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NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS

DETERMINATION OF TERMS AND CONDITIONS

by the

Attorney-General

PRELIMINARY

I, ROBERT McCLELLAND, Attorney-General, consistent with Section 15 of the Appropriation Act (No 2) 2006-07, and for the purpose of any Appropriation Act which similarly authorises the Minister for Local Government, Territories and Roads to determine the terms and conditions applicable to payments of financial assistance from the Commonwealth to the states or the Australian Capital Territory or the Northern Territory for the purposes of natural disaster relief and recovery, hereby determine that payments of such assistance under an Appropriation Act shall be made on the terms and conditions which are recorded in this document.

This document incorporates a statement of the Natural Disaster Relief and Recovery Arrangements, and of the related administrative procedures, schedules and guidelines, which will operate from the date of signature.

Robert McClelland
Attorney-General

/    / 2011
INTRODUCTORY

1.1 Aim and overview of the Natural Disaster Relief and Recovery Arrangements

1.1.1 Natural disasters often result in large-scale expenditure by state governments in the form of disaster relief and recovery payments and infrastructure restoration. To assist with this burden, the Commonwealth has made arrangements to provide financial assistance to the states in some circumstances. Usually the assistance is in the form of partial reimbursement of actual expenditure.

1.1.2 The Commonwealth’s assistance is intended to be directed to state measures that complement other strategies in relation to natural disasters, such as insurance and disaster mitigation planning and implementation.

1.1.3 The arrangements (called the ‘Natural Disaster Relief and Recovery Arrangements’) are set out in this Determination and are administered by the Department of Transport and Regional Services.

1.2 Basic principle for assistance to states

1.2.1 The Commonwealth may make payments to a state in partial reimbursement for state expenditure in relation to a natural disaster.

1.2.2 The payments may be made if:
   a) the state expenditure is on eligible measures (as defined in this Determination); and
   b) the state expenditure meets certain financial requirements set out in this Determination; and
   c) the state meets other conditions set out in this Determination.

   Note: The rules about state expenditure and financial requirements are set out in Part 5. The conditions are set out in Part 4.

1.2.3 Although payments are generally made after the state has submitted a claim for financial assistance, the Commonwealth may provide advance payments if the Minister is satisfied that exceptional circumstances exist.

1.3 Dictionary of terms used in this Determination

A number of terms used in the Determination are given special meanings. These terms are set out in the Dictionary at clause 8.1 and italicised throughout the Determination.

WHAT TYPES OF NATURAL DISASTER ARE COVERED?

2.1 Meaning of natural disaster

2.1.1 In this Determination natural disaster means a serious disruption to a community or region caused by the impact of a naturally occurring rapid onset event that threatens or causes death, injury or damage to property or the environment and which requires significant and coordinated multi-agency and
community response. Such serious disruption can be caused by any one, or a combination, of the following natural hazards: bushfire; earthquake; flood; storm; cyclone; storm surge; landslide; tsunami; meteorite strike; or tornado.

2.1.2 The following are not natural disasters for the purposes of this Determination:

a) drought;

b) frost;

c) heatwave;

d) epidemic;

e) events where human activity is a significant contributing cause (for example, poor environmental planning, commercial development, personal intervention (other than arson), or accident).

3 WHAT IS AN ELIGIBLE MEASURE?

3.1 Meaning of eligible measure

In this Determination eligible measure means an act of relief or recovery that:

a) is carried out to alleviate damage or distress arising as a direct result of a natural disaster; and

b) is of a type described as a Category A, Category B, Category C or Category D measure in this part (see below).

3.2 Meaning of Category A measure

3.2.1 A Category A measure is a form of emergency assistance that is given to individuals to alleviate their personal hardship or distress arising as a direct result of a natural disaster.

3.2.2 The assistance may be for one or more of the following:

a) emergency food, clothing or temporary accommodation;

b) repair or replacement of essential items of furniture and personal effects;

c) essential repairs to housing, including temporary repairs and repairs necessary to restore housing to a habitable condition;

d) demolition or rebuilding to restore housing to a habitable condition;

e) removal of debris from residential properties to make them safe and habitable;

f) extraordinary counter disaster operations of direct assistance to an individual (for example, operations to protect a threatened house or render a damaged house safe and habitable);

g) personal and financial counselling aimed at alleviating personal hardship and distress arising as a direct result of the natural disaster;

h) extraordinary costs associated with the delivery of any of the above forms of assistance (for example, costs of evacuation or establishment and operation of evacuation centres and recovery centres, being costs which
exceed the costs that a state could reasonably have expected to incur for these purposes).

### 3.3 Meaning of Category B measure

#### 3.3.1 A Category B measure is assistance of one of the following types:

a) restoration or replacement of certain essential public assets damaged as a direct result of a natural disaster. The assistance must meet the requirements set out in clause 3.6;

b) loans, subsidies or grants listed in subclause 3.3.2 to alleviate the financial burden of costs incurred by certain businesses, primary producers, voluntary non-profit bodies and individuals as a direct result of a natural disaster. The assistance must meet the requirements set out in clause 3.7;

c) counter disaster operations for the protection of the general public. The assistance must meet the requirements set out in clause 3.8.

