

15 June 2020

Senate Finance and Public Administration Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
By email: [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au)

## Submission to the Inquiry into lessons to be learned in relation to the Australian bushfire season 2019-20

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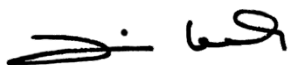
Dear Committee Members,

Community Legal Centres NSW, Elizabeth Evatt Community Legal Centre, Illawarra Legal Centre, Mid North Coast Community Legal Centre, Northern Rivers Community Legal Centre, Shoalcoast Community Legal Centre, Financial Rights Legal Centre, Tenants' Union of New South Wales and Welfare Rights Centre of NSW welcome the opportunity to make this joint submission. It addresses the following of the Inquiry's Terms of Reference:

- (b) the respective roles and responsibilities of different levels of government, and agencies within government, in relation to bushfire planning, mitigation, response and recovery;
- (d) the adequacy of the Federal Government's existing measures and policies to reduce future bushfire risk, including in relation to assessing, mitigating and adapting to expected climate change impacts, land use planning and management, hazard reduction, Indigenous fire practices, support for firefighters and other disaster mitigation measures;
- (f) existing structures, measures and policies implemented by the Federal Government, charities and others to assist communities to recover from the 2019-20 bushfires ...;
- (h) an examination of the physical and mental health impacts of bushfires on the population, and the Federal Government's response to those impacts; and
- (i) any related matters

If you have questions or need further input, please contact our Acting Advocacy & Communications Manager, Emily Hamilton, via [emily.hamilton@clcnsw.org.au](mailto:emily.hamilton@clcnsw.org.au) or (02) 9212 7333.

Yours sincerely,



Tim Leach  
**Executive Director**  
Community Legal Centres NSW

## Community Legal Centres NSW

Community Legal Centres NSW is the peak representative body for almost 40 community legal centres in NSW.

Community legal centres are independent, non-government organisations that provide free legal services to people and communities facing economic hardship, at times when that help is needed most.

Of the 40 community legal centres in NSW, 21 are 'generalist' and 19 are 'specialist'.

Generalist centres provide assistance with everyday legal issues within specific geographic catchments that cover metropolitan, rural, regional, and remote NSW – from Albury to the Tweed, from Broken Hill to the Sydney CBD.

Specialist centres focus on a particular legal issue (like tenancy, financial rights and social security) or a particular constituency (like women, Aboriginal and Torres Strait Islander people, LGBTIQ people and people with a disability). They are experts in these areas of law and the legal needs of these communities.

All centres are unique to the communities they work with.

Community Legal Centres NSW represents the views of community legal centres to government and the broader community, advocates on key law reform and policy issues, and supports community legal centres to improve the efficiency and quality of services they deliver to the community, with the aim of increasing access to justice for people in NSW.

In NSW, generalist and specialist community legal centres support the statewide legal response to disasters coordinated by the Legal Aid Commission of NSW (Legal Aid NSW).

This submission is informed by the experiences of eight of our member centres, which operate within or delivered specialist services to communities impacted by the 2019-20 bushfires.

These include five generalist centres and three specialist centres with expertise in key legal issues that commonly arise in disaster contexts: Elizabeth Evatt Community Legal Centre, Illawarra Legal Centre, Mid North Coast Community Legal Centre, Northern Rivers Community Legal Centre, Financial Rights Legal Centre (Financial Rights), the Tenants' Union of NSW and the Welfare Rights Centre of NSW.

