



Australian Government



**Joint Submission to the Inquiry into the Emergency
Response Fund Bill 2019 and Emergency
Response Fund (Consequential Amendments)
Bill 2019**

**Joint Submission to the Senate Finance and Public Administration
Legislation Committee for the Inquiry into the Emergency Response
Fund Bill 2019 and Emergency Response Fund (Consequential
Amendments) Bill 2019**

This submission has been prepared by the Department of Finance and Emergency Management Australia within the Department of Home Affairs, in consultation with the Department of the Prime Minister and Cabinet, the Treasury, the Department of Infrastructure, Transport, Cities and Regional Development and the Department of Education.

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Introduction

The Government announced its intention to establish the Emergency Response Fund at Budget 2019-20 on 2 April 2019¹. The Emergency Response Fund Bill 2019 and Emergency Response Fund (Consequential Amendments) Bill 2019 (together, the Emergency Response Fund bills) were introduced into the Parliament on 11 September 2019.

The Emergency Response Fund bills would establish the Emergency Response Fund as a dedicated Commonwealth investment fund to provide an additional and ongoing source of funding for emergency response and recovery from natural disasters that have a significant or catastrophic impact on Australian communities.

Once established, the Emergency Response Fund will be credited with approximately \$4 billion of uncommitted funds currently in the Education Investment Fund and invested by the Future Fund Board of Guardians (Future Fund Board). The Emergency Response Fund will provide up to \$150 million per year in funding for emergency response and recovery from future natural disasters.

Figure 1 (on page 12) provides a process flow chart for the operation of the Emergency Response Fund.

Purpose

The Emergency Response Fund will provide an additional and sustainable source of funding for emergency response and recovery from natural disasters in Australia that have a significant or catastrophic impact.

Funding from the Emergency Response Fund will complement existing sources of funding for emergency response and natural disaster recovery, such as the Disaster Recovery Funding Arrangements, the Australian Government Disaster Recovery Payment and the Disaster Recovery Allowance². The Emergency Response Fund will also complement strategic work being undertaken to reduce disaster risk, in line with the National Disaster Risk Reduction Framework.

Due to the unpredictability of the timing and scale of natural disasters, the Emergency Response Fund will only be accessed when the Government determines that existing programs are insufficient to meet the scale of the response required.

While the primary purpose of the Emergency Response Fund will be to provide for additional recovery assistance, including additional recovery grants, economic aid and support for affected communities and industry, it will also allow for resilience and mitigation initiatives to be delivered. This will ensure the long-term recovery of an affected area and strengthen it in the face of future hazards.

Education Infrastructure Spending

The Emergency Response Fund legislation will close the Education Investment Fund (EIF) and transfer its balance (approximately \$4 billion as at 30 June 2019) to the Emergency Response Fund upon establishment. Commitments from the EIF totalled \$4.2 billion from inception until 2013. The Government has not entered into any

¹ *Establish the Emergency Response Fund*, page 8 of Budget Paper 2 (Budget Measures), Budget 2019-20.

² <https://www.disasterassist.gov.au/Pages/disaster-arrangements.aspx>

new spending commitments from the EIF since 2013 and all commitments have been paid.

In January 2009, the EIF was established with the balance of the Higher Education Endowment Fund (HEEF), which was in the order of \$6.5 billion. No further credits have been made to the EIF.

Unlike its predecessor, the HEEF, the EIF was not designed to be a perpetual fund. The EIF legislation allowed both the capital and the earnings to be used to fund education infrastructure projects. This intention was stated in the Nation-building Funds Bill 2008 Explanatory Memorandum³:

“It is intended that that both the capital contributions and the earnings of the [Building Australia Fund], EIF and [Health and Hospitals Fund] will be available over time to finance specific infrastructure projects”

The Government has advised that, rather than using the balance of the EIF to fund education infrastructure projects, it has instead funded these projects and other education spending through the Budget process. During the Budget, the Government announced it is investing \$17.7 billion in the university sector in 2019, **with this figure projected to grow to more than \$20 billion by 2024⁴**.

