

Background Report
Law and Regulation for the Reduction of Risk from Natural Disasters
in Australia
A National Law Desk Survey
August 2012

Acknowledgements

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Law and Regulation for the Reduction of Risk from Natural Disasters in Australia: A Desk Survey

Executive Summary

On 1 January 1901 the Australian Constitution commenced operation creating the Commonwealth government and changing six former English colonies into States; the six original States have since been joined by three self-governing territories to create the modern Commonwealth of Australia. The Australian Constitution reflects an agreement between the former colonies and the Imperial Parliament to transfer certain, national powers to the Commonwealth, leaving the matters not expressly granted to the Commonwealth to the States. Although constitutional interpretation has, over the years, shifted the balance of power between the central, federal government and the States, it remains the case that the Commonwealth legislature is a legislature of limited and defined powers. The power to make laws with respect to disaster risk management is not expressly granted to the Commonwealth and so it remains an area that is primarily governed by State, and also Territory, law.

This study looks at Commonwealth laws in response to a number of specific questions and areas. The use of the same questions, across the national studies, will allow comparison of DRR law and policy across the many countries studied. In Australia, the Commonwealth sees its role as supporting the states in their key role in preparing for and responding to disasters (Eburn, 2012). This restricted Commonwealth role is reflected in the apparent dearth of commonwealth law in the areas discussed in detail in this report. At the national level there is in fact very little law so for example, the Commonwealth lacks any single piece of emergency management legislation or a law to declare a state of national, natural emergency. Australia's very large size, and relatively small population, means, however, that any one hazard is unlikely to affect the whole nation and so these issues are left to the States and Territories to manage, with support from the Commonwealth, and the other states, when required.

The analysis of the laws here includes reference to national policy. Most national policy is written by the Council of Australian Governments (COAG) and reflects government consensus rather than 'direction' from the Commonwealth. The Commonwealth is not a 'superior' government to the States, rather it is a government managing federal responsibilities whilst the states manage state responsibilities. DRR and response is therefore a collaborative endeavour rather than a matter where the Commonwealth can dictate or 'set' goals and priorities for the States.

Where the Commonwealth does have specific authority, for example in the area of telecommunications or social security (and therefore disaster relief payments) then there is Commonwealth law on how those services will be provided in a disaster and these are discussed here.

Because there is no single, specific, emergency management or DRR law, it follows that relevant rules that impact upon these important considerations are contained in and spread across a number of laws that have been enacted for a more general purpose. Finding relevant provisions on DRR and emergency response does require detailed searching. It may be that there are other laws, embedded in provisions that have not been found and also that there will be legal provisions, not specifically identified as being a law with respect to an emergency or DRR that will be relied upon in a particular emergency. Emergencies and hazards do not always go according to plan so flexibility and imagination is required to respond to the particular challenges posed by a particular event. How some laws will be used, both in the immediate response and in long term DRR planning, may not be clear or identified until particular challenges emerge.

Australia has, in recent times, had to respond to major events such as the 2009 Victorian bushfires that killed 173 people and destroyed around 2000 homes, and flooding in Victoria and Queensland, including flooding in the Queensland capital, Brisbane and the impact of Cyclone Yasi in Queensland's north. It is probable that planning and preparation kept the death toll and losses from these events reduced the community's vulnerability and kept the losses, both in lives and property, below what might have been experienced in other countries if they had faced hazards on a similar scale. This study, focussing as it does on Commonwealth laws, may give a false impression on the level of commitment to preparation and disaster risk reduction.

The Commonwealth sees its role as supporting the states in their key role in preparing for and responding to disasters (Eburn, 2012). This restricted Commonwealth role is reflected in the apparent dearth of commonwealth law. To gain a complete picture of Australia's legal preparation for the impact of natural hazards and for DRR, this report must be read in conjunction with the report or reports from the Australian States and Territories.

List of abbreviations

Cth	Commonwealth
ACT	Australian Capital Territory
NI	Norfolk Island
NSW	New South Wales
NT	Northern Territory
Qld	Queensland
SA	South Australia
Tas	Tasmania
Vic	Victoria
WA	Western Australia
COAG	Council of Australian Governments
DRR	Disaster Risk Reduction
IFRC	International Federation of Red Cross and Red Crescent Societies

1. Introduction

This study is one of many commissioned by the International Federation of Red Cross and Red Crescent Societies (IFRC) as part of a global synthesis report on law and regulation for disaster risk reduction (DRR). The purpose of the National Desk Survey is to create a county profile of the law and regulation for DRR in Australia however Australia is a multi-jurisdiction nation, with six states, three self-governing territories and the Commonwealth or Federal government. The Commonwealth legislature is a legislature of limited and defined powers. The power to make laws with respect to disaster risk management is not expressly granted to the Commonwealth and so it remains an area that is primarily governed by State law.

In commissioning this desk study, the IFRC identified that a complete study of Australian law would involve multiple projects. This report therefore looks at the DRR laws of the Commonwealth. Another study, looking at the law in Victoria, has been commissioned and further studies, of other Australian states, may be commissioned in the future.

What is identified here is relevant Commonwealth law and policy documents reflecting the Commonwealth's role in emergency management and disaster risk reduction. Some of these policy documents, such as COMDISPLAN, the Commonwealth Disaster Plan, are documents owned by the Federal Government. Others, such as the *National Strategy on Disaster Resilience*, have been produced by the Council of Australian Governments (COAG). COAG is made up of the Premiers or Chief Ministers of every jurisdiction, the Prime Minister of Australia and a representative of Local Government. COAG policy statements reflect a consensus government view rather than a policy directive from the Commonwealth to the States. Even so COAG policy documents are identified here, given their national application.

In this study, and in others around the world, analysis of the laws and regulations has been carried out against a given set of questions, organised around the first four of five priorities laid down in the Hyogo Framework for Action, 2005-2015, which focus on

1. Ensuring that disaster risk reduction (DRR) is a national and a local priority with a strong institutional basis for implementation, including through “policy, legislative and institutional frameworks”
2. Identifying, assessing and monitoring disaster risks and enhance early warning
3. Using knowledge, innovation and education to build a culture of safety and resilience at all levels
4. Reducing the underlying risk factors.

By focussing on the same issues, the national studies should provide a useful basis for comparison and a quick check on national progress on implementation of the Hyogo framework.

2. Summary of Main Natural Hazards and Risks in Australia describe in relation to the principal geographic regions of the territory

i. Geographical overview

Australia is a large island continent lying between the between the Indian Ocean and the South Pacific Ocean. With a land mass in excess of 7.6 million square kilometres, Australia is only slightly smaller than the continental United States. The Australian territory includes off shore islands: Ashmore and Cartier Islands, the Australian Antarctic Territory, Christmas Island, Cocos (Keeling) Islands, the Coral Sea Islands, Heard Island, Lord Howe Island, McDonald Island and Norfolk Island.¹ Australia's closest neighbours are Papua New Guinea, Timor-Leste, Indonesia, New Caledonia, Philippines, Brunei and New Zealand.²

ii. Main hazards and risks³

- a) Tropical cyclones – Tropical cyclones can produce destructive winds, torrential rains, storm tides, and phenomenal seas. As they move inland and to the south, they eaken but can still cause major impacts and may adversely affect southern regions as they interact with other weather systems. Tropical cyclones occur seasonally, with the majority occurring between December and April.
- b) Floods – Heavy rainfall can cause both riverine floods and flash floods. Floods are the most costly natural disasters in Australia and have caused over 2,300 deaths since 1790.

¹ Department of Regional Australia, Local Government, Arts and Sport, *Territories of Australia* <<http://www.regional.gov.au/territories/>>; Australian Government, *State and territory government* <<http://australia.gov.au/about-australia/our-government/state-and-territory-government>>; Lord Howe Island, *Lord Howe Island Board* <<http://www.lordhoweisland.nsw.au/community/board.htm>> at 26 July 2012.

² Who is Australia's closest international neighbor? <http://wiki.answers.com/Q/Who_is_Australia%27s_closest_international_neighbor> at 26 July 2012.

³ Miriam Middelmann, *Feature Article 3: Understanding Natural Hazard Impacts on Australia* (2010, Australian Bureau of Statistics), <<http://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/00408ced366bb56aca2570de00029f46!OpenDocument>> at 26 July 2012.

- c) Severe storms – Severe storms occur more frequently than any other natural hazard and have the potential to occur anywhere in Australia. They can range from isolated thunderstorms to intense low pressure systems. They can be associated with tropical cyclones and be a substantial contributor to flooding. Severe storms produce storm tides, lightning and thunder, hail, tornadoes, water spouts, damaging winds and flash floods.
- d) Bushfires – Bushfires pose a threat in nearly all parts of the country at different times of the year. Australia’s single worst natural disaster was the ‘Black Saturday’ fires in Victoria, February 2009 where 173 people were killed and over 2100 homes were lost.
- e) Landslides – Landslides regularly impact localised areas. Common types of landslides include rockfalls, debris flows and deep seated landslides. Landslides in Australia are predominantly triggered by an increase in pore water pressure from intense short duration or prolonged rainfall.
- f) Earthquakes – Australia is a tectonically stable region with few earthquakes of any consequence however significant earthquakes have occurred in 1954 (Adelaide), 1968 (Meckering) and 1989 (Newcastle). The Newcastle earthquake is Australia’s single biggest earthquake event which left 13 people dead and 160 injured.
- g) Tsunami – While the overall risk from tsunami to the Australian population is lower than it is for many parts of the world, tsunami have affected Australia but without any loss to life.

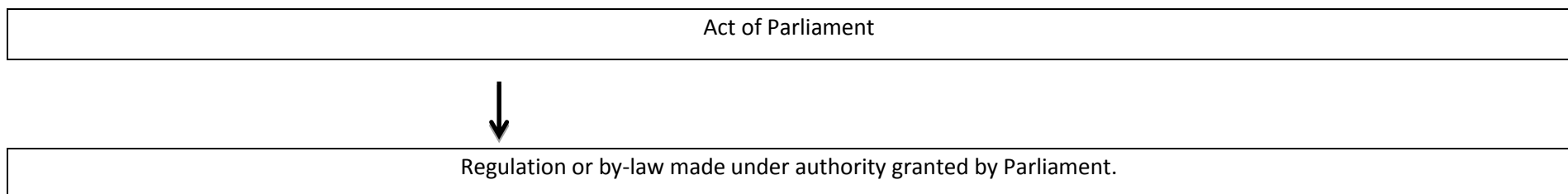
3. Governmental & Law-making structure

Australia is a federation made up of six states, three self-governing territories and the federal government. The federal government has a limited legislative and may only make laws with respect to the matters listed in the *Australian Constitution*.⁴ The States have extensive powers and may make laws on any subject other than those that are exclusively reserved to the Commonwealth. Where a state law is inconsistent with a Commonwealth law, the Commonwealth law prevails.⁵

With the exception of Queensland each state and the Commonwealth has a bi-carmel legislature with an upper and lower house. Queensland, the Northern Territory, Norfolk Island and the Australian Capital Territory have single house legislatures.

Government power is distributed across three arms of government, the legislature, the judiciary (headed by the Chief Justice of the High Court of Australia and the Chief Justice of each State and Territory Supreme Court) and the executive. The Executive Power of the Commonwealth and the States is vested in Her Majesty the Queen, exercised by her representative, the Governor-General for the Commonwealth and the Governors of each state.