## Summary of recommendations:

1. Improve coordination of information and data sharing between local governments, consumers and the insurance industry.
2. Fund community legal centres to train front-line government agencies to recognise legal issues. This includes understanding different legal assistance services and referral pathways.
3. Support all local councils to deliver clear and well-targeted information about local disaster response efforts and available services to communities.
4. Develop an overarching strategic framework for an integrated legal response, which establishes a formal, funded role for community legal centres and other local legal assistance providers.
5. Improve coordination and communication on clean-up and debris removal, including timing and the interaction with people's rights under their insurance policies.
6. Invest in small- and large-scale mitigation projects nationally.
7. Urgently adopt a whole-of-government approach to climate change that addresses mitigation and adaptation in a coordinated way.
8. Integrate Indigenous land and fire management practices into formal disaster preparedness and hazard reduction practices.
9. Ensure Aboriginal communities, including land management and fire experts, are central in the design of all land management programs that operate throughout the year.
10. Adequately fund community legal centres to provide outreach legal assistance services during and after disasters.
11. Continue to support locally led and directed recovery efforts, to ensure communities can properly address long-term psychological and legal impacts.
12. Implement recommendations made by Financial Rights Legal Centre to improve the availability, affordability and transparency of insurance products against the risk of bushfires and other natural disasters.

## Introduction

Natural disasters are a recurring part of our existence. Driven by unmitigated climate change, they will become more frequent, intense and unpredictable. The disruptions they cause expose and increase social, economic and health inequalities and injustices deeply embedded in our communities. Regional, rural and remote communities, and those experiencing social and economic disadvantage and marginalisation, will always bear their impacts disproportionately.

The 2019-20 bushfires destroyed or damaged a staggering number of homes and properties and took a number of lives. They also caused significant and at times complex legal issues for individuals and communities in affected areas, including in relation to:

- insurance (including understanding insurance cover, underinsurance, non-insurance, delayed assessments and disputed or rejected claims, and advice regarding cash settlements)
- housing and tenancies (including reclaiming goods from evacuated properties and rental disputes)
- income and social security (including understanding and accessing Centrelink disaster relief payments, NSW Disaster Welfare packages and NGO information packages)
- credit and debt
- family violence and family law
- neighbour disputes and property matters (including rights of access, ownership, stock-specific issues such as ownership of the progeny of wandering cattle, overhanging trees)
- commercial law matters (small businesses and primary producers with a range of farming-specific legislative frameworks, tradesmen seeking payment, bankruptcy declarations and liquidation) and the governance of small community associations
- destroyed property deeds, certificates, identification and will documents.

Community legal centres play an essential role in local responses to disasters. In each affected region, individual centres made different contributions to response and recovery efforts, depending on their capability, capacity and assessment of community need, including:

- working to deliver free legal advice and assistance to impacted communities, including at Disaster Recovery Centres (particularly on the South Coast of NSW), including through collaboration with Legal Aid
- developing resources to support key disaster response agencies to identify local legal issues and ensuring appropriate referral pathways
- delivering specialist legal advice on insurance-related matters, through the Financial Rights Insurance Law Service
- delivering urgent specialist insurance law training to generalist Community Legal Centres and other frontline service providers.
- participating in community meetings, briefings and events coordinated by local Councils to deliver information about available local supports and services. engaging with stakeholders. Specialist services like Financial Rights undertook urgent engagement

with regulators, insurers and peak bodies in banking and insurance in order to raise systemic issues related to fire victims.

Embedded in communities, community legal centres can mobilise quickly, deliver flexible grassroots responses and fill service gaps. They have a deep understanding of the complex interplay between disadvantage, trauma and legal need within their communities, including those likely to emerge in disaster contexts. However, they continue to be constrained by funding limits, which significantly restrict their capacity to meet demand for legal assistance both pre-disaster (in preparedness) and post-disaster (in recovery).

## The respective roles and responsibilities of different levels of government, and agencies within government, in relation to bushfire planning, mitigation, response and recovery

### Recommendation

1. Improve coordination of information and data sharing between local governments, consumers and the insurance industry.

Local councils hold a significant amount of natural hazard data that is essential for emergency response planning. This data should be shared with insurers and consumers to help build disaster preparedness and assist people and communities to better understand levels of risk.

