

TRANSCRIPT OF PROCEEDINGS

**IN THE MATTER OF THE ROYAL COMMISSION INTO
NATIONAL NATURAL DISASTER ARRANGEMENTS**

DAY 33 TRANSCRIPT

Continued from Tuesday, 22 September 2020, DAY 32

CANBERRA

10:00 AM, THURSDAY, 24 SEPTEMBER 2020

MS D HOGAN-DORAN SC and MR T GLOVER appear as Counsel Assisting

<RESUMING 10:02 AM>

COMMISSIONER BINSKIN: Ms Hogan-Doran, nice jacket.

5 MS HOGAN-DORAN SC: Thank you, Chair.

COMMISSIONER BINSKIN: Please proceed.

10 MS HOGAN-DORAN SC: Thank you, Chair. Good morning, Commissioners. In the course of opening on Monday, I referred to the large amount of material that has been tendered in chambers between 4 September and 21 September. As an aide-mémoire to you, Commissioners, of course, you've seen this material, but also for the assistance of parties and the public, I'm just going to provide a brief overview of that material because it totals something in the order of 15,543 pages.

15 All this material is now published on the Royal Commission website under Hearing Block 4. The written outline of this address, which includes the relevant exhibit and document codes for each of the documents I mentioned specifically will also be uploaded for the assistance of parties with leave and the general public. So first is the - this should take about 10 minutes, Chair. The first is the tendering of reports --

20 COMMISSIONER BINSKIN: No, that's okay, take your time, because I think it's worthwhile parties understanding exactly what's in there, rather than have to trawl through it.

25 MS HOGAN-DORAN SC: And particularly, because of the way that a number of the documents are identified there, they're identified by reference to the number of the Notice, the compulsory Notice.

30 COMMISSIONER BINSKIN: Yes.

MS HOGAN-DORAN SC: And so it can be difficult to understand what is the content of the response from a particular State or Federal Government without this assistance.

35 So the material tendered on 4 September 2020 was comprised mostly of material received from the Commonwealth, State and Territory agencies in response to Notices. That includes some 3,440 pages of material. Those responses to Notices from the Commonwealth Departments and agencies included information provided on topics of relevance to our Terms of Reference including, first, from the Australian Charities and Not-for-profits Commission concerning charitable fundraising regulation.

40 Second, from the Australian Reinsurance Pool Corporation on the operation of its reinsurance scheme and analogies between terrorism reinsurance and possible reinsurance schemes for natural hazard risks such as cyclones. Third, from the Department of Agriculture, Water and the Environment on the impact of the

2019 - 2020 bushfires and floods on primary producers and support available. Fourth, from the Australian Heritage Council on the impacts of bushfire on heritage sites and the protection of those sites. Next, from the Australian Transport Safety Bureau on challenges encountered in relation to aircraft use in coordinating and responding to bushfires; next, the Department of Finance in relation to funding for aerial firefighting and preparedness for natural disaster risk.

From the Department of the Treasury in relation to insurance arrangements – regulation, I should say – and also charitable fundraising regulation. From the Department of Infrastructure, Transport, Regional Development and Communications in relation to emergency communications during natural disasters. From the Department of Social Services in relation to its role in supporting relief and recovery activities following a natural disaster. From Services Australia in relation to the provision of financial assistance following natural disasters and the sharing of information and data between services providing assistance.

From the Civil Aviation Safety Authority, Chair, in relation to airspace management arrangements for aerial firefighting and the regulation of unmanned aircraft such as drones. From the Department of Prime Minister and Cabinet and the Digital Transformation Agency in relation to work being undertaken in relation to information data and natural disasters.

Commissioners, there's a number of responses from the Department of Defence in relation to requests for Commonwealth assistance in relation to national emergencies, including the operation of the Defence Assistance to the Civil Community framework, whether there is a potential for the Australian Defence Force in firefighting and the activities undertaken by Defence in the response to and recovery from the 2019-2020 bushfires. From the Department of Foreign Affairs and Trade, DFAT, in relation to the Australian Humanitarian Partnership and DFAT's role in relation to natural disasters domestically, including offers and requests for international assistance.

From the National Indigenous Australians Agency on indigenous fire management and also, Commissioners, a number of early responses from the Department of Home Affairs, Emergency Management Australia, which had not been previously tendered in relation to a number of topics on which you have, Commissioners, already heard extensive evidence. That includes Commonwealth emergency management arrangements, frameworks and plans, the provision of financial assistance to the States and Territories, emergency warning and communication systems, critical infrastructure, resilience as well as the Bushfire Resilience Star Rating and the Disaster Watch App, which I might note is no longer in operation.

Also tendered was State and Territory responses to Notices to Give Information relating to the responsibility for, and oversight by the State Governments, State and Territory Governments for the capacity and capability of Local Governments and their role in responding to and recovering from natural disasters. These responses

also included information on a number of capability building projects as well as resource sharing arrangements between Local Governments.

5 States and Territories also provided clarifications of oral evidence that was given and responses to questions that were taken on notice during the hearings. Also tendered was a response to a Notice to Give Information by, in particular, the Western Australian State Emergency Management Committee.

10 Commissioners, central to paragraph E of your Terms of Reference, the tender also includes the completion of tender of reports of State and Territory inquiries into the 2019-2020 bushfire season, that is that the ACT, the New South Wales and Victorian inquiries, to which I made reference in my opening to Monday. The tender also included responses to Notices to Produce from the Commonwealth, States and
15 Territories in relation to their consideration of the findings and recommendations of previous reports and inquiries into natural disaster arrangements and the adequacy or extent of implementation of those findings or recommendations.

The tender further included some various documents produced by Commonwealth, State and Territory agencies such as briefings or observations provided by the
20 Bureau of Meteorology and Geoscience Australia and a number of evacuation guidelines from State and Territories and Local Governments. Also on 4 September 2020 was tendered further material received from Local Governments, including one statement correcting oral evidence and a question taken on notice by Moreton Bay Regional Council. It also included a response to a Notice to Give Information by
25 Lismore City Council in relation to the MyRoadInfo app and website, which combined data from New South Wales Live Traffic, Queensland Traffic and VicRoads with local road information to provide a view of the region's roads. Commissioners, you might recall earlier evidence in relation to the State road closure apps stopping at borders.

30 Finally, it included a response to a Notice to Give Information from Dr Thomas Duff on challenges in bushfire management.

35 So Commissioners, much of that material had been available to the Office of the Royal Commission and Counsel Assisting in the preparation of the draft propositions, not all of it had been, but to the extent it was available it was sought to be taken into account.

40 Then there was additional material tendered on and from 14 September and the intent of making that material available to the parties, in particular the State and Territory Governments and the Commonwealth Government was to have it in advance of this Hearing Block, and the request as to whether they would seek to address you orally. The material tendered on 14 September 2020 involved a further tranche of material
45 in preparation for the release of our responses to our draft propositions.

It contained material from a variety of sources and related to a number of different topic areas relevant to your Terms of Reference on which hearing - on which

hearings have previously been held and evidence previously received.

Commissioners, it included 4,470 pages of material. Included within that tender were responses to Notice to Give Information received from the following: the Australian Institute for Disaster Resilience, together with key documents published by the
5 AIDR, such as a series of major incident reports and the Australian Disaster Resilience handbooks. Commissioners, you will note that AIDR explains in its response its role in delivering programs on behalf of the Commonwealth Government to support a disaster resilient Australia.

10 Material also was received from the Consumer Action Law Centre in relation to insurance, on the impact of bushfires on flora and fauna, ecological communities and matters of national environmental significance received from Professor Alan York, Professor Chris Dickman and Professor Hugh Possingham. On land management and hazard reduction from Professor Heather Keith. On Indigenous land practices from
15 the Federation of Victorian Traditional Owner Corporations and finally, on the impact of the 2019-2020 bushfires and floods on primary producers. From the Tasmanian Farmers and Graziers Association, the New South Wales Farmers, and the Queensland Farmers' Federation and Primary Producers SA.