#### 3.3.2 The assistance referred to in subclause 3.3.1(b) may be one or more of the following:

a) a scheme of loans assistance at a concessional interest rate to small businesses or primary producers (see also subclause 3.7.1);

b) a scheme of loans assistance at a concessional interest rate to needy individuals or voluntary non-profit bodies (see also subclause 3.7.2);

c) freight subsidy to primary producers (see also subclause 3.7.3);

d) interest rate subsidy to small businesses or primary producers (see also subclause 3.7.4);

e) grants to needy individuals or voluntary non-profit bodies (see also subclause 3.7.5);

Note: for further information regarding loans assistance, see clauses 5.11—5.13.

#### 3.3.3 The assistance referred to in subclause 3.3.2 is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

### 3.4 Meaning of Category C measure

#### 3.4.1 A Category C measure is a community recovery package designed to support a holistic approach to the recovery of regions, communities or sectors severely affected by a natural disaster. The package comprises one or more of the following:

a) a community recovery fund in circumstances where a community is severely affected and needs to restore social networks, community functioning and community facilities. Expenditure from the fund is aimed at community recovery, community development and community capacity building, and is administered by the state government in close collaboration with local government bodies or other community bodies;

b) recovery grants for small businesses where the business sector is severely affected and the community risks losing essential businesses. Grants to small businesses are aimed at covering the cost of clean-up and reinstatement, but not at providing compensation for losses;
c) **recovery grants for primary producers** where the farming sector is severely affected, with threats to viability and disruption of production likely to extend beyond the current season. Grants to primary producers are aimed at covering the cost of clean-up and reinstatement, but not at providing compensation for losses.

Note: for further information regarding the community recovery package, see Guideline 4/2007.

3.4.2 In order to qualify as a *Category C measure* in relation to a *natural disaster*, the recovery assistance must meet the following conditions:

a) it either meets the intent of the community recovery package, or it contains only variations that have been approved by the *Minister* in writing;

b) the use of that assistance has been approved by the Prime Minister in writing in relation to the disaster; and

c) it meets any other conditions imposed by the *Minister* in writing.

3.4.3 The assistance referred to in subclause 3.4.1 is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

3.5 **Meaning of Category D measure**

A *Category D measure* is an act of relief or recovery carried out to alleviate distress or damage in circumstances that are, in the opinion of the *Minister*, exceptional.

3.6 **Additional requirements for Category B measures**—restoration or replacement of *essential public assets*

**Meaning of essential public asset**

3.6.1 An *essential public asset* is an asset of an eligible undertaking that, in the judgement of the *state* concerned:

a) is an integral and necessary part of the *state*’s infrastructure; and

b) would, if lost or damaged, severely disrupt the normal functioning of a community; and

c) would, if lost or damaged, be restored or replaced as a matter of urgency.

**Meaning of eligible undertaking**

3.6.2 An *eligible undertaking* is a body that:

a) is one of the following:
   i) a department or other agency of a *state* government; or
   ii) established by or under a law of a *state* for public purposes (for example, a local government body); and

b) provides community, social or economic services free of charge or at a nominal charge well below the costs of production.

3.6.3 A body that does not meet the requirements of subclause 3.6.2 is nevertheless taken to be an *eligible undertaking* if the *Minister* has agreed in writing, in the
light of special circumstances presented by a *state*, that the body should be treated as an *eligible undertaking* for the purposes of this Determination.

**Essential public asset restoration or replacement to pre-disaster standard**

3.6.4 The requirements for restoration or replacement of an asset are:

a) the asset is an *essential public asset*; and

b) the restoration or replacement results in the asset being restored or replaced to its pre-disaster standard, in accordance with current building and engineering standards.

**Essential public asset betterment**

3.6.5 In this Determination *betterment*, in relation to an asset, means the restoration or replacement of the asset to a more disaster-resilient standard than its pre-disaster standard.

3.6.6 *Betterment* of an asset will be considered an eligible measure if:

a) the asset is an *essential public asset*; and

b) the *state* informs the *Secretary* of its decision to restore the asset to a more disaster-resilient standard, and of its reasons for doing so; and

c) the *Secretary* is satisfied with the cost effectiveness of the proposal; and

d) the *Secretary* is satisfied that the increased disaster-resilience of the asset will mitigate the impact of future *natural disasters*.