The State and Commonwealth Parliaments are the supreme law making bodies. They may, by Act of Parliament delegate some law making powers to the executive arm of government who may then make regulations or by-laws.



⁴ *Australian Constitution*, s 51.
⁵ *Australian Constitution*, s 109.

Australia has inherited the common law tradition from the United Kingdom. The Courts have a limited law making power when deciding cases before them. In areas that are not covered by legislation the common or judge made law will apply. In the event of any inconsistency between the common law and the law set by the Parliament, the legislative provisions will prevail. The High Court of Australia sits as the highest court for each state and Territory and is the final arbiter of the Constitution. The High Court may declare that an Act is unconstitutional in which case the Act will cease to have effect.

The court structure in NSW is shown below; a similar structure applies in each state and territory. For the Commonwealth there is a Federal Magistrate's Court, the Federal Court and the Family Court. Each court is bound to follow statements of law set by a court higher in the hierarchy. In this way the High Court of Australia is able to set the common law for Australia.

High Court of Australia

Court of Appeal/Court of Criminal Appeal

Supreme Court

District Court

Local Court

4. Law and Regulation for Risk Reduction in Natural Disasters - Research Questions for National Law Desk Surveys

1. Background information	14
2. Institutional frameworks, resourcing and community participation in DRR:	17
Part One. Disaster Management Law & Institutions.....	17
A. Disaster Management Institutions	17
B. Hyogo Framework for Action & Climate Change Institutions.....	24
C. DRR priority and resource allocation in government	27
Part Two. Responsibility, accountability and liability for natural disaster risk reduction.....	36
A. Constitutional Rights & Guarantees for the Population	36
B. Liability & Insurance.....	39
3. Early warning and reduction of underlying risk factors through regulation	41
Part One. Rapid-onset disasters, sectoral and specific regulation based on identified risks and community participation	41
A. Cyclones, tornadoes, or storms?	41
B. Earthquake/Tsunami?	44
C. Fire?.....	47
D. Floods?	50
E. Heat/cold waves?.....	53
F. Insect Infestations?	56
G. Landslides and avalanches?	58
H. Volcanoes?	61
Part Two. Slow-onset disasters, sectoral and specific regulation based on risks and community participation	63

I.	Drought and related famine?.....	63
J.	Other food security risks?	66
Part Three.	Early Warning, Hazard Mapping and Risk Information.....	68
A.	Early Warning.....	68
B.	Risk identification, assessment and monitoring.....	71
Part Four.	Regulation of the Built Environment	72
A.	Building Codes.....	72
B.	Land Use Planning Laws	78
C.	Land tenure.....	81
D.	Informal and precarious settlements.....	83
E.	Urban Water and Flood Management.....	88
Part Five.	Regulation of the Natural & Rural Environment.....	90
A.	Human Risks in Environmental Change	90
B.	Forests.....	92
C.	Rivers and watercourses	93
D.	Drought and food security	96
4.	Information management and exchange, community level DRR education & awareness	97

1. Background information

Using secondary and legal sources, identify and describe briefly in the table below the governmental structure of the subject country to assist readers understand how the different levels of law and regulation relate to each other.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Identify laws that indicate the structure of government, including the number of levels of government and the extent of decentralisation of governmental functions, such as: constitutional framework for different levels of government (e.g. national/provincial/local), and specific laws on decentralisation.			
1. How many levels of government are there, and what are they called? How many administrative areas are there (e.g. provinces, local government areas)?	<i>Australian Constitution</i> <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth) <i>Northern Territory (Self-Government) Act 1978</i> (Cth) <i>Norfolk Island Act 1979</i> (Cth) <i>Constitution Act 1902</i> (NSW) <i>Local Government Act 1993</i> (NSW) <i>Constitution Act 1975</i> (Vic) <i>Local Government Act 1989</i> (Vic) <i>Constitution Act 1867</i> (Qld) and <i>Constitution of Queensland 2001</i> (Qld)		There are three levels of government. The federal government, state and territory government and local government. There are six states, Queensland, New South Wales, Victoria, Tasmania, South Australia and Western Australia; three self-governing territories, the Northern Territory, the Australian Capital Territory and Norfolk Island. Each state and the Northern Territory have established structures for local government.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Local Government Act 2009 (Qld)</i> <i>Constitution Act 1889 (WA)</i> <i>Local Government Act 1995 (WA)</i> <i>Constitution Act 1934 (SA)</i> <i>Local Government Act 1999 (SA) and Local Government Act 1934 (SA)</i> <i>Constitution Act 1934 (Tas)</i> <i>Local Government Act 1993 (Tas)</i> <i>Local Government Act 2008 (NT)</i>		
2. Is there a separate law on decentralisation of government functions? How does it decentralise? For example, does it establish new institutions or delegate powers to provincial/local government?	<i>State Owned Corporations Act 1989 (NSW)</i>	S 20E	No, though the <i>State Owned Corporations Act 1989 (NSW)</i> requires state owned corporations ‘to exhibit a sense of responsibility towards regional development and decentralisation’.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
3. Looking at the Constitution and/or decentralisation law, is there any mention of allocation of responsibility at the different levels for reducing risks related to natural disasters?			No
4. Is this country a member of any regional organisation(s) that make(s) regulations or agreements or issues guidelines for member states that could impact on disaster management or risk reduction? Is so, please name the organisation(s).			No

2. Institutional frameworks, resourcing and community participation in DRR:

The aim is to identify laws that establish the governmental institutions and structures relevant to DRR, and which set out their mandates, and resource allocation mechanisms, including the extent of involvement of communities and civil society. These may include specialist disaster management institutions, bodies established to implement the Hyogo Framework for Action, or authorities charged with planning for adaptation to climate change, as well as government bodies responsible for planning and oversight, public administration at all levels, land use planning, building controls, environmental management, and telecommunications. However, to avoid repetition, the sectoral institutions are not included in this question but are part of the data requested in the section on reducing underlying risks.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Part One. Disaster Management Law & Institutions			
The key question in relation to DM laws is whether they exist and, if so, the extent to which they incorporate longer term disaster risk reduction, as well as prevention. Issues for investigation include: progress in the development of comprehensive DM legislation (at national level, provincial and local levels), what, if any, elements of existing DM laws and regulations relate to risk reduction and prevention for natural disasters; and whether there is a specified DM role for communities, civil society and the National Red Cross or Red Crescent Society (especially in recognition of its auxiliary status in humanitarian response).			
A. Disaster Management Institutions			
5. Is there a national disaster management (DM) or civil protection law or regulation? - or a group of regulations? Describe.			No
6. Is there also a national disaster management policy? Is this established by a law? Provide details.	<i>Australian Government Disaster Response Plan</i>		Yes, there is a national disaster management policy, the <i>National Strategy for Disaster Resilience</i> , supported by federal disaster plans, but

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<p><i>(COMDISPLAN)</i></p> <p><i>National Catastrophic Natural Disaster Plan (NATCATDISPLAN)</i></p> <p><i>National Action Plan for Human Influenza Pandemic</i></p> <p><i>National Counter Terrorism Plan</i></p> <p><i>National Strategy for Disaster Resilience</i></p>		they are not established by law.
<p>7. Is the DM law a national law applicable throughout the territory of the subject country? If so, does it establish an integrated national system with elements at provincial, local and/or community level?</p>			No

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>8. Are there separate provincial or local DM laws? Are these connected with the national DM law in any way? e.g., is there a hierarchy of laws between them, or a common institutional structure?</p>	<p><i>Emergencies Act 2004</i> (ACT) <i>State Emergency and Rescue Management Act 1989</i> (NSW) <i>Disasters Act 1982</i> (NT) <i>Disaster and Emergency Management Act 2001</i> (NI) <i>Disaster Management Act 2003</i> (Qld) <i>Emergency Management Act 2004</i> (SA) <i>Emergency Management Act 1986</i> (Vic) <i>Emergency Management Act 2005</i> (WA)</p>		<p>Yes, the primary responsibility for DM is vested in the States and each has their own disaster management legislation. The <i>National Strategy for Disaster Resilience</i> was established by the Council of Australian Governments so reflects agreement across all levels of government but is not specifically the subject of DM law.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
9. Does the DM or other law establish one or more specialist DM institutions? What are they (i.e. what are their names and what type of body are they) and what are their mandates?	<i>Australian Civil Corps Act 2011 (Cth)</i>		There is no national DM law, but there is a law to create a federal civil response agency that can respond to international calls for assistance.
10. Does the DM policy use the same or different implementing institutions from the DM law? Describe.			No
11. Does the DM law or other law deal with: a) Disaster response ⁶ ? b) Disaster preparedness ⁷ ? c) Disaster mitigation ⁸ and prevention ⁹ ? d) Disaster risk reduction ¹⁰ (DRR)? e) If it includes DRR, how is it	<i>National Strategy for Disaster Resilience</i>		The national plans deal with the Commonwealth's response to disasters. The National Strategy for Disaster Resilience deals with DRR but the term is not defined. The only reference to the term is at p 13 where it is said 'Local planning for the response to and recovery from disasters will take account of community vulnerabilities and incorporate disaster risk reduction measures.'

⁶ "The provision of emergency services and public assistance during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected."

⁷ "The knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions."

⁸ "The lessening or limitation of the adverse impacts of hazards and related disasters."

⁹ "The outright avoidance of adverse impacts of hazards and related disasters."

¹⁰ "The concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events."

Note: These definitions are taken from the 2009 UNISDR Terminology on Disaster Risk Reduction, obtained here: <http://www.unisdr.org/we/inform/terminology>.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
defined? (include definition)	<p><i>Defence Instruction (General) OPS 05-1</i></p> <p><i>'Defence Assistance to the Civil Community – policy and procedures</i></p> <p><i>Social Security Act 1991 (Cth)</i></p> <p><i>NDRRA Determination 2011 and</i></p> <p><i>NDRRA State and Territory Thresholds 2012-13</i></p>	Part 2.24	<p>The use of the Australian Defence Force in assisting the civil community to respond to disasters is governed by an executive order.</p> <p>The Social Security Act provides for the payment of emergency assistance to people affected by disasters.</p> <p>The Natural Disaster Relief and Recovery Arrangements provide for sharing between the federal and state governments the costs of recovery from a natural disaster.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
12. Does the DM law (or any other law) or policy allocate DRR responsibilities in one or more government ministries? If so, which ministries? Describe their allocated roles.	Administrative Arrangements Order 09/02/2012	Part 2	Administrative orders place the responsibility for disaster response and management in the Attorney-General's Department.
13. Does the DM law or policy prescribe a role in DM institutions for civil society? If so, how defined and what is the role? At what levels? a) National? b) Provincial/state? c) Municipal/local?			This is done at state level, but is not subject to Federal DM law.
14. Does the DM law or policy prescribe a role in DM institutions for the National Red Cross or Red Crescent Society? If so, how defined and what is the role? At what levels? a) National? b) Provincial/state? c) Municipal/local?			No.
15. Is there any provision in the DM law or policy to ensure that women have a role and a voice in the DM institutions? If so, how is this regulated or encouraged by law? At			No