20 Commissioners, also included in that tender, I'll just call out some specific documents, the Australian Government's 2015 National Climate Resilience and Adaptation Strategy, a number of previous reviews or inquiries such as the 2014 Australian National Audit Office Report into Emergency Defence Assistance to the Civil Community, DACC. A letter from Telstra to the Office of Royal Commission
25 which provided some additional information in relation to the matters that were raised during the hearings on 2 and 3 July in relation to telecommunications and also the experience of rural fire brigades.

30 There was also included supplementary and updated submissions and Notices to Give responses including from the Salvation Army and the Business Council of Australia. And publications by the Bushfire and Natural Hazards CRC on the role of pharmacists and bushfire risk fact sheets that had been prepared by the Insurance Australia Group, IAG.

35 The tranche on 16 September 2020, that material tendered then was provided in response to what were called the "Whole of Government" Notices to the States and Territories. It included 857 pages of written material answering those questions. The tendered responses covered a variety of topics, including the following:

40 (a) protections available for employees, employers and volunteers in responding to a natural disaster; (b) fire and emergency services and resource sharing, including registers of personnel, current personnel capacity and numbers, deployments based on predictive modelling, scenario testing and joint exercises and the integration of private firefighters; the use of remotely piloted aircraft systems in natural disasters. That was (c).

45 (d) planning for evacuations and communication of evacuation plans; (e) responsibility for identifying and maintenance in evacuation centres and

Neighbourhood Safer Places and differences in national terminology for sheltering options; (f) recovery assistance measures provided for the 2019-2020 bushfires; (g) the collection and recovery of impact data; (h) recovery training programs and exercises. I, Insurance for government-owned public infrastructure.

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(j) National Parks and Forestry, including firefighting and hazard reduction skills and arrangements in place with adjacent or proximate land owners. (k) experiences with seeking assistance from the ADF during the 2019-2020 bushfires and the standard processes for requests under COMDISPLAN; (l) review of interstate post action inquiries and the sharing of the State or Territories post action inquiries with other jurisdictions. And (m) from Tasmania, health and air quality information noting, Commissioners, you had already received evidence on those topics from the other States and Territories.

15 And then the tender on 18 September 2020 was material that had been provided to the Commission by AFAC. It included 1,362 pages of material, in particular Commissioners there were three statements provided by the CEO of AFAC, Mr Stuart Ellis who you will recall we heard from in the first Hearing Block. He addressed a number of topics for us, including the governance and accountability arrangements for AFAC, the National Resource Sharing Centre and the National Aerial Firefighting Centre as well as the Australian bushfire fuel classification system.

25 He also gave us his impressions on the extent to which the national arrangements reflect the vision he and his co-authors set out for 2020 in their 2004 report to COAG on Bushfire Mitigation and Management. The tender also included a number of documents relating to work undertaken by or under the auspices of AFAC which I note indicate the breadth of that work, including the AFAC's Strategic Directions Achievement Report, minutes of the AFAC Board, minutes of the AFAC Risk and Audit Committee and minutes of the National Aerial Firefighting Centre Strategic Committee.

35 And then the tender on the morning of 21 September, which was only just Monday - feels a little longer, a while ago than that. The material tendered on 21 September was comprised mostly of material received from the Commonwealth, State and Territory agencies in response to Notices but also some non-government documents and responses. It included 5,414 pages of material and covered various topics relevant to your Terms of Reference.

40 The responses to Notice to Give Information from Commonwealth Departments and agencies included, (a) from the Department of Home Affairs in relation to various topics of relevance including protection of critical infrastructure, the conduct of risk assessments and Defence Assistance to the Civil Community, in particular in the context of a power to declare a state of national emergency. The Department of Home Affairs, Commissioners, also provided a supplementary statement from Secretary Michael Pezzullo, AO, about the National Coordination Mechanism task forces and working groups.

5 (b) from the Department of Defence in relation to the powers, privileges and immunities offered - sorry, I withdraw that - afforded to ADF members when carrying out DACC deployments and in relation to the legal framework for DACC arrangements. (c) the Department of Prime Minister and Cabinet and in relation to the legal framework for DACC arrangements, the - further information concerning the Commonwealth's proposed power to declare a state of national emergency.

10 And finally from Graham Hawke from the Bureau of Meteorology in relation to briefs provided by the Bureau to the Commissioners and Chief Officers Strategic Committee, CCOSC, including the October 2019 meeting which he attended in Hobart Tasmania, that was the subject of the video evidence in Hearing Block 3.

15 The tender also includes amongst the documents a draft item of Commonwealth legislation. I referred to one piece of legislation, the Defence amendments. This is the draft *Data Availability and Transparency (Consequential Amendments) Bill 2020* and the associated consultation paper. That, of course, is relevant to parts D and potentially part E of the propositions.

20 Also tendered from States and Territories were, (a) various documents produced or published by States or Territories including, for example, their climate change adaptation strategies, their climate change strategies and their emergency management capability frameworks. (b) their response to questions taken on notice during the hearings and other questions specific to States and Territories in their emergency management frameworks. (c) responses to Notices to Give Information in relation to the meetings of State and Territory strategic level Emergency Management Committees during the 2019-2020 bushfires.

30 Responses to Notices to Give Information in relation to impact of the 2019-2020 bushfires and floods on primary producers and the support variable to them. Responses to Notice to Give Information in relation to funding for firefighting and emergency services. From the State of Victoria, a response to Notice to Give Information in relation to the standing up of their new recovery agency, the Bushfire Recovery Victoria, which we heard some evidence about in, I think, Hearing Block 2. From the ACT, its whole of government response and that, could I just note that ACT response is the response to whole of government - is the ACT's response which was otherwise all the group of - tendered on I think 14 September - 16 September. Sorry, I correct that.

40 From the State of Tasmania in relation to the scenarios to measure regulatory settings relating to their natural hazard risk management. Commissioners, you will recall you received some evidence about that from the other States and Territories but not Tasmania at that time. Included in the tender was also responses to Notices to Give Information received from joint initiatives of the Australian State and Territory Governments, including, first, the Australian Building Codes Board in relation to the National Construction Code and Building Standards and Requirements for Resilience to Natural Disasters, and B, the Environmental Health Standing Committee of the

Australian Health Protection Principle Committee, or AHPPC, on work that is being progressed in relation to a nationally consistent framework for health messaging in relation to smoke events.

5 The tender also included responses to compulsory Notices to Give Information in relation to emergency response and recovery for wildlife affected by bushfire from Wildlife Health Australia and Animal Health Australia. And finally, Commissioners, the tender also includes a number of other publications relevant to your Terms of Reference and, for example, included in the tender is a discussion paper from the
10 Charitable Fundraising National Working Group in Australia, the proposed cross-border recognition model for charitable fundraisers; the final report and recommendations of the National Bushfire and Climate Summit 2020 and finally a report from the Australian Strategic Policy Institute titled, “Preparing for an Era of Disasters”.

15 Commissioners, that material indicates the breadth of the Terms of Reference and a very sustained effort by those within the Commission and those assisting the Commission at State, Federal, Territory and Local Government and of course right across civil society and the public in assisting you in giving effect to your Terms of
20 Reference and your Letters Patent.

COMMISSIONER BINSKIN: I appreciate that summary, and I also do want to thank all those who have put the effort into it, especially in that last tranche of the relatively quick turn around and the responses. If I do my maths, that's up round
25 about 70,000 pages of tendered documents that we have had to consider, and it's a full breadth in national coordination. So it has helped the Commissioners immensely in being able to work towards recommendations that will be out on 28 October. So thank you for summarising that last tranche.

30 MS HOGAN-DORAN SC: And also Commissioners, Chair, if I may say, that material all being made available on the website means it is available, of course, as a public record for the nation in the future.

COMMISSIONER BINSKIN: That's exactly right, and that's also important as well
35 for people to reference. Thank you.

MS HOGAN-DORAN SC: Commissioners, today we will test the draft propositions with our final two witnesses from the Commonwealth. As I outlined in my opening on Monday, the purpose of this exercise is to ascertain how we can best arrange and
40 coordinate national efforts for the future, particularly in the face of an increasingly complex, compounding and cascading disaster landscape. The areas of the draft propositions that we propose to test are section B, national coordination and accountability arrangements, section H, the stand-alone national resilience and recovery agency, and also section C, briefly concerning the declaration of a national
45 emergency.

