

## Performance Audit Report No. 34 (2014-15)

# Administration of Natural Disaster Relief and Recovery Arrangements by Emergency Management Australia

## Introduction

2.1 Chapter 2 focuses on the Joint Committee of Public Accounts and Audit (JCPAA) review of Australian National Audit Office (ANAO) Report No. 34 (2014-15), *Administration of Natural Disaster Relief and Recovery Arrangements by Emergency Management Australia*, Attorney-General's Department. The chapter comprises:

- an overview of the report, including the audit objective, scope and criteria; audit conclusion; and audit recommendations and agency response
- Committee review
- Committee comment

## Report overview

2.2 As natural disasters often result in substantial expenditure by state governments in the form of disaster relief and recovery payments and infrastructure restoration, the Commonwealth has established arrangements to provide financial assistance to the states in certain circumstances. The key mechanism for providing financial assistance is

through the Natural Disaster Relief and Recovery Arrangements (NDRRA).

- 2.3 NDRRA is a Ministerial determination administered by Emergency Management Australia (EMA), within the Attorney-General's Department (AGD).<sup>1</sup> The determination defines natural disasters covered by NDRRA and identifies measures eligible for NDRRA funding. Under NDRRA, the Commonwealth reimburses up to 75 per cent of the state recovery bill after certain thresholds are met.<sup>2</sup> NDRRA generally operates on a reimbursement basis, with assistance usually taking the form of partial reimbursement of actual state expenditure.<sup>3</sup> States are required to provide audited financial statements to acquit expenditure.
- 2.4 Separate National Partnership Agreements (NPAs) were signed with the Victorian and Queensland state governments in 2011 to supplement existing NDRRA arrangements following widespread flooding in the eastern states and the Queensland tropical cyclones over 2010-11. The NPAs also enabled the establishment of the Australian Government Reconstruction Inspectorate to undertake reviews of reconstruction projects.<sup>4</sup> The ANAO has undertaken three audits of key aspects of these NPAs.<sup>5</sup>
- 2.5 Over the past decade, the Australian Government has spent around \$8 billion on post-disaster relief and recovery. Another \$5.7 billion is expected to be spent over the forward estimates for past natural disaster events.<sup>6</sup>
- 2.6 As discussed later, at the time this report was being finalised AGD was in the final stages of providing advice to Government concerning the

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1 The ANAO report generally refers to EMA in its findings but to AGD in its recommendations, ANAO, Audit Report No. 34 (2014-15), *Administration of Natural Disaster Relief and Recovery Arrangements by Emergency Management Australia*. (For drafting simplicity, the ANAO also refers to 'states' rather than 'states and territories', p. 13.)

2 ANAO, Audit Report No. 34 (2014-15), p. 14.

3 ANAO, Audit Report No. 34 (2014-15), p. 32.

4 ANAO, Audit Report No. 34 (2014-15), p. 13. AGD has responsibility for all NDRRA payments and acquittals, while the Inspectorate (within the Department of Infrastructure and Regional Development) provides assurance on expenditures covered by the NPAs, p. 30. NDRRA continues to apply to natural disasters covered by the NPAs, p. 68.

5 ANAO, Audit Report No. 8 (2013-14), *Australian Government Reconstruction Inspectorate's Conduct of Value for Money Reviews of Queensland Reconstruction Projects*; Audit Report No. 24 (2012-13), *Preparation and Delivery of the Natural Disaster Recovery Work Plans for Queensland and Victoria*; and Audit Report No. 23 (2012-13), *Australian Government Reconstruction Inspectorate's Conduct of Value for Money Reviews of Flood Reconstruction Projects in Victoria*.

6 See Productivity Commission, *Natural Disaster Funding Arrangements* (December 2014) – quoted in ANAO, Audit Report No. 34 (2014-15), p. 13.

findings of the 2014 Productivity Commission report on *Natural Disaster Funding Arrangements*.

## **Audit objective, scope and criteria**

- 2.7 The audit examined the administration of the NDRRA Ministerial determination by EMA, within AGD, including the provision of guidance to the states on the NDRRA framework, and its claims verification and assurance activities. The ANAO's audit work was also informed by:
- an examination of a selection of NDRRA claims made by three states (Western Australia, Victoria and New South Wales) concerning seven disaster events (covering a range of disaster types and sizes) occurring between 2006 and 2011, with the associated NDRRA reimbursement claims being lodged between 2008 and 2014
  - a recent performance audit of the Australian Government Reconstruction Inspectorate's value for money reviews of Queensland reconstruction projects<sup>7</sup>
- 2.8 The audit criteria were 'primarily based on the aim of the NDRRA, the principles for assistance to states, and the various definitions, conditions, requirements and other provisions set out in the determination and associated guidelines'.<sup>8</sup>

## **Audit conclusion**

- 2.9 The ANAO's overall conclusion was as follows:

In its administration of NDRRA ... EMA has placed significant reliance on the framework being well understood and complied with by state coordinating agencies, jurisdiction auditors and state delivery agencies and councils who undertake recovery and reconstruction work. This reliance has not been well placed given:

- there remains significant gaps in the extent to which key terms and conditions in the determination have been adequately defined and explained, notwithstanding that some additional guidance has been provided by EMA in recent years; and
- limited oversight at the conclusion of reconstruction is afforded to the audited claims submitted by states, with no project level information provided in these claims.