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>what levels does the law provide for women’s participation in DM institutions?</p> <p>a) National?</p> <p>b) Provincial/state?</p> <p>c) Municipal/local?</p>			
<p>16. Does the DM law or policy prescribe a role in DM institutions for communities? If so, how defined and what is the role? Does it specify any mechanisms to ensure a voice for all elements of the community in DRR, e.g.</p> <p>a) Women?</p> <p>b) Different cultural or ethnic groups?</p> <p>c) Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d) Socially isolated groups and the very poorest people?</p>	<p><i>National Strategy for Disaster Resilience</i></p>		<p>Yes, the National Strategy calls for the development of resilient communities. Communities are not specifically defined, but the definition from the New Zealand Ministry of Civil Defence & Emergency Management 2010, <i>Community Engagement in the CDEM Context</i> is given as an example definition:</p> <p><i>“A definition of community is: a social, religious, occupational, or other group sharing common characteristics or interests and perceived or perceiving itself as distinct in some respect from the larger society within which it exists”</i></p> <p><i>When thinking about engagement it is useful to look at communities as two distinct types:</i></p> <ul style="list-style-type: none"> • <i>communities of place, and</i> • <i>communities of interest.”</i> <p>The National Strategy says ‘communities need to be empowered to take shared responsibility for coping with disasters’ (p 1) and later: ‘Fundamental to the concept of disaster resilience, is that individuals and communities should be more self-reliant and prepared to take responsibility for the risks they live with. For a resilient nation, all</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>members of the community need to understand their role in minimising the impacts of disasters, and have the relevant knowledge, skills and abilities to take appropriate action. A resilient community will understand and have the ability to use local networks and resources to support actions required during an emergency and to support recovery efforts' (p 10).</p> <p>The National Strategy sets out government goals but does not provide detail on the mechanism to be used to engage the community, which will be a matter for State and Local Governments.</p>
17. Describe the main differences in the scope of the DM law and the DM policy concerning prevention and disaster risk reduction.			There is no DM law.
18. Does the DM law or policy, or other legislation, provide for oversight mechanisms on DRR implementation, including reporting and/ or parliamentary oversight?			No.
B. Hyogo Framework for Action & Climate Change Institutions			
19. Does legislation establish any institutions (including committees), or allocate to an existing body, implementation of the Hyogo Framework for Action? What institutions? What are their			<p>Not by legislation however the Department of Resources, Energy and Tourism operates Geosciences Australia. Geosciences Australia undertakes extensive work in identifying risk and vulnerability. They say:</p> <p>"Geoscience Australia plays a pivotal role in disaster risk reduction</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
designated roles in DRR?			<p>through developing and providing scientific analysis of hazard risks and impacts for emergency managers and decision makers...</p> <p>Our work relates to policies and programs including:</p> <ul style="list-style-type: none"> Natural Disaster Resilience Program Hyogo Framework National Research Priorities” <p>(http://www.ga.gov.au/hazards/governance/policy.html)</p>
20. Does legislation establish any institutions (including committees), or allocate to an existing body, planning and implementation for adaptation to climate change? What institutions? What are their designated roles in DRR?			<p>Yes; there is a Commonwealth Department of Climate Change and Energy Efficiency. The Department deals with:</p> <p>“Development and co-ordination of domestic and international climate change policy</p> <ul style="list-style-type: none"> International climate change negotiations Design and implementation of emissions trading Mandatory renewable energy target policy, regulation and co-ordination Greenhouse emissions and energy consumption reporting Climate change adaptation strategy and co-ordination Co-ordination of climate change science activities Renewable energy Energy efficiency Greenhouse gas abatement programs

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Community and household climate action”</p> <p>The Minister is responsible for the following Commonwealth Acts:</p> <p><i>“Australian National Registry of Emissions Units Act 2011</i></p> <p><i>Building Energy Efficiency Disclosure Act 2010</i></p> <p><i>Carbon Credits (Carbon Farming Initiative) Act 2011</i></p> <p><i>Clean Energy Act 2011</i></p> <p><i>Clean Energy (Charges—Customs) Act 2011</i></p> <p><i>Clean Energy (Charges—Excise) Act 2011</i></p> <p><i>Clean Energy (International Unit Surrender Charge) Act 2011</i></p> <p><i>Clean Energy (Unit Issue Charge—Auctions) Act 2011</i></p> <p><i>Clean Energy (Unit Issue Charge—Fixed Charge) Act 2011</i></p> <p><i>Clean Energy (Unit Shortfall Charge—General) Act 2011</i></p> <p><i>Clean Energy Regulator Act 2011</i></p> <p><i>Climate Change Authority Act 2011¹¹</i></p> <p><i>National Greenhouse and Energy Reporting Act 2007</i></p> <p><i>Renewable Energy (Electricity) Act 2000</i></p> <p><i>Renewable Energy (Electricity) (Large-scale Generation Shortfall Charge) Act 2000</i></p> <p><i>Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge)</i></p>

¹¹ Bill currently before parliament to abolish this Act.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p><i>Act 2010</i>" (Administrative Arrangements Order - 09/02/2012, Part 4.)</p> <p>There is no specific mention in this list of DRR save the reference to 'climate change' adaptation will necessarily have implications for DRR.</p> <p><i>Climate Change Authority Act 2011 (Cth)</i>, Pt 2 and s 2.</p> <p>The Climate Change Authority commenced operation on 1 July 2012, but has no specific reference to DRR.¹²</p>
21. Do the implementation mechanisms for the Hyogo Framework, climate change adaptation and DM institutions intersect? If so, how? Are their mandates complementary or do they overlap? Describe.			No.
C. DRR priority and resource allocation in government			
22. Does the budgetary process provide for any dedicated budget line items for DRR and/or minimum percentages for DRR expenditure by government institutions? If so, is there a budget allocated to DRR at national level? How is this prescribed?	http://www.budget.gov.au/2012-13/index.htm		<p>There are a number of budget items directed toward DRR or disaster response. There are however no prescribed requirements or minimum percentages. The 2012-13 Federal Budget makes the following commitments for DRR/Response.</p> <p><i>Budget Measures 2012-13 - Part 1: Revenue Measures</i></p> <p>"The Government will resolve minor policy issues relating to the previously announced measure that provides capital gains tax (CGT)</p>

¹² Bill currently before parliament to abolish this Act.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>relief for taxpayers affected by natural disasters, with effect from 1 July 2011...</p> <p>This measure will ensure that taxpayers that are eligible for an automatic CGT exemption (such as the CGT main residence exemption) are not prevented from choosing the same CGT treatment available to other taxpayers under the announced relief measure. It also allows taxpayers that participate in an eligible land swap program for natural disasters in relation to their main residence to treat the replacement land they receive under the program as their main residence.” (pp 19-20).</p> <p>“The Government has exempted from income tax ex-gratia payments to New Zealand non-protected special category visa holders affected by the floods that occurred in New South Wales and Queensland in early 2012. These ex-gratia payments are equivalent to the tax-exempt Australian Government Disaster Recovery Payment (AGDRP) and provide assistance to New Zealanders who would have been eligible for AGDRP, but for their visa status.” (p 36).</p> <p>The Government will extend the exemptions for the temporary flood and cyclone reconstruction levy (the temporary flood levy) to include individuals who were eligible for an Australian Government Disaster Recovery Payment (AGDRP) in 2010-11 even if they did not apply for and receive the payment, as required under the existing exemptions. This component of the measure has a cost to revenue of \$5 million in 2012-13.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>The Government will also extend the exemptions from the temporary flood levy to include those people who have been affected by a natural disaster in 2011-12. The classes of individuals to whom the extension apply are those who, in 2011-12:</p> <ul style="list-style-type: none"> • are eligible for an AGDRP for a disaster event; • are directly affected by a Natural Disaster Relief and Recovery Arrangements (NDRRA) declared disaster and would have met the AGDRP criteria; or • are a New Zealand non-protected special category visa holder who received an ex-gratia payment from the Australian Government in relation to a disaster that occurred. <p>This component of the measure has an unquantifiable cost to revenue over the forward estimates period, due to the fact that the 2011-12 income year is yet to come to a close.</p> <p>The Government introduced the temporary flood levy for 2011-12 only to contribute towards rebuilding costs following the natural disasters that affected Australia in 2010-11. Further information is available in the 2011-12 Budget measure <i>Natural Disaster Recovery and Rebuilding – Temporary flood and cyclone reconstruction levy.</i>” (pp 45-46).</p> <p><i>Budget Measures, Budget Paper No. 2 2012-13</i></p> <p>The Government will provide up to \$10 million in 2011-12, as part of its response to the natural disasters in Queensland, to support the early completion of flood mitigation works in the Gowrie Creek Catchment, Toowoomba. The cost of this measure will be met from within existing</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>resources by the reallocation of up to \$10 million in 2011-12 from the Natural Disasters Queensland Local Governments Package funded under the Natural Disaster Relief and Recovery Arrangements. The project will be jointly funded by the Commonwealth, Queensland State Government and the Toowoomba City Council in the ratio 40:40:20 respectively. (p 88)</p> <p>The Government has provided \$2.0 million in 2011-12 to the Queensland Premier's Disaster Relief Appeal for assistance to people adversely affected by flooding events in Queensland in 2012. The Australian Red Cross is assisting the Queensland Government in distributing assistance from the appeal fund. (p 88)</p> <p>The Government will provide \$0.2 million in 2011-12 to assist New Zealand Special Category Visa holders adversely affected by flooding in New South Wales, Queensland and Victoria in 2011-12. Ex-gratia payments equivalent to the Australian Government Disaster Recovery Payment (AGDRP) are being made available to those who otherwise meet the eligibility requirements of the AGDRP and who are prevented from applying for the AGDRP due to their residency status. (p 88)</p> <p>The Government will provide \$435.6 million over four years to expand AusAID's capacity to respond to crises and to reduce developing country vulnerability to natural disasters and instability arising from conflict and state fragility.</p> <p>This measure provides funding for faster and more effective preparedness and response capability within AusAID through the</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

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			<p>expansion of staff, training and emergency stores; increased contributions for humanitarian emergencies and crises; contributions towards selected global humanitarian organisations to expand capacity to anticipate, prepare for and respond to conflict and disasters; and building the capacity of developing countries in the Asia-Pacific region to manage disasters and other crises.</p> <p>In addition, this measure will provide contributions towards global humanitarian organisations and Non-Government Organisations for disaster risk reduction, disaster response, civilian-military cooperation and the removal of unexploded ordnance and landmines in developing countries.</p> <p>Funding for this measure includes \$385.3 million to be offset from the provision for expanded aid funding held in the Contingency Reserve and \$50.4 million to be absorbed from within existing AusAID resources.</p> <p>This measure forms part of the Government's commitment to increase. (p 168)</p> <p>The Government will provide \$206.0 million over four years to ensure the Department of Human Services (DHS) is able to meet customer demand for call centre services and to reduce waiting times. The measure will also support the capacity of DHS' Call Centres to respond to emergencies and natural disasters. (p 208)</p> <p>The Government will provide \$1.1 billion in 2011-12 to local councils as the first two instalments of the expected 2012-13 Local Government Financial Assistance Grants. This will provide local governments with</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

