoG) response. The appointment of myself as ESA Deputy Commissioner and the commission of this review was also announced by the Minister for Police and Emergency Services (MPES) in an issued media release on that day. The Terms of Reference (ToR) are included in Appendix A. The ToR provided the opportunity to submit an interim report about matters that required more immediate Government action. An Interim Report was provided to the Minister on 2 July and is attached at Appendix B.

2.2 Each member of the Security and Emergency Management Senior Officials Group (SEMSOG) was asked in writing to contribute to the review. Other stakeholders identified were asked to contribute as they related to the points covered in the ToR. Interviews were conducted with relevant stakeholders and various written documents were provided in support of the review.

3 Whole of Government coordination - supporting the response

3.1 Emergency Management (EM) is a term and concept to describe the range of measures used to manage risks to communities and the environment. This encompasses the spectrum of emergency needs including preparedness, prevention, response and recovery. Importantly, EM encompasses Government, voluntary and non-Government agencies to ensure a comprehensive and coordinated series of mechanisms. Within a framework, these mechanisms are delivered through a cascading set of legislation, plans, structures and formalised arrangements, established to bring together the endeavours of the whole community.

3.2 The delivery of these processes naturally relies on a high level of trust and cooperation between and across the different components (individuals, business, Government agencies, non-Government agencies and beyond) to ensure the system works effectively. It is the Government's responsibility to lead the development of robust legislation and supporting mechanisms to facilitate high levels of cooperation. Any EM system needs to incorporate a process for regular review and evaluation to learn from the shared experiences of all. To be effective, this process also must capture the good as well as the opportunities for improvement.

3.3 From the range of input and discussions held during the review, the overall view of stakeholders was that the legislative framework was generally sound, and the *ACT Emergencies Act* fulfilled its functions during the 2019-20 bushfire season. However, stakeholders did identify some areas for possible reform and for more detailed examination.

3.4 The Interim Report recommended amendments to the *Emergencies Act*, which were assessed as needing action before the next bushfire season. The *Emergencies Act* is due for a five-year review which provided the opportunity to more fully examine improvements to the EM legislation. This review has also noted the need to clarify some technical and definitional commonalities across plans and sub-plans. Any amendment of the *Emergencies Act* and any further reforms arising from the five-year review of the *Emergencies Act* would benefit from a system and process that also reviews and updates the Emergency Plan, supporting sub-plans, policies, processes and procedures across the current emergency management framework to ensure consistency.

3.5 Several recommendations are beyond the scope of the review and should have a subsequent implementation plan developed to identify a realistic and achievable environment for these to be delivered.

Recommendations

Recommendation 1: That Justice and Community Safety Directorate (JACS) lead a working group from across relevant organisations to undertake the five year review of the *Emergencies Act* in conjunction with a wholistic review of the Emergency Plan and relevant sub-plans; and recommendations from this review, to the extent they are accepted by Government. Bringing together a small Taskforce of staff from across government for a set period would assist the working group in delivering the work needed to address these and other recommendations.

Recommendation 2: The working group should report to SEMSOG on progress.

Emergency Management processes (Legislative Framework)

3.6 On 2 Jan 2020 the ESA Commissioner stood up the Emergency Coordination Centre (ECC) and established an Incident Management Team (IMT) led by an Incident Controller (IC), in accordance with the *Emergencies Act* and Emergency Plan. ACT Government Directorates and relevant agencies commenced their supporting processes as required by this activation.

3.7 Also on 2 January 2020 the ACT Chief Minister, acting on advice from the MPES, declared a State of Alert under the provisions of Section 151 of the *Emergencies Act* and appointed the ESA Commissioner as the Emergency Controller (EC). At that point in time there were no active fires in the ACT; however, there were fires in surrounding NSW regions. Smoke from those fires were impacting on the ACT by reducing air quality and raising levels of anxiety within the ACT community. The anxiety was evident through the monitoring of social and traditional media and was associated with the trauma that many Canberrans experienced in the 2003 ACT bushfires. This was the first time a State of Alert had been declared in the ACT under the provisions of the *Emergencies Act*.

3.8 Under the *Emergencies Act* the State of Alert may be activated if:

- a. *the Minister is satisfied that an emergency is likely to happen; and*
- b. *the Chief Minister has not declared that a state of emergency exists in relation to the emergency*

3.9 There is no specified requirement for an EC to be appointed when a State of Alert is declared. The appointment of an EC where no State of Emergency exists (which arguably but not definitively, encompasses a State of Alert) is done contingent with Section 150 of the *Emergencies Act*. In accordance with the *Emergencies Act*, the appointment of an EC when no State of Emergency exists is to be done by the Chief Minister for the following reasons:

- a. *an emergency has happened, is happening or is likely to happen; however*
- b. *it is not necessary to declare a State of Emergency.*

3.10 This reasoning is relatively imprecise and allows wide discretion to the Chief Minister and relevant Minister. There is also an introduction of administrative risk with the difference in authorities for the declaration of a State of Alert and appointment of an EC.

3.11 The Emergency Plan provides a little more direction regarding a State of Alert by stating that:

'State of Alert should be considered where it is identified as appropriate for the Minister to directly provide information, advice and warnings to the community for an actual or impending emergency. The effect of the State of Alert is to emphasise the significance of the actual or impending emergency and its potential impact on life and property in the ACT.'

3.12 Several stakeholders noted that the purpose for calling the State of Alert on 2 January 2020 was somewhat vague. Whilst it was agreed that this was intuitively a logical decision under the circumstances, it was mostly understood to be primarily intended for raising public awareness and lifting focus on the unfolding situation; however, lacked a clear call to action.

3.13 The State of Alert stood for 29 days until the State of Emergency was declared on 31 January 2020. There were mixed views about the length of the State of Alert with some believing that the extended period risked losing public focus whilst giving rise to complacency. Some considered the timing appropriate under the circumstances; however, were not sure what the triggers were for the removal or wind back of the declaration.

3.14 A number of stakeholders commented on the value of mechanisms designed to determine when to reduce or adjust business as usual to enable a focus on supporting the emergency management. It was also noted that a number of employees across all involved organisations were, or could have been, impacted by the fires due to where they live. Front line agencies and Directorates would have needed and will need to consider how to address service delivery requirements whilst also supporting the emergency management arrangements. This is relevant not only in support to the ECC but also to the Public Information Communication Centre, and to a degree the Incident Control Centre being stood up.

3.15 The changes to the *Emergencies Act* to effectively re-cast the EC powers under a single section and decouple them from the relevant State of Alert/Emergency will simplify the mechanisms to appoint an EC. At the same time, the basis for declaring a State of Alert would become more imprecise as it would no longer be linked to EC powers.

State of Alert and State of Emergency – calls to action

3.16 There are examples of alert systems where the activation or change of alert states are triggered based on objective tests that lead to subsequent prompting of actions and decision points. Examples include the Cyclone alert system used in Australia and the Typhoon warning system as used in Hong Kong.

3.17 The *Emergencies Act* and supporting documents do specify certain objective triggers for activation of such things as the declaration of commencement of the fire season and the activation of a Total Fire Ban (TOBAN). The activation of either status triggers legislated actions or decision points by Government, relevant agencies and the community.

3.18 Developing similar objective triggers for States of Alert and Emergency would:

- help clarify why one is activated (and subsequently deescalated);
- articulate what outcomes are to be achieved;
- orient Government toward preparing for a response; and
- assist businesses and entities such as aged care / residential facilities to act in a timely fashion.

3.19 Such an arrangement would also provide decision points to guide the movement between alert states when those conditions change. This is not to suggest that the Minister be limited in discretion when declaring a State of Alert or the Chief Minister in declaring a State of Emergency. The declaration should remain a decision by the relevant Minister or Chief Minister based on advice from relevant officials and guided by the Emergency Plan to allow the reasonable discretion to consider all relevant information. It would assist in the identification of a clear delineation of the responses required by Directorates and decisions delegated to Directors-General when a State of Alert is declared and a State of Emergency is declared.

3.20 As an example, a decision to declare a State of Alert (or not) may be triggered by such things as when a TOBAN is declared for more than a certain consecutive number of days; or at the point that a bushfire in the ACT or surrounds is of a certain size or subject to certain predicted weather conditions. Equally, the decision to wind back from State of Alert and/or Emergency can be triggered by predicted weather events providing a reduced risk profile.

3.21 Once a State of Alert or Emergency is declared, the Emergency Plan should reflect certain actions to be taken and decisions to be made as a consequence of that decision. This might include such things as:

- the stand up of the ECC (in whole or part);
- triggering the holding of a SEMSOG and or/SEMC meeting;

- guiding the activation of relevant and defined public messaging;
- guiding decisions regarding priority setting for service delivery organisations;
- prompting advanced decisions on closing Parks, the Arboretum, Mt Stromlo etc;
- causing facilities such as aged care and residential homes to activate their equivalent of bushfire plans; and
- activating volunteer employment protections etc.

Recommendations

Recommendation 3: That the Emergency Plan be amended to include considerations for declaring a State of Alert or Emergency (and also wind back from these) and guidance as to what actions and decisions at a minimum should be taken as a consequence of such a declaration.

Recommendation 4: The working group (Rec 1) should include relevant stakeholders deciding collectively what the declaration might mean for such things as sub and supporting plans and the relevant community messages and calls to action.

Recommendation 5: The five year review of the *Emergencies Act* examine amendments to better define the rationale for a State of Alert / State of Emergency whilst ensuring that the relevant Minister / Chief Minister still has sufficient discretion to make a declaration based on advice from relevant Government officials and committees.

Emergency Management structures

3.22 There was general consensus across those interviewed that the activation of the various elements of the Emergency Plan and relevant emergency management components across WHoG worked and delivered the required effect. Individual agencies identified that their supporting plans, sub-plans or internal mechanisms were also reviewed, activated and implemented as required. All stakeholders acknowledged the collaborative approach provided a constructive environment for matters to be resolved as and when they arose.

3.23 There were several initiatives that proved to be of great value to the firefighting effort. One initiative that drew positive commentary was the embedding of a 'Values Officer' into the IMT to support the IC in developing plans that considered protecting locations of cultural and environmental significance. The use of the Rapid Risk Assessment Teams to quickly assess the work needed by the land manager to mitigate immediate risks also proved to be a very worthwhile undertaking. 27 key risks were identified across the burn area, nine (9) of which were considered extreme. The process allowed recovery efforts to be made for best effect. These roles are drawn almost exclusively from across Economic, Planning and Sustainable Development Directorate (EPSDD) staff.

3.24 Other jurisdictions have embedded these roles and practices in fire management for over a decade; however, the roles and functions are not officially recognised in the Australasian Inter-Service Incident Management System (AIIMS) structure. ACT, working with other jurisdictions and on the back of the Royal Commission, could provide national leadership in this area.

Recommendations

Recommendation 6: In collaboration with other jurisdictions the ACT share the learnings for this bushfire event and work to officially embed values officers and RRATs as key elements of bushfire response.

Recommendation 7: EPSDD and ESA work together to develop values officer training and accreditation.

3.25 The review focused attention on the operation of SEMSOG and Security and Emergency Management Committee of Cabinet (SEMC) and how they interacted with each other and the EC during the event. This is an important subject noting that all formal committees met at least once and sometimes twice a day during the height of the bushfire season and are key to effective strategic Government level decision making.

3.26 SEMSOG met regularly during the bushfire season and for key time periods acted as the Management Executive (Mgt Exec) in support of the EC, as required by the *Emergencies Act*. In discussion, several people felt that given the extended period of EC appointment, using the entirety of SEMSOG as the Mgt Exec became difficult to sustain. There were also a range of observations about the operation of SEMSOG as a strategically focused mechanism aimed at advising Government on consequential policy issues that arise during such events and its role as the Mgt Exec.