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7 ANAO, Audit Report No. 34 (2014-15), p. 14.

8 ANAO, Audit Report No. 34 (2014-15), p. 14. (The ANAO noted that its audit conclusions were 'directed to the performance of Commonwealth agencies and not state agencies (Commonwealth partners), drawing on information provided voluntarily by the states', p. 31.)

Overall, EMA has not been alert to clear signals that the NDRRA framework has required tightening. Its claims verification and assurance processes have also not adequately protected the Commonwealth's interests, including by placing too much reliance on state vetting and sign-offs. The result has been millions of dollars of ineligible claims being reimbursed to the states at the Commonwealth's expense. A much more active and disciplined approach to EMA's administration of NDRRA is required so that payments are limited to those items the Australian Government intended to cover, given the significant quantum of funding that is involved ...

EMA has been reluctant to accept criticism of its approaches ...

A key message from this audit is that improvements in administrative effectiveness, including savings in NDRRA expenditure, can be expected if EMA took more timely and effective action to improve upon longstanding administrative approaches. A positive move in this direction involved EMA obtaining, in July 2014, a report from internal audit to support the development of a compliance assurance framework for NDRRA. However, it remains noteworthy that EMA has not yet made any use of the power it was given in 2012 to undertake project-level assurance activities either before reconstruction work is completed, or after expenditure claims have been submitted.<sup>9</sup>

## Audit recommendations and agency response

2.10 Table 2.1 sets out the recommendations for ANAO Report No. 34 and AGD's response.<sup>10</sup>

**Table 2.1 ANAO recommendations, Report No. 23 (2014-15)**

1	<p>The ANAO recommends that the Attorney-General's Department significantly improve the administration of disaster relief and recovery funding by:</p> <ul style="list-style-type: none"> <li>(a) adopting more timely processes for developing, finalising and promulgating disaster funding guidelines and advisories</li> <li>(b) implementing administrative arrangements that provide it with greater details of the amounts included in expenditure claims, including project specific information</li> </ul> <p><b>AGD response: (a) Agreed (b) Agreed with qualification</b></p>
2	<p>To provide improved oversight and assurance in its administration of the Natural Disaster Relief and Recovery Arrangements, the ANAO recommends that the Attorney-General's Department:</p>

<sup>9</sup> ANAO, Audit Report No. 34 (2014-15), pp. 15-16.

<sup>10</sup> For details of AGD's response to the ANAO's recommendations, see ANAO, Audit Report No. 34 (2014-15), pp. 100-103. The ANAO also provided further comment on AGD's response – see pp. 65-66, 96.

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- (a) obtain project level information from states and territories to enable more informed analysis of claim amounts
  - (b) implement a risk-based approach to examining the eligibility and value for money of a sample of recovery and reconstruction projects

**AGD response: (a) Agreed with qualification (b) Agreed with qualification**

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## Committee review

- 2.11 Representatives from the ANAO and AGD, including EMA, gave evidence at the Committee's public hearing on 17 September 2015 (see details of public hearings and submissions at Appendixes A and B).
- 2.12 As discussed below, the Committee focused on three matters regarding the ANAO report findings and evidence provided at the public hearing:
- the NDRRA framework and guidance
  - NDRRA claims verification and assurance
  - implementation of ANAO recommendations

## NDRRA framework and guidance

- 2.13 By way of background, the ANAO report findings regarding the NDRRA framework focused on a lack of clarity of the framework, as reflected in the varying state interpretations of the framework and payment of ineligible expenditure claims. A summary of the relevant key points from the ANAO report is set out below:
- **lack of clarity of NDRRA framework and guidance**
    - Inadequacies in the NDRRA framework have ... been raised by the Australian Government Reconstruction Inspectorate, in light of the findings of its review of a sample of Queensland reconstruction projects. The Inspectorate has reported that the NDRRA framework would benefit from 'better defined eligibility criteria' and also that the 'current procedures are often vague, inconsistent and complicated'. Similarly, comments on the NDRRA framework from states examined by the ANAO as part of this audit included that it is 'complex and ambiguous'<sup>11</sup>
    - The framework that is in place to support the delivery of NDRRA funding is inadequate in a number of important respects. Of note is that important terms are undefined and

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11 ANAO, Audit Report No. 34 (2014-15), p. 17.

guidance has been slow to be issued in some areas and remains non-existent in others<sup>12</sup>

■ **varying state interpretations of NDRRA framework, and payment of ineligible expenditure claims**

- EMA has not acted sufficiently promptly to address deficiencies in the guidance available for state, territory and local governments involved in administering or delivering NDRRA assistance. This has resulted in varying interpretations of NDRRA eligibility requirements by state agencies and incorrect claims being submitted to EMA and paid ... in each of the three states examined by the ANAO as part of this audit, EMA has paid claims for expenditure that were not eligible under NDRRA<sup>13</sup>
- state-based approaches to providing NDRRA interpretations and guidance has led to inconsistent approaches, including WA employing a different (and incorrect) accounting approach in respect to claims examined by the ANAO<sup>14</sup>
- State guidelines examined by the ANAO generally do not have a clear line of sight with the determination ... EMA has not actively reviewed state guidelines to assess their consistency with the determination<sup>15</sup>

