

April 25, 2020

## **Inquiry into the 2019/20 Victorian Fire Season**

### **Declaration**

I will declare my position upfront, to avoid any misinterpretation of the purposes of this submission.

I pray that the Inspector General ensures that “Recommendations” in the current Bush Fire Royal Commission and the 2009 Royal Commission into the Black Saturday Fires, be fully implemented.

By reinforcing, and recommending amendments to legislation and planning schemes, that appear inconsistent with the Recommendations of the 2009 Royal Commission into the 2009 Black Saturday Fires.

What is that? *“Recognising the obligation to protect human life has implications for the trade-offs that are made in areas such as planning and building regulation, fuel management, environmental conservation, and other government policies provided to support communities at risk of bushfire”.*

Some might see this as a zeitgeist moment. An opportunity to return the imbalance of land management, to proselytise to those who thought they knew better, and bring a modicum of “*common sense*” back into our laws.

## Background of the submitter.

- *2019 Black Saturday*

My family lives on a farm in the Shire of Murrindindi (Kerrisdale) and lived through the 2009 Black Saturday fires.

- *Trawool Fire Brigade (between Yea and Seymour)*

I was a CFA volunteer for ten years.

- *Boulevard Caravan Park, Eildon*

We own and operate a caravan park at Eildon, which is occupied by twenty (20) Permanent Residents (mainly elderly), and Annual site holders, (plus it has in situ, 150 x 45 kg gas bottles).

- *I have read the 2009 Royal Commission Report (twice)*

Frustratingly, after a \$90m Royal Commission, ten (10) years later, it appears that not all Recommendations from that Royal Commission have been initiated.

That Commissions important words are noted below:

“The great loss of life and the widespread destruction of property were what prompted Premier Brumby to establish the Commission. It is fitting therefore that the protection of human life is paramount in all the Commission’s recommendations. This notion of protection of human life being paramount has implications for the balance that is struck between competing community objectives. In the context of bushfires, ensuring the protection of human life

means that sometimes compromises will need to be made with people's freedom to choose where they want to live or the existence of pristine environments close to townships. It is not always possible to maintain an untouched environment whilst ensuring safety. Decisions must be made about whether a defensible space should be cleared around homes and communities in areas of high bushfire risk or whether the environmental values in these areas are such that prohibitions on dwellings should be applied in order to maintain adequate levels of public safety. Recognising the obligation to protect human life has implications for the trade-offs that are made in areas such as planning and building regulation, fuel management, environmental conservation, and other government policies provided to support communities at risk of bushfire.

I can only reference the Shire of Murrindindi, in which the 2009 Royal Commission made specific references in its Recommendations (#45). It would appear that the following 2009 RC Recommendations have not been fully addressed: 41, 45, 56, 61.

The "offsets" referred to in Recommendation 42 should NOT be applicable **IF** the purpose of removing native vegetation is to establish a "*significant fire break*" in order to protect life and property.

### **Particular Issue of Concern**

This submission, concerns the call for amendments to existing legislation, and Planning Schemes to permit the establishment of "*significant fire breaks*", in order to

protect lives and property, without being thwarted by onerous, costly, impractical legislation and impractical “Rules”.

For the protection of lives and property, “exemptions” MUST be included in relevant legislation, which I will address later in this submission. In this context, I only reference towns such as Eildon, where like Mallacoota, scrub abuts the town.

### **Last summer**

We were recently (late 2019/early2020), thwarted when wanting to install a “*significant fire break*” behind our caravan park, essentially because of the requirements of The Removal of Indigenous Species Act (which is enforced by local council), and the 10/30 and 10/50 Rules.

### **Late 2019 NSW and Queensland fires**

Upon witnessing the above fires on television, and realising that those fires were a precursor to what to anticipate in Victoria, we asked ourselves, what else we could do to mitigate fire risk at our caravan park, in particular, to protect our Permanent Residents?

We subsequently in December 2019 removed (at a not insignificant costs), approximately twenty (20) very large pines trees from within the caravan park, and secured written permission, from one of our two neighbours, to remove a similar amount of large pines trees from his

property, which abutted the caravan park. Being “*non indigenous species*”, a town planning permit was not required for their removal.