3.27 Under the *Emergencies Act*, SEMSOG is primarily directed to provide a forum for liaison between entities for emergency management. It is specifically tasked to:

- a. *enhance emergency management capabilities;*
- b. *reduce community vulnerability to the effects of emergencies; and*
- c. *improve emergency management awareness and training.*

SEMSOG is to advise the relevant Minister and Chief Minister on security and emergency management; and support the ESA Commissioner in security and EM, specifically the preparation of the Emergency Plan. Of note, the *Emergencies Act* does not direct SEMSOG to provide support to the EC in the conduct of response or recovery operations.

3.28 Under S161 of the *Emergencies Act*, the EC must nominate a Mgt Exec as soon as possible after appointment, with discretion as to who might form part of their Mgt Exec. The only guidance provided with respect to Mgt Exec membership is S161(2), which states:

'the management executive consists of people nominated by the emergency controller and may include member of the SEMSOG'.

Under the provisions of Sec 161(3) of the *Emergencies Act*, the Mgt Exec:

'must provide support to the emergency controller in the exercise of the EC's functions'.

3.29 Conversely, the Emergency Plan implies that SEMSOG, as the Mgt Exec, is responsible for supporting the EC in the conduct of this obligation, although it does not provide any more detailed guidance on the role of the Mgt Exec. In terms of its membership the Emergency Plan states that:

'it is expected that the members of SEMSOG will form the [...] Management Executive for most emergencies'.

3.30 On review of extant sub-plans the situation becomes even more ill-defined. A number of sub-plans either dictate or imply that SEMSOG should adopt the role of the Mgt Exec (Counter Terrorism Sub Plan, Biosecurity Sub Plan and CBRN Sub-Plan. A number of plans direct the use of an Operational Advisor Group (Elevated Fire Risk Plan and Flood Plan) when no EC has been appointed.

3.31 Although in the 2019-2020 bushfire season the need for more clarity between the *Emergencies Act*, Emergency Plan and Sub-Plans did not result in a failure of the EM processes, it is of relevance when addressing the question of best practice. It is the case that some SEMSOG members and associated officials highlighted that there were some points of friction that arose over the extended period of EC appointment due to SEMSOG's role as the Mgt Exec.

3.32 It was observed that at certain times, SEMSOG needed to deal with matters subsequent to and beyond the emergency events themselves. During these times, the EC needed also to assume the role as a substantive member of SEMSOG as well perform as the EC role. This situation had the potential to blur the two roles of SEMSOG, that of undertaking the role of Mgt Exec and of dealing with the consequential operation of the ACT Public Service. In this event, the ESA Commissioner had dual responsibilities as the EC on one hand and as a SEMSOG member representing the interests of ESA on the other. With no other ESA representative present, a tension was created between the two roles. To address this at the time, the Directors-General daily hook up was constituted to free SEMSOG from dealing with the business as usual operation of ACT Government. This did not fully relieve the tension on the EC in undertaking two roles; however, it provided a better separation of committee / strategic forums.

3.33 It was observed by some that in the early days of the State of Alert declaration, the SEMSOG that met was comprised of a smaller number of members. This was due to several factors including that the issues for the ACT at that point were less complex and a

number of representatives were initially unavailable due to the holiday season. The observation made by some was that the process seemed to be more aligned to the role of a Mgt Exec. However, as the full SEMSOG membership formed and met as the Mgt Exec over an extended number of weeks, the wider issues became more complex and the normal business of various Directorates had to also be juggled, it become less effective as the Mgt Exec.

3.34 In comparative arrangements in other jurisdictions the EC acts as the Chair for the Mgt Exec equivalent as it is established as a specific committee under the emergency management arrangements. This would be appropriate for the ACT, also noting its core purpose in supporting the EC. The Emergency Plan should articulate the role of the Mgt Exec more clearly and as a separate entity to SEMSOG. This would better focus the efforts of the Mgt Exec in supporting the EC and allow SEMSOG to operate as needed. There would be overlap in representation between the two entities; however, the purpose of each should be more defined.

3.35 This would require close connections between Director-General JACS as Chair of SEMSOG and the EC as Chair of the Mgt Exec to ensure coordination of decisions and actions. At a minimum the EC should consider including Director-General JACS and Public Information Coordinator (PIC) in the Mgt Exec, particularly when the emergency might be for an extended period of more than a couple of days. The key role of Director-General JACS would be to assist the EC with addressing wider Government policy matters tangential to but impacted by the emergency through the SEMSOG mechanism.

3.36 These arrangements will need to remain flexible depending on the emergency and its likely length. Discretion should remain for the EC and DE JACS to determine the best way to adapt the Territory emergency management mechanisms to suit the situation. For example, that may include such things as simultaneous meetings of SEMSOG, SEMC and/or Mgt Exec to ensure efficient decision making in shorter term emergencies.

3.37 The current direction within the *Emergencies Act* allowing the EC to determine membership of the Mgt Exec is considered appropriate. The roles of the two bodies and recommendations on membership should be clarified in the Emergency Plan.

3.38 The broad, WHoG focus of the EC means that the incumbent is less able to concurrently discharge their normal duties. This is not such an issue for shorter events; however, once their appointment extends beyond a few days this issue becomes more critical. At the time of the bushfire season the ESA Commissioner had limited options for handing over the day to day running of the ESA nor receiving strategic support and advice, nor an option for respite. For all these reasons the appointment of a Deputy ESA Commissioner will assist in providing a better framework for separation of the role of the EC and ESA Commissioner. It will also provide a logical option for the appointment of a Deputy EC and someone to represent ESA at SEMSOG, noting that there currently is no legislative coverage for a Deputy ESA Commissioner. It is noted that the attached bill as a

result of the Interim Report has provided legislative changes to enable the appointment of a Deputy EC.

Recommendations

Recommendation 8: The Emergency Plan be amended to better reflect the intent of the *Emergencies Act* in the establishment of a Management Executive, separate to SEMSOG, on the appointment of an EC. It should describe the role of SEMSOG and the Management Executive as distinct in the emergency management architecture.

Recommendation 9: That when determining their Management Executive, at a minimum the EC should consider appointing Director-General JACS and the PIC as standing members.

Recommendation 10: An opportunity to exercise and test the formation and functioning of a Management Executive through desktop and/or limited scenario-based exercises be provided.

Recommendation 11: The Government consider amendments to the *Emergencies Act* to include provision for a Deputy ESA Commissioner.

Emergency Management Planning Framework – currency and consistency

3.39 In other jurisdictions the equivalent role to the EC has a clear strategic WHOG coordination within a 'State Crisis Centre' construct which includes the equivalent bodies as SEMC and SEMSOG. Within the South Australian (SA) EM Framework, the State Crisis Centre (SCC) is identified as *the central liaison point for the Premier and Executive Government and provides a focal point for dealing with State Government policy matters*. It is noted that in this framework the EC equivalent is clearly removed from the operational implementation and management of the emergency response mechanisms.

8

OVERVIEW OF ARRANGEMENTS

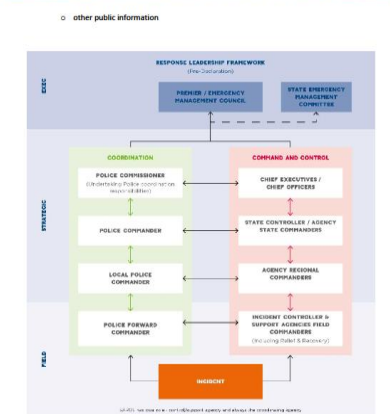
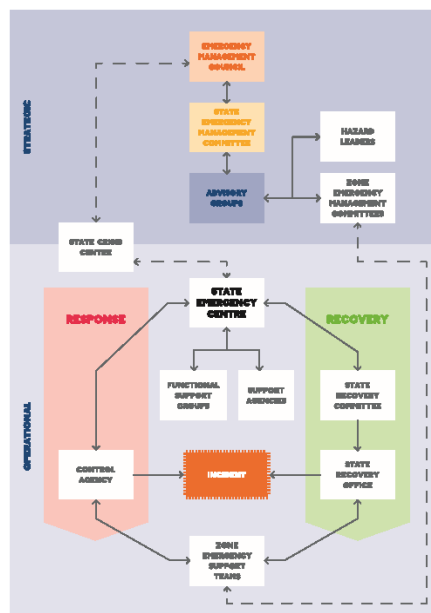


Figure 3a: Command and Coordination arrangements prior to a declaration

STATE EMERGENCY MANAGEMENT PLAN - PART 2: ARRANGEMENTS V1.2

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STATE EMERGENCY MANAGEMENT PLAN - PART 1: OVERVIEW

3.40 When reviewing the EM structure within the *Emergencies Act* and Emergency Plan and in comparison to other jurisdictions, the EC is placed into the role usually allocated to the IC at times when no EC is appointed, with the IC consequently being pushed down a level. The role therefore becomes the equivalent of an IC rather than providing a bridge between the delivery of an operational effect and the strategic management of the emergency. This also means that if the ECC is stood up and an IC appointed prior to the appointment of an EC, the emergency management arrangements would need to be reorganised to make way for the EC; an undesirable outcome.

3.41 In other jurisdictions, even in Level 3 events, the IC equivalent is separated from the EC equivalent and is designed to provide advice and support to the EC; however, not to be the EC. The effect of the ACT framework observed throughout the 2019-20 bushfire season was that the EC responsibilities were stretched between the need to advise and support the strategic emergency management arrangements and the operational delivery of the response to the emergency.

3.42 Across other jurisdictions the State Emergency Centre / State Operations Centre equivalent is effectively the ACT ECC with a designated person in command. Within the NT, the Territory Controller uses the Territory EOC (Emergency Operations Centre) as a facility to support the oversight and delivery of emergency management. The Territory Plan (TEP) articulates how the NT use the term emergency management and describes a distinction between the delivery of emergency management and the delivery of response operations (the delivery of a designated emergency plan). This can be summarised by the following paragraph from the TEP around the delivery of emergency management:

Integrated approach: ensuring that the effort of governments, all relevant organisations and agencies, and the community, as a prepared community, are coordinated.

By articulating a distinction between the management of an emergency and the delivering of an effect through the Emergency Plan it can be seen how this follows through the WHOg coordination and command and control structures used with the NT.

3.43 The final jurisdiction to provide some guidance is the Tasmania Emergency Management arrangements. In the below extract, terminology aside, it can be seen that there is a clear separation between the roles and responsibilities within the State structures to support an emergency management effect vs the delivery of an emergency plan.

INCIDENT CONTROL CENTRE (ICC) EMERGENCY OPERATIONS CENTRE (EOC) POLICE OPERATIONS CENTRE (POC)	EMERGENCY COORDINATION CENTRE (ECC)
Sets objectives, determines strategies and tactics to resolve the incident or certain aspects of it.	Sets objectives, determines strategies and tactics to resolve consequences of the emergency (can be agency-specific, multi-hazard or whole-of-government / community focused).
Allocates, deploys and manages resources for tactical/operational response to the incident.	Allocates, deploys and manages resources to address consequences of the emergency.
Usually agency-specific (the RMA will establish the ICC and support agencies establish their own EOC).	Staffed by an Emergency Management Team (EMT) and a range of agency Liaison Officers/Advisors .
Provides the public and media with operational information about the incident.	Coordinates and disseminates public information about the consequences of the emergency and transition to recovery.

3.44 The ECC Operations sub-plan identified an ECC Coordinator and designates them as responsible for the overall command of all activities and personnel within the ECC. However, this plan is not clear on whether the ECC is intended to support the delivery of emergency management or delivery of a designated emergency plan. It was also noted that there are some differing descriptions for the role of the ECC, from describing it only as the group of ECC liaison officers to more correctly describing the full emergency response mechanisms of plans, logistics, public information etc.

3.45 Using the example of the national security architecture, the Police Operations Centre (POC) manages one or more incidents with a Police Operations Commander appointed. The Police Forward Command Post, which is usually closer to the event or incident has the Forward Commander with the equivalent of an IMT established in support. The Ops Commander is the senior officer and ultimately responsible for delivering on the plan in a similar way to the IC in a level 3 incident. Should an EC be appointed in such a circumstance, the EC does not take the role of the Ops Commander nor does it

necessitate a change in the existing reporting arrangements. The EC steps in above to coordinate the disposition of all resources across Government to address the emergency and associated impacts, support and advise Ministers on the emergency and be the public face of the response. Appendix C provides some initial concepts that could be considered by the relevant working group to provide a better understanding of the command and control framework within the ACT emergency management framework. It is noted that these concepts still require detailed consideration by relevant agencies across WHoG.