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			<p>additional flexibility and assist them to respond to residual economic challenges arising from natural disasters in 2010-11 and 2011-12 and other pressures. (p 252)</p> <p>The Government will provide \$2.6 million over two years to extend the operation of the National Disaster Recovery Taskforce by one year to the end of 2013. The extension is in response to the increased time granted to the Queensland Government for the completion of reconstruction projects. This will allow the Taskforce to continue to assess spending on recovery and reconstruction in response to the natural disasters of 2010-11. (p 254)</p> <p>The Government will provide \$4.8 million in 2012-13 to improve the Bureau of Meteorology's frontline regional severe weather and flood forecasting capabilities. The measure is in response to a review of the Bureau of Meteorology's capacity to respond to future extreme weather and natural disaster events and to provide seasonal forecasting services. (p 265)</p> <p>The acquisition of a C-17A from the current United States Air Force production line provides the opportunity, within a short time frame, to increase the airlift capability supporting Australian Forces in Afghanistan and the Middle East. It will also enhance Australia's capacity to deliver humanitarian assistance and disaster relief within Australia and the region. (p 297)</p> <p>The Government will provide \$123 million in 2011-12 for the acquisition of an amphibious ship, the <i>Skandi Bergen</i>. The <i>Skandi Bergen</i> is</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

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			<p>expected to be received and operational in 2012.</p> <p>The <i>Skandi Bergen</i> will provide the Royal Australian Navy with an interim increased heavy amphibious lift capability for humanitarian assistance and disaster relief in our region, pending the arrival of two new Landing Helicopter Dock (LHD) ships in the middle of the decade. (p 299)</p> <p>The Government will provide \$49.3 million over two years to replenish the National Medical Stockpile, which includes restocking of influenza antivirals and pre-pandemic Influenza A (H5N1) vaccine.</p> <p>The National Medical Stockpile is a strategic reserve of medicines and medical equipment for health emergencies or disasters. (p 304)</p> <p><i>Australia's Federal Relations, Budget Paper No. 3 2012-13</i></p> <p>Providing continued support to communities affected by natural disasters</p> <p>In recent years, Australia has witnessed the considerable impact on communities of severe natural disasters. This Budget again reflects the substantial commitment the Commonwealth makes to providing ongoing support to affected communities that have dealt, and continue to deal with, the devastating impact of these disasters.</p> <p>In 2012-13, the Commonwealth will continue to provide substantial funding to the States under the Natural Disaster Relief and Recovery Arrangements (NDRRA) to support the rebuilding of communities affected by natural disasters. (p 13)</p> <p>The Commonwealth is providing funding for the National Partnership</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>for the Natural Disaster Queensland Community Work Placements. This National Partnership was established to provide community work placements through the Green Army Program in flood and cyclone affected areas in Queensland. Queensland's Green Army aims to create new jobs to enhance Queensland's natural assets, strengthen the Queensland tourism industry and promote increased environmental awareness. This National Partnership will cease on 30 June 2012.(p 72)</p> <p>The Commonwealth has provided funding to the Queensland Premier's Disaster Relief Appeal to help people affected by natural disasters. These relief appeal payments are separate from Commonwealth assistance to the States under the Natural Disaster Relief and Recovery Arrangements outlined in the Contingent Payments section of this Part. (p 106)</p> <p>The Commonwealth is providing funding for the National Partnership on natural disaster resilience. This National Partnership provides funding to the States to strengthen community resilience to natural disasters through the Natural Disaster Resilience Program (NDRP). The NDRP replaces a number of programs, combining funds to allow the flexibility to address state specific priorities. This National Partnership recognises that the Commonwealth and the States have a mutual interest in reducing the impact of, and increasing resilience to, natural disasters. It formalises their commitment to work together with other parties, such as volunteers, the private and non-government sectors and local government to achieve this outcome. (p 106)</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>The Commonwealth is providing funding under the NDRRA to assist the States with relief and recovery assistance following eligible natural disasters. This includes payments to the States in response to recent and past natural disasters including the November 2010 to February 2011 floods and Tropical Cyclone Yasi.</p> <p>Subsequent to the 2011-12 Budget, the Commonwealth reviewed the accounting treatment of payments made to the States under the NDRRA. The accounting treatment previously applied by the Commonwealth was to recognise grant liabilities under the NDRRA to the extent that (i) the services required to be performed by the State had been performed or (ii) the grant eligibility criteria had been satisfied, but payments due had not been made. The change in accounting treatment has resulted in the Commonwealth recognising a liability equal to the present value of future payments expected to be made to the States under the NDRRA. This is regardless of whether or not a State has completed eligible disaster reconstruction work or submitted an eligible claim under the NDRRA. (p 111)</p>
23. Is there a budget allocated to DRR at provincial/state level (if relevant)? How is this prescribed?	http://www.em.gov.au/Fundinginitiatives/NationalEmergencyManagementProjects/Pages/default.aspx		<p>Not at Federal Level. The Commonwealth makes post disaster relief payments. The Commonwealth may give specific purpose grants, but none are provided for DRR in the 2012-13 budget (see <i>Australia's Federal Relations, Budget Paper No. 3, 2012-13</i>).</p> <p>The commonwealth, through the Attorney General's Department does fund by competitive grant, National Emergency Management Projects "to increase emergency management capability by strengthening</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			communities, individuals, business and institutions to minimise the adverse effects of disasters in Australia. All new project proposals are assessed by the National Emergency Management Committee for recommendation to the Minister of Emergency Management for funding.”
24. Is there a budget allocated to DRR at municipal or local level? How is this prescribed?			Not at Federal Level.
Part Two. Responsibility, accountability and liability for natural disaster risk reduction			
The aim is to identify relevant constitutional or other guarantees that may underpin government responsibility, liability and affected persons’ rights to compensation. These may include rights to: safety /life; not to be discriminated against; protection of livelihoods; health; compensation; and to information relevant to DRR. One specific issue on the question of liability, is whether governments are liable for failure to prevent natural disasters affecting the population, including for failure to warn, or for making an erroneous warning. A second, related, issue is whether private individuals are liable for damage caused to others from their property during natural disasters, or for faulty advice/warnings given. A third element is whether there is any system of compulsory insurance against the effects of natural disasters.			
A. Constitutional Rights & Guarantees for the Population			
25. Are there any guarantees in the constitution or another law relating to individual or collective rights that may underpin government responsibility or liability, and affected persons’ rights to compensation for damage from natural disasters? If so, do these			The Australian Constitution does not contain an express ‘Bill of Rights’.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>relate to:</p> <ul style="list-style-type: none"> a) DRR in general? b) Safety /Life c) Right to Food? d) Right to adequate shelter or housing? e) Non-discrimination, (and other relevant civil and political rights)? f) Livelihoods, Health (and other economic, social and cultural rights)? g) Compensation for losses due to natural disasters? h) Information? 	<p><i>Age Discrimination Act 2004 (Cth)</i></p> <p><i>Sex Discrimination Act 1984 (Cth)</i></p> <p><i>Racial Discrimination Act 1975 (Cth)</i></p> <p><i>Disability Discrimination Act 1992 (Cth)</i></p> <p><i>Australian Human Rights Commission Regulations 1989 (Cth) r 4</i></p> <p><i>Australian Human Rights Commission Act 1986 (Cth)</i></p>	<p>56 & 64</p>	<p>There is anti-discrimination legislation to guarantee non-discrimination on prohibited grounds which include gender, age, disability or race.</p> <p>Various international human rights treaties are incorporated into Australian law and given effect via the Australian Human Rights Commission.</p> <p>A citizen can bring a legal action against the Commonwealth. ‘In any suit to which the Commonwealth or a State is a party, the rights of parties shall as nearly as possible be the same, and judgment may be given and costs awarded on either side, as in a suit between subject and subject.’</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Judiciary Act 1903</i> (Cth)		
<p>26. Do the above constitutional or other guarantees give residents any personal right of action against the state if the government breaches these rights? E.g. access to a constitutional court, or a claim in a human rights court or tribunal? If so, explain how the law enables this to occur, and who has the right to make such claims. E.g.</p> <p>a) Is it an individual or a collective right?</p> <p>b) Can claimants represent themselves?</p> <p>c) Are there costs that mean the poorest people cannot access the remedy?</p> <p>d) Are there financial limitations on any such claims (minimums or maximums)?</p>	<i>Australian Human Rights Commission Act 1986</i> (Cth)	<p>S 11(f), s 31</p> <p>S 46PO, S 46PW</p> <p>S 20, 46P</p>	<p>Yes, the Australian Human Rights Commission Act allows for complaints to be made and determined. The Commission will investigate complaints and “where the Commission considers it appropriate to do so--to endeavour, by conciliation, to effect a settlement of the matters that gave rise to the inquiry; and (ii) where the Commission is of the opinion that the act or practice is inconsistent with or contrary to any human right, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect such a settlement--to report to the Minister in relation to the inquiry”.</p> <p>The Act also gives certain rights to take a complaint to the Federal Court or to Fair Work Australia.</p> <p>a) Complaints may be made by any person who is aggrieved over alleged unlawful discrimination or an act that is alleged or practice contrary to any human right. Complaints may be made by individuals, as well as by representative claimants</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>and trade unions.</p> <p>b)No information.</p> <p>c)No, the complaint process is free. There would be substantial costs however, to take a matter to the Federal Court or Federal Magistrates Court.</p> <p>d)No</p>
B. Liability & Insurance			
27. Does legislation (including case law, where applicable) make government agencies liable for failure to prevent natural disasters affecting the population?			No
28. Are government agencies liable for failure to warn or for making an erroneous warning of natural disaster? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?	<i>Federal Court of Australia Act 1976 (Cth)</i>	Pt IVA	<p>Not at the Commonwealth level. There is litigation, arising from bushfires in 2003 that is seeking to make state agencies liable for failure to warn but that case is still before the courts.</p> <p>If there is liability it will be civil liability only.</p> <p>To succeed a plaintiff would have to bring an action in negligence.</p> <p>There are opportunities for representative or class actions in the Federal Court.</p>
29. Do government agencies that fail to warn or make an erroneous warning have legal immunity? If governments have immunity from liability, how	<i>Meteorology Act 1955</i>		<p>Such immunity does apply at State level.</p> <p>At the Commonwealth level the only relevant agency is the Bureau of Meteorology that is required to ‘the issue of warnings of gales, storms</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
extensive is this and/or how and where in law is it defined? Does it apply to all levels of government?	(Cth)	S 6	and other weather conditions likely to endanger life or property, including weather conditions likely to give rise to floods or bush fires'. The Bureau does not have immunity.
30. Are private persons (individual or corporate) liable for faulty disaster-related advice or warnings given? Does this apply to volunteers? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?	<i>Commonwealth Volunteers Protection Act 2003</i> (Cth).		Such liability is possible but not established. Liability would only apply if the plaintiff could establish negligence. Volunteers are protected by State legislation. Volunteers for Commonwealth agencies are also protected by Commonwealth laws. Legal action would have to be commenced in a court and there are some provisions for collective or class actions in State courts, and in the Federal Court (see q 30).
31. Are private persons (individual or corporate) liable for damage caused to others from their property during natural disasters? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?	<i>Burnie Port Authority v General Jones Pty Ltd</i> (1994) 179 CLR 520.		Only if negligence can be established. Liability would be civil only. Legal action would have to be commenced in a court and there are some provisions for collective or class actions in State courts, and in the Federal Court (see q 30).
32. Is there any system of compulsory insurance against the effects of natural disasters? If so, how is this established by law and what are the			No.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
main elements of the scheme?			

