

EXPLANATORY STATEMENT

Natural Disaster Relief and Recovery Arrangements Determination 2017

The *Natural Disaster Relief and Recovery Arrangements Determination 2017* ('2017 determination') sets out the terms and conditions for the provision of financial assistance by the Commonwealth to state and territory governments (states) for the purposes of natural disaster relief and recovery. It will replace the *Natural Disaster Relief and Recovery Arrangements Determination 2012 version 2*, made by the Minister for Justice, the Hon Michael Keenan MP, on 29 October 2015 ('2012 determination version 2').

The amendments to assistance measures, definitions and administrative inconsistencies in the 2017 determination do not affect the terms and conditions in place under the 2012 determination version 2. The 2017 determination applies from 1 July 2017 and is applicable to all claims with effect from 1 July 2017, in respect of natural disasters that occur on or after that date.

This note explains why the amendments have been made and what they are.

Context to the amendments

On 30 April 2015, the Australian National Audit Office (ANAO) tabled its report on the performance audit into the administration of the Natural Disaster Relief and Recovery Arrangements (NDRRA) ('the performance audit'). The objective of the audit was to assess the effectiveness of the Attorney-General's Department's ('the department') administration of the terms of the NDRRA ministerial determination, which included through the examination of claims made by New South Wales, Victoria and Western Australia.

The audit related to three previous audits conducted by the ANAO with regard to the performance of the National Partnership Agreements on disaster reconstruction and recovery with Queensland and Victoria, including the effectiveness of the Australian Government Reconstruction Inspectorate and National Disaster Recovery Taskforce in providing the Commonwealth with assurance that value for money was being achieved.

The ANAO found that the department "has not been alert to clear signals that the NDRRA framework has required tightening", and that the framework in place to support the delivery of NDRRA funding is inadequate, and needs better defined eligibility criteria. The inadequacy of the framework is reflected in the states varying interpretation of the NDRRA, and possible payments made under the NDRRA for ineligible expenditure.

The performance audit also found that the department places too much reliance on state and territory vetting and sign-offs, which includes sign-off as to the eligibility of state claims by their Auditors-General. As part of the performance audit, states also advised that the determination is complex, ambiguous and needs clarity; recent changes to guidance have been helpful, but some aspects remain unclear.

The ANAO made the following recommendations:

- (1) "The Attorney-General's Department significantly improve the administration of disaster relief funding by:
 - (a) adopting more timely processes for developing, finalising and promulgating disaster funding guidelines and advisories; and
 - (b) implementing administrative arrangements that provide it with greater details of the amounts included in expenditure claims, including project specific information."
- (2) "To provide improved oversight and assurance in its administration of the NDRRA, the ANAO recommends that the Attorney-General's Department:
 - (a) obtain project level information from states and territories to enable more informed analysis of claim amounts; and
 - (b) implement a risk-based approach to examining the eligibility and value for money of a sample of recovery and reconstruction projects."

The department is required to act on the outcomes of the performance audit. As such, since the performance audit was tabled on 30 April 2015, the department has undertaken a significant body of work to address the findings of the ANAO. The NDRRA Determination 2012 (version 2)—issued in October 2015—represented the first phase of amendments and addressed some of the ANAO recommendations by reducing ambiguous language, embedding compliance and assurance arrangements and structuring the determination in a way that is logical and easy to understand.

The NDRRA Determination 2017 further addresses the ANAO recommendations, as well as concerns raised at the state level through the collaborative assurance program, by providing clarity on certain eligible measures and definitions, and also addressing administrative inconsistencies identified in the current determination.

Details of the amendments are set out in the following tables*.

*Please note that not all amendments have been captured in the explanatory statement of changes.

NDRRA Determination 2012 v.2	NDRRA Determination 2017 (yellow highlight denotes new clause/requirement)
1. DEFINITIONS	
<p>Allowable Time Limit For expenditure on restoration or replacement of an <i>essential public asset</i>:</p> <ul style="list-style-type: none"> the period of 24 months after the end of the <i>financial year</i> in which the relevant <i>disaster</i> occurred; or if there are exceptional circumstances presented by a <i>state</i> and accepted by the <i>Department</i>—such longer period as the <i>Department</i> specifies. <p>For expenditure on any other <i>eligible measure</i>—the period of 24 months after the end of the <i>financial year</i> in which the relevant <i>disaster</i> occurred.</p>	<p>Allowable Time Limit - changed 'exceptional' to 'special'</p>
<p>No existing definition</p>	<p>Introduced a new definition – <i>Appropriate assessment methods</i> An assessment that would support a <i>small business</i>', <i>primary producer's</i> or a <i>non-profit organisation's</i> claim for eligibility under this <i>determination</i> and support the <i>small business</i>', <i>primary producer's</i> or <i>non-profit organisation's</i> ability to repay the loan. An assessment may include: site visits to establish the <i>small business</i>', <i>primary producer's</i> or <i>non-profit organisation's</i> pre and post disaster context and situation, review of tax returns for the preceding <i>financial years</i>, comparison of budgeted net income to historical financial statements, confirmation of existing bank loans and facilities to identify possible peak debt issue(s) throughout the 12 month period prior to the <i>eligible disaster</i>, loan security, and proof of an insurance claim.</p>
<p>No existing definition</p>	<p>Introduced a new definition– <i>Bad Debts</i> Amount of loan that is unlikely to be paid and is treated as a loss.</p>
<p>No existing definition</p>	<p>Introduced a new definition – <i>Budget funded</i> Those <i>state</i> entities which receive a funding allocation from the <i>state</i> (for which day labour and internal rate hire would be ineligible).</p>
<p>No existing definition</p>	<p>Introduced a new definition – <i>Commonwealth concessional interest rate</i></p>

	50 per cent of the ten-year Treasury bond rate averaged from 1 April to 30 June for the preceding <i>financial year</i> . The rate is based on data published by the Reserve Bank of Australia.
Department The Commonwealth Attorney-General's <i>Department</i> . A reference to the <i>Department</i> includes a reference to the Secretary and appropriate Senior Executive Service officials of the <i>Department</i> .	Department - first sentence now reads as "The Commonwealth department responsible for administering this <i>determination</i> ."
No existing definition	Introduced a new definition – Direct result Affected by an <i>eligible disaster</i> and located within the affected geographical area that has been notified under the NDRRA notification form submitted by the <i>state</i> . Applicants outside the affected geographical area who do not operate in the affected geographical area are not eligible, including those with a supply chain relationship to the affected geographical area.
Disaster A <i>natural disaster</i> or terrorist event.	Deleted – redundant – now referenced in definition of <i>eligible disaster</i>
Eligible disaster A <i>disaster</i> for which the <i>state expenditure</i> exceeds the <i>small disaster criterion</i> .	Changed as follows: A <i>natural disaster</i> or <i>terrorist act</i> for which: <ul style="list-style-type: none"> • a coordinated multi-agency response was required; and • <i>state expenditure</i> exceeds the <i>small disaster criterion</i>.
Eligible Undertaking A body that: <ul style="list-style-type: none"> • is one of the following: <ul style="list-style-type: none"> ○ a <i>department</i> or other agency of a <i>state</i> government; or ○ established by or under a law of a <i>state</i> for public purposes (for example, a local government body); and • provides community, social or economic services free of charge or at a nominal charge well below the costs of production. A body that does not meet these requirements is nevertheless taken to be an <i>eligible undertaking</i> if the <i>Minister</i> has agreed in writing, in the light of special circumstances presented by a <i>state</i> , that the body should be treated as an <i>eligible undertaking</i> for the purposes of this <i>determination</i> .	Changed as follows: A body which: <ul style="list-style-type: none"> • is one of the following: <ul style="list-style-type: none"> ○ a department or other agency of a <i>state</i> government; or ○ established by or under <i>state</i> legislation for public purposes (for example, a local government); and • provides services free of charge or at a rate that is 50 per cent or less of the cost to provide those services.

<p>Essential Public Asset An asset of an <i>eligible undertaking</i> that the <i>state</i> considers and the <i>department</i> agrees:</p> <ul style="list-style-type: none"> • is an integral and necessary part of the <i>state's</i> infrastructure that is associated with health, education, transport, justice or welfare; and • would, if lost or damaged, severely disrupt the normal functioning of a community; and • would, if lost or damaged, be restored or replaced as a matter of urgency. 	<p>Changed as follows: An asset which <i>must</i> be a <i>transport</i> or <i>public infrastructure</i> asset of an <i>eligible undertaking</i>, which the <i>state</i> considers and the <i>department</i> agrees, is a necessary part of a <i>state's</i> infrastructure and is integral to the normal functioning of a community.</p>
<p>Extraordinary costs Costs that could normally not be absorbed by, or reasonably managed within, the <i>state's</i> financial, human and other resource capacity.</p>	<p>Deleted – redundant</p>
<p>No existing definition</p>	<p>Introduced new definition – Habitable Refers to a residential property being fit for human habitation, possessing basic amenities in working order and not being in substantial disrepair.</p>
<p>No existing definition</p>	<p>Introduced new definition – Long-term viability The ability of a <i>small business</i>, <i>primary producer</i>'s or <i>non-profit organisation</i>'s operation to continue to operate and be able to meet its liabilities as they become due. Long-term would generally be considered a period greater than three years.</p>
<p>No existing definition</p>	<p>Introduced new definition - Loss of income Net income which would have been earned if the <i>small business</i>, <i>primary producer</i> or <i>non-profit organisation</i> had not been interrupted by the <i>eligible disaster</i> based on past performance during similar periods. Net income takes into account the costs that would have been incurred to earn the income. Examples of what could result in a loss of income would be cancellation of bookings and where customers cannot physically reach the <i>small business</i>, <i>primary producer</i> or <i>non-profit organisation</i> due to damaged public infrastructure.</p>
<p>Minister The Commonwealth <i>Minister</i> responsible for <i>natural disaster</i> relief, recovery and mitigation policy and financial assistance.</p>	<p>- now reads as "The Commonwealth Minister responsible for this <i>determination</i>."</p>
<p>Natural disaster A serious disruption to a community or region caused by the impact of a naturally occurring rapid onset event that threatens, or causes death, injury or damage to property or the environment and that requires significant and coordinated multi-agency and community response, and is one, or a combination of, the following:</p> <ol style="list-style-type: none"> a) bushfire b) earthquake c) flood d) storm e) cyclone f) storm surge g) landslide h) tsunami i) meteorite strike 	<p>- first sentence now reads as "A natural disaster is one, or a combination of the following rapid onset events:" - changed reference to 'are not' in the last sentence to "...may not be <i>natural disasters</i> for the purposes of this <i>determination</i>."</p>