2.14 As the Acting Auditor-General, Ms Rona Mellor, noted in her opening statement at the public hearing, the 'key message from the audit' was that EMA, within AGD, has 'not been alert to clear signals that the NDRRA framework has required tightening'.<sup>16</sup>

2.15 AGD outlined its response to the ANAO audit through 'four key activities to improve the administration of the NDRRA':

- the re-write of the Determination;
- a national collaborative audit program;
- development of an appropriate system to manage NDRRA claims and financial data; and,
- an internal restructure to support compliance monitoring and assessment.<sup>17</sup>

2.16 Of particular interest here is AGD's work in rewriting the NDRRA determination, to improve the clarity of the NDRRA framework (the other three activities are discussed below, in the section on 'NDRRA claims verification'). As AGD acknowledged, a 'consistent issue' raised by

12 ANAO, Audit Report No. 34 (2014-15), p. 63.

13 ANAO, Audit Report No. 34 (2014-15), pp. 17-18.

14 ANAO, Audit Report No. 34 (2014-15), p. 34.

15 ANAO, Audit Report No. 34 (2014-15), pp. 49-50.

16 Ms Rona Mellor, Acting Auditor-General, ANAO, 'Opening statement', *Submission 1.1*, p. 1.

17 AGD, *Submission 2*, p. 12.

stakeholders is that 'NDRRA is difficult to read and understand, and requires continual explanation and interpretation of eligibility'<sup>18</sup> and, despite 'significant work' undertaken by the department over 2012 to 2014 to remedy some of these issues, stakeholders have 'continued to be challenged by the NDRRA's lack of clarity and auditability'.<sup>19</sup> Accordingly, AGD explained that it was rewriting the NDRRA determination to 'address a range of matters that have led to many of the issues raised in the ANAO audit', as well as address recommendations from a 2014 department-initiated independent review:

By 1 October, the department will have delivered the restructure of the NDRRA Determination 2012 (2012 version 2) to reduce ambiguity, embed assurance arrangements, and ensure that it is structured in a way that is logical and easy to use. The amendment has also incorporated information previously in guidelines and advisories into the Determination, subsequently reducing the need for, and amount of, extra information that currently accompanies it. This version will also provide substantially revised audit and claim templates.<sup>20</sup>

2.17 As AGD further noted at the public hearing, the restructured NDRRA determination has 'less ambiguity' and 'clearer language':

We ... spoke to the stakeholders group as part of the consultation in respect of the findings of the ANAO and made it clear that we would be undertaking an immediate restructure of the current determination, where we have an independent auditor come in and undertake a full rewrite of the documentation. That has been done. That has been consulted on with the states and territories. They have all come back and said, 'That is a far easier document to read. There is less ambiguity in respect of that.' In addition, the rewrite has a considerable amount of additional assurance and compliance arrangements for both the Commonwealth and the states and territories. There is a lot clearer language in relation to the absolute conditions that a state must meet in order for eligible expenses to be undertaken.<sup>21</sup>

2.18 An additional matter regarding the clarity of the NDRRA framework raised at the public hearing concerned evidence that day labour continued

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18 AGD, *Submission 2*, p. 12.

19 AGD, *Submission 2*, p. 12.

20 AGD, *Submission 2*, p. 12.

21 Mr Aaron Verlin, Assistant Secretary, National Disaster Recovery Programs Branch, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 6.

to be 'incorrectly included' by states in NDRRA claims<sup>22</sup> and whether the revised processes being implemented by AGD would address this matter. AGD confirmed that day labour would 'no longer be an issue going forward':

By working with states and territories, putting the constraints in the space of day labour, putting the assurance processes in place in accordance with the determination and the simple fact that states and territories will need to have accessible project level information, which should expose the day labour cost – the extent to which it is applied and the rates – we are more confident than we have ever been that the day labour issue will no longer be an issue going forward.<sup>23</sup>

## **NDRRA claims verification and assurance**

2.19 By way of background, the ANAO report findings regarding NDRRA claims verification and assurance focused on AGD's reliance on state vetting and sign-offs, a need for project-level assurance and a risk-based approach, and the department's administration of NDRRA. A summary of the relevant key points from the ANAO report is set out below:

### **■ reliance on state vetting and sign-offs**

- [EMA's] claims verification and assurance processes have ... not adequately protected the Commonwealth's interests, including by placing too much reliance on state vetting and sign-offs. The result has been millions of dollars of ineligible claims being reimbursed to the states at the Commonwealth's expense<sup>24</sup>
- In effect, state delivery agencies largely self-assess what they will claim for NDRRA advances and/or reimbursement. Accordingly, EMA places a very heavy reliance on the states 'getting it right', yet has not provided sufficient, clear and consistent information that would enable such an expectation to be met<sup>25</sup>

### **■ need for project-level assurance and risk-based approach**

- limited oversight at the conclusion of reconstruction is afforded to the audited claims submitted by states, with no project level information provided in these claims ... EMA has not yet made any use of the power it was given in 2012 to undertake project-

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22 See ANAO, Audit Report No. 34 (2014-15), p. 55.