3. Early warning and reduction of underlying risk factors through regulation

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>Parts One and Two: Are there laws or regulations relating to preparedness, prevention and/ or risk reduction against the following specific natural hazards (if relevant)? Such regulations may include some specific laws on rapid-onset disasters – Part One – such as fire regulations and fire service, as well as building codes (e.g. earthquake, fire, hurricanes/cyclones), land zoning and land use planning regulations (e.g. flood plain exclusions, unstable land) , disaster management / civil protection laws, and environmental management laws concerning rivers and forests (flood mitigation, erosion prevention against landslides and floods). There may be similar or a different range of laws concerning slow-onset disasters such as drought and other food security issues – Part Two. There may therefore be some overlap with the subsequent sections, but the main aim of Parts One and Two of this section is to identify which risks have separate regulation in the subject country, and in which laws.</p>			
<p>Part One. Rapid-onset disasters, sectoral and specific regulation based on identified risks and community participation</p>			
A. Cyclones, tornadoes, or storms?			
33. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of			Not at Commonwealth level.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			
34. Does this law specify how management of this risk is financed? If so, describe.			No.
35. Does this law attribute liability for damage caused by: a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk? c) If so, who may be liable - or immune? d) Is it civil or criminal liability, or both?			No.
36. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			No.
37. Does this law provide for consultation and/or participation			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			
<p>38. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			No.
<p>39. If communities are involved in Early Warning Systems (EWS), does this law provide that they:</p> <ul style="list-style-type: none"> a) Assist in the design of local and community EWS? b) Establish or maintain EWS? 			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>c) Provide information for the EWS?</p> <p>d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?</p>			
B. Earthquake/Tsunami?			
<p>40. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?</p>			Not at Commonwealth level.
<p>41. Does this law specify how management of this risk is financed? If so, describe.</p>			No.
<p>42. Does this law attribute liability for damage caused by: failure to warn, or false or faulty warnings of this risk? failure to take preventive action including by reducing this risk?</p>			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
If so, who may be liable - or immune? Is it civil or criminal liability, or both?			
43. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	<i>National Risk Assessment Framework</i>		Not by law but Geosciences Australia does maintain that type of information and mapping.
44. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including: a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people?			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>45. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			<p>Yes;</p> <p>“The Joint Australian Tsunami Warning Centre (JATWC) is operated by Geoscience Australia, located in Canberra, and the Australian Bureau of Meteorology (BoM), located in Melbourne. The Centre monitors, detects, verifies and warns the Australian community of potential tsunami impacts on Australia's coastline and external territories.</p> <p>Geoscience Australia's role in the JATWC is two-fold: to detect earthquakes that have the potential to generate tsunami that can impact Australia's coastline and advise the Bureau of Meteorology of this potential within 15 minutes of the earthquake occurring; and to undertake tsunami risk studies to assist local and state organisations in planning for tsunami events.</p> <p>The Bureau of Meteorology's role is also two-fold: to use its network of sea level monitoring equipment, including coastal tide gauges and tsunameters (deep ocean tsunami sensors), and tsunami propagation models to confirm the existence of a tsunami and estimate its likely impact at the Australian coast; and to issue the relevant tsunami warnings and bulletins for Australia and external territories as required.”</p> <p>(http://ga.gov.au/hazards/our-capabilities/monitoring/tsunami-warning.html)</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>46. If communities are involved in EWS, does this law provide that they:</p> <ul style="list-style-type: none"> a) Assist in the design of local and community EWS? b) Establish or maintain EWS? c) Provide information for the EWS? d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			No
C. Fire?			
<p>47. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?</p>			Not at Commonwealth level
<p>48. Does this law specify how management of this risk is financed? If so, describe.</p>			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>49. Does this law attribute liability for damage caused by:</p> <ul style="list-style-type: none"> a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk? c) If so, who may be liable - or immune? d) Is it civil or criminal liability, or both? 			No.
<p>50. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>			No, but see q 44; Geosciences Australia operates Sentinel “a national bushfire monitoring system that provides timely information about hotspots to emergency service managers across Australia. The mapping system allows users to identify fire locations with a potential risk to communities and property.”
<p>51. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p>			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			
<p>52. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			No.
<p>53. If communities are involved in EWS, does this law provide that they:</p> <ul style="list-style-type: none"> a) Assist in the design of local and community EWS? b) Establish or maintain EWS? c) Provide information for the EWS? d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological 			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
data and analysis)?			
D. Floods?			
54. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			Not at commonwealth level
55. Does this law specify how management of this risk is financed? If so, describe.			No.
56. Does this law attribute liability for damage caused by: a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk? c) If so, who may be liable - or immune? d) Is it civil or criminal liability, or both?			No.
57. Does this law regulate the collection and distribution of information on hazards and risks			No but note "Geoscience Australia is playing an important role in developing models, methods, information and tools to

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>(risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>			<p>analyse natural hazard risk and impacts, assisting government and emergency managers to prepare for a range of possible events, enhancing mitigation and improving community resilience. Examples of these capabilities in action include: Remote sensing and GIS were used to extract a riverine and flash flood ‘footprint’ of the 2007 Newcastle floods. This footprint was used to extract information held within National Exposure Information System (NEXIS) about buildings and people within the affected area. The information was used to help inform funding arrangements and assist communities in recovery.” (http://ga.gov.au/hazards/flood/flood-capabilities.html)</p> <p>“The National Flood Risk Advisory Group (NFRAG) provides expert advice and a national focus for addressing flood management. NFRAG current functions include to:</p> <ul style="list-style-type: none"> • Identify and promote nationally consistent best practice flood risk management • advise on nationally consistent flood risk management policy • provide specialist, expert advice on flood risk management to the work programme of the National Emergency Management Committee (NEMC) and its subcommittees

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>promote community safety with respect to flooding and flood risk, in support of the Community Engagement sub-committee of the NEMC</p> <p>identify and prioritise research needs for improving the quality of flood risk management</p> <p>facilitate and improve communication between flood emergency managers, flood risk managers, land use managers and other stakeholders.</p>
<p>58. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			<p>No.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
59. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			No.
60. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a) Assist in the design of local and community EWS? b) Establish or maintain EWS? c) Provide information for the EWS? d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 			No.
E. Heat/cold waves?			
61. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of			Not at Commonwealth level

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
government is this regulated?			
62. Does this law specify how management of this risk is financed? If so, describe.			No.
63. Does this law attribute liability for damage caused by: a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk? c) If so, who may be liable - or immune? d) Is it civil or criminal liability, or both?			No.
64. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			No.
65. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			
<p>66. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			No.
<p>67. If communities are involved in EWS, does this law provide that they:</p> <ul style="list-style-type: none"> a) Assist in the design of local and community EWS? b) Establish or maintain EWS? c) Provide information for the EWS? 			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			
68. Describe form of regulation, and institutional responsibility.			No.
F. Insect Infestations?			
69. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			Not at Commonwealth level
70. Does this law specify how management of this risk is financed? If so, describe.			No.
71. Does this law attribute liability for damage caused by: a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk?			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>c) If so, who may be liable - or immune?</p> <p>d) Is it civil or criminal liability, or both?</p>			
<p>72. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>			No.
<p>73. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <p>a) Women?</p> <p>b) Different cultural or ethnic groups?</p> <p>c) Vulnerable groups, including children, older persons, persons with disabilities?</p>			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
d) Socially isolated groups and the very poorest people?			
74. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			No.
75. If communities are involved in EWS, does this law provide that they: a) Assist in the design of local and community EWS? b) Establish or maintain EWS? c) Provide information for the EWS? d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			No.
G. Landslides and avalanches?			
76. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of			Not at Commonwealth level

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			
77. Does this law specify how management of this risk is financed? If so, describe.			No.
78. Does this law attribute liability for damage caused by: a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk? c) If so, who may be liable - or immune? d) Is it civil or criminal liability, or both?			No.
79. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			No.
80. Does this law provide for consultation and/or participation			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			
<p>81. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			No.
<p>82. If communities are involved in Early Warning Systems (EWS), does this law provide that they:</p> <ul style="list-style-type: none"> a) Assist in the design of local and community EWS? b) Establish or maintain EWS? 			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
c) Provide information for the EWS? d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			
H. Volcanoes?			
83. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			No
84. Does this law specify how management of this risk is financed? If so, describe.			No.
85. Does this law attribute liability for damage caused by: <ul style="list-style-type: none"> a) failure to warn, or false or faulty warnings of this risk? b) failure to take preventive action including by reducing this risk? 			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>c) If so, who may be liable - or immune?</p> <p>d) Is it civil or criminal liability, or both?</p>			
<p>86. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>			No.
<p>87. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <p>a) Women?</p> <p>b) Different cultural or ethnic groups?</p> <p>c) Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d) Socially isolated groups and the</p>			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
very poorest people?			
88. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?			No.
89. If communities are involved in Early Warning Systems (EWS), does this law provide that they: a) Assist in the design of local and community EWS? b) Establish or maintain EWS? c) Provide information for the EWS? d) Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			No.
Part Two. Slow-onset disasters, sectoral and specific regulation based on risks and community participation			
I. Drought and related famine?			
90. Is there a specific law or institutional mandate for drought preparedness and risk reduction,	National Drought Policy		Yes. The National Drought Policy is a policy agreed between the State and Federal governments. "The objectives of the Drought Policy are to:

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>especially for agriculture and related industries? In particular:</p> <p>a) Rain and river water storage, distribution and conservation measures?</p> <p>b) Development and maintenance of ground water extraction, storage and distribution?</p> <p>If so, describe the forms of regulation. At what level(s) of government is this regulated?</p>	<p><i>Water Act 2007 (Cth)</i></p>		<ul style="list-style-type: none"> • Encourage primary produces and other sections of rural Australia to adopt self-reliant approaches to managing for climatic variability; • Maintain and protect Australia’s agricultural and environmental resource base during periods of extreme climate stress; and • Ensure early recovery of agricultural and rural industries, consistent with long-term sustainable levels.” <p>The <i>Water Act 2007</i> (Cth) represents interstate cooperation to manage the Murray-Darling Basin, the catchment area covering a large part of Australia. The Act is not specifically aimed at drought DDR but the environmental protection of the river and water security for the river’s users including irrigators and other agricultural users. The implementation of the plan will have impact on drought preparation and management in times of drought including issues to do with water extrication but that is not the Acts primary or specific purpose.</p>
<p>91. Is there a specific law or institutional mandate for early warning and response to drought, to mitigate the effects of drought and help prevent famine? In</p>			<p>No</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>particular:</p> <p>a) Is an institution legally mandated to issue drought early warnings? If so, how is this regulated?</p> <p>b) Is an institution legally mandated to impose water use restrictions? If so, at what level(s) of government?</p> <p>c) Is there legal provision for diversion, piping or transporting water to drought-affected areas? If so, at what level(s) of government?</p>			<p>Water restrictions may be imposed at State and local level, not at Commonwealth level.</p> <p>No</p>
<p>92. Do the above laws or mandates specify how management of drought and famine risk is financed? If so, describe.</p>	<p>Exceptional Circumstances Handbook http://www.daff.gov.au/agriculture-food/drought/ec/ec_handbook <i>Rural Adjustment Act 1992 (Cth)</i></p>		<p>The Department of Agriculture, Fisheries and Forestry operate the Commonwealth's drought assistance package that includes income support, exit grants and interest rate subsidies.</p>
<p>93. Do the above laws or mandates regulate the collection and distribution of information on drought and related famine risks? If so, what authority is responsible and what is their mandate?</p>			<p>No</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>94. Do the above laws or mandates provide for consultation and/or participation about drought and famine risk, early warning or general DRR regarding drought and famine by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			No
J. Other food security risks?			
<p>95. Is there a specific law or institutional mandate concerning threats to food security other than droughts? (e.g. predicted effects of climate change, such as inundation of agricultural land</p>			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>and/or mass migration).</p> <p>a) If so, describe the form of regulation to reduce the impact of these risks (if any), and institutional responsibility</p> <p>b) At what level(s) of government is this regulated?</p>			
<p>96. Does the above law or mandate specify how management of food security is financed? If so, describe.</p>			No
<p>97. Does the above law or mandate regulate the collection and distribution of information on hazards and risks to food security, particularly those relating to agricultural production? If so, what authority is responsible and what is their mandate?</p>			No
<p>98. Does the above law or mandate provide for community consultation and/or participation about risk reduction from threats to food security? How? If so, does it provide for participation or a voice for all parts of those</p>			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
communities, including: <ul style="list-style-type: none"> a) Women? b) Different cultural or ethnic groups? c) Vulnerable groups, including children, older persons, persons with disabilities? d) Socially isolated groups and the very poorest people? 			
Part Three. Early Warning, Hazard Mapping and Risk Information			
A. Early Warning			
99. In addition to the sectoral laws above, is there any general obligation to establish early warning systems (EWS) in the disaster management law? <ul style="list-style-type: none"> a) If so, does this include institutional mandates on EWS? b) Which institution(s) are involved and what are their mandates on EWS? c) Is there legal provision for financing of EWS? 	<i>Meteorology Act 1955 (Cth)</i>	S 6	See q 30. The Bureau of Meteorology is required to issue ‘... warnings of gales, storms and other weather conditions likely to endanger life or property, including weather conditions likely to give rise to floods or bush fires’. No.
100. Does EWS regulation include			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
requirements for community consultation and participation in development of EWS? Describe.			
101. Does EWS regulation provide for community-based early warning data collection? Describe.			No
102. Does EWS regulation provide for timely and reliable access for at-risk communities to EWS, meteorological or seismological data (as relevant)? Describe.			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>103. Does the law regulating telecommunications infrastructure and delivery include any DRR criteria in general, or any specific measures such as:</p> <ul style="list-style-type: none"> a) geographical coverage of telecommunications to include remote and/or at-risk areas? b) priority access to communications technology for at-risk communities and responders to disaster? c) access for vulnerable groups such as the elderly and persons with disabilities? d) Support for early warning systems? 	<p><i>Telecommunications Universal Service Management Agency Act 2012</i> (Cth)</p> <p><i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i> (Cth)</p> <p><i>The Telecommunications (Emergency Call Service) Determination 2002</i> (Cth)</p> <p><i>The Telecommunications (Emergency Call Persons) Determination 1999</i> (Cth)</p> <p><i>Telecommunications Act 1997</i> (Cth)</p>	<p>S 11</p> <p>Part 8</p> <p>Ss 285A, 286, 287, 295V & 295W</p> <p>Part 16</p>	<p>Yes; A standard telephone service should be available to “all people in Australia on an equitable basis, wherever they reside or carry on business.” A provider of telephone line services must provide access to the Australian emergency (‘triple zero 000’) call service at no cost to phone subscribers.</p> <p>The National Relay Service is a telecommunications service for those who are deaf or have a hearing or speech impairment. The service provides a text-based emergency service (see http://www.relayservice.com.au/making-a-call/emergency-calls/).</p> <p>Telecommunications providers can release information for locating people in an emergency and to allow emergency services to issue warnings of emergencies or threatened emergencies.</p> <p>“A carriage service provider may be required to supply a carriage service for defence purposes or for the management of natural disasters.”</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>104. Does the above law impose, or allow for the imposition, of any restrictions on use of certain types of telecommunications equipment</p> <p>a) Generally throughout the territory?</p> <p>b) In specified areas?</p> <p>c) Under specified circumstances?</p>	<p><i>Telecommunications Act 1997</i> (Cth)</p> <p><i>Radiocommunications Act 1992</i> (Cth)</p>	<p>Part 21</p> <p>Ss 27, 49, 172, 196 & Part 4.4</p>	<p>Yes; telecommunications and radio communications equipment must be licensed and meet prescribed standards.</p> <p>There are exemptions for use in an emergency and use by emergency service personnel.</p> <p>During a declared disaster, the use of radio communications equipment in the disaster area may be restricted.</p>
B. Risk identification, assessment and monitoring			
<p>105. In addition to the sectoral laws above, does the disaster management law regulate the collection and distribution of information on hazards and risks (risk mapping)? If so, what authority is responsible and what is their mandate?</p>			<p>No</p>
<p>106. Does the disaster management law, or another law, regulate the collection and publication of seismological, meteorological and climatic data relevant to natural disasters? If so, what does it require and who is responsible for this, and under what law?</p>			<p>Various agencies do collect such data, such as the Bureau of Meteorology, Geosciences Australia and Emergency Management Australia but there does not appear to be a specific legal mandate or obligation to do so.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
107. Does the disaster management law, or another law, regulate the collection and publication of baseline population data, especially in high risk areas? If so, what does it require and who is responsible for this, and under what law?	<i>Census and Statistics Act 1905</i> (Cth)		Provides for the Australian Statistician to undertake the census of the Australian population every 5 years.
Part Four. Regulation of the Built Environment			
The aim is to outline the laws and regulations that set out building and construction standards, relevant approvals and enforcement processes, as well as planning and construction of roads & bridges, and land use planning and zoning, such as: urban and rural planning and zoning, including prohibitions on development of high risk sites, public open space for evacuation, access for rescue services such as fire and ambulance, and including regulation of informal settlements; regulation and responsibility for water storage, distribution and quality control for human consumption, flood mitigation construction and other water management against flooding; land tenure, including mapping and registration of tenure rights (especially participatory land mapping with communities) and any recognition of indigenous land rights and occupiers' rights; regulation of emergency and transitional shelter; and regulation or treatment of informal settlements.			
A. Building Codes			
Identify building and construction codes, including fire, flood and earthquake safety, as relevant to identified risks, including any differences in regulation, such as between large urban construction and small residences in rural villages; building regulations, including approvals, inspection and enforcement; and any regulation of emergency and transitional shelter, and informal settlements.			
108. Is there a national building and construction law? If so, what authority is responsible for its	Intergovernmental agreement 'to continue in existence and provide for the operation of the Australian		Yes; the Australian Building Codes Board maintains the National Construction Code. The Board is established by intergovernmental agreement rather than by legislation.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
implementation?	Building Codes Board, 2012' .		
109. If there is not a national building and construction law, is this issue regulated at provincial/state or local level? If sub-national regulation only, can you find an example of such a law?			
110. Does the building and construction law include detailed building codes, regulations or rules? Are these codes mandatory and binding? What areas do they cover (e.g. fire, earthquake, general building design and construction, health requirements, water & sanitation etc.)? List these categories of regulation.			<p>Yes, the National Construction Code “comprises the Building Code of Australia (BCA), Volume One and Two; and the Plumbing Code of Australia (PCA), as Volume Three.”</p> <p>It is up to the States to make the code mandatory.</p> <p>Note the Building Code is not freely available so without funding to purchase a copy of the Code, the answers below are based on the Building Codes Board website</p>
111. Does this law include mechanisms for individual building approvals? If so, which institution(s) have responsibility for this?			Individual building approvals are done at local government level.
112. Does this law include mechanisms for building inspections? If so, which institution(s) have responsibility for this? Does it apply to:			These are done at local level, by local government agencies. In commercial buildings fire brigades may do inspection for fire safety.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<ul style="list-style-type: none"> a) New buildings? b) Renovations / extensions of existing buildings? c) Existing buildings where there is no building application, such as old buildings that may no longer be safe? 			
<p>113. Does this law include mechanisms for enforcement of codes, including sanctions? What type of sanctions (e.g. fines, whole or partial demolition orders)? If so, which institution(s) have responsibility for this?</p>			<p>Not in the building code. These are matters for local government.</p>
<p>114. Do the building regulations have special standards or requirements for:</p> <ul style="list-style-type: none"> a) schools? b) hospitals? c) fire stations? d) other public buildings that may also be required as collective centres in case of disaster (e.g. ministries, sports complexes, churches, mosques etc.)? 			<p>The Building Code classifies buildings into 10 categories:</p> <ul style="list-style-type: none"> – Class 1a single dwellings / houses – Class 1b small guest / boarding houses – Class 2 dwellings / apartments (above others) – Class 3 hotels / motels (unrelated persons) – Class 4 a single dwelling in a Class 5 to 9 – Class 5 offices – not Class 6 to 9 – Class 6 retail shops – Class 7a car parks

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> – Class 7b storage / display warehouses – Class 8 a laboratory or factory – Class 9a health-care building – Class 9b assembly building – Class 9c aged care building – Class 10a non-habitable building (e.g. a carport/ garage) – Class 10b structure – swimming pool – fence – Class 10c a private bushfire shelter
<p>115. Do the building regulations or land use planning laws (or other special laws) include regulation of large commercial buildings and developments (such as multi-storey shopping centres, office buildings and factories)? Identify & describe.</p>			<p>See q 115.</p>
<p>116. Do the building laws/regulations include large, multi-storey apartment buildings? Identify & describe.</p>			<p>See q 115.</p>
<p>117. Do the building laws/regulations include small self-built constructions? Identify & describe.</p>			<p>See q 115.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>118. Do the building laws/regulations differ as between urban and rural settings? If building laws/regulations are different in rural settings, what are the main differences compared with urban settings? E.g.</p> <ul style="list-style-type: none"> a) the extent of regulation? b) the level of government at which it is regulated? c) other? 			No
<p>119. Do the building/planning laws/regulations include emergency and transitional shelter? If so, what form of regulation and which institution(s) have responsibility for this?</p>			Yes, class 10c
<p>120. Do the building laws/regulations include:</p> <ul style="list-style-type: none"> a) Inspections? b) programmes and/or incentives for making existing buildings safe (e.g. retro-fitting for earthquake resistance, addition of fire escapes, condemning unsafe buildings including 			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>demolition orders, tax or funding incentives for owners to fortify buildings)?</p> <p>c) If so, what form of regulation and which institution(s) have responsibility for this?</p>			
<p>121. What if any provision is there for planning, approval and construction of public roads, bridges and related public works? – describe the authority(s) & mandate(s).</p>	<p><i>Environment Protection And Biodiversity Conservation Act 1999</i> (Cth)</p>	<p>Part 9</p>	<p>Generally speaking approval for construction of public works is a matter for State and Territory governments. Where the development is on Commonwealth land or will impact upon Commonwealth land, or is likely to impact upon areas of environment that fall within Commonwealth responsibility, such as the Great Barrier Reef, the approval from the Minister is required</p>
<p>122. Are there other matters relevant to DRR that are regulated in the building and construction laws of the subject country?</p>			