<p>j) tornado. Events where human activity is a significant contributing cause (for example, poor environmental planning, commercial development, personal intervention (other than arson), or accident) are not <i>natural disasters</i> for the purposes of this <i>determination</i>.</p>	
<p>No existing definition</p>	<p>Introduced new definition – <i>Needy individual</i> An <i>individual</i> who is in urgent and genuine need of financial assistance.</p>
<p>No existing definition</p>	<p>Introduced new definition – <i>Non-Budget Funded</i> Those <i>state</i> entities which do not receive a funding allocation from the <i>state</i> and operate independently through public and private tender processes in line with <i>state</i> competitive neutrality requirements.</p>
<p>No existing definition</p>	<p>Introduced new definition – <i>Participating authorised deposit taking institution</i> Corporations which are authorised under the <i>Banking Act 1959</i>. These include banks, building societies and credit unions.</p>
<p>No existing definition</p>	<p>Introduced new definition – <i>Public Infrastructure</i> An asset that is an integral part of a <i>state's</i> infrastructure and is associated with health, education, justice or welfare.</p>
<p>No existing definition</p>	<p>Introduced new definition – <i>Reinstatement</i> Activities undertaken by a recipient of a recovery grant to assist in the re-establishment of <i>primary producers, small businesses</i> or <i>non-profit organisations</i> to substantially the same position it was in prior to the <i>eligible disaster</i>, in order to aid the business to continue/resume normal trading/production as soon as possible.</p>
<p>State Expenditure The amount actually spent or the cost incurred by the <i>state</i> within the <i>allowable time limit</i>, on an <i>eligible measure</i> and with respect to an <i>eligible disaster</i>.</p> <p>The amount includes:</p> <ul style="list-style-type: none"> the cost to the <i>state</i> of <i>eligible measures</i> in the form of non-monetary assistance (for example, goods, waived revenue, free or subsidised services) the cost to the <i>state</i> of <i>eligible measures</i> in the form of concessional interest rate loans no more than two-thirds of the <i>betterment</i> of a local government owned asset, except where the asset is an asset of a remote indigenous community or, if the <i>department</i> agrees there are exceptional circumstances, is an asset of a low financial capacity local government. <p>Note: If any part of <i>state expenditure</i> is in the form of concessional interest rate loans, a component of the Commonwealth assistance will also be in the form of a concessional interest rate loan to the <i>state</i> – see clause 6.3</p> <p>The amount does not include any of the following:</p> <ul style="list-style-type: none"> amounts that the <i>state</i> has recovered or may recover from any source; amounts that a <i>person</i> is liable to reimburse to the <i>state</i> (including amounts attributable to GST); 	<p>Changed as follows: The amount actually spent or the cost incurred by the <i>state</i>, its departments or other agencies, or the expenditure of a body established by or under <i>state</i> legislation for public purposes (for example, a local government), within the <i>allowable time limit</i>, on an <i>eligible measure</i> and with respect to an <i>eligible disaster</i>. For the purposes of recording local government expenditure, a <i>state</i> incurs a liability at the time the local government undertakes an <i>eligible measure</i> and it is at that point that the liability <i>must</i> be recorded by the <i>state</i>. Expenditure on <i>eligible measures</i> <i>must</i> be recorded against the year in which the expenditure is incurred by <i>state</i> agencies or relevant bodies, not the year in which the <i>state</i> expends cash, conducts an audit, submits an audited claim to the Commonwealth or reimburses its agencies or local governments. Refer to p. 32 for a practical example. <u>The amount includes:</u></p> <ul style="list-style-type: none"> the cost to the <i>state</i> of <i>eligible measures</i> in the form of non-monetary assistance (for example, goods, waived revenue, free or subsidised services) the cost to the <i>state</i> of <i>eligible measures</i> in the form of concessional interest rate loans no more than two-thirds of the <i>betterment</i> of a local government owned asset, except where the asset is an asset of a remote Indigenous community or, if the <i>department</i> agrees is an asset of a low financial capacity local government

<ul style="list-style-type: none"> • amounts directly or indirectly receivable from the Commonwealth under a joint Commonwealth/state financial arrangement or some other form of specific purpose financial assistance to a <i>state</i>; • amounts attributable to internal rate hire or salaries or wages or other ongoing administrative expenditure for which the <i>state</i> would have been liable even though the <i>eligible measure</i> had not been carried out; • amounts that have been transferred from a <i>state</i> to a department or other agency of the <i>state</i> government for possible expenditure on an <i>eligible measure</i>, but have not yet been spent by that agency; • the local government’s contribution to <i>betterment</i>; or • profit margins. 	<ul style="list-style-type: none"> • costs associated with the salaries and wages, and internal rate hire, of <i>non-budget funded state</i> entities or agencies undertaking <i>eligible measures</i> under this <i>determination</i> • certain other costs associated with salaries and wages, and internal rate hire, of <i>state budget funded</i> entities or agencies undertaking <i>eligible measures</i> under this <i>determination</i>, such as: <ul style="list-style-type: none"> ○ overtime for <i>state employees</i>, outside of normal working hours ○ employment costs for temporary (fixed-term) <i>employees</i> or contractors ○ costs of backfilling <i>state employees</i> who have been seconded to assist with <i>eligible disaster relief</i> and recovery activities ○ permanent <i>state employees</i> who have been diverted from their normal duties to perform <i>eligible measures</i> under this <i>determination</i>, including costs associated with travel expenses, allowances and accommodation ○ contractors or <i>state employees</i> on a temporary (fixed-term) basis, including costs associated with travel expenses, allowances, accommodation and associated on-costs such as superannuation entitlements, workers compensation ○ additional fuel and oil expenditure, and maintenance costs required as a direct consequence of using internal rate hire. <p>Note: If any part of <i>state expenditure</i> is in the form of concessional interest rate loans, a component of the Commonwealth assistance will also be in the form of a concessional interest rate loan to the <i>state</i>—see clause 6.3.</p> <p><u>The amount does not include any of the following:</u></p> <ul style="list-style-type: none"> • amounts which the <i>state</i> has recovered or may recover from any source • amounts which a person is liable to reimburse to the <i>state</i> (including amounts attributable to GST) • amounts directly or indirectly receivable from the Commonwealth under a joint Commonwealth/state financial arrangement or some other form of specific purpose financial assistance to a <i>state</i> • amounts attributable to internal rate hire or salaries or wages for which the <i>state</i> would have been liable for had the <i>eligible disaster</i> not occurred • amounts attributable to other ongoing administrative expenditure for which the <i>state</i> would have been liable for had the <i>eligible disaster</i> not occurred, including the installation of workstations and furniture, software including IT systems, printing costs, business cards, rent, power and advertising fees • amounts which have been transferred from a <i>state</i> to a department or other agency of the <i>state</i> for possible expenditure on an <i>eligible measure</i>, but have not yet been spent by that department or agency • the local government’s contribution to <i>betterment</i>; or • profit margins to an <i>eligible undertaking</i>.
<p>No existing definition</p>	<p>Introduced new definition – <i>Special circumstances</i> Circumstances which are unforeseeable, unusual, unique or beyond the control of the <i>state</i>, despite addressing all potential risks through adequate project and risk management plans.</p>

