

**EMERGENCY SERVICES REFORM AMENDMENT BILL 2023; STATE EMERGENCY SERVICE BILL 2023;
MARINE RESCUE QUEENSLAND BILL 2023**

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HopgoodGanim

LAWYERS

30 January 2024

Community Support and Service Committee
By email: CSSC@parliament.qld.gov.au

Our ref: 1686484-005 - Leanne Collingburn

BRISBANE

Level 8, Waterfront Place
1 Eagle Street
Brisbane Qld 4000 Australia

PO Box 7822, Waterfront Place
Brisbane Qld 4001 Australia

ABN: 54 105 489 661

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Dear Chair

Submission on *Emergency Services Reform Amendment Bill 2023* (QLD)

Thank you for the opportunity to provide our submission on the [Emergency Services Reform Amendment Bill 2023 \(QLD\)](#) (the Bill).

Our recommendations

We recommend amendments to the Bill to consider further protections for 'Good Samaritans'¹ responding to an environmental disaster. In particular, to consider:

1. amendments to the *Civil Liability Act 2003* (QLD) to include a Good Samaritan protection, consistent with other States and Territories in Australia, and to clear up current confusion within the Queensland community about Good Samaritan protections; and
2. as a part of the suite of reforms to Queensland's emergency services, better protections for Good Samaritans, through for example:
 - a. legislative reform, by expanding the statutory immunity provisions in the *Disaster Management Act 2003* (QLD) and the *Fire and Emergency Services Act 1990* (QLD) to include protections for Good Samaritans, like those included in section 59 of the *State Emergency and Rescue Management Act 1989* (NSW)²; and
 - b. at the policy level, acknowledging the important role of the Good Samaritans in providing additional assistance in the face of

¹ The term 'Good Samaritan' has been used to describe a person who assists of their own initiative, and is not a registered volunteer. They may be unknown to the person/persons they are assisting. They may also be known as 'casual volunteers', 'community volunteers' and 'spontaneous volunteers'.

² [Section 59 State Emergency and Rescue Management Act 1989 \(NSW\)](#) includes:

(2) Anything done or omitted to be done by a casual volunteer does not, if done or omitted in good faith in connection with a rescue operation or otherwise in response to an emergency, subject the volunteer personally to any action liability, claim or demand.

(3) In this section ... casual volunteer means a person who assists, on his or her own initiative, in a rescue operation or otherwise in response to an emergency in circumstances in which the assistance was reasonably given.

BRISBANE

T +61 7 3024 0000
F +61 7 3024 0300

PERTH

T +61 8 9211 8111
F +61 8 9221 9100

www.hopgoodganim.com.au



declining formal volunteerism, and increase in ‘unprecedented’ environmental disasters, and to plan better for their assistance.

Why is this reform necessary?

Please consider our comprehensive research paper (available [here](#)) supporting our recommended reforms.

In summary, Good Samaritans responding to an environmental disaster in Queensland are not afforded statutory protections from risk of liability, and so they risk personal liability for the acts they do in response to an environmental disaster where Authorised Persons³ and/or Authorised Volunteers⁴ are not available to respond.

Queensland Good Samaritans who respond to environmental disasters need to be protected from personal liability because:

1. Environmental disasters are increasing in frequency and severity

Though Australia has always experienced natural disasters, their frequency, severity and cost is increasing as climate change progresses, and it is now widely acknowledged that climate driven environmental hazards are expected to become more frequent and more intense:

‘The frequency and scale of these kinds of natural disasters is only increasing ... It is not situation normal anymore, these are unprecedented times and unprecedented conditions.’ (The Honourable Michael (Mick) de Brenni, Minister for Energy Renewables and Hydrogen and Minister for Public Works and Procurement on the damage to infrastructure from the destructive Christmas Day storms through Southeast Queensland.)⁵

2. There is often insufficient government capacity to respond to environmental disasters

As environmental disaster seasons become longer and more intense across Australia, it is acknowledged that governments increasingly lack the capacity and capability to adequately respond to disasters without additional assistance. Good Samaritans often provide much needed surge capacity where Authorised Persons are not available.

Cyclone Jasper in December 2023 provides the most recent example of this where Authorised Persons simply were not able to reach those in need in time and civilians facilitated rescues⁶.

³ Authorised Persons are persons authorised under law to undertake an emergency rescue, first aid or provide services during or in the immediate aftermath of an environmental disaster and, by way of example, includes (among others) ambulance officers, the SES, the Queensland Fire and Emergency Services (QFES) etc.

⁴ Authorised Volunteers are persons authorised under law to assist with an emergency response and/or first aid. For example, where legislation permits an Authorised Person to deem another person to have the necessary expertise to assist in a situation or otherwise are directed by an Authorised Person to assist.

⁵ Jacqueline McLaren and Meg Bolton, *Monsoon Trough to bring heavy rain forecast to flood ravaged FNQ*, ABC News (10 January 2024) <<https://www.abc.net.au/news/2024-01-10/qld-cyclone-risk-wet-weather-flooding-bom/103299500>>.

⁶ Prime Minister of Australia, *Press conference - Brisbane* (19 December 2024) <<https://www.pm.gov.au/media/press-conference-brisbane-1>> (‘Press conference’); Adam Stephen, Owen Jacques and Heidi Sheehan, *18 Lives saved from rising floodwaters in FNQ by a boatie named Gavin and a pilot named Magoo*, ABC News (19 December 2023) <<https://www.abc.net.au/news/2023-12-19/18-lives-saved-far-north-queensland-cairns-flood-chopper-/103244364>> (‘Gavin and Magoo’); 7newsnq, *The Cairns Mud Army*, Instagram (December 2024) <<https://www.instagram.com/p/C1DrIjCy0zC/>> (‘The Cairns Mud Army’).