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
B. Land Use Planning Laws			
<p>The aim is to identify whether there are national laws and statutory authorities with responsibility for land zoning and/or land use planning. If there is not a national law or authority, the issue may be regulated at provincial/state or local level and examples of these laws may not be available. However, although land use planning is frequently regulated at local government level, the underlying principles or institutional responsibilities may be included in national or provincial laws. Also, many major cities now have planning law overlays that cross local government boundaries, and may be determined under national or provincial/state laws. In other cases, special regimes have been established to manage the course of a major river that crosses many local boundaries (and these laws may also refer to bilateral treaties about cross-boundary water management - for DRR as well as water use – which may bring them under national law through the treaty powers).</p>			
123. Are there national laws and statutory authorities with responsibility for land zoning and/or land use planning?			No
124. Is this issue regulated at provincial/state or local level? If so, can you find an example of such a law at each level?	<i>Planning and Development Act 2007 (ACT)</i> <i>Environmental Planning and Assessment Act 1979 (NSW)</i> <i>Planning Act 1999 (NT)</i> <i>Sustainable Planning Act 2009 (Qld)</i> <i>Development Act 1993 (SA)</i> <i>Land Use Planning And Approvals Act 1993 (Tas)</i> <i>Planning and Environment Act 1987</i>		Yes

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	(Vic) <i>Planning and Development Act 2005</i> (WA)		
125. Does the land use planning and/or zoning law include processes for: a) Formal release of land for new developments? b) Approval of each new urban development? c) Approval of major commercial developments?			Not at Commonwealth level
126. Does the land use planning and/or zoning law include prohibitions on development of high risk sites (e.g. unstable land prone to subsidence, flood plains, and contaminated sites)?			Not at Commonwealth level
127. Does the planning / zoning law include public open space for evacuation?			Not at Commonwealth level
128. Does the planning / zoning law allocate or require allocation of land for emergency or transitional shelter in preparation for potential disaster?			Not at Commonwealth level

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
129. Does the planning / zoning law include provisions for infrastructure installation (water and drainage, sewers, telecommunications, energy) in new developments?			Not at Commonwealth level
130. Does the planning / zoning law include street width regulations for future traffic flow and to ensure access for emergency services such as fire and ambulance?			Not at Commonwealth level
131. Does the planning / zoning law differ as between urban and rural settings? If different in rural settings, what are the main differences compared with urban settings? E.g. a) the extent of regulation? b) the level of government at which it is regulated? c) other?			Not at Commonwealth level
132. Does the planning / zoning law include any other matters relevant to disaster risk reduction?			Not at Commonwealth level

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
C. Land tenure			
<p>133. Is there a national system of land title registration established under law?</p> <p>a) If sub-national regulation, at what level of government does this occur, if at all? If sub-national, can you find an example of such a law?</p> <p>b) Does the legal mandate for this system require computerisation and/central record at national level? If not, how and where does it require records to be kept?</p>			No. Land titles are registered at State level.
<p>134. Are there institutions mandated to survey land and/or register title? Does this mandate:</p> <p>a) require or allow community participation in land mapping or surveying for the purpose of establishing titles and/or occupancy and/or usage rights?</p> <p>b) establish a timeframe for the conclusion of land mapping?</p> <p>c) allocate resources for land</p>			Not at Commonwealth level

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
mapping?			
<p>135. Does the land title system allow anyone to purchase or own land, or does it exclude anyone? E.g. can the following own and inherit land under this system:</p> <p>a) Women?</p> <p>b) All ethnic or religious groups?</p> <p>c) Non-nationals?</p>			Not at Commonwealth level
<p>136. If there is no standardised land title, is there another way to legally recognise land tenure rights (e.g. indigenous title based on ancestral lands, or established occupation or use, or other traditional rights to use resources such as gathering or hunting or water rights)? Describe.</p>	<p><i>Native Title Act 1993</i> (Cth)</p> <p><i>Mabo v Queensland (No 2)</i> (1992) 175 CLR 1</p> <p><i>Wik Peoples v Queensland</i> (1996) 187 CLR 1</p>		<p>Yes, native title is recognised on some lands where subsequent acquisition of the land is not inconsistent with existing native title and the native title holders can demonstrate a continuing link to the land. Native title is not equivalent to ownership in fee simple but may allow native title holders to continue to use the land for cultural and economic purposes.</p>
<p>137. Is there any legal recognition of traditional or customary law and practice regarding land occupation or ownership, or community or collective management of land? If so, describe the relevant legislation or case law.</p>			See q. 136

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>138. Is there legislation or case law that recognises land tenure as a result of occupation, such as:</p> <p>a) adverse possession (use and occupation of land over a certain period of years in the absence of the legal owner, resulting in a change of ownership)?</p> <p>b) 'squatters' rights' (including any rights to continue inhabiting land and/or vacant buildings or to be given notice of eviction if contested by the legal owner)?</p>			<p>Adverse possession is recognised in Australian law but is governed at state level, there is no relevant Commonwealth law.</p>
<p>139. If there are parallel systems for recognition of land tenure, such as customary law vs. registered freehold title, does one type of legal claim take precedence over the other?</p>			<p>Freehold title takes precedence over native title.</p>
<p>140. Is there any law or legal mechanism that allows government authorities to compulsorily purchase or requisition land for public purposes? If so, do these purposes</p>	<p><i>Australian Constitution s 51(xxxi)</i> <i>Lands Acquisition Act 1989 (Cth)</i></p>		<p>Yes.</p> <p>"51.The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: - (xxx) The acquisition of property on just terms from any State</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>include:</p> <ul style="list-style-type: none"> a) risk reduction from natural disasters? b) land to be kept for evacuation or emergency or transitional shelter? 	<p><i>Pape v Commissioner of Taxation</i> (2009) 238 CLR 1.</p> <p><i>Williams v Commonwealth of Australia</i> [2012] HCA 23 (20 June 2012)</p>		<p>or person for any purpose in respect of which the Parliament has power to make laws”.</p> <p>The powers of the Commonwealth are limited by the Constitution and are not anything the Commonwealth choses to spend money on.</p> <p>Risk reduction is not a specific power under the Constitution so it does not appear that any of the factors mentioned would be a purpose of the Commonwealth.</p>
<p>141. Is there a land tribunal or other dispute resolution mechanism that provides for resolution of land tenure disputes? If so, is this accessible to communities? – to individuals?</p> <ul style="list-style-type: none"> a) Can people without financial means access this system? E.g. are there fees, or requirements to engage lawyers? b) Are such tribunals or mechanisms available throughout the territory, including in rural areas? 	<p><i>Lands Acquisition Act 1989</i> (Cth)</p> <p><i>Native Title Act 1993</i> (Cth)</p>	<p>Ss 71-72; 80-82</p> <p>Parts 3-6</p>	<p>The <i>Lands Acquisition Act 1989</i> (Cth) provides that the Administrative Appeals Tribunal or the Federal Court may determine questions of whether or not the conduct of the federal government constitutes a compulsory taking of land. The Act also provides that the value of compensation to be paid may be determined by arbitration, an appointed expert, the Administrative Appeals Tribunal or the Federal Court</p> <p>The Native Title Act provides procedures to negotiate native title claims but provides resolution can be made via the Native Title Registrar, the Native Title Tribunal or the Federal Court.</p> <p>There are fees and the need to access lawyers to bring claims</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			before the Tribunal or the Court.
D. Informal and precarious settlements			
<p>Informal settlements (also called slums or shanty towns) are areas of housing constructed on land to which the occupants had no prior legal claim. The housing is generally constructed by the occupants from available materials and does not comply with building and planning laws. These unplanned settlements are not served with public infrastructure such as water, sewers/drainage, roads or telecommunications, or public services such as schools and medical facilities. They are especially vulnerable to the effects of natural disaster, as they are often built on high-risk land (precarious settlements), with poor construction materials and methods, and the residents are not protected from the effects of, for example, water contamination during flooding. Informal settlements sometimes arise from mass migrations to the outskirts of large cities following disaster (including slow-onset disasters such as drought and famine). However, many of these settlements exist for many years and become established townships. Approaches taken by governments tend to follow one of three paths: (1) ignore informal settlements for the purpose of regulation, (2) relocate residents either through forced evictions and demolition, or planned resettlement schemes, or (3) regularize them. The latter approach has been taken in Brazil under its Statute of the City administered by the Ministry of Cities, which seeks to progressively regularize and integrate under local government, existing informal and precarious settlements.</p>			
<p>142. Is there a law that mandates clearing of slums / informal or precarious settlements?</p> <p>a) If so, what is the policy reason given (if any) for such clearance?</p> <p>b) Does it require or empower government authorities to evict or resettle residents? Or to demolish such settlements?</p> <p>c) If residents are to be moved, does this law require the</p>			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>provision of alternative housing? If so, how is this financed?</p> <p>d) If mandated, is there a process for eviction? E.g. notice periods, dispute resolution through land tribunals?</p> <p>e) Are there any other protections for the human rights and livelihoods of residents who are evicted or relocated?</p>			
<p>143. Is there a law that mandates recognition and/ or regularization of slums / informal settlements?</p> <p>a) If so, describe the legal regime for regularization, including the responsible institutions.</p> <p>b) Does regularization include the introduction of building codes? Are these mandatory and binding?</p> <p>c) Does regularization include the construction of public infrastructure? If so, how is this financed?</p> <p>d) Does this law authorise or</p>			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>mandate the provision of social services to informal settlements?</p> <p>e) Does this law include any other regulatory measures to address the vulnerability of such settlements to risk from natural disasters?</p>			
<p>144. Does any law require that informal settlements are included in:</p> <p>a) Early Warning Systems?</p> <p>b) Community based DRR education and training?</p>			No
<p>145. Does any law provide a mechanism for recognition of tenure for residents of informal settlements?</p> <p>a) If so, what types of tenure (e.g. full title, right to occupy or use, right to purchase, tenancy)?</p> <p>b) If so, and such settlements are on privately owned land, is there provision for compensation of those with prior legal tenure?</p>			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
E. Urban Water and Flood Management			
146. Is there one or more national laws regulating and allocating institutional responsibility for water storage, distribution and quality control for human consumption? Is urban water management principally a national, or provincial/state or local responsibility?	<i>National Water Commission Act 2004 (Cth)</i>		<p>No; urban water is principally a state responsibility. There is however “The National Water Initiative (NWI), agreed in 2004 by the Council of Australian Governments, is the national blueprint for water reform...</p> <p>The NWI is a shared commitment by governments to increase the efficiency of Australia's water use, leading to greater certainty for investment and productivity, for rural and urban communities, and for the environment.</p> <p>Under the NWI, governments have made commitments to:</p> <ul style="list-style-type: none"> * prepare water plans with provision for the environment * deal with over-allocated or stressed water systems * introduce registers of water rights and standards for water accounting * expand the trade in water * improve pricing for water storage and delivery * meet and manage urban water demands” <p>Progress toward meeting the objectives and goals of the NWI is monitored by the National Water Commission.</p>
147. If there is a national water authority, does its mandate include risk reduction or preparedness for safeguarding the water supply in the face of natural			<p>Not specifically, but the Department recognises that “As a highly urbanised nation, water resources in our cities and towns are under increasing pressure from growing populations and per capita water consumption, compounded</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
disasters?			<p>by drought and climate change. Governments and the private sector need to support the recycling and re-use of water in domestic and commercial settings, and encourage innovation in urban water supply.</p> <p>In response, the Australian Government has committed over \$250 million through the National Water Security Plan for Cities and Towns to fund practical projects that save water and reduce water losses in cities and towns nationally with populations of less than 50,000.”</p> <p>(http://www.environment.gov.au/water/policy-programs/cities-towns/index.html)</p>
148. Does a national law allocate responsibility for flood mitigation construction and other water management against urban flooding (if relevant to the subject country)? If so, what authority is responsible?			No
149. If flood mitigation and water management against urban flooding is regulated at the sub-national level, at what level of government does this occur? Can you find an example of such a law?	<i>Water Act 2000 (Qld) and Water Supply (Safety and Reliability)</i>		Mostly at state level, but also at local government level. Examples from Queensland are listed

