# *Mainstreaming law & policy project:*

## *A (nearly) end of project report…*

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# The project aims

- Emergency management is a whole of government and cross-sectoral challenge. It need to be a mainstream issue – it's everyone's business.

- We asked "How does law impact upon emergency management and in particular the emergency services?"

- (Focus on EM and EMOs.)

# Methods

- Legal research and policy analysis.

- Desktop studies of law and policy.

- Informed by end user input.

- Interviews with chief officers and lots of feedback from volunteers and others.

- Assistance from NSW RFS, Treasury Managed Fund and Suncorp Metway.

- Summary outputs (and see Eburn's blog)

# SUMMARY OUTPUTS AND INSIGHTS

Eburn, M and Jackman, B, 'Mainstreaming fire and emergency management into law' (2011) 28(2) *Environmental and Planning Law Journal* 59-76.

- – Reporting on literature review and review of evidence before the 2009 Vic Bushfires Royal Commission to identify perceived legal impediments to effective mainstreaming.
- – Opportunities for mainstreaming do exist (extent), but may disagree with implementation (strength).

# Published

Eburn, M and Dovers, S, 'Understanding Fire Law' (2011) 82 *Fire Note*

–  A preliminary report on the mainstreaming fire management into law and policy and the start of our analysis into the extent of post-bushfire litigation.

# Published

Eburn, M and Dovers, S, 'Better understanding needed of legal risks from fires' (Winter 2011) *Australia Fire* 20.

- A preliminary report confirming that many of the perceived legal risks were misunderstood and/or overstated.

# Published

Eburn, M and Dovers, S, 'The Stakes Are High for Australian Emergency Managers' (October 2011) *IAEM Bulletin: Online Edition,* 31, 33.

- – A report on the impact of inquiries and public criticism on emergency managers.

# Published

Eburn, M., 'Changes to occupational health and safety laws and the impact on volunteers in the emergency services' (2011) 26(4) *Australian Journal of Emergency Management* 43-47.

- analysis and advice re an emergent issue

# Published

Eburn, M., 'The emerging legal issue of failure to warn' (2012) 27(1) *Australian Journal of Emergency Management* 52-55.

– The issue of effective warnings remains the 'Achilles heel' in emergency response, both in practice and in terms of legal liability.

# Published

Eburn, M., 'Protecting those who protect us', (2012) 25(2) *National Emergency Response* 5-7.

– An invited paper on the implications of new Work Health and Safety laws for volunteers in the emergency services.

# Published

Eburn, M, and Dovers, S, 'Australian wildfire litigation' (2012) 21(5) *International Journal of Wildland Fire* 488-497.

- A seminal publication on the reality of post fire litigation based on the available reported and online cases and the experience of the NSW Rural Fire Service.
- There isn't much; fear of law bigger than the real risk.

# Published

Eburn, M., and Handmer, J, 'Legal Issues and Information on Natural Hazards' (2012) 17 *Local Government Law Journal,* 19-26.

– Considering the real liability of councils if they release hazard mapping information and concluding the fear is overstated. Information on risk should be released.

# Published

Eburn, M., 'Emergency services and health and safety', (2012) 8(1) *Crisis Response*s 10-13.

– An invited paper following significant UK prosecutions and changes to Australian Work Health and Safety law and their implications for emergency responders.

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# Published

Eburn, M., and Dovers, S, 'Mainstreaming Fire and Emergency Management across Legal and Policy Sectors: Preliminary Findings on Measures of Success', (2012) 27(2) *Australian Journal of Emergency Management*, 14-19.

- Part of a special issue of AJEM focussing on the related CRC projects. It was argued that an absence of clearly defined goals in emergency management policy inhibits our ability to make decisions on what are acceptable trade-offs and makes it impossible to know when EM goals have been achieved.

# Published

Eburn, M and Dovers, S, 'Mainstreaming fire and emergency management – What's possible? What's feasible?' (2012) 97 *Fire Note*

- – This publication identified areas that would benefit from policy or legal development; eg identifying the objective and measures of success of EM policy; avoid 'policy by inquiry'; establish a more effective way to identify potential learning from past events.

# Published

Eburn, M., 'Sharing responsibility and community resilience: The role of law in converting policy to action' in Clarke, M and Griffin, G (eds) *Next Generation Disaster Management* (Australian Security Research Centre, 2012).

- Law is a tool subject to constitutional and political limitations. A significant impediment to developing resilient communities is the lack of legal standing of 'community'.

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# In Press

- Eburn, M. 2013. *Emergency Law: Rights, liabilities and duties of emergency workers and volunteers* (4th ed, The Federation Press, Sydney).
  - Updated text: cases and materials on law dealing with the emergency services and emergency response.

# Under review

- Eburn, M, 'Suing the Australian fire brigades: a question of duty' Submitted to *Dictum*, the law journal of Victoria University.

  – Reporting on three cases that were decided in 2012 by the Supreme Courts of New South Wales, Tasmania and the Australian Capital Territory and the implications of these decisions for Australian fire services.

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# Under review

- Eburn, M and Dovers, S, What are the 'measures of success' in fire policy and management?' Submitted to the *International Journal of Wildland Fire.*
  - Final report on research including interviews to identify 'measures of success' and their limitations
  - Need to define, be realistic, accept multiple measures.

# Under review

- Eburn M and Dovers, S, 'Learning lessons from disasters: alternatives to Royal Commissions and other quasi-judicial inquiries' Submitted to *Australian Journal of Public Administration*.

  - Final report on research on the limitations of post-event as ways to identify lessons to be learned from fire and hazard events.

  - 'Lessons learned' facility, different forms of inquiry…

# Forthcoming

- Eburn, M and Dovers, S, 'Risk sharing and risk assessment in fire management'.
  - A paper considering how the perception of risk and appropriate risk management varies depending on one's perspective from emergency service chief officer to community member.

# Forthcoming

- Eburn M, 'Bushfires and Australian emergency management law and policy: Adapting to climate change and the new fire and emergency management environment'. Invited contribution to a special 'Jurisprudence of Disasters' issue of *Studies in Law, Politics, and Society.*
    - Assessing and mitigating risk is fundamentally an issue of politics not science.