# Negotiating risk and responsibility through law, policy and planning

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## ABSTRACT

The 2011 *National Strategy for Disaster Resilience* (COAG 2011) sets the context for natural disaster management as a 'shared responsibility' of all sectors of government and society, as part of building a more comprehensive approach to emergency management. However, it remains difficult to change relationships and practices to share responsibility, either between emergency management agencies and other government sectors, or between governments and at-risk communities. This paper reports on the research of three independent but complementary projects established through the Bushfire Cooperative Research Centre to identify the legal, policy and planning structures and processes that could enhance integration of emergency management imperatives across public policy sectors, agencies and portfolios. This article distils and summarises some key conclusions regarding a central, yet seriously under-acknowledged facet, of developing public policy for natural hazard risk in Australia: the political and social negotiation of risk and responsibility. This is an overview paper and many of the issues raised require further exploration.

## Introduction

Nationally and internationally, the development of comprehensive emergency management policy and practice is focusing attention on both the need for a whole-of-society approach and for inclusion of all aspects of risk management, of which the initial emergency response is one aspect (Handmer & Dovers 2013, EMA 2004b). This has concentrated research attention on the policy and governance challenges of bringing the possibility of future risk events into the present. At the same time, the expansion of climate change exacerbates disasters and is underscoring the importance of this work (see, for example Hughes & Steffen 2013, IPCC 2012, Gurran, Norman & Hamin 2012, Norman *et al.* 2013).

In Australia, primary statutory responsibility to manage natural hazard risk rests firmly with state fire and emergency services organisations, with federal government support and national scale co-ordination. However it does not automatically follow that emergency services organisations in Australia can and should solely bear this responsibility on behalf of the rest of government and society. That emergency management is inherently a collective undertaking involving a range of parties acting in co-ordination to achieve a mutual goal has been a central tenant in formal arrangements, if not in practice, since the 'all hazards, all agency' focus of the Comprehensive Emergency Management model adopted in the late 1980s (see EMA 2004a). While the focus of the Comprehensive model was firmly on the players in the emergency management sector, subsequent policy developments have expanded the range of both government and non-government parties with recognised responsibilities to manage and respond to natural hazard risk in a co-ordinated way. In particular, the addition of a more overtly risk-based management approach from the 1990s put greater emphasis on the responsibilities of the exposed people and communities to reduce risk (Kanowski, Whelan & Ellis 2005, Elsworth *et al.* 2009). While the more recent and widely supported shift towards a 'whole-of-nation, resilience-based' strategy (McLennan & Handmer 2013a, COAG 2011) positions disaster management as a shared responsibility of government and society.

These policy developments comprise important steps in ongoing attempts to confront the complex, interdependent and multi-faceted challenges of managing natural hazard risk in modern Australia. They address the reality that managing natural hazard risk is beyond both the control of any single policy sector, or the collective public institutions of government.

Yet despite the growing emphasis on 'shared responsibility' in disaster and emergency management policy rhetoric, it is difficult to change actual relationships and practices to share responsibility; either between emergency management and other government sectors (e.g. 'mainstreaming' policy across sectors, see Eburn & Jackman 2011) or between governments and at-risk communities.

It was in this context that a three-year research program (the 'Mainstreaming program') was established through the Bushfire Cooperative Research Centre in mid 2009. The Mainstreaming program identified legal, policy and planning structures and processes that could enhance integration of emergency management imperatives across public policy sectors, agencies and portfolios. The program comprised three independent but complementary projects:

- The Law and Policy project (Australian National University) asked how law impacts on the responsibilities of the emergency management sector and, in particular, state emergency services organisations.

- The Planning project (University of Canberra) exposed bushfire-aware planning issues encountered by planners and fire authorities that have responsibilities for managing bushfire risk in different jurisdictions and landscapes.

- The Sharing Responsibility project (RMIT University) critically examined the idea and practice of sharing responsibility between governments and communities to manage disaster risk.

The research undertaken independently in each of the three projects is reported elsewhere.[1] This article distils and summarises three key program conclusions about political and social negotiation on risk and responsibility. It focuses on negotiating expectations of success, negotiating multiple values in planning, and negotiating citizen-State relationships.