<p>No existing definition</p>	<p>Introduced new definition – Terrorist act An action or a series of actions committed in Australia which the <i>Minister</i> has determined is a terrorist act for the purposes of an <i>eligible disaster</i> under this <i>determination</i>. Without limiting the matters to which the <i>Minister</i> may have regard in determining whether the action or series of actions is a terrorist act, the <i>Minister</i> may have regard to:</p> <ul style="list-style-type: none"> i. the definition of a terrorist act under section 100.1 of the <i>Criminal Code Act 1995</i>, and ii. if available, the advice of other Commonwealth agencies. <p>In the event of one or more acts, the <i>Minister</i> may determine two or more related acts to be a single terrorist act.</p>
<p>No existing definition</p>	<p>Introduced new definition – Transport An asset that is an integral part of a <i>state’s</i> infrastructure and is associated with roads, road infrastructure (including footpaths, bike lanes, pedestrian bridges), bridges, tunnels and culverts.</p>
<p>5.3.21 “.....the amount required to continue business or primary production operations for the next 12 months or until the next major income is received, and may include:</p> <ul style="list-style-type: none"> a) salaries and wages; b) paying creditors; c) paying rent and rates; d) procuring fodder or water for livestock or produce; e) procuring alternative transport for livestock and produce; and f) fuel and other supplies essential to the business. 	<p>Introduced new definition – Working capital moved from 5.3.21 to 1.1 Definitions</p>
<p>1.2 Interpretation</p>	
<p>1.2.1 In this <i>determination</i>:</p> <ul style="list-style-type: none"> a) The singular includes the plural and vice versa, and a gender includes other genders. b) Clause and subclause headings are inserted for convenience only and have no effect in limiting or extending the language of the provisions of this <i>determination</i>. c) Notes and examples to provisions of this <i>determination</i> form part of the <i>determination</i> but if there is any inconsistency between a provision of this <i>determination</i> and a note or guideline for example, the provision prevails. d) Another grammatical form of a defined word or expression has a corresponding meaning. e) If a day on or by which an obligation must be performed or an event must occur, is not a business day, the obligation <i>must</i> be performed or the event <i>must</i> occur on or by the next business day. 	<p>- Changed provisions to terms and/or conditions</p>

2. INTRODUCTION	
2.1 Aim and Overview of the Natural Disaster Relief and Recovery Arrangements	
2.1.1 <i>Natural disasters or terrorist events</i> may result in large-scale expenditure by <i>state</i> governments in the form of disaster relief and recovery payments and infrastructure restoration. To assist with this burden, the Commonwealth has made arrangements to provide financial assistance to the <i>states</i> in certain circumstances. Usually the assistance is in the form of partial reimbursement of actual <i>state expenditure</i> .	- Changed event to acts “...The <i>determination</i> identifies the relief and recovery assistance to which the Commonwealth will financially contribute.” – Moved to 2.1.4
2.1.2 The <i>determination</i> is administered by the <i>Department</i> . The <i>determination</i> identifies the relief and recovery assistance to which the Commonwealth will financially contribute.	
3. BASIC PRINCIPLES FOR ASSISTANCE	
3.1 Principles for Assistance to States	
3.1.2 In carrying out, or contributing to the cost of, <i>eligible measures</i> , the <i>state must</i> act consistently with the principles that: a) recovery is a shared responsibility for <i>individuals</i> , households, businesses and communities, as well as for governments where access to capital or appropriate strategies of <i>natural disaster mitigation</i> are considered; and b) its assistance is not to supplant, or operate as a disincentive for, self-help by way of either access to capital or appropriate strategies of <i>natural disaster mitigation</i> ; and c) the assistance is designed to achieve an efficient allocation of resources.	- Moved clause 7 of the Category C Interim Assessment Framework to 3.1.3 d)
4. CONDITIONS FOR COMMONWEALTH ASSISTANCE	
4.1.2 If a <i>state</i> is or was unable to comply with any condition, or is eligible for an exemption, the <i>state must</i> write to the <i>Department</i> requesting dispensation from that condition. The request <i>must</i> include the specific circumstances giving rise to the non-compliance or exemption.	Changed as follows: 4.1.2 If a <i>state</i> is or was unable to comply with any condition, or would like to seek an exemption, the <i>state must</i> write to the <i>department</i> requesting dispensation from that condition. 4.1.3 <i>States may write to the department at any time during the allowable time limit to request non-compliance or an exemption. The request must include the circumstances which give rise to the request.</i> 4.1.4 <i>States may also write to the department to appeal (under clause 9) any decision made under this determination.</i>
4.2 Notification	
4.2.1 When a disaster occurs and the relevant <i>state</i> knows, or expects, the <i>disaster</i> to be an <i>eligible disaster</i> the <i>state must</i> notify the <i>Department</i> of that fact within three (3) months. 4.2.2 The notification <i>must</i> be in the form set out in Attachment A: Notification Form.	Changed as follows: 4.2.1 When a <i>natural disaster</i> occurs and the relevant <i>state</i> knows, or expects, the <i>natural disaster</i> to be an <i>eligible disaster</i> the <i>state must</i> notify the <i>department</i> of that fact within three (3) months. 4.2.2 <i>States may also write to the Minister seeking advice on whether the Minister considers the event to be a terrorist act for the purposes of the determination</i> 4.2.3 <i>When an act is determined by the Minister to be a terrorist act for the purposes of this determination, the Minister or department will write to the relevant state.</i> 4.2.4 <i>If the Minister determines the event to be a terrorist act for the purposes of an eligible disaster under this determination, this does not equate to any assumption with respect to the admissibility of evidence before a Court, or the guilt of persons accused of engaging in a terrorist act under the Criminal Code Act 1995.</i> 4.2.5 <i>When an act is determined to be a terrorist act, the relevant state must notify the department of that fact within three (3) months from the date of the Minister’s or the department’s letter.</i>

	<p>Refer to Guideline 5: Process for determining a terrorist act as an eligible disaster.</p> <p>4.2.6 The notification <i>must</i> be in the form set out in Attachment A: Notification Form.</p>
4.4 State implementation of natural disaster mitigation strategies	
<p>4.4.1 A condition of assistance for restoration or replacement of an <i>essential public asset</i> is:</p> <p>a) the <i>state</i> has developed and implemented <i>natural disaster mitigation</i> strategies in respect of likely or recurring <i>natural disasters</i>, and has also encouraged local government bodies to develop and implement such strategies (these strategies may have been developed by Commonwealth, <i>state</i> or local government bodies); and</p> <p>b) if the <i>state's</i> assistance is for the restoration or replacement of an <i>essential public asset</i> of a local government body, and the local government body has not developed and implemented appropriate <i>natural disaster mitigation</i> strategies in respect of likely or recurring <i>natural disasters</i>—the assistance the <i>state</i> would otherwise have given to the local government body is reduced by 10 per cent.</p>	Moved to 5.3.7
4.7 Quarterly state expenditure and forecast reports	
<p>4.7.1 Each <i>state must</i> provide to the <i>Department</i>, for budgetary purposes, reports of the <i>state's</i>:</p> <p>a) <i>state expenditure</i> and estimated <i>state expenditure</i> in the current <i>financial year</i> to date; and</p> <p>b) latest estimates of forecast <i>state expenditure</i> for the remainder of the current <i>financial year</i> and for the next three <i>financial years</i>.</p> <p>4.7.2 The <i>state expenditure</i> and forecast <i>state expenditure</i> reports <i>must</i> be provided quarterly or, if the <i>Department</i> requests, at any other time.</p> <p>4.7.3 The <i>state expenditure</i> and forecast <i>state expenditure</i> reports <i>must</i> be certified by an officer at the level, and in the format, designated by the <i>Department</i>.</p>	- Changed forecast to estimated
4.8 State Record Keeping	
Changed as follows:	
4.8 State record keeping and evidentiary requirements	
<p>4.8.1 <i>States must</i> keep an accurate audit trail for seven (7) years, consistent with section 286(2) of the Corporations Act 2001.</p> <p>4.8.2 For assurance purposes the <i>Department</i> may, at any time, request documentation from <i>states</i> to evidence the <i>state's</i> compliance with any aspect of the <i>determination</i>.</p> <p>4.8.3 <i>States must</i> make available to the Commonwealth in reasonable time all documentation relevant to a request by the Commonwealth.</p> <p>4.8.4 <i>States must</i> certify that they will provide access to documentation at each estimates quarter and with each claim. The certification <i>must</i> be in the form of Attachment B: Estimates Pack.</p>	<p>Changed as follows:</p> <p>4.8.1 <i>States must</i> keep an accurate audit trail for seven (7) years from the end of each <i>financial year</i> in which expenditure is claimed by the <i>state</i>, or until such time as the claim is acquitted.</p> <p>4.8.2 For assurance purposes the <i>department</i> may, at any time, request documentation from <i>states</i> to evidence the <i>state's</i> compliance with any aspect of this <i>determination</i>.</p> <p>4.8.3 Where documentation is requested, <i>state's must provide a complete audit trail comprising of physical and/or electronic records that correctly and accurately demonstrate a direct relationship between the activities for which state expenditure is claimed, and the eligible measure – for example:</i></p> <p>a) visual and geospatial data and information which may include (but is not limited to) satellite images, Google earth images, photographs, video footage</p> <p>i. this type of evidence can be used to support the pre-disaster standard of an <i>essential public asset</i>, the post-disaster damage caused as a <i>direct result of the eligible disaster</i>, including the <i>betterment</i> component where applicable, and the condition of the <i>essential public asset</i> once the restoration or replacement works have been completed</p>

	<p>ii. where an <i>essential public asset</i> is restored or replaced to its pre-disaster standard in accordance with current building and engineering standards, and through the use of contemporary methodologies and materials, the standard of the eligible <i>essential public asset</i> has been enhanced (see Guideline 1 for further details), <i>states must</i> be able to demonstrate that the level of enhancement to the eligible <i>essential public asset</i> does not amount to restoring or replacing the <i>essential public asset</i> to a more disaster-resilient standard than its pre-disaster standard, i.e. <i>betterment</i></p> <p>b) asset inspection and asset maintenance reports and assessments, including but not limited to, asset inspection report(s) conducted or verified by a suitably qualified professional with the appropriate level of expertise and experience (from either the <i>state</i> or local government or a delegated third party), site inspections, design reports and damage assessments</p> <p>c) administrative data and documentation including, but not limited to, contract/work orders, timesheets, news articles, e-mail correspondence, funding approval letters, minutes of meetings</p> <p>d) financial data and documentation including, but not limited to, tax and/or financial statements, cost-benefit analysis, transaction listings used to reconcile invoices, annual reports, proposals and invoices</p> <p>e) grant data and documentation, including but not limited to, grant applications and grant guidelines, and</p> <p>f) mitigation strategies, including but not limited to, disaster resilience plans, including action plans, risk profiles and assessments, and flood mapping.</p> <p>4.8.4 <i>States must</i> make available to the <i>department</i>, within an agreed timeframe, all documentation relevant to a request by the <i>department</i>.</p> <p>4.8.5 <i>States must</i> certify, in Attachment B: Estimates Pack that this documentation will be made available at each estimates quarter and with each audited claim, if requested by the <i>department</i>. The certification <i>must</i> be in the form of Attachment B: Estimates Pack</p>
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5. RELIEF AND RECOVERY ASSISTANCE MEASURES

5.1 General Requirement

5.1.1 For any of the below relief and recovery assistance measures to be an *eligible measure* they *must* be carried out to alleviate damage or distress arising as a direct result of a *disaster*.