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
	<i>Act 2008 (Qld)</i>		
Part Five. Regulation of the Natural & Rural Environment			
Outline the laws and regulations concerning environmental management from the perspective of human safety, preservation of livelihoods and food security, including the regulation of exploitation of natural resources, water management, and reducing risks from natural events such as floods, earthquake, drought, landslides, and wildfires, such as: forestry regulation concerning wildfires, deforestation and erosion relevant to prevention of landslides and floods; environmental impact assessments; river and water catchment management relevant to flood prevention and mitigation, and water storage and distribution for human and agricultural consumption; prevention measures relating to drought, especially protection of people, livestock and crops in the face of drought, including water reserves against the risk of drought; and other prevention and risk management mechanisms to maintain food security, including measures to prevent desertification.			
A. Human Risks in Environmental Change			
150. Is there legislation on environmental protection? If so, what institution has responsibility?	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>		Yes; the responsible agency is the Department of Sustainability, Environment, Water, Population and Communities
151. Does the above mandate include environmental management from the perspective of: a) human safety? b) preservation of livelihoods? c) food security, especially concerning protection of crops and livestock?	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>	S 3A	Yes; the Act applies “principles of ecologically sustainable development [which are]: (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations; (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>(c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;</p> <p>(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;</p> <p>(e) improved valuation, pricing and incentive mechanisms should be promoted.</p>
<p>152. Does this law provide for environmental impact assessments (EIAs) of any proposed new private and public industrial developments?</p>			<p>Yes to the extent that they impact on areas of national significance or Commonwealth land.</p>
<p>153. If there are EIAs, do the criteria include:</p> <p>a) human risk factors from changes to the environment, including life and health as well as livelihoods and food security?</p> <p>b) assessment in light of the known natural hazards affecting the relevant locality, or downstream communities (where relevant)?</p>	<p><i>Environment Protection And Biodiversity Conservation Act 1999 (Cth)</i></p> <p><i>Environment Protection And Biodiversity Conservation Regulations 2000 (Cth)</i></p>	<p>Division 6, Ss 34 & 82</p> <p>Reg 5.04 and Schedule 4</p>	<p>Not specifically, but the EIS must identify relevant impacts and risk mitigation however relevant impacts are largely constrained to impact upon the environment, not upon the human population.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
154. Is there a law that makes any authority responsible for the regulation of exploitation of natural resources from the perspective of human safety during natural disasters? For example, preventing cross-contamination from industrial sites during flooding, or control of extraction methods to manage flooding and/or erosion?	<i>Great Barrier Reef Marine Park Act 1975</i> (Cth) <i>Water Act 2007</i> (Cth)	S 61ACA S 86F	Not specifically but some agencies may have limited capacity in this regard, see <i>Great Barrier Reef Marine Park Act 1975</i> (Cth) s 61ACA, 'Making emergency directions'; <i>Water Act 2007</i> (Cth) s 86F 'Emergency responses to the reaching of trigger points'.
B. Forests			
155. Is there legislation on forest management (if relevant to the subject country)? If so, what institution has responsibility?	<i>Regional Forest Agreements Act 2002</i> (Cth)	S 3	"The main objects of this Act are as follows: (a) to give effect to certain obligations of the Commonwealth under Regional Forest Agreements; (b) to give effect to certain aspects of the Forest and Wood Products Action Agenda and the National Forest Policy Statement; (c) to provide for the existence of the Forest and Wood Products Council."
156. Does the above mandate include forest management from the perspective of natural disaster risk reduction, such as: a) prevention of wildfires?			No

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>b) deforestation and erosion relevant to prevention of landslides and floods?</p> <p>c) other hazards, (such as encroachment by wildlife into agricultural land or villages)?</p> <p>Describe the scope.</p>			
157. Does the law recognize customary laws and practices as to the use and management of forests and their resources?			No
158. Does the law provide for use, conservation or management of forests and their resources by communities?			No
C. Rivers and watercourses			
159. Is there legislation on river and watercourse management (if relevant to the subject country)? If so, what institution has responsibility?	<p><i>Water Act 2007 (Cth)</i></p> <p><i>National Water Commission Act 2004 (Cth)</i></p>		<p>Yes, <i>Water Act 2007 (Cth)</i>. Murray-Darling Basin Authority. This Act does not apply to all rivers and watercourses, only the Murray and Darling Rivers and their catchment. Inland waters are generally the responsibility of State governments.</p> <p>The National Water Commission monitors the application of the National Water Initiative, being a combined State and Federal Government agreement on water management.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>“Under the NWI, governments have made commitments to:</p> <ul style="list-style-type: none"> • prepare water plans with provision for the environment • deal with over-allocated or stressed water systems • introduce registers of water rights and standards for water accounting • expand the trade in water • improve pricing for water storage and delivery • meet and manage urban water demands.” <p>(http://www.nwc.gov.au/reform/nwi)</p>
<p>160. Does the above mandate include river management from the perspective of natural disaster risk reduction, such as:</p> <ol style="list-style-type: none"> a) Riverbed management relevant to flood prevention and mitigation? b) Water storage and distribution for human, agricultural and industrial consumption in rural areas? c) Describe the scope. 			<p>To a certain extent. The Authority has released a draft plan for the Murray Darling Basin. That plan deals with Critical human water needs (Chapter 10 and <i>Water Act 2007</i> (Cth) s 86A(2))</p> <p>See also Dovers, SR & Day, DG (1988) ‘Australian Rivers and Statute Law’ 5(2) <i>Environmental and Planning Law Journal</i>, p 98-108.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
161. Does the law recognize customary laws and practices as to the use and management of rivers and their resources?	<i>Proposed Basin Plan — A revised draft</i> (May 2012)		<p>To a certain extent, Part 14 of the draft Murray Darling Basin plan deals with “Indigenous values and uses”. Paragraph 9.52 says:</p> <p>“(1) A water resource plan must identify:</p> <p>(a) the objectives of Indigenous people in relation to managing the water resources of the water resource plan area; and</p> <p>(b) the outcomes for the management of the water resources of the water resource plan area that are desired by Indigenous People”.</p>
162. Does the law provide for use, conservation or management of rivers and their resources by communities?		7.15(4) 7.20(1)	<p>No but it does require that community interests and views are taking into account when preparing plans and strategies. For example:</p> <p>“When preparing the Basin-wide environmental watering strategy, the Authority must have regard to...</p> <p>(d) the views of:</p> <p>(i) local communities, including bodies established by a Basin State that express community views in relation to environmental watering;...”</p> <p>“A Basin State must prepare a long-term watering plan in consultation with:</p> <p>(d) local communities, including bodies established by a Basin State that express community views in relation to</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			environmental watering..." See also 7.29(3), 7.39, 7.55 and 9.26(2).
D. Drought and food security			
163. Is there any legislation providing for risk reduction and prevention measures relating to drought (if relevant)? If so, does this include any institutional mandate or responsibility to protect people, livestock or crops in the face of drought?			No but see q 91 for commentary on the <i>National Drought Policy</i> .
164. Does the above mandate include the construction and maintenance of water reserves, including against the risk of drought?			No
165. Is there any other legislation relevant to risk management to maintain food security in the face of natural disasters, including any special measures to prevent desertification (if relevant)?			No

4. Information management and exchange, community level DRR education & awareness

Most elements of information, education and awareness will normally be done through policy rather than law, but the legal framework may require public institutions to make DRR information available to the public and/or to carry out public and school education and awareness on reducing risk from natural disasters. For example, there could be a Ministerial directive under the Education Act requiring the inclusion of DRR in the school curriculum. [If this requires repetition of information given above, please note ‘see above’ and refer to the relevant question number.]

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>166. Is there a law that regulates the collection and publication of seismological, meteorological and climatic data relevant to natural disasters?</p> <p>a) If so, what does it require and who is responsible for this, and under what law?</p> <p>b) Does it provide for community level access to the data?</p>	<p><i>Meteorology Act 1955</i> (Cth)</p>	<p>S 6</p>	<p>“(1) The functions of the Bureau are: (a) the taking and recording of meteorological observations and other observations required for the purposes of meteorology...”</p> <p>The Act does not provide for community access, but such access is provided via the website (www.bom.gov.au).</p> <p>Although not set out in law, “Geoscience Australia is playing an important role in developing models, methods, information and tools to analyse hazard risk and impacts as well as building scientific capacity within government and technical agencies in Australia and the region.”</p>

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>167. Is there a law that regulates the collection and publication of baseline population data, especially in high risk areas?</p> <p>a) If so, what does it require and who is responsible for this, and under what law?</p> <p>b) Does it provide for community level access to the data?</p>	<p><i>Census and Statistics Act 1905 (Cth)</i></p>		<p>Provides for the Australian Statistician to undertake the census of the Australian population every 5 years.</p>
<p>168. Does the education law or regulations require inclusion of DRR awareness in the school curriculum? Does this law or another law such as the DM law also require community DRR education?</p>			<p>No</p>
<p>169. If there is a national disaster management policy, does this require any public authorities to conduct public education and awareness on DRR?</p> <p>a) If so, which authorities and what are they required to do?</p> <p>b) In particular does it require DRR education in schools?</p>	<p><i>National Strategy for Disaster Resilience</i></p>		<p>The <i>National Strategy for Disaster Resilience</i> commits governments to have a “clear and effective education systems so people understand what options are available and what the best course of action is in responding to a hazard as it approaches”. Further “Risk reduction knowledge is included in relevant education and training programs, such as enterprise training programs, professional education packages, schools and institutions of higher education.”</p> <p>It is up to the States to determine which agency is responsible for the delivery of these education programs.</p>

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
170. If the above law or the national disaster management policy requires public education, does this provide for community level DRR awareness? If so, does this make any provision for community participation in the development and delivery of public education and awareness campaigns?			Not at this high policy level.
171. Does legislation provide for any designated role for the Red Cross or Red Crescent National Society as an auxiliary to government in DRR education and awareness at community level?			No
172. Does legislation provide for any designated role for Civil Society in DRR education and awareness at community level?			No

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>173. Does any law provide for community-level results in DRR, such as:</p> <ul style="list-style-type: none"> a) Natural disaster warnings that extend to community level? b) Implementation of incentives to carry out community based DRR, or disincentives to ignore or increase risks from natural disasters? c) Community involvement in land-use and urban planning? d) Community involvement in and education concerning building codes? 			<p>No</p>

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