The two witnesses today are returning witnesses, Philip Gaetjens, the Secretary of the Department of Prime Minister and Cabinet and Mr Andrew Colvin, who is the National Coordinator of the National Bushfire Recovery Agency and former Commissioner of the Australian Federal Police. They will be giving their evidence as a panel, and I call Mr Gaetjens and Mr Colvin.

COMMISSIONER BINSKIN: Mr Gaetjens, Mr Colvin, thank you for taking the time this morning. We appreciate it very, very much. It's good to see you both again.

MR COLVIN: Good morning.

MR GAETJENS: Thank you.

MS HOGAN-DORAN SC: Mr Gaetjens and Mr Colvin will both affirm. Thank you, associate.

<PHILIP GAETJENS, AFFIRMED>

<ANDREW COLVIN, AFFIRMED>

<EXAMINATION BY MS HOGAN-DORAN SC>

MS HOGAN-DORAN SC: Thank you so much for joining us again and assisting the Commission in its work. What I wanted to do today, gentlemen, is just to focus on the propositions and the Commonwealth's response and just to seek some clarification of the matters in some of your - to the extent you're able to, to respond to the evidence of Mr Jennings, the Executive Director of the Australian Strategic Policy Institute, which was given on Tuesday, and also Mr Colvin, we will be seeking an update from you on the work of the NBRA and, of course, the Commission's consideration of a proposal that there be a standing resilience relief and recovery agency.

But if I might just turn to you first, Mr Gaetjens, if we could have Propositions B3 to B5 brought up which proposed revisions to disaster plans, operator that's RCN.900.137.0001. Now gentlemen, I'm hoping these will be displayed for you, you won't need to have that - you should be able to read them, but please do let me know if you have any difficulties.

The improvements that were proposed in section B are matters requiring coordination between and collaboration by and essentially the working together of the Commonwealth and the several States and Territories in the national interest. In the Commonwealth's response to Propositions B3 to B5 which concerned the need for revision of national disaster plans, the Commonwealth confirmed that there is a review under way to NATCATDISPLAN and COMDISPLAN. My question is this: those plans sit within the Australian Government Crisis Management Framework. Now, that management framework is authorised, Mr Gaetjens, by the Department of Prime Minister and Cabinet and that was last updated in December 2017. Does the

review – is the review purely in relation to those two plans which admittedly are the ones we called out, or is it the review of the framework within those plans? Sorry, I withdraw that. The framework within which those plans operate?

5 MR GAETJENS: I may have to come back with further information on that. I have concentrated mainly on National Cabinet, but I can get back to the Royal Commission very quickly this afternoon, I'm sure.

MS HOGAN-DORAN SC: All right.

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MR GAETJENS: With respect to that particular proposition, because again, I don't wish to gloss over this, and I want to make sure that we provide you with as much assistance as we can.

15 COMMISSIONER BINSKIN: We will take it that way, I think.

MS HOGAN-DORAN SC: No, that's fine. Can I say, Commissioners, one of the strengths and weaknesses of the draft propositions is that they were not necessarily given a context in which they were being presented, and there are elements of the responses that then draw out a need to go back and see how broad things such as reviews of this kind are.

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COMMISSIONER BINSKIN: That's right. And based on all the tendered evidence and what's happened this week, we're obviously moving on as well.

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MS HOGAN-DORAN SC: That's right.

COMMISSIONER BINSKIN: And trying to resolve some other issues. So no, Mr Gaetjens, that will be quite okay, if you can get back to us this afternoon, please.

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MR GAETJENS: We will do that as quickly as we can.

MS HOGAN-DORAN SC: What I might do is I'll move ahead to the National Cabinet considerations so that we can deal with that matter of substance first. Could I have Propositions B9 to 11 brought up, operator, please? B9 to 11 concerned the question of the roles of the National Cabinet in natural disasters, and as I said in my opening on Monday, the propositions sought to reflect the success of National Cabinet during the COVID-19 pandemic and it suggested – the proposition took up the suggestion that the National Cabinet might be a recipe - be the recipe for success in the future when applied to natural disasters.

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The Commonwealth did not indicate whether it supported or supported in principle or did not support Propositions 9 to 11, but it does make the point that National Cabinet is not the appropriate body for decision-making for responding to national natural disasters, and instead suggested that that function should be tasked to a subordinate body of responsible ministers in each jurisdiction, either reporting to the National Cabinet or the National Federation Reform Council. Could I just invite you,

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Mr Gaetjens, just to expand on that? When there is referred to the subordinate body, is that MCPPEM, the Ministerial Council or whatever will be the substitute or replacement?

5 MR GAETJENS: Counsel, the proposition that was put, I think very well, responded to the role of National Cabinet in the COVID-19 pandemic. The Commonwealth's further response is providing greater - probably a wider focus on National Cabinet, and I think it is trying to do two things there. One is to say that National Cabinet has
10 agendas that are set by National Cabinet itself and it is seeking to clearly differentiate the roles of other committees, of officials or Ministers, in fact, that relate to a particular event or matter that, in the nature of subsidiarity and closeness to the issues are best placed to make operational decisions. National Cabinet can, if it wished to get involved, be a very good coordination body for high level issues, but it would not seek, I think, to be involved in the operational matters that the experts and
15 the people on the ground are best prepared and positioned to do.

MS HOGAN-DORAN SC: All right. And the distinction that is made in the Commonwealth's response is that it's not an appropriate body for decision-making for responding to national natural disasters, very much as you say, those operational
20 tactical questions, and I don't think it was intended that that would be the role for National Cabinet, but what role do you see it as having for - is there space for it to have a role in setting policy that would be relevant to national natural disasters?

MR GAETJENS: Counsel, it could have a role, I think, and if I look at the
25 COVID - if it's approached in COVID, if - its approach in COVID, it has been a very useful coordination and information sharing mechanism, because again, States have powers under their Public Health Acts to do things. The Commonwealth has its powers to do things, and it allows knowledge sharing of what is to be done, probably before that is publicly known. So there is an awareness, and that can improve
30 coherence of outcomes that incorporate both Commonwealth and State responses. It can look at upcoming events. There was a briefing to National Cabinet by the Bureau of Meteorology, for example.

So that provides a useful forum for everyone to be involved at a higher level. Again,
35 I'm sure that fire commissioners and emergency management Ministers were probably briefed in more detail with respect to the issues, but it provides a very good forum for people to be given information at one time [inaudible] to the national position and, again, with respect to the Bureau of Meteorology briefing, there were clear implications, I think, for Queensland where there was a higher cyclone risk and
40 some particular States and a higher, if my memory is correct, a higher bushfire risk in Western Australia, and probably a normal risk in the eastern States. So it does provide an opportunity so that leaders of jurisdictions can get a perspective of their own jurisdiction as well as those either who are neighbours or the rest of the country. So I think it does provide a useful planning mechanism and information sharing
45 mechanism that improves the coherence, if you like, of the outcome on National Cabinet.

MS HOGAN-DORAN SC: I understand. In the response to Proposition B12 which was concerning policy projects at the Commonwealth - at the national level, if we could just have B12, the response that is given by the Commonwealth in the responses to the draft proposition - so this is in the table - had a slightly different focus and it says that:

"The National Cabinet is driven by a singular agenda to create jobs."

And the answer there is different in that this additional information is given in the context of policy projects. Could you just explain what was being sought to be conveyed there, Mr Gaetjens, as you understand it?

MR GAETJENS: Thank you, Counsel. The National Cabinet, in fact, has evolved over time. When it was established on 13 March subsequent to a COAG meeting and then met on 15 March, it was fairly and squarely focused on health responses, to stopping the spread, flattening the curve, and basically providing measures that would allow Australia's health system to build up and make sure that the capacity was available if an emergency and crisis situation responded which required the availability of many hospital beds, ventilators, ICU beds and related things.

