

Question on notice no. 219

Portfolio question number: AE21-219

2020-21 Additional estimates

Legal and Constitutional Affairs Committee, Home Affairs Portfolio

Senator Malcolm Roberts: asked the Department of Home Affairs on 22 March 2021—

Senator ROBERTS: The next one is a specific claim, which I doubt you'll be able to answer given what we've just heard. What is being done by this agency to overview the financial debacle exposed in the former—and I emphasise 'former'—Livingstone Shire Council, where the \$15.8 million NDRRA funded Statue Bay project is still in financial dispute with unpaid contractors?

Ms Zakharoff: I have no information in relation to that particular example, but I'm happy to try and find out more information on notice.

Senator ROBERTS: Perhaps my office can get in touch with your department.

Ms Zakharoff: Certainly.

Senator ROBERTS: Is a 40 per cent profit margin to some councils?

CHAIR: Sorry, just to clarify, Senator Roberts: when the department take a question on notice, they will provide it in accordance with the committee's procedures. It won't require any further action by your office.

Senator ROBERTS: Thank you, Chair. Is a 40 per cent profit margin to some councils—and I emphasise 'some councils'—and project managers and contractors for NDRRA projects considered reasonable?

Ms Zakharoff: Senator, I apologise. I've got no basis on which to respond to that question. But again, in the context of taking the general inquiry on notice, I can determine what's appropriate.

Senator ROBERTS: Thank you. What happened to the \$1.2 million paid to the former—and I emphasise 'former'—Charters Towers Regional Council for repairs to a road that were never done? As we understand, this has happened now several times: repairs have been claimed but never done.

CHAIR: Senator Roberts, I'm respectfully going to pull you up there. Are you able to provide the witnesses with any information at all in relation to the claim that you're making?

Senator ROBERTS: Yes, I have discussed that.

CHAIR: Do you have any report?

Senator ROBERTS: Not with me.

CHAIR: or any other material that the witnesses can consider prior to answering your question?

Senator ROBERTS: No.

CHAIR: Perhaps that might be one that you can put on notice with the accompanying material.

Senator ROBERTS: Sure.

CHAIR: Thank you.

Senator ROBERTS: When this roorting has been extensive in just a few councils across Queensland, and the projects involved in these frauds have cost taxpayers millions of dollars more than they should, why have so few people been charged?

Mr Pezzullo: Senator, the line of questioning presumes things which the officer has indicated she needs to take on notice, and I support her in that. These programs—whether under the former acronym that you used in your very first question, which has been changed to the Disaster Recovery Funding Arrangements?

Senator ROBERTS: DRFA.

Mr Pezzullo: The programs are typically—and I'll have to check this in the case of the state of Queensland—co-managed with the relevant state reconstruction authority. It's a federal funding source; there's no question about that. I'm not resiling from that, Senator. But, in terms of the deployment of the funds, the certification of works and the checking of invoicing, we would need to work our way through the governance arrangements that have been established state by state. In this case, I presume it would be the QRA, the Queensland Reconstruction Authority. I'll need to satisfy myself of what governance arrangements have been put in place, where whistleblowers go to, to whom they report and so on and so forth. It certainly is a federal funding program but codelivered, typically—and I'll check my facts before I'm definitive with you—with the relevant state instrumentality.

Senator ROBERTS: That's my understanding too.

Mr Pezzullo: We don't engage with the road excavator and the road layer and the person who puts the bitumen down.

Senator ROBERTS: No, I understand that.

Mr Pezzullo: That would be a huge overhead and a waste of resources?

Senator ROBERTS: I accept that.

Mr Pezzullo: which you and I are both concerned about. So we fund the programs. I think we should come back comprehensively on notice. The questions all seem to be related to Queensland, your home state.

Senator ROBERTS: Correct.

Mr Pezzullo: You're a senator for Queensland. Why don't we come back on notice in general terms? Then, to the extent that we can add anything on the record, we'll go to the specific claims.

Senator ROBERTS: I'm asking questions on behalf of constituents.

Mr Pezzullo: Understood.

Senator ROBERTS: I'm also asking questions on behalf of myself as someone responsible for the expenditure of federal money, or the oversight of it.

Mr Pezzullo: Indeed.

Senator ROBERTS: I'm also asking in response to the Australian National Audit Office's report and the Productivity Commission's separate reports in 2015.

Mr Pezzullo: We'll give you a comprehensive answer accordingly.

Senator ROBERTS: I would like to know: if any money has been stolen, has it been reimbursed, and has this agency provided good governance for the billions of dollars of disaster relief money that's gone out since, I think, 2011?

Mr Pezzullo: We will reacquaint ourselves, or acquaint ourselves in the first instance, with the relevant facts, and we'll come back to you on notice.

Answer —

Please see the attached answer.

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ADDITIONAL ESTIMATES
22 MARCH 2021**

**Home Affairs Portfolio
Department of Home Affairs**

Program 1.10: Australian Government Disaster Financial Support Payments

AE21-219 - Natural Disaster Relief and Recovery Arrangements (NDRRA)

Senator Malcolm Roberts asked:

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Queensland, and the projects involved in these frauds have cost taxpayers millions of dollars more than they should, why have so few people been charged?

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Answer:

Disaster Recovery Funding

The Department has responsibility for ensuring funding provided under the Disaster Recovery Funding Arrangements (DRFA) and its predecessor the Natural Disaster Relief and Recovery Arrangements (NDRRA) is appropriately administered and compliant with the *Public Governance, Performance and Accountability Act 2013*, and we take allegations of fraud very seriously.

The DRFA/NDRRA has two main objectives:

- to facilitate the early provision of disaster assistance to affected individuals and communities, and
- to alleviate the significant financial burden that the states or territories (states) may face in providing relief and recovery assistance following disasters.

