



# *Emergency Management Act 2004*

## Review – Terms of Reference

### **Purpose**

The Review of the *Emergency Management Act 2004* (EM Act) (the Review) will identify opportunities to improve the EM Act, ensuring it remains fit-for-purpose and able to meet evolving challenges (e.g. COVID-19, mass bushfires, cyber-terrorism).

### **Context**

The EM Act establishes, at a high level, the framework and principles for coordinating activities before, during and after emergencies; assigns key accountabilities; and enables necessary authorities to effect response and recovery operations.

The scale, impacts and consequences of 2019/20 Black Summer bushfires and the COVID-19 pandemic have far exceeded all other events since the commencement of the EM Act. Prior to the COVID-19 outbreak, very few Declarations (Division 3 of the EM Act) had been made in South Australia.

The prolonged nature of the COVID-19 pandemic caused South Australia to operate under a Major Emergency Declaration for an extended period of time and highlighted the need to address protracted under the EM Act.

### **Background**

The last wide-ranging changes to the EM Act were made in 2016 following a review led by South Australia Police. A number of changes have been made to the EM Act since, on a more piecemeal basis.

### **Review Scope**

The review will address:

1. the extent to which the objects of the Act are being achieved and continue to meet the needs of the South Australian community taking into account the changing hazard and threat context;
2. the extent to which additional legislative measures, if any, are considered necessary to achieve objects of the Act into the future; and
3. such other matters that the Minister may consider relevant to the review of the Act.

Specific elements for consideration will include:

- Whether the principles of the Act reflect modern best practice and community expectations.
- How the EM Act interacts with, supplements and supports other emergency management legislation.<sup>1</sup>
- Particular interdependencies with some legislation, for example the proposed biosecurity legislation under development and the *Public Health Act 2011* (Parts 11 and 12)
- Potential relevance of the temporary COVID-19 legislative measures (*COVID-19 Emergency Response Act 2020* (SA)) to future emergency events.
- Implications of the *National Emergency Declaration Act 2020* (Cth) and the *Security of Critical Infrastructure Act 2018* (Cth).
- How the EM Act could better cater for:
  - long-term events (such as a pandemic or a biosecurity event)
  - the emergence of new ‘invisible’ threats such as cyber-attacks and foreign interference
  - catastrophic or compounding events which require more significant powers and structures to effect response and recovery.
- The types of authority required to deliver significant recovery programs, and where necessary, direct effort.
- How well the EM Act meets the expectations and requirements of key stakeholders, including Executive Government and the community.
- How the EM Act enables and meets increasing requirements associated with climate change, disaster risk reduction, mitigation and resilience building.
- Whether current compliance and enforcement measures, including expiations, are fit for purpose.

The Review will also consider findings contained within relevant inquiries, debriefs and documented lessons learned processes, for example:

- COVID-19 Pandemic Review Group Report.
- Findings of an SA independent review of the management of the COVID-19 event.
- The State Emergency Management Plan review.

<sup>1</sup> For example, the biosecurity legislation under development, the *Public Health Act 2011*, *Police Act 1998*, *Fire and Emergency Services Act 2005*, *Livestock Act 1997*, and the *Planning, Development and Infrastructure Act 2016*.

## Deliverables

- Two Discussion papers:
  - The first paper should assist the broader public and emergency management stakeholders to engage in the Review.
  - The second should assist government agencies and departments to engage in the Review.
- An Interim Report to be delivered to the Chair, State Emergency Management Committee with draft findings and recommendations for feedback.
- A written report delivered to the Premier summarising the findings of the Review and making recommendations for the Government to consider. The recommendations should focus on legislative change options and be underpinned by sound policy rationale but can include other matters incidental to the Reviews findings.

## Governance

### Independent Lead

The Review will be conducted by an external independent consultant procured by the Department of the Premier and Cabinet.

### Project Management

The State Emergency Management Committee will have oversight of the progress of the review through the Department of the Premier and Cabinet Reporting on State Strategic Risk – Inadequate Governance.

A senior executive reference group will be established to provide support to the Review.

Procurement of the consultant/contractor and project team will be managed by the Department of Premier and Cabinet by Security, Emergency and Recovery Management.