Added:
 5.1.2 If *states* are unsure of the eligibility of a relief and recovery activity under this *determination*, *states must* write to the *department* in the form of Attachment H: Eligibility Enquiry Form.

5.2 Category A Measures

5.2.1 A Category A measure is one of the following forms of emergency assistance to individuals:

- a) emergency food, clothing or temporary accommodation;
- b) repair or replacement of essential items of furniture and personal effects;
- c) essential repairs to housing, including temporary repairs and repairs necessary to restore housing to a habitable condition;
- d) demolition or rebuilding to restore housing to a habitable condition;
- e) removal of debris from residential properties to make them safe and habitable;
- f) extraordinary counter disaster operations;

- 5.2.1 f) now reads as “extraordinary counter disaster operations for the benefit of an affected individual;”
 Removed 5.2.1 h)
 Added:
 Further information regarding the types of costs that can be claimed under Category A is at Schedule 1.

<p>g) personal and financial counselling; h) extraordinary costs associated with the delivery of any of the above forms of assistance.</p>	
<p>5.3 Category B Measures</p>	
<p>5.3.1 A <i>Category B</i> assistance measure is one of the following: a) restoration or replacement of an <i>essential public asset</i>; b) <i>betterment</i> of an <i>essential public asset</i>; c) concessional interest rate loan to <i>small businesses</i> and <i>primary producers</i> whose assets have been significantly damaged; d) concessional interest rate loan to a <i>needy individual</i> or <i>non-profit organisation</i> whose assets have been significantly damaged; e) concessional interest rate loan to a <i>small business</i>, <i>primary producer</i> or a <i>non-profit organisation</i> that has suffered a significant loss of income; f) interest rate subsidy to <i>small businesses</i> or <i>primary producers</i> whose assets have been significantly damaged; g) interest rate subsidy to a <i>small business</i>, <i>primary producer</i> or a <i>non-profit organisation</i> that has suffered a significant loss of income; h) freight subsidy to <i>primary producers</i> whose assets have been significantly damaged; i) grant to a <i>needy individual</i> or <i>non-profit organisation</i> whose assets have been significantly damaged; or j) counter <i>disaster</i> operations for the protection of the general public.</p>	<p>Added: 5.3.1 c), d), e), f), h) and j) now read as "...as a direct result of an eligible disaster..." Added: 5.3.1 g) interest rate subsidy to a <i>needy individual</i> or <i>non-profit organisation</i> whose assets have been significantly damaged as a direct result of an <i>eligible disaster</i>;</p>
<p>Restoration or Replacement of Essential Public Assets</p>	
<p>5.3.2 An <i>essential public asset</i> directly damaged by a <i>disaster</i> may be restored or replaced to its pre-<i>disaster</i> standard, in accordance with current building and engineering standards. 5.3.3 <i>States</i> must seek the Commonwealth's agreement that an asset is an <i>essential public asset</i> within a reasonable time of commencing any <i>essential public asset</i> restoration or replacement activity estimated to cost \$1,000,000 or more. 5.3.4 The request to the Commonwealth <i>must</i> be in the form at Attachment C: <i>Essential Public Assets Approval Form</i>.</p>	<p>Changed as follows: 5.3.2 An <i>essential public asset</i> of an <i>eligible undertaking</i> which has been directly damaged or redamaged by an <i>eligible disaster</i> can be restored or replaced to its pre-<i>disaster</i> standard, in accordance with current building and engineering standards. 5.3.3 An <i>essential public asset</i> is considered to be redamaged if it is directly damaged by an <i>eligible disaster</i> and suffers further damage in the same location from a subsequent <i>eligible disaster</i> prior to the commencement or completion of eligible restoration or replacement activities in response to the first <i>eligible disaster</i>. 5.3.4 Where an <i>essential public asset</i> has been redamaged, the costs to restore or replace that <i>essential public asset</i> are to be apportioned based on the proportion of damage caused by the first <i>eligible disaster</i> and the proportion of damage caused by the subsequent <i>eligible disaster</i>. 5.3.5 The relevant <i>allowable time limit</i> would apply in relation to the claiming of eligible <i>state expenditure</i> which has been apportioned against the first <i>eligible disaster</i> and the subsequent <i>eligible disaster</i>. Refer to Guideline 1: <i>Essential Public Asset Restoration or Replacement for further details</i>. 5.3.6 <i>States</i> must request the <i>department's</i> agreement that an asset is an <i>essential public asset</i> within a reasonable time of commencing any <i>essential public asset</i> restoration or replacement activity estimated to cost \$1 000 000 or more using the form at Attachment C: <i>Essential Public Assets Approval Form</i>. 5.3.7 moved from 4.4.1</p>
<p>Extensions to the allowable time limit</p>	

<p>5.3.7 States may submit a request at any time but the <i>department</i> will only consider the request after 31 July and 31 December each year, in line with the Federal Budget cycle</p>	<p>- Changed 31 July to 30 June - Changed 31 December to 30 November - Moved 5.3.10 to 5.3.9 and now reads as “Requests received after the <i>allowable time limit</i> has expired will not be considered by the <i>department</i>...” Added: 5.3.14 The <i>department</i> will notify the state in writing, within a reasonable timeframe, once the outcome of the request for an extension to the <i>allowable time limit</i> is known.</p>
Concessional interest rate loans	
<p>5.3.14 Eligible applicants of a concessional interest rate loan under this <i>determination</i> may receive only one concessional interest rate loan or interest rate subsidy made available in response to a single <i>disaster</i>. 5.3.15 A concessional interest rate loan <i>must</i> be made directly from the <i>state</i> to the eligible applicant.</p>	<p>Changed as follows: 5.3.18 In response to an <i>eligible disaster</i>, eligible applicants <i>must</i> only receive a concessional interest rate loan or an interest rate subsidy. The <i>state</i> will assess the types of assistance to be provided to the eligible applicants. See sub-clauses 5.3.32–5.3.40 for interest rate subsidies. 5.3.19 A concessional interest rate loan <i>must</i> be made directly from the <i>state</i> to the eligible applicant.</p>
Concessional interest rate loan to eligible small businesses and primary producers whose assets have been directly damaged	
<p>5.3.16 For an applicant to be eligible, the <i>state must</i> be satisfied that: a) the applicant’s assets (including fodder) have been significantly damaged as a direct result of the disaster; and b) the applicant has no reasonable prospect of obtaining commercial finance but has a reasonable prospect of long-term viability for the business. 5.3.17 The principle loan amount is to be established by the <i>state</i>.</p>	<p>Changed as follows: 5.3.20 For an applicant to be eligible, the <i>state must</i> be satisfied that: a) the applicant’s assets (including fodder) have been significantly damaged as a <i>direct result</i> of an <i>eligible disaster</i>; and b) the applicant’s <i>small business or primary producer</i> operation was viable prior to the <i>eligible disaster</i> and the assistance will ensure it continues to be viable. The <i>state</i> should implement <i>appropriate assessment methods</i> to establish past and future <i>long-term viability</i>; and c) the applicant is continuing or is to re-establish the <i>small business or primary producer</i> operation within the same location, or within the same local government area. 5.3.21 The principal loan amount is to be established by the <i>state</i>.</p>
Concessional interest rate loan to eligible needy individuals and non-profit organisations whose assets have been directly damaged	
<p>5.3.18 For an applicant to be eligible, the <i>state must</i> be satisfied that: a) the applicant’s assets have been significantly damaged as a direct result of the disaster; and b) the applicant has no reasonable prospect of obtaining commercial finance. 5.3.19 The principle loan amount is up to \$100,000 to any one eligible applicant. The first \$30,000 (or part thereof) by way of a combination of a loan and a grant (see sub-clauses 5.3.36 and 5.3.37) <i>must</i> be in the ratio of 5:1.</p>	<p>Changed as follows: 5.3.22 For an applicant to be eligible, the <i>state must</i> be satisfied that: a) the applicant’s assets have been significantly damaged as a <i>direct result</i> of an <i>eligible disaster</i>; and b) the applicant has no alternative funding source to rectify the damage and has used any available insurance prior to seeking assistance. This could be any available insurance or funding received from government disaster programs which are not linked to the <i>eligible measures</i> or a loan from a financial institution. The <i>state</i> should implement <i>appropriate assessment methods</i> to determine if the applicant has sought alternative funding. 5.3.23 The principal loan amount is up to \$100 000 to any one eligible applicant. 5.3.24 In addition to the loan, an applicant can also receive a grant (see sub-clauses 5.3.42 and 5.3.43).</p>
Concessional interest rate loans for a significant loss of income	
	<p>Changed as follows: Concessional interest rate loans to a small business, primary producer or a non-profit organisation that has suffered a</p>