## Negotiating expectations of success

The Law and Policy project revealed the importance of negotiating expectations of success in emergency management. In the paper, *How chief officers view success in fire policy and management* (page 16), Eburn and Dovers argue that establishing shared responsibility for emergency management imperatives requires a negotiated understanding between a broad range of parties about what it is they wish to achieve, and who will do what. The *National Strategy for Disaster Resilience* (NSDR) (COAG 2011) identifies the ideals of developing resilient communities and shared responsibility but gives no indication of what measures identify when a sufficient level of disaster resilience has been achieved.

If governments, communities and individuals are going to negotiate on issues of responsibility for risk management they need to understand what they can reasonably expect from each other, what they are trying to achieve, and how they will identify whether or not their objectives have been achieved. In the context of emergency management the desired objectives may seem obvious, for example that there are no fatal fires, or floods, or no damage to property or the environment, but those objectives are unrealistic not least when considering the costs that would be incurred trying to achieve a zero fatality approach to fire and flood risk. Another objective may be to 'minimise' the loss of life but that implies some loss is tolerable provided it is the minimum achievable in the circumstances.



A thank you sign outside properties after the Sand Hills Fire, New South Wales, January 2013.

*Image: Jessica Weir*

1  See www.bushfirecrc.com/category/projectgroup/1-community-expectations.

Notwithstanding this, governments and emergency services organisations are subject to critical review after many events, not just catastrophic tragedies, but have difficulty explaining their response or whether or not, in all the circumstances, the outcomes should be judged as effective or not. As one senior emergency services officer responded in a survey conducted as part of the Law and Policy project: 'we'll be judged by the post incident conversation; governments and emergency services organisations have to try to anticipate what that conversation will be' (Eburn & Dovers 2013). In essence agencies are judged in hindsight by whether or not an outcome is 'acceptable' rather than by the question of whether or not they achieved the objectives set for them by the government, on behalf of the community.

To develop useful measures of success, stakeholders need to identify the reality of emergency management policy which includes recognition that safety cannot be guaranteed. Governments and communities have to accept that some outcomes are the result of political choices about land-use planning, resource allocation and priorities, made long before any fire, flood or storm impacted. A more open discussion of reasonable expectations is needed, leading to a better shared understanding, informing revised expectations expressed in policy documents and legislative goals. Stated goals can be the basis of communication to inform understanding of 'shared responsibility', and be reference points for assessment in the inevitable post-event inquiries in future.

## Negotiating multiple values in planning

The Victorian Bushfires Royal Commission found that urban and regional planning is a key activity for reducing bushfire risk. This is also included in the NSDR as part of building community resilience and shared responsibility (Teague, McLeod & Pascoe 2010, COAG 2011). Planning that takes bushfire-awareness into account can reduce the risk posed to lives, homes, infrastructure and other values, as well as reducing the risk faced by emergency response crews protecting these during a bushfire event (Kelly 2010, Buxton *et al.* 2011, Hughes & Mercer 2009). In state and territory regional planning there are strategic decisions concerning where development will occur, and what sort of development it will be. At the local level the focus is on implementing and enforcing planning regulations and building standards. Much planning for bushfire risk is based on zoning areas as high risk, and then prescribing treatments for those areas arising out of the emphasis on risk management that developed in the 1990s.

By undertaking such planning roles, planners working for local authorities are taking responsibility for their share of bushfire risk, however they do so by negotiating their other responsibilities to the diverse environmental, economic and social values prioritised by governments and communities. Compromise can occur as part of this, although planners can look to risk mitigation measures to help negotiate priorities. For example, planners in Canberra continue to emulate the leafy 'bush capital' planning heritage, with the increase in bushfire risk countered in part by larger fuel reduction zones. The effectiveness of such measures depends on the scale of the bushfire event, and planning treatments are challenged by the uncertain and dynamic risk context. Vegetation growth, growing urban complexity, economic development, new research findings, climate change and policy change are constantly reshaping the risk landscape. In the Northern Territory, invasive African fire weed is creating a new high intensity fire landscape.



