

**COMMONWEALTH OF AUSTRALIA**

***Royal Commissions Act 1902***

**ROYAL COMMISSION  
INTO  
NATIONAL NATURAL  
DISASTER ARRANGEMENTS**

**NOTICE TO GIVE INFORMATION**

To: Wildlife Health Australia  
Suite E, 34 Suakin Drive  
Mosman NSW 2088

Pursuant to s2(3C) of the *Royal Commissions Act 1902* (Cth), I, AIR CHIEF MARSHAL MARK BINSKIN AC (Retd), Commissioner of the Royal Commission established under Letters Patent dated 20 February 2020, and amended on 23 July 2020, in response to the extreme bushfire season of 2019-20,<sup>1</sup> require you to give this Notice, and the information described in the Schedule, to:

The Solicitor Assisting the Commission at

King & Wood Mallesons, Level 61, Governor Phillip Tower,

1 Farrer Place, Sydney, NSW

on or before Friday, 18 September 2020 at 4:00pm AEST.

**SCHEDULE**

1. Describe, at a high level, the role and responsibilities of Wildlife Health Australia. In your response, outline its membership, any responsibilities relating to natural disasters and whether Wildlife Health Australia has any defined responsibilities in emergency management arrangements, including within local, jurisdictional or national emergency management or recovery plans.
2. Describe any issues or deficiencies that Wildlife Health Australia has observed in relation to the emergency wildlife response and recovery during and following

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<sup>1</sup> The terms of reference of the Royal Commission, contained in the Letters Patent dated 20 February 2020, and amended on 23 July 2020, are set out as Annexure A to this Notice.

the 2019/2020 bushfires, including within existing emergency management arrangements, guidelines, protocols, training and the use of volunteers.

3. Describe any work undertaken by Wildlife Health Australia during and following the 2019/2020 bushfires, including any efforts to improve the national coordination of emergency wildlife response and recovery following natural disasters.
4. Describe any opportunities that Wildlife Health Australia has identified to improve emergency wildlife response and recovery following a natural disaster.
5. Describe any national or jurisdictional arrangements that Wildlife Health Australia has established or participates in for the purposes of coordinating emergency wildlife response and recovery.

## DEFINITIONS

In this Notice, and the Schedule hereto, the following terms and expressions have the following meanings:

1. **'Emergency wildlife response and recovery'** is intended to be a broad term to cover response and recovery activities related to wildlife, animals and livestock and includes, but is not limited to, veterinary services, animal search and rescue and care and rehabilitation.

Dated this 19<sup>th</sup> day of August 2020

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AIR CHIEF MARSHAL MARK BINSKIN AC (Retd)  
Commissioner of the Royal Commission

## NOTES

*1 Rights and obligations arising from this Notice*

Annexure B to this Notice sets out the rights and obligations of a recipient of a notice issued under s 2(3C) of the *Royal Commissions Act 1902* (Cth).

*2 Production by email or electronically*

To comply with this Notice to Give, you may produce the documents described in the Schedule to the Notice to the address stated in the Notice by emailing an electronic copy

of the documents to [RCNDA.Notices@royalcommission.gov.au](mailto:RCNDA.Notices@royalcommission.gov.au). Please specify the reference number of the Notice in the subject line of your email. Where production by way of email is not practicable (such as for production of large quantities of documents), you may produce such documents by way of a USB or other form of electronic storage device delivered to the address set out in the Notice.

3 *Production of things*

You may comply with this Notice by delivering or posting things sought by the Notice which are unable to be produced in electronic form to the address specified in the Notice.

4 *Confidentiality and legal professional privilege*

The Royal Commission has published (and may continue to publish) practice guidelines on its website relevant to claims of confidentiality and legal professional privilege:  
<https://naturaldisaster.royalcommission.gov.au/>

## ANNEXURE A

### TERMS OF REFERENCE

The Letters Patent dated 20 February 2020, and amended on 23 July 2020, requires and authorises the Royal Commission to (amongst other matters) inquire into the following matters:

- a. the responsibilities of, and coordination between, the Commonwealth and State, Territory and local Governments relating to preparedness for, response to, resilience to, and recovery from, natural disasters, and what should be done to improve these arrangements, including with respect to resource sharing;
- b. Australia's arrangements for improving resilience and adapting to changing climatic conditions, what actions should be taken to mitigate the impacts of natural disasters, and whether accountability for natural disaster risk management, preparedness, resilience and recovery should be enhanced, including through a nationally consistent accountability and reporting framework and national standards;
- c. whether changes are needed to Australia's legal framework for the involvement of the Commonwealth in responding to national emergencies, including in relation to the following:
  - i. thresholds for, and any obstacles to, State or Territory requests for Commonwealth assistance;
  - ii. whether the Commonwealth Government should have the power to declare a state of national emergency;
  - iii. how any such national declaration would interact with State and Territory emergency management frameworks;
  - iv. whether, in the circumstances of such a national declaration, the Commonwealth Government should have clearer authority to take action (including, but without limitation, through the deployment of the Australian Defence Force) in the national interest;
- d. any relevant matter reasonably incidental to a matter referred to in paragraphs (a) to (c).