We endorse the submission by Financial Rights to the Royal Commission into National Natural Disaster Arrangements dated 28 April 2020 (Financial Rights RCNDA Submission). In particular we note:

Consumers currently have limited access to natural hazard data in easily digestible formats and very little motivation to seek it out and use it. This is a serious problem since many consumers remain in the dark about the natural hazard risks including bushfire risks that apply to their homes and are thus prevented from making informed decisions about the insurance coverage they require, the policies that would best meet their needs and potential mitigation they could or should undertake.

### Recommendation

2. Fund community legal centres to train front-line government agencies to recognise legal issues. This includes understanding different legal assistance services and referral pathways.

In times of crisis, people often turn to key community leaders and institutions rather than legal services for advice and assistance in the first instance. As such, it is critical these people and organisations are able to recognise the legal aspects of problems people present with.

One of the key roles of any front-line agency (government or non-government) is to ensure that need is channelled efficiently to the most suitable service. We applaud the coordination efforts to deploy government and non-government agency responses at speed across fire impacted regions. Overall, community legal centres reported that Disaster Recovery Centres were effective one-stop shops for impacted communities to access government and non-government assistance. Despite this, some centres in some regions found that government and non-government agencies lacked adequate knowledge of and ability to identify legal issues, which resulted in some people not getting the legal assistance they needed efficiently.

Shoalcoast Community Legal Centre noted a client at a Disaster Recovery Centre who was seeking assistance with an insurance matter and was not referred at first instance. The client was triaged by front line agencies and directed to Service NSW personnel who were unable to assist. Service NSW did not direct the individual to the available legal assistance services represented at the Disaster Recovery Centre (Legal Aid NSW and Shoalcoast Community Legal Centre). The individual was about to leave the centre without legal assistance. Fortunately, the Shoalcoast solicitor overheard and offered the individual assistance to resolve the matter.

Mid North Coast Community Legal Centre also reported uncertainty about whether Services NSW staff were aware of the availability of legal assistance services in their local community. The centre worked proactively to engage Services NSW staff, to boost their knowledge of potential legal issues and local legal assistance services.

To help address the issue of services not identifying legal issues, Mid North Coast Community Legal Centre also created a Bushfire Legal Health Check for frontline staff, which was used by Red Cross and local council workers with some success before the pandemic shutdown. In future, the Legal Health Check's effectiveness would be increased if it was accompanied by training for front-line workers. If adequately funded to do so, community legal centres are well placed to provide this training regularly to local public sector and NGO staff who are involved in front line disaster response.

During the 2019-20 fires, Financial Rights also delivered targeted community legal education to local generalist community legal centres and over 100 financial counsellors on insurance issues. This cross-training collaboration, that has defined our sector for many years, strengthens our ability to appropriately respond to legal need.

Comprehensive and coordinated training and communication on legal issues to frontline agencies is needed. Community legal centres already delivery community legal education to some community services about identifying legal issues. With additional funding, centres could expand this training to include a broader range of community services as well as government agencies like Service NSW.

## Recommendation

3. Support all local councils to deliver clear and well-targeted information about local disaster response efforts and available services to communities.

Local councils play a critical role in delivering information about recovery efforts and available services to communities. In most regions affected by the 2019-20 fires, local councils held community meetings, briefing sessions and other events to provide residents with information

about available government and community-based services and supports. Most community legal centres operating in affected regions took part in these events in order to provide information about common disaster-related legal issues and legal assistance services. Across the state, centres reported very different experiences of the value and effectiveness of these events and councils' ability to effectively communicate with their constituents.

For example, Shoalcoast Community Legal Centre noted that the meetings were well attended by service providers and community members and enabled effective provision of information to people in affected areas about local, state and commonwealth assistance and services.

The Blue Mountains City Council meetings ran effectively, due in part to the Council's experience in disaster preparedness and response measures as a result of the 2013 fires. By contrast, residents in the neighbouring Lithgow City Council local government area reported to Elizabeth Evatt Community Legal Centre that they were not aware of the recovery meetings, despite Council's assertions that it had written to all residents. As a result, community meetings in that area were well attended by service providers but poorly attended by fire victims.

