

Disaster for Darwin vs Australia on Fire—a Politico-Legal Review of Governments in Action

Jocelynn Scutt

University of Buckingham, United Kingdom

Abstract

For two days in December 1974, from 24 to 26 December, Cyclone Tracy hit Darwin, in the Northern Territory of Australia, killing 71 people, seriously injuring 145, causing minor injuries to 500, damaging buildings, tearing roofs from houses, sweeping up trees and rubbish bins, rending children's playground equipment, and bending in half the anemometer needle in Darwin Airport control tower. The festive season ended with a damage bill topping AUD\$800 million.

From June 2019 through to March/April 2020, bushfires ravaged Australia, burning 10 million hectares, ending lives and destroying livelihoods, killing or injuring some three billion animals, with kangaroos leaping to avoid the inferno, while koalas whimpered as the oncoming flames sped towards them, filling the Australian bush with the agonised cries of animals in danger, distress, dying and death. Some 3,500 homes were burned out, almost 6,000 outbuildings demolished, 34 people killed, more injured, and the cost in monetary terms was estimated at over AUD\$103 billion. During Black Summer, the Australian land expanse devastated was as if, were the conflagration to be experienced in England, the entire country would burn from Dover to the Scots' border.

These disasters found both serving prime ministers absent overseas at crucial times. Gough Whitlam, prime minister during the cyclone disaster, returned from Greece immediately. Scott Morrison, prime minister during the fires, left in the midst of the conflagration. Whitlam set up a Darwin Reconstruction Commission. No Bushfire Reconstruction Commission was established by Morrison. Two different leaders, two different responses from government. This paper explores the disasters and the differences, the politico-legal dimensions of the way governments can respond or fail, and the process of recovery.

Keywords: Disaster management; bushfires; cyclones; climate change; Australian bushfires; Darwin Cyclone.

Introduction

For two days in December 1974, from 24 to 26 December, Cyclone Tracy hit Darwin, in the Northern Territory of Australia, killing 71 people, seriously injuring 145, causing minor injuries to 500, damaging buildings, tearing roofs from houses, sweeping up trees and rubbish bins, snatching up children's playground equipment, and bending in half the anemometer needle in Darwin Airport control tower after it had measured winds of up to 217 km/h. The festive season ended with a damage bill topping AUD\$800 million by one estimate, AUD\$950 million by another, and the potential for ongoing psychological injury to evacuees.¹

Fifty years later, from June 2019 through to March/April 2020, bushfires ravaged Australia, burning 10 million hectares, ending lives and destroying livelihoods, killing or injuring some three billion animals, with kangaroos leaping to avoid the inferno while koalas whimpered as the oncoming flames sped towards them, filling the Australian bush with the agonised cries of animals in danger, distress, dying and death. Some 3,500 homes were burned out, almost 6,000 outbuildings demolished, 34 people killed, more injured, and the cost in monetary terms was estimated at over AUD\$103 billion. To illustrate the scale of the tragedy unfolding during Black Summer and the Australian land expanse devastated – supposing such a conflagration were

¹ AUD\$100 in 1974= AUD\$931 in 2021; Lamberti's Lab, "Cyclone Tracy"; Walters, "The Reconstruction of Darwin"; Parker, "Cyclone Tracy and Darwin evacuees"; Parker, "Psychological Disturbance in Darwin."



to be experienced in England, the magnitude of the disaster would have seen the entire country burning from Dover to the Scots' border.²

Two major catastrophes, 50 years apart. How did governments react? The differences in addressing these dual disasters, the politico-legal dimensions of the way governments can respond or fail and the process of recovery illustrate how leadership is vital. This means not just any leadership. Nor is it, ultimately, simply a question of legal powers of federal, state and territory governments in a federal system. The governance required must have the capacity to combine compassionate understanding with a recognition of the urgency of the moment, the need for both an immediate and long-term approach to planning and recovery, a capacity to cooperate across federal, state and/or territory borders, avoidance of debilitating ideological fixation and an ability to acknowledge political failure so to organise and implement a positive response after a faltering beginning.

Disaster at the Acropolis, Devastation in Honolulu

When Cyclone Tracy hit Darwin, Prime Minister Gough Whitlam was taking a tour of the Acropolis in Greece. Elected in 1972 in a landslide,³ the Whitlam Labor Government displaced a conservative Liberal–Country Party Coalition Government in power for 23 years, from 1949 to that December 1972 election. Led by Robert Menzies for 17 years before his retirement from politics in 1966,⁴ changes of leadership in the coalition following his departure showed a lack of succession planning. Whatever his success as a federal government leader, Menzies exhibited none of the leadership necessary to ensure handing over to secure and insightful leadership for the future. Nonetheless, after Menzies' retirement in 1966, it took four years and a change of leadership in the Australian Labor Party⁵ before, under Whitlam, Labor at last gained office.

For those seeking a change of direction, the Whitlam Government brought fresh new hope to Australia—Whitlam running government together with his deputy Lance Barnard as a duopoly for the first weeks following the election,⁶ with a policy platform broad in scope, substantive in depth, an agenda designed to position Australia as an independent nation—shedding the apron strings of 'the mother country', the United Kingdom, and distancing itself from the toadying approach to the United States (US) that characterised the relationship fostered by the Liberal–Country Party Coalition. In many analyses, it was this desire—shaped in deeds, not words—to set Australia on its own footing independent of the US that, together with collusion between the British Crown and the Australian Governor-General, led to the November 1975 ousting of the Whitlam Government.⁷

Five decades later, Prime Minister Scott Morrison won an election that polls predicted as a clear win for Labor.⁸ The Liberal–National Party administration was expected to lose, bringing to power a government under the leadership of Bill Shorten—campaigning on a platform promoting a thriving economy where disadvantage was undone and the climate emergency was acted upon. Scott Morrison's unexpected win followed his gaining of party leadership (of the Liberal Party of Australia) after some swift-footed manoeuvring ousting the then-leader and prime minister Malcolm Turnbull and dislodging Minister for Home Affairs Peter Dutton, who (along with supporters and others) had seen himself as Turnbull's successor.⁹

² Estimates sometimes differed, some omitting Tasmania (the island state being separate from the mainland). The Royal Commission into National Natural Disaster Arrangements ('the Bushfire Royal Commission') may be the most comprehensive source.

³ The December 1972 election results were:

- popular vote: 49.59% Australian Labor Party (ALP), 32.04% Liberal Party, 9.44% Country Party, 5.25% DLP, 2.42% Australia Party, and 1.27% 'other'.
- two-party-preferred vote: 52.70% ALP, 47.30% Liberal–County Coalition.
- Parliament seats: 53.60% ALP, 47.30% Liberal–County Coalition.

⁴ Liberal NSW, "75 Years - 1949 – 196."

⁵ Notes: 'Labour' and 'Labor' spellings have been used at various times by the ALP. Today it is firmly 'Labor', so that spelling is used throughout. See Scutt, "Subverting or Affirming Indigenous Rights." The author is a member of the Australian Labor Party and UK Labour Party and was Labour County Councillor for Cambridgeshire 2013–2021, and Labour City Councillor for Cambridge 2021–present.

⁶ Australian Politics.com, "The First Whitlam Ministry." This was the only two-member government (deemed 'the duumvirate') in Australia's federal history. This did meet with some controversy, not only with the press. Some among his colleagues who were anxious to begin working on portfolios they anticipated were unhappy with effectively being kept out of executive roles for the two-week period of the duumvirate.

⁷ See, for example, Hocking, *The Palace Letters*; Hocking, *The Dismissal Dossier*; *Hocking v Director-General of the National Archives of Australia* [2020] HCA 19; Sydney Morning Herald, "Buckingham Palace Issued Rare Statement." On the Whitlam Government, see, for example, Freudenberg, *A Certain Grandeur*.

⁸ Green, "Federal Election 2019 Results."

⁹ Yaxley, "Scott Morrison Wins Leadership Spill."

The May 2019 election augured ill for action on climate change. The Liberal–National Coalition Government harboured climate change sceptics¹⁰ who held the upper hand, the prime minister among them. When the bushfire season hit in September 2019, despite the ferocity of the fires and their savage spread through the country, Scott Morrison’s climate change denial suffered no blow. The prime minister decried any connection between climate change and the conflagration, in a country where bushfires and floods are recognised phenomena but never as widespread, long-lasting and with such an impact. So sanguine about the matter, Morrison departed in December for Hawaii and his holiday season,¹¹ saying his family had precedence ahead of the still-raging fires engulfing New South Wales, Queensland, and Victoria (and spreading further into South Australia, Western Australia, the Australian Capital Territory (ACT) and Tasmania)—from which there seemed to be no relief.

The absence of both prime ministers in a time of national need created a heyday for the press. Images of Whitlam strolling the Greek ruins were juxtaposed against people weeping while standing beside wrecked homes flattened into shattered glass and chipboard, barely recognisable and completely uninhabitable, their structures wasted by the winds. Morrison’s absence differed. Leaving mid-disaster, keeping his head down, none of the usual set-piece images framed by the beaches or in the bars of Honolulu surfaced,¹² but multiple images of the sand and the sea were interposed between seemingly endless auras of flame rising above the bush, flashing along the tops of the trees with kangaroos hopping with frantic urgency to beat the flames. Notable about the 2019 depiction of the Australian Prime Minister was, however, the lack of any mention of the 1974 example of a prime minister missing in action. Even the right-wing press did not revive the Acropolis story seeking to deflect criticism from ‘their’ prime minister by focusing on a Labor prime minister’s past perceived error.