AND for the purposes of the inquiry and recommendations, to have regard to the following matters:

- e. the findings and recommendations (including any assessment of the adequacy and extent of their implementation) of other reports and inquiries that are relevant, including any available State or Territory inquiries relating to the 2019-2020 bushfire season, to avoid duplication wherever possible;
- f. ways in which Australia could achieve greater national coordination and accountability — through common national standards, rule-making, reporting and data-sharing — with respect to key preparedness and resilience responsibilities, including for the following:
  - i. land management, including hazard reduction measures;
  - ii. wildlife management and species conservation, including biodiversity, habitat protection and restoration;

- iii. land-use planning, zoning and development approval (including building standards), urban safety, construction of public infrastructure, and the incorporation of natural disaster considerations;
- g. any ways in which the traditional land and fire management practices of Indigenous Australians could improve Australia's resilience to natural disasters.

## ANNEXURE B

### STATEMENT OF RIGHTS AND OBLIGATIONS OF A PERSON SERVED WITH A NOTICE UNDER SECTION 2(3C) OF THE *ROYAL COMMISSIONS ACT 1902* (CTH)

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- 1 Pursuant to subsection 3(6A) of the *Royal Commissions Act 1902* (Cth) ("the Act"), a person served with a notice under subsection 2(3C) of the Act must not refuse or fail to give information or a statement that the person was required to give in accordance with the notice.**

**The penalty for this offence is imprisonment for 2 years.**
- 2 Subsection 3(6B) of the Act provides that subsection 3(6A) does not apply if the person has a reasonable excuse.<sup>2</sup>**
- 3 Subsection 3(6C) of the Act provides that it is a defence to a prosecution for an offence against subsection 3(6A) if the information or statement is not relevant to the matters into which the Commission is inquiring.**
- 4 Pursuant to subsection 6AB(1) of the Act, a person commits an offence if the person had refused or failed to produce a document as required under subsection 2(3C), the Commissioner has decided to reject a claim that the document (or relevant part of the document) is subject to of legal professional privilege under subsection 6AA<sup>3</sup> and the person refuses or fails to produce the document as the Commissioner requires after that decision under s 2.**

**This is an offence and the penalty for this offence is imprisonment for 2 years.**
- 5 Pursuant to subsection 6A(1A) of the Act, it is not a reasonable excuse for the purpose of subsection 3(6B) of the Act for a person to refuse or fail to give information or a statement that the person is required to give under subsection 2(3C) on the ground that giving the information or statement might tend to:**

  - (a) incriminate the person; or
  - (b) make the person liable to a penalty.
- 6 Pursuant to subsections 6A(3) and (4) of the Act, subsection 6A(1A) of the Act does not apply to the refusal or failure to give information or a statement if:**

  - (a) the production might tend to incriminate the person in relation to an offence or make the person liable to a penalty; and
  - (b) the person has been charged with that offence, or proceedings in respect of the penalty have commenced; and
  - (c) the charge, or penalty proceedings, have not been finally dealt with by a court or otherwise disposed of.
- 7 Subsection 6AB(4) provides that section 6AB(1) does not apply if the person has a reasonable excuse. Pursuant to subsection 6AB(5), it is not a reasonable excuse for the purposes of subsection 6AB(1) for a person to refuse or fail to produce a**

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<sup>2</sup> The term 'reasonable excuse' is defined in sub-section 1B(1) of the Act.

<sup>3</sup> See Practice Guideline 3 for the requirements for making a claim of legal professional privilege.

document that the document is subject to legal professional privilege, unless a court has found the document to be subject to legal professional privilege.

- 8 Pursuant to subsection 6D(3) of the Act, the Commissioner may direct that the contents of any document, or a description of any thing, given under a notice under subsection 2(3C) of the Act, shall not be published, or shall not be published except in such manner, and to such persons, as the Commission specifies.

The penalty for the offence of failing to comply with a direction made under subsection 6D(3) is, on summary conviction, a fine not exceeding 20 penalty units or imprisonment for a period not exceeding 12 months.

- 9 Pursuant to subsection 6DD of the Act, a statement or disclosure made by the person in writing given in response to a notice under subsection 2(3C) is not admissible in evidence against the person in any civil or criminal proceedings in any court of the Commonwealth, a State or a Territory, except in proceedings for an offence against the Act.

- 10 Pursuant to subsection 6F(2) of the Act, where the retention of a document or other thing produced or given under a notice under subsection 2(3C) by the Commission ceases to be reasonably necessary for the purposes of the inquiry to which the document or other thing is relevant, the Commission shall, if a person who appears to the Commission to be entitled to the document or other thing so requests, cause the documents or other thing to be delivered to that person unless the Commission has furnished the document or other thing to a person or body referred to in subsections 6P(1), (2), (2A) or (2B).

- 11 Pursuant to subsection 6K(1) of the Act, a person commits an offence if:

- (a) the person acts or omits to act; and
- (b) this results in a document or other thing being concealed, mutilated, destroyed, or being made unidentifiable, or, in the case of documents, rendered illegible or indecipherable; and
- (c) the person knows, or is reckless as to whether, the document or thing is one that is or may be required in evidence before a Commission; or the person has been, or is likely to be, required to produce the document or thing pursuant to a summons, requirement or notice under section 2 of the Act.

**This is an indictable offence, which is punishable on conviction on indictment by imprisonment for a period not exceeding 2 years or by a fine not exceeding 100 penalty units, or, on summary conviction, by a fine not exceeding 20 units or imprisonment for a period not exceeding 12 months.**