### *Internal fire management and mitigation procedures*

- Caravan Parks are required to have an Emergency Management Plan and have their fire extinguishers and hose reels checked twice per year by the CFA;
- after Black Saturday, we installed a fire siren within the caravan park, to be able us to alert our clients quickly, in the case of a fire;
- we mandated that every site holder, provide us with a Certificate of Electrical Safety, given electrical faults are a major cause of fires in caravan parks;
- Every site holder within the park must have a fire blanket and fire extinguisher on “their site”;
- we conduct a practise “*evacuation*” every December, to familiarise clients with such a procedure;
- we have appointed fire wardens within the park, to co-ordinate any evacuation;
- we request that the CFA visit the park annually to provided training in the use of fire extinguishers and fire blankets, and to answer any questions.

In other words, we have done everything within a power to mitigate fire risk/management “within” the caravan park.

### *External attempts at fire mitigation on our neighbours land*

Simultaneously to removing the pine trees, we received written permission, (STCA) from both our neighbours, the

other being, Goulburn Murray Water (GMW), to remove thick overgrown T tree abutting the caravan park on their land in order to make a “*substantial fire break*”.

Murrindindi Council’s response to our request to construct the “*fire break*” was responded to in the attached PDF. What their attached letter does not include, is their verbal advice, that our Application would take approximately six (6) weeks as they were required to refer the “*Application*” to DWELP, before it could be fully processed. This would have been, six weeks AFTER we had met their Application preconditions. At this time, it was in the middle of what was evolving to be a potentially bad fire season in Victoria.

When I protested and asked, “*are you not watching the same devastating fires in NSW and Queensland?*”. Their planners and CEO, advised in writing, that their hands were tied, and that they were required to implement State Government legislation, in the form of the requirements of “The Removal of Indigenous Species Act”. Impractical financial “*off set*” cost, biodiversity reports, measuring the circumference of trees up to a certain size, taking photos of plants and seeds etc, to simply create a fire break, in order “*to protect life and property*”, is impractical, prohibitive and absurd.

Similarly, the 10/30 and 10/50 “Rules”, forming part of many Victorian Planning Schemes with Bush Fire Overlays “*to manage vegetation for bushfire protection and property*”, is impractical as the distances are far too limited. These “Rules” must be reviewed. One size does not fit all. Clearing vegetation in many instances, 30 or 50 metres makes

negligible, if not zero difference, in the case of a major fire. These “Rules” do not allow for “common sense” or any subjectivity, nor any opportunity for Council, in consultation with the local CFA, to be in a position to expeditiously agree to allow for the construction of a “significant fire break”, no matter how dangerous the fire season, (which are becoming more and more dangerous every year). This is wrong, which is why changes are required.

Council’s positions in this instance, I would argue, is strongly inconsistent with the fundamental tenure of the 2019 Royal Commission, as noted earlier, because of some of the impracticability of existing legislation and the Council planning schemes.

Recently as April 16 this month, I reached out to our Council for help regarding my concerns regarding the imperative to be allowed to proceed with fire mitigation activities in constructing a “fire break” beyond the 10/50 Rule.

A week later, on April 23, 2020, I received the following response from Council, and have heard nothing further since.

Good afternoon [REDACTED]

Thanks for the email. I certainly understand the concerns and I too was keeping a close eye on the events over the last fire season. As you are aware it is my role to implement the planning scheme as it requires for any type of proposed land use or development. There is no opportunity for me to avoid certain parts of the scheme regardless of the situation. That said I am happy to look further at the situation to see whether there are any

opportunities for what you are trying to achieve to be able to be undertaken in a manner which is more viable for you.

If you can give me a week to discuss the matter and look at all the possibilities I will contact with anything that I feel may be useful for you.

Wanting to construct a “*substantial fire break*”, in order to address “*the hotter summers, more fires, and bigger fires*”, or as the State Government constantly advertises, **PREPARE, ACT, SURVIVE**, must not remain so onerous, and costly.

\*See Murrindindi Council letter in PDF attached.

Governments, both State and Local must not just “*talk the talk*”, but actually “*walk the talk.*” We tried to **PREPARE, ACT AND SURVIVE**, but were blocked by impractical legislation.