	significant loss of income as a direct result of an eligible disaster
<p>5.3.20 For an applicant to be eligible, the <i>state</i> must be satisfied that:</p> <p>a) the applicant has suffered a significant loss of income as a direct result of the disaster; and</p> <p>b) the applicant was established and operating in the disaster impacted area notified under the determination; and</p> <p>c) the applicant’s business operation was viable prior to the disaster and, with interim assistance provided through the emergency assistance loan, will continue to be viable into the future; and</p> <p>d) the applicant is continuing or is to re-establish the business operations within the same location, or within the same local government area.</p> <p>5.3.21 The concessional interest rate loan for a significant loss of income may be used for essential working capital, being the amount required to continue business or primary production operations for the next 12 months or until the next major income is received, and may include:</p> <p>a) salaries and wages;</p> <p>b) paying creditors;</p> <p>c) paying rent and rates;</p> <p>d) procuring fodder or water for livestock or produce;</p> <p>e) procuring alternative transport for livestock and produce; and</p> <p>f) fuel and other supplies essential to the business.</p> <p>5.3.22 The principle loan amount is up to \$100,000 to any one applicant</p> <p>5.3.23 The repayment term is up to 10 years with the ability to offer interest only in the first and/or second year. The repayment term is up to 10 years with the ability to offer interest only in the first and/or second year.</p>	<p>- 5.3.25 b) now reads as “the applicant’s <i>small business, primary producer or non-profit organisation</i> operation was viable prior to the eligible disaster and the assistance will ensure it continues to be viable. The <i>state</i> should implement <i>appropriate assessment methods</i> to establish past and future long-term viability;”</p> <p>- 5.3.28 now reads as “The repayment term for the loan amount is up to ten (10) years with the ability to offer interest only for a period of up to two (2) years.”</p>
<p>Calculation for the concessional interest rate</p>	
<p>5.3.24 In setting the <i>state’s</i> interest rate on concessional interest rate loans in a <i>financial year</i>, the <i>state must</i> have regard to the following factors:</p> <p>a) the rate set by the Commonwealth under subclause 6.4.2 for that <i>financial year</i>;</p> <p>b) the desirability of the <i>state’s</i> rate not exceeding that rate, except to the extent estimated by the <i>state</i> as necessary to cover administration costs and bad debts.</p> <p>5.3.25 If the <i>state</i> charges an interest rate that exceeds the rate estimated to cover administration costs and bad debts, interest set by the Commonwealth at the commencement of a year and equivalent interest set by the <i>state</i>, the <i>state must</i> pay to the Commonwealth, on or before 15 June in each successive year until maturity of the loan, an amount equal to three quarters of the Commonwealth loan proportion of the interest receipts associated with the margin.</p> <p>5.3.26 The <i>state must</i> review the interest rate charged to borrowers from time to time, making adjustments where appropriate to accommodate any improvement in the circumstances of the recipient.</p> <p>5.3.27 The amount of each loan made by the <i>states</i> to <i>individuals</i> and organisations eligible for Commonwealth assistance may be subject to ceilings determined by the <i>Minister</i> to apply from a specified date (normally 1 July) until</p>	<p>Changed as follows:</p> <p>5.3.29 In setting the <i>state’s</i> interest rate on concessional interest rate loans in a <i>financial year</i>, the <i>state must</i> have regard to the following factors:</p> <p>a) the <i>Commonwealth concessional interest rate</i>; and</p> <p>b) the estimated amount required by the <i>state</i> to cover the costs of establishing and maintaining the loan arrangements, including undertaking recovery action and <i>bad debts</i>.</p> <p>5.3.30 If the <i>state</i> charges a margin above the rate established in clause 5.3.29, the <i>state must</i> pay to the Commonwealth, on or before 15 June in each successive year until maturity of the loan, an amount equal to three quarters of the associated margin on the value of the concessional interest rate loan balance.</p> <p>5.3.31 The <i>state must</i> review the interest rate charged to eligible applicants from time to time, making adjustments where appropriate to accommodate any improvement in the circumstances of the eligible applicant.</p> <p>- introduced a practical example of how the calculation for the concessional interest rate works</p>

<p>amended. The ceilings on loans <i>must</i> be determined having regard to movements in prices since the ceilings were last amended.</p>	
<p>Interest rate subsidies</p>	
<p>5.3.28 Eligible applicants of an interest rate subsidy under this determination may receive only one concessional interest rate loan or interest rate subsidy made available in response to a single disaster.</p> <p>5.3.29 Requirements for an interest rate subsidy scheme are:</p> <p>a) applicants must first apply to states who assess eligibility;</p> <p>b) eligible applicants are issued with a letter from states, which they provide to a participating authorised deposit taking institution (ADTI);</p> <p>c) the ADTI assesses the eligible applicant against lending guidelines developed by the state under this scheme;</p> <p>d) the subsidy is paid by the state to an ADTI; and</p> <p>e) the subsidy reimburses the ADTI for the concessional interest rate it gives on the loan.</p>	<p>Changed as follows:</p> <p>5.3.32 In response to an <i>eligible disaster</i>, eligible applicants can only receive a concessional interest rate loan or an interest rate subsidy. The <i>state</i> will assess the type of assistance to be provided. See sub-clause 5.3.18-5.3.28 for concessional interest rate loans.</p> <p>5.3.33 Requirements for an interest rate subsidy scheme are:</p> <p>a) applicants <i>must</i> apply to the <i>states</i> who assess eligibility;</p> <p>b) the <i>state</i> will issue a letter to eligible applicants, which they provide to a <i>participating authorised deposit taking institution</i> (ADTI);</p> <p>c) the ADTI assesses the eligible applicant against lending guidelines developed by the <i>state</i> under this scheme;</p> <p>d) the subsidy is paid by the <i>state</i> to the ADTI; and</p> <p>e) the subsidy reimburses the ADTI for the interest rate it gives on the loan.</p>
<p>Interest rate subsidies to a needy individual, small business or primary producer whose assets have been damaged as a direct result of an eligible disaster</p>	<p>Changed as follows:</p> <p>Interest rate subsidies to a small business or primary producer whose assets have been damaged as a direct result of an eligible disaster</p>
<p>5.3.30 For an applicant to be eligible the <i>state must</i> be satisfied that the applicant's assets (including fodder) have been significantly damaged as a direct result of the <i>disaster</i>.</p> <p>5.3.31 The maximum principle loan amount is to be established by the <i>state</i>.</p>	<p>Changed as follows:</p> <p>5.3.34 For an applicant to be eligible, the <i>state must</i> be satisfied that:</p> <p>a) the applicant's assets (including fodder) have been significantly damaged as a <i>direct result</i> of an <i>eligible disaster</i>.</p> <p>b) the applicant's <i>small business or primary producer</i> operation was viable prior to the <i>eligible disaster</i> and the assistance will ensure it continues to be viable. The <i>state</i> should implement <i>appropriate assessment methods</i> to establish past and future <i>long-term viability</i>; and</p> <p>c) the applicant is continuing or is to re-establish the <i>small business or primary producer</i> operation within the same location, or within the same local government area.</p> <p>5.3.35 The maximum principal loan amount which qualifies for an interest rate subsidy is to be established by the <i>state</i>.</p>
<p>Interest rate subsidies to a needy individual or a non-profit organisation whose assets have been significantly damaged as a direct result of an eligible disaster</p>	
<p>No existing clause</p>	<p>5.3.36 For an applicant to be eligible, the <i>state must</i> be satisfied that:</p> <p>a) the applicant's assets have been significantly damaged as a <i>direct result</i> of an <i>eligible disaster</i>; and</p> <p>b) the applicant has no alternative funding source to rectify the damage and has used any available insurance prior to seeking assistance. This could be any available insurance or funding received from government disaster programs which are not linked to the <i>eligible measures</i> or a loan from a financial institution. The <i>state</i> should implement <i>appropriate assessment methods</i> to determine if the applicant has sought alternative funding.</p> <p>5.3.37 The maximum principal loan amount which qualifies for an interest rate subsidy is to be established by the <i>state</i>.</p>
<p>Interest rate subsidy to a small business, primary producer or a non-profit organisation that has suffered a significant loss of income</p>	<p>Changed as follows:</p> <p>Interest rate subsidy to a small business, primary producer or a non-profit organisation that has suffered a significant loss</p>