By the time of the caseload emerging, my memory is on 8 May, in fact, National Cabinet considered a plan then because case numbers were dropping down. On a health basis things were going fairly well and at that stage the National Cabinet focused on a plan, and a three-step plan to reopen the economy, knowing, of course, that even though it was a health aspect, it had enormous economic consequences, because of the supply side impact it was having, in fact, the demand side it was having because people were not allowed to move around.

So on May 8, there was this agreement to a plan to reopen the economy, and then on 29 May, just to give some specificity with respect to dates --

MS HOGAN-DORAN SC: Please.

MR GAETJENS: -- the National Cabinet confirmed, in fact, that COAG would be ended and National Cabinet would replace that former architecture, if you like, for Commonwealth/State relations. On that meeting of the 29th - and I'll quote from the Prime Minister's press conference transcript, which says:

"Now, how it will be different to the way COAG work is the National Cabinet will be driven by a singular agenda and that is to create jobs. And the National Cabinet will drive the reform process between State and Federal cooperation to drive jobs."

I did mention in my earlier evidence as well that the National Cabinet could play a role in coordinating decision-making related to recovery following a natural disaster.

MS HOGAN-DORAN SC: Yes.

MR GAETJENS: And that would be consistent with National Cabinet's role in dealing with COVID-19, both as it continues to require ongoing response and in transitioning from health responses to reopening the economy. Counsel, that statement about jobs was an evolution that occurred within National Cabinet as the circumstances changed with respect to health, allowed the economy to reopen and then jobs will be a critical underlying factor of the country's economic recovery.

MS HOGAN-DORAN SC: So just to recap, you've identified planning, information sharing, recovery and a policy - policy driven work concerning jobs and within the framework of that broader recovery work. Is there any - in relation to your earlier evidence concerning National Cabinet not having a role in operational decision-making, what of setting the overall strategy or resolving issues as between the States and Territories in bringing those kinds of - the strategic response to a national natural disaster built to a national level? Is that still contemplated that that would be only at a First Minister's level or is there going - do you anticipate some kind of mechanism that in an appropriate case it could be elevated or aspects of the issues could be - still be elevated to the National Cabinet, if necessary?

MR GAETJENS: Counsel, my assessment would be that National Cabinet would focus on those things that have a national focus and become a national priority.

MS HOGAN-DORAN SC: I see.

MR GAETJENS: So again, I think we are talking about scalability with respect to those issues that can be handled by Ministerial Councils and they themselves are being reviewed. Mr Conran is reviewing the councils that existed under COAG and the need for them to continue, but just as, again COVID I think is a good example, if COVID did not have the capacity to spread - it's very infectious - so there was a national risk that with people travelling it could affect the economy very, very quickly. So I think it would be scaleable, and I wouldn't like to put a definition to a scale, but it's when there is an assessment by the leaders and they are - I think they have a fairly good sense of when they need to actually interact and intervene in matters and draw things to their own attention.

MS HOGAN-DORAN SC: I see.

MR GAETJENS: That is reflected in National Cabinet's very firm, I think, expectation that they will decide what comes up in the National Cabinet agenda, and it also allows them to feel the breeze, if you like, that says their sense - and I can't underestimate make that sense, because they get around and speak to a lot of people, they've got a lot of experience and sometimes they can see things at a higher level and a combined national picture that gives rise to get something on their radar, perhaps before Ministers or other groups can.

MS HOGAN-DORAN SC: And is that perhaps a function, at least in part, because ultimately those First Ministers and the Prime Ministers are the ones who must be accountable to the public?

MR GAETJENS: They are definitely accountable, Counsel, and I think they feel that very strongly, and do not wish to be reacting to events. They wish to be prepared to manage events and quickly, and I think that was a clear outcome from community responses in the bushfires, is people wanted to see action very quickly.

MS HOGAN-DORAN SC: Just before we pass from this topic, you've mentioned the review that's going on of the council - the exact councils and other arrangements that had previously sat under COAG, could you give us an update on the progress of that review and those reforms? What is the timeline for that work to be completed?

MR GAETJENS: That work is very near completion at the moment, Counsel. I - well, I think it would be expected to be reviewed by National Cabinet in the next meeting or two.

MS HOGAN-DORAN SC: Would that - how often does National Cabinet meet? It meets each Friday?

MR GAETJENS: Its next meeting is on 16 October, Counsel.

MS HOGAN-DORAN SC: 16 October, it meets monthly? Alright.

MR GAETJENS: In fact this - it did have a fortnightly fashion, but, in fact, the next fortnightly Friday was the Friday before the National Budget.

MS HOGAN-DORAN SC: Indeed.

MR GAETJENS: So the Prime Minister did not want to be distracted at that time and the National Cabinet agreed that its next meeting would be on 16 October.

MS HOGAN-DORAN SC: What we've seen in the experience of COVID-19 and also to some extent the bushfires and the disasters that followed, such as the hailstorms and the flooding, that natural disasters can have a significant effect on the national economy. Is the National Cabinet able - well placed to deal with, in particular, those impacts of national natural disasters, or just natural disasters more generally?

MR GAETJENS: Counsel, it was - well, during National Cabinet there were several briefings from the Reserve Bank Governor and the head of Commonwealth Treasury, Steven Kennedy. That was able to provide the States a wider view on the macro economy. Again States - basically in a federation like Australia, the macro economy is more handled by the Federal Government because we have the biggest - hands on the biggest levers that affect the national economy. That the States are very well - and this happened again when I was head of Treasury in both the Commonwealth and New South Wales. The Commonwealth forecasts and the Commonwealth assessments of national economy and how it's going are very useful to the States.

5 What leaders are able to divine from that, is if that's the national economy and the views of both the Reserve State Governor and the head of Treasury, then they can apply them to what they are seeing in their own States, they have other sources of data. With respect to employment, for example, they have - they can look at their payroll, their payroll tax data. So they will again be getting different signals from different data points that can provide and assist in complementing the statistics collected by the Federal Government.

10 But it's also useful for leaders to understand, for example, the June National Accounts saw GDP decrease by 7 per cent. We have seen that - that information comes out quarterly. We have seen three, I think, now monthly indicators of the labour force, and the last one was, in fact, quite positive, showing that jobs lost early in the COVID episode across the country, about 50 per cent have been recovered.

15 So it gives everyone a picture of, again in the COVID sense, how the health settings are going and, again, I think we need to remind ourselves in seven out of the eight jurisdictions in Australia, the COVID situation is very good. The situation in Victoria is improving, not quite daily but the trend figures are going very well, so there's still some numbers bouncing around but everything is looking on the right trajectory or the right path. So I think for leaders to have that input again, from the experts who can advise National Cabinet, providing them that national view which they can apply then to their own economy, their own circumstances, again is very useful.

25 MS HOGAN-DORAN SC: Can I just –acknowledging the significant changes to the Australian economy and risk landscape during the course of 2020, we had some evidence on Tuesday from Peter Jennings, Executive Director of the Australian Strategic Policy Institute, and we were exploring the question of a survey and a mapping of the strategy that takes a longer view, beyond just the immediacy of this year and next, but takes out to five and 10 years and get a sense of the risk horizon and then what the strategy will be on a whole-of-government basis to manage those risks.

35 His impression was that there was not a strategic - an overarching policy - strategic framework within the Australian Government arrangements that would undertake that exercise. Is that your understanding, Mr Gaetjens? And if that's right, how might that be changed and will it be changed?

40 MR GAETJENS: Counsel, we have Home Affairs, I think, as the Department that probably has the most - the closest structural fit to looking at both strategy and operational elements of disasters, but I wouldn't just rely on one piece of that structure. If you have a look at a pandemic, Health would be looking at things in terms of what the World Health Organization is doing, so people are keeping their eye on their - on factors that exist in their own portfolios. Prime Minister and Cabinet itself can coordinate disaster preparedness, there's a disaster preparedness framework that we have.

MS HOGAN-DORAN SC: Indeed.