3.46 The Emergency Plan should be amended to reflect an emergency management architecture that more appropriately describes the hierarchy of command and control when there is and when there is not an EC appointed. These changes should avoid making a response to shorter events too cumbersome. The intent being to ensure that the EC is kept focused at a strategic, WHoG response level whilst being supported by the appropriate level of operational command.

Recommendation

Recommendation 12: The Emergency Plan and ECC Ops Plan be amended to better articulate the delivery of emergency management vs the delivery of the emergency plan. The Plan should facilitate principles for emergency management and clear role delineations whilst allowing flexibility in how the mechanisms are structured.

3.47 It was also observed that there was a lack of clarity in the role of the ECC and consequently the IMT among stakeholders, with varied views on how they should and did work together. A number felt that the role of an ECC Liaison Officer (LO) was not defined well enough and therefore agencies may not have identified the most appropriate level / role / person to fulfil that position. It was generally thought that LO's need to be senior enough to 'get things done' and have access to their senior executive though not so senior that there is a limited supply or overlap with SEMSOG. It was also apparent that the ECC Coordinator role held the same level of uncertainty in the minds of many.

3.48 In the ESA Operational Review of the bushfire season, Synergy (independent review team) observed that across the ESA there was limited trained and experienced staff in undertaking Level 3 operations within the ECC and/or IMT. The capacity to deliver during the bushfire response was reinforced by a number of PCS staff who hold relevant qualifications and experience. It was noted that involvement and exposure of ECC / IMT operations over the January period provided significant experience and exposure of these requirements for staff within the ESA as well as across the WHoG.

3.49 It is good practice to have two LO's in the ECC from each organisation present, one focused on directly engaging within the ECC and the other engaged into their own organisation managing the delivery of outcomes. To meet this level of commitment a considerable number more will need to be trained and be involved in regular exercising to build and maintain skills and allow sustainability. It was noted that there should not be a

minimum number set to determine the effectiveness of the operational agency involved. Each agency should make its own assessment on the staff, skills, knowledge and experience required for those roles and the emergency. This should include consideration of requirements for physical presence for LO's and alternate technology options for agency inputs.

3.50 This highlights the overall capacity of the systems, mechanisms and supporting administration within an extended activation of the EM framework. It was observed that there should be regular review and assessment of these to ensure that they are fit for purpose. This should include systems (EMOS, ICON), mechanisms to support alternate to face to face committee meetings, as well as training to increase the cadre of qualified and practiced personnel across WHoG.

3.51 It was noted that there are extant mechanisms within the ACT Public Service Enterprise Agreement to provide support and relief to staff during high tempo periods. During the bushfire emergency these were activated and utilised to support staff over the period of the emergency. In addition to the provision of support over the specified period, general welfare mechanisms were activated and methods of accessing these provided to staff. This included support for childcare where parents were involved in response operations. As a great initiative it should be continued during future emergencies. Not all Directorates were aware of the opportunity and so communications around such support services should be enhanced.

Recommendations

Recommendation 13: The role, level, requirements and expectations of an ECC LO be clarified in the Emergency Plan and ECC Ops Sub-plan.

Recommendation 14: All organisations who have a role in the ECC should review their existing arrangements to ensure there is a sufficient cohort of staff to maintain a presence in the ECC at a level and with an imprimatur sufficient to make decisions and allocate resources and have access to senior executive levels if needed.

Recommendation 15: Any changes to the ECC structure and role be exercised both within ESA and across a WHoG exercise and testing program.

4 Preparedness

Cross border relationships

4.1 The ACT is a unique Australian jurisdiction in that it is wholly bordered by New South Wales. A number of NSW townships rely on the ACT as the nearest provider of health and other supporting services and with nearly 80% being a National Park (Namadgi), cross border relationships with New South Wales Government agencies and non-Government entities are of particular importance. It was identified that several stakeholders interviewed have well established relationships with their NSW counter parts. Of note is the relationship between Canberra Health Service (CHS) and the NSW Southern Area Health Services and the ACT's role in a hub and spoke health service model across both. Formal mechanisms exist for such entities as EvoEnergy within the national energy framework, and the ACT-NSW Memorandum of Understanding (MOU) for Regional Collaboration.

4.2 It was also recognised that good working relationships with NSW counterparts assisted very strong active preparation and planning as well as understanding cross jurisdictional needs throughout the bushfire season. Canberra Health Services noted that numerous ACT health practitioners volunteered and supported Hospitals and health facilities on the South Coast throughout the December and January period, with no detrimental impact on the ability to support the Canberran community.

4.3 Four agencies identified that they have critical cross jurisdictional/shared responsibilities related to bushfire response: Evoenergy and Icon Water (responsible for assets in the Queanbeyan-Pelerang Region), CHS and Environment, Planning and Sustainable Development Directorate (EPSDD). All felt that the formal nature of their relationship as well as strong habitual engagement processes meant that balancing and understanding potentially competing priorities were understood across both jurisdictions and they were well placed to support Canberran's.

4.4 It was identified that on several occasions the use of existing officer level and bi-lateral networks outside of the ECC process provided efficient and timely information exchange. EPSDD Parks and Conversation Service (PCS) has a cross border MOU with NSW. This is used extensively in the preparation and consideration of the Territory Wide Risk Assessment which by nature of our surrounds must consider the neighbouring NSW environment. The ongoing formal relationship provides a level of access that, during the response event, enhanced and assisted situational awareness.

4.5 The ESA has also invested in cross border relationships over considerable time. This investment proved its worth through facilitating the exchange of liaison officers between operations centres around the NSW region including Queanbeyan, Tumut and Cooma. These embedded liaison roles were invaluable in linking operational planning and sharing of knowledge to the benefit of both the NSW and ACT firefighting efforts.

4.6 Although there was positive and effective cross border relationships and engagement during the bushfire season, it is noted that there was still locational data or situation data that was not easily transferred between varying software systems. During the 2019-20 bushfire season the ESA encouraged the download and use of the NSW “Fires Near Me” mobile app as ESA has partnered with the NSW RFS to enable ACT alerts to appear on this platform. Under legacy arrangements, alerts also appear on the Australian ‘Fires Near Me’ mobile app not to be confused with the NSW Rural Fire Service ‘Fires Near Me’ app. When information is populated to both platforms, this can result in variances in geographic location of incidents and incident information.

4.7 Furthermore, in the recently released **Independent review into the South Australia’s 2019-20 Bushfire Season** it was noted that South Australia currently uses an app (Alert SA) based around the ‘Fires Near Me’ app. The key limitation identified in the Alert SA is the currency of information and the limited functionality. This review recommended that the proposed app update be completed before the 2020-21 bushfire season.

4.8 The use of mobile apps for emergency alerts has been a consideration at the Royal Commission on National Natural Disaster Arrangements (RC). It has looked at the functionality and need for these systems to provide sufficient current information to allow community decision making to be informed and timely.

4.9 The ESA has researched the options for a standalone All-Hazards emergency warnings mobile app as an alternative to relying on the Fires Near Me app. There is also an opportunity to support a national approach to the design, development and delivery of such a platform that would provide greater affordability to smaller jurisdictions such as the ACT.

4.10 It is noted that work is underway via the Australian Data and Digital Council at the direction of Council of Australian Governments in consultation with the Ministerial Council for Police and Emergency Management, to improve national natural hazard data and intelligence to enable the development of new information products such as a national fire map’ and that the ACT is contributing to this work which includes consideration of current apps used for fire reporting.

4.11 In a review of current systems employed around Australia, the Victorian Government (VicEmergency) app and WA Government App (EmergencyWA) are considered standout. Both these sites combine alerts and warnings across the spectrum of the EM framework, enable users to register location specific push notifications and provide linkage to a central website with additional information directed at supporting the community during an emergency.

Recommendations

Recommendation 16: ACT Government continues to develop the concept for an ACT specific emergency app whilst also using national coordination mechanisms to support an affordable nationally standard all-hazards mobile app.

Recommendation 17: Continue to explore options in the short term to improve the functionality and relationship with NSW RFS 'Fires Near Me' with respect to ACT specific information before the 2020-21 bushfire season.

4.12 Evoenergy noted that the Australia Energy Market Operator (AEMO) grouping of NSW / ACT as one jurisdiction resulted in ACT receiving multiple alerts for Lack of Reserve (LOR) events alerts, declarations and revocations that actually had no impact within the ACT. A LOR announcement prompts Evoenergy to monitor and manage load and demand within the ACT network. A LOR event also requires Evoenergy to advise the Jurisdictional System Security Co-ordinator (within EPSDD) of any load issues requiring customer load shedding. This coordination is important as it is possible to avoid widespread messages prompting customers to minimise power usage when Evoenergy is able to manage demand by first working closely with its major customers to curtail loads. Evoenergy advised that during the 2019-20 bushfire season that it was operating well within the normal network load and capable of managing demand without impact to customers.

4.13 Following the 2019-20 bushfires, Evoenergy and EPSDD held a meeting to share lessons learned regarding this function. As a result, both Evoenergy and the EPSSD have updated processes to provide clarity and refine the instructions regarding coordination of LOR response and public messaging. Evoenergy also raised this issue through their submission to the RC. Although a recommendation of refinement of notifications/ regional groups from the AEMO is beyond the scope of this review, it is noted that the consequential impact of this does need to be managed within the ACT. The post season review and update of processes by Evoenergy and EPSDD to address this is commended

4.14 During extreme heat conditions there are times when AEMO forecasts an electricity supply shortfall. The energy supply emergency risk in these circumstances is of importance to the ACT and should be a matter of concern for an IC. Noting the concurrent activation of the ACT Extreme Heat Plan during last summer, the real potential for a supply shortfall at the same time as there is an active fire highlights the risk of concurrent emergency events driven by a warming climate for which the ACT must be prepared.

4.15 It was noted by Evoenergy that the inclusion of the utilities providers within the strategic environment (SEMSOG) and formal arrangements such as the one listed above were enhanced at the desk officer level during the operational response. The opportunity

for a stronger bilateral relationship between these partners and ESA would support planning and preparation across the EM spectrum. It is proposed that ESA hold bi-lateral executive level meetings with the utility providers on a regular basis; potentially before and after the bushfire season with an option to extend to quarterly. Existing mechanisms facilitate bi-lateral relationships within Government agencies and that this should be continued in the future.

Recommendation

Recommendation 18: The ESA hold bi-lateral executive level meetings with the utility providers on a regular basis in consultation with other relevant Government stakeholders.

Recommendation 19: Concurrent and/or non-standard emergencies such as energy supply impacts be included in future exercise programs.

4.16 A key driver for a successful outcome during a bushfire season is the overarching land management strategies employed across the ACT region. Under the *Emergencies Act* the ESA Commissioner is responsible for the development and subsequent delivery of the Strategic Bushfire Management Plan (SBMP). As part of the delivery of the SBMP the *Emergencies Act* states that:

The commission may establish a committee to help the commissioner prepare the draft strategic bushfire management plan and monitor the scope and effectiveness of the plan.

4.17 The Commissioner has established the Bushfire Management Plan Steering Committee (BMPSC) in accordance with the above section. It is noted that within the SBMP there are a significant number of other Government agencies and non-Government entities, beyond ESA, that have responsibilities to achieve the outcome. The members of the last BMPSC are reflective of these organisations. During the development of the SBMP the BMPSC undertook a series of community consultative meetings across the ACT that were well attended by rural land holders.