3.7 **Additional requirements for Category B measures**—loans, subsidies or grants

**Loans assistance to a small business or primary producer**

3.7.1 The requirements for a scheme of loans assistance at a concessional interest rate to a *small business* or *primary producer* are:

a) the loan is made by the *state* to a *small business* or *primary producer*; and

b) the *state* is satisfied that the borrower’s assets (including fodder) have been significantly damaged by the *natural disaster*; and

c) the *state* is satisfied that the borrower has no reasonable prospect of obtaining commercial finance but has a reasonable prospect of long-term viability for the business; and

d) the loan is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

**Loans assistance to a needy individual or voluntary non-profit body**

3.7.2 The requirements for a scheme of loans assistance at a concessional interest rate to a needy *individual* or voluntary non-profit body are:

a) the loan is made by the *state* to a needy *individual* or voluntary non-profit body; and

b) the *state* is satisfied that the borrower’s assets have been significantly damaged by the *natural disaster*; and
c) the state is satisfied that the borrower has no reasonable prospect of obtaining commercial finance; and
d) the loan is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

**Freight subsidy to a primary producer**

3.7.3 The requirements for a freight subsidy scheme to a primary producer are:

a) the grant is made by the state to a primary producer; and
b) the grant reimburses the primary producer a maximum of 50 per cent of the costs to the producer of transporting any of the following as a direct result of a natural disaster:
   - livestock;
   - fodder or water for livestock;
   - building or fencing equipment or machinery; and
c) the grant is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

**Interest rate subsidy to a small business or primary producer**

3.7.4 The requirements for an interest rate subsidy scheme to a small business or a primary producer are:

a) the subsidy is paid by the state to an authorised deposit taking institution; and
b) the subsidy reimburses the authorised deposit taking institution for the concessional interest rate it gives on loans to small businesses and primary producers whose assets have been significantly damaged by a natural disaster; and
c) the subsidy is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

Note: for further detail see Guideline 2/2007.

**Grants to a needy individual or voluntary non-profit body**

3.7.5 The requirements for a scheme of grants to a needy individual or voluntary non-profit body are:

a) the state is satisfied that the recipient’s assets have been significantly damaged by a natural disaster; and
b) the state is satisfied that the recipient has no reasonable prospect of obtaining commercial finance; and
c) the grant is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

3.8 **Additional requirements for Category B measures—counter disaster operations for the protection of the general public**

The requirements for counter disaster operations referred to in subclause 3.3.1(c) are:
a) the costs are associated with counter disaster operations carried out to protect communities and ensure public health and safety in public urban areas; and
b) the costs exceed the costs that a state could reasonably have expected to incur for these purposes; and
c) the operations carried out were intended to result in less Category A assistance being required.

4 GENERAL CONDITIONS FOR COMMONWEALTH ASSISTANCE

4.1 General principle to be observed by state with regard to eligible measures
In carrying out, or contributing to the cost of, eligible measures, the state must act consistently with the general policy that:

a) its assistance is not to supplant, or operate as a disincentive for, self-help by way of either insurance or appropriate strategies of disaster mitigation; and
b) as far as practicable, its assistance is to be designed to achieve an efficient allocation of resources.

4.2 Notification
When a natural disaster occurs and the relevant state knows, or expects, the disaster to be an eligible disaster the state must notify the Secretary of that fact as soon as practicable. The notification must be in the form set out in Attachment A (Notification Form).

4.3 State must publicly acknowledge Commonwealth assistance
4.3.1 If the Commonwealth gives assistance to a state in relation to an eligible measure, the state must acknowledge the Commonwealth’s contribution of relief and recovery assistance.

4.3.2 At a minimum, this acknowledgement is to appear:

a) in announcements of assistance to victims, such as press releases and websites; and
b) in recovery centres or the like; and
c) in advice to the public about the availability of relief and recovery assistance.

4.3.3 Evidence that acknowledgement has occurred is to be provided to the Commonwealth at the time the state submits a claim.

4.4 State must implement natural disaster mitigation strategies
4.4.1 A condition of assistance for restoration or replacement of an essential public asset is that:

a) the state has developed and implemented natural disaster mitigation strategies in respect of likely or recurring disasters, and has also encouraged local government bodies to develop and implement such
strategies. (These strategies may have been developed by Commonwealth, state or local government bodies); and

b) if the state’s assistance has been for the restoration or replacement of an asset of a local government body, and the local government body had not developed and implemented appropriate natural disaster mitigation strategies in respect of likely or recurring disasters—the assistance the state would otherwise have given to the local government body is reduced by 10 per cent.

4.4.2 A state, or a local government body, is taken to have met the disaster mitigation requirement in subclause 4.4.1 by appropriate participation in a relevant Commonwealth programme. Commonwealth programmes include:

   a) the Natural Disaster Risk Management Studies Programme;
   b) the Natural Disaster Mitigation Programme;
   c) the Regional Flood Mitigation Programme;
   d) the Bushfire Mitigation Programme.

Note: for further details on establishing that disaster mitigation strategies are in place, see Guideline 3/2007.

4.4.3 Evidence of appropriate natural disaster mitigation strategies is to be provided at the time a state makes a claim under the Natural Disaster Relief and Recovery Arrangements.

4.5 State must have reasonably adequate capital or access to capital

4.5.1 A condition of assistance to a state in relation to an eligible measure is that a state must have reasonably adequate capital or access to capital to fund liabilities or infrastructure losses before being granted access to funds under this Determination, including through, but not limited to, the following mechanisms:

   a) commercial insurance/reinsurance;
   b) any state-COAG reinsurance fund or pool; and
   c) state department premium contributions (i.e. internal state funds).