MR GAETJENS: I think we need to look at, again in my original evidence, it's the objectives, purpose and governance just as much as the architectural or structural arrangements. I'm not convinced that you will necessarily get a better and more durable solution by setting up an independent structure, because once you set up structures, you quite often inhibit conversations beyond that structure with stove piping or other things. So I think in terms of dealing with strategy, it's very useful to be able to bring together within the Commonwealth those relevant bodies to either task force or ongoing meetings or through the convening that PM&C has, by its nature to deal with the particular issues as they arise, but that would not prevent anyone, I think, looking at time scales of five, 10, 20 years to say what is - what is expected, what is the data showing us, to the extent that the data can give you an accurate estimation of what might happen.

It's probably at that time scale much better looking at scenarios and again getting the experts from Bureau of Meteorology who can tell you, again, their long-term forecast I think at the moment I think goes out three months. Beyond that, they just don't have the ability to see where some of the driving forces of world weather and the ability to forecast that, the information is just not there.

MS HOGAN-DORAN SC: So if I just take you up on two aspects of that. Just on the latter point, of course, the evidence of Peter Jennings was directed not just to climate risks or weather risks that might trigger natural disasters, but other kinds of risks, be they geopolitical risks or economic shocks and others. Are the - as I understand it, the existing mechanisms within government are things like the Australian Government Crisis Coordinating Committee, the Secretaries Committee, those are the kinds of - and task forces that might be set up from time to time such as, for example, the National Resilience Task Force, are those measures enough to really bring together all of the knowledge and information and insights within government to deal with all of those risks in a comprehensive way?

MR GAETJENS: Counsel, I would add to that, the very high level, and I would say top - top of the tree with respect to strategy within the Commonwealth Public Service, is the Secretaries Committee on National Security, and while it has a name, Secretaries Committee on National Security, it will look at, the Secretary of Home Affairs is a member of that. So he will be looking at the disaster lens of a neighbour we have, Defence, Foreign Affairs that can look at geopolitical, other issues, we have the intelligence agencies.

So that is the very high level strategic focus. And, of course, when events come out, either at global or regional level, we could also bring in, again in a pandemic situation, we can bring in the Secretary of Health who can look in - at that knowledge base to the wider strategic framework and policy direction that we would address at that level. That then feeds up into the National Security Committee of Federal Cabinet.

MS HOGAN-DORAN SC: Could I take you then from that - those insights to circumstances where the Commonwealth would need to respond to an emergency that is of such a national scale that all the Commonwealth's resources and assistance that can be brought to bear and leadership becomes necessary, part of that response.

5 In the Commonwealth's response to the propositions in part C, concerning the power to declare a national emergency, the Commonwealth called for a constitutional referral of powers from the States to give effect to the Commonwealth's national emergency response.

10 The - what was contemplated to be captured by that referral, and to what end, Mr Gaetjens?

MR GAETJENS: So I can best summarise the reason for that in the Commonwealth's - it's in your document. I think it is Commonwealth
15 900.001.000 - let me get to the - 2. And I would just refer you to a sentence that says:

*"The Commonwealth wishes to ensure the resources of the nation can be harnessed and applied in appropriate, proportionate, and equitable ways to secure the safety and relief from suffering of all Australians. We do so with recognition that
20 collectively we will face more frequent and intense natural disasters in the future."*

Counsel, the purpose of declaring a national emergency is such that there can be readiness, and the ability to act quickly, depending on what the situation is from - sorry, from Commonwealth actions that could arise from its own powers
25 under the Constitution, its own existing legislation, but there could also be events, unknown at the moment or because they transcend states. For example, there could be issues that go to affecting supply chains across the country. So the Commonwealth has a head of power in the Constitution that relates to trade and commerce, but that - that is not, I think, a single responsibility of the
30 Commonwealth.

So as the Constitution has powers relating to both the States and the Commonwealth, I think for the purposes of being ready to respond quickly, to have an emergency declaration that has referrals of powers from States, and I emphasise that referrals of
35 powers will be a negotiation between the Commonwealth and the State to look at those subjects or matters that powers would be referred, if that provided an ongoing situation where looking at it again, as the Commonwealth said:

"With clear thresholds of how and when such a declaration should be treated."
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That triggering event would happen and immediately there could be action that could address Commonwealth's own power actions as well as State powers that have been referred to the Commonwealth to act. It looks, I think, to provide that appropriate and collective action, actually respond, rather than rely on goodwill or having the
45 need to negotiate, to get outcomes, to act. Again, I think we can look from the responses to COVID-19 and to bushfires to say we don't want governments to talk together to do something, we want them to do something.

And there's very little differentiation then between the State, Local and Federal Government, it's someone, "Just please do something". I think, given the expectation that there are going to be more frequent events, I think now is the time, looking at
5 both the experience from the bushfires last Summer as well as COVID, that we take the opportunity now to put in place enduring arrangements that will allow quick action. Again, that is picking, I think, and with the Prime Minister's own words, that is a "clear line of sight", I think, to community expectation.

10 MS HOGAN-DORAN SC: Also from the Commonwealth's response, it does allow for, though, there to be a process of consultation and that, if necessary, negotiation. But that's in relation to the making of the declaration. Is that right, Mr Gaetjens?

MR GAETJENS: There are two aspects of that, Counsel. One is with respect to
15 making of the declaration with - which would include a referral of powers. Second is the - bringing that emergency declaration into effect. In the Commonwealth's submission we refer to a 'two key' approach.

MS HOGAN-DORAN SC: Yes.
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MR GAETJENS: And what that would allow, if - if you had a situation where there was, again, a - an event that affected more than one State or an event that was actually a huge event in one particular State where the resources of that State might not be capable of managing that event, the Commonwealth could take the position,
25 we think this is of such a scale and needing such a quick response that we will invoke the emergency declaration. The 'two key' approach then provides the opportunity for the State Government to say, "Well, we agree with that", or, "We do not agree with that".

30 That then sets up a clear and transparent position of both Commonwealth and State Governments and I think that sets a very clear position of - if there's a difference of opinion between the two governments, those opinions are very clear and transparent and people can make judgements about which is right and how to respond to that particular event.

35 MS HOGAN-DORAN SC: Mr --

MR GAETJENS: So I think it is setting up a capability to do something, but it does not bind the States into agreeing to that. So the States do have a position, one, with
40 respect to referral of powers, and two, with respect to whether they think they should turn their key.

MS HOGAN-DORAN SC: Mr Gaetjens, I'll just have shown what we can see here - I think it's now being broadcast - the extract from the Commonwealth's
45 principal submission which deals with this issue and identifies that two-key process.

MR GAETJENS: Yes.

MS HOGAN-DORAN SC: It speaks to a "*legislated National Emergency Declaration would, in the Commonwealth's view, help to address the challenges faced by the nation, including by facilitating Commonwealth coordination and contribution to emergency response.*"

And here we have the reference to 'two key':

"In the usual case, States and Territories would be engaged and their agreement sought in a 'two key' process to determine that such a declaration was necessary."

And may I understand that that would be consultation between Prime Minister and the First Minister of the State or Territory or States or Territories if there's more than one impacted; that's right, Mr Gaetjens?

MR GAETJENS: Counsel, it could be the Premiers and Prime Ministers and Chief Ministers. It could be Emergency Ministers, but I think for an event like this, it would not surprise me at all that it actually happened between leaders.

MS HOGAN-DORAN SC: All right. Can I ask you about the second one, second aspect, it says:

"But the Commonwealth must retain the option to act unilaterally to make such a declaration in the national interest where the nature of the impending disaster is beyond the capability of the States and Territories to manage."

Am I right in understanding there that the decision-making process would not be 'two key', or there would not be two steps to it. It would be a unilateral act but it would be premised on there having already been referred the powers that - of the States that would be necessary to give a full range of response to the Commonwealth?

MR GAETJENS: Counsel, that would be my understanding. I would also add, the Commonwealth does refer to clear thresholds of how and when such a declaration should be triggered.

MS HOGAN-DORAN SC: Yes.

MR GAETJENS: One other approach could be to have one level of a threshold for the 'two key' process and then another level of the threshold for a unilateral process.