The crucial difference between the two may have led to this press silence. Whitlam was out of the country when disaster struck. Contrarily, Morrison was present when the fires broke out, the tragedy in full glare when he deserted the nation, his office, and the flames for the luxury of sun and ocean view. From September 2019, the fires had killed at least nine people, burned more than 700 homes to the ground and destroyed millions of hectares along with the bush and its wombats, goannas, koalas and kangaroos, sending many more fleeing inland, away from the inferno. Flying luxury class, Morrison left for Honolulu and Waikiki beach in mid-December, leaving behind the dead and the dread (fear embracing the deaths of two firefighters).¹³

Another contrast lay between the two prime ministers. Whitlam redeemed himself through his government’s actions in reconstructing Darwin and ensuring care for those desolated and damaged atop his immediate return from Syracuse, Sicily, and walkabout through the Northern Territory wreckage. Not only did Morrison depart in the middle of the devastation and then show little sign of the Honolulu jaunt coming to an end, but he and his government failed in the redemption stakes. His statement in a 2GB radio interview that Australians ‘would understand’ his being away, difficulty in returning, and ‘would be pleased’ he was ‘coming back’, but: ‘... they know that, you know, I don’t hold a hose, mate’¹⁴ was topped when standing upon Australian soil once more. The image of Morrison, upon that delayed return, pressing at Cobargo resident Zoey Salucci-McDermott to shake his hand, she resisting, was a defining moment, shown over and over on mainstream and social media.¹⁵ As he ignored her resistance, grabbing her hand anyway, the Salucci-McDermott and Morrison exchange took place on Thursday, 2 January, when at last, shamed into going to the heart of the fire-ravaged state of New South Wales, Morrison toured the burnt terrain of the most devastated areas. This stark contrast between Whitlam and Morrison, Morrison featuring in stories deploring his absence, ignorance and arrogance—although he did later express ‘regret’ at having departed during the fires¹⁶—revealed it was either:

- Whitlam’s positive action had cast the Greek ruins into the depths of memory, forgotten; or
- In the absence of any sign of the jaunt in Honolulu coming to an end, it was considered preferable to drop any reference to Whitlam, for this would serve only to highlight the contrast between a prime minister who, in the end, took on the prime ministerial role with effect, and one who denied the need for leadership in the face of fire.

A third possibility is the chronic lack of historical memory that plagues today’s media, generated perhaps by the twenty-second news flash and ‘here today, gone tomorrow’ social media perspective spawned by Twitter, Instagram, TikTok and their ilk.

¹⁰ Part of the reason for Malcolm Turnbull’s first ousting as leader of the Liberal–National Coalition was when he endorsed a relatively mild environmental program that did recognise global warming as real.

¹¹ Wright, “Scott Morrison’s Hawaii Holiday”; Daily Mail, “‘I Don’t Hold a Hose, Mate.’”

¹² Though a photograph did emerge of him sitting poolside with his wife, Jennifer Morrison, mobile phone in hand and drink poised, ready for lifting to his lips.

¹³ O’Kane, “Australia Woman Forced to Shake Prime Minister Scott Morrison Hand”; Maiden, “PM Escaped Sydney’s Bushfires.”

¹⁴ Daily Mail, “‘I Don’t Hold a Hose, Mate.’”

¹⁵ Yaxley, “Scott Morrison Wins Leadership Spill”; O’Kane, “Australia Woman Forced to Shake Prime Minister Scott Morrison Hand.”

¹⁶ Moore, “Scott Morrison Refuses to Reveal”; News.com.au, “Photos Emerge of Scott Morrison.”

Another response would be to say that this failure was unfair because Whitlam was advantaged by the federal government's powers in relation to the Northern Territory, so being able to take decisive action. In contrast, Morrison had to deal with the state governments of New South Wales, Queensland and Victoria, along with the other mainland states. Further, Whitlam and his wife, Margaret, travelled more extensively than any other prime minister (though not leaving Australia amidst disaster),¹⁷ and media stories of Whitlam exhibiting his own brand of arrogance dogged him as prime minister.¹⁸

Darwin Reconstruction, Recovery and Renewal

In February 1975, the Whitlam Labor Government established the Darwin Reconstruction Commission to address the need for reconstruction, recovery and renewal in a capital city where there was no running water, no electricity, no sanitation, an enormous risk to public health and, with so many homes razed to the ground, scarce habitation, with intact houses rare and more than 30,000 inhabitants gone to find shelter and solace interstate or outside the city's boundaries.¹⁹



Figure 1. Darwin suburb of Wagaman, December 1974²⁰

The Darwin Reconstruction Commission was established under the *Darwin Reconstruction Act 1975* (Cth), the second Act passed by the Federal Parliament in 1975, preceded only by the *National Health Act 1975* (Cth)²¹ This indicates the primary importance paid by the Whitlam Government to the Darwin catastrophe. The *Darwin Reconstruction Act 1975* comprised 62 sections outlining the establishment of the Commission, its powers and functions, and the obligation of all federal government departments to work cooperatively with the Commission, providing it with 'such assistance in the carrying out of its functions

¹⁷ National Archives of Australia, "Gough Whitlam."

¹⁸ Bolt, "Gough Whitlam's Failures."

¹⁹ National Museum of Australia, "Cyclone Tracy."

²⁰ Image from National Museum of Australia, "Cyclone Tracy."

²¹ Indicative of the importance placed on the reconstruction of Darwin and the establishment of the Commission is that the Act was second only to Act No. 1 of 1975, the *National Health Act 1975* (Cth)—addressing hospital treatment and nursing home care, nursing home and 'handicapped persons' homes approval, inspection of hospitals and nursing homes, variation or revocation of home approval, the benefit payable in respect of nursing home care, provisions addressing benefits where compensation or damages entitlement arises, etc.

as is reasonably practicable'.²² The Commission's functions encompassed development, planning and reconstruction, providing that the Commission would, over a period of five years:²³

- a) ... assist the Australian Government in determining the desirable extent, nature and purposes of the use and development of the Darwin Area;
- b) ... carry out planning in relation to development, construction and land use in the Darwin Area in accordance with any determinations of the Australian Government in respect of matters referred to in paragraph (a), and recommend to the Minister general planning and development schemes for the Darwin Area;
- c) ... carry out, and to supervise, control and co-operate in the carrying out by other authorities and persons of, development and construction in the Darwin Area;
- d) ... provide, and to arrange, co-ordinate and control the provision of, works, services, facilities and public utilities in the Darwin Area;
- e) ... furnish to the Australian Government, through the Minister, advice with respect to matters relating to the expenditure of public and private moneys in and in connexion with development and construction in the Darwin Area and the co-ordination of that expenditure and with respect to other matters related to the functions of the Commission;
- f) ... formulate proposals for the making of regulations under this Act; and
- g) ... [exercise] such other functions in relation to Darwin and the Darwin Area as ... conferred ... by [the] Act or ... regulations.

The Australian Constitution²⁴ provides for the acquisition of land upon payment of just compensation. Consistent with this, the *Darwin Reconstruction Act* gave the Commission power to devise planning and development schemes for the development and reconstruction of 'the Darwin Area' so going beyond the city boundaries,²⁵ with provision for objections by any person with an interest in land that might be affected, the Commission having the power to entertain written or oral submissions. Having heard any objections or if none was lodged within one month, the Commission could alter the proposals and then recommend to the Minister for the Northern Territory that the plans—altered or as originally devised—go ahead. Crown land was brought under the Commission's ambit so that it could be included in development and planning proposals. Where private land was subject to acquisition, the Commission was authorised to pay compensation as set by a court of competent jurisdiction.²⁶

The minister and Commission were to work together effectively to deliver a whole-of-city planning and development model, the minister taking into account the Commission's recommendations and proposals. When approved, all federal government departments and authorities were required to comply with the schemes. This meant assisting or working with the Commission in bringing the plans and the development into being. Having established objectives achievable within periods set by it, the Commission would advise the minister of the 'nature and extent of public and private investment required to meet' objectives. Compliance with the directions of the minister was necessary; however, the Commission had specific powers beyond devising planning and development proposals:²⁷

- a) to control and administer land vested in the Commission or placed under the control of the Commission;
- b) to erect, repair or demolish buildings, make roads, plant or remove trees and perform other works;
- c) to make contracts, including contracts for the performance of building or other work for other authorities or private persons;
- d) to make use of agents;
- e) to purchase or take on hire, and to dispose of or let out, plant, machinery, equipment or other goods;
- f) to provide transport, accommodation, provisions and amenities for, and for the families of, officers and employees of the Commission or persons having contracts with the Commission;
- g) to make charges for work done, or for services, facilities or utilities rendered or provided by, the Commission; and
- h) to do anything incidental to any of its powers.

As a preventative measure, provision was made for future cyclone activity, too. The Commission was required to 'give particular attention to the extent to which, and the manner in which, buildings and services in the Darwin Area should be made capable of resisting damage by cyclone'.²⁸

No lease of land could be granted, whether by the Australian Government or otherwise, without the Commission's permission. No 'commencement, continuation or completion' of building construction 'or the performance on any land of works for the

²² *Darwin Reconstruction Act 1975* (Cth), section 7.