This issue of legal service awareness becomes even more problematic in remote communities, which depend heavily on word of mouth. Centres report that in some regions, people were visiting Disaster Recovery Centres for the first time months after the fires. These clients often mentioned that they had not previously been aware of the Disaster Recovery Centres and available services. We are now five months post fires and some centres are still fielding calls from individuals unaware that Service NSW and non-government organisations like the Red Cross and The Salvation Army are administering assistance.

## Recommendation

4. Develop an overarching strategic framework for an integrated legal response, which establishes a formal, funded role for community legal centres and other local legal assistance providers.

All community legal centres in fire-impacted zones, along with the most impacted specialist centres, responded immediately to community need. In many cases personnel returned early from Christmas leave and centres did their best to increase the availability of their advice and support services for people with fire-related legal issues.

However, centres were not initially engaged in the formal government legal response, which was coordinated via Legal Aid NSW through the Disaster Recovery Centres. They deployed staff across NSW so that a solicitor was present at each Disaster Recovery Centre every day of the week. Community legal centres were initially not part of this government response. Because of resource constraints, each community legal centre decided what assistance they could provide to their communities. Some centres participated in community meetings and events or worked with the first response agencies to set up referral pathways for people who presented to Disaster Recovery Centres with legal issues (with varying degrees of success). Others worked closely with Legal Aid NSW by providing staff to attend Disaster Recovery Centres and community meetings.

For example, Shoalcoast Community Legal Centre negotiated a small grant from Legal Aid NSW so that they could afford to place a solicitor in the Bega Valley local government area for a few



weeks. This enabled Legal Aid NSW to staff the Disaster Recovery Centre in Bega town while the Shoalcoast solicitor attended the mobile recovery hubs in remote areas. This collaboration meant that bushfire affected people had access to solicitors in both central towns and remote areas.

Mid North Coast Community Legal Centre also worked effectively with Legal Aid NSW to create straightforward referral pathways and ensure that, between the two agencies, they were able to attend a greater number of community meetings and events.

However, there is no overarching strategic framework for an integrated response to disasters that effectively engages Legal Aid NSW and community legal centres. Greater collaboration between Legal Aid NSW and community legal centres and dedicated funding for centres to participate in disaster response efforts would enable community legal centres to make a greater contribution to future recovery efforts. It would also reduce reliance on fly in fly out lawyers, maximise the use of limited resources across the legal assistance sector and enable community legal centres to continue to deliver disaster-related legal assistance services after Disaster Recovery Centres are closed and formal recovery efforts wound down. Dedicated funding for specialist community legal centres to deliver training for generalist centres to deliver specialist civil law advice (for example on insurance matters) would also build local centres' capacity to support the statewide legal response to disasters.

Mid North Coast Community Legal Centre noted that the Disaster Response Legal Service (delivered by Legal Aid NSW) was a good but limited resource for communities in the region. This was because the Legal Aid NSW service was unable to remain in the area as the fires spread further across the state. Other local legal assistance services on the Mid North Coast collaborated to meet need but were not able to establish outreach services in all impacted locations due to resource restrictions. Mid North Coast Community Legal Centre identified a need for an additional 3-4 bushfire specific outreach locations for local communities across the catchment in order to service need but, given the centre's limited resources, this was not possible.

An integrated response could be delivered through a Memorandum Of Understanding (MOU) between Legal Aid NSW and Community Legal Centres NSW for a disaster response plan. The MOU could outline how centres can contribute in disasters and allow for funding for specialist community legal education and training, as well as additional hours, accommodation and transport costs for community legal centre lawyers to provide legal assistance services at Disaster Recovery Centres, mobile recovery hubs and other locations.