MS HOGAN-DORAN SC: All right. Does the Commonwealth have any plans to take what it has proposed to the Royal Commission, to take that proposal to the States and Territories for consultation? That is --

MR GAETJENS: I would --

MS HOGAN-DORAN SC: I'll put it a different way, Mr Gaetjens. Is it intended to await - is this something that is being initiated immediately and so that work can get underway in seeking a way forward that would deal with this issue or is it proposed to await the Royal Commission's consideration?

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MR GAETJENS: Counsel, the Commonwealth has responded to the Royal Commission's propositions and I think it has said, it has tried to be as clear and direct as it possibly can be to assist the Royal Commission in coming to its recommendations. I could imagine discussion - well, the States are now aware of these - of these proposals, but I think coming to a final position, my sense would be that the Commonwealth would await the Royal Commission's report, it set the Royal Commission up to look at exactly these types of things, but I think the opportunity was afforded to the Commonwealth to provide its view with respect to your propositions. The response took that up, and now I think we have the opportunity to, again, consult further with the States and Territories on these issues, but also to take into account the Royal Commission's final recommendations.

MS HOGAN-DORAN SC: Thank you. Thank you, Mr Gaetjens. And we thank you for the feedback and information that the Commonwealth has given to Counsel Assisting and to the Commission in relation to this Term of Reference. Commissioners, I'm proposing to ask Mr Colvin some questions now, is there anything --

COMMISSIONER BINSKIN: I think that has been a good summary. There will be a couple of questions, I think we might do it now.

MS HOGAN-DORAN SC: Yes.

COMMISSIONER BINSKIN: I just want to add some context to the appropriate level of decision-making body, Mr Gaetjens, just so you know where the Commission is coming from and I am sure those that have been watching would brief you, but there's two areas of concern that we've had, is that decisions be made at the appropriate level with the authority and the accountability for that level of decision. But what we've seen so far in the process is the decision-making from a strategic point, policy and the like, is timeliness and it seems that decisions get bogged down at a lower level and try to get resolved by consensus, and so national warnings, I think, is one where 16 years from initial recommendation in 2004 to get to a point where we are today, which still hasn't been accepted by a higher authority, but it's - we're close to being there.

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So it's a timeliness sense. And then in an operational sense, it - the process assumes that Commonwealth resources are infinite at the moment, so it doesn't take into account that there's finite resources and there could be competing priorities out there. And so every time we ask someone about this point where you get to this finite set of resources, competing priorities, how is a decision made? It immediately dropped to, well, we'll make it in accordance with our jurisdiction, and that's it. So that we were trying to look at - and that's where the declarations I understand from Counsel are

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going, to try to resolve an issue the Commissioners have addressed on what the appropriate process may be to unblock, in a very tight area, the decision-making so that it's made to - it's actually raised to the appropriate authority with the accountability as quickly as it can to resolve something and be able to move on. Not
5 that the National Cabinet would get hands-on on moving, in my parlance, tanks around a battlefield or fire trucks around a battlefield, nothing from that, it's the appropriate level of authority and accountability. So you've actually helped us with talking about national security mechanism, for example, today and the like on how decisions and accountabilities are made there.

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So I'll go to Commissioner Bennett, she has a couple of questions on declaration, I think.

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COMMISSIONER BENNETT: No, I actually had - my main question, funnily enough, follows straight from yours, Chair, because that was exactly where I was going. I think from what you said you don't - obviously the bulk of the resources used to deal with natural disasters are State resources, I mean in an operational sense, and they're there for the States to deal with. But when you're looking at a national scale of disaster, eventually there may be questions of prioritisation. So the
20 Commonwealth doesn't have control of the State resources. So you've got questions, of course, of the States controlling their own resources and deciding where they go intra-jurisdictionally in the states. And of course we know that there's a lot of coordination discussion that takes place at CCOSC level, in particular, of States helping each other out. But when you get a national scale disaster, there might be
25 questions of national picture and national priority. The Commonwealth does have resources that it brings to play to assist, and the Commonwealth has its own resources and primarily apart from strategic and, you know, public service assistance, you've got the Commonwealth has the ADF.

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25

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So if the Commonwealth has to then make decisions about the prioritisation of Commonwealth resources, the allocation of Commonwealth resources in such a national scale disaster, do you see that decision-making taking place at a National Cabinet level, or do you see that taking place at a different level, a Ministerial level? I was just curious as to where you would see that decision taking place, the
35 discussion about it and the allocation of what are not sufficient Commonwealth resources to go around?

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MR GAETJENS: Commissioner, I would venture that there would be a discussion at operational level as well, because people would see activity on the ground and make judgements or decisions about what equipment, assets, resources are required to handle those events. You would then have discussions that seek to prioritise those, if the nature of the event exceeds the number of resources or amount of resources made available. You're right to think that the bulk of the assets and equipment goes to the
45 States.

45

Commonwealth would be able to step in to assist with funding things, I'm not convinced it would be useful for the Commonwealth to buy things itself. I think it

can help with funding things that the States would keep. But with respect to the ADF, the allocation and decisions made about where the ADF go is one for the Commonwealth, but what National Cabinet has done, and what could happen in other events is that there can be discussions between the States and Territories at the appropriate level about the prioritisation. So what is the nature of the event that causes the greatest priority for resources to go to a particular place.

Then there would then be a discussion I think with the Commonwealth and the ADF, well, these are the priorities, yes, we have adequate resources to be able to attend that particular event. And, in fact, what is happening at the moment with the ADF, the ADF has been on call, if you like, and attending events in Australia since January this year, whether it be bushfire, whether it be assisting with COVID and it is now getting into readiness to prepare for this upcoming disaster season.

So it has to manage its assets and is now looking at priorities and saying, amongst those priorities, for example, what do we give the highest priority to? Helping the management of State borders or helping quarantine to allow more Australians to come back home? Now, that is - that is a decision of the Commonwealth but it would take into account State and Territory input to what they think their priorities are.

COMMISSIONER BENNETT: I guess my question, though, Mr Gaetjens was going at what level would that discussion take place? In the disaster area, would that be a National Cabinet decision in form? We heard from Professor Murphy that he would bring to National Cabinet the integrated views of the AHPPC, having taken all of the operational views and the Chief Health Ministers and he then was able to brief National Cabinet on that consolidated collegial decision, and then inform National Cabinet, so National Cabinet could make decisions about national resources.

I was just wondering whether the same sort of thing could apply so that - is it National Cabinet that then decides how those resources should be allocated in a case of competing priorities, in the same mechanism, or do you see that just being - I don't mean "just" in the negative sense - but being more at the level of ADF and operational people at the State level. Or is it rather a decision for the First Ministers who look at the questions from the whole of the State perspective perhaps, and the Prime Minister in a National Cabinet context?

MR GAETJENS: Commissioner, again, I think it would depend on the actual circumstances but knowing also that Defence has people posted to - and I don't know the exact title - but States have crisis centres or State Control Centres for events. We have Defence in those control centres. They would have then their own view from people who are very experienced in looking at this as to where their priorities look, they would be able to talk amongst themselves, but I think the actual decision would be one for the Minister for Defence and CDF.

They are the ones who actually control the Defence forces, but they would be hearing from their people posted into these centres what the situation on the ground is, their view about what they can do and therefore how they can get resources from

X to Y or allocate resources that are already at Y. And this goes to the view that Defence themselves can take as what was done in the bushfire, to actually pre-position assets and people where they think they're going to be most needed.

5 So I think it would be an iterative process. Again, looking at subsidiarity, right down to those people, the Defence people on the ground and in the State Emergency Centres or control centres, that are looking at what's going on and that would also be considered, I'm sure, in the architecture that the EMA in Home Affairs does with the discussion with their State counterparts as well.

10 COMMISSIONER BENNETT: Thank you, I'm going to think about - I've got a couple of other questions. I will just see if the others have any questions while I formulate them, because I have got a couple of questions about the practical utility of a declaration and what it - I mean, I understand, you know, there are a number of
15 symbolic matters. There's the question of the enlivening of Commonwealth resources if I can call it that, or a notice going out to Commonwealth Departments. I'm just trying to get your view on the practical utility of a declaration and we - I know that there have been some response to it by the Commonwealth, but it would be very helpful, because if it's not going, for example, to deal with the allocation of
20 Commonwealth resources, necessarily. I'm just trying to work out exactly where you see it having other than symbolic or internal Commonwealth utility?