Note: reasonably adequate capital will be as measured in relation to the benchmarks established under clause 6 of Guideline 1/2011.

4.6 State must submit independent assessment of state insurance arrangements

4.6.1 A condition of assistance to a state in relation to an eligible measure is that a state is required to have an independent assessment of their insurance arrangements undertaken by an independent and appropriate specialist (such as a state Auditor-General).

4.6.2 The state must publish the outcome of the independent assessment, taking into consideration the need to protect any commercial in confidence material, and provide the outcome of the independent assessment to the Secretary.

4.6.3 The first independent assessment must be published and provided to the Secretary by 30 September 2011, with further independent assessments required.
a) at intervals no greater than three years apart; and
b) following any significant change in the state's insurance arrangements (including any reduction in the policy limit purchased), or a major insurable disaster occurring in the state.

4.6.4 The Commonwealth will conduct a review of a state's independent assessment in conjunction with the state. The review will be guided by the following principles:

a) a state has a responsibility to put in place insurance arrangements which are cost effective for both the state and the Commonwealth;
b) the financial exposure borne by taxpayers (at both levels of Government) under this Determination should be minimised; and
c) the onus is on a state to explore a range of insurance options in the market place and assess available options on a cost-benefit basis.

Note: for further details on the purpose and process for the review of the independent assessment of insurance arrangements, see Guideline 1/2011.

4.6.5 In the event that, as a result of the review the Commonwealth Attorney-General recommends changes to a state’s insurance arrangements, and the state fails to take appropriate action within a reasonable time in response to those recommendations, then the amount that a state would be reimbursed under this Determination will be reduced in accordance with the above principles.

4.7 State must submit Post Disaster Assessment Report

4.7.1 Post disaster assessment reporting will allow for the collection of consistent national data on the cost of natural disasters and will enable improved national understanding on the cost of response, relief, and recovery measures following natural disaster events.

4.7.2 A Post Disaster Assessment Report must be submitted to the Secretary within three years after the end of the financial year in which an eligible disaster occurred. The report must be in the form provided in Attachment F (Post Disaster Assessment Report).

4.8 State must provide expenditure estimates

4.8.1 Each state must provide to the Secretary, for budgetary purposes, its latest estimates of forecast total state expenditure on eligible disasters for the remainder of the current financial year and for the next financial year. The estimates must be provided:

d) by 31 January of each year; and
e) if the Secretary requests, at any other time.

4.8.2 The estimated expenditure is to be broken down as follows:

- Category A measures; and
- Category B measures (excluding concessional interest rate loan expenditure); and
- concessional interest rate loan expenditure; and
• Category C measures; and
• Category D measures.

5 HOW IS THE LEVEL OF ASSISTANCE CALCULATED?

5.1 Overview

Eligibility for assistance

5.1.1 Eligibility for Commonwealth assistance in a financial year is worked out on the basis of state expenditure in that year on eligible disasters (see clauses 5.2 – 5.4).

Rate of assistance

5.1.2 If a state is eligible for assistance in a financial year, the rate of the assistance is worked out on the basis of the state’s two thresholds for that financial year and the amount of its expenditure in that year on all eligible disasters (see clauses 5.7 – 5.10).

Reduction in rate of assistance

5.1.3 If a state fails to take appropriate action within a reasonable time in response to the Commonwealth Attorney-General's recommendations for changes to a state's insurance arrangements (see clause 4.6.5) then the rate of the assistance calculated under this Part 5 may be reduced.

5.2 Meaning of state expenditure

5.2.1 In this Determination state expenditure means the amount actually spent, or expected to be spent within 6 months, by a state in respect of an eligible measure.

5.2.2 The amount includes the cost to the state of eligible measures in the form of non-monetary assistance (for example, goods, waived revenue, free or subsidised services).

5.2.3 The amount includes the cost to the state of eligible measures in the form of concessional interest rate loans.

Note: if any part of state expenditure is in the form of concessional interest rate loans, a component of the Commonwealth assistance will also be in the form of a loan—see clause 5.11.

5.2.4 The amount must be spent, or the cost incurred, by the state within the allowable time limit.

5.2.5 The amount does not include any of the following:

a) amounts that the state has recovered or may recover from any source;
b) amounts that a person is liable to reimburse to the state (including amounts attributable to GST);
c) amounts directly or indirectly receivable from the Commonwealth under a joint Commonwealth/state financial arrangement or some other form of specific purpose financial assistance to a state;
d) amounts attributable to salaries or wages or other ongoing administrative expenditure for which the state would have been liable even though the eligible measure had not been carried out;
e) amounts that have been transferred from a state to a department or other agency of the state government for possible expenditure on an eligible measure, but have not yet been spent by that agency.