²³ Section 4 provided that the Commission would wind up after five years and that with the expiration of the five-year period, the only functions it would exercise would be those necessary for the purpose of winding up. Section 5 sets out the powers and functions as listed here.

²⁴ An Act of the United Kingdom Parliament, properly titled the *Commonwealth of Australia Constitution Act 1900* (UK).

²⁵ An area 40 kilometres from Darwin General Post Office in the centre of the city: *Darwin Reconstruction Act 1975* (Cth), section 3.

²⁶ *Darwin Reconstruction Act 1975* (Cth), section 16(4).

²⁷ *Darwin Reconstruction Act 1975* (Cth), section 12.

²⁸ *Darwin Reconstruction Act 1975* (Cth), section 13.

purposes of the erection of a building' (by any party, including the Australian Government or a public authority) could go ahead without Commission approval and compliance with any conditions it set.²⁹ The Commission further had the power to approve and publish building codes or other rules not inconsistent with regulations promulgated under the Act to guide those seeking approval for building and construction.³⁰

The Commission's powers extended to clearing up the damage, including being authorised to enter onto any land, Australian Government-owned or in private ownership 'for ... public safety or sanitation ... [and to] demolish dangerous or damaged structures, remove debris, goods and materials, and perform work'.³¹ In addition, the Commission had the power to 'direct all or any person or persons to leave, or prohibit all or any persons or person from entering, premises in the Darwin Area' where those premises were 'in a dangerous condition or unfit for occupation'.³²

Thus, the federal government clearly had every intention of ensuring that Darwin would be rebuilt, with rebuilding complete within five years. This was an ambitious program, an ambitious target and evidence of the prime minister's determination to overcome the suggestion of being an absentee leader in a time of disaster. At the time, the Northern Territory (where Darwin is the capital) had no status independent of the federal government. Originally, it was under the protection of South Australia, but upon federation, the Commonwealth Government took it over, along with the conservatorship that existed for the ACT (Canberra). In any event, Cyclone Tracy and the devastation of Darwin resonated throughout the country, with people from the six states and Canberra sending relief packages of non-perishable food, vegetable plants and seeds, clothing, household equipment and whatever else was needed for those left behind or living on Darwin's outskirts in retreat and safety.

One of the major contributors to this disaster effort was the National Advisory Committee for the International Year of the Woman (National Women's Advisory Committee). The United Nations (UN) had declared 1975 'International Women's Year'. One of the first appointments made by the Whitlam Government was that of a Women's Advisor to the Prime Minister and the Department of Prime Minister and Cabinet. Elizabeth Reid, holding a post-graduate degree in philosophy, became the Women's Advisor. She had attended her first Women's Liberation meeting in Canberra in 1970 and was committed to women's activism. This made the appointment controversial to those on the conservative side of politics, while simultaneously it stirred controversy within the Women's Liberation Movement (WLM). The WLM split, some considering that to take on the role was to join the forces of the establishment ranged against women's rights and freedoms, the others adopting a more pragmatic approach in believing it was worthwhile to test the possibility that the government was committed to advancing women's claims for equal representation and authority within the polity—and, more particularly, within the interstices of government.³³ The National Women's Advisory Committee approach added fuel to the debate which, in accordance with the times, was conducted with vigorously vociferous clamour. Those unaccustomed to women's voices engaging in forceful discussion and rhetoric used the usual traditionalist terms in an effort to dismiss it, labelling the women 'raucous', 'strident' and 'shrill', difference of opinion labelled 'cat-fighting'. The relief packages sent by the National Women's Advisory Committee generated a whole new round of determination to make women's voices not only heard, but count.

As Elizabeth Reid reports:³⁴

Word reached the National Advisory Committee that the women of Darwin needed help and when committee members ask how they could be of help, they were requested to provide skin cream, sunburn lotion, sanitary pads and tampons, combs and lipstick. The latter [the combs and lipstick, particularly the lipstick] seemed to outrage some of the prominent leaders of the Sydney movement. A public meeting was called at Balmain Town Hall [in Sydney] to criticise this funding. Shirley Castley, a member of the National Advisory Committee and long active in the women's liberation movement, was brave enough to attend. No matter what ideological position one took on the use of make-up, or more generally on women as sex objects, in these circumstances we felt we should respond to an expressed need. It was a point of difference between us, exacerbated by the oppositional style adopted by the Sydney movement. Few other funding decisions were as contentions ...

Bodily comforts and disputation about them were one thing—progress in planning, building and development another. Initially, AUD\$300 million was provided by the Australian Government for the rebuilding of Darwin, supplemented by private investment in an effort not only to rebuild, but to claw back what had been lost—the population had been decimated, from 105,000 prior to Cyclone Tracy, to 45,000 after. Many did not return who left under their own power in the wake of the cyclone or were evacuated in a major undertaking aimed at ensuring that a major health risk lying in wait with the sewage broken down,

²⁹ *Darwin Reconstruction Act 1975* (Cth), sections 14, 15.

³⁰ *Darwin Reconstruction Act 1975* (Cth), section 15.

³¹ *Darwin Commission Act 1975* (Cth), section 16.

³² *Darwin Commission Act 1975* (Cth), section 17.

³³ Reid, "The Child of Our Movement."

³⁴ Reid, "The Child of Our Movement," 18.

little if any water available for washing (apart from the ocean) and emergency healthcare brought in as planes took residents out. As in the 2019–2020 bushfires, animals suffered too, and plants were as flattened as the buildings.

Yet the five years allotted to the Darwin Commission were not needed: rebuilding was achieved within little over three years, with Darwin's pre-cyclone population reconstituted by the middle of 1978. There were lessons learned, too. As the National Museum of Australia reports, echoing the authoritative view of K.J. Walters, associate director in the Department of Construction multidiscipline cell handling most of the reconstruction work for the Darwin Reconstruction Commission,³⁵ '... in time, some good ... came out of the Cyclone Tracy experience':³⁶

The main benefit was the introduction of greatly improved building standards that would apply across the entire country. These included requirements that buildings be clad to protect them against flying debris, and that their roofs be tied to the foundations. When Cyclones Larry and Yasi – both stronger than Tracy – hit Innisfail and Mission Beach on 20 March 2006 and 3 February 2011 respectively, there were no casualties.

The events of 1974 remain indelibly marked in Australia's cultural memory. The cyclone's timing and ferocity, the mass evacuations of distressed and injured residents, and the terrible images of destruction shocked many, and reminded them of their human frailty. The extraordinary official response and public generosity reminds us of our social resilience, of how terrible things can happen, and how we can help each other through them.

This somewhat anodyne summing-up fails to recognise that the ultimately successful outcome was not necessarily seen so at the time, nor that it occurred without critique. One senior public servant speaking in the aftermath (circa August 1976) about measures being introduced to address 'natural' disasters nodded vigorously when one of his listeners misunderstood this for 'national' disasters.³⁷ His agreement signalled a perception in Canberra at the time that the public service was engaged in some smart manoeuvring to dampen down public anxiety and media disputation as to the handling of Cyclone Tracy. The government, and its leader, had to work hard to recover from the initial response to his absence when the winds hit.

Yet the lesson learned by the prime minister in office in 1974–1975 was not learned by the incumbent in 2019–2020—remaining in office until 2022.³⁸ Public generosity and social resilience of the people remained true of their reactions to the bushfires, but the official response (including a Royal Commission)³⁹ was 'extraordinary' from another perspective and, on available accounts, remained so.

While the Land Beneath Burns

Over the months of the 2019–2020 bushfires, the soil beneath the smouldering bushland burned for weeks even after the flames had died on the land's surface. Extending from June 2019 through to 31 March 2020, in New South Wales alone, 14 people died. In that state, the conflagration extended across 12.6 million hectares, killing an estimated one billion animals. Some species are feared to have been destroyed permanently in the fire. Hazardous air quality levels were recorded, with an estimated 434 million tonnes of carbon dioxide polluting the atmosphere. More than AUD\$2.6 billion was lost to the flames, with tourism revenues falling to the tune of above AUD\$612 million.⁴⁰ By the end of January, the official end of the bushfire season, 2.7 million hectares of national parks (37 per cent of the national park estate) were destroyed, and overall 6.7 per cent of the state (5.3 million hectares) razed to the ground.⁴¹ For Australia overall, there were 20 official bushfires, with 33 deaths, wildlife consumed in unimaginable proportions, 3,000 homes burned to the ground, 17 million hectares of land burned, and the fires finally extinguished by March 2020.⁴²

³⁵ Walters, "The Reconstruction of Darwin."

³⁶ National Museum of Australia, "Cyclone Tracy."

³⁷ Author's personal knowledge.

³⁸ At the federal election of May 2022, the Liberal–National Coalition Government lost to the ALP Opposition headed by Anthony Albanese, who became prime minister in the subsequent Labor Government: Australian Electoral Commission, "2022 Federal Election."

³⁹ Royal Commission into National Natural Disaster Arrangements, "Royal Commission into National Natural Disaster Arrangements."

⁴⁰ Kalera, "After Horror Six Months."

⁴¹ Kalera, "After Horror Six Months."

⁴² Australian Charities and Not-for-Profits Commission, Bushfire Response 2019–20.