### Media and Politicians

In frustration, twice I spoke on commercial radio 3AW, wrote to our local State Member for Eildon, Cindy McLeish, our Federal Member, Dr Helen Haines and the Minister for Police and Emergency Services, Lisa Neville. All, after over a month replied with typical “*political speak*”. It was at that point that I realised, that what is enshrined in legislation, is “*absolute gospel*”, and that unless government has a catastrophe on its door step, such as exists now (COVID-19), if you don’t fit an “*exemption*” you are caught by the “*general purpose*” of the legislation. “*Common sense*”, even to mitigate fire risk to

people and property, no longer is a consideration. How then can one be expected, let alone, be allowed to, **“PREPARE, ACT & SURVIVE?”**

When I realised how futile my protests and pleading was, I eventually withdrew the “Application” to construct a “*fire break*” over 1.4 hectares and was reimbursed the \$1,340 Council “*Application fee*”.

### **Consequences of 2019/20 Fires**

- 20 million acres destroyed by fire (mainly national parks)
- Several million acres of arable land burnt
- Stock losses in the thousands
- Hundreds of houses lost on Australia’s eastern seaboard
- Native species habitats destroyed and creatures large and small, lost in the billions
- Job losses, and economic devastation which will last for years) in many communities
- Massive clean-up costs, including the reinstatement of infrastructure, fire related “grants” in the tens of millions of dollars, and on-going welfare payments.

It has been reported that the economic damage from the bush fires that devastated the eastern seaboard of Australia last summer, is likely to exceed \$4.4 BILLION.

## Legislation

### Local Planning Schemes

*“Significant fire breaks”* abutting major regional towns, must be allowed and done immediately, without prohibitive “off sets” costs. The 10/30 and 10/50 Rules require flexibility, without them being onerous, or costly.

In protecting a town with scrub abutting, a *“significant fire break”* today must be between 500 and 1,000 metres wide.

The decades of land management neglect, and overt influence of certain persuasions, is now being paid for.

Your commission could make *“imperative recommendations”* that could make almost every Victorian regional town, significantly fire safer, and minimise the possibility of a recurrence of the mayhem and armageddon, we witnessed last summer.

How this can be achieved cost effectively, and done quickly is in my conclusion.

### The Removal of Indigenous Species Act

*“Significant fire break’s”* must be “exempted” from this and any other restrictive Acts, where the sole intent is to *“protect and preserve life and property”*.

## **Mallacoota fires**

If you google aerial photos of Mallacoota and Eildon, you will see that both towns have thick scrub (fire fuel) abutting them.

One single lightning strike in the wrong place, on a hot and windy Extreme or Code Red day, and Eildon and it's inhabitants will be "*wiped out*". There will be no Navy to the rescue to facilitate an evacuation.

## **Post fires costs**

- The financial cost to the tax payer and private sector, is massive as noted;
- Asbestos clean-up, grants, infrastructure replacement, the loss on business income and employment, with tourism withdrawing through fear – extends to entire communities.

## **Fire Impact on water supplies**

After the 2009 Fires, mechanical fire mitigation was rushed into land surrounding the Thompson Dam, which feeds Melbourne water supply, to protect the water quality.

As a consequence of last summer's bush fires, a caravan park owner/operator at Jamieson, who I know, can no longer draw water from the Jamieson River, because the run off resulting from the fires and subsequent burn offs, has polluted the Jamieson River to such an extent, that it is still "*black*", even

after filtration. That caravan park has been trucking in water, ever since.

### **Reactivate the Lake** (Government initiative)

The State Government is funding the above program, and has indicated a willingness to fund regional programs that are intended to generate future economic activity and employment.

In the March 2019 (I think the document should be dated 3/20), the consultant to Government(s) (Urban Enterprise) published several comprehensive papers. These included lots of data, forecast, projected jobs, economic impact, development modelling, etc etc. All of which is initiated and funded, would cost hundreds of millions of dollars, which would need to be invested by both Government, and the private sector, if anything is to happen.

Yet in the 124 page *“Activating the Lake Eildon Master Plan Draft”*, only half a page of commentary concerning Bush Fire Overlays, which is essentially a “cut and paste” of current Planning Scheme requirements, is mentioned.

The point being, why isn't, and why would not fire mitigation procedures, and proactive action, be part of the SWOT Analysis and a precursor before anything else?

It's undoubted that insurance in Bush Fire Overlays, will increase substantially in the future, IF nothing is done to mitigate fire risk properly.

A gazillion dollars can be invested in any region, but today, if the location is perceived or otherwise, *a high fire risk location*, “*when*” a fire does eventually impact, if the assets and the people aren’t safe, it will have been a complete waste of time, money and effort. Followed then by huge amounts of government money in reparations, grants, loss of economic activity etc etc. This obvious fire management/fire mitigation imperative appears to have been ignored or forgotten.

