

Queensland emergency response capacity: policy implications for the future

Grant Pitman examines a range of critical issues affecting emergency management impacting on community response during major disasters in Australia

Abstract

Disaster management policy is under review by the Australian Government. One of the major policy issues is shared resource management and the defined boundaries for resource roles and responsibilities to avoid confusion and risk. This includes the unnecessary waste and duplication of federal, state and local government resources during times of disaster. Resource management protocols have to be accepted, understood and practiced to be effective. The public demands a clear point of contact for disaster response and relief and the role and relationship of government agencies such as defence and emergency management could be expanded. Further discussion is required on the different needs in urban and rural communities, for example organisation, control, resources, response time and communications. Differing models may need to be examined, such as control versus decentralisation or regional control. In times of disaster, can the defence agency guarantee a reasonable response considering its global obligations? These issues will significantly impact on community response and resources during a major disaster in Australia.

This article discusses and examines a range of critical issues affecting emergency management co-operation between state/territory agencies and the Defence Forces. Issues to be examined include legislation/policy, information sharing, role differentiation, organisational values, managing resources, development and supporting agency infrastructure to achieve effective co-operation, and co-ordination during a natural or human disaster.

Introduction

Recent world events of terrorism in London, the United States and Indonesia, and increasing global natural disasters such as tsunamis, earthquakes and hurricanes, have impacted significantly on national and international government resources. Economic and emergency resource response has cost Australia \$36.4 billion from 1967 to 1999 (Scanlan, 2004:15). Queensland, for the same period, recorded \$7.9 billion, or 22 per cent of Australia's natural disaster costs. The Queensland Government's spending obligations over the past six years has cost \$324 million (Scanlan, 2004:15). To address this economic deficit, the Australian and state/territory governments have developed policy, guidelines and legislation on the prevention, preparedness, response and recovery funding capacity for disaster management. The desired outcomes should emphasise the need to prepare for disasters to reduce their impact on physical infrastructure and on human life and in doing so, to restore community functionality. A government review was instigated to address economic and social costs to the Australian community of natural disasters. Whether the review was sufficient and comprehensive enough to analyse the effectiveness of policy and structures has been questioned. Furthermore, some have raised concerns whether there was a need for additional funds to address gaps in disaster management resources throughout Australia.

In June 2001, the Council of Australian Governments (COAG) commissioned a review of Australia's approach to natural disasters and the arrangements for dealing with them. The major objectives were to determine whether the current arrangements and framework for assessing disaster risks, the mitigation action being taken, and the way disasters are presently being dealt with throughout Australia were sufficient to effectively meet the needs of Australian communities affected by natural disasters.

The resulting report, *Natural Disasters in Australia: Reforming Mitigation, Relief and Recovery Arrangements*, released in February 2004, concluded 'that current arrangements could be improved by broadening the focus of disaster management beyond historic disaster response and reaction, toward anticipation and

mitigation of disasters' (Scanlan, 2004:16). Furthermore, the COAG report recommends a unified national approach, with a strong emphasis on prevention of the consequences of natural disasters. The report further describes desirable attributes of a national framework for natural disaster management in addition to a range of commitments required by all levels of government to reform Australia's natural disaster management over the next five years. This report could have provided the mechanism for a greater alignment of resources between state/territory and Australian Government agencies, for example, emergency management and the Defence agency.

The states/territories have formally given their commitment to this report. Further emphasis, based on the *Queensland Audit Report* (2004), was placed on the development of an holistic, integrated and balanced approach to disaster management and is supported in the *Queensland Disaster Management Act 2003* (QDMA). The recent *Review of the Queensland Disaster Management System* by Queensland Audit Office (2004) further argues that a 'more robust risk management framework is necessary given the complex and dynamic nature of the environment in which the disaster management system operates which includes changing demographics and national indicators' (Scanlan, 2004:16–17). However, the new *Queensland Disaster Management Act* needs further development to achieve an integrated and balanced approach to disaster management in co-operation with other federal agencies such as Defence.