4.18 Section 6 of the *Emergencies Act* directs the establishment and functions of the ACT Bushfire Council (BFC). The key function of the BFC within the *Emergencies Act* is to provide the mechanisms through which the community can advise the Minister on matters relating to bushfires. The current BFC Terms of Reference (ToR) provides a more detailed synopsis of what this advice around bushfire management should encompass:

- a) *The level of preparedness;*
- b) *Prevention activities;*
- c) *The response capability of fire services; and*
- d) *The implementation of recommendations from the inquiries into the 2003 Canberra bushfires, and other major bushfire events.*

4.19 Whilst the *Emergencies Act* established the BFC to advise the Minister, the BFC does have a legitimate role in providing strategic advice to the ESA Commissioner, using the committee members range of specialist knowledge and skills as the *Emergencies Act* requires the members to have. In the conduct of the BFC meetings, in accordance with the BFC ToR, attendance is focused around the council members, ESA and EPSDD.

4.20 It is observed that the inclusion of the broader agencies and entities that hold responsibilities under the SBMP at the BFC meeting would provide an opportunity for the ESA Commissioner and other stakeholder agencies to provide relevant advice and updates. This also aligns with the intent of the *Emergencies Act* to enable the BFC to support the Minister with advice across all things related to bushfires. In any case the ToR were last reviewed in 2016 so it is timely to review them to ensure the BFC remains contemporary.

Recommendation

Recommendation 20: The BFC Terms of Reference be reviewed to ensure they are contemporary and reflect learnings from this and recent bushfire seasons.

4.21 The SBMP, as part of the ACT EM framework, outlines the shared responsibility between ESA and EPSDD in delivering the strategies to reduce bushfire risk for the ACT. Responsibilities are articulated in a variety of documents such as Inter-Directorate MOUs, directions within the SBMP (including those within the Regional Fire Management Plan (RFMP) and Bushfire Operational Plans (BOP)) for the conduct of joint training and operations. These directions encompass both the preparedness environment and response operations. Of note is the EPSDD PCS responsibilities in the development of and delivery of the BOP and that it is also a Brigade under the Rural Fire Service during bushfire response and suppression operations.

4.22 It was observed across stakeholders that much progress has been made over the years to ensure unified effort across PCS and ESA. The greater role played by PCS staff within the IMT and as the IC on occasions was a positive example of the unified effort. However, there is still work to be done.

4.23 The ESA Operational Review of the bushfire season undertaken by Synergy (independent review team), identified that there was a perception of imbalance within the operational environment between RFS and PCS. This gap was recorded as allocation of senior positions (Divisional and Sector Commanders) and considered under-utilisation of RFS crews, in favour of PCS. On review of the various governing documentation it has been identified that there is a lack of clarity in the area of coordinated command and control for RFS/PCS operations.

4.24 The Synergy Review also commented on fire intelligence and situational awareness and the importance of an ability to deploy aerial firefighting assets. PCS has access to

certain specialist capability as does RFS. However, several people noted that the capacity of these more specialist and technical capabilities were strained due to the extended State of Alert. With evidence pointing to longer bushfire seasons and more regular, more intense bushfire events, there will be a subsequent need for more of these specialist capabilities. Thus, it is timely to examine the need for a greater investment in expanding the availability of such professional specialities as fire behaviour analysts, airbase managers, aerial firefighting technical specialists etc for the RFS.

4.25 As the land managers for Namadgi National Park, PCS has a particular combination of knowledge and skill in reducing the fire risk in the park and understanding the land such that they are best placed to make high quality decisions regarding fire suppression. This is achieved in part through maintaining a seasonal paid firefighting workforce and also continuous involvement with the land as land managers. However, there is significant skill and local knowledge within RFS, albeit delivered through the mechanism of committed and training volunteer firefighting capability.

4.26 Within the ACT, there are also a number of private landholders who abut parts of the Namadgi National Park (NNP). The rural landholders have knowledge and understanding of the land they manage and the interface between this farmland and the NNP. As part of the SBMP, rural landholders are required to deliver reasonable measures to manage bushfire risk on their holdings and are key stakeholders in both the operational and strategic management of bushfire risk.

4.27 The RFS as an entity is established under the *Emergencies Act* with specific intent to combat rural fires. The RFS work closely with Rural Land Holders in developing, implementing and governing programs such as Farm FireWise program and Fire and Emergency Service Training Activities (FESTA). This builds a connected and resilient rural community. It is intended that the RFS deliver high quality decisions within the rural environment which should complement the work of PCS. The two Government agencies, in conjunction with rural landholders, have an interdependent relationship when it comes to bushfire prevention, planning, response and recovery across the ACT environment.

4.28 Both services indicate a willingness to look for ways to continually improve how they work together. The review of the 2003 fires recommended secondments between the two agencies and for PCS and RFS to undertake joint hazard reduction work. Undertaking these activities would go a long way in building common trust and developing joint operational doctrine. Whilst both these activities may have occurred over the intervening years, it would be useful to increase these efforts. Joint working arrangements will be best strengthened and refined outside of the bushfire season to ensure that in times of emergency they operate smoothly. Whatever the approach, it is imperative that as a small jurisdiction, the two services with bushfire fighting capability within the ACT must work together seamlessly.

Recommendations

Recommendation 21: Efforts be increased to build trust, confidence and a common operating picture across PCS and RFS and seek mechanisms that identifies RFS and PCS as equitable partners in delivery of fire management across the territory.

Recommendation 22: Review, refine and implement the joint ESA/EPSSD Arrangement for Fire Management in the ACT with the previous recommendation in mind.

Recommendation 23: Government give consideration to investment in professional specialities such as fire behaviour analysts, airbase managers, aerial firefighting technical specialists etc for the RFS.

Contingency planning

4.29 During the bushfire season the ESA website experienced two outage periods. The first was due to a global systems failure with the website host (Amazon Web Services) and the second was attributed to the unprecedented load on the ESA website database. The actual time that the website was offline was a short period, and delivery of emergency messages during that time were replicated onto other ACT Government websites; however, links to the ESA website would not work. It should be noted that the ESA is modifying its redundancy systems and boosting capacity to meet expected future demand.

4.30 Although the outage was not for a significant period of time it did impact on the Government's ability to keep the community informed at critical points in time. This resulted in two considerations being discussed, firstly a need for detailed contingency planning for short term alternatives should another Black Swan event occur and secondly on considerations for an assurance review of community facing Government websites in light of the issues faced by the ESA site.

Recommendation

Recommendation 24: Consideration be given to developing alternate website contingency in the event of a critical failure and an assurance review across all community facing Government websites.

5 Preparing the community – engagement and resilience

5.1 The *Inquiry into the 2003 Canberra Bushfires* found that there were numerous areas of concern regarding information for the community. The areas for concern can be summarised as firstly community preparedness and secondly the community's ability to respond appropriately. Community education, articulation of individual responsibilities and guided support was identified as significantly lacking. During the emergency period community information on the threat, actions required by the community and the options available, especially around evacuation options, was confusing, contradictory and poorly distributed. The resultant recommendations and adoption of several programs within the ACT has contributed to a significant change in public sentiment.

5.2 When asked about what had gone well during the season, the majority of those spoken to reflected on the positive, regular and effective public communications. The strength of the communications is further evidenced through the result of community surveys which showed that the vast majority of Canberrans felt well informed and knew what to do if a bushfire threatened them. It was clear that the regular routine of media conferences and the detailed briefing on fire behaviour and location helped in comforting the community. The consistent appearance of the EC, Chief Minister, Minister and Chief Police Officer also provided a great deal of comfort to the community.

Public Information

5.3 All stakeholders identified that the successful outcomes were achieved in terms of getting the message to the public about the emergency. However, there were also several areas identified where there are opportunities to strengthen public information operations during an emergency.

5.4 The PICC was activated on 2 January in accordance with the Emergency Plan and Community Communication and Information Plan (CCIP). Under the Emergency Plan the PICC is led by the Public Information Coordinator (PIC) who reports directly to the EC. According to the CCIP the PICC is focused on:

the effective management and coordination of information by ACT Government Directorates during emergencies in the ACT.

5.5 However, in an emergency there is also a need for direct support to the delivery of an operational effect. During the early part of the State of Alert, the EC directed ESA Public Information and Engagement (PIE) staff to provide direct operational support to the IC and to the EC in communicating key operational level information and tactical warnings. Whilst the decision was reasonable under the circumstances it had the effect of disconnecting the

PICC from the operational messaging. On identification of this disconnect, the PIC and ESA staff created a system to ensure the flow of information between the operational and strategic communications.

5.6 There was a perception stated by a number of stakeholders, that the EC operated outside of the PICC processes for emergency alerts and community messaging as a result of this decision. On the strategic communications level, the key observation for agencies outside of the ESA was the bottleneck that was created as a result of all agency communications requiring PICC approval.

5.7 In late January, the PIC implemented an approval matrix which provided relief to this bottleneck. This innovation allowed routine agency communications to be authorised within agencies with due consideration for the emergency situation.

5.8 The Emergency Plan and the CCIP do not delineate between strategic communications and the tactical communication requirements of emergency alerts and messaging. This lack of separation is further confused by the structural reporting of the PICC to the EC when one is appointed but to the IC when and EC is not appointed.

5.9 It has been observed that the CCIP have been effective, but the CCIP, as currently drafted is better geared for short term emergencies. In comparison to similar plans from other jurisdictions, the CCIP provides a significant level of detailed guidance and structure. In comparison, the NSW equivalent provides a much broader guidance that allows a better separation of the strategic communication function from the tactical level emergency alerts and messaging. A number of stakeholders noted a willingness to be involved in supporting work to revisit the CCIP. This is such an important element of emergency management that it may require the establishment of its own working group.

5.10 The review of the Emergency Plan should consider a structure that supports both the delivery of strategic communications (as delivered by PICC) and tactical emergency alerts and messages (as delivered by ESA PIE) with a common link to the PIC. It is also recommended that the proposed CMTEDD review of the CCIP should proceed.

5.11 A Communications Working Group (CWG) with representatives from across key Directorates (CMTEDD, ESA, ACT Policing, Health, CHS, EPSDD for example) would complement the Emergency Plan WG with a focus on the CCIP. The CWG could further identify how the CCIP can be best implemented and utilised. The CWG should report its progress through SEMSOG and coordinate with other WG's. A CWG would play an ongoing role in times where the PICC is activated and provide advice to the PIC to help ensure consistent operational and WHoG communication efforts occur.

Recommendations

Recommendation 25: The CCIP be reviewed in conjunction with the review of the Emergency Plan and the two synchronised. A workable approach to delivering operational emergency communications and strategic WhoG communications is developed with simple and clear reporting arrangements.

Recommendation 26: Establish a Communications Working Group (CWG) with representatives from across key Directorates (CMTEDD, ESA, ACT Policing, Health, CHS, EPSDD for example) to review the CCIP and to further identify how the CCIP can be best implemented and utilised. The CWG should report its progress through SEMSOG and coordinate with other WG's. Bringing together a small Taskforce of staff from across government for a set period would assist the working group in delivering the work needed to address these and other recommendations

Recommendation 27: The PICC be exercised in conjunction with any and all Emergency Plan exercises to test and refine strengthened arrangements.

Community engagement

5.12 It was noted by the Rural Land Holders Association (RLHA) in both their interview and written submission that community engagement since the 2003 fires has improved immensely. The overall sentiment from both the RLHA and public feedback through the *Your Say Panel* survey conducted by CMTEDD in March 2020, was that there were very successful programs and engagement strategies across the EM spectrum (Preparedness Planning Response Recovery) in the ACT.

5.13 The RLHA felt that the multiple strategies used during the response phase (community meetings, door knocks, specific and targeted messaging for Rural Landholders, use of RFS community liaison officers) demonstrated a clear commitment from Government to keep all members of the community engaged. A suggested area for improvement was ensuring that a broader inclusion of advisors be present at community meetings to be able to answer specific questions. This was also reflected by several agencies included in those community meetings. It was observed that the weight of information provided during these meetings was focused on response activities and expected outcomes within the Namadji National Park.