We also support establishing local Disaster Legal Response Protocols or teams that would act as a collaborative structure across legal service providers. Teams should meet regularly to review plans and capacity and would involve local legal services like Legal Aid NSW, community legal centres, Aboriginal Legal Services and Family Violence Prevention Legal Services. Efforts to promote collaborative service planning, such as those outlined in the National Legal Assistance Partnership, could be clarified to include specific reference to cover disaster scenarios.



## Recommendation

5. Improve coordination and communication on clean-up and debris removal, including timing and the interaction with people's rights under their insurance policies.

NSW and Victorian Governments must continue to provide funding for the removal of hazardous materials from properties damaged by fires. From a risk perspective this is a critical government service and will assist in protecting against underinsurance. Financial Rights has found many eligible property owners were unaware of the bushfire clean-up programs provided by government agencies or of how these programs would interact with insurance entitlements. This indicates a need for more effective communication.

In NSW in particular there was a lack of clarity from the State Government, the Insurance Council, and individual insurers about how the government clean up services interacted with individuals' insurance policies (which may also include clean up cover). For example, Shoalcoast Community Legal Centre assisted someone experiencing difficulties with her insurance company. She made a successful insurance claim for total replacement of home and contents, however the insurance company barred her from using the government clean-up service, claiming it was double dipping and profiteering from insurance. At the same time, the State Government was telling residents to register for clean-up services through Laing O'Rourke and that it would work with insurance providers to settle how the reimbursement of clean-up costs would be applied. The Insurance Council supported this approach. This led to confusion for Shoalcoast Community Legal Centre's client and others in the area.

## Adequacy of the Federal Government's existing measures and policies to reduce future bushfire risk, including mitigating and adapting to expected climate change impacts, hazard reduction, and Indigenous fire practices

### Recommendation

6. Invest in small- and large-scale mitigation projects nationally.

Climate change will increase the frequency, intensity and range of natural disasters. It is critical that all communities and local governments are adequately funded to develop and test disaster preparedness and response plans for a range of potential and forecasted crises.

This investment will reduce the high cost of disaster recovery. Local, state and federal governments must commit to this end to ensure communities are supported in their resilience efforts. We refer to a statement made by [APRA Executive Board Member, Geoff Summerhayes](#) (Australia) who stated that:

Hundreds of millions of dollars each year are spent on disaster funding but about 97 per cent goes towards clean-up and recovery, with only 3 per cent directed to mitigation and prevention. Addressing this imbalance will save money in the long-term by reducing the physical loss and economic disruption caused by storms, floods, cyclones and bushfires.

We endorse Financial Rights' Royal Commission into Natural Disaster Arrangements Submission. In particular we note the following recommendations:

The government must confront the problems of mitigation work head on, invest significantly and consider grants and subsidies for such work.

There should be major investment in large-scale resilience, mitigation and adaptation projects. Large scale mitigation works can bring risk down at the suburb level, benefiting a wider community than just an individual homeowner. Local and state governments should work with insurers to identify specific bushfire public mitigation works that could be undertaken.

States should implement a programme of grants and subsidies for individual mitigation works that can increase bushfire resilience for homes, including non-combustible roofing, decking, window-framing materials.

### Recommendation

7. Urgently adopt a whole-of-government approach to climate change that addresses mitigation and adaptation in a coordinated way.

Climate change is a national and global emergency. As the 2019-20 fire season clearly demonstrated, it is already affecting the way we experience disasters at the local level. If climate change remains unmitigated, it will continue to drive more frequent, more intense and more widespread natural disasters and significantly weaken community resilience and adaptability.

Urgent action is needed to decarbonise our economy and plan a just transition to a clean energy future. As such, we also endorse the recommendations made by the [Environmental Defenders Office in its submission to the Royal Commission into Natural Disaster Arrangements](#). In particular, the Federal Government should:

Recognise the role of climate change and its impacts in contributing to the frequency, intensity, timing and location of bushfires and other natural disasters, and the predicted contribution of climate change and associated impacts to future bushfires and other natural disasters [and]

Adopt a whole-of-government approach to climate change by enacting a new national Climate Change Act that addresses both climate change mitigation and adaptation in a clear and coordinated way.