In addition, in the 2018-19 Budget, the Government announced funding of \$1.9 billion (to 2028-29) as part of its Research Infrastructure Investment Plan⁵. This funding is being provided through the National Collaborative Research Infrastructure Strategy (NCRIS) to refresh the nationally significant research infrastructure that researchers from universities, Publicly Funded Research Agencies and industry use. This funding is in addition to operational funding of \$150 million per annum (indexed, ongoing) for NCRIS projects, which was announced as part of the National Innovation and Science Agenda in December 2015. This funding supports a range of national research infrastructure that is separate to research infrastructure funded at an institutional level and was previously supported and enabled through the EIF.

Governance

Role of Ministers

The legislation sets out the responsibilities of Ministers and the governance arrangements for the Emergency Response Fund.

The Emergency Management Minister has responsibility for:

- developing proposals for Government consideration on when the Emergency Response Fund should be accessed and the design of programs to be funded, informed by advice of the Director General of Emergency Management Australia;

³ Explanatory Memorandum to the Nation-building Funds Bill 2008, page 8.

⁴ Higher Education Expenditure Report - Budget 2019-20
<https://www.budget.gov.au/2019-20/content/business.htm>

⁵ *Stronger and smarter economy* page 19 of the Budget Overview, Budget 2018-19
https://archive.budget.gov.au/2018-19/additional/budget_overview.pdf

- making arrangements and grants that are directed towards recovery from a natural disaster and/or post-disaster resilience, and subsequently disbursing funds to funding recipients;
- publication of information relating to grants and arrangements on the website of the Department of Home Affairs;
- administering the Home Affairs Emergency Response Fund Special Account, including ensuring that spending from the Special Account is consistent with the purposes of the Emergency Response Fund as set out in the legislation;
- requesting transfers of up to \$150 million per year to the Home Affairs Emergency Response Fund Special Account for the purposes of making grants and arrangements; and
- directing the channelling of State and Territory grants through the COAG Reform Fund, which is a special account dedicated to making grants of financial assistance to the States and Territories.

The Minister for Finance and the Treasurer are the joint responsible Ministers for the Emergency Response Fund and have responsibility for:

- the administration of the Emergency Response Fund through the Future Fund Board of Guardians;
- issuing the investment mandate to the Future Fund Board;
- the determination of any initial and additional amounts to be credited to the Emergency Response Fund; and
- causing a review of the operation of the Act within 10 years of commencement.

The Finance Minister also has responsibility for:

- transferring amounts of up to \$150 million per year from the Emergency Response Fund Special Account to the Home Affairs Emergency Response Fund Special Account or to the COAG Reform Fund Special Account for the purposes of making grants and arrangements following a natural disaster in Australia that has a significant or catastrophic impact.

Decision-making processes

The Emergency Response Fund legislation sets out a transparent governance framework with respect to decision-making. A formal decision of the Government, via Cabinet or the Prime Minister, is required to access the Emergency Response Fund. A decision to access the Fund will only occur following a natural disaster in Australia that has a significant or catastrophic impact, and where the Government determines that existing programs are insufficient to meet the scale of the response required.

All decisions of the Government to access the Emergency Response Fund will be published as a Budget or Mid-Year Economic and Fiscal Outlook (MYEFO) measure that outlines the purpose and amount of funding to be provided. Following a Government decision of this nature, the Emergency Management Minister may make grants or arrangements as permitted by the legislation.

In considering a proposal to access the Emergency Response Fund, the Emergency Management Minister will be informed by advice from the Director General of Emergency Management Australia. The Director General is highly qualified for this role, as the senior official responsible for coordinating Australia's responses to

crises, including providing both physical and financial support to those impacted by natural disasters. The Director General will provide advice to the Emergency Management Minister on when the Emergency Response Fund should be accessed and the design of funding arrangements for emergency response and recovery from natural disasters.

In preparing advice for the Emergency Management Minister, the Director General will consult with the State or Territory, local governments and communities affected by the disaster or any other expert to determine the needs of the community and identify any additional recovery assistance that would be beneficial.

Priorities may be delivered by activities supported by a competitive merit based grants program, discretionary grants or a procurement process, consistent with the rules relating to the Commonwealth in the *Public Governance, Performance and Accountability Act 2013*. The program guidelines will be developed by Emergency Management Australia. The guidelines will contain information on the administration of the Emergency Response Fund and high-level principles to assist the Emergency Management Minister in considering when to bring forward proposals to access the Fund. The guidelines will be made publicly available on the Department of Home Affairs' website.