5.14 Across the urban environment, the *Your Say panel* survey recorded that the community felt well informed and with 823 Community members responding highlighted the following:

- 93 % felt that they were well informed during the 2019-20 bushfire season

- Nearly 90% indicated they knew what they would do if a bushfire threatened
- 70% indicated they had identified a safe place to go if threatened by a bushfire
- Over 50% undertook actions to make their home safer
- 50% have a prepared or written bushfire plan

5.15 The community feedback and agency comments on areas for improvement observed that although engagement was successful and contributed to the community feeling well prepared and well supported, there were opportunities for enhanced and targeted community engagement in preparation for the bushfire season.

5.16 The value of preseason and proactive engagement was supported by the RLHA. The landholders generally thought that that the program of liaison, engagement and advice that occurred with the land holders before the bushfire season was a good model. It built a two-way communications path and allowed the building of trusted relationships whilst allowing good advice on bushfire preparation to be delivered in tailored way.

5.17 In examination of other models used, the Victoria CFA framework provides an approach directed towards regional consideration for education and preparation which utilises their volunteer cohort. Local CFA Brigades and Regions identify which programs best suit their community. The CFA framework involves volunteers supporting public information, relationship building and engagement with community, particularly land holders, communities and vulnerable groups at risk from bushfires.

5.18 There is an opportunity for the ACT to build on the very effective engagement already occurring. An expanded program could include opportunities to provide proactive assistance to, say, the development of Bushfire survival plans or equivalent for vulnerable, individuals, groups and institutions. This process would provide the added advantage of giving the RFS better visibility about who the vulnerable are and what actions they plan to take themselves in the event of a bushfire and what role Government might need to take to assist.

Recommendation

Recommendation 28: The ESA Community Education and Engagement program be adapted to include an expanded role for RFS volunteers and include a wider set of stakeholders who are more vulnerable to the impact of bushfire. A plan would require wider involvement across stakeholder organisations such as Directorates who have existing relationships with vulnerable groups.

6 Relocating - supporting the community

6.1 As the Orroral Valley fire progressed, it closed in on the southern urban areas of the ACT and on the ACT rural village of Tharwa. There had already been plans developed as events unfolded to consider the evacuation/relocation of people by that time which included recognising the vulnerable as a risk group and plans made on how to deal with them specifically. The fire progressed slowly towards the urban area, ultimately closing to within 5km. The fire's progress and increasing anxiety within the community led to a concerted effort to plan the evacuation/relocation of people from the fire risk. The Chief Police Officer and ACT Emergency Management and Planning team took the lead in this endeavour with support from ESA Risk and Planning, the Australian Defence Force and the Deputy Incident Controller who was leading the ECC. It was observed by some that the strong working relationship between the ESA and ACT Policing resulted in a united approach with clear responsibilities.

6.2 Finalised plans were refined over several days as more information came to hand and tactical options explored. From the interviews conducted it was generally believed that the plan would have been effective had it needed to be activated fully. The pre-existing strong collaboration, particularly between Community Services Directorate (CSD) and Education Directorate (EDU) reinforces this comfort. However, it was clear from stakeholders that execution did and would have required a good deal of extra attention to ensure coordination of effort across what was a large number of stakeholders. Areas of tension during the evacuation planning can be summarised as:

- Who are the vulnerable?
- Who supports the vulnerable?
- How to support the whole community?

6.3 Involved agencies identified that appreciating the situation of those considered vulnerable in the community required considerable cross organisational coordination and information sharing at a time when time was of the essence. There was also debate on the definition of "vulnerable", specifically in relation to those individuals or communities that would need specified assistance from Government agencies.

6.4 On closer examination, significant planning challenges exist in gaining information on who these vulnerable people were, what their requirements were and their location and contact information. It was identified that multiple Government agencies held this information (Health, Police, ESA, CSD, National Disability Insurance Agency (NDIA)) as well as non-Government agencies (EVO Energy, not-for-profit sector). Whilst the NDIA holds information that would have been relevant should the need have arisen to evacuate, it was recognised that as a Commonwealth agency, information sharing may have proven even more complex noting that ACT legislation would have had limited effect.

6.5 Again, whilst the experience on the ground was that all organisations worked to assist in accessing and collating the required information during the ‘heat of battle’, it is clear that there would be great benefits in planning for the best way to identify, communicate with and assist those in the community who may be vulnerable to the hazard being faced.

6.6 It was identified in the Interim Report that the legislative mechanisms to provide a centralised repository of this information for use during an emergency could be clarified under the powers of the EC to remove any legislative barriers. The supporting bill has recommended that this occur through explanatory notes rather than a change to the powers of the EC. Regardless, this does not cover events where there is no EC appointed and in any case information sharing blocks are often not based on legislative barriers at all but rather cultural ones.

6.7 Stakeholder discussion also encompassed considerations of what this support to the vulnerable, and broader community needs, should and could look like. Of note, there was a detailed examination of the term “evacuation” and what that means. Overall, it was agreed that the ability to facilitate individuals not sleeping in their normal location due to the emergency to a safe, secure alternate location and then a safe return was a reasonable approach. The question of how people move from point A to point B and who provides the alternate at point B was widely debated. The use of the term evacuation, specifically in the establishment of an Evacuation Centres, was felt to be misleading for intent of Government services provided in this process. It was identified that a more appropriate term was “relocation”, allowing a focus on community and individual responsibilities in this process to be highlighted.

6.8 Several agencies identified that within the broader community there were gaps in relocation planning with a heavy reliance on Government service to provide transport, relocation accommodation options and ongoing support during relocation. These concerns focused around facilities such as aged care where the majority of individuals requiring relocation did not require medical support for transport or ongoing medical support during relocation. It was identified that many facility’s relocation plans were reliant on TCCS support and access to hospital beds at TCH. All agencies recognised that future options should not be reliant on Government services, and that the ACT Government was best placed to coordinate a better engagement and support framework to facilitate more appropriate relocation plans.

6.9 Throughout the 2020 January and February period, ACT Government and non-Government agencies provided extensive support to the heavily affected NSW South Coast community. A Relief Centre was opened at the Dickson College, primarily to support people transiting through ACT from the South Coast. The Relief Centre remained functional from 2 – 16 January. Staffing was primarily provided by CSD and EDU and heavily supported by other not for profit community partners. This support subsequently

extended to opening the Hall and Queanbeyan Showgrounds as shelter/camp facilities. On a national level, HMAS Harman was also opened as a relief site for NSW evacuees, with 19 people using this facility.

6.10 From 28 Jan – 7 Feb an Evacuation Centre was established at Erindale College and staffed primarily by CSD and EDU, with support from community partners. During its operation, approximately 183 people were provided with support and 14 provided with temporary accommodation. The Evacuation Centre was designed to support residents of ACT and immediate surrounds with support during the height of the Ororral Fire threat.

6.11 In broad terms, all agencies involved in the establishment and management of the Relief and Evacuation Centres felt that the community was well supported and provided with a level of assurance as to what options were available should they need to relocate. Agencies identified that there was some community confusion regarding what services and support mechanisms would be provided by these centres. The provision of an alternate accommodation option at the Evacuation Centre was the most quoted public query and misconception.

6.12 There was a lack of clarity around what services could or should be provided noting that over time both the Evacuation Centre and Relief Centre also became a location providing community information. Consensus across stakeholders was that the length of time that these centres were open contributed to staff fatigue, particularly considering that these were open for 24/7 operations. It was noted that there was discussion and consideration for reducing hours or closure with no clear decision made as to what may trigger this.

6.13 Across Australia there are varied approaches to evacuation planning and guidelines from State and Territory Governments. In locations where cyclone risk is realised on a routine basis there are quite prescriptive directions for evacuation processes and establishment of evacuation centres. Within NSW and Tasmania, the approach was more broad brush with a differentiation between community/individual responsibilities and Government actions. The Tasmania Emergency Evacuation Framework provides a very detailed guide and understanding of actions that will primarily be undertaken in a directed evacuation with a focus on support to those who are unable to complete all the elements of a relocation by themselves. Included within the NSW EM Plans framework is a guide for aged care and other residential facilities to support their planning and evacuation decisions. It is identified that, like the ACT Fire FarmWise program, it incorporates a level of engagement between the community facility and supporting Government agencies.

6.14 The ACT has an Evacuation Policy document that was reviewed in late 2019; however, there is no current Territory wide plan or legislative framework for activation and decision making around evacuations and relocations. There is no clarity around the definition of a respite or evacuation centre. In both NSW and QLD, the evacuation / relocation framework is addressed through clearly identifying specified assistance to be

provided by Government agencies, with supporting agency specific sub-plans. There are then strong community guidelines to support individuals and organisations in the development and implementation of their own plans.

6.15 The general consensus was that the ACT would benefit from a deliberate planning/ workshop activity to consider what would be the most beneficial approach to be used within the ACT concluding with a more formal legislative framework around this.

Participants representing all relevant Directorates, Agencies and service providers could establish:

- identification of locations, consideration of options other than schools, hospitals or hotels;
- identification of triggers, what is expected to deliver and when;
- a need for larger pool of trained and/or suitable people to assist in set up / ongoing management – already implemented within CSD;
- enhanced articulation to community about what these centres are for and what services they can deliver;
- better engagement with community partners who support these;
- cross-border engagement to better understand number of displaced persons, where coming from and their needs;
- a welfare support framework to support front line workers, in addition to emergency workers;
- what options for transport for those in need of Government assistance; and
- to determine lead agency for delivering the Evacuation/Relocations Plan should it be activated and by whom it is activated;
- To determine mechanisms for the lead agency to coordinate across the range of stakeholders;
- develop resourcing and wellbeing plans; and
- develop cross border engagement protocols and a community communication strategy.

Recommendations

Recommendation 29: ACT Government undertake a detailed legislative review to ensure that information regarding vulnerable community members can be appropriately accessed, provided and used during an emergency event.

Recommendation 30: NDIA be engaged in regard to information sharing in emergencies as part of the above actions.

Recommendation 31: A Relocation and Evacuation working group be established from stakeholder organisations to consider and develop an Evacuation and Relocations Sub-Plan. The Sub-Plan should consider the lessons learned this year and address principles, lead agency, WHoG coordination, trigger points etc. This could be the same working group formed for reviewing the Emergencies Act, Plan and sub-plans

Recommendation 32: WHoG desktop exercise should be conducted to test and support relocation and evacuation planning.

7 Transition to recovery

7.1 The *Emergencies Act* specifies that the ESA Commissioner is responsible for directing recovery operations, with the Emergency Plan providing a more detailed differential between Initial Recovery (focused on addressing the immediate consequences of the event) and Longer Term Recovery (coordinated effort to repair damage, restore services and support the community). Within the Emergency Plan, the responsibility for recovery operations remains with the Emergency Controller, whilst appointed, or a Recovery Taskforce or ACT Recovery Coordinator subsequently appointed by SEMSOG. There is a lack of clarity within the Act and Plan around recovery operations (initial and longer term) and responsible and accountable agencies.

7.2 In the aftermath of the 2019-20 bushfire season the ACT Government has activated recovery funding arrangements. Discussions have been held through the forum of SEMSOG, but no Recovery Coordinator or Taskforce were formally established to take over from the EC as the ACT rolled from response into recovery. Agencies have indicated that Recovery sub-plans have been activated but without the overarching mechanisms in place. The RLA noted that some landholders were not able to access certain support mechanisms. It is not clear if this was because they did not qualify or were not clear on what was available. In any case, a more proactive mechanism to support the community to access recovery mechanisms would be of benefit.

7.3 Cross jurisdictional reviews have identified that a number of States better articulate the roles and responsibilities of appointed recovery mechanisms such as Recovery Coordinator or Recovery Taskforce. Of value is those Acts that provide a clear direction for handover of recovery operations from the immediate (responsibility of State Controller or equivalent) to the long term. Of note is the Tasmanian *Emergency Management Act 2006*, which provides for the opportunity for the State Controller to identify an appropriate person or agency to hand over the responsibility of the long-term recovery operations.

Recommendation

Recommendation 33: Emergency Plan and Recovery sub-plans should be amended to better define recovery mechanisms and responsibilities, including hand over points to recovery authorities and community engagement for the delivery of long term recovery mechanisms.