MR GAETJENS: Do I address that now?

25 COMMISSIONER BENNETT: Might as well, seeing I said it while I was there, I formulated what I was asking about.

COMMISSIONER BINSKIN: That's right. She often thinks aloud like that. Can we just - Mr Gaetjens, can I just confirm your timeline please?

30 COMMISSIONER BENNETT: I'm sorry.

COMMISSIONER BINSKIN: We don't want to run everything out of time here, but do you have time to answer that and then still go to Mr Colvin?

35 MR GAETJENS: I'm sure I do, Chair.

COMMISSIONER BINSKIN: Thank you, I appreciate that.

40 MR GAETJENS: No, happy to assist the Royal Commission. Commissioner, in that respect, again if my memory - I'm trying to find it on my original contribution. I think I did refer to some - yes, at paragraph 35 of my initial submission to the Royal Commission:

45 *"Such a mechanism could be regarded as symbolic in that it signals to the Australian community that an unfolding crisis is extremely serious.*

So it is - it does then provide a very real message, you know. It's done --

5 COMMISSIONER BENNETT: I'm not suggesting for a moment that there is anything insubstantive in a symbolic aspect. I'm just trying to go from that very important symbolic consequence to, you know, just anything - anything in terms of actions.

MR GAETJENS: Yes.

10 COMMISSIONER BENNETT: I see the enlivening or the message going out to all Commonwealth resources to be ready, to do what the Commonwealth can do to support the States and to ready things, but I'm just looking to see what goes beyond that.

15 MR GAETJENS: Yes, Commissioner, if I go on, it goes --

COMMISSIONER BENNETT: I've read that but I need a bit more light and shade to that, if I may.

20 MR GAETJENS: *"It would need to be substantive in the sense that the public resources beyond the scope of a single jurisdiction need to be mobilised"*, and again in the Commonwealth's latest submission with respect to the propositions:

25 *"To declare a national emergency backed by legislation with clear thresholds on how and when such a declaration should be triggered and clear and meaningful powers, responsibility and actions specified."*

COMMISSIONER BENNETT: Yes.

30 MR GAETJENS: So I'm guess what I'm saying is the Commonwealth agrees with you that the emergency declarations needs to be such a document that is very clear with respect to why it was declared and then after it is declared, very substantial and meaningful and direct actions. Now, I can't specify to you now those actions, because they would change, depending on the nature of the event. They would be
35 different for a tsunami compared to a pandemic, different for other things.

And my final point on this, I don't think it would be, simply the mobilisation of resources that would occur after the declaration of an emergency, pre-positioning could occur beforehand because you do see events unfolding and you are looking at
40 what can happen and if it's fire, people would have predictions about where the winds will take and the fuel load will take fire, so people will be taking them into account with respect to mobilising or pre-positioning. But it's then with respect to the Commonwealth, once this declaration's done, it then allows a series of, I think, firmly specified or contemplated actions that show to people this does not just
45 mean - here's a message that we need to do something, but it actually provides the basis and gives the legislative basis for specific actions.

COMMISSIONER BENNETT: Sorry, just to clarify that, are you saying that the - as the - there should not be a generic declaration - sorry, start again. Are you saying there should be provision for a generic declaration, or are you saying that each declaration should itself contain specificity as to the actions that are going to be taken in consequence of that declaration which then, of course, may need amendment as the conditions case? Is it the former or the latter?

MR GAETJENS: Well I think - no, I would have to a view that a declaration would be able to have within it or a particular event, actions.

COMMISSIONER BENNETT: I see.

MR GAETJENS: Meaningful powers, responsibility that relate to that event.

COMMISSIONER BENNETT: And then it may amendment if the situation changes that requires further action?

MR GAETJENS: It may.

COMMISSIONER BENNETT: I understand that. Thank you, that's very helpful. Thank you.

COMMISSIONER BINSKIN: Thank you, Commissioner. Thank you, Mr Gaetjens. I appreciate that very much. Ms Hogan-Doran.

MS HOGAN-DORAN SC: Commissioners, just for the benefit of the transcript, Mr Gaetjens's statement to which he made reference is PMC.8002.0001.0001. The - so that's all I had for Mr Gaetjens at this time. But I'll go to Mr Colvin, which may trigger questions that you want to address to either Mr Colvin or Mr Gaetjens.

MR COLVIN, you've been the head of the newly stood up National Bushfire Recovery Agency and you gave some evidence to us early on in the Royal Commission as to that work. To what extent has the agency been successful to its mission?

MR COLVIN: Good morning, Counsel and good morning Commissioners, thank you for the question. That's a really difficult question to answer, of course, because I would suggest that we're still in a - still in the early phases of what would be a very long and in some parts slow recovery. We are responding to a Notice to Give to the Commission in terms of a range of figures and statistics that we will update. But I think that the agency has been very successful in terms of creating a national picture of the '19-'20 devastating bushfires, in bringing to effect some national coordination, some stewardship of the relief and recovery, and as you will see with the statistics and I'm happy to update the Commissioners with some of that now, if you like, we are now just over 12 months since the commencement of the fires, in fact, it's over 12 months from the commencement of the fires in central Queensland which has gone, of course, incredibly quickly.

But the recovery phase is well underway and we're largely now actually transitioning from what we should describe as immediate relief, that is the providing in most part cash support to families, individuals, businesses, to stand up and make the decisions they need to make, and transitioning to what will be a very lengthy long-term
5 recovery process. But Ms Hogan-Doran, I say that with one very clear caveat in my mind. The Commissioners will be interested that even now, 12 months after the fires, the charitable services, States, Local Governments are reporting new presentations, presentations for the first time to seek support of government or non-government
10 "marathon", that's the word that's been used. It takes time and it happens at the pace of the individual. It can't be forced on a community. It can't be forced on an individual.

But we will give you some updated stats, but just quickly to give you an idea of
15 where the recovery is at, as at the end of August 4,882 properties have been cleaned across the country, or across the four principal jurisdictions. Mostly they are residential, there are some commercial properties in there, and while there are still clean-ups occurring, a lot of that now is presentations later in the process or
20 properties that are difficult to get to, quite frankly, you know, the crossing of creeks or fords that may not be stable, or driveways that are 13, 15 kilometres long in some cases.

There has been 297,000 payments for individuals - relief payments, over 26,000
25 payments to business and primary producers in the form of grants. I know the Commissioners have been very interested and I think rightly, it's a concern for all of us, health and wellbeing of individuals and communities, to give the Commissioners a sense of that, there's still 1700 calls a week to a dedicated Lifeline number, and that is steadily increasing. We know that there are 600 presentations a week on either
30 Telehealth or face-to-face for support in relation to trauma caused by the bushfires, and we know that there's already 94 grants have gone out to small community groups at a very grassroots level, to help them work in their community, to do a range of things from peer-to-peer support networks, through to providing just packs that make
people feel a little better about the situation they find themselves in.

35 More broadly, Ms Hogan-Doran, the move at the moment is around what does that long-term economic recovery look like. And working across the four most heavily impacted jurisdictions, the government announced, and collectively with our State partners, joint programs and projects at the local level that will be funded for
40 locally-led and locally-delivered projects. That is now well underway and we've seen the first of those announced in South Australia. I'm very hopeful that we will have some others to announce which will give the community great hope across the other jurisdictions.

45 And if I might just finish on this point, with the overwhelming sentiment that we are seeing in the community at the moment is one of fatigue, not surprisingly, quite understandable. We're seeing an overwhelming sentiment of anxiety as we approach another high-risk weather season, of course. And as I said before, we're seeing an

absolute focus on recovery having to be at the pace of individuals and it is very individualistic.

5 Ms Hogan-Doran, the other point that I know that the Commission has been interested in, and we will provide you further details on this when we respond to that Notice to Give, but we went live yesterday with an interactive map of the country that will give individuals in regions an ability to basically click and play and see what support is available, see the recovery process, to get a feel for the impact of the fires in their region. I think, again, we will learn as we roll these types of measures
10 out but I think that's a big step forward.

