

14 September 2020

Our ref: [WD-NFP]

Mr Michael Tidball
Chief Executive Officer
Law Council of Australia
19 Torrens St
Braddon ACT 2612

By email: [REDACTED]

Dear Mr Tidball

Royal Commission into National Natural Disaster Arrangements – Draft Propositions by Counsel Assisting the Royal Commission

Thank you for the opportunity to provide feedback on the Draft Propositions by Counsel Assisting the Royal Commission. The Queensland Law Society (QLS) appreciates being consulted on this important step in the Royal Commission into National Natural Disaster Arrangements.

Part H: National resilience and recovery arrangements***Coordinating volunteers and donations of goods***

The Draft Propositions highlight some issues associated with the coordination of volunteers in response to national natural disasters.

QLS recommends that consideration be given to a much wider range of challenges involved in the coordination of volunteers in this context.

The paper "*Volunteer Ready? Preparing Queenslanders for the expected unexpected*"¹ highlights that many of the legislative protections for workers do not apply to volunteers, particularly in times of disaster, when informal and 'spontaneous' volunteering is common. Because volunteers may not be controlled or directed by a community or government

¹ Tarr, Julie-Anne, McGregor-Lowndes, Myles, Conroy, D. & Sloper, R (2012) Volunteer Ready? Preparing Queenslanders for the expected unexpected (issues in insurance and risk management of volunteers). https://eprints.qut.edu.au/202855/1/V6_Volunteer_discussion_paper_final.pdf (accessed 14 Sept 2020)

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organisation, spontaneous volunteers may be fully exposed to liabilities for damage to property or injury to another person.²

Draft Proposition H3 suggests that “State and territory governments should improve arrangements for the coordination of spontaneous volunteers in relief and recovery from natural disasters, for example by adopting the Emergency Volunteering CREW model used in Queensland.”

QLS supports consideration of the CREW model, under which Volunteering Queensland, in times of disaster, matches volunteers with response agencies or community organisations to assist the community.³ Most recently, Volunteering Queensland through Emergency Volunteering CREW has been working on the [Queensland Government's Care Army initiative](#), by connecting Queenslanders who want to help older and vulnerable people living in the community who may not have friends, family or neighbours who are able to support them. The primary focus of the Care Army is social connection and essential services such as the delivery of groceries and medicines for Queensland's seniors and most vulnerable. Support is also offered through phone calls or video chats to help reduce the impacts of social isolation.⁴

QLS also considers that any assessment of coordinating volunteers in times of disaster must necessarily include consideration of:

- the legislative protections available to volunteers;
- whether appropriate insurance coverage is available and if not, what insurance coverage should be available and who should be responsible for providing / implementing it;
- the benefit of training volunteers in advance of an emergency – in this regard, the “Volunteer Ready” paper suggests the concept of a “Volunteer Ready Card” system of advance registration and training, to provide a concrete, cross-organisational tool for disaster readiness and volunteer education more generally.⁵

In considering training and preparing volunteers in advance of an emergency, QLS also suggests:

- Establishing a national pool of volunteers (including lawyers, social workers and counsellors) who can be trained and prepared to assist those in emergency shelters with immediate needs. These volunteers could be trained in advance and accredited, in line with the Volunteer Ready Card system suggested above. These volunteers can also be partnered with existing support structures for longer term assistance to those impacted. The recovery process for individuals can take years, particularly where the victim has lost their home, and there is a need for ongoing legal and other assistance during this time.
- Investigating online referral options for connecting volunteers and expert assistance services. QLS is aware that the Law Institute of Victoria collaborated with Victoria

² Volunteer Ready? Preparing Queenslanders for the expected unexpected (issues in insurance and risk management of volunteers), Part 7

³ <https://www.emergencyvolunteering.com.au/qld/about>

⁴ <https://www.emergencyvolunteering.com.au/qld/about>

⁵ Volunteer Ready? Preparing Queenslanders for the expected unexpected (issues in insurance and risk management of volunteers, page 42

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Legal Aid, the Federation of Community Legal Centres, the Law Institute of Victoria, the Victorian Bar and Justice Connect on the “Disaster Legal Help Victoria” initiative. We understand that Justice Connect developed a [Pro Bono Portal \(through which law firms could register\) and an online referral pathway](#) so that legal aid commissions and CLCs could refer people to Justice Connect easily. We also understand a key part of the model was to connect victims to local support services where possible, which allowed the work to be directed into the local communities. This approach assisted recovery efforts, built networks and better directed the victim to a suitability qualified expert. It is our understanding that the system or a modified version of it was also adopted and implemented in NSW. We understand this worked well and is worthy of careful consideration in the Commission’s deliberations.