## Recommendations

8. Integrate Indigenous land and fire management practices into formal disaster preparedness and hazard reduction practices.
9. Ensure Aboriginal communities, including land management and fire experts, are central in the design of all land management programs that operate throughout the year.

Aboriginal and Torres Strait Islander people and their knowledge must have a greater role in managing land. The catastrophic bushfires clearly reveal the importance of incorporating Indigenous land management knowledge into governments' environment practices.

It is not only the use of fire that can contribute to the management of land to reduce bushfire hazards. Water and harvesting management are also important tools.

We strongly support legislation that would require authorities to work with Aboriginal fire and land management experts as members of relevant statutory and regulatory bodies as well as members of relevant advisory committees.

Indigenous people, knowledge and practices need to be central in the design and implementation of land management legislation and practices, and not approached as an afterthought. This requires proper consultation with Aboriginal communities and Aboriginal fire and land management experts to develop the requisite legislative, systemic and practical changes. Therefore, program design and funding must allow for knowledge sharing and capacity building for land management staff, and community education through a national regional workshop program that places Aboriginal fire and land management experts, as well as Aboriginal community members, central to all relevant design processes. Funding to implement the programs to operate throughout the year must be sufficient.

## Existing structures, measures and policies implemented by the Federal Government, charities and others to assist communities to recover

### Recommendation

10. Adequately fund community legal centres to provide outreach legal assistance services during and after disasters.

Community legal centres and their solicitors are problem solvers, creative thinkers, regional experts and well-positioned to respond to the local legal problems that disasters can cause. They can see solutions to emerging legal need and provide holistic and trauma-informed response. Unfortunately, current funding is not sufficient to enable centres to respond to disaster related legal need and help prepare for future disasters in a coordinated or ongoing way.

Regional and remote centres service large catchment areas yet the current funding arrangements do not cover them to provide comprehensive outreach support to remote areas during a disaster. Outreach support requires face to face legal service. Solicitors need to be deployed to travel to outreach locations. This requires funding for travel and accommodation.

During the 2019-20 fires, community legal centres were expected to continue providing their regular outreach services and telephone advice while meeting additional demand from fire affected communities. This expectation comes without additional funding or solicitors creating unsustainable expectations on centres that are already under resourced. For example, in order for Shoalcoast Community Legal Centre to send a solicitor to Disaster Recovery Hubs in remote Bega Valley it needed to negotiate a small grant from Legal Aid.

We acknowledge the Commonwealth's contribution of additional funding to the NSW legal assistance sector's bushfire disaster response. While we know the quantum of funding coming to NSW, we're not yet sure about how this will be allocated between legal assistance providers. In submissions to the NSW Government, Community Legal Centres NSW has argued that 34% of the funding allocated to NSW should flow to community legal centres. This would enable all impacted centres to hire one FTE solicitor and enable them to better meet increased demand for services after the Disaster Recovery Centres have closed and over the longer-term. It would also allow a higher quantum of funding to flow to the most impacted centres, including Illawarra Legal Centre, Shoalcoast Community Legal Centre and Financial Rights.

However, in our view one-off injections in response to major crises is a short-sighted and piecemeal response that does little to ensure the community legal centre sector is well prepared for future disasters and able to mobilise resources quickly to where they are most needed.