23 Mr Mark Crossweller, Director General, EMA, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 8.

24 ANAO, Audit Report No. 34 (2014-15), p. 15.

25 ANAO, Audit Report No. 34 (2014-15), p. 49.



level assurance activities either before reconstruction work is completed, or after expenditure claims have been submitted<sup>26</sup>

- Significant benefits ... can be expected from EMA implementing ... a risk-based approach to examining the eligibility and value for money of a sample of recovery and reconstruction projects<sup>27</sup>

- **NDRRA administration and records management**

- A much more active and disciplined approach to EMA's administration of NDRRA is required so that payments are limited to those items the Australian Government intended to cover, given the significant quantum of funding that is involved ... improvements in administrative effectiveness, including savings in NDRRA expenditure, can be expected if EMA took more timely and effective action to improve upon longstanding administrative approaches<sup>28</sup>
- there are no requirements specified in relation to the records that are required to exist before a NDRRA claim is made, or the records that are to be maintained in support of a claim that has been made<sup>29</sup>
- The absence of any prescribed minimum documentation standards has adversely affected the ability of state auditors, EMA and the ANAO to examine whether amounts claimed are eligible for NDRRA funding assistance<sup>30</sup>

2.20 As discussed earlier, AGD outlined its response to the ANAO audit through 'four key activities to improve the administration of the NDRRA'.<sup>31</sup> Three of these activities are of particular interest here, in terms of improving NDRRA claims verification and assurance: implementation of a national collaborative audit program; development of an appropriate system to manage NDRRA claims and financial data; and an internal restructure to support compliance monitoring and assessment.

2.21 AGD provided an overview of its work in developing a national collaborative audit program, noting that the department had written to all states and territories in March and April 2015 seeking agreement to collaborative audits of all outstanding claims for financial assistance, with the majority of states having agreed (one request still being outstanding).<sup>32</sup>

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26 ANAO, Audit Report No. 34 (2014-15), pp. 15-16.

27 ANAO, Audit Report No. 34 (2014-15), p. 19.

28 ANAO, Audit Report No. 34 (2014-15), pp 15-16.

29 ANAO, Audit Report No. 34 (2014-15), p. 19.

30 ANAO, Audit Report No. 34 (2014-15), p. 87.

31 AGD, *Submission 2*, p. 12.

32 AGD, *Submission 2*, p. 13.

As AGD further explained, 'from the moment the issues paper was provided by the ANAO, the department made the decision that it would not be acquitting any further claims until there are additional assurance processes undertaken'.<sup>33</sup> The department and states have 'agreed to work together to improve processes and knowledge of the NDRRA so that expenditure that is not eligible under the NDRRA is transparent and not erroneously included in state claims'.<sup>34</sup> AGD highlighted that an independent auditor had been engaged to deliver the audit with Victoria, which commenced in August 2015, and that all audits are estimated to be completed by 31 March 2016.<sup>35</sup> As AGD further explained at the public hearing, there are two parts to this process:

The first part is that the independent auditor is going around to every jurisdiction to document and articulate their methodology and process on how they undertake assurance under the NDRRA. This is to be in a position to provide recommendations to the state, right from the agencies through to the respective state audit offices, in respect of improvements in undertaking assurance processes out in the respective states.

The second part is providing an additional sampling audit of every state and territory in respect of claims. Rather than the department undertaking the additional orders and sampling itself, we have outsourced that and got independent auditor advice. That is a rolling program that has commenced in Victoria and will be commencing in the next few weeks, in the scoping documentation, for all other jurisdictions, with a view to have that finalised by March 2016. This is in order to have it finalised as part of the 2015-16 budget process.<sup>36</sup>

- 2.22 On the development of an appropriate system to manage NDRRA claims and financial data, AGD noted that successive internal audits had recommended an automated financial management system be implemented to 'partially mitigate the risks' associated with this area.<sup>37</sup> Two separate systems had originally been implemented (an incident and event management system, and an interim financial management system),

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33 Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 7.

34 AGD, *Submission 2*, p. 13.

35 AGD, *Submission 2*, p. 13.

36 Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 3. AGD also outlined the audit objectives for the collaborative audit – see *Submission 2*, p. 13.

37 AGD, *Submission 2*, p. 14.

but in May 2015 the department commenced work to move to a single system.<sup>38</sup>

2.23 On the internal restructure to support compliance monitoring and assessment, AGD explained that, traditionally, NDRRA administration had separated disaster event management from financial management and claims payments – however, this had ‘proven to limit the effectiveness of establishing the eligibility of state expenditure and a state’s compliance with NDRRA conditions for assistance’.<sup>39</sup> As AGD acknowledged, a ‘particular problem’ here is that a claim may be submitted ‘three or more years (even up to nine years) following the disaster event’ and then be assessed by financial personnel rather than those managing the disaster event.<sup>40</sup> The revised structure intends to ‘reduce this limitation’ by establishing positions that are wholly responsible for a claim through compliance, eligibility monitoring and assessment, and claim acquittal, with the success of this structure to be ‘monitored over time, and amended as necessary’.<sup>41</sup> At the public hearing, AGD further explained that the restructure would ensure that assurance occurs at the ‘front end’ of an initiation of an event – ‘[s]ome of the findings from the ANAO were in respect of assurance processes once a claim had been provided. At times, that is two years and nine months following the event. We have implemented new arrangements where we are looking at assurance and ensuring a state complies with the conditions of the determination at the activation of an event’.<sup>42</sup>