Governments are looking to efficiently use the existing resources within the local, state/territory and federal jurisdictions. Historically, one of the emerging frontline Australian Government departments that has provided resources to state/territory disaster management agencies, particularly in Queensland, is the Department of Defence. However, in recent times the resource priorities of the Department of Defence resources have been governed by national interests that have a higher priority. Australian Defence Forces overseas commitments would greatly hinder the provision of local aid. Both the state Disaster Management Act (2003) and the new Defence Assistance to the Civil Community (DACC) policy guidelines provide a framework for the respective agencies within Queensland to share resources and co-operatively interact during times of crisis.

Legislation and guidelines considerations – state and defence

While the Australian Government recognises the constitutional responsibility of the states and territories, it has accepted broad responsibility to support them in developing emergency management capabilities. This broad responsibility is based on the Australian constitutional provisions for external affairs and the 1997 Protocols to the Geneva Conventions of 1949,

which include civil defence. The Australian Government also has responsibility for military defence and recognises a need for co-operation and co-ordination with the states/territories for civil defence policy (Appendix A – Definition of Civil Defence and Appendix C – Legal Authority to Engage in Disaster Management). Primary responsibility for the protection of life, property and the environment rests with the states and territories (www.ema.gov.au).

Thus, states/territories have responsibility for the protection of the life and property of their citizens through emergency management, including civil defence. On the 31 March 2004, the *Queensland Disaster Management Act* (QDMA), previously known as the *State Counter-Disaster Management Organisation Act 1975*, was proclaimed. During the second reading of the Disaster Management Bill, the Minister for Emergency Services indicated that the legislation recognised that 'Disaster Management is a partnership between the three tiers of Government – Commonwealth, state and Local' (Queensland Disaster Management Bill, 2003: p. 2). The minister further addressed the need for a strong relationship between the various levels of government in disaster mitigation, prevention and preparedness as well as response and recovery from disasters.

Of particular interest in the legislation is the definition of disaster and also the delegation of powers to appoint disaster officers by the District Disaster Coordinator (DDC). QDMA recognises that an event (disaster) would seriously disrupt a community and require a significant co-ordinated response by local government supported by state/territory, and Australian Government agencies. An event (disaster) could also be a failure of or disruption to an essential service or infrastructure, or a terrorist attack against the state (Section 13, QDMA).

The QDMA provides for the declaration of a 'disaster situation' at the district level by DDC with the approval of the Minister for Emergency Services or at the state level by the Minister for Emergency Services and the Premier (Sections 64, 69, QDMA). Once a declaration has been issued, the DDC (or a Declared Disaster Officer) may exercise an additional power only during the period of a disaster situation and only to do any of the following:

- ensure public safety or public order;
- prevent or minimise loss of human life, or illness or injury to humans or animals; and
- prevent or minimise property loss or damage, or damage to the environment.

Full details of the additional powers provided during a disaster situation are contained in Section 77 of the *Queensland Disaster Management Act*. However, in general they include:



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Police and fire crews combine resources in times of emergency.

- the power to control the movements of people, animals and vehicles (including evacuations);
- the power to control the supply of equipment and services;
- the power to commandeer property or equipment; and
- the power to remove or destroy animals, property, and/or equipment.

The QDMA provides protection from civil liability for the state/territory agencies and local councils and listed individuals from civil liability for certain acts or omissions made under the QDMA, providing they are done in good faith without reckless disregard for the possible occurrence of personal injury or loss or damage to property. The Queensland Act does not extensively cover the use of government resources, or the operational relationships with Australian Government agencies, although the powers and duties of the Commonwealth regarding defence are derived not only from section 51(vi) but also from other sections of the constitution (for example, sections 68, 51(ii), 69, 70, 114 and 119). Defence in its basic connotation has been understood as meaning defence against hostile, warlike action (actual or potential) from some external source (Moens & Trone, 2001:105). Emergency management is not covered by constitutional provisions for national defence and policy directions based on civil defence and foreign affairs provisions have been developed between the Australian Government and the states/territories.