Image: Jessica Weir

**Kings Highway between Bungendore and Braidwood, New South Wales, January 2013.**

Planners must be responsive to, and are sometimes captive of, how bushfire risk is perceived and valued in society and by those in power. If bushfire risk is not considered as important as other interests and agendas, it is difficult to include it in the strategic plan and urban design, as well as to enforce it. The implementation of many regulations, such as slashing and burning to reduce fuel loads in bushfire risk landscapes, relies on whether individuals in the private and public sector are informed, accept and share responsibility for this risk. Being attuned to risk perceptions held, or not, in society is important for local, state and federal politicians who rely on their constituents for re-election, with the planners reliant on politicians to make important planning decisions. Planning is often depicted as a purely technical profession, but it can be enlisted to meet the ambitions of those with money and power rather than the priorities of civil society (Gleeson 2012, p. 245).

Bushfire risk is now a compulsory inclusion in planning in Victoria, and planners and fire authorities are seeing a strong sense of shared commitment across and within agencies to reduce bushfire risk, as well as innovative ways to address bushfire risk on particular sites (Weir 2013). In the focus group research, the planners and fire authorities discussed how energy and ingenuity was being invested in finding options that match bushfire risk mitigation with other values in society, such as biodiversity conservation (see also Paterson 2007). They also reported on how their efforts are revealing where the contribution of planning starts and ends. By delineating the contribution of planning, the Victorian experience highlights how shared responsibility needs to go much further than relying on one sector and is, as the NSDR says, a collective responsibility.

## Negotiating citizen-State relationships

There appears to be wide support for the vision of citizens and the State (communities and government) sharing responsibility for disaster and emergency management. Yet despite this support, there is also considerable confusion and divergent views among stakeholders (e.g. agencies, political advisors, formal and informal volunteers, civil society groups) about what this entails and the kinds of citizen-State relationships that best enable it. High level policy statements like the NSDR do not—and cannot—provide sufficient actionable guidance for the many different phases, levels and settings where risk management activities take place.

Crucially, sharing responsibility for emergency management between citizens and the State is a central issue of modern risk governance. The legitimacy and effectiveness of public institutions that manage complex risks are being challenged in a globalised and dynamic world (McLennan & Handmer 2013a, section 2.1.3). In Australia, as in other modern democratic political systems, a dominant policy response to this challenge across a range of sectors has been to emphasise the need for greater citizen responsibility and community resilience. This same shift is evident in Australian emergency management. At the same time, many public institutions have become increasingly risk averse in the face of rising criticism, legal proceedings and public enquiries, and their limited capacity to control complex risks.

A central conclusion of the Sharing Responsibility project (derived from a joint Australian and international research focus) is that enabling more legitimate and effective responsibility-sharing between citizens and the State in Australian disaster management requires a fundamental shift towards



**House surrounded by vegetation, Mornington Peninsula, Victoria.**

The bushfire season coincides with summer holidays. Mossy Point, New South Wales.

more inclusive governance arrangements. It is through such arrangements that government and non-government actors can establish relationships and processes to negotiate shared risks and responsibilities:

*'Inclusive governance is based on the assumption that all stakeholders have something to contribute to the process of risk governance and that mutual communication and exchange of ideas, assessments and evaluations improve the final decisions rather than impeding the decision-making process or compromising the quality of scientific input and the legitimacy of legal requirements … As the term governance implies, collectively binding decisions cannot be confined to governments. Rather it involves the four central actors in modern plural societies: governments, economic players, scientists and civil society organizations.'*

(Renn & Schweizer 2009, p. 175).

Thus there is a need in Australian disaster management to develop more inclusive governance arrangements at a range of levels that involve broader social participation throughout the whole policy and management process — from agenda-setting through to implementation and evaluation (see for example Aguilar & Montiel 2011). It is important to emphasise that this social participation is not community engagement by another name. Community engagement is a part of implementing a solution to a problem as it is framed (e.g. recognised and defined) by a government agency or network. By contrast, inclusive governance involves non-government actors in framing the problems and shaping the solutions as well as in implementing them (Renn & Schweizer 2009). Thus there is an underlying assumption inherent in inclusive governance styles 'that governments today cannot remain as firmly in control of policy processes as in the past and, at the same time, take a more "enabling"

role' (Edwards 2002, p. 58). Instead, policy processes and outcomes are recognised as involving active negotiation with non-government actors, including those from civil society. This is well-aligned with the NSDR's focus on government's role to enable rather than direct community resilience (McLennan *et al.* 2012, McLennan & Handmer 2013b).