If tourist don’t feel “*fire safe*” in summer, particularly if there have been fires such as those seen last summer across several states, tourists will stay away for years.

“*Proactive fire prevention*” is the key; but as you’ve read, it’s currently not easy, and does not allow for any “*common sense*”. Current legislation and planning schemes are making communities **LESS SAFE** from fire (as I have experienced first hand), because of the inability of both planning schemes and legislation to allow enacting of “*practical procedures*”, which I’m sure is contrary to their intent, and the Recommendations of the 2019 Royal Commission.

**Suggestions** (many of which came from the 2009 RC but appear not to have been implemented):

- Address shortcoming in (rigid) existing legislation, including Planning Schemes with new (meaningful) Fire Mitigation amendments. See the 2009 Recommendations: # 3, 40, 41, and 61;
- 10/30 and 10/50 Rules are obsolete in many circumstances (one size rule does not fit all);

- There must be a degree of subjectivity (especially during a fire season), via a pragmatic process, involving council officers, the CFA and all stakeholders;
- *“Fuel reduction”* can be done quickly mechanically. A *“forest mulcher”*, can rip out up to mid-size T tree at a rate of three (3) acres per day, costing \$180 per hour. If it were determined to genuinely make a community *“fire safe”*, maybe a 1,000 acres of bush abutting a town would have to be removed. 1,000 acres / 3 acres per day x 10 forest mulchers could be achieved within a month or two, once permitted, and would cost well under \$1m. **Compare that cost with post fire costs?**

But if bureaucratic red tape remains, fire safety measures that make a real difference won't happen, with lives and property continuing to be unnecessarily lost every summer.

## CONCLUSIONS

- Fire needs fuel. Reduce the fuel load, you reduce the ambient heat as well as the size and impact of the fire;
- Ensure governments (state and local) act decisively before the next fire season, and pass new or amended *“pragmatic”* legislation as a matter of urgency, to allow for the construction of *“significant fire breaks”* on all land be it crown, private or otherwise;
- Large scale, *“proactive fire risk management”* is far less costly than reactive, post fire clean up, reinstatement, replacements, grants, loss of economic activity, etc and will SAVE LIVES.

I pray that your Inquiry will make a difference to the current inadequate state of affairs as concerns mitigating fire risk, and recommend *“immediate action”*, before next summer.

If we as a community and nation, don't prepare and enact genuine mitigation measures to threats such as bushfires and virus's, we will have more and more avoidable deaths, and will have learnt nothing from history.

If I can summarise my request in a single sentence:

*“Remove the fuel”* that abuts regional populations, so that it is a long, long way, away”, and lives will be saved.

Kind regards,

A solid grey rectangular box used to redact the signature of the sender.

In reply please quote

2019/209

Your Reference

Telephone Enquiries

2 December 2019



**Murrindindi**  
Shire Council

**Application for Planning Permit No: 2019/209**  
**Removal of Native Vegetation**  
**EILDON 3713**

The submitted application included a planning application form and a site plan identifying the trees proposed to be removed. The below request for further information is consistent with the advice provided on 23 October 2019 and 14 November 2019.

Please Note:

The area for vegetation removal shown in the rough map provided covers an area of approximately 1.2 hectares, and this appears to be likely to require off-site offsets to be provided for roughly around 1 General Habitat Unit (GHU) of vegetation. The experience of Council environment officers has been that the cost of purchasing offsets has typically been between around \$80,000 to \$130,000 per GHU, but it is up to the purchaser and provider to negotiate a price for off-site vegetation offsets, and prices also vary significantly with vegetation type.

Accordingly, you may wish to make your own enquiries at this early stage in the application with offset providers or expert consultants prior to preparing more detailed reports, and you may wish to significantly reduce the extent of the area proposed to be cleared if the cost of offsets is a significant issue.

If as a result of such queries you should you wish to withdraw your application at this early stage of the process, Council would provide a full refund of application fees. This is unlikely to be offered later in the process.

Council officers do have concerns with the large extent of the proposed vegetation removal in its current form and are unlikely to support the proposal in its current form without either significant changes or justification.