5.3 **Meaning of allowable time limit**

In this Determination **allowable time limit** means:

a) for expenditure on restoration or replacement of an essential public asset:
   (i) the period of 24 months after the end of the financial year in which the relevant disaster occurred; or
   (ii) if there are exceptional circumstances presented by a state and accepted by the Secretary—such longer period as the Secretary specifies;

b) for expenditure on any other eligible measure—the period of 24 months after the end of the financial year in which the relevant disaster occurred.

5.4 **Meaning of eligible disaster**

In this Determination **eligible disaster** means a natural disaster on which state expenditure on eligible measures exceeds the small disaster criterion.

5.5 **Meaning of small disaster criterion**

In this Determination, **small disaster criterion** means:

a) the amount published by the Secretary from time to time for the purposes of this Determination, being the amount of $240,000 as affected by movements in the Consumer Price Index.

Note: The financial year amount is outlined of Schedule 1 of this Determination.

5.6 **Is assistance payable for state expenditure on a particular disaster?**

If:

a) state expenditure has been incurred in a particular financial year on a natural disaster; and

b) the disaster is an eligible disaster;

Commonwealth assistance is payable in relation to that expenditure, and is worked out according to the formula in clause 5.8.

Note 1: if the state expenditure is incurred on a disaster that is not an eligible disaster (ie, the expenditure on the disaster did not exceed the small disaster criterion), no Commonwealth assistance is payable under the Natural Disaster Relief and Recovery Arrangements in relation to that expenditure.

Note 2: the state expenditure does not have to be incurred in the same financial year that the disaster occurred. However, there are time limits on state expenditure—see clause 5.3.
5.7 Basis for calculation of assistance—first and second threshold

5.7.1 If Commonwealth assistance is payable under subclause 5.1.1 in relation to state expenditure on an eligible disaster, the calculation of the assistance is based on:

a) the first threshold, being 0.225 per cent of the state’s total general government sector revenue and grants in the financial year two years prior to the relevant financial year¹; and

b) the second threshold, being 1.75 times the state’s first threshold.

5.7.2 The Secretary must inform the states, in writing, of their respective thresholds as soon as the figures are available from the Australian Bureau of Statistics.

5.8 Formula for calculation of amount of Commonwealth assistance

5.8.1 Commonwealth assistance during a financial year for state expenditure on Category A, B and C measures is calculated at the rate of:

a) if the state’s first threshold has not been exceeded—50 per cent of state expenditure on Category A and C measures for one or more eligible disasters; and

b) if the state’s first threshold has been exceeded—50 per cent of state expenditure on Category A, B and C measures for one or more eligible disasters, between a state’s first and second threshold; plus 75 per cent of all such state expenditure in excess of the state’s second threshold.

5.8.2 If the state’s first threshold has been exceeded but the assistance calculated under subclause 5.8.1(a) would be greater than that calculated under subclause 5.8.1(b), the state may opt to restrict its claim to the Category A and Category C component calculated under subclause 5.8.1(a) (even though its first threshold has been exceeded).

5.8.3 Commonwealth assistance during a financial year for state expenditure on Category D measures for one or more eligible disasters is to be calculated at the rate determined by the Commonwealth.

5.9 Calculation of assistance if state has paid two-thirds or more of betterment costs of local government asset

5.9.1 If:

a) a state has given assistance for the betterment of an essential public asset owned by a local government body; and

b) the state’s assistance represents two-thirds or more of the total cost of the betterment;

then, for the purpose of calculating Commonwealth assistance under clause 5.8, the amount of state expenditure attributable to the betterment is taken to be two-thirds of the total cost of the betterment.

¹ As produced by the Australian Bureau of Statistics, Catalogue No. 5501.0.
5.9.2 However, if the asset in question is the asset of a remote indigenous community or a low financial capacity local government body, and the Secretary is satisfied that there are exceptional circumstances, the Secretary may agree to waive the rule in subclause 5.9.1.

5.10 How advance payment affects payment of entitlement

In making payment to a state of assistance calculated under clause 5.8, any amount of advance payment made by the Commonwealth in respect of an eligible disaster under subclause 1.2.3 is to be deducted from the entitlement calculated.

5.11 Commonwealth loan to a state

Under subclauses 3.3.2(a) and 3.3.2(b), certain concessional interest rate loans provided by a state to a needy individual, voluntary non-profit body, primary producer or small business are Category B measures. If there has been state expenditure in a year on such loans, a component of the Commonwealth assistance calculated under clause 5.8 may be provided to the state in the form of a concessional interest rate loan. The amount of that component is the same proportion of total Commonwealth assistance as the proportion that the loan principal provided by the state is of total state expenditure in that year. The amount is calculated under the following formula:

\[
CL = (CA - CCATAC) \times \left( \frac{SL}{SE - SCATAC} \right)
\]

Where:

- \( CL \) = the amount of the loan component of the Commonwealth to that state in respect of that financial year;
- \( CA \) = total Commonwealth assistance to the state, as calculated under clause 5.8;
- \( CCATAC \) = Commonwealth assistance in respect of state expenditure on Category A and Category C measures during that financial year, (being equal to 50 per cent of SCATAC);
- \( SL \) = total loans made by the state during that financial year under subclauses 3.3.2(a) and (b);
- \( SE \) = total state expenditure on all eligible measures during that financial year;
- \( SCATAC \) = total state expenditure on Category A and C measures during that financial year.