Cost to Government

7.4 The processes and mechanisms across ACT Government for management of costs incurred during an emergency deserve consideration. The combat agencies carry the risk of bearing the cost of delivering operations, such as the unprecedented events as this year's bushfires, will occur at the expense of investment in and maintenance of capability.

7.5 Furthermore, the process of invoicing costs associated with certain costs borne by Directorates to other Directorates when costs relate to such an extraordinary emergency would appear on the surface to be inefficient noting that some costs are not within budgets and will be borne by the Government as a whole in any case.

7.6 It might be that some form of 'no win no loss' arrangements be activated at the point that a State of Alert or State of Emergency is declared. These arrangements should cover procurement, contract management and invoicing and relate only to costs over and above what is expected to be included in existing budgets such as existing salary and overtime.

7.7 The NSW Emergency Management Plan (EMPLAN) provides broad guidance for both Expenditure and Recovery of Funds during emergency response or recovery operations. The overarching framework is based around absorption of costs within departments. Costs above and beyond normal operating budgets may be reimbursed through NSW Treasury with the Office of Emergency Management responsible for the reimbursement of agreed items where expenditure is occurred during an emergency. Currently within the ACT, reimbursement of agreed costs occurs across Directorates.

Recommendations

Recommendation 34: Government consider an alternative funding arrangement for extraordinary costs borne by Government agencies in combating emergencies such as bushfires.

Recommendation 35: Government consider adopting a similar model to NSW for the management of emergency costs and reimbursements within ACT Government agencies.

8 Sustainability in the new normal

8.1 As noted at the start of this review, the extraordinary 2019- 20 bushfire season challenged the ACT's capability and capacity to respond. To some degree the results speak for themselves with no lives lost and no houses lost. However, as pointed out by the RLHA, the loss of rural pasture and bushland does have an impact on the lives and livelihoods of those who are in the primary producer business. The loss of significant vegetation from Namadgi will also have an impact on the flora and fauna and the community's ability to enjoy the natural habitat offered by the park.

8.2 Whilst the 2019-20 bushfire season was extraordinary and it may be some time before a similar event occurs, predictions are that the bushfire risk will increase over time. The bushfire seasons will become longer, fires harder to control, and firefighting operations will need to be sustained for longer period of time.

8.3 The ACT also experienced the impact of multiple and concurrent hazard events with more than one significant storm event occurring at the same time as the bushfire emergency. Overlay this with the issues of air quality arising from the many large fires burning along Australia's east and it is not hard to understand the impact that concurrent events have on our communities.

8.4 With multiple emergency events during the 2019-20 bushfire season the economic costs to the ACT Community was extensive. Estimated costs for the insurance claims post the 20 January hailstorm is likely to exceed \$320 million alone. The rehabilitation and recovery of Namadgi National Park is forecast to extend over a three to five year period at a significant cost. The operational costs to ACT Government for the delivery of the response operations currently are estimated to be at over \$15 million, with much of this absorbed by Agency budgets.

8.5 With the impact of COVID-19 likely to last for some time, we are facing future interconnected and compounding risks and the occurrence of compounding and consecutive disasters will be more likely. Community multi-risk resilience across multiple hazards and extended times will be key to preparedness. This will require coordinated Government, community and non-Government efforts to build resilience.

8.6 Best practice dictates that we review regularly, with considered reflection on what occurred in an emergency event and always with a mind to ensuring that the community is prepared, protected and able to recover when the circumstances require. Within the bounds of the ToR, this report seeks to draw out a number of key strategic and WHoG lessons with the view to improving how we as a community respond to future emergencies. This review and its recommendations are designed to provide the ACT community with the opportunity to reflect and ensure that we are as prepared as possible for the future.

Appendices

- A. Terms of Reference
- B. Interim Report
- C. Concepts for consideration: ACT emergency management framework – command, control and coordination structure

TERMS OF REFERENCE

REVIEW OF THE ACT 2019/20 BUSHFIRE SEASON¹

Purpose

The review is to consider and report to the Minister for Police and Emergency Services by 7 August 2020 on the ACT's coordination, response and recovery as it relates to the 2019/20 bushfire season.

The review will consider the effectiveness of:

- the coordination of the whole of government response, including the operational alignment of, and communication between:
 - the Security and Emergency Management Senior Officers Group (SEMSOG) particularly in relation to its role as the Management Executive in support of the Emergency Controller.
 - the Emergency Controller
 - the Incident Controller
 - the Emergency Coordination Centre including the role of Public Service Directorates and utility providers.
 - the Public Information Coordination Centre, and
 - individual Emergency services
- adherence to ACT Government emergency plans, procedures and protocols
- the legislative framework for emergency management in the ACT
- measures taken to alert and inform the community of bushfire risk and the whole of government response, including use of the emergency alert system and government websites
- measures taken to inform and support ACT rural land holders during the bushfire response
- measures taken to provide relief and recovery to ACT residents and persons displaced by bushfires in NSW during the bushfire response, including the planning for and activation of ACT Evacuation Centres
- cooperation and coordination with local, state and Commonwealth governments and agencies
- measures taken to protect the safety and wellbeing of first responders, and
- any related matter.

¹ Inputs to this review include the after action reviews and an independent technical operational review of the ESA management of the incident.

The review may make recommendations concerning opportunities to enhance the ACT Government's:

- operational emergency management arrangements (including bushfire operational response, incident management capabilities, communications and community recovery)
- emergency management coordination within the ESA, on a whole of government basis and with external stakeholders
- cooperation and partnerships with local, state and Commonwealth governments and agencies, and
- emergency management legislative and planning framework.

Process

The review must consult with relevant ACT Government Ministers, SEMSOG members, ACT Public Service Directorates and agencies, ACT utilities providers and relevant local, state and Commonwealth agencies.

The review may take into account and/or coordinate with:

- any after action or technical operational reviews commissioned by the Emergency Services Agency following with 2019-20 bushfire season, and
- any internal reviews or lessons learnt assessment prepared by other ACT Public Service Directorates and ACT utilities providers following the 2019-20 Bushfire season.

If the review forms the view that legislative change is required prior to the 2020-21 bushfire season it may provide an interim report to the Minister for Police and Emergency Services by 30 June 2020.

Background

The 2019-20 bushfire and storm season produced some of the most unprecedented weather conditions in Australia's history. Large parts of Australia were impacted by significant fires with unpredictable and dangerous fire behaviour fuelled by hot, dry and windy conditions. These conditions meant fires started easily and were difficult to contain.

Since August 2019, unprecedented fire activity heavily impacted large areas along the East Coast of Australia. The ACT Rural Fire Service (ACTRFS) and ESA deployed firefighters and specialist emergency management personnel to Queensland and Northern NSW through September, October and November of 2019 to assist with the fires interstate.

Bushfires to the east of the ACT at Braidwood and on the NSW South Coast caused thick smoke in the ACT and region for a continuous period from late December 2019 through January 2020.

A State of Alert was declared for the ACT on 2 January 2020 to assist community preparedness and organisational response and coordination with fires burning near our borders and forecast extreme weather.

Between 1 October 2019 and 4 February 2020, the ACT declared a record 24 Total Fire Ban (TOBAN) days. To put this into context, the ACT on average sees 5 – 6 TOBANs per bushfire season.

Following the hot and dry conditions the ACT experienced severe thunderstorms on 16 January, 20 January and 10 February. The storm event on 20 January produced large hail stones and caused significant damage resulting in the ACT State Emergency Service receiving approximately 2,500 calls for assistance, a record for the ESA.

Three days later, on 23 January 2020, the ACT then experienced its first significant bush and grass fire of the season. This fire started at the Pialligo Redwood Forest and quickly spread across to Beard, threatening Oaks Estate and Queanbeyan. An additional fire started in Pialligo the following day that joined with the first, eventually taking the fire to 424 hectares. The fire was deemed out on 29 January 2020.

On 27 January 2020, the Orroral Valley fire commenced. This fire threatened the southern rural areas of the ACT, most notably Tharwa, and the southern suburbs of Canberra. The Orroral Valley fire remained 'out of control' until 8 February 2020, when, after receiving some much needed rainfall, the status of the fire was downgraded to 'being controlled'. The Orroral Valley burned over 86,000 hectares of land and approximately 30% of the ACT.

With the ACT facing its worst bushfire threat since the 2003 bushfires and a combination of extreme heat, wind and a very dry landscape, a State of Emergency was declared for the ACT on 31 January 2020. The ACT Extreme Heat Plan was also activated.

INTERIM REPORT

Report to the Minister for Police and Emergency Services on
Whole of ACT Government coordination and response during the
2019-20 Bushfire Season

July 2020

1 Introduction

1.1 The 2019-20 bushfire and storm season produced some of the most unprecedented weather conditions in Australia's history. Large parts of Australia were impacted by significant fires with unpredictable and dangerous fire behaviours fuelled by hot, dry and windy conditions. The conditions meant fires started easily and were difficult to contain.

1.2 The ACT was not exempt from these conditions and subsequently felt the impact both within Territory borders and across the surrounding regions. From August 2019 until the end of the bushfire season on 31 March 2020, The ACT:

- supported other states (Queensland, NSW) in their emergency responses
- assisted displaced persons as a result of losses interstate
- responded to severe weather events (extreme heat, storms and poor air quality due to regional bushfires)
- managed potential fire threats (24 Total Fire Ban days) and
- responded to bushfires within Territory boundaries.

1.3 The ACT *Emergencies Act 2004* and supporting *ACT Emergency Plan 2014* provide the ACT Government and Government agencies the framework and authority to undertake prevention, preparation, response and recovery activities before, during and after an emergency. As identified in the *ACT Emergency Plan 2014*, a valuable component of this is to “analyse the response to and impacts of emergencies for future learning and adjust strategies where this new information and knowledge will result in improved outcomes.”¹

1.4 On 29 April 2020, the ACT Government announced a whole of ACT Government review of the bushfire season to be focused on the effectiveness of the whole of Government response. I, as Deputy Commissioner, ACT Emergency Services Agency (ESA), was commissioned to undertake the review with direction to provide recommendations concerning opportunity to enhance and inform ACT Government's future response. The terms of reference (TOR) are included in Appendix A. This Interim Report is delivered in accordance with those TOR to deliver recommendations for legislative changes prior to the 2020-21 Bushfire.

2 Recommendations – Legislative amendments

2.1 Prior to the commission of this review, the Justice and Community Safety Directorate (JaCS), Security and Emergency Management Branch (SEMB) had undertaken an initial review of the *Emergencies Act 2004*. This was done both as a follow on from the bushfire

¹ ACT Emergency Plan (2014) 3.4.3.4

season and to review the effectiveness of the operation of previous amendments to the *Emergencies Act 2004* that were passed by the Assembly at the end of 2018. This work also served to prepare for the mandated five-year review (due to commence October 2020) of the *Emergencies Act 2004* pursuant to s203 of the Act. Also incorporated were initial lessons learned provided through the Security and Emergency Senior Officials Group (SEMSOG) as a result of the 2019-20 Bushfire Season.

2.2. On commission of this review, further consultations were undertaken across ACT Government Directorates and Agencies and external stakeholders. During this period additional observations allowed identification of further changes recommended for implementation prior to the 2020-21 Bushfire Season. There was also considered discussion regarding important but less immediate legislative amendments to be included as part of the previously mentioned mandatory review of the Act. Areas for potential future legislative reform beyond those immediately identified in this report will be explored and will be presented in more detail in the final report.

3 Immediate Recommendations

Emergency Controller and supporting administrative processes

3.1 In January/February 2020 the ACT ESA Commissioner was appointed as the Emergency Controller (EC). Due to the extended nature of the emergency, the appointment ultimately lasted for 39 consecutive days. Currently under the Act, the EC may be appointed for up to seven (7) days. The Act also requires the Chief Minister to review the appointment within 48 hours of appointment. As a result, and due to the extended time period, the review and reappointment of the EC occurred multiple times. Whilst all legislative and time requirements were met in this instance, in the case of extended emergencies the current process raises the risk of administrative error in the appointment process.