<p>5.3.32 For an applicant to be eligible, the <i>state must</i> be satisfied that the applicant:</p> <p>a) was established and operating in the <i>disaster</i> impacted area notified under the <i>determination</i>; and</p> <p>b) suffered a significant loss of income as a direct result of the <i>disaster</i>.</p> <p>5.3.33 The maximum principal loan amount is \$100,000.</p> <p>5.3.34 The repayment term is up to 10 years with the ability to offer interest only in the first and/or second year.</p>	<p>of income as a direct result of an eligible disaster</p> <p>Changed as follows:</p> <p>5.3.38 For an applicant to be eligible, the <i>state must</i> be satisfied that:</p> <p>a) the applicant has suffered a significant loss of income as a <i>direct result of an eligible disaster</i>; and</p> <p>b) the applicant's <i>small business, primary producer or a non-profit organisation operation was viable prior to the eligible disaster and the assistance will ensure it continues to be viable. The state should implement appropriate assessment methods to establish past and future long-term viability; and</i></p> <p>c) the applicant is continuing or is to re-establish the <i>small business, primary producer or non-profit organisation operations within the same location, or within the same local government area.</i></p> <p>5.3.39 The maximum principal loan amount from the ADTI which qualifies for an interest rate subsidy is \$100 000.</p> <p>5.3.40 The repayment term for the loan amount from the participating ADTI is up to 10 years with the ability to offer interest only for the first two years.</p>
<p>Counter disaster operations for the protection of the general public</p>	
<p>5.3.38 The requirements for counter disaster operations referred to in subclause 5.3.1(c) are:</p> <p>a) the costs are associated with counter disaster operations carried out to protect communities from the disaster and ensure public health and safety in public areas; and</p> <p>b) the costs exceed the costs that a state could reasonably have expected to incur for these purposes; and</p> <p>c) the operations carried out were intended to result in less Category A assistance being required.</p>	<p>Changed as follows:</p> <p>- 5.3.44 now reads as "...subclause 5.3.1 (k) are:" – corrected administrative error</p> <p>- 5.3.44 b) now reads as "...in accordance with the definition of 'extraordinary costs' as outlined in Guideline 2: Counter Disaster Operations);.."</p> <p>- 5.3.44 c) now reads as "...the operations carried out were intended to reduce the need for other forms of assistance under this <i>determination</i> (i.e. to reduce <i>state expenditure</i> on other <i>eligible measures</i>)."</p>
<p>5.5 Category D Measures</p>	
<p>5.5.1 A Category D measure is an act of relief or recovery carried out to alleviate distress or damage in circumstances that are in the opinion of the Minister, exceptional.</p> <p>5.5.2 In order to receive a Category D measure in relation to a disaster, the assistance must:</p> <p>a) be approved by the Prime Minister in writing in relation to the disaster, and</p> <p>b) meet any other terms and conditions imposed by the Commonwealth in writing.</p> <p>5.5.3 The cost-sharing ratio between the Commonwealth and the state for each Category D measure of assistance is at the Commonwealth's discretion but may be guided by the state.</p>	<p>Added:</p> <p>5.5.3 A <i>Category D request must be in writing and submitted with a covering letter to the Prime Minister, and should include information in relation to the following:</i></p> <p>a) the nature of the impact of the <i>eligible disaster</i></p> <ol style="list-style-type: none"> i. dates of the <i>eligible disaster</i> ii. <i>natural disaster</i> type and intensity, for example, a Category 5 Cyclone, or 1 in 100 year flood iii. affected locations, including communities/regions iv. frequency of <i>natural disasters</i> within the affected locations v. impacts in the social, built, economic and environmental domains. For example: <ol style="list-style-type: none"> 1. Social – number of fatalities, disruption to essential utilities and services 2. Built – number of houses damaged/destroyed, damage to transport networks 3. Economic – <i>small business</i> closures, agricultural losses 4. Environmental – pollution/contamination issues, impacts on native habits <p>b) the communities that have been affected</p> <p>c) the assistance already available to support affected communities and sectors</p> <ol style="list-style-type: none"> i. type and level of assistance available under other <i>eligible measure</i> of this <i>determination</i> <p>d) the need for additional support to be provided</p> <ol style="list-style-type: none"> i. advice regarding the specific recovery needs facing affected communities ii. evidence demonstrating the recovery needs are a <i>direct result</i>

	<p>of the <i>eligible disaster</i></p> <p>iii. details about the assistance measures being requested, including the intended recovery outcomes, the administering agencies and a detailed costings breakdown</p> <p>e) the consultation process which has taken place</p> <p>i. advice about who the <i>state</i> has consulted with to identify the need for the <i>Category D</i> request.</p>
6. CLAIMING	
6.2 Determining the amount of Commonwealth financial assistance	
<p>6.2.6 In circumstances where a rate has not been specified by the Commonwealth, the rate of assistance on the relevant <i>Category C</i> measures is to be calculated as:</p> <p>a) if <i>state expenditure</i> does not exceed the state's first <i>threshold</i>, 50 per cent; or</p> <p>b) if <i>state expenditure</i> exceeds the state's first <i>threshold</i>, 50 per cent between a state's first and second <i>threshold</i>; plus 75 per cent where total <i>state expenditure</i> is above the state's second <i>threshold</i>.</p>	Deleted – redundant
6.3 Formula to Determine the Value of the Commonwealth Loan to a State	
<p>6.3.1 The value of a Commonwealth loan to a state is the same proportion of total Commonwealth assistance as the proportion that the loan principal provided by the state is of total state expenditure in that year.</p> <p>6.3.2 The value of the Commonwealth loan to a state is calculated under the following formula:</p> <p>CL = (CA - CCATAC) x (SL / (SE-SCATAC))</p> <p>where:</p> <p>CL = the amount of the loan component of the Commonwealth to that state in respect of that financial year</p> <p>CA = total Commonwealth assistance to the state, as calculated under clause 6.2</p> <p>CCATAC = Commonwealth assistance in respect of state expenditure on Category A and Category C during that financial year, (being equal to 50 per cent of SCATAC)</p> <p>SL = total loans made by the state during that financial year under subclauses 5.3.14—5.3.36</p> <p>SE = total state expenditure during that financial year</p> <p>SCATAC = state expenditure on Category A and Category C during that financial year.</p>	<p>Changed as follows:</p> <p>6.3.1 When the <i>states</i> provide concessional interest rate loans for <i>Category B</i> and <i>Category D</i> measures, a portion of the Commonwealth financial assistance to the <i>state</i> will be provided as a loan. The Commonwealth loan is subject to the <i>thresholds</i> or the applicable cost sharing agreements.</p> <p>6.3.2 The value of the Commonwealth loan to a <i>state</i> is calculated using the following formula:</p> <p>CL = (CA – (50% x SEAC)) x (SLB / SE - SEAC))</p> <p>where:</p> <p>CL = the value of the Commonwealth loan to that <i>state</i> in respect of that <i>financial year</i></p> <p>CA = total Commonwealth assistance to the <i>state</i>, as calculated under clause 6.2</p> <p>SEAC = <i>state expenditure</i> on <i>Category A</i> and <i>Category C</i> measures</p> <p>SLB = total <i>Category B</i> loans made by the <i>state</i> during that <i>financial year</i> under subclauses 5.3.18—5.3.40</p> <p>SE = total <i>state expenditure</i> during that <i>financial year</i> on all measures</p> <p>Added:</p> <p>- practical example to demonstrate how 6.3.2 is applied</p> <p>6.3.3 Where Commonwealth loans are provided under <i>Category D</i> (clause 5.5), they are subject to either fixed cost share agreements or <i>thresholds</i>. In the instance of cost share agreements, the applicable cost share agreement will be applied to the total <i>state expenditure</i> in respect of <i>Category D</i> loans. Where <i>Category D</i> loans are subject to the <i>thresholds</i>, the value of the Commonwealth loan to a <i>state</i> is calculated using the following formula:</p> <p>CL = (CA - (50% X SEAC)) x (SLD / (SE - SEAC)) where:</p> <p>CL = the value of the Commonwealth loan to that <i>state</i> in respect of that <i>financial year</i></p> <p>CA = total Commonwealth assistance to the <i>state</i>, as calculated under clause 6.2</p> <p>SEAC = <i>state expenditure</i> on <i>Category A</i> and <i>Category C</i> measures</p> <p>SLD = total <i>Category D</i> loans made by the <i>state</i> during that <i>financial year</i> under clause 5.5</p> <p>SE = total <i>state expenditure</i> during that <i>financial year</i> on all measures</p>

6.3.4 The calculation for the Commonwealth loan amount for *Category D* loans made by the *states* is in addition to the application of the formula outlined in subclause 6.3.2.

6.4 Concessional interest rate charged by the Commonwealth

6.4.1 A loan to a state is subject to a concessional interest rate determined by the Department at the beginning of each financial year, having regard to market interest rates at the time.

6.4.2 The concessional interest rate charged by the Commonwealth is to be based on 50 percent of the ten-year Treasury bond rate averaged over April–May–June for the applicable financial year.

6.4.3 The applicable concessional interest rate applies to all outstanding Commonwealth loans to a state.

6.4.4 The Department must inform the states of the rate in reasonable time following the release of the data by the Reserve Bank of Australia.

6.4.5 A state's repayment term is up to 10 years with the first two years being interest only.

6.4.6 The principal of a loan to a state is repayable to the Commonwealth in eight (8) equal annual instalments. Principal repayments must be paid to the Commonwealth on or before 15 June in each financial year commencing in the financial year after the interest only period.

6.4.7 Interest on a loan to a state begins to accrue following the end of the financial year in which the Commonwealth made the loan. The annual interest payable is calculated on the balance of outstanding loans at the beginning of each financial year. Interest must be paid to the Commonwealth on or before 15 June in each year the interest is due.

- moved 6.4.2 to 1.1 Definitions
 Changed as follows:

6.4.1 A loan to a *state* is subject to the *Commonwealth concessional interest rate* determined by the *department* at the beginning of each *financial year*. The *department* will inform the *states* of the interest rate in a reasonable time frame following the release of the data by the Reserve Bank of Australia.

6.4.2 The applicable *Commonwealth concessional interest rate* applies to all outstanding Commonwealth loans to a *state* issued under this *determination*.