5.12 Concessional interest rate charged by the Commonwealth

5.12.1 A loan to a state is subject to a concessional interest rate determined by the Secretary at the beginning of each financial year, having regard to market interest rates at the time. The interest rate so determined applies to all outstanding loans to a state.
5.12.2 The concessional interest rate is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

5.12.3 Interest on a loan to a state begins to accrue following the end of the financial year in which the Commonwealth made the loan. Annual interest payable is calculated on the balance of outstanding loans at the beginning of a financial year. Interest must be paid to the Commonwealth on or before 15 June in each year the interest is due.

5.12.4 The principal of a loan to a state is repayable to the Commonwealth by that state in eight equal annual instalments. These fall due on or before 15 June in each successive financial year commencing in the second year after the end of the year in which the loan was made.

5.12.5 The Secretary must inform the states of the rate as soon as practicable.

5.13 State interest rate

5.13.1 In setting the state’s interest rate on concessional interest rate loans in a financial year, the state must have regard to the following factors:

a) the rate set by the Commonwealth under clause 5.12 for that financial year;

b) the desirability of the state’s rate not exceeding that rate, except to the extent estimated by the state as necessary to cover administration costs and bad debts.

5.13.2 If the state considers it appropriate to charge an interest rate which exceeds the rate estimated to cover administration costs and bad debts, interest set by the Commonwealth at the commencement of a year and equivalent interest set by the state, the state must pay to the Commonwealth, on or before 15 June in each successive year until maturity of the loan, an amount equal to three-quarters of the Commonwealth loan proportion of the interest receipts associated with the margin.

5.13.3 The state must review the interest rate charged to borrowers from time to time, making adjustments where appropriate to accommodate any improvement in the circumstances of the recipient.

5.13.4 The amount of each loan made by the states to individuals and organisations eligible for Commonwealth assistance may be subject to ceilings determined by the Minister to apply from a specified date (normally 1 July) until amended. The ceilings on loans must be determined having regard to movements in prices since the ceilings were last amended.

6 WHAT IS THE CLAIMS PROCESS?

6.1 Submitting a claim

If a state has notified the Secretary of the occurrence of an eligible disaster under clause 4.2, the state may submit a claim to the Secretary for financial
assistance in respect of state expenditure on eligible measures for that disaster. The claim may be submitted at any time and must be in the form set out in Attachment B (General Claim Form) and Attachment C (Expenditure Breakdown Form).

Note 1: see clause 7.4 regarding the acceptance of an audited financial statement as a claim.

Note 2: for further details on submitting a claim see Guideline 1/2007.

6.2 Claim must be supported by certified statement of expenditure

Each general claim must be supported by a statement certified by an officer of the state Treasury, or an officer of the agency which has responsibility for the state in relation to the Natural Disaster Relief and Recovery Arrangements. The statement must be in the form set out in Attachment B (General Claim Form).

6.3 Commonwealth may request additional information

After receipt of a claim, the Secretary may at any time ask the state to provide information that the Secretary considers necessary to ensure that payment is in accordance with the principles and guidelines in this Determination.

6.4 Process for resolving disagreement about claimed amount

A state must provide the information requested by the Secretary within a reasonable time. If the information indicates that payment of all or part of the amount of the claim would be inconsistent with this Determination, payment in respect of that part or amount will be withheld. If no agreement can be reached between officials of the state and the Secretary, the matter is to be referred for resolution to the Minister.

7 WHAT ARE THE ACQUI TTAL AND AUDIT REQUIREMENTS?

7.1 State must provide audited financial statement

If a state has:

a) made a claim under clause 6.1, or

b) received an advance payment from the Commonwealth under subclause 1.2.3;

the state must provide an audited financial statement in support of that claim or as evidence of state expenditure of the advance payment, as the case requires. The statement must be in the form of Attachment C (Expenditure Breakdown Form), Attachment D (Independent Audit Report) and Attachment E (Audited Financial Statement Claim Form) and must be certified by the Auditor-General of that state (or his or her delegate).

Note 2: for further details on submitting a claim see Guideline 1/2007.

7.2 Time limit for provision of audited financial statement

An audited financial statement in support of a claim must be made as soon as practicable after the end of the financial year in which the claim, or advance
payment, was made. If the state is unable to comply within 6 months after the end of the financial year, it must write to the Secretary seeking an extension of time.

7.3 Payment of difference between amount claimed and amount indicated by audited financial statement

If an audited financial statement provided by a state reveals a difference between the amount of assistance provided and the amount of assistance calculated under this Determination, the difference is due and payable (by the state, or by the Commonwealth, as the case requires) within 2 months after the Secretary notifies the state of the difference.