2.24 An additional matter regarding NDRRA claims verification and assurance raised at the public hearing concerned whether AGD had compared its approach with best practice in the insurance industry, noting that insurance companies around the world essentially undertake a similar activity, with well-established processes. AGD explained that, ‘in the course of the consultation process, that was one area that the Productivity Commission looked at – the applicability of insurance type models in relation to this area’ – and acknowledged that, while at this point the department had ‘not formally adopted any of those models’, there may be ‘some lessons from the insurance industry’ for NDRRA.<sup>43</sup> As the

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38 AGD, *Submission 2*, p. 14. AGD also outlined the three phases involved in the project – see p. 14.

39 AGD, *Submission 2*, p. 14.

40 AGD, *Submission 2*, p. 14.

41 AGD, *Submission 2*, p. 14.

42 Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 3.

43 Ms Katherine Jones, Deputy Secretary, National Security and Criminal Justice Group, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 7.

department further noted, the reforms going forward, particularly arising from the Productivity Commission review, are 'very much looking at how that sector of the industry, insurance and others, responds in terms of how it values its assets, how it quantifies those assets and how it seeks to replace those assets and upgrade them where necessary'.<sup>44</sup>

## Implementation of ANAO recommendations

- 2.25 AGD agreed to ANAO recommendation 1(a) that the department adopt 'more timely processes for developing, finalising and promulgating disaster funding guidelines and advisories'.<sup>45</sup> However, AGD agreed to the ANAO's remaining recommendations with qualifications. ANAO recommendation 1(b) called for the department to implement 'administrative arrangements that provide it with greater details of the amounts included in expenditure claims, including project specific information', and recommendations 2(a) and (b) called for the department to 'obtain project level information from states and territories to enable more informed analysis of claim amounts; and implement a risk-based approach to examining the eligibility and value for money of a sample of recovery and reconstruction projects'.<sup>46</sup> At the public hearing, the ANAO provided further information on its recommendation that AGD implement a risk-based approach, noting that what the ANAO was seeking from the recommendation was 'for the department to determine a set of criteria that would allow them to target their limited compliance activities'.<sup>47</sup>
- 2.26 As discussed previously, AGD outlined its response to the ANAO audit through 'four key activities to improve the administration of the NDRRA and, most importantly, reduce the risk of incorrect claiming by states before recovery costs have been incurred' – namely, a re-write of the determination; a national collaborative audit program; development of an

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44 Mr Croweller, EMA, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 7. AGD also highlighted that the claims checklist being implemented by the department, drawing on the findings of the independent auditor, was similar to processes in the insurance industry – see Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 7.

45 ANAO, Audit Report No. 34 (2014-15), p. 23.

46 ANAO, Audit Report No. 34 (2014-15), p. 23.

47 Mr Mark Simpson, A/g Group Executive Director, Performance Audit Services Group, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 3. As the ANAO further noted, '[f]or every dollar you invest in improved assurance, you save between \$10 and \$20 in not paying out ineligible claims ... This was part of the point behind our recommendation about risk-based sampling of some claims. Removing the ineligible claims before they are even submitted is surely the best way forward', Mr Brian Boyd, Executive Director, Performance Audit Services Group, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 9.

appropriate system to manage NDRRA claims and financial data; and an internal restructure to support compliance monitoring and assessment.<sup>48</sup>

- 2.27 However, at the public hearing, the Committee explored with AGD a key ANAO finding concerning a ‘reluctance to accept criticism’, as demonstrated by the department’s qualified agreement to the majority of the ANAO recommendations and response to a 2013 internal audit report. As the Acting Auditor-General observed:

EMA has ... been reluctant to accept criticism of its approaches. Of note was that the department did not accept the conclusion of a February 2013 internal audit report that there were ‘significant weaknesses’ in claims verification processes, with action to respond to that internal audit report not being taken until 2014. This was also evident in the department’s response to the ANAO audit report, with the department only agreeing to part of the first recommendation, and qualifying its agreement to the other part of that recommendation as well as both parts of the second recommendation.<sup>49</sup>

- 2.28 The Acting Auditor-General further observed it was of ‘particular note’ that ‘EMA has not sought to amend its administrative practices’ in light of the growing body of work undertaken by the Australian Government Reconstruction Inspectorate, or in response to the Queensland Reconstruction Authority reporting that its work had ‘resulted in \$4.6 billion in rejected or withdrawn claims in that state alone’.<sup>50</sup>
- 2.29 The Chair of the JCPAA emphasised that, ‘[f]rom the point of view of this committee, when we look at reports we want to see that the department firstly is accepting the findings of the audit report and secondly is actually following up and doing something about it. It is a pretty strong report, and it is a bit more concerning that EMA is not accepting the criticism here’.<sup>51</sup>
- 2.30 Ms Katherine Jones, Deputy Secretary, National Security and Criminal Justice Group, AGD, responded that the department had taken the report

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48 AGD, *Submission 2*, p. 12. AGD also outlined a number of other departmental initiatives directed at improving NDRRA administration, ‘some of which were not within the review scope of the ANAO’s audit but nevertheless address some of the findings and recommendations’ – see *Submission 2*, pp. 15-16.