- The need for preparing and maintaining helpful resources and training for volunteers, which are consistently and regularly updated. These resources could be used for the ‘trained’ pool of volunteers, but could also form the basis of emergency ‘fast-tracked’ training if additional volunteers were needed on an urgent basis.

Coordination of charitable and not for profit responses

Draft Propositions H5 proposes that “National forums for charities, for example, the Charities Forums held by the National Bushfire Recovery Agency (NBRA) in 2020, should plan for, and facilitate, coordination of charities’ involvement in recovery support.”

QLS recommends that philanthropic trusts and foundations be involved in the forums going forward. We are unaware why they are presently not included. This approach would increase the scope of assistance available, including the pool of resources, and improve the coordination of assistance across a wider cross-section of the not for profit sector.

Disaster fundraising reform

Harmonisation of fundraising regulation

QLS has long supported the principle outlined in Draft Proposition H7, that Australian, state and territory governments should work together as a matter of priority to harmonise the regulation of charitable fundraising across the various Australian jurisdictions.

Legislative scheme for disaster fundraising oversubscription

QLS recommends that in addition, the Royal Commission should specifically address disaster fundraising reform and the effectiveness of current legislative frameworks in disaster fundraising, management and schemes for disaster fund oversubscription.

QLS raises for consideration the option of a legislative scheme under which a disaster fund can be taken over and administered by the Government department responsible for community services to provide financial assistance and other relief to the victims of declared

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disasters such as bush fires, floods and earthquakes. For examples, see the *Community Welfare Act 1987* (NSW) sections 3(1), 39 and the *Collections Act 1966* (Qld) section 35B.

Online fundraising challenges

The recent natural disasters in Australia highlighted the challenges of on-line fundraising the community's understanding of how such fundraising processes work (for example, the Celeste Barber Facebook fundraiser for Rural Fire Services).⁶

On line fundraising laws are in need of reform across Australia.

QLS suggests that the model legislation recently adopted by Canada and its provinces may be a useful starting point for to the Royal Commission's deliberations.

At its Annual General Meeting on 12 August 2020, the Uniform Law Conference of Canada adopted the [Uniform Benevolent and Community Crowdfunding Act 2020](#) (the Act) to replace the *Uniform Informal Public Appeals Act 2011*. The new Canadian framework provides for the application of trust law to all public appeals, with special guidance in relation to surpluses, and contains powers available to the fundraisers to properly administer the funds raised through the information public appeal.

The Act allows for judicial oversight where appropriate and recognises the important role of internet based crowdfunding platforms. There is a right to halt the appeal if the appeal was initiated without the consent of a qualified donee for whose benefit the appeal was initiated. The qualified donee through an authorised representative, would be able to demand that the appeal be halted and the organiser or intermediary would have to comply with the demand. In the event the appeal organiser or intermediary fails to comply with the objection by a qualified donee, the Act would provide the right to apply to the court for injunctive relief.

A similar legislative framework in Australia could allow for mechanisms for public appeal organisers to raise and transfer funds to the relevant services efficiently and in the spirit of which the funds were donated.

Insurance arrangements

QLS suggests that when considering insurance issues, the Royal Commission carefully examine the Natural Disaster Fund (NDF) in New Zealand⁷ as a potential starting point for development of a possible joint venture scheme with private insurers to provide a disaster insurance scheme available to all Australians.

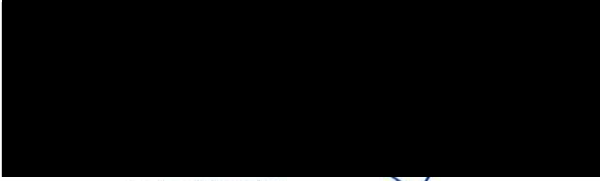
If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

⁶ McGregor-Lowndes, Myles & Hannah, Frances (2020) ACPNS Legal Case Notes Series: 2020-45 In the matter of the New South Wales Rural Fire Service & Brigades Donations Fund; Application of Macdonald & Or. <https://eprints.qut.edu.au/200554/>

⁷ <https://www.eqc.govt.nz/about-eqc/our-role/ndf>

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Yours faithfully



Luke Murphy
President