7.4 Audited financial statement may be treated as claim

If a state has not made a claim under clause 6.1, it may make a claim at any time in the form of an audited financial statement. The statement must be in the form of Attachment C (Expenditure Breakdown Form), Attachment D (Independent Audit Report) and Attachment E (Audited Financial Statement Claim Form) and must be certified by the Auditor-General of that state (or his or her delegate).

8 DICTIONARY OF TERMS

8.1 Dictionary

In this Determination:

allowable time limit has the meaning given in subclause 5.3.

betterment has the meaning given in subclause 3.6.5.

Category A measure has the meaning given in clause 3.2.

Category B measure has the meaning given in clause 3.3.

Category C measure has the meaning given in clause 3.4.

Category D measure has the meaning given in clause 3.5.

concessional interest rate loan means a loan made by a state under a scheme referred to in subclauses 3.3.2(a) or 3.3.2(b).

Department means the Australian Government Department of Transport and Regional Services.

disaster mitigation means measures taken in advance of, or after, a disaster aimed at decreasing or eliminating its impact on society and the environment.

eligible disaster has the meaning given in clause 5.4.

eligible measure has the meaning given in clause 3.1.

eligible undertaking has the meaning given in subclauses 3.6.2 and 3.6.3.
essential public asset has the meaning given in subclause 3.6.1.

farm enterprise means an activity listed in Division A of the Australian and New Zealand Industrial Classification published by the Australian Bureau of Statistics.

financial year means a period of 12 months commencing on 1 July.

first threshold has the meaning given in subclause 5.7.1(a).

individual means a natural person.

Minister means the Commonwealth Minister for Local Government, Territories and Roads.

natural disaster has the meaning given in clause 2.1.1.

person means an individual, a body politic, or a body corporate.

primary producer means an individual, partnership, trust or company that:

a) has a right or interest in a farm enterprise; and

b) contributes a significant part of his, her or its labour and capital to the enterprise; and

c) derives at least 51 per cent of his, her or its income from the enterprise.

second threshold has the meaning given in subclause 5.7.1(b).

Secretary means the Secretary of the Department. A reference to the Secretary includes a reference to an appropriate official of the Department.

small business means a business, other than a farm enterprise, that employs fewer than 20 full-time equivalent staff. That is, the sum total of all standard hours worked by all employees (whether full-time or part-time) is less than the number of standard hours that would be worked by 20 full-time employees.

small disaster criterion has the meaning given in clause 5.5.

state includes the Australian Capital Territory and the Northern Territory.

8.2 Interpretation

In this Determination:

8.2.1 The singular includes the plural and vice versa, and a gender includes other genders.

8.2.2 Clause and subclause headings are inserted for convenience only and have no effect in limiting or extending the language of the provisions of this Determination.

8.2.3 Notes and examples to provisions of this Determination form part of the Determination but if there is any inconsistency between a provision of this Determination and a note or example, the provision prevails.
8.2.4 Another grammatical form of a defined word or expression has a corresponding meaning.

8.2.5 If a day on or by which an obligation must be performed or an event must occur is not a business day, the obligation must be performed or the event must occur on or by the next business day.

8.2.6 Clause 8.1 and this clause also apply to the interpretation of any schedule, guideline or other instrument issued under this Determination.

9 MISCELLANEOUS

9.1 Guidelines

The Secretary may issue guidelines from time to time to:

a) provide clarification of the interpretation and administration of this Determination; and

b) to provide assistance and guidance on the forms and procedures to be adopted by the states for obtaining payments under this Determination.
NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS
Schedule 1

This Schedule is issued as necessary to establish the rates and ceilings for Natural Disaster Relief and Recovery Arrangements reimbursement for eligible measures taken on natural disaster relief and recovery.

Subclause 3.3.2(a) and 3.7.1 — Loans to small businesses or primary producers
Amounts to be established by the state.

Subclause 3.3.2(b) and 3.7.2 — Loans or grants to individuals and voluntary non-profit bodies
A maximum loan of $100,000 and grant of $5,000 to any one applicant with the first $30,000 (or part thereof) by way of combination of loan and grant in the ratio 5:1.

Subclause 3.3.2(d) and 3.7.4 — Interest rate subsidy
Maximum allowable loan amount that qualifies for the interest subsidy is to be established by the states.
The maximum Commonwealth contribution is calculated using an interest rate based on 50 per cent of the ten-year Treasury bond rate averaged over April – May – June for the applicable financial year. The subsidy shall be the lesser of this amount or 50 per cent of the actual (commercial) interest amount.

Subclause 3.3.2(e) and 3.7.5 – Grants to needy individuals and voluntary non-profit bodies
A maximum grant of $10,000 for voluntary non-profit bodies and $5,000 for needy individuals (subject to means testing).

Clause 3.4 – Category C Measure (Community recovery package)
Community recovery fund — Amount to be determined at time of triggering assistance.
Recovery grants for small businesses — A maximum grant of $10,000, up to $25,000 under exceptional circumstances.
Recovery grants for primary producers — A maximum grant of $10,000, up to $25,000 under exceptional circumstances.