49 Ms Mellor, ANAO, ‘Opening statement’, *Submission 1.1*, p. 2.

50 Ms Mellor, ANAO, ‘Opening statement’, *Submission 1.1*, p. 1. Mr Boyd, ANAO, provided further information on the work of the Queensland Reconstruction Authority – see *Committee Hansard*, Canberra, 17 September 2015, pp. 8-9.

51 Dr Andrew Southcott MP, Chair, JCPAA, *Committee Hansard*, Canberra, 17 September 2015, p. 4.

findings ‘extremely seriously’, as reflected in its work across four key activities:

With respect, in totality the work we have done around the determination rewrite ... the national collaborative audit program ... [and] work we have done around improving our financial data system so that we more accurately capture data – and all the internal work we have done to support compliance in eligibility assessment I think in totality reflects the fact that we have actually taken the findings of this report extremely seriously. We have looked right across the range of measures that we think are necessary. And I can assure you that we use the report’s findings as a constant source of guidance in the work that we are doing across those four areas.<sup>52</sup>

- 2.31 Ms Jones also stated: ‘I would just like to give this committee a level of assurance that the department has taken the recommendations of this report incredibly seriously, and we are putting in a significant amount of effort to ensure that we are responding appropriately’.<sup>53</sup> As Ms Jones further explained, ‘since the publication of this report we have obviously implemented fairly significant reform, both in our structures and our approaches’:

We have looked at it from a range of levels in terms of ensuring that there is greater clarity in the determination. We recognise that the definitions of eligibility were open to misinterpretation. We have sharpened that up. At the highest levels of guidance, we have tried to ensure that there is greater clarity and less ability for misinterpretation. In terms of the national collaborative audit program, that is a fairly significant reform. It took quite a long time to negotiate with the states and the territories and for them to be comfortable to work with us on a collaborative audit program. I think it is a really significant development, where we can work with them to ensure that we have a high level of confidence in the way that they are going about developing their claims. I looked very closely at the aspects of the ANAO report that referred to that.<sup>54</sup>

- 2.32 Ms Jones also pointed to AGD’s response to the concern raised in the ANAO report that the department relied ‘too heavily’ on state audit offices for assuring expenditure:

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52 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, pp. 4-5.

53 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

54 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

We had worked on the basis that, if the state audit office had signed off, that that would give us a certain level of assurance. The ANAO have said, for a range of reasons, that that was probably not adequate. We have looked at working with the states and the territories to do this collaborative audit program. It is novel. We have not done it before. I think it is going to be a significant development in assisting us. That is a significant undertaking. As I said, the other things that we have done around automating our financial management system and the further work around supporting compliance are quite significant. These are all things that we have developed in the last period following the report.<sup>55</sup>

- 2.33 In terms of its qualified agreement to the ANAO recommendation calling for the department to obtain project-level information, AGD explained that, 'at the point we responded to the recommendations in this report we were not entirely confident that all jurisdictions were going to be able to assist us' in providing such information.<sup>56</sup> As the department further clarified, there was 'ambiguity as to whether we ought to hold it or for the report to be available':

Our clear view is that it ought to be available for us to assure, but for us to hold it is quite a different proposition. So, we do not at all disagree with the ANAO on the essence of its recommendation in relation to project-level information. It ought to be available; it needs to be available for assurance. It is the manner in which it is held. If the recommendation could be read one way that states were required to submit their project-level information at times of estimate and acquittal, the red tape around that and the governance around that would be quite extraordinary. So, our view is that they need to hold it, it needs to be available, it needs to be accessible, and we will access it as part of our collaborative assurance arrangements, which will be done on a regular and at least annual basis.<sup>57</sup>

- 2.34 However, AGD confirmed that it had now been 'around the country talking with every state and territory, and we are now satisfied that we are able to get that information from the states and the territories. So we are in a position now to fully respond to that recommendation in a way that we

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55 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

56 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

57 Mr Crossweller, EMA, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

could not do with 100 per cent confidence when we responded to the report'.<sup>58</sup>

- 2.35 There was also interest at the public hearing in further exploring ANAO's finding that the department had not accepted the conclusion of a February 2013 internal audit report that there were 'significant weaknesses' in claims verification processes.<sup>59</sup> Mr Mark Crossweller, Director General of EMA, within AGD, confirmed that they now accept the NDRRA determination as it stands is 'not sufficient for that purpose':