During 2004, the Department of Defence updated their *Defence Assistance to the Civil Community Policy and Procedures* (DACC). The general principle for the implementation of DACC guidelines is to be regarded by state authorities as the exception rather than the rule; 'Defence resources are intended to be

used for Defence purposes only' (Defence Assistance 2004). However, it has always been the position and constitutional responsibility of the states and territories to protect the lives and property of people within their boundaries. Where a disaster is actually or potentially of such a magnitude that state or territory resources are inadequate, unavailable or cannot be mobilised quickly, the Australian Government accepts a responsibility for providing support and funding when requested.

The principle to be applied to the provision of emergency response under the DACC guidelines is that the state/territory governments are primarily responsible for combating disasters and civil emergencies using available state/territory professional and volunteer services and commercially available resources. Australian government resources (including Defence Forces' assets) may be made available in situations beyond the resources and timeframes of state and territory authorities.

The current DACC guidelines cover six categories. Counter-terrorism resources shared between governments are covered in more extensive policy guidelines and will not be discussed in this article. The first three categories cover counter-disaster emergency assistance. Categories four to six deal with non-emergency assistance (including law enforcement needs where no force is used). Of importance to the discussion on future policy implications are the first three categories referred to in appendix B. The guidelines also cover indemnity and insurance issues affecting Australian Government staff operating under the DACC guidelines.

Issues impacting on legislation and guidelines

The new Queensland legislation provides the DDC with the authority to delegate to agencies and personnel (declared disaster officers) the authority to perform specific or generic functions during a declared emergency event. There is scope for Defence Force personnel to be provided with these emergency powers as well as being covered by the liability provisions under the Act. Presently, occupational health and safety regulations and training limitations reduce the support defence personnel can provide on an individual basis during a disaster. Traditionally, due to their role and responsibilities under Commonwealth legislation (Ward, 1992), military personnel have not accepted civilian powers. The adopted practice is for military personnel to be accompanied by a civil authority with associated powers to perform specific emergency-type tasks. This approach requires additional resources from civil authorities; a need for constant joint reporting and supervision; and effective communication lines during critical or severe emergency operations. Often, military resources and skills would be more efficiently used if disaster management Acts and associated guidelines

clearly defined and provided delegated powers during times of disaster. It is often argued that it is not appropriate for military personnel to be given state powers due to their militaristic training and use of lethal force. This factor applies less today than in the past with the Australian Defence Forces often being deployed, whilst not being armed, in peace keeping roles in foreign countries. However, there is long standing arrangement of providing Australian Government powers to police officers to perform tasks where the possible use of lethal force may be required.

With the increased use of Defence Force resources, there should be scope for specific military units to operate within state legislation framework to improve resource, communication and management efficiencies. Military units are adaptable and could provide emergency response. Presently, the design of the Defence units is to fight. They are provided with supporting logistics and personal support units. Defence equipment is primarily designed for warfare. The issue of command can be managed in a shared co-operative arrangement for tasks that do not require the use of lethal force. Similar management and command/control models exist involving state/territory agencies and could be applied in the military context. Perhaps increased funding should be provided to the Defence Forces to improve their emergency management response capacity.

Generally, DACC guidelines one and two have no cost recovery implications. However, civil authorities are able to claim under the *Commonwealth-State Natural Disaster Relief Arrangements* and *state Disaster Relief Arrangements*. Although the Department of Defence has the ability to absorb cost, any indicative cost for the whole event would limit what benefits could be achieved either by increasing civil resources or improving or maintaining

improved Defence Force resources and capabilities. Defence costs should be included in any future emergency response resource capacity, enabling funding between state/territory and federal levels to increase appropriately at both levels to address and support local emergency management capacity.