Figure 2. Australian State Declares Emergency as Fires Surround Sydney⁴³

No Bushfire Reconstruction Commission was established to grapple nationally with the fires that ultimately affected all states and territories, with 3,094 houses destroyed across New South Wales, Victoria, Queensland, the ACT, Western and South Australia, 2,439 of them reported as burned to the ground in New South Wales, with 284 facilities and 5,469 outbuildings destroyed, and damage to 1,013 other homes, 194 facilities and 2,042 outbuildings in that state alone. More than 17 million hectares plus 36,000 in Tasmania burned across the country.⁴⁴ Just as during the COVID-19 crisis, which hit on the tail-end of the worst impact of the fires, the federal government and, in particular, the prime minister were in a position to support state premiers' efforts to combat the destruction and to rebuild. A National Bushfire Recovery Agency was established on 6 January 2020. Monies were set aside for recovery, AUD\$2 billion coming from the government.⁴⁵ The major fundraising efforts were undertaken by charities,⁴⁶ the government response being that in times of disaster:⁴⁷

... Australian charities have historically responded well with programs that support individuals and communities in need. They have provided necessary support in both the immediate aftermath of disasters and in the longer-term recovery phase ...

This accumulated some AUD\$640 million for relief and recovery. These monies came from contributions made by 53 per cent of the community; on median measures, each person contributed some AUD\$50. Eighty-eight per cent of contributors considered that the donations should be distributed within several months.⁴⁸ Where complaints arose from those who suffered, asking 'why has no money been paid yet', the onus for this concern was placed by the government upon the charities, the government response being:⁴⁹

It is in this context that the public needs to understand how charities use the funds they receive in donations.

⁴³ Image from WWF Australia, "Australian Bushfire Emergency."

⁴⁴ Australian Institute for Disaster Resilience, "Black Summer Bushfires, NSW, 2019-20"; Parliament of Australia, "2019-20 Australian Bushfires."

⁴⁵ Black, "This is How Much Compensation."

⁴⁶ Center for Disaster Philanthropy, "2019-2020 Australian Bushfires."

⁴⁷ Australian Charities and Not-for-Profits Commission, Bushfire Response 2019-20.

⁴⁸ Australian Charities and Not-for-Profits Commission, Bushfire Response 2019-20.

⁴⁹ Australian Charities and Not-for-Profits Commission, Bushfire Response 2019-20.

The GeoPolitical Analysis prepared by Foreign Brief reports:

Independent investigations to assess states' emergency preparedness and response are expected to review current policies ahead of the next bushfire season. Considering the ecological impact of the fires, research is likely to focus on understanding the cause behind the persistence of the fires, as political debate about the role of climate change continues.⁵⁰

It is difficult to understand the federal government's lack of intervention on a national scale. Yes, the Whitlam Government was advantaged by there being no bar to it taking immediate federal action vis-à-vis Cyclone Tracy, section 122 of the Australian Constitution providing:⁵¹

The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

Yet despite the federal government of 2019–2020 not being in the same position, legislative control over the states being dictated by the constitutional division of state–federal powers (or over the Northern Territory (NT) to the same extent as in the early 1970s, a large degree of legislative power being devolved to a locally elected NT Assembly),⁵² an exercise of leadership would have taken advantage of constitutional powers that did exist. Lacking an explicit emergency power, the Constitution nevertheless incorporates provisions sufficiently wide in scope to underpin a concerted federal government response. For example, command of military forces,⁵³ meteorology,⁵⁴ communications and transport (post, telegraph, telephone, radio and television, etc., and railways)⁵⁵ to provide resources and synchronise action. International aid was offered as early as November 2019 by the Prime Minister of Aotearoa New Zealand.⁵⁶ Papua New Guinea, the US, Canada, France, Belgium, and Singapore also added their support. Communications came directly to the prime minister, an approach to be expected (and, of course consistent with the foreign affairs power),⁵⁷ lending even more weight to the importance of federal government coordination. The foreign affairs power also enables recourse to international law, including international conventions and covenants—for example, the federal government could act under the International Covenant on Economic, Social and Cultural Rights⁵⁸ (ratified by Australia in 1975) and the International Covenant on Civil and Political Rights⁵⁹ (ratified by Australia in 1980). The defence power is worth setting out in full, too:

... the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth. (section 51(vi))

Beyond this, state premiers did not stand in the way of federal government intervention or, where arising, problems appeared to lie more with communication⁶⁰ than intransigence or cooperative failure. The Terms of Reference of the Royal Commission into National Natural Disaster Arrangements (established in February 2020 and known as the Bushfires Royal Commission)⁶¹ indicate a problem lay with the federal government rather than with state governments, paragraph (c) requiring an inquiry into:

... whether changes are needed to Australia's legal framework for the involvement of the Commonwealth in responding to national emergencies, including in relation to the following:

- i. thresholds for, and any obstacles to, State or Territory requests for Commonwealth assistance;

⁵⁰ Kalera, "After Horror Six Months."

⁵¹ Parliament of Australia, "Chapter VI."

⁵² Northern Territory Government, "Legislative Assembly of the Northern Territory." Though even then the Commonwealth retains legislative power, as strikingly illustrated in the repeal by the Federal Parliament of the *Rights of the Terminally Ill Act 1995* (NT) by the *Euthanasia Laws Act 1997* (Cth). It is further confirmed by the Federal Parliament's reversal some 25 years later of the latter Act via the *Restoring Territory Rights Act 2022* (Cth) so that the ACT and NT are now free to pass euthanasia laws; McIlroy, "Way Past Time."

⁵³ *Commonwealth of Australia Constitution Act 1900* (UK), section 51(vi).

⁵⁴ *Commonwealth of Australia Constitution Act 1900* (UK), section 51(viii).

⁵⁵ *Commonwealth of Australia Constitution Act 1900* (UK), sections 51(v), (xxxiii), (xxxiv).

⁵⁶ Jamet, "Australia Bushfires."

⁵⁷ *Commonwealth of Australia Constitution Act 1900* (UK), section 51(xxix).

⁵⁸ International Covenant on Economic, Social and Cultural Rights.

⁵⁹ International Covenant on Civil and Political Rights.

⁶⁰ Gellie, "NSW Bushfires."

⁶¹ Royal Commission into National Natural Disaster Arrangements, "Royal Commission into National Natural Disaster Arrangements: Terms of Reference."

- ii. whether the Commonwealth Government should have the power to declare a state of national emergency;
- iii. how any such national declaration would interact with State and Territory emergency management frameworks;
- iv. whether, in the circumstances of such a national declaration, the Commonwealth Government should have clearer authority to take action (including, but without limitation, through the deployment of the Australian Defence Force) in the national interest;

It cannot go unremarked that ‘obstacles to State or Territory request for Commonwealth assistance’ precedes mention of any need for ‘clearer authority’ for the federal government, which includes reference to the Australian Defence Force—where already the Commonwealth has power in any event, and the federal government did deploy the armed forces, comprising the Royal Australian Navy, the Australian Regular Army and the Royal Australian Air Force.⁶² It is further instructive that New South Wales, Queensland, South Australia, and Tasmania signed the Terms of Reference by March 2020 and Western Australia by May 2020, ensuring that the Royal Commission would operate on a nationwide basis.⁶³ No indication of any lack of will to cooperate there. Further, that the fires crossed state and territory borders supported leadership at the national level. As with the COVID-19 pandemic, the need for a unified approach (although, again, none came from Canberra or, if it did, it was sporadic) ought to have been self-evident.⁶⁴

Equally telling, the Royal Commission’s Terms of Reference, in paragraph (b), referred to:⁶⁵

Australia’s arrangements for improving resilience and adapting to changing climatic conditions, what actions should be taken to mitigate the impacts of natural disasters, and whether accountability for natural disaster risk management, preparedness, resilience and recovery should be enhanced, including through a nationally consistent accountability and reporting framework and national standards.

A major impediment to preparation for bushfires consequent upon the climate emergency and global warming was that the Australian Government under Morrison retained its disbelief about the premise of the underlying cause of the conflagration.⁶⁶ Climate change denial remained the predominant thinking at federal government level, with that approach repeated in the federal response to the COVID-19 pandemic.

Foreign Brief observes:⁶⁷

Coupled with the outbreak of the COVID-19 pandemic, Australia is predicted to enter a recession in the first two quarters of the fiscal year, and the unemployment rate is predicted to increase to 12%. The Australian government’s \$AUS 10.8 billion fiscal stimulus packages to counter the effects of the pandemic target low-income individuals and small- and medium-sized businesses. The Reserve Bank of Australia has lowered the cash rate to 0.25%, and is employing quantitative easing to boost money flow in the economy. Tourism is likely to be a target sector for assistance once the pandemic crisis is dealt with.

This approach shows the government accepting an obligation, yet flaws similar to the bushfire approach are evident. Just as the federal government failed to see the bushfires as a consequence of climate change and its responsibility generating a need for a ‘whole of Australia’ approach to disaster, it failed to coordinate action addressing COVID-19, leaving it up to the individual states to institute action. The approach appeared similar to that followed in the US by the Trump Administration, which began with denial (as it proved, for political reasons) and favoured some states over others for federal support.⁶⁸ The trust in Australia being quarantined from the pandemic by isolation and island geography, which characterised the federal government’s response when it came, led to a documented lackadaisical approach towards vaccination. Reports showed a failure to secure any vaccine, or any in sufficient proportions to vaccinate the adult population with at least one dose, much less rollout a vaccine program to

⁶² Parliament of Australia, “2019–20 Australian Bushfires.”