Instead, we recommend governments work with the community legal centres sector to develop a proactive, sustainable and sector-wide funding strategy that enables all community legal centres, whatever the disaster, to:

- adequately prepare for disasters, including developing and implementing service continuity plans and purchasing additional equipment and resources needed to scale up and deploy outreach services after disasters

- deliver community legal education to the community, key community leaders and institutions, and government and non-government first response agencies (like Service NSW and the Red Cross) on how to identify the legal aspects of problems people present with, including in post-disaster contexts
- mobilise quickly in the response and recovery phase, including the capacity to establish and maintain reserve funds to enable centres to be where they need to be, when they need to be there and for the length of time they need to be there to appropriately target need (e.g. solicitors to deliver services, travel and accommodation costs).

The funding package should include dedicated funding for specialist community legal centres like Financial Rights, Welfare Rights Centre and the Tenants Union of NSW to enhance service coordination, training and referral pathways between specialist and generalist community legal centres. This will safeguard the sector's capacity to work collaboratively to ensure specialist legal issues can be addressed locally.

We also recommend that governments rethink restrictions on the ability of community legal centres and other funded organisations to generate and retain budget surpluses. Governments tend to view surpluses with suspicion, often suggesting it is evidence of inadequate service delivery. Yet, recent disasters have reminded us that it is critical for community services to have some capacity to urgently scale up as required. Where community legal centres are able, through good management and innovations in service delivery, to generate end of year surpluses, they should be allowed to retain these without penalty.

## An examination of the physical and mental health impacts of bushfires on the population, and the Federal Government's response to those impacts

### Recommendation

11. Continue to support locally led and directed recovery efforts, to ensure communities can properly address long-term psychological and legal impacts.

Many people in regional areas impacted by fire are living with extreme financial disadvantage as clearly shown by this [interactive map developed by the NSW Council of Social Service](#). Many people experiencing disadvantage live in uninsured homes, caravans or private tenancies, and are unable to afford the costs associated with repairing damage to properties, replacing destroyed assets and belongings, or securing new leases.

Community legal centres in fire-affected regions report an increase in homelessness or the risk of homelessness. This includes people who lost their homes during the fire and those living in insecure housing before the fires. For people living in the private rental market, these risks are even more pronounced. The current lack of alternative housing is impacting this need further.

Some community legal centres also report an increase in domestic and family violence matters since the fires. For example, Elizabeth Evatt Community Legal Centre saw a 15% increase in family and domestic violence related work in March 2020 compared with the same period in

2019. This is consistent with Australian and international data that shows it is common for domestic and sexual violence to increase during and after disasters.

The psychological impacts associated with the catastrophic physical and economic losses, which disasters cause can take much longer to emerge and endure for many months and even years after the immediate crisis has passed. Similarly, legal issues take time to emerge and often surface only when they become acute and complex. This is particularly true in disaster contexts, with many people focussing on the immediate problems of clean up and securing housing and financial support first.

Even when legal issues are identified, people face barriers accessing legal services. For example, after the recent fires, some community legal centres reported that people were understandably unwilling to leave their properties and many were impacted by telecommunications and power outages. In particular, network outages made remote support difficult. Trauma also impairs people's ability to resolve problems, which makes it even more difficult to maintain relationships with services.

This year, people's ability to seek help for legal and other problems has been further complicated by the COVID-19 pandemic and lockdown restrictions. For bushfire affected communities, the compounding crises of the fires and the pandemic are unprecedented. Together, they will cause a widening of social and economic exclusion in already disadvantaged communities. We are already witnessing significant job losses, pay cuts and the decimation of key parts of local economies such as tourism. Communities lost homes and now they are set to lose income streams.

These problems of disadvantage will endure long after the formal response and recovery processes wind up. Many centres expect an upsurge in fire-related legal need as pandemic restrictions ease and people are more easily able to access services. Centres expect this demand to continue for some time as the number of people in need of legal help in relation to employment, social security, housing, domestic violence and credit and debt issues increases.

It is critical that governments continue to invest in locally led and locally directed recovery efforts, including legal assistance services, over the long-term. This will provide the sustainable, appropriate recovery solutions needed by these communities who are now facing further disadvantage and remain at a heightened risk for future disaster.