Clause 5.5 — Small disaster criterion
The small disaster criterion for the financial year 2006–07 is $240,000.

Subclause 5.12.1 — Concessional interest rate loan
Calculation of the applicable interest rate is based on 50 per cent of the ten-year Treasury bond rate averaged over April – May – June for the applicable financial year.
The amount of financial assistance on eligible measures under the Natural Disaster Relief and Recovery Arrangements may be subject to ceilings determined by the Minister.
Pursuant to clause 9.1, Natural Disaster Relief and Recovery Arrangements Determination, the following guideline applies to the form for the preparation of financial claims and audited financial statements.

Guidelines

(i) In accordance with clause 6.1 of the Determination, the state is to submit to the Department details of expenditure on eligible measures under the Natural Disaster Relief and Recovery Arrangements. This information is to be in the formats provided as part of this guideline. Four specific forms are available:

- General Claim Form (Attachment B)
- Expenditure Breakdown Form (Attachment C)
- Independent Audit Report (Attachment D)
- Audited Financial Statement Claim Form (Attachment E)

The information to be supplied includes a financial summary and detail on categories of expenditure by each eligible disaster.

(ii) Any claim is to be accompanied by additional information required by the following:

- Guideline 3/2007 Criteria for the Provision of Evidence of Appropriate Natural Disaster Mitigation Strategies; and
- Clause 4.3 – State must publicly acknowledge Commonwealth assistance.

(iii) In accordance with clause 7.1 of the Determination, where a claim has been made, each state is to furnish to the Department as soon as practicable but in any case within six months following the end of the financial year, an audited financial statement in the format outlined at Attachment C, D and E covering the full financial year.
CRITERIA FOR THE PROVISION OF INTEREST RATE SUBSIDIES

Pursuant to clause 9.1, Natural Disaster Relief and Recovery Arrangements Determination, the following guideline applies to the criteria for the provision of interest subsidies.

**Guidelines**

Under subclauses 3.3.2(d) and 3.7.4 of the Determination states are able to seek reimbursement for subsidies made to small businesses or primary producers to cover the interest costs of commercially raised loans used for recovery from an eligible disaster, subject to the following:

(i) reimbursement is only available for interest on loans that have been provided by private sector authorised deposit taking institutions (ADTs);

(ii) the subsidy shall be capped as per Schedule 1 of the Determination;

(iii) claimants first apply to states who assess eligibility. Successful claimants are issued with a letter from states, which they provide to a participating ADTI. The ADTI assesses the claimant against lending guidelines developed under this scheme; and

(iv) loans provided by ADTIs are to be over a maximum 10-year period. The subsidy will continue each year, diminishing to zero after 10 years.

Where the interest rate subsidy measure is adopted, only the subsidy component will be considered state expenditure, not the loan principal element.

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2 For the purposes of this Guideline, Authorised Deposit Taking Institutions include banks, building societies, credit unions and pastoral houses.
Pursuant to clause 9.1, Natural Disaster Relief and Recovery Arrangements Determination, the following guideline applies to the criteria for the provision of evidence of natural disaster mitigation strategies.

Guidelines

The Commonwealth considers that disaster mitigation, in partnership with state governments, is an important principle to be advanced under the Natural Disaster Relief and Recovery Arrangements. This requirement is consistent with good accountability, and provides assurance to communities and the general public of governments’ ongoing commitment to safeguarding the well-being of their communities through providing effective levels of disaster prevention and protection.

Subclause 4.4.1 of the Determination states:

“A condition of assistance for restoration or replacement of an essential public asset is that:

a) the state has developed and implemented natural disaster mitigation strategies in respect of likely or recurring disasters, and has also encouraged local government bodies to develop and implement such strategies. (These strategies may have been developed by Commonwealth, state or local government bodies) …”

To give effect to clause 4.4, the following is to be followed:

(i) Provided that the Secretary can be satisfied that reasonable progress has been made towards the development and implementation of natural disaster mitigation strategies, funding of claims under the Natural Disaster Relief and Recovery Arrangements from individual local governments through their respective states will not be withheld.

(ii) Disaster mitigation means measures taken in advance of, or after, a disaster aimed at decreasing or eliminating its impact on society and the environment.
(iii) Responsibility for determining the optimal combination of measures and what constitutes an acceptable mitigation strategy for any given area are risk assessment matters for state and local governments, taking into account relative benefits and costs.

(iv) In submitting a claim for reimbursement under the Natural Disaster Relief and Recovery Arrangements states are to provide evidence of appropriate natural disaster mitigation strategies.

(v) If the Secretary does not consider that reasonable progress has been made towards the development and implementation of natural disaster mitigation strategies in respect of likely or recurring disasters, the Secretary will raise its concerns with the state. The Commonwealth may seek a commitment by the state to rectify any agreed inadequacies. Where no agreement can be reached, between officials of the state and the Secretary, the matter shall be referred for resolution to the Minister in consultation with the relevant state minister.
COMMUNITY RECOVERY PACKAGE GUIDELINES