⁶³ Royal Commission into National Natural Disaster Arrangements, “Royal Commission into National Natural Disaster Arrangements, Terms of Reference.”

⁶⁴ This is not to say that state authorities were beyond reproach in their handling of the pandemic within their own borders and in relation to the adjoining borders of neighbouring states/territories. However, with the pandemic being Australia-wide, the major responsibility must lie with the federal government. That this may require positive negotiation with state governments/territory authorities does not lessen the responsibility nor the need to grasp it.

⁶⁵ Royal Commission into National Natural Disaster Arrangements, “Royal Commission into National Natural Disaster Arrangements, Terms of Reference.”

⁶⁶ Brett, “The Morrison Government’s Biggest Economic Problem?”; Remeikis, “There is no Link”; LoPresti, “Scott Morrison Accused of Failing to Understand the ‘Urgency’ of Climate Change.”

⁶⁷ Kalera, “After Horror Six Months.”

⁶⁸ See Woodward, *Fear: Trump in the White House*; Jackson, “Donald Trump on COVID.”

achieve this. This meant that Australians suffered breakouts leading to community lockdowns beyond the initial response by one state, Victoria, where the lockdown was accompanied by the premier's daily bulletins before television cameras and broadcasters' microphones.⁶⁹ Victoria began lockdowns from the outset of the first sign of the virus in the community, followed by Queensland, with Western Australia isolating itself from the rest of Australia even before any virus was detected in that state. The federal government joined in a legal challenge to the government's cutting off travel across borders, but the challenge was lost.⁷⁰ New South Wales, the government apparently believing the state to be immune, viewed the actions of the Victorian and Queensland Governments with disdain.⁷¹ This led to lockdowns taking place on an erratic and skewed basis, with some states acting methodically and others responding ad hoc.⁷² Such disparate approaches cried out for federal government intervention.

However, no lessons were learned from the bushfire debacle. When floods hit soon after—interspersed with drought and bushfires—the federal government similarly failed in any coordinated response. The government had a warning in January 2019 with floods, fire and drought tripling the extreme weather impact.⁷³ This was repeated later in 2019 and followed in 2020 into 2021 and 2022.⁷⁴ The failure was topped by the launching of a crowdfunding website by one federal government member to cover financial losses in his electorate. A news report relating to this advised that Minister for Defence Peter Dutton had 'taken to Twitter' to 'share' the GoFundMe page he created to 'help local residents and businesses [of his electorate, Dickson] who have been affected'.⁷⁵ The article went on to note 'crowdfunding' for disaster relief might 'sound familiar' because 'a portion of our tax dollars already go towards a number of disaster relief funds — including the Coalition's AUD\$4.7 billion Emergency Response Fund'. Yet the Emergency Response Fund (established in 2019 responding to the bushfires) 'has accrued AUD\$700 million in interest since its establishment, but not a single cent has been used to actually respond to emergencies', on the proposition that it is to be 'used as a last resort'.⁷⁶ But, says the commentator, why not 'dip into this literal fortune, rather than having MPs crowdfund for disaster relief on social media'? In Queensland and New South Wales at that time, floods had 'already claimed the lives of seven people, with thousands being evacuated' and the GoFundMe site raising more than AUD\$20 thousand, donors including, in less than 24 hours '... generous individuals like Howmuchdid Theyspendontanks and ThegovernmentPrintsmoney' (pointed commentary on defence government spending). Further.⁷⁷

In addition to the Emergency Response Fund, the Coalition also announced the Prepare Australia Fund in the federal budget — which included \$AUS 600m worth of funding over the next six years to invest in disaster resilience infrastructure. It is unclear how much of this funding was allocated to the affected area. Many — including Labor frontbencher Josh Wilson — criticised the move, observing that a competent government should provide disaster relief without crowdfunding for it.

However, Prime Minister Scott Morrison went so far as to assert that Dutton's antics 'sounds to be like someone doing their job. As a local member of parliament, you always look to try and harness community support for responding to major disasters, that's what our job is — to work with our communities when they're in times of stress and times of need.

This was said in a press conference where the prime minister announced disaster payments for affected communities where he told reporters:⁷⁸

I don't understand the criticism, He is working with his community to add to the significant contributions that have been made by the Commonwealth and the state and the local governments. He's looking after his community. That's what a good member for Dickson does.

Morrison, once Federal Treasurer, drew criticism for his approval of Dutton's approach, the contention being that he ought to be aware that taxes are the proper source for emergencies and disaster relief.⁷⁹

⁶⁹ Department of Health and Aged Care, "COVID-19 Vaccine Rollout Update"; Department of Home Affairs, "COVID-19 and the Border"; Hewett, "NSW and Victoria Reflect Mirror Coronavirus Image."

⁷⁰ *Palmer v Western Australia* [2021] HCA 5; *Palmer and The Commonwealth v Western Australia* (2021) 95 ALJR 229, HCA 5.

⁷¹ The Guardian, "Coalition Criticises Victorian Government's Handling of Pandemic"; Wang, "Victoria Covid Cases."

⁷² SBS, "COVID-19 Update."

⁷³ Morton, "Floods, Fire and Drought"; Griffiths, "20,000 Homes at Risk."

⁷⁴ Klein, "Eastern Australia is Battling"; NASA, "Australia Floods 2021"; Stew, "Fresh Evacuation Warning."

⁷⁵ Martin, "Isn't this the Role of Government?"; Martin, "Labor Questions"; Baj, "Peter Dutton is Crowdfunding."

⁷⁶ The fund, on some reports, has been fully distributed, yet others contest this: Statista, "Australia - Allocation of Bush Fire Recovery Funds"; WWF Australia, "The Hidden Cost of Australia's Bushfire Crisis."

⁷⁷ Martin, "Isn't this the Role of Government?"; Martin, "Labor Questions"; Baj, "Peter Dutton is Crowdfunding."

⁷⁸ Martin, "Isn't this the Role of Government?"; Martin, "Labor Questions."

⁷⁹ Baj, "Peter Dutton is Crowdfunding"; Martin, "Isn't this the Role of Government?"; Martin, "Labor Questions."

It is not fanciful to consider that the ideology of ‘no to climate change’ or climate change denial was a significant factor in the Morrison bushfire disaster response. In 2022, Akhib and Marsen ‘explored’ Prime Minister Morrison’s ‘communication strategies and techniques ... during crisis’.⁸⁰ Their analysis of 12 public speeches and statements made at media conferences by him from April 2019 to May 2020 found a difference in ‘features and emphasis of themes’ between those addressing the election campaign and COVID-19 and those focused on the bushfires. Albeit the COVID-19 pandemic lacked a nationally coordinated focus, that the difference lay in communication and language patterns surrounding the bushfires—their intensity and scope located directly in global warming—brings home the danger of dogma to leadership.

Conclusion—Droughts, Floods, Fire and the Future

Two major disasters, 50 years apart. Two different responses from the government. From a position where disaster loomed in 1974, the prime minister was subject to criticism, the media on attack (even virulent attack), and the Australian Government made a constructive recovery. Darwin was reinstated after Cyclone Tracy, bringing the work of the Darwin Reconstruction Commission to a successful end two years in advance.⁸¹ In the bushfire disaster, the prime minister did not act with any immediacy, and planning for the future—albeit a disaster fund created—appeared to be in question, despite the Royal Commission into National Natural Disasters Arrangements. The continuing round of flood, fire, and drought through the immediately following years showed further planning failure, a consequence of politics transcending climate change reality, and generating the failure of not taking the COVID-19 pandemic with the seriousness it deserved.

The Morrison Government might have been assisted by acting upon the outcome of the Royal Commission into National Natural Disasters Arrangements, which reported on 28 October 2020, the report being tabled in Federal Parliament on 30 October 2020.⁸² Eighty recommendations for federal and joint state–federal action did not appear to influence the Morrison Government in its approach. Nor was the government moved to action in addressing climate change. Notably, none of the 24 chapters of recommendations proposed changes to the Australian Constitution. Albeit there is the contention that the Constitution is deficient in lacking an emergency power provision and other explicit powers to ‘control’, ‘direct’, or even coordinate the states in times of urgent need, the High Court of Australia has taken what some would say is a pragmatic approach to perceived power gaps in the Constitution. Reading it as a document that underpins a democracy structured by democratic institutions, the High Court has said the Constitution implicitly incorporates principles such as freedom of political communication,⁸³ prioritises federal government power over states under international conventions and covenants,⁸⁴ provides for expansive executive government powers⁸⁵ and encompasses justification for intervention into disaster-affected areas of the country—state or territory.⁸⁶ It is difficult to imagine that the prime minister lacked legal advisers to provide him with an arguably solid foundation for stepping in during a crisis of such proportions.⁸⁷ Leadership surely demands—and demanded—decisive action. Arguments about federalism and states’ rights must surely take a backseat when a dire emergency confronts a prime minister. The Royal Commission into National Natural Disasters Arrangements, established to address action by the government in confronting future national natural disasters, did not see the Constitution as an impediment to national coordination and federal government intervention.