One of the outcomes of that advice was that the determination as it was structured, whilst it had been written to provide flexibility to states and territories in terms of their capacity to make claims, the flexibility was such that it was unable to be assured, and that arose out of that internal audit. To the extent to which we could under the writing of that determination, some additional controls were put in place. We accept that the determination as it stands is not sufficient for that purpose. By October this year – in about two to three weeks time – we will release a further rewrite of the current determination to wherever possible clarify aspects of eligibility and assurance to simplify the reading of the determination and to clarify and make consistent its terms of definition.<sup>60</sup>

- 2.36 The ANAO responded that it would 'certainly support work taken to make the framework clearer and more understandable to those who need to operate within the framework', because 'one of the factors ... in our assessment and also in the assessment of the Australian Government Reconstruction Inspectorate [that] has contributed to ineligible items being claimed has been that it has not always been clear to those working under the determination exactly what is eligible and what is not'.<sup>61</sup> The ANAO emphasised two further points:

Firstly, our audit report also comments on the timing of any changes to the determination. Whilst not wanting to unduly delay things, we point out in the report that when the determination changes other than at the start of a financial year it does make it more challenging for the states, because it means that for their

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58 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5. AGD noted that delivery of the NPA for disaster reconstruction and recovery had been 'at a cost to the Government of approximately \$10 million and to the Queensland Government of over \$95 million', Audit Report No. 34 (2014-15), p. 102. At the public hearing, AGD provided further information about these figures – see Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 2.

59 Ms Mellor, ANAO, 'Opening statement', *Submission 1.1*, p. 2.

60 Mr Crossweller, EMA, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 4.

61 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 4.



claims for that particular financial year they are now having to operate under two determinations. So, one of our suggestions was to try to line up any changes in the determination to a change in the financial year. The second thing is that even with the determination improving the other key aspect for us is the Attorney-General's Department improving its claims verification processes so it is not placing complete faith in states and territories getting it right.<sup>62</sup>

2.37 As to whether there were any outstanding issues in the department's response to the ANAO recommendations, AGD noted that 'two outstanding processes' had been captured through the collaborative audit: '[o]ne of the processes is to clearly understand: where does project-level information reside within respective agencies in every jurisdiction?' and the second part of outstanding work is that 'we are not making a single payment on our outstanding claims that need to be acquitted from all jurisdictions, which equates to around \$5½ billion, until we receive the sign-off from the independent auditor'.<sup>63</sup>

2.38 In terms of whether the ANAO was satisfied with AGD's overall response to the audit recommendations, the Acting Auditor-General responded that there was 'some level of comfort emerging from the steps that the department is mentioning about progress':

We do not seek in our recommendations to prescribe to agencies exactly how to implement. They are matters for management. When we use words like 'obtain', we are not prescribing the methodology by which that will occur ... our concern throughout this audit was that there were a number of signals from a number of places, the internal audit report being one, that there were weaknesses in this system. We were concerned at the pace at which those weaknesses were being considered by the department. Naturally, it is the preference of the Auditor-General, having worked closely with the department throughout the life of an audit, to come up with recommendations that improve weaknesses and are agreed by departments. This audit was one where weaknesses were found, and there is some level of comfort emerging from the steps that the department is mentioning about progress.<sup>64</sup>

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62 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 4.

63 Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, pp. 6-7.

64 Ms Mellor, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

- 2.39 However, the Acting Auditor-General concluded that ‘we would have to wait and see, as we always do, whether or not they hit the mark of good risk management, good assurance processes and good governance over this important program’.<sup>65</sup>
- 2.40 Finally, on the current status of the Government’s response to the 2014 Productivity Commission report, *Natural Disaster Funding Arrangements*, AGD explained that the Government was ‘continuing to consider the outcomes of the report’ – ‘we undertook very extensive consultations around the country ... on a range of issues that were raised by the Productivity Commission report ... and we are currently in the final processes of providing advice to government’.<sup>66</sup>

## Committee comment

- 2.41 The Committee notes that a key message from the ANAO audit of the administration of NDRRA, as highlighted by the Acting Auditor-General, is that AGD has not been alert to clear signals that the NDRRA framework has required tightening.<sup>67</sup> The Acting Auditor-General also observed that the department continued to place significant reliance on state vetting and sign-offs, notwithstanding growing evidence concerning millions of dollars of ineligible claims being reimbursed to states and significant gaps in the extent to which key terms and conditions in the NDRRA determination had been adequately defined and explained.<sup>68</sup>
- 2.42 The Committee also notes the audit finding that there has been a ‘reluctance to accept criticism’, as demonstrated by AGD’s qualified agreement to the majority of the ANAO recommendations and the response to a February 2013 internal audit report.<sup>69</sup>
- 2.43 While the Committee was encouraged by the update provided by AGD on its response to the ANAO recommendations, the Committee makes a number of recommendations below to ensure that the department continues to demonstrate effective implementation of the audit recommendations for this important program.

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65 Ms Mellor, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

66 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 2. The ANAO report noted that, ‘even if NDRRA moves to payments based on project damage assessments and cost estimates [as proposed in the Productivity Commission report], significant benefits can be expected from EMA obtaining more detailed claims information and implementing a risk-based program of assurance activities’, Audit Report No. 34 (2014-15), p. 20.