Under the DRFA/NDRRA, it is the states' responsibility to administer the funding and work with local councils to determine the type and level of assistance to make available. The Department tests that states and local councils have appropriate systems in place to verify that expenditure is appropriate and spent in accordance with the rules and guidelines of the DRFA/NDRRA.

Funding provided to states following natural disasters is contingent on the scale and severity of disasters that occur within a jurisdiction. As the cost of providing assistance to disaster affected communities increases, so too does the level of financial support from the Commonwealth to the states.

Queensland typically experiences more frequent and/or more severe disasters than other jurisdictions which has seen the Queensland Government receive a higher proportion of funding from the Commonwealth than other jurisdictions.

Good Governance

In December 2014, the Productivity Commission provided its report to Government on the inquiry into natural disaster funding arrangements. Similarly, in April 2015, the ANAO tabled its report on the performance audit into the administration of the NDRRA.

The Attorney-General's Department (which was the responsible Department at the time) was proactive in dealing with the risks and complexities associated with the NDRRA and recovery funding policy. The Government progressed national reform options following the outcomes of the Productivity Commission Inquiry. At the same time, implementing evidence-based, program-level reforms of the NDRRA and its administration.

The Attorney-General's Department undertook four key activities to improve the administration of the NDRRA and reduce the risk of incorrect claiming by states. These included:

- an overhaul of the NDRRA to install clearer parameters around eligibility
- the development of a national collaborative audit and assurance program
- the development of an appropriate IT system to manage NDRRA claims and financial data, and
- an internal restructure to support compliance monitoring and assessment.

The Commonwealth has taken into account the ANAO's findings and recommendations, as well as the findings and recommendations of the various other audit and policy reviews. The four key activities outlined, are considered the most effective and efficient options to manage NDRRA risks.

When local councils undertake disaster reconstruction works that are eligible for reimbursement under the DRFA/NDRRA, they are not permitted to charge a profit margin.

- It is a long-standing policy principle that one level of government should not be permitted to profit off another level of government and that disaster recovery is a shared responsibility for all levels of government.
- The DRFA/NDRRA is not intended to be a mechanism for local councils to be able to profit from the Commonwealth or state government following a disaster.
- In this context, profit margins are explicitly excluded from the DRFA/NDRRA. This is outlined in the 'state expenditure' definition (clause 1.1 of the DRFA and NDRRA) under the paragraph for 'ineligible state expenditure'. The DRFA reads, "*State expenditure does not include profit margins to an eligible undertaking*".

The Queensland Reconstruction Authority (QRA) has advised that it has rigorous, end-to-end processes in place for the administration of disaster recovery funding. QRA uses a range of assurance and compliance mechanisms, including compliance checks on all claims to confirm eligibility; technical assessment and price benchmarking checks to ensure works represent value for money; ongoing monitoring and reporting throughout delivery of projects; and regular onsite inspections.

In terms of Commonwealth reimbursement, there are two key oversight mechanisms to ensure funding claimed under the DRFA/NDRRA is spent in accordance with the activated recovery measures:

1. Before a state submits a DRFA/NDRRA claim to the Commonwealth for reimbursement, the claim must be audited by a state-appointed auditor. The state appointed auditor is required to attest that the claim complies with the principles, conditions and eligibility requirements of the DRFA/NDRRA and that the expenditure aligns with the recovery assistance measures that have been activated.
2. The Department, on behalf of the Commonwealth, engages an independent auditor, to conduct assurance activities over state claims and to provide the Commonwealth with an assessment of the accuracy of the claim.

Allegation of misuse of Commonwealth funding

The Department takes the allegations of fraud very seriously and has requested that the QRA review these allegations and, if fraud and/or misuse of DRFA/NDRRA expenditure is detected, the Department will recover the expenditure through a claim adjustment and will determine whether there are grounds for referring the matter to the Australian Federal Police for investigation.

For example, the Commonwealth is in the process of recouping funds paid to the Queensland Government where fraudulent expenditure has been detected post Commonwealth acquittal. The QRA conducted an investigation last year into the criminal conviction of a former Central Highlands Regional Council (CHRC) Infrastructure Manager for defrauding CHRC of over \$200,000 between March 2010 and April 2011. QRA found that some of the money related to NDRRA funding. QRA subsequently reported this to the Department and an adjustment is being processed against Queensland's 2010-11 financial year claim to recover the misused funds. This adjustment will be finalised by 30 June 2021.

In relation to the question raised during the 22 March 2021 Senate Estimates hearing about the Statue Bay project, the Department is aware of a project in Statue Bay for the

restoration of a road asset that was funded under the NDRRA following Tropical Cyclone Marcia in early 2015. This project was completed in July 2018 and the road was reopened.

QRA has advised that it was aware that there was ongoing contractual disputes between Council and the Principal Contractor; however, this matter was resolved during adjudication and the Principal Contractor was paid all eligible costs in August 2019. Neither Council nor QRA has heard from any sub-contractors that they have not been paid by the Principal Contractor.

The QRA has advised that the claims in the article in the Brisbane times titled 'Roads to ruin: Serious questions about billions spent on recovery in Queensland' relating to the 'missing \$1.2 million' for works in the former Charters Towers Regional Council are unsubstantiated.

Allegations of council corruption, sub-standard construction work and roting are difficult to respond to in the absence of specific details, including:

- exact location,
- the name of the weather event that caused the damage,
- the timeframe for the works, and
- other project specific data.

If any person or entity has evidence of fraud or mismanagement of disaster funding in Queensland, they are urged to come forward and raise the matter with QRA or the Queensland Crime and Corruption Commission (CCC) for investigation.