A Federal Court decision in 2021 determined that the federal Minister for the Environment bears a duty of care towards Australian youth because reliable predictions are that as they reach adulthood, a certain number will die from the atmosphere polluted by carbon from fossil fuels, a certain number will suffer ill health and the wellbeing of all will be at risk.⁸⁸ This replicates decisions in Europe, where the Netherlands administrative court held similarly in relation to the Government of the Netherlands in 2015, and other jurisdictions have held so for their governments.⁸⁹ Yet immediately following the Federal Court decision, the minister authorised the development of a coal mine, the subject of the Federal Court judgment—where an

⁸⁰ Akhib, “Scott Morrison’s Political Discourse During Crisis.”

⁸¹ Walters, “The Reconstruction of Darwin.”

⁸² Royal Commission into National Natural Disaster Arrangements, “Royal Commission into National Natural Disaster Arrangements.”

⁸³ *Lange v Australian Broadcasting Corporation* [1997] HCA 25; *Theophanous v Herald & Weekly Times Ltd* [1994] HCA 46.

⁸⁴ *Commonwealth v Tasmania* [1983] 158 CLR 1.

⁸⁵ *Theophanous v Herald & Weekly Times Ltd* [1994] HCA 46.

⁸⁶ *Pape v Commissioner of Taxation* [2009] HCA 23.

⁸⁷ Australian High Court cases supporting a basis for national action by the federal government in such circumstances are listed in McNamara’s “The Commonwealth Response.” Further, it is not insignificant that Morrison did not demur from action such as having himself appointed to ministerial roles in addition to his prime ministership, without deference to the Constitution: Australian Government, Attorney-General’s Department, Inquiry into multiple.

⁸⁸ *Sharma by her litigation representative Sister Marie Brigid Arthur v Minister for the Environment* [2021] FCA 560; Schuijers, “In a Landmark Judgment”; Morton, “Australian Court Finds Government Has Duty”; Kaminski, “Dutch Supreme Court Upholds Landmark Ruling.”

⁸⁹ See @CEDAWinLAW, “President’s Report.”

injunction was sought (albeit unsuccessfully) to prevent it.⁹⁰ An appeal to the Full Federal Court against the ‘duty of care’ decision proved successful, although it may be hoped that a further appeal (to the High Court) may reinstate the original ‘duty of care’ decision.⁹¹ Nor should it go unnoticed that the Australian Government has been taken to task by the UN Human Rights Committee for breaching its duty of care to Torres Strait Islanders in failing to take action to protect the islands and Islanders from the consequences of climate change.⁹²

Although the environment was on the agenda in the 1970s, the Whitlam Government escaped the characterisation of the Darwin cyclone as climate change directed. Nonetheless, it did see the need for immediate action and ongoing attention to disaster management—not addressing Darwin as a one-off catastrophe. The Morrison Government’s approach (and that of its predecessors in the Liberal–National Coalition) saw the need for neither. Those failures indicated a lack of understanding or appreciation of the realities of climate change and the impact it has and will continue to have, with the scorching bushfires of 2019 being the precursor to a calamitous future of increased floods and burning bush as so proved.

The famous Australian poet Dorothea Mackellar wrote:⁹³

*I love a sunburnt country,
a land of sweeping plains,
of rugged mountain ranges,
of droughts and flooding rains,
I love her far horizon,
I love her jewelled sea,
her beauty and her terror
the wide brown land for me.*

Are Mackellar’s words dangerously prophetic, the droughts and the rains threatening to become overwhelming, preceded and followed by bushfires of even more devastating dimensions? The *National Greenhouse Gas Inventory Quarterly Update* of 2021, reporting on Australia’s poor efforts to address climate change, gave no reason for confidence.⁹⁴ Yet the change of government in 2022, with cabinet appointments of MPs Tanya Plibersek as Minister for the Environment and Chris Bowen as Minister for Climate Change and Energy, provides hope for another approach to disaster management.⁹⁵ This is even more pressing with reports of 10 electorates being deemed too risky for insurance due to flood, fire and other extreme weather events,⁹⁶ and the federal government pressing insurance companies to lower their premiums in light of increased funding, a projected AUD\$200 million annual investment spending on disaster mitigation projects.⁹⁷

The lessons for prime ministers are clear. The first is to be on-site when disaster strikes or immediately thereafter, but not only that. It is to recognise the importance of leadership untrammelled by ideological binding (and blinding) so that disasters are addressed effectively in all their political and legal dimensions. In a federal structure, state, territory and national government and the laws setting out relations between them are necessarily a vital consideration. But when disaster strikes with decisive action required, it is hardly time to call for constitutional change. The leader who takes refuge in the law and legal relations between the political entities comprising the Australian Commonwealth to justify lack of immediate national action, while long-term doing nothing to address this fails doubly at leadership. Leadership in the face of and anticipating disasters requires a responsive government able to effect a positive process of recovery short- and long-term. Now, with environmental, climate change and biodiversity emergencies, the very future of the earth depends on such leadership. If those in power are not capable of it, ultimately they will lose power so that others will lead.

⁹⁰ Cox, “Sussan Ley Approves First Coal Project.”

⁹¹ *Minister for the Environment v Sharma* [2022] FCAFC 35; *Minister for the Environment v Sharma (No 2)* [2022] FCAFC 65.

⁹² *Torres Strait Islanders of Boigu, Poruma, Warraber and Masig v Australia* (2022); United Nations, “UN Treaty Body Database”; United Nations, “Australia Violated Torres Strait Islanders’ Rights”; Balaji, “The Human Rights Committee Reaffirms Why IHRL Works.”

⁹³ Mackellar, “My Country.”

⁹⁴ Department of Climate Change, Energy, the Environment and Water, “National Greenhouse Gas Inventory”; Morton, “Australian Greenhouse Emissions Down 5%”; Jericho, “Australia’s Carbon Emissions.”

⁹⁵ A hopeful sign is an Australian Government announcement of a bid to co-host the UN Climate Change Conference of 2026 with Pacific nations: MENAFN, “Australia Announces Bid.”

⁹⁶ Kurmelovs, “Flood and Cyclone-Prone.”

⁹⁷ Murphy, “Insurance Firms Must Lower Premiums.”

Bibliography

- Akhib, Mohammed and Sky Marsen. "Scott Morrison's Political Discourse During Crisis: A Narrative-Semiotic Analysis." *Media International Australia*, (2022). <https://doi.org/10.1177/1329878X221129922>.
- Australian Charities and Not-for-Profits Commission. *Bushfire Response 2019-20. Reviews of Three Australian Charities*. <https://www.acnc.gov.au/tools/reports/bushfire-response-2019-20-reviews-three-australian-charities>.
- Australian Electoral Commission. "2022 Federal Election." Last modified August 17, 2022. https://www.aec.gov.au/Elections/federal_elections/2022/.
- Australian Government, Attorney-General's Department, Inquiry into multiple ministerial appointments. <https://www.ag.gov.au/about-us/publications/inquiry-multiple-ministerial-appointments>.
- Australian Institute for Disaster Resilience. "Black Summer Bushfires, NSW, 2019-20." <https://knowledge.aidr.org.au/resources/black-summer-bushfires-nsw-2019-20/>.
- Australian Politics.com. "The First Whitlam Ministry: December 5-19, 1972." <https://australianpolitics.com/1972/12/05/first-whitlam-ministry.html>.
- Balaji, Mahima. "The Human Rights Committee Reaffirms Why IHRL Works for Climate Litigation in the Torres Strait Islanders Case." *Human Rights Pulse*, November 15, 2022. <https://www.humanrightspulse.com/mastercontentblog/the-human-rights-committee-reaffirms-why-ihrl-works-for-climate-litigation-in-the-torres-strait-islanders-case>.
- Baj, Lavender. "Peter Dutton is Crowdfunding for Disaster Relief as if That's Not What Taxes Are For." *Junkee*, February 28, 2022. <https://junkee.com/peter-dutton-gofundme-flood-queensland/322824>.
- Black, Euan. "This is How Much Compensation Bushfire Victims can Claim from the Government." *The New Daily*, January 13, 2020. <https://thenewdaily.com.au/finance/finance-news/2020/01/13/bushfire-government-compensation/#:~:text=QLD%20Assistance&text=a%20one%2Doff%20payment%20that,families%20of%20five%20or%20more>.
- Bolt, Andrew. "Gough Whitlam's Failures as Australia's Prime Minister Obscured by the Myth says Andrew Bolt." *Herald Sun*, October 22, 2014. <https://www.heraldsun.com.au/news/opinion/andrew-bolt/gough-whitlams-failures-as-australias-prime-minister-obscured-by-the-myth-says-andrew-bolt/news-story/7a7c0004337c9d529dbf0fb6651a13b3>.
- BBC News. "Australia Fires: PM Scott Morrison Sorry for Hawaii Holiday During Crisis." *BBC News*, December 22, 2019. <https://www.bbc.com/news/world-australia-50879850>.
- Brett, Judith. "The Morrison Government's Biggest Economic Problem? Climate Change Denial." *The Conversation*, October 18, 2018. <https://theconversation.com/the-morrison-governments-biggest-economic-problem-climate-change-denial-105125>.
- Center for Disaster Philanthropy. "2019-2020 Australian Bushfires." Last modified October 14, 2020. <https://disasterphilanthropy.org/disasters/2019-australian-wildfires/>.
- @CEDAWinLAW. "President's Report." <https://www.cedawinlaw.com/copy-of-news>.
- Cox, Lisa. "Sussan Ley Approves First Coal Project Since Court Rules She Owes Children Duty of Care." *The Guardian*, September 3, 2021. <https://www.theguardian.com/australia-news/2021/sep/03/sussan-ley-approves-first-coal-project-since-court-rules-she-owes-children-duty-of-care>.
- Daily Mail. "'I Don't Hold a Hose, Mate': Scott Morrison's Stunning Response to Critics After Swanning off to Hawaii While Australia Burns - As More Than 70,000 People Call for Him to be SACKED as PM." *Daily Mail*, December 20, 2019. <https://www.dailymail.co.uk/news/article-7812441/Scott-Morrison-defends-Hawaii-holiday-bushfires.html>.
- Department of Climate Change, Energy, the Environment and Water. "National Greenhouse Gas Inventory Quarterly Update: March 2021." Last modified July 29, 2022. <https://www.dcceew.gov.au/climate-change/publications/national-greenhouse-gas-inventory-quarterly-update-march-2021>.
- Department of Health and Aged Care. "COVID-19 Vaccine Rollout Update – Jurisdictional Breakdown – 24 April 2022." <https://www.health.gov.au/resources/publications/covid-19-vaccine-rollout-update-jurisdictional-breakdown-24-april-2022?language=en>.
- Department of Home Affairs. "COVID-19 and the Border." <https://www.homeaffairs.gov.au/covid19>.
- Freudenberg, Graham. *A Certain Grandeur – Gough Whitlam in Politics*. Melbourne: Macmillan Australia, 1977.
- Gellie, Campbell. "NSW Bushfires: Bermagui Residents Ready to Defend Homes or Jump into the Sea." *The Daily Telegraph*, January 4, 2020. <https://www.dailytelegraph.com.au/news/nsw/nsw-bushfires-bermagui-residents-ready-to-defend-homes-or-jump-into-the-sea/news-story/8f9a324c2fa0a2a56f0d536510948a14>.
- Green, Antony. "Federal Election 2019: Results." <https://www.abc.net.au/news/elections/federal/2019/results?filter=>.
- Griffiths, James. "20,000 Homes at Risk in Australia Floods as Crocodiles, Snakes Wash Up." *CNN*, February 4, 2019. <https://edition.cnn.com/2019/02/03/australia/townsville-queensland-flooding-intl/index.html#:~:text=20%2C000%20homes%20at%20risk%20in%20Australia%20floods%20as%20crocodiles%2C%20snakes%20wash%20up&text=Devastating%20flooding%20in%20northeast%20Australia,more%20rain%20on%20the%20way>.