The development and approval process for the program guidelines will be consistent with the requirements of the Commonwealth Grants Rules and Guidelines 2017. Grants provided under the Emergency Response Fund will also be subject to the Commonwealth grants policy framework, which is already well established through the Commonwealth Grants Rules and Guidelines 2017. These guidelines provide for best practice and apply to all grants administration conducted on behalf of the Commonwealth.

Under subsection 71(2) of the *Public Governance, Performance and Accountability Act 2013*, the terms relating to the proposed expenditure of public money approved by a Minister must be recorded in writing.

The Emergency Response Fund legislation allows the Emergency Management Minister to make grants of financial assistance to a State or Territory. In these scenarios, grants are to be channelled through the COAG Reform Fund. Financial assistance will be paid in accordance with the terms and conditions set out in Schedule D of the Intergovernmental Agreement on Federal Financial Relations and through a written agreement between the Commonwealth and the State or Territory, which will be made publicly available on the Federal Financial Relations website.

Role of the Future Fund Board of Guardians

The Emergency Response Fund will be managed by the Future Fund Board, which has a proven track record of managing investment portfolios on behalf of the Government and maximising returns over the long term.

When managing the Emergency Response Fund, the Future Fund Board will be subject to financial accountability arrangements specified in the Bill. Consistent with the administration of other Australian Government investment funds, the Future

Fund Board will publish quarterly performance updates on its website and include performance information on the Emergency Response Fund in its annual reports.

Investment mandate

The Finance Minister and the Treasurer, as the responsible Ministers, will issue an investment mandate to the Future Fund Board. Through the investment mandate, the Government provides written directions to the Future Fund Board in relation to the performance of its investment functions, including the setting of a benchmark rate of return and the specification of its risk tolerance taking into account the purpose of the Emergency Response Fund. This is consistent with the investment mandate framework for other Australian Government investment funds including the Future Fund, the Future Drought Fund and the Medical Research Future Fund (MRFF).

In determining an investment mandate the responsible Ministers will have regard to the need to enhance the Commonwealth's ability to fund initiatives with respect to emergency management and natural disaster recovery.

The investment mandate will be tabled in both Houses of the Parliament once issued. The investment mandate provides strategic guidance from the Government to the Future Fund Board, while maintaining the Future Fund Board's independence in making investment decisions.

This balances the Future Fund Board's independence with the requirement that it has regard to international best practice for institutional investment in undertaking its investment decisions.

Operational aspects

Special Accounts and crediting to the Emergency Response Fund

The Bill establishes the Emergency Response Fund Special Account and the Home Affairs Emergency Response Fund Special Account as well as the administrative process for crediting amounts to and debiting amounts from the Emergency Response Fund.

The main purpose of the Emergency Response Fund Special Account is to enable the transfer of up to \$150 million per year to the Home Affairs Emergency Response Fund Special Account or the COAG Reform Fund Special Account for the purposes of making grants and arrangements in relation to emergency management and recovery from natural disasters. The Emergency Response Fund Special Account can also be used for expenses directly related to the investment of the Emergency Response Fund as well as indirect expenses that are not exclusively related to the Emergency Response Fund (such as proportionate costs associated with the Future Fund Board and the Future Fund Management Agency).

The purpose of the Home Affairs Emergency Response Fund Special Account is to enable payments for emergency response and natural disaster recovery to recipients other than a State or Territory. These payments can be made by way of a

grant or arrangement such as a contract. Payments can then be made by the appropriate delegates to the recipients.

The existence of two special accounts allows for a clear and transparent separation between:

- the Emergency Response Fund, which is a dedicated investment vehicle to be managed by the Future Fund Board for the purposes of providing an additional source of funding for emergency response and natural disaster recovery; and
- the subsequent disbursements from the Emergency Response Fund, which will be made available to the Emergency Management Minister and used to make grants and arrangements.

This separation is consistent with the arrangements for other Australian Government investment funds such as the Future Drought Fund and the MRFF, and allows the special accounts to be independently managed by the responsible entities.