Inclusive governance is very challenging to current thinking and practice in emergency management. Existing and emerging governance arrangements in this sector are still very government-centric, despite an emerging 'community empowerment' rhetoric. For



Burnt emergency services sign, Kings Highway, New South Wales, January 2013.

example, the agenda for developing more networked and collaborative governance arrangements laid out in the Victorian Government Emergency Management Reform white paper notably refers only to government actors and networks (Victorian Government 2012). Yet there is also implicit but firm support for developing more inclusive governance frameworks within the NSDR's vision of shared responsibility and disaster resilience, and among both government and non-government Australian disaster management stakeholders (see McLennan *et al.* 2012, McLennan *et al.* 2013, McLennan & Handmer 2013b).

Developing more inclusive governance frameworks is not, of course, a magic bullet for achieving more legitimate and effective responsibility-sharing between citizens and the State in disaster management. As was clearly identified by government speakers in two stakeholder workshops held as part of the Sharing Responsibility project, increasing social participation in disaster policy processes presents significant responsibility-sharing challenges of its own, most notably to government accountability (see also Edwards 2002, Levidow 2007, Walker, Tweed & Whittle 2013). However, these speakers clearly positioned such challenges as issues to be actively wrestled with in order to enable resilience-based disaster management.

## Conclusion

These three projects highlight the different dimensions and complexity of the negotiation of risk and responsibility within sectors and levels of government, between governments and citizens, and between stakeholders. The focus on policy and governance reported on here has been a recent one for Australian emergency management and one where research and practitioner interests have been sharpened and co-ordinated. Globally there has been a dearth of attention to the strategic policy and institutional dimensions within which emergency management operates (Handmer & Dovers 2013). The issues and questions raised here demand ongoing investigation and discussion, and this is planned to occur in more of an all-hazards context under the auspices of the Bushfire and Natural Hazards Cooperative Research Centre. Broadening the debate around emergency management will challenge traditional approaches and organisations, but conversely offers opportunities for emergency management to become genuinely mainstream and a task shared across society.

## References

ABC (Australian Broadcasting Commission) 2012, *ETSA defends decision to cut power. At: www.abc.net.au/news/2012-01-03/etsa-defends-power-cut-decision/3756354 [3 January 2012].*

Aguilar S & Montiel C 2011, *The challenge of applying governance and sustainable development to wildland fire management in Southern Europe, Journal of Forestry Research, vol. 22, no.4, pp. 627-639.*

Broome R & Smith W 2012, *The definite health risks from cutting power outweigh possible bushfire prevention benefits, Medical Journal of Australia, vol. 197, no.8, pp. 440-441.*

Buxton M, Haynes R, Mercer D & Butt A 2011, *Vulnerability to Bushfire Risk at Melbourne's Urban Fringe: The Failure of Regulatory Land Use Planning, Geographical Research, Vol. 49, No.1, pp. 1-12.*

Council of Australian Governments (COAG) 2011, *National Strategy for Disaster Resilience: building our nation's resilience to disasters, Commonwealth of Australia.*

Eburn M & Jackman B 2011, *Mainstreaming fire and emergency management into law, Environmental and Planning Law Journal, vol. 28, pp. 59-76.*

Edwards M 2002, *Public sector governance — future issues for Australia, Australian Journal of Public Administration, vol. 61, pp. 51-61.*

Elsworth G, Gilbert J, Rhodes A, Goodman H 2009, *Community safety programs for bushfire: what do they achieve, and how?, Australian Journal of Emergency Management, vol. 24, pp. 17-25.*

Emergency Management Australia 2004a, *Emergency Management in Australia: Concepts and Principles, Manual 1, Commonwealth of Australia.*

Emergency Management Australia 2004b, *Emergency Risk Management Applications Guide. Manual 5, Commonwealth of Australia. (Currently under revision).*

Gleeson B 2012, *'Make No Little Plans': Anatomy of Planning Ambition and Prospect, Geographical Research, vol. 50, no.3, pp. 242-255.*

Gurran N, Norman B & Hamin E 2012, *Climate change adaptation in coastal Australia: an audit of planning practice, Ocean & Coastal Management. At: http://dx.doi.org/10.1016/j.ocecoaman.2012.10.014.*

Handmer J & Dovers S 2013, *Handbook of disaster policies and institutions, 2nd edition, London, Routledge/Earthscan.*