3. Formal Volunteerism is declining

Volunteer workforces are recognised as being integral to sustainably resourcing emergency management services across Australia. However, formal volunteerism is declining and the challenges of maintaining a volunteer workforce are expected to increase in the future because of an aging population, a time-poor society, digital distraction and competing priorities.

4. Good Samaritans are inevitable

Good Samaritans responding to environment disasters is inevitable. Good Samaritans are often first on the scene in an emergency or soon thereafter, motivated by a strong desire to assist impacted individuals and communities.

Again, we saw this most recently with Cyclone Jasper in December 2023 with Good Samaritans undertaking rescues in boats, kayaks and helicopters, and volunteering for the 'Cairns Mud Army'⁷. Ricky and Jarod Mellor, volunteers in the 'Cairns Mud Army', rescued 100 people near Holloways Beach, including a mother and her 7-day old baby. [Ricky Mellor](#) said they were asked to pick people up "because the SES couldn't", and he "was just making sure everybody else was safe"⁸.

The Queensland Premier, Steven Miles and the Australian Prime Minister, Anthony Albanese, publicly acknowledged and thanked the Good Samaritans. The [Premier](#) said:

*'we have continued ... to see acts of bravery from frontline workers and local heroes, and local volunteers' and 'we have seen incredible acts of bravery continuing today, with families saved from roof tops and locals lending a hand to look after their neighbours.'*⁹

With reference to the rescue efforts in Far North Queensland, the [Prime Minister](#) said:

*'These are the stories of which every Australian can be proud of the very essence of the Australian character that shine through. The true Australian spirit that we see time and time again.'*¹⁰

5. Good Samaritans save lives

The 2022 NSW Flood Inquiry found that without community-led rescues, it is likely that more people would have died in the 2022 NSW floods¹¹.

Tragically, ten people lost their lives from the 2023 Christmas storms across eastern Australian,¹² potentially more lives could have been lost in both these storms and Cyclone Jasper, had it not been for Good Samaritans undertaking rescues.

⁷ Gavin and Magoo, above n 6; Artlife. films, *Cairns Floods – Local Hero Documentary*, Instagram (8 January 2024) <<https://www.instagram.com/p/C11L-rEPFG0/>> ('Local Hero Documentary'); *The Cairns Mud Army*, above n 6.

⁸ *The Cairns Mud Army*, above n 6.

⁹ *Press conference*, above n 6.

¹⁰ *Gavin and Magoo*, above n 6.

¹¹ State of New South Wales, 'NSW Independent Flood Inquiry', 2022 Flood Inquiry Volume One: Summary Report (Report, 29 July 2022) https://www.nsw.gov.au/sites/default/files/noindex/2022-08/VOLUME_ONE_Summary.pdf page 41

¹² Eliza Spenser, 'A very tragic Christmas': 10 people dead after a spate of severe storms across eastern Australia, *The Guardian* (27 December 2023), <<https://www.theguardian.com/australia-news/2023/dec/27/a-very-tragic-christmas-ten-people-dead-after-spate-of-severe-storms-across-eastern-australia>>.



6. Responding to environmental disasters involves risk

Responding to an environmental disaster often involves considerable personal risk.

The recent Good Samaritan rescues in Far North Queensland involved individuals navigating raging flood waters in kayaks and small fishing boats (tinny). One Good Samaritan tied the kayak to himself while rescuing individuals and taking them to higher ground¹³.

Good Samaritans should not be discouraged from acting in an emergency for fear of liability.

7. Good Samaritans are protected in other Australian jurisdictions

Other jurisdictions in Australia have enacted provisions providing protection against civil liability for Good Samaritans who act in emergency situations in good faith and without recklessness. (Refer to our comprehensive research paper for more detail).

8. There is confusion in Queensland about protections for Good Samaritans

There appears to be a misconception among some Queensland organisations that Good Samaritan protections do apply in Queensland. (Refer to our comprehensive research paper for more detail).

In light of these reasons, we consider our recommended reforms to be both uncontroversial and necessary to bring Queensland in line with other Australian jurisdictions and extend statutory protections to Good Samaritans responding to environmental disasters.

About HopgoodGanim Lawyers

HopgoodGanim Lawyers is a leading Australian mid-tier legal firm. We are recognised for the exceptional outcomes we deliver to our clients in our key priority markets and our superior approach to client service. Our firm includes over 300 staff with 40+ partners and we operate nationally and internationally with a focus on Asia from our two key locations of Brisbane and Perth.

We exist to create valuable, long-term relationships with our clients that outlast a single transaction. We invest time and expertise to build trusted alliances with our clients and to understand their commercial drivers to be able to deliver over and above what a traditional legal firm offers.

We have a dedicated pro bono practice with a focus on delivering impact and outcomes under our [Pro Bono Impact Strategy](#) in three priority areas:

- Working with First Nations communities so that they can achieve the outcomes they want to achieve;
- Mitigating the impact of environmental disasters; and
- Reducing family and domestic violence.

¹³ *Local Hero Documentary*, above n 7.

30 January 2024



We welcome the opportunity to meet and discuss our submission with you if appropriate.

Yours faithfully

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HopgoodGanim Lawyers

Contact: Leanne Collingburn, Head of Pro Bono
Partner

[Redacted contact details]
[Redacted contact details]
[Redacted contact details]