Grants to a State or Territory will be channelled through the COAG Reform Fund, consistent with the mechanism for making grants to a State or Territory under the recently-established Future Drought Fund.

Distribution of funds

Once established, the Emergency Response Fund will be available to the Government as an additional source of funding for emergency response and recovery from natural disasters. There are no legislated distributions from the Emergency Response Fund and distributions will only be made by a decision of Government to access the Emergency Response Fund following a natural disaster that has had a significant or catastrophic impact, and where the Government determines that existing programs are insufficient to meet the scale of the response required. As noted on page 7, advice from the Director General of Emergency Management Australia will inform decision-making.

When the Government makes a decision to access the Emergency Response Fund, up to \$150 million per year will be available to fund response and recovery initiatives. This amount is over and above the funding already provided by the Government though the existing disaster recovery programs.

The Emergency Response Fund is designed to provide an ongoing sustainable source of funding into the future. Limiting the amount of annual funding to \$150 million per year strikes a balance between ensuring regular annual payments of \$150 million can be made if required (in the event of a series of catastrophic natural disasters) while protecting the Fund's capital to meet its longer term sustainability objective. A stable and consistent maximum disbursement amount also provides certainty to the Future Fund Board in terms of the Fund's liquidity requirements, which enables the invested fund to achieve higher long-term returns.

The timing of payments from the Emergency Response Fund are not legislated, and have not been factored into the Budget estimates, consistent with the arrangements for other natural disaster recovery programs. This is due to the uncertainty of when the funding will be required. Payments from the Fund will have a negative impact on the underlying cash and fiscal balances at the time they are made.

The Emergency Response Fund legislation allows for payments to be made as grants or arrangements (such as contracts), but does not bind the Government to make payments to any specific recipients. Payments from the Emergency Response Fund can be made to a wide variety of recipients including individuals, incorporated or unincorporated bodies, not-for-profit organisations, educational institutions (such as a university), State and Territory governments and local government bodies. Grants to a State or a Territory will be channelled through the COAG Reform Fund.

Accountability and reporting

Reporting

Detailed information on financial assistance provided from the Emergency Response Fund will be published on the Department of Home Affairs' website and provided in the department's annual report. This may include information on the amounts paid or payable and, where appropriate, the names of recipients and the purpose of each arrangement and grant. To protect the privacy of individuals, the name and the purpose of payments provided to individuals will not be published.

The Bill requires this information be kept up-to-date on the website. Approved grants will be reported on the GrantConnect website within 21 days of the grant agreement taking effect.

The Government will be accountable for its decisions on disbursements from the Emergency Response Fund each year.

- Grants funded from the Emergency Response Fund will be published online, consistent with the Commonwealth reporting framework for grants.
- Procurements will be undertaken in accordance with the Commonwealth Procurement Rules 2019 and the procurement policy framework.
- Funding Program agreed by Government will be reported in the Budget or Mid-Year Economic and Fiscal Outlook papers.

Where appropriate, Emergency Response Fund programs will have published guidelines to ensure applicants are treated equitably and funding recipients are selected based on merit addressing the program's objectives.

The terms and conditions of grants or arrangements will be set out in a written agreement between the Commonwealth and the relevant funding recipient. This approach is consistent with the Commonwealth Grant Rules and Guidelines 2017.

The Future Fund annual report will include extensive information on the investment performance of the Emergency Response Fund, and the Future Fund Board will publish quarterly performance updates on the Future Fund website. The Department of Finance annual report will include the Emergency Response Fund's audited financial statements, consistent with arrangements in place for other funds invested by the Future Fund Board (excluding the Future Fund).

Statutory review

Under the Emergency Response Fund legislation, the responsible Ministers must cause a review into the operation of the Act within 10 years of its commencement.

The review will consider the extent to which financial assistance provided under the Emergency Response Fund has complemented other assistance provided by the Commonwealth, States and Territories in relation to natural disasters. The review will also consider whether the \$150 million annual funding limit should be increased.

The final review report, along with the terms of reference, will be tabled in each House of Parliament and will be published on the internet as soon as practicable after the tenth anniversary of the commencement of the Act.

Figure 1: Emergency Response Fund (ERF) Process Flow Chart