67 Ms Mellor, ANAO, ‘Opening statement’, *Submission 1.1*, p. 1.

68 Ms Mellor, ANAO, ‘Opening statement’, *Submission 1.1*, p. 1.

69 Ms Mellor, ANAO, ‘Opening statement’, *Submission 1.1*, p. 2.

- 2.44 Agency implementation of ANAO recommendations has been an ongoing focus of the JCPAA. The Committee was therefore somewhat reassured by the response at the public hearing of Ms Katherine Jones, Deputy Secretary, AGD, that the department has taken the audit report findings 'extremely seriously' and is using the report's findings as a 'constant source of guidance'.<sup>70</sup> In its submission and at the public hearing, AGD explained in some detail how it was addressing the audit report findings and recommendations. AGD confirmed that the rewrite of the NDRRA determination would have been delivered by 1 October 2015, with the information previously in guidelines and advisories having also been incorporated into the determination.<sup>71</sup> On the national collaborative audit program, AGD wrote to states and territories in March and April 2015 seeking agreement to collaborative audits of all outstanding claims for financial assistance, with these audits estimated to be completed by 31 March 2016.<sup>72</sup> The department also confirmed that an annual audit program would be a permanent feature of NDRRA.<sup>73</sup> On the development of an appropriate system to manage NDRRA claims and financial data, in May 2015 the department commenced work to implement a single system to manage this area.<sup>74</sup> Finally, on the internal restructure to support compliance monitoring and assessment, AGD is establishing positions responsible for a claim through compliance, eligibility monitoring and assessment, and claim acquittal, with the success of this structure to be monitored over time.<sup>75</sup>
- 2.45 At the public hearing AGD also provided further details about how it was responding to the ANAO recommendations it had previously agreed to with qualifications, including the recommendation calling for the department to obtain project-level information. AGD confirmed that, as it was now satisfied about being able to obtain that information from the states, it was in a position to fully respond to that recommendation 'in a way that we could not do with 100 per cent confidence when we responded to the report'.<sup>76</sup>

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70 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

71 AGD, *Submission 2*, p. 12. See also on this point, Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 6.

72 AGD, *Submission 2*, p. 13.

73 AGD, *Submission 2*, p. 13.

74 AGD, *Submission 2*, p. 14.

75 AGD, *Submission 2*, p. 14. See also on this initiative, Mr Verlin, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 3.

76 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5. See also on this point, Mr Crosweller, EMA, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

- 2.46 The Committee is pleased to note that the Acting Auditor-General now has ‘some level of comfort emerging from the steps that the department is mentioning about progress’.<sup>77</sup> Nevertheless, the Committee points to AGD’s advice that it is in the process of implementing significant change as it is currently undertaking several key activities to improve NDRRA, as well as finalising advice to Government concerning the 2014 Productivity Commission report on *Natural Disaster Funding Arrangements*.<sup>78</sup> Accordingly, the Committee emphasises that it will be important for AGD to continue to demonstrate effective implementation of the ANAO recommendations amongst such changes.
- 2.47 The Committee therefore recommends that AGD provide a follow-up report to the JCPAA on its progress towards implementing the ANAO recommendations (particularly, in terms of utilisation of project-level information from states and territories, and implementation of a risk-based approach) and the four key activities outlined by the department at the public hearing and in its submission. A further matter raised at the public hearing concerned whether AGD had compared its approach with best practice in the insurance industry. The department noted that there may be ‘some lessons from the insurance industry’ for NDRRA.<sup>79</sup> The Committee sees merit in AGD conducting further work in this area.
- 2.48 The Committee also sees merit in the ANAO undertaking an audit of AGD’s implementation of performance audit recommendations in general. Given the significance of NDRRA and possible substantial changes to the program as an outcome of the Productivity Commission review, the Committee further recommends that the ANAO consider a follow-up audit of the department’s administration of NDRRA, post-implementation of any new arrangements.

## Recommendation 1

- 2.49 **The Committee recommends that the Attorney-General’s Department report to the Committee, no later than six months after the tabling of this report, on its progress towards:**
- **implementing the recommendations in ANAO Report No. 34 (2014-15), with particular reference to utilisation of project-level information from states and territories to enable more informed**

77 Ms Mellor, ANAO, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

78 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 2.

79 Ms Jones, AGD, *Committee Hansard*, Canberra, 17 September 2015, p. 7.

- analysis of claim amounts, and implementation of a risk-based approach to examining the eligibility and value for money of recovery and reconstruction projects**
- **implementing the four key activities outlined in its submission to the Committee:**
    - ⇒ **the rewrite of the NDRRA determination**
    - ⇒ **a national collaborative audit program**
    - ⇒ **development of an appropriate system to manage NDRRA claims and financial data**
    - ⇒ **an internal restructure to support compliance monitoring and assessment**
  - **comparing the department's approach in this area to best practice in the insurance industry**

## **Recommendation 2**

- 2.50 The Committee recommends that the Australian National Audit Office consider prioritising the Attorney-General's Department in its continuing series of audits of agencies' implementation of performance audit recommendations.

## **Recommendation 3**

- 2.51 The Committee recommends that the Australian National Audit Office consider including in its schedule of performance audits a follow-up audit of administration of the Natural Disaster Relief and Recovery Arrangements by the Attorney-General's Department.