## Any other matters

### Recommendation

12. Implement recommendations made by Financial Rights Legal Centre to improve the availability, affordability and transparency of insurance products against the risk of bushfires and other natural disasters.

Home and contents insurance is an essential service and it needs to be suitable and affordable for Australians. We endorse the recommendations made by the [Financial Rights Legal Centre to the ongoing Royal Commission into Natural Disaster Arrangements](#).

Insurance is a key legal issue for many victims in the context of a disaster, whether they are fully insured, under-insured or not insured at all. Yet the Terms of Reference have not called for a specific response on this issue. During the fires, insurance matters constituted the majority of matters reviewed by legal service providers. For example:

- Legal Aid NSW submission to the RCNDA confirmed that 50% of demand for their services connected to the bushfires was insurance related.
- Financial Rights reported that the Insurance Law Service (a national hotline) received 100 calls in the first quarter of 2020 related to disputes with insurers in response to the fires; and
- Shoalcoast Community Legal Centre continues to receive general inquiries about insurance matters through its advice lines.

The insurance problems have been varied and have included policy and payout disputes, confusing claims processes, underinsurance, delays (leading to longer resolution times) and failures to communicate. Some insurance companies would not respond to their clients or were evasive in their responses. It appears that insurance companies were wholly underprepared and, in some cases, unwilling to service their clients during the fires. Underinsurance is also a major issue. We note the Eurobodalla Council's Submission to the NSW Independent Bushfire Inquiry noting that one third of the bushfire affected residents in its local government area were uninsured.

Financial Rights considers that insurance needs to be viewed as an essential base service in building resilient communities. Insurers and citizens need to understand that the more appropriately insured they are, the more resilient they will be in the event of disasters and the greater their capacity to rebuild. These measures will assist in fostering an ideological shift in the way we think about insurance. We need to start understanding insurance as an essential service (like we do for water and energy) rather than a privilege for middle-class citizens. More broadscale adequate insurance will reduce the social exclusion that underinsurance creates.

The problems outlined above that are highlighted by the fires are manifestations of larger, systemic failings in insurance. These failings and detailed recommendations for reform are set out in the Financial Rights submissions to the NSW Independent Bushfire Inquiry (dated 17 April 2020) and the Royal Commission into National Natural Disaster Arrangements (dated 28 April 2020).

We endorse these submissions and note the specific recommendations made by Financial Rights, which include the recommendation to improve the ability of Australians to obtain suitable



insurance to protect themselves against the risk of bushfires and other natural disasters. This requires the introduction of an effective standard cover regime, the establishment of adequate standard definition, an overhaul of the sum insured information, the introduction of a component pricing regime and reforms to claims handling and cash settlement processes.

Financial Rights further recommends the government intervene to ensure that insurance for Australians in areas subject to bushfire and other natural hazards is affordable. Reform is required to remove stamp duties, taxes and emergency services levies from insurance. The government must confront the problems of mitigation work head on, invest significantly and consider grants and subsidies.

Financial Rights also submits that greater national coordination is needed in relation to disaster prevention, resilience, natural hazard data tracking, gathering and sharing which will have flow on improvements for insurers and consumers. A National Disaster Resilience Agency should be established to co-ordinate, drive and monitor the effectiveness all aspects of disaster preparedness and recovery, including the prevention and mitigation work nationally, the impact of any mitigation work on the price and availability of insurance, the design application and funding of any subsidies and the resulting take up of suitable and affordable insurance cover.

This proposed National Disaster Resilience Agency should include the functions of both an independent resilience assessor and an insurance price monitor. Alternatively, an independent price monitor could be established separately.

Climate changes is intensifying disaster events. The community's ability to absorb the enormous personal and economic costs will only deteriorate if we don't start to create significant preparedness and build legally resilient communities. An investment in prevention, mitigation and disaster preparedness is critical and will reduce the need for significant expenditure on acute response measures after the next disaster strikes.