Information sharing, the allocation of resources and access to resources is of critical importance. Interfacing knowledge of civil and military resources and their management is limited and relies on traditional information systems. An improved emergency resource management system between state/territory and federal agencies could be integrated into a secure system where timeliness of information is often critical in dealing with crisis events. In addition, secure communication systems between emergency and military services would significantly improve co-ordination; responsiveness; reduce duplication of support services; ensure increases in emergency productivity; and promote preparedness for major disasters. The adoption of this strategy would require additional funding.

During the past 20 years, there has been an increasing tendency by governments generally to add, broaden or even change roles, functions and responsibilities of public sector and emergency response agencies. The Department of Defence has not been exempt from this policy. Administration and operations expansion by the Australian Government for threats of terrorism, border protection, policing actions, international rebuilding and security, and a variety of emergency management, public order and social services has progressively changed the roles and functions of agencies such as the Defence Forces. Although the Defence Force has and will continue to have a primary role in military outcomes, secondary roles such



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Australian Defence Forces are often deployed in peacekeeping roles in foreign countries.

as emergency management appear to be becoming integrated into their core business. Civil authorities with scarce resources, significant population growth, massive infrastructure development and an increase in natural and human disasters are keen to gain access to military and Australian Government resources through bureaucratic or political means. Future emergency management roles and responsibilities need to be fully integrated into the military organisation/policy and infrastructure to achieve a seamless response to emergency management issues. Establishing a supportive quick reaction function between emergency services and the military as an alternative strategy could be considered within the DACC guidelines similar to the model and funding/resource arrangements currently operating in the United States (Wright, 1997:290).

Due to the complexity of human lifestyles, technology and infrastructure in our communities, when an emergency/crisis event occurs, there is community expectation that highly skilled people and sophisticated resources are required. National skilling standards, workplace health and safety legislation, liability issues, industrial and union requirements and other related standards make the workplace more complex during emergency events. Often, organisations such as the military have specific and specialist knowledge, skills and equipment – such as communication equipment – to support emergency management requirements. With a wide variety of tasks occurring during a natural disaster a range of differing skills needed. It is difficult to provide timely and appropriate skills training during a disaster and a needs analysis review of training and tasks performed during a disaster should occur. A policy for up-skilling and shared-skilling should be developed between emergency agencies and military organisations, with a registered database to address response and recovery tasks assigned to Defence personnel. Certainly, this approach of skilling military personnel from an appropriate training budget, particularly reservists, is being used for disaster management in the United States (Wright, 1997:70–71).

Under the QDMA, when a declaration of a disaster occurs, the overall responsibility for the disaster generally rests with DDCs and often shared control will occur with other agencies, including the Defence Force. All military staff are under the control of the military command. However, co-ordination of military resources, including personnel where delegated powers are provided, could be more clearly defined in an MOU in the emergency management context. In addition, private contractors generally assist in the management of defence services and resources by way of guidance, instruction and technical detail. For example, desalination plants are managed by a private contractor who is the only one aware of current status of readiness and serviceability of units and has physical access to the stock. The needs that arise from the use of Australian Government

resources and private contractual arrangements better define the role of emergency management during state/territory disaster operations. Where Defence resources have been deployed or redeployed for other Australian Government requirements, a central database system and funding arrangements need to exist to advise state/territory emergency management services of their deployment so alternatives could be considered. When military resources, including human, financial, material and other logistical services, have been deployed for extended periods, alternative strategies are critical for response and recovery – particularly long-term recovery. The aftermath of a terrorist attack has similar demands on emergency services as does a natural disaster. There may be less warning of a terrorist attack as opposed to some natural disasters.