MS HOGAN-DORAN SC: Thank you so much for that update, Mr Colvin. To what extent has these measures, in terms of the calls to Lifeline, the fatigue and the anxiety, and even the work of your agency, been complicated by the COVID-19
15 pandemic?

MR COLVIN: I think COVID has complicated just about everything across all walks of life, we know that. I don't want to overstate the complications it has created in terms of bushfire recovery but, of course, it has provided challenges. It's required us
20 to find ways with our State and Territory partners for recovery to be done in a COVID-safe way. So, for instance, clean-up of properties. Initial planning began in a non-COVID environment, we then needed to adjust to a COVID environment. So little things that seem simple like community meetings, obviously need to be done differently.

25 We know that from a mental health or a health and wellbeing perspective, people have very individual needs and individual desires. So some people respond better to a face-to-face meeting, and that became a little bit more difficult. So telehealth became the principal way of delivering services. But that said, there is still a large
30 number of face-to-face services being provided. So it has added a layer of complexity. It has certainly added a layer of fatigue to the community but I don't want to overstate that, you know, recovery continues and must continue despite those challenges.

35 MS HOGAN-DORAN SC: I'll just have Proposition H25 shown by the operator, and while that's being done, I'll describe for the benefit of the transcript, Mr Colvin, it proposed a standing national body responsible for natural disaster recovery and resilience at the Australian Government level and it included a number of sub-propositions as to - its suggested responsibilities and focus of that organisation.

40 The Commonwealth's response was supportive of this but identified that the standing body would operate in respect of resilience, relief and recovery. Just a minor question: when it speaks to relief, how is relief different to recovery? Is that capturing that immediate relief that you were describing ie is it a temporal
45 description or is it a substantive description or distinction, for example, it's directed to financial relief as opposed to ADF assistance?

MR COLVIN: All of the above, if I can be unhelpful in that way. But if you imagine a continuum and it depends, of course, on the particular disaster or, you know, what we might be dealing with, but relief could be everything from ensuring that there's petrol available for people to run generators and that there's fresh water for people to drink in the immediate 24 hours after a cyclone appeared or a fire has gone through, through to getting those immediate payments into families' pockets to help them buy food and groceries.

It's difficult to draw distinctions and I'm very strongly of the view that it is impossible for government or our partners to draw a line and say well, we've finished with the response, we're now into relief or we're now into long-term recovery. It's not like that, and the Commonwealth's response in relation to this is to try and give effect to understand that we see this as a continuing proposition across a continuum. In my view, recovery starts before the disaster has hit the community. We need to be thinking about what will recovery need to entail or what will relief need to entail even before a disaster has hit a community, and that really gets the elements of resilience as well.

MS HOGAN-DORAN SC: In order to deliver those kind of immediate relief measures such as ensuring water supply and food supplies, particularly in floods or cyclone or tsunami circumstances where there has been, for example, even mass casualty events and there's a need to coordinate the delivery of medical assistance, the Commonwealth's response concerning the referral of powers was directed to just the question of the declaration. Is it anticipated that the Commonwealth would be able to, through such an agency, deliver all it would need to by way of measures of relief from its existing suite of powers, or would it need also a referral of State powers to be able to give effect to this immediate response relief --

MR COLVIN: Yes, a good question. I think the issue is one of clarity and, in a time of crisis, you want absolute clarity of role and authority.

MS HOGAN-DORAN SC: Yes.

MR COLVIN: We saw, in the immediate aftermath of the bushfires, the ADF deploy and provide a great deal of support in terms of that immediate relief: providing fresh water, providing fuel, providing safe shelter and food and kitchen facilities. I think the Commonwealth and the ADF did a remarkable job to deploy that as quickly as they did. But, of course, and you've heard evidence, and this is before my time in this agency, of course, you've heard evidence of was that process as clear, were the States very clear in their own mind of what resource is available, and what capacity and capability existed at the Commonwealth level to deploy?

So I think that the concept of a national declaration from my perspective doesn't just pre-position resources and deal with the response. It does also have a tangible effect in an immediate relief and in some ways longer-term recovery as well.

MS HOGAN-DORAN SC: In what way could this agency if established work to be complementary but not replace the roles and responsibilities for recovery that are at a State and Local Government level?

5 MR COLVIN: Yes, absolutely. I think there is great scope well designed for an agency at the Commonwealth level, at the national level to bring a lot of value to this space and, again, speaking from my experience but also from my colleagues in the North Queensland Flood and National Drought Agency and also what we've seen in the COVID Commission, you don't want to be trying to make arrangements while
10 actually dealing with the disaster.

You want to have those well-embedded, understood and in place so that they can be rolled out when they need to be as quickly and efficiently as possible. So ensuring that we've got a consistent view of what measures are available, ensuring we've got a
15 consistent view of the guidelines that we need across the country to roll out and measure, or a consistent view on our delivery and implementation mechanisms. I think it would be a large role for an agency at the national level to bring clarity and coordination to.

20 MS HOGAN-DORAN SC: How would you describe the agency could address issues of resilience? So it's not just relief and recovery, but long-term resilience. How could that best be effected through such an agency?

MR COLVIN: So I think resilience has multiple levels, of course, but the experience of the bushfires as well as more recently, the drought and other events tells us that
25 resilience needs to be seen end to end. As I've already said, it also needs to be seen nationally as well. We have a large number - and you mentioned 70,000 pages worth of documents have been submitted to you - I'm sure resilience is mentioned in a lot of those documents in a variety of ways, in frameworks, in various arrangements.

30 Speaking personally from my perspective now and my observations over the last nine months, I cannot point to a single national framework that both incentivises and prioritises resilience in our recovery, in our relief, in our response operations. And we've seen that through our work through the NBRA that, for instance, you would
35 have heard a lot about the DRFA, the Disaster Recovery Funding Arrangements. It is a funding mechanism between the Commonwealth and the States but I feel it is often misinterpreted as a framework for recovery and resilience.

40 It doesn't incentivise, it doesn't prioritise resilience or building back better in the way that I think, as a country, we should. So again, this is where I believe that an agency at the national level can bring a lot of influence to bear. The convening power of the Commonwealth to bring not just our government partners but our non-government partners, the charitable sector, the philanthropic sector are a big part, they have a big
45 role to play, is I think where at a national level we can do a great deal of good.

MS HOGAN-DORAN SC: And should that agency be right within the centre of government and plugged into all --

MR COLVIN: Should it be?

MS HOGAN-DORAN SC: -- all measures?

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MR COLVIN: Absolutely. And again my experience over the last nine months is that I've had to call on all parts of government at different stages to bring to bear what I think needs to be done to effect recovery.

10 MS HOGAN-DORAN SC: Thank you, Mr Colvin. Commissioners.

COMMISSIONER BINSKIN: No, I think that was a great summary right at the end there for that question. Commissioner Bennett? Commissioner Macintosh?

15 COMMISSIONER MACINTOSH: Nothing from me.

COMMISSIONER BINSKIN: No, I think that's been good. Ms Hogan-Doran?

MS HOGAN-DORAN SC: Nothing more from me then, Chair.

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COMMISSIONER BINSKIN: Nothing more from you?

MS HOGAN-DORAN SC: No.

25 COMMISSIONER BINSKIN: Perfect. Mr Gaetjens, thank you. Mr Colvin, thank you, and good luck with the ongoing recovery activities as we head into the next disaster season. So we appreciate the efforts of you and your team. So thank you very much. Gentlemen, you're both released from your summons noting, Mr Gaetjens, we will get those answers from you this afternoon, please, on those
30 outstanding topics.

MR COLVIN: Thanks, Chair. Thank you, Commissioners.

35 COMMISSIONER BINSKIN: Thank you. Ms Hogan-Doran, anything else this morning?

MS HOGAN-DORAN SC: Nothing more for today, Chair.

40 COMMISSIONER BINSKIN: We will adjourn and we will reconvene at 10 am tomorrow morning for the last hearing day. Thank you.

<ADJOURNED 11:35 AM TO FRIDAY, 25 SEPTEMBER 2020 AT 10 AM>