6.4.3 A *state's* repayment term for the concessional loan is up to ten (10) years with the first two (2) years being interest only.

6.4.4 The principal of a loan to a *state* is repayable to the *department* in eight (8) equal annual instalments. Principal repayments must be paid to the *department* on or before 15 June in each financial year commencing in the financial year after the interest only period.

6.4.5 Interest on a loan to a state begins to accrue following the end of the financial year in which the *department* made the loan. The annual interest payable is calculated on the balance of outstanding loans at the beginning of each *financial year*. Interest must be paid to the Commonwealth on or before 15 June in each year the interest is due.

Calculation for the interest rate subsidy claimable from the Commonwealth

6.4.8 The interest rate subsidy claimable from the Commonwealth *must* be the lesser of:

- 50 percent of the ten-year Treasury bond rate averaged over April–May–June for the applicable *financial year*; or
- 50 per cent of the actual (commercial) interest amount.

Changed as follows:

6.4.6 The interest rate subsidy which *states* claim from the Commonwealth *must* be the lesser of:

- the *Commonwealth concessional interest rate*; or
- 50 per cent of the actual (commercial) interest amount charged by the ADTI.

7.2 Ineligible or unsubstantiated expenditure

7.2.1 If any information provided by a *state*, including by a *state-appointed auditor*, or identified by the *Department* indicates that any part of the *state expenditure* claimed is inconsistent with this *determination* or any other relevant Commonwealth decision, the expenditure in question will be removed from the claim.

7.2.2 If the eligibility of any *state expenditure*, in the opinion of the *Department*, is not adequately substantiated by the *state*, the expenditure in question will be removed from the claim.

7.2.3 The *Department* may appoint an independent expert to advise on the matter in question.

Added:
 7.2.4 The *department* will notify the *state* within a reasonable timeframe, where expenditure has been removed from a claim.

8. COMMONWEALTH MAY UNDERTAKE ASSURANCE ACTIVITIES

8.1.1 The Department may undertake assurance activities at any time if a state has notified the Commonwealth of an eligible disaster.

8.1.2 These assurance activities may include, but are not limited to:

- audit;
- site inspections;
- obtaining relevant documentary evidence to support value for money assessments;

- 8.1.1 now reads as "...to reconcile audited claims made under this *determination*, at any time if a *state* has notified the *department* of an *eligible disaster*."

- third dot point of 8.1.2 now reads as "...assurance activities; or..."

Added:
 8.1.3 *States* may be required to provide documentation (see subclause 4.8 for further details) to support any assurance activities.

<ul style="list-style-type: none"> verification reviews on measures or projects. <p>8.1.3 The Department may appoint an independent adviser to conduct these activities.</p>	
9. APPEALING A DECISION	
<p>9.1.1 A state may write to the Department to appeal any decision made by the Department under this determination.</p> <p>9.1.2 If no agreement can be reached between officials of the state and the Department, the matter may be referred for resolution by the state to the Minister.</p>	- 9.1.1 now reads as “Where the <i>department</i> has made a decision under this <i>determination</i> which the <i>state</i> does not agree with, a <i>state</i> may appeal to the <i>department</i> regarding this decision.”
11. SCHEDULES	
No previous schedule	Added: Schedule 1 - Category A – Emergency Assistance for Individuals
GUIDELINES	
Guideline 1	
Essential Public Asset Restoration or Replacement	Replaced guideline with updated guideline
Guideline 2	
Counter disaster operations	Replaced guideline with updated guideline
Guideline 3	
Category C principles	
1e. All general conditions under the determination for Australian Government assistance apply to Category C measures.	- Changed general conditions to provisions
Administration	
4. Any modifications to the amounts or eligibility criteria as detailed in the <i>community recovery package</i> must be pre-agreed with the Attorney-General’s Department (“the <i>department</i> ”).	- Changed community recovery package to <i>Category C</i> - Changed Attorney-General’s Department to <i>Minister</i> .
5. The Australian Government, through the <i>department</i> , reserves the right to hold membership on any panel, committee or board that has delegation regarding the distribution of package funding.	- Moved 5 to 1 f)
Geographic area	
7. Within the limitations of the <i>determination</i> , those affected in the same way by the same event should receive the same recovery assistance	Moved from clause 7 Guideline 3 to 3.1.3 d)
Community Recovery Fund	
Severity of Impact	
<p>15. In determining the severity of impact on the region, community or sector, the <i>state</i> must demonstrate, at a minimum, the following impacts for the Australian Government to agree to cost share a community recovery fund:</p> <ul style="list-style-type: none"> the community is at risk of losing essential businesses as a direct result of the <i>eligible disaster</i> there is measurable loss or reduction in essential services in the community there is measurable loss or damage to <i>essential public assets</i> more than five community facilities have been destroyed and / or damaged, and more than five community activities have ceased and/or been disrupted. 	<p>- Revised each of the dot points under clause 13. to include reference to “...the community, region or sector, where the community recovery fund is being requested as a direct result of the <i>eligible disaster</i>...”</p> <p>Added: When describing the severity of impact on the community, region or sector, consideration should also be given to the characteristics of a ‘severe’ event, as outlined in the <i>National Impact Assessment Framework: assessing the severity of disaster impact in the immediate aftermath of an event</i>.</p>
Eligible Measures	
<p>16. Possible measures may include, but are not limited to:</p> <ul style="list-style-type: none"> employment of a community development worker/s funding for a range of community activities grants to community service organisations providing recovery services 	<p>- the fourth dot point now reads as”...assistance for restoration and repair of facilities owned by non-profit organisations”</p> <p>Added:</p> <ul style="list-style-type: none"> assistance for restoration and repair of community facilities owned by an <i>eligible undertaking</i> but are not considered to be <i>essential public assets</i>

<ul style="list-style-type: none"> • assistance for reinstatement of facilities owned by non-profit organisations • community information initiatives • funding commemorative events and/or memorials • advocacy and monitoring services • tourism and small business initiatives • economic development initiatives • heritage and cultural sites initiatives • psychological services for community wide initiatives • projects for building community resilience, and • evaluation of the fund. <p>Examples of measures provided under previous community recovery funds are provided at Attachment A.</p> <p>17.Measures ineligible for funding under Category C:</p> <ul style="list-style-type: none"> • Environmental initiatives 	<p>16. Where a <i>state</i> requests a community recovery fund, the relevant <i>state must</i> undertake an evaluation of the fund in line with the <i>National Monitoring and Evaluation Framework for Disaster Recovery Programs</i>.</p> <p>17. In line with subclause 5.4.2, the evaluation of the fund will be cost shared between the Commonwealth and the <i>state</i> on a 50:50 basis and should be made in the form of Attachment F: Category C Request Form.</p>
Governance and Reporting Arrangements	
<p>18. <i>States</i> are responsible for the administration of the Community Recovery Fund, including identifying which organisations will administer the fund e.g. a community recovery committee, state agency etc. In administering the fund, the <i>state</i> should consider assessment of applications (against eligibility criteria), provision for documentation of decisions (transparency) and appeals procedure.</p>	<p>Changed as follows:</p> <p>19. <i>States</i> are responsible for the administration of the community recovery fund.</p> <p>Added:</p> <p>20 Following approval of the community recovery fund by the Commonwealth, governance and reporting arrangements <i>must</i> be developed by the <i>state</i> and approved by the <i>department</i>.</p> <p>21. In administering the community recovery fund, the <i>state must</i> ensure that appropriate governance arrangements are in place.</p> <p>22. The governance arrangements should take into consideration the following, where applicable:</p> <ul style="list-style-type: none"> • identifying which organisation will administer the fund (e.g. a community recovery committee, <i>state</i> agency etc.) • provision for documentation of decisions (transparency) • appeals process • role and responsibilities of a community development officer (if sought) <ul style="list-style-type: none"> ○ identify programs that may be funded under the community recovery fund ○ develop briefing such as any future <i>Category C</i> requests • how the activities/projects align with the objectives and intent of the community recovery fund • the nomination and application process • funding limits and timeframes • eligibility criteria, and • who can apply.
<p>19. Applications may need to be open for up to six months from the date of activation of assistance, recognising that it can take time for local authorities and organisations to establish priorities, estimate costs and submit proposals. Where exceptional circumstances exist, applications may be open for a longer period with agreement by the <i>department</i>.</p>	<p>Removed</p>
Reporting	
<p>No existing clause</p>	<p>Added:</p> <p>23 In administering the community recovery fund, the <i>state must</i> ensure that appropriate reporting arrangements are in place.</p> <p>24 Where activities/projects are funded under the community recovery fund, <i>states must</i> report to the <i>department</i> (within an agreed timeframe) on the administration of the activities/projects.</p> <p>25. The reporting arrangements should take into consideration the</p>