Conclusion – integration of legislation and guidelines

Emergency management has become a central focus of government and community activities. All tiers of government in Australia are actively involved in developing legislation, policy, funding and guidelines to address prevention, preparedness, response and recovery of emergency management. Interaction between state and Australian Government agencies is becoming more important due to resource usage and sharing, co-operation, information sharing, co-ordination and defining of role linkages. Historically, goodwill and broad policy principles have been used to manage emergency events.

It is now timely to address these issues of 'disaster management' because of the heightened awareness of the Australian Government and its citizens to the recent events/disasters in Indonesia, London and the United States caused by terrorism, tsunamis and other natural disasters. To address the challenges of a changing environment, the Australian Government and state/territory agencies such as the Department of Defence and emergency services, will need to consider the following changes required to the roles and functions of all levels of government agencies as a result of better integration of legislation and national guidelines.

These include:

- legislation, policy and procedures portraying an acceptance of joint co-operation;
- integration and security of information resources, media and intelligence;
- joint training and skill auditing to address possible gaps in emergency response and recovery;
- liability coverage and public compensation for all levels of supporting government agencies where joint powers are operating;
- joint costing and shared responsibility for increased funding by the state/territory and Australian Government authorities to demonstrate actual benefit realisation;

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Australian forces land on Banda Aceh's foreshore from the HMAS Kanimbla.

- the establishment of a central data base that gives clear and current availability and serviceability of emergency stocks and holdings for supporting emergency management;
- power sharing between multi agencies responding to a terrorism attack or natural disaster;
- legislative changes necessary to facilitate the power sharing responsibilities of multi levels of government agencies and authorities; and
- MOUs or the development of a model for managing resources in a shared control and command approach including the hiring of civil contractors and the introduction of resource contractual arrangements.

Provided the above issues can be successfully addressed and co-ordinated, emergency management services at all levels of government, particularly the Department of Defence, will allow communities in Australia to be confident of the response that the government provides to safeguard the personal safety and well being of its citizens during times of human and natural disasters.

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APPENDIX A

Definition of civil defence

Australia's ratification of the 1977 Protocols Additional to the Geneva Conventions of 1949 means that the definition of civil defence which appears in Article 61 of Protocol 1 applies to Australia for the purposes of international law. It reads as follows:

- 'civil defence' means the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers, and to help it to recover from the immediate effects, of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:
 - (i) warning;
 - (ii) evacuation;
 - (iii) management of shelters;
 - (iv) management of blackout measures;
 - (v) rescue;
 - (vi) medical services, including first aid, and religious assistance;
 - (vii) fire-fighting;
 - (viii) detection and marking of danger areas;
 - (ix) decontamination and similar protective measures;
 - (x) provision of emergency accommodation and supplies;
 - (xi) emergency assistance in the restoration and maintenance of order in distressed areas;
 - (xii) emergency repair of indispensable public utilities;
 - (xiii) emergency disposal of the dead;
 - (xiv) assistance in the preservation of objects essential for survival;
 - (xv) complementary activities necessary to carry out any of the tasks mentioned above, including, but not limited to, planning and organisation.

As a result of this definition the functions of civil defence can be summarised as:

- a. Protecting the civil population against the effects of hostilities or disasters;
- b. Assisting the civil population in recovering from the immediate effects of hostilities or disasters; and
- c. Providing the conditions necessary for the survival of the civil population [www.ema.gov.au].

APPENDIX B

Types of assistance

(Defence Instructions – General, 16 March 2004, p: 3 – 4)

Counter disaster and emergency assistance

The Australian states/territories have Constitutional responsibility for the protection of the lives and property of personnel within their boundaries. Where a disaster is actually or potentially of such a magnitude that state or territory resources are inadequate, unavailable or cannot be mobilised quickly, the Commonwealth accepts a responsibility for providing support when requested.

The principle to be applied to the provision of emergency Defence Assistance to the Civil Community (DACC), is that the state/territory governments are primarily responsible for combating disasters and civil emergencies, using available state/territory professional and volunteer services and commercially available resources. Australian Government resources (including Defence assets) may be made available in situations where the state/territory authorities are unable to react with sufficient speed, or lack the necessary resources or skills.