3.2 Whilst the EC is vested with significant powers and authorities that warrant appropriate oversight, the experience of managing the lengthy appointment over the fire season demonstrated that some flexibility to these short timeframes would be reasonable. It is timely to consider an amendment to the Act to enable a more principle-based approach to the EC appointment. Each emergency event is different, and it is reasonable to assume that prior to the appointment of an EC there will be an assessment of the likely minimum duration of an event. Enabling the pertinent authority (Chief Minister) the flexibility to select a longer timeframe both for the initial review and the overall appointment period, based on considered advice from SEMSOG or other appropriate agencies/committees, will facilitate less administrative risk during a time of emergency.

3.3 At present no other jurisdiction places a legislated timeframe on the appointment of the equivalent role where it exists. Most jurisdictions are silent on the time period and/or do not address the question of appointment period in the 'instrument of appointment'. If a time limit is to be imposed, it is reasonable to provide for a higher maximum limit of up to 28 days (four weeks) to enable judicious, directed but practical consideration of the appointment and subsequent reappointment on an EC.

3.4 In terms of reviewing the appointment, the ACT is the only jurisdiction within Australia where legislation requires an express review of the appointment of an EC equivalent. The *Emergencies Act* is not specific as to the purpose for the mandated review. Logically it is either to ensure that the EC appointment is still required or to review the performance of the EC. It should be noted that under the Act, the Chief Minister currently may exercise a discretion to amend the period of appointment or revoke the appointment at any time. In practice EC role works closely with Security and Emergency Management Cabinet (SEMC), SEMSOG and relevant ministers during a period of appointment, thus providing a high-level of consequent oversight. Thus the existence of further mandated review mechanisms may be redundant and introduce unnecessary legal risk. Consideration should be given to removing the requirement to review an EC appointment all together.

3.5 If removing a review requirement from the Act is not agreed, it is reasonable that a review of the EC appointment be at the discretion of the Chief Minister. Consideration should be given to extending the minimum review period from the current 48 hours to a period of up to seven (7) days. As a guide the following could be considered; if an EC appointment is for up to three (3) days, there is no requirement for a review. Should the EC appointment be for a period up to and including 14 days then the review may default to three (3) days. For an appointment of more than 14 days, then the review should occur on or before seven (7) days following appointment. To simplify counting rules, the appointment is deemed to include the day of appointment as a whole day and the review be completed by midnight on the last whole day since appointment.

Recommendation 1:

The *Emergencies Act 2004* be amended to allow for the appointment of the EC to be made for a discretionary time period of up to 28 days with the requirement for a legislated review of the appointment to be removed. Alternatively, a period of review should fall within the Chief Ministers discretion for up to seven (7) days following appointment.

Appointment of a Deputy Emergency Controller

3.6 On the occasion of this fire season, and the appointment of the EC for a protracted period, it was clear that such a situation potentially places significant stress on the

individual EC. Vesting EC responsibilities in a single person for an extended period creates a vulnerability, regardless of the capability and suitability of the person appointed. Additionally, it does not account for the incumbent EC's need for periods of rest, absence for illness or other reasons.

3.7 Emergency management legislation across several other Australian jurisdictions allows for the appointment of an acting, deputy or assistant EC. In most jurisdictions, this position may only exercise the functions of the EC in the absence of the EC. One of the outcomes of the *Inquiry into the 2003 Canberra Bushfires* was the intentional exclusion of the ability to appoint an Alternate Emergency Controller. This was a deliberate decision to prevent the problematic outcomes of the 2003 event where there was substantial confusion over the relationship between the Emergency Controller and the Alternate Controller.

3.8 To avoid the concerns raised during the 2003 review, if provisions are made under the Act to appoint a Deputy EC, it should be clear that they exercise the powers and accountabilities of the EC only when the substantive EC is absent. However, the Deputy EC should be similarly qualified to undertake the role as the substantive EC and will need to be across the progress of the emergency in support of the EC to ensure consistency.

3.9 In drafting legislation it should be recognised that, the need for a Deputy EC may not be apparent at the initial appointment of the EC. There may be any number of periods where the appointment of an EC will be of short duration (such as an extreme weather event) and there will be no expected requirement for a deputy EC to be available. The Act therefore needs to remain agile around the appointment of a Deputy EC to allow this to occur independent of the appointment of the EC, but should not be for a period longer than the specified cessation date of the EC. Regardless of when a Deputy EC is appointed, this appointment should be able to exercise any authorities and powers already granted to the EC when directed to undertake the role of EC.

3.10 It is proposed that an amendment be made to allow for the provision for a Deputy EC to be appointed, independent of the initial appointment of an EC. It should be the case that the Chief Minister consults with the EC, if one is already appointed, regarding the appointment of a Deputy. In cases where both roles are to be appointed at the same time, then the Chief Minister should consult the relevant Minister and/or committee (SEMSOG / SEMC). The instrument of appointment for the Deputy should mirror that for the EC in terms of any requirement for review and limitations to the period of appointment. Practically the review and appointment processes should be able to legally occur simultaneously in order to minimise the administrative burden. The powers and functions of the appointment of a Deputy should be contingent on the absence of the EC.

As an example, note the following excerpt from the *Tasmanian Emergency Management Act 2006*.

10. State Emergency Management Controller and Deputy

(4) The State Controller and Deputy State Controller appointed by the Minister each holds office for the period, and on the terms and conditions, specified in his or her instrument of appointment.

(5) The Deputy State Controller may act in the office of State Emergency Management Controller if –

(a) the State Controller is absent from Tasmania or from duty as State Controller; or

(b) the State Controller is otherwise unable to perform the functions of the office of State Emergency Management Controller; or

(c) the State Controller has died, resigned or been removed from office and a new State Controller has not been appointed.

(6) While the Deputy State Controller is acting in the office of State Emergency Management Controller he or she –

(a) is taken to be the State Controller;

Recommendation 2:

The *Emergencies Act 2004* be amended to allow for the provision for a Deputy Emergency Controller to be appointed, independent of the initial appointment of an EC. The powers and functions of this appointment to be contingent on the absence of the EC.

Alignment and delegation of EC powers

3.11 Within the Act there are two relevant sections (s. 150C and 160A) that provide powers to an EC. The enactment of this sections is reliant on; firstly, appointment of an EC and secondly, whether or not a State of Emergency is declared. Regardless, for a specified event, the powers that can be delegated on escalation from S150C to S160A (i.e. the declaration of a State of Emergency for a specified event) remain the same.

3.10 It is reasonable to foresee that the powers required under a State of Alert would also be required in a State of Emergency relating to the same event. The powers under Section 150C are identical to those powers described under Section 160A. However, should the EC wish to delegate these powers to a chief officer, say the Chief Police Officer (CPO), the delegations need to be reissued each time there is a change in the alert state as the power shifts between the two sections of the Act. This re-issue on change in alert state must be done in writing and then subsequently further delegated, in writing, by the CPO or other delegated chief officer, to police officers or other relevant authorised officers.

3.12 The changes in alert state in January 2020 resulted in small periods of time where ACT Police Officers were without delegated powers as a result of the need to reissue legal instruments. The lack of delegated powers at a critical juncture in time (transition of State of Alert to State of Emergency) could introduce unnecessary risk to the community and to the authorised officers undertaking activities in support of the community.

3.13 It is recommended that as the powers available to an EC should be aligned with the appointment of the EC rather than the relevant alert state. This effectively will compress Sections 150C and 160A of the Act providing a simplification of the Act and better clarity around the powers and authorities granted to an EC.

Recommendation 3:

The *Emergencies Act 2004* be amended so that the powers, including delegations, available to an EC be granted on their appointment and remain in place under the same section of the Act for the duration of their appointment rather than being drawn from different sections of the Act that are dependent on the existing alert state for the specified event.

Sharing of Information

3.14 During January 2020, due consideration was given to supporting potential evacuation of nursing homes, aged care facilities and other vulnerable members of the community. Information about those community members was held across multiple agencies, including at the Federal level. The legislative framework within ACT to enable the sharing of information regarding the vulnerable is incorporated within several Acts.

3.15 During interviews across directorates and organisations, it was raised that the timely and effective sharing and management of this information was an issue warranting further consideration. There was broad support that this information was important to be shared with appropriate agencies (such as Police and SES) in order to support vulnerable people

in the event of an evacuation/relocation and in the context of the broader emergency. There was also consensus that this would need to be managed with due consideration for the ACT as a Human Rights jurisdiction and ensuring that all appropriate systems were in place to protect this information. Although the mechanisms to better facilitate the collation and exchange of this information is by no means solved by legislation alone, it was broadly agreed that clarity regarding the legal basis for sharing information, particularly in an emergency when an EC is appointed, would assist.

3.16 Currently under Sections 150C and 160A the EC has the power to:

Direct a person to give information, answer questions or produce documents or anything else, reasonably needed.

Whilst the above section does imply that such a direction would include directing a person to give information that they can access as a result of their official duties, it is not as clear as it might be. Noting the criticality of appropriate sharing of information held by organisations in an emergency, It is recommended that an amendment be made to clarify that the power of the EC to direct a person also includes directing them to provide information they can access as an employee of an organisation or entity. This would provide the EC with the levers to direct the collation and sharing of this information in support of the vulnerable members of the community in an emergency. It is noted that this provision will need due consideration to ensure that these powers can only be enacted in alignment with the rights and protections of the individuals whose information is shared. It is also recognised that more work will be required on the mechanics of information sharing in emergencies when evacuations or relocations are being considered. This will be addressed more fully in the final report and should also be considered in more detail during the upcoming five (5) year review of the *Emergencies Act*.

Recommendation 4:

The *ACT Emergencies Act 2004* be amended to clarify that the powers of the EC encompass the power to direct agencies and directorates to share personal information for the preservation of life and protection of Canberrans.

For example: *Direct a person to give information, answer questions or produce documents or anything else, reasonably needed. To remove any doubt, a direction to provide information that is given to a person includes information that person has access to on behalf of an organisation or entity that holds relevant information.*

4. ACT Legislative Architecture

4.1 Section 203 of *Emergencies Act 2004* requires a review of the Act as soon as practicable after the end of every five years. This five-year review is due as soon as practicable after August 2020. This work is due to commence in October 2020. A number of other proposed changes have been identified but are judged as not requiring urgent/immediate implementation before the 2020-21 Bushfire Season and/or that will require a more comprehensive examination. The Final report will further address these legislative reforms noting that any other areas of legislative reform can be dealt with as part of the *Emergencies Act* five-year review. To introduce currently identified broad areas for consideration are included in Appendix B.

4.2 In the conduct of this review it was identified that the structure and architecture of the *Emergencies Act 2004*, the *ACT Emergency Plan 2014* and supporting sub-plans were reflective of the then contemporary experience with shorter term emergencies. Whilst shorter term emergencies will remain the most likely; recent experience and forecasted future environmental trends indicate longer and hotter summer seasons that will likely generate an increased number of extreme weather events. The five-year review will provide the opportunity to ensure that the *Emergencies Act* is fit for any and all similar longer term, multiple hazard emergencies as was witnessed this fire and storm season.

5 Conclusion

5.1 The overall view of stakeholders was that the legislative framework was sound, and the *ACT Emergencies Act* fulfilled its functions during the 2019-20 Bushfire Season. There was a clear understanding of the intent of architecture of government operations in the lead up to and through the declaration of State of Alert and State of Emergency (2 January – 9 February 2020). General opinion was that there are areas and opportunities for improvement with no significant areas of concern. It is noted that this whole of government review and the overarching *Emergencies Act 2004* review are both ideal opportunities to review and update supporting sub-plans, policies, processes and procedures across the current Emergency Management Framework.

Appendix A

TERMS OF REFERENCE REVIEW OF THE ACT 2019/20 BUSHFIRE SEASON

Purpose

The review is to consider and report to the Minister for Police and Emergency Services by 7 August 2020 on the ACT's coordination, response and recovery as it relates to the 2019/20 bushfire season.