	<p>following, where applicable:</p> <ul style="list-style-type: none"> • the types of activities/projects to be funded and administered • the number of applications received • the number of applications approved • value of the projects/activities approved • number of applications pending • number of applications refused, and • the recovery progress following the activation of the community recovery fund <ul style="list-style-type: none"> ○ did the activities/projects aid in community development? ○ did the activities/projects build community resilience and capacity building to withstand disasters in the future? ○ did the activities/projects achieve the key outcomes of the community recovery fund?
Recovery Grants	
Administration	
30. Claims must be lodged within six months from the date of activation of assistance; applications may be open for a longer period with agreement by the department	Removed
Reporting	
No existing clause	<p>Added:</p> <p>42. Where recovery grants are agreed to, <i>states must provide the department with reporting, within an agreed timeframe, on the administration of recovery grants.</i></p> <p>43. The report should include, but is not limited to, the following:</p> <ul style="list-style-type: none"> • the number of applications received, • the number of applications approved, • value of recovery grants approved, • number of applications pending • number of applications refused, and • value of the recovery grants refused and pending.
Recovery Grants for Primary Producers	
Eligibility Criteria	
<p>40. This assistance is available to primary producers who:</p> <ul style="list-style-type: none"> • have a right or interest in the land used for the purposes of a primary production enterprise, and • contribute a significant part of his/her labour and capital to the primary production enterprise, and • derive at least 50 per cent of their individual income from the primary production enterprise, and • are registered with the Australian Taxation Office as a primary producer, and have an ABN and • suffered direct damage as a result of the specified event, this may include damage to farm buildings, crops, pasture, stock, fencing and/or tools of trade (equipment, plant) and the essential cost of repair or replacement must be the applicant's responsibility, and • were conducting business in the specified area prior to the date of the event, and • are intending to re-establish the enterprise. <p>41. Ineligible primary producers are:</p> <ul style="list-style-type: none"> • "hobby farmers" (that produce less than 50 per cent of an applicant's income) <p>42. Farm enterprises that have not incurred clean-up, removal of debris or restoration costs but have suffered a loss of income as a result of the event are not eligible for a clean-up grant.</p>	<ul style="list-style-type: none"> - removed the first three dot points – duplicate - fourth dot point now reads as "were conducting business in the community, region or sector requested prior to the date of the event..." - fifth dot point now reads as "are intending to re-establish the business in the community, region or sector requested..." - Moved clause 23 from 'purpose of this assistance' to clause 49 - Moved the following from footnotes: <p>47. In some cases the <i>primary producer</i> may not be the land owner and both may wish to claim assistance. For example, the land owner may be responsible for the restoration of buildings, while the primary producer (lessee/share farmer) may be responsible for stock and crops. In these cases a joint claim may be lodged.</p> <p>52. In circumstances where the <i>primary producer</i> does not derive at least 50 per cent of their income from the business, they may be eligible for a recovery grant. For example, sectors with long lead times to production.</p>

Eligible Expenditure	
<p>43. Eligible expenditure for recovery grants includes:</p> <ul style="list-style-type: none"> • clean-up: <ul style="list-style-type: none"> ○ equipment and materials to undertake clean-up ○ additional labour costs (above and beyond normal wage expenditure) • removal of debris: <ul style="list-style-type: none"> ○ disposing of damaged goods and injured or dead stock ○ cost of disposal • restoration: <ul style="list-style-type: none"> ○ repairs to buildings (other than housing) ○ fencing not covered by any other assistance ○ reconditioning/repairing essential plant and equipment ○ salvaging crops grain and feeds ○ health maintenance for livestock and poultry ○ purchase of fodder (not covered by other assistance) ○ purchase or hire/lease costs for equipment essential to the immediate resumption of farming (exceptional circumstance grants only) ○ replacement of essential water used by fire fighting ○ water cartage <p>44. Damage to dwellings is not eligible expenditure. Owners may be able to claim other assistance for this (e.g. personal hardship and distress payments under Category A of the NDRRA).</p>	<p>- clause 53 now reads as “Eligible expenditure for recovery grants must be in the nature of clean-up and <i>reinstatement</i> and may include...”</p> <p>Added:</p> <ul style="list-style-type: none"> • payment for tradespeople to conduct safety inspections • essential repairs to premises and internal fittings (e.g. floor covering, electrical rewiring, shelving) <p>- clause 54 now reads as “...Damage to residential properties is not eligible expenditure. Other assistance for this may be available (e.g. personal hardship and distress payments under <i>Category A</i> of the <i>determination</i>).”</p> <p style="text-align: center;">i.</p>
Recovery Grants for Small Businesses and Non-Profit Organisations	
Severity of Impact	
<p>47. In determining the severity of impact on the region, community or sector, the state must demonstrate, at a minimum, the following impacts for the Australian Government to agree to cost share recovery grants for small businesses:</p> <p><u>Standard</u> recovery grants (i.e. up to \$10,000) to a small business sector:</p> <ul style="list-style-type: none"> • more than 15 per cent of small businesses in the sector are directly affected • average individual small business losses of at least \$45,000, and • the community is at risk of losing essential businesses as a direct result of the disaster. <p><u>Exceptional</u> circumstances recovery grants (i.e. up to \$25,000) to a small business sector:</p> <ul style="list-style-type: none"> • more than 33 per cent of small businesses in the sector are directly affected, • average individual small business losses of at least \$75,000, and • the community is at risk of losing essential businesses as a direct result of the disaster. 	<p>Changed as follows:</p> <p>58. In determining the severity of impact on the community, region or sector requested, the <i>state must</i> demonstrate, at a minimum, the following impacts for the Commonwealth to agree to cost share recovery grants for <i>small businesses</i> and <i>non-profit organisations</i>:</p> <p><u>Standard</u> recovery grants (i.e. up to \$10 000) to a <i>small business</i> and <i>non-profit organisation</i> sector:</p> <ul style="list-style-type: none"> • more than 15 per cent of <i>small businesses</i> and <i>non-profit organisations</i> in the community, region or sector requested are directly affected, • average individual <i>small business</i> and <i>non-profit organisation</i> losses of at least \$45 000, and • the community, region or sector requested is at risk of losing essential businesses as a direct result of the <i>eligible disaster</i>. <p><u>Exceptional circumstances</u> recovery grants (i.e. up to \$25 000) to a <i>small business</i> and <i>non-profit organisation</i> sector:</p> <ul style="list-style-type: none"> • more than 33 per cent of <i>small businesses</i> and <i>non-profit organisations</i> in the community, region or sector requested are directly affected, • average individual <i>small business</i> and <i>non-profit organisation</i> losses of at least \$75 000, and • the community, region or sector requested is at risk of losing essential businesses as a direct result of the <i>eligible disaster</i>.
Eligibility Criteria	
<p>48. Small businesses and non-profit organisations may be eligible for recovery grants if they:</p>	<p>- Moved clause 23 from ‘purpose of this assistance’ to clause 60</p> <p>- changed businesses to <i>small businesses</i> and <i>non-profit</i></p>

<ul style="list-style-type: none"> • have suffered direct damage to their premises and/or tools of trade (e.g. equipment, plant) and the essential cost of repair or replacement are the applicant's responsibility, and • are intending to re-establish in the specified area, and • were conducting business in the specified area prior to and including the date of the event, or are business enterprises in the development phase (e.g. premises being prepared but trading had not yet commenced). <p>49. Businesses not operating out of commercial premises that have suffered direct damage to plant and equipment may also be eligible.</p> <p>50. Businesses that are part of national chains are not eligible. Franchises may be eligible. Businesses must be locally registered or operated; however, owners may reside outside the specified area.</p> <p>51. Plant nurseries (or other primary producer activities) that have retail outlets may apply for assistance under the recovery grants for small businesses.</p> <p>52. If the business is home based, applicants are only permitted to claim the costs of clean-up and reinstatement for damage to premises and items that are directly attributable to the business, not other household damage.</p> <p>53. In circumstances where at least 50 per cent of a sole trader's income does not come from the small business in question, the business may be eligible for a grant upon approval from the department. This may include:</p> <ul style="list-style-type: none"> • businesses in start-up mode with the intention of being the applicant's primary source of income (>50 per cent) in a relatively short period of time, immediately prior to a natural disaster • businesses that had been an applicant's primary source of income and would have become so again in a relatively short period of time had a natural disaster not occurred • where an applicant makes substantial capital investment (e.g. salary/wages from employment or monies from elsewhere) into building up a business such that it was close to becoming a viable commercial operation immediately prior to a natural disaster event • where a sole trader is operating more than two separate and distinct businesses (e.g. three businesses each providing 33 per cent of sole trader's income). 	<p><i>organisations</i> in clause 62 and 64.</p> <p>- 63. now reads as "...however, owners may reside outside the community, region or sector requested."</p> <p>- first dot point in clause 65. now includes an example – (e.g. premises being prepared but trading had not yet commenced)</p>
<p>Eligible Expenditure</p>	
<p>54. Only uninsured loss or damage qualifies for relief.</p> <p>55. Eligible expenditure for recovery grants includes:</p> <ul style="list-style-type: none"> • clean-up: <ul style="list-style-type: none"> ○ equipment and materials to undertake clean-up ○ additional labour costs (above and beyond normal wage expenditure) • removal of debris: <ul style="list-style-type: none"> ○ carting away damaged goods and material ○ cost of disposal ○ restoration: <ul style="list-style-type: none"> ○ payment for trades people to conduct safety 	<p>- clause 67 now reads as "Eligible expenditure for recovery grants must be in the nature of clean-up and reinstatement and may include..."</p>

inspections <ul style="list-style-type: none"> ○ essential repairs to premises and internal fittings (e.g. floor covering, electrical rewiring, shelving) ○ purchase or hire/lease costs for equipment essential to the immediate resumption of operations ○ leasing of temporary premises ○ replacement of stock which is essential to the immediate resumption of operations. 	
No previous attachment	Attachment B
No previous attachment	Attachment C
Guideline 5	
No existing guideline	Added: Guideline 5 - Process for determining a terrorist act is an <i>eligible disaster</i> .