Hughes R & Mercer D 2009, *Planning to Reduce Risk: The Wildfire Management Overlay in Victoria, Australia, Geographical Research¸ vol. 47, no. 2, pp. 124-141.*

Hughes L & Steffen W 2013, *Be Prepared: Climate Change and the Australian Bushfire Threat, Climate Council of Australia.*

Hyde M 2013, *2013 Tasmanian Bushfires Inquiry: Volume One, State of Tasmania, Hobart.*

IPCC (Intergovernmental Panel on Climate Change) 2012, *Managing the risk sof extreme events and disasters to advance climate change adaptation. Geneva: IPCC.*

Kanowski PJ, Whelan RJ & Ellis S 2005, *Inquiries following the 2002-2003 Australian bushfires: common themes and future directions for Australian bushfire mitigation and management, Australian Forestry, vol. 68, pp. 76-86.*

Kelly K 2010, *PIA Policy Response to the Victorian Bushfires of February 2009, Australian Planner, vol. 47, no.1, pp. 48-51.*

Levidow L 2007, *European public participation as risk governance: enhancing democratic accountability for agbiotech policy?, East Asian Science, Technology and Society: An International Journal, vol.1*, pp. 19-51.

McLennan BJ, Austin E, Hearne J, Henry S, Rance A & Travers A 2013, *Sharing responsibility for implementing the National Strategy for Disaster Resilience: account of a multi-stakeholder workshop. RMIT University, Bushfire CRC, National Climate Change Adaptation Research Facility, Melbourne.*

McLennan BJ, Bosomworth K, Keating A, Kruger T & Towers B 2012, *Visions of sharing responsibility for disaster resilience: account of a multi-stakeholder workshop, RMIT University, Bushfire CRC, National Climate Change Adaptation Research Facility, Melbourne.*

McLennan BJ & Handmer JH 2013a, *Sharing responsibility in Australian disaster management, RMIT University & Bushfire CRC, Melbourne.*

McLennan BJ & Handmer JH 2013b, *Visions of sharing responsibility for disaster resilience: sharing control, in ´ Proceedings of Bushfire CRC & AFAC 2012 Conference Research Forum´ Thornton RP & Wright LJ (eds),* pp. 13-25, Bushfire CRC, Perth.

Norman B, Steffen W, Maher W, Woodroffe C, Capon A, Webb R, Rogers K, Lavis J, Sinclair H & Weir B 2013, *Coastal Urban Climate Futures in South East Australia: Wollongong to Lakes Entrance, National Climate Change Adaptation Research Facility, Gold Coast.*

NSWRFS (New South Wales Rural Fire Service) 2006, *Guideline: Bush Fire Prone Land Mapping, New South Wales Rural Fire Service, Sydney.*

Paterson RG 2007, *'Wildfire Hazard Mitigation as 'safe' Smart Growth', in Troy A & Kennedy RG, (eds) Living on the Edge, Advances in the Economics of Environmental Resources, Emerald Group Publishing,* pp. 43-71.

Renn O & Schweizer PJ 2009, *Inclusive risk governance: concepts and application to environmental policy making, Environmental Policy and Governance, vol. 19,* pp. 174-185.

State Disaster Management Group 2012, *Queensland State Disaster Management Plan, State of Queensland, Brisbane.*

State Emergency Management Committee 2012, *'NSW State Emergency Management Plan', State of New South Wales, Sydney.*

Teague B, McLeod R & Pascoe S 2010, *'2009 Victorian Bushfires Royal Commission: final report', State of Victoria, Melbourne.*

Victorian Government 2012, *Victorian emergency management reform: white paper, Victorian Government, Melbourne.*

Victorian Government 2013, *Emergency Management Manual Victoria, Victorian Government, Melbourne.*

Walker G, Tweed F & Whittle R 2013, *A framework for profiling the characteristics of risk governance in natural hazard contexts, Natural Hazards and Earth Systems Sciences Discussions, vol. 1,* pp. 2207-2229.

Weir JK 2013, *'Fire authorities and planners: reducing risk across diverse landscapes', in L.J. Wright (Ed) 2013, 'Proceedings of Bushfire CRC and AFAC 2013 Conference Research Forum' 2 September 2013, Melbourne Australia, Bushfire CRC.*

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