The review will consider the effectiveness of:

- the coordination of the whole of government response, including the operational alignment of, and communication between:
 - the Security and Emergency Management Senior Officers Group (SEMSOG) particularly in relation to its role as the Management Executive in support of the Emergency Controller
 - the Emergency Controller
 - the Incident Controller
 - the Emergency Coordination Centre including the role of Public Service Directorates and utility providers
 - the Public Information Coordination Centre, and
 - individual Emergency Services
- adherence to ACT Government emergency plans, procedures and protocols
- the legislative framework for emergency management in the ACT
- measures taken to alert and inform the community of bushfire risk and the whole of government response, including use of the emergency alert system and government websites
- measures taken to inform and support ACT rural land holders during the bushfire response

- measures taken to provide relief and recovery to ACT residents and persons displaced by bushfires in NSW during the bushfire response, including the planning for and activation of ACT Evacuation Centres
- cooperation and coordination with local, state and Commonwealth governments and agencies
- measures taken to protect the safety and wellbeing of first responders, and
- any related matter.

The review may make recommendations concerning opportunities to enhance the ACT Government's:

- operational emergency management arrangements (including bushfire operational response, incident management capabilities, communications and community recovery)
- emergency management coordination within the ESA, on a whole of government basis and with external stakeholders
- cooperation and partnerships with local, state and Commonwealth governments and agencies, and
- emergency management legislative and planning framework.

Inputs to this review include the After Action reviews and an independent technical operational review of the ESA management of the incident.

Process

The review must consult with relevant ACT Government Ministers, SEMSOG members, ACT Public Service Directorates and agencies, ACT utilities providers and relevant local, state and Commonwealth agencies.

The review may consider and/or coordinate with:

- any after action or technical operational reviews commissioned by the Emergency Services Agency following with 2019-20 bushfire season, and
- any internal reviews or lessons learnt assessment prepared by other ACT Public Service Directorates and ACT utilities providers following the 2019-20 Bushfire season.

If the review forms the view that legislative change is required prior to the 2020-21 bushfire season it may provide an interim report to the Minister for Police and Emergency Services by 30 June 2020.

Background

The 2019-20 bushfire and storm season produced some of the most unprecedented weather conditions in Australia's history. Large parts of Australia were impacted by significant fires with unpredictable and dangerous fire behaviour fuelled by hot, dry and windy conditions. These conditions meant fires started easily and were difficult to contain.

Since August 2019, unprecedented fire activity heavily impacted large areas along the East Coast of Australia. The ACT Rural Fire Service (ACTRFS) and ESA deployed firefighters and specialist emergency management personnel to Queensland and Northern NSW through September, October and November of 2019 to assist with the fires interstate.

Bushfires to the east of the ACT at Braidwood and on the NSW South Coast caused thick smoke in the ACT and region for a continuous period from late December 2019 through January 2020.

A State of Alert was declared for the ACT on 2 January 2020 to assist community preparedness and organisational response and coordination with fires burning near our borders and forecast extreme weather.

Between 1 October 2019 and 4 February 2020, the ACT declared a record 24 Total Fire Ban (TOBAN) days. To put this into context, the ACT on average sees 5 – 6 TOBANs per bushfire season.

Following the hot and dry conditions the ACT experienced severe thunderstorms on 16 January, 20 January and 10 February. The storm event on 20 January produced large hail stones and caused significant damage resulting in the ACT State Emergency Service receiving approximately 2,500 calls for assistance, a record for the ESA.

Three days later, on 23 January 2020, the ACT then experienced its first significant bush and grass fire of the season. This fire started at the Pialligo Redwood Forest and quickly spread across to Beard, threatening Oaks Estate and Queanbeyan. An additional fire started in Pialligo the following day that joined with the first, eventually taking the fire to 424 hectares. The fire was deemed out on 29 January 2020.

On 27 January 2020, the Orroral Valley fire commenced. This fire threatened the southern rural areas of the ACT, most notably Tharwa, and the southern suburbs of Canberra. The Orroral Valley fire remained 'out of control' until 8 February 2020, when, after receiving some much needed rainfall, the status of the fire was downgraded to 'being controlled'. The Orroral Valley burned over 86,000 hectares of land and approximately 30% of the ACT.

With the ACT facing its worst bushfire threat since the 2003 bushfires and a combination of extreme heat, wind and a very dry landscape, a State of Emergency was declared for the ACT on 31 January 2020. The ACT Extreme Heat Plan was also activated.

Appendix B

Initial consideration for further legislative review

SEMSOG amendment

B.1 The SEMSOG agreed on 30 October 2019 to progress a case for SEMC to consider the proposal that 143(3) (b) of the Act to be amended to clarify that SEMSOG is responsible for supporting the relevant SEMSOG member in security and emergency management. Currently this section provides that SEMSOG is responsible for supporting the ESA Commissioner in security and emergency management. This does not account for periods where the Chief Police Officer (responsible for security management) or an emergency controller other than the Commissioner is appointed.

B.2 This amendment was proposed as part of the *Justice and Community Safety Legislation Amendment Bill 2020*, that was due to be introduced in May 2020. This amendment will provide clarity in SEMSOG administrative management and support for emergencies other than one where the ACT ESA Commission is appointed as the Emergency Controller.

B.3 Within the Act is the provision to create hazard specific sub-plans with a 2018 amendment to include these as a formal part of the emergency management framework. Although it is apparent in the Explanatory Statement for that the 2018 amendment was intended to include both hazard-specific (flood, bushfire) sub-plans and supporting (ie recovery and fatality management) sub-plans, this was not fully translated into Section 148 of the Act. It is recommended that this amendment be included in the upcoming review as it is not deemed critical to be introduced prior to the 2020-21 Bushfire season.

Relationship of State of Emergency and State of Alert

B.4 Section 155 of the Act provides that a State of Alert ceases automatically when a State of Emergency is declared. This assumes that the State of Emergency is the same event related to that which caused the original State of Alert. Should the events be of a differing nature, the State of Emergency will then override the original State of Alert. The current situation with COVID-19 highlights the inability of the Act to have a State of Alert relating to a potential Bushfire event whilst the COVID related State of Emergency is enacted. With the recommendation relating to delinking of the appointment of a EC to the emergency state, further consideration needs to be undertaken to better understand the drivers and intent of these. This consideration and recommendation for change to Section 155 should occur as part of the more wholistic five-year review.

Powers granted to Emergency Controller (EC)

B.5 Whilst this review does not deal with the COVID-19 response, there are some evident differences between the *Public Health Act 1997* and the *Emergencies Act 2004*. Noting that there is ongoing consideration and examination of the powers granted to the Chief Health Officer (CHO) as a result of the COVID-19 pandemic. It is therefore timely to consider a review of the powers available to the EC vis a vis the powers available to the Chief Health Officer in a Health Emergency. A detailed review of the powers granted to an EC could be undertaken to ensure that they are contemporary and match the expected nature of modern emergencies.

Concepts for Consideration

ACT emergency management framework – command, control and coordination structure

The Report to the Minister for Police and Emergency Services on ACT Government coordination and response during the 2019-20 Bushfire Season included the following recommendation:

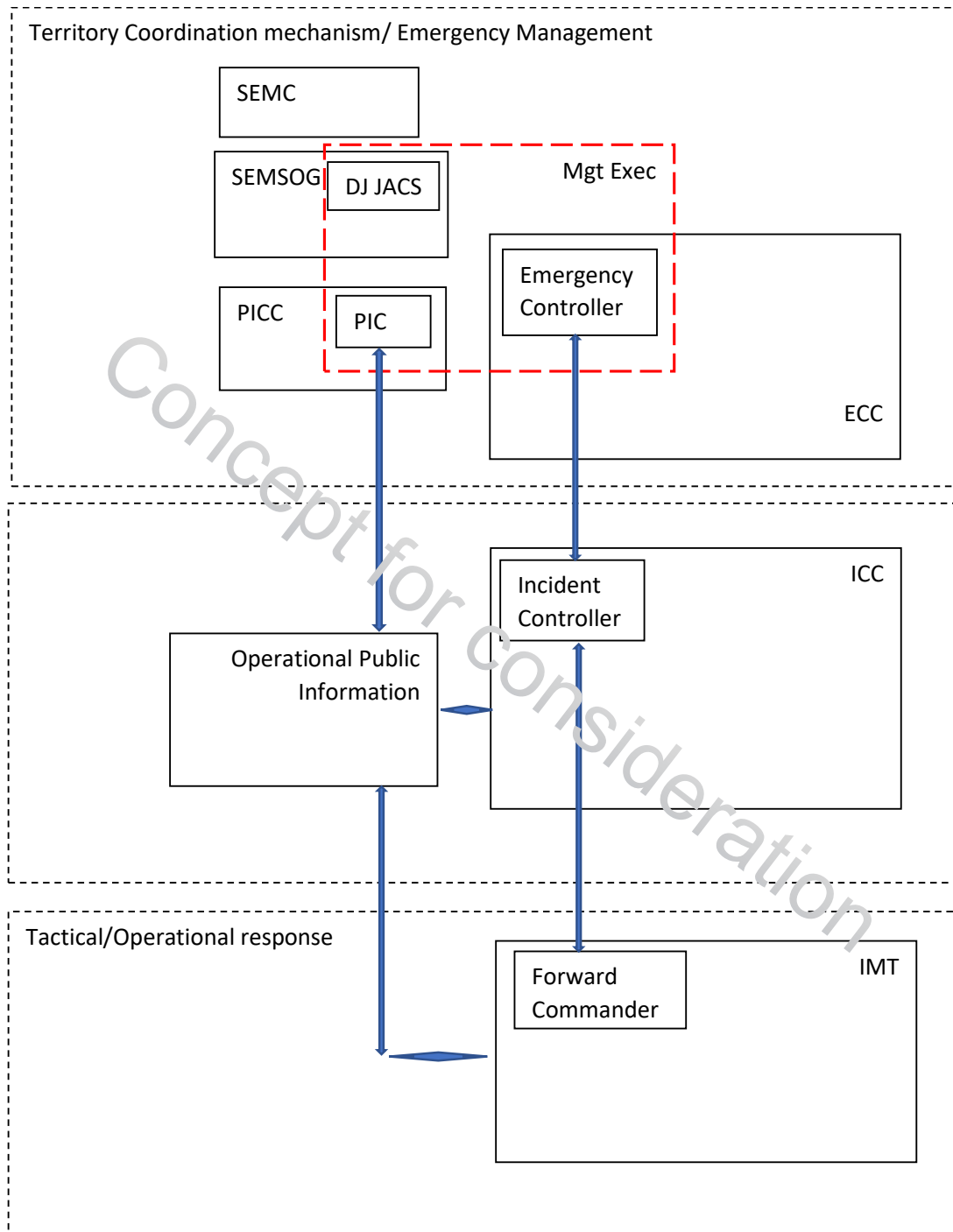
Recommendation 12: The Emergency Plan and ECC Ops Plan be amended to better articulate the delivery of emergency management vs the delivery of the emergency plan. The Plan should facilitate principles for emergency management and clear role delineations whilst allowing flexibility in how the mechanisms are structured.

The following two diagrams are initial concepts that could be considered by the relevant working group to provide a better understanding of the command and control framework within the Territory emergency management framework. A number of terms and concepts identified in these structures are based around the current framework identified within the Emergency Plan and supporting sub-plans and cross jurisdictional frameworks. It is not suggested that this must be the final descriptors or models and are only described in terms of the EM effect to be delivered. It is noted that these concepts still require detailed consideration by relevant agencies across ACT WHoG.

These concepts should be provided to the relevant mechanisms established as a result of the following recommendation in the review:

Recommendation 1: That Justice and Community Safety Directorate (JACS) lead a working group from across relevant organisations to undertake the five year review of the Emergencies Act in conjunction with a wholistic review of the Emergency Plan and relevant sub-plans; and recommendations from this review, to the extent they are accepted by Government. Bringing together a small Taskforce of staff from across government for a set period would assist the working group in delivering the work needed to address these and other recommendations.

Concept for ACT Emergency Management/ strategic command, control coordination arrangements – EC appointed



Concept for ACT Emergency Management/ strategic command, control coordination arrangements – No EC appointed level 3 response