Further Information Required:

Under Section 54(1) of the *Planning and Environment Act 1987*, more information is required to consider your application. Please provide the following:

1. The strategic justification / reason why the proposed vegetation removal is required, whether for a specific proposed development or other reasons. If the removal is proposed to address fire risk, a

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28 Perkins Street  
Alexandra 3714

Ph: 03 5772 0333  
Fax: 03 5772 2291  
Local Call: 1800 633 792

**KINGLAKE**  
19 Whittlesea –  
Kinglake Road  
Kinglake 3763

Ph: 03 5786 1522  
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Local call: 1800 651 821

**YEA**  
Civic Centre  
Semi Circle  
Yea 3717

Ph: 03 5736 0036  
Fax: 03 5797 2900  
Local call: 1800 672 719

Please address all  
correspondence to  
PO Box 138  
Alexandra 3714

[msc@murrindindi.vic.gov.au](mailto:msc@murrindindi.vic.gov.au)

[www.murrindindi.vic.gov.au](http://www.murrindindi.vic.gov.au)

ABN 83 600 647 004

written statement is required explaining why the removal of native vegetation is necessary. This statement should detail which specific buildings are at risk from adjacent vegetation and now being protected, outline how the proposed clearing to protect these corresponds / compares to standard defensible space requirements, and have regard to other available bushfire risk mitigation measures.

2. Full copy of title and title plan for the properties where clearing will occur, including any encumbrances (known an instruments) produced in the last 3 months. As some of the proposed to be cleared is neighbouring Crown Land, rather than your own please ensure as is legally required that the land owners have been notified of the planning permit application.

Instructions for obtaining current certificate of title are attached.

3. As more than 0.5 hectares of vegetation is proposed to be removed, the application will fall into the detailed assessment pathway. In this case the you need to appoint an accredited native vegetation assessor who will consult with the Department of Environment, Land, Water and Planning (DELWP), obtain the required report and help you complete your application, including providing the following information specific to this pathway:

A site assessment report of the native vegetation to be removed, including:

- A habitat hectare assessment of any patches of native vegetation, including the condition, extent (in hectares), Ecological Vegetation Class and bioregional conservation status.
- The location, number, circumference (in centimetres measured at 1.3 metres above ground level) and species of any large trees within patches.
- The location, number, circumference (in centimetres measured at 1.3 metres above ground level) and species of any scattered trees, and whether each tree is small or large.

Information about impacts on rare or threatened species habitat, including:

- The relevant section of the Habitat importance map for each rare or threatened species requiring a species offset.
- For each rare or threatened species that the native vegetation to be removed is habitat for, according to the Habitat importance maps:
  - the species' conservation status
  - the proportional impact of the removal of native vegetation on the total habitat for that species
  - whether their habitats are highly localised habitats, dispersed habitats, or important areas of habitat within a dispersed species habitat.

Note: A report from DELWP systems and tools contains information required to address this application requirement.

4. Topographic and land information relating to the native vegetation to be removed, showing ridges, crests and hilltops, wetlands and waterways, slopes of more than 20 percent, drainage lines, low lying

areas, saline discharge areas, and areas of existing erosion, as appropriate. This may be represented in a map or plan.

5. Recent dated photographs of the native vegetation to be removed showing trunk, leaves, flowers (if any), seed pods and a full picture of the plant.
6. Details of any other native vegetation approved to be removed, or that was removed without the required approvals, on the same property or contiguous land in the same ownership as the applicant, in the five year period before the application for a permit is lodged.
7. An avoid and minimise statement. The statement describes any efforts to avoid the removal of, and minimise the impacts on the biodiversity and other values of native vegetation, and how these efforts focussed on areas of native vegetation that have the most value. (Refer to Page 21, number 5, of the attached *Guidelines for the removal, destruction or lopping of native vegetation (Guidelines)*)
8. An offset statement providing evidence that an offset can be secured in accordance with the *Guidelines* (eg. a quote from a Native Vegetation Credit Register (NCVR) service provider). A list of NCVR service providers is attached.

You should reply as soon as possible to this request as the application cannot be considered until the information is received. Information can be emailed directly to [planning@murrindindi.vic.gov.au](mailto:planning@murrindindi.vic.gov.au).

If we do not receive all the information required within 90 days of the date of this letter, the application will lapse. An extension of time to provide the more information may be requested in writing prior to this date.

An application that has lapsed cannot recommence and a fresh application will need to be lodged.

If you have any questions please contact [REDACTED]

Yours sincerely

[REDACTED]  
**Manager of Development Services**