- Hewett, Jennifer. "NSW and Victoria Reflect Mirror Coronavirus Image." *Australian Financial Review*, August 23, 2021. <https://www.afr.com/policy/health-and-education/nsw-and-victoria-reflect-mirror-covid-image-20210823-p58180>.
- Hocking, Jenny. *The Dismissal Dossier*. Melbourne: MUP, 2013.
- Hocking, Jenny. *The Palace Letters*. Melbourne: Scribe Publications, 2020.
- Hume, David. "Palmer v Western Australia (2021) 95 ALJR 229; [2021] HCA 5: Trade, Commerce and Intercourse Shall be Absolutely Free (Except When it Need Not)." *Australian Public Law* (blog). June 23, 2021. <https://www.auspublaw.org/blog/2021/06/palmer-v-western-australia-2021-95-aljr-229-2021-hca-5>.
- Jackson, David. "Donald Trump on COVID, Kim, and Putin: Tapes of Talks with Bob Woodward to Become Public." *USA Today*, October 23, 2022. <https://www.usatoday.com/story/news/politics/2022/10/23/donald-trump-covid-kim-and-putin-woodward-tapes-become-public/10563315002/>.
- Jamet, Marie. "Australia Bushfires: What Countries Have Offered International Aid?" *Euronews*, January 6, 2020. <https://www.euronews.com/2020/01/06/australia-bushfires-what-countries-have-offered-international-aid>.
- Jericho, Greg. "Australia's Carbon Emissions Have Barely Fallen and a Massive Task Lies Ahead." *The Guardian*, September 5, 2021. <https://www.theguardian.com/business/grogonomics/2021/sep/05/australias-carbon-emissions-have-barely-fallen-and-a-massive-task-lies-ahead>.
- Kalera, Yashu. "After Horror Six Months, Australia's Bushfire Season Comes to an End." *Foreign Brief*, March 31, 2020. <https://foreignbrief.com/daily-news/after-horror-six-months-australias-bushfire-season-comes-to-an-end/>.
- Kaminski, Isabella. "Dutch Supreme Court Upholds Landmark Ruling Demanding Climate Action." *The Guardian*, December 21, 2019. <https://www.theguardian.com/environment/2021/aug/18/dutch-supreme-court-upholds-landmark-ruling-demanding-climate-action>.
- Klein, Alice. "Eastern Australia is Battling Fifth Major Wave of Floods in 19 Months." *New Scientist*, October 25, 2022. <https://www.newscientist.com/article/2343938-eastern-australia-is-battling-fifth-major-wave-of-floods-in-19-months/#:~:text=Eastern%20Australia%20is%20battling%20fifth%20major%20wave%20of%20floods%20in%2019%20months&text=Eastern%20Australia%20is%20experiencing%20major,to%20stretch%20into%20next%20year>.
- Kurmelovs, Royce. "Flood and Cyclone-Prone Areas in Eastern Australia May Be 'Uninsurable' by 2030, Report Suggests." *The Guardian*, May 3, 2022. <https://www.theguardian.com/australia-news/2022/nov/04/flood-and-cyclone-prone-areas-in-eastern-australia-may-be-uninsurable-by-2030-report-suggests>.
- Lamberti's Lab. "Cyclone Tracy: About Cyclone Tracy." <https://naturalhazardscy.weebly.com/cyclone-tracy.html>.
- Liberal NSW. "75 Years - 1949 - 196." <https://nswliberal.org.au/>.
- LoPresti, Linda, [Max Chalmers](#) and [Alison Carabine](#). "Scott Morrison Accused of Failing to Understand the 'Urgency' of Climate Change." *ABC News*, November 8, 2021. <https://www.abc.net.au/news/2021-12-21/scott-morrison-accused-of-failing-to-understand-urgency-of-clima/100706410>.
- Mackellar, Dorothea. "My Country." Poetry Archive. <https://www.dorotheamackellar.com.au/my-country/>.
- Maiden, Samantha. "PM Escaped Sydney's Bushfires on a Business Class Flight to Hawaii." *The New Daily*, December 18, 2019. <https://thenewdaily.com.au/news/national/2019/12/18/scott-morrison-business-class-hawaii/>.
- Martin, Sarah. "'Isn't this the Role of Government?': Peter Dutton Panned for Setting up Fundraiser for Flood Victims." *The Guardian*, February 27, 2022. <https://www.theguardian.com/australia-news/2022/feb/27/isnt-this-the-role-of-government-peter-dutton-panned-for-setting-up-fundraiser-for-flood-victims>.
- Martin, Sarah. "Labor Questions Whether Peter Dutton's Fundraiser Breaches Queensland Laws." *The Guardian*, March 2, 2022. <https://www.theguardian.com/australia-news/2022/mar/02/labor-questions-whether-peter-duttons-fundraiser-breaches-queensland-laws>.
- McIlroy, Tom. "'Way Past Time': Territory Assisted Dying Ban Overturned." *Australian Financial Review*, December 1, 2022. <https://www.afr.com/politics/federal/way-past-time-territory-assisted-dying-ban-set-to-end-20221201-p5c2vc>.
- McNamara, Joe. "The Commonwealth Response to Cyclone Tracy: Implications for Future Disasters." *Australian Journal of Emergency Management* 27, no 2 (2012): 37-41.
- MENAFN. "Australia Announces Bid to Host UN Climate Change Conference." *MENAFN*, June 11, 2022. <https://menafn.com/1105138272/Australia-Announces-Bid-To-Host-UN-Climate-Change-Conference-In-2026>.
- Moore, Charlie. "Scott Morrison Refuses to Reveal How Much His Family Holiday to Hawaii During the Bushfire Crisis Cost the Taxpayer." *Daily Mail*, February 5, 2020. <https://www.dailymail.co.uk/news/article-7967259/Scott-Morrisons-holiday-Hawaii-bushfire-crisis-cost-taxpayer.html>.
- Morton, Adam. "Australian Court Finds Government Has Duty to Protect Young People from Climate Crisis." *The Guardian*, August 18, 2021. <https://www.theguardian.com/australia-news/2021/aug/18/australian-court-finds-government-has-duty-to-protect-young-people-from-climate-crisis>.
- Morton, Adam. "Australian Greenhouse Emissions Down 5% in a Year of Covid, But Rebound Expected." *The Guardian*, August 31, 2021. <https://www.theguardian.com/environment/2021/sep/05/australian-greenhouse-emissions-down-5-in-a-year-of-covid-but-rebound-expected>.