Categories of counter disaster and emergency assistance

Category 1.

DACC Category 1 is emergency assistance for a specific task(s) provided by Local Commanders/Administrators, from within their own resources, in localised emergency situations when immediate action is necessary to save human life, alleviate suffering, prevent extensive loss of animal life or prevent widespread loss/damage to property. Provision of DACC Category 1 assistance should not normally exceed 24 hours.

Category 2.

DACC Category 2 is emergency assistance, beyond that provided under Category 1, in a more extensive or continuing disaster where action is necessary to save human life or alleviate suffering, prevent extensive loss of animal life or prevent loss/damage to property, and when state/territory resources are inadequate.

Category 3.

DACC Category 3 is assistance associated with recovery from a civil emergency or disaster, which is not directly related to the saving of life or property.

Categories of non-emergency assistance

Category 4.

DACC Category 4 is non-emergency assistance provided to other government departments or authorities, to state/territory/local government or other authorities or organisations, commercial enterprises, non-profit organisations, or individuals or bodies in the general community.

Category 5.

DACC Category 5 is non-emergency assistance of a minor nature which can be provided to local organisations from within the resources and authority of the Local Commander/Administrator, and which does not compromise unit effectiveness or readiness.

Category 6.

DACC Category 6 is support to civil authorities in the performance of non-emergency law enforcement related tasks where there is no likelihood that Defence personnel will be required to use force.

APPENDIX C

Legal authority to engage in disaster management

(Scott Trappett, M. Public Policy & Administration, Barrister at Law)

A convenient starting point in any debate on the power to act is of course the moral imperative. If Defence Forces, police and disaster management personnel turned their collective backs on potential and actual emergencies who would fill the void? Effective disaster management planning and response have gone well beyond the capabilities of an ad hoc community response. Like the formation of 'policing' in London by Robert Peel 1829, the disaster management function has become logically specialised. This has gone a long way to develop professionalism and a high standard of disaster management action that engenders trust and the validation of the Community.

This moral high ground with the community should not be underestimated. The recent deployment of a 25-person specialist team of health and emergency services personnel from Queensland sent to help the Banda Aceh Tsunami victims (Queensland Government 2005) is an interesting case in point on the 'authority to engage' question. In a landscape of thousands dead, injured and missing the needs of victims together with a willingness and ability to respond was all that was needed for the team to engage in the Aceh Province. Thus if there is a request for action, coupled with an ability and willingness to respond no further authority is required.

The professionalism (and abundance of resources) of the Department of Defence no doubt gives them the 'moral' authority to engage. However, their roles have a number of firm legislative foundations to assert a right to act.

Section 51 (xxix) of the Constitution provides the Commonwealth to make laws for the peace, order, and good government of the Commonwealth with respect to: external affairs.

The majority in the Tasmanian Dam Case, following three of their number in the majority in Koowarta v Bjelke-Peterson, determined that entry into an international agreement by the executive in itself pertains to external affairs, so that s51(29) is available to give effect legislatively to the terms of the agreement within Australia. There is no overriding requirement that the subject matter of the agreement must be indisputably international in character or of international concern.

Additionally section 96 of the Constitution provides the Commonwealth may grant financial assistance to any state on such terms and conditions as the Parliament thinks fit. This so called 'power of the purse' provision provides a 'carrot and stick' approach to the Commonwealth to offer a tied grant to the state on such terms the Commonwealth thinks fit (eg: to allow the Defence Force to operate in a state Government role).

1. Queensland Government (2005). Specialist team helps out in Indonesia. Sectorwide, March 8
2. Koowarta v Bjelke-Peterson (1982) 39 ALR 417
3. Commonwealth V Tasmania (1983) 46 ALR 625