- Morton, Adam and Ben Smee. "Floods, Fire and Drought: Australia, A Country in the Grip of Extreme Weather Bingo." *The Guardian*, February 10, 2019. <https://www.theguardian.com/australia-news/2021/aug/18/floods-fire-and-drought-australia-a-country-in-the-grip-of-extreme-weather-bingo>.
- Murphy, Katharine. "Insurance Firms Must Lower Premiums as Government Funds Disaster Prevention, Minister Says." *The Guardian*, November 4, 2022. <https://www.theguardian.com/australia-news/2022/nov/04/insurance-firms-must-lower-premiums-as-government-funds>.
- NASA. "Australia Floods 2021." NASA Earth Science Applied Sciences. <https://appliedsciences.nasa.gov/what-we-do/disasters/disasters-activations/australia-floods-2021>.
- National Archives of Australia. "Gough Whitlam: During Office." <https://www.naa.gov.au/explore-collection/australias-prime-ministers/gough-whitlam/during-office>.
- National Museum of Australia. "Cyclone Tracy.1974: Cyclone Tracy Hits Darwin." <https://www.nma.gov.au/defining-moments/resources/cyclone-tracy#:~:text=Darwin%20Reconstruction%20Commission%20On%2028%20February%201975%20the,mandate%20was%20to%20reconstruct%20Darwin%20within%20five%20years>.
- News.com.au. "Photos Emerge of Scott Morrison Holidaying in Hawaii Before and After He Announces Decision to Return to Australia." *News.com.au*, December 20, 2019. <https://www.news.com.au/technology/online/photo-emerges-of-scott-morrison-holidaying-in-hawaii-before-he-announces-decision-to-return-to-australia/news-story/101aafa60250d92d3cc69c32f839d571>.
- Northern Territory Government. "Legislative Assembly of the Northern Territory." <https://parliament.nt.gov.au/>.
- O'Kane, Caitlin. "Australia Woman Forced to Shake Prime Minister Scott Morrison Hand Upset by Wildfire Response: 'It Broke My Heart'." *CBS News*, January 3, 2020. <https://www.cbsnews.com/news/australia-fires-woman-forced-to-shake-prime-minister-scott-morrison-hand-cobargo-disappointed-in-wildfire-response/>.
- Parker, Gordon. "Cyclone Tracy and Darwin Evacuees: On the Restoration of the Species." *British Journal of Psychiatry* 130, (1977): 548–555. <https://doi.org/10.1192/bjp.130.6.548>.
- Parker, Gordon. "Psychological Disturbance in Darwin Evacuees Following Cyclone Tracy." *Medical Journal of Australia* 1, no 21 (1975): 650–652. <https://doi.org/10.5694/j.1326-5377.1975.tb111627.x>.
- Parliament of Australia. "Chapter VI. New States." https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Constitution/chapter6.
- Parliament of Australia. "2019–20 Australian Bushfires—Frequently Asked Questions: A Quick Guide." https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1920/Quick_Guides/AustralianBushfiresFAQ.
- Reid, Elizabeth. "The Child of Our Movement: A Movement of Women." In *Different Lives – Reflections on the Women's Movement and Visions of its Future*, edited by Jocelynne A. Scutt, 8–20. Melbourne: Penguin Books Australia, 1987.
- Remeikis, Amy and Josh Taylor. "'There is No Link': The Climate Doubters Within Scott Morrison's Government." *The Guardian*, January 16, 2020. <https://www.theguardian.com/australia-news/2020/jan/16/there-is-no-link-the-climate-doubters-within-scott-morrison-s-government>.
- Royal Commission into National Natural Disaster Arrangements. "Royal Commission into National Natural Disaster Arrangements." <https://naturaldisaster.royalcommission.gov.au/>.
- Royal Commission into National Natural Disaster Arrangements. "Royal Commission into National Natural Disaster Arrangements: Terms of Reference." <https://naturaldisaster.royalcommission.gov.au/about/terms-reference>.
- SBS. "COVID-19 Update: NSW Hits New Record of Cases, Victoria to Reach Vaccination Target Earlier Than Expected." *SBS Language*, September 4, 2021. <https://www.sbs.com.au/language/english/en/article/covid-19-update-nsw-hits-new-record-of-cases-victoria-to-reach-vaccination-target-earlier-than-expected/9j8rf7bxl>.
- Schuijers, Laura. "In a Landmark Judgment, the Federal Court Found the Environment Minister Has a Duty of Care to Young." *The Conversation*, May 27, 2021. <https://theconversation.com/in-a-landmark-judgment-the-federal-court-found-the-environment-minister-has-a-duty-of-care-to-young-people-161650>.
- Scutt, Jocelynne A. "Subverting or Affirming Indigenous Rights – The Australian Problem Writ Large." In *Indigenous Rights – Changes and Challenges in the 21st Century*, edited by Sarah Sargent and Jo Samanta, 87–117. London: Buckingham University Press, 2019.
- Statista. "Australia – Allocation of Bush Fire Recovery Funds by the Government 2020." Statista Research Department. <https://www.statista.com/statistics/1119072/australia-allocation-of-bush-fire-recovery-funds-by-the-government/>.
- Stew, Martin. "Fresh Evacuation Warning for Australian Town Two Weeks After it was Last Flooded." *ITV News*, November 15, 2022. <https://www.itv.com/news/2022-11-15/residents-of-australian-town-evacuated-as-fresh-flood-warning-issued>.
- Sydney Morning Herald. "Buckingham Palace Issued Rare Statement After Release of the Palace Letters." *Sydney Morning Herald*, July 15, 2020. <https://www.smh.com.au/national/buckingham-palace-issued-rare-statement-after-release-of-the-palace-letters-20200824-p55oum.html>.
- The Guardian. "Coalition Criticises Victorian Government's Handling of Pandemic – As it Happened." *The Guardian*, 2021.

- United Nations. “Australia Violated Torres Strait Islanders’ Rights to Enjoy Culture and Family Life, UN Committee finds.” *OHCHR*, September 23, 2022. <https://www.ohchr.org/en/press-releases/2022/09/australia-violated-torres-strait-islanders-rights-enjoy-culture-and-family#:~:text=Human%20Rights%20Committee%20has%20found,private%20life%2C%20family%20and%20home.>
- United Nations. “UN Treaty Body Database.” OHCHR. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f135%2fD%2f3624%2f2019&Lang=en.
- Walters, KJ. “The Reconstruction of Darwin After Cyclone Tracy.” *Disasters* 2, no 1 (1978): 59–68. <https://doi.org/10.1111/j.1467-7717.1978.tb00066.x>.
- Wang, Jessica. “Victoria Covid Cases: Brett Sutton Admits ‘Every Possibility’ State Following NSW.” *news.com.au*, September 4, 2021. <https://www.news.com.au/national/victoria/news/victoria-covid-cases-brett-sutton-admits-every-possibility-state-following-nsw/news-story/28d9ba22a0207ff2551ae15b061e3f4f>.
- Woodward, Bob. *Fear: Trump in the White House*. New York: Simon & Schuster, 2018.
- Wright, Tony. “Scott Morrison’s Hawaii Holiday Comes Back to Burn Him Again.” *Sydney Morning Herald*, November 22, 2021. <https://www.smh.com.au/politics/federal/scott-morrison-s-hawaii-holiday-comes-back-to-burn-him-again-20211122-p59a1j.html>.
- WWF Australia. “The Hidden Cost of Australia’s Bushfire Crisis Could be Billions.” <https://www.wwf.org.au/news/news/2020/the-hidden-cost-of-australia-s-bushfire-crisis-could-be-billions#gs.swg54z>.
- WWF United Kingdom. “Australia Bushfire Emergency - Australia Fires.”
- Yaxley, Louise. “Scott Morrison Wins Leadership Spill; Malcolm Turnbull Takes Parting Shot at Abbott and Dutton in Final Speech.” *ABC News*, August 25, 2018. <https://www.abc.net.au/news/2018-08-24/scott-morrison-wins-liberal-leadership/10160168>.

Primary Legal Material

- Commonwealth of Australia Constitution Act 1900* (UK).
- Commonwealth v Tasmania* [1983] 158 CLR 1, *Commonwealth v Tasmania* (“Tasmanian Dam case”) [1983] HCA 21.
- Darwin Reconstruction Act 1975* (Cth).
- Euthanasia Laws Act 1997* (Cth).
- Hocking v Director-General of the National Archives of Australia* [2020] HCA 19.
- International Covenant on Civil and Political Rights.
- International Covenant on Economic, Social and Cultural Rights.
- Lange v Australian Broadcasting Corporation* [1997] HCA 25, (1997) 189 CLR 520, *Lange v Australian Broadcasting Corporation* (“Political Free Speech case”) [1997] HCA 25; (1997) 189 CLR 520; (1997) 145 ALR 96; (1997) 71 ALJR 818 (8 July 1997).
- Minister for the Environment v Sharma* [2022] FCAFC 35.
- Minister for the Environment v Sharma (No 2)* [2022] FCAFC 65.
- National Health Act 1975* (Cth).
- Palmer and The Commonwealth v Western Australia* (2021) 95 ALJR 229, HCA 5: trade, commerce and intercourse shall be absolutely free (except when it need not) – AUSBULAW.
- Palmer v Western Australia* [2021] HCA 5 - Crown Law.
- Pape v Commissioner of Taxation* [2009] HCA 23.
- Restoring Territory Rights Act 2022* (Cth).
- Rights of the Terminally Ill Act 1995* (NT).
- Sharma by her litigation representative Sister Marie Brigid Arthur v Minister for the Environment* [2021] FCA 560.
- Theophanous v Herald & Weekly Times Ltd* [1994] HCA 46; (1994) 182 CLR 104; (1994) 124 ALR 1 (1994) Aust Torts Reports 81–297.
- Torres Strait Islanders of Boigu, Poruma, Warraber and Masig v Australia* (2022), Treaty bodies.