



**NILLUMBIK
PALS
PROACTIVE
LANDOWNERS**

Nillumbik Pro Active Landowners

Submission to
**The Royal Commission into
National Natural Disaster Arrangements
(Bushfires Royal Commission (BRC) 2020)**

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Introduction

WHO & FROM WHERE IN AUSTRALIA ARE NILLUMBIK PALS?

Nillumbik Pro Active Landowners (PALs) welcome the opportunity to make this submission to the *The Royal Commission into National Natural Disaster Arrangements (Bushfires Royal Commission (BRC) 2020)*

PALs is an advocacy group representing in excess of 1,500 rural and semi-rural landowners in and around the Nillumbik Shire located on the fringes of Melbourne, Victoria. Our people reside within an area acknowledged as the most highly populated bushfire prone residential area in Australia – a characterisation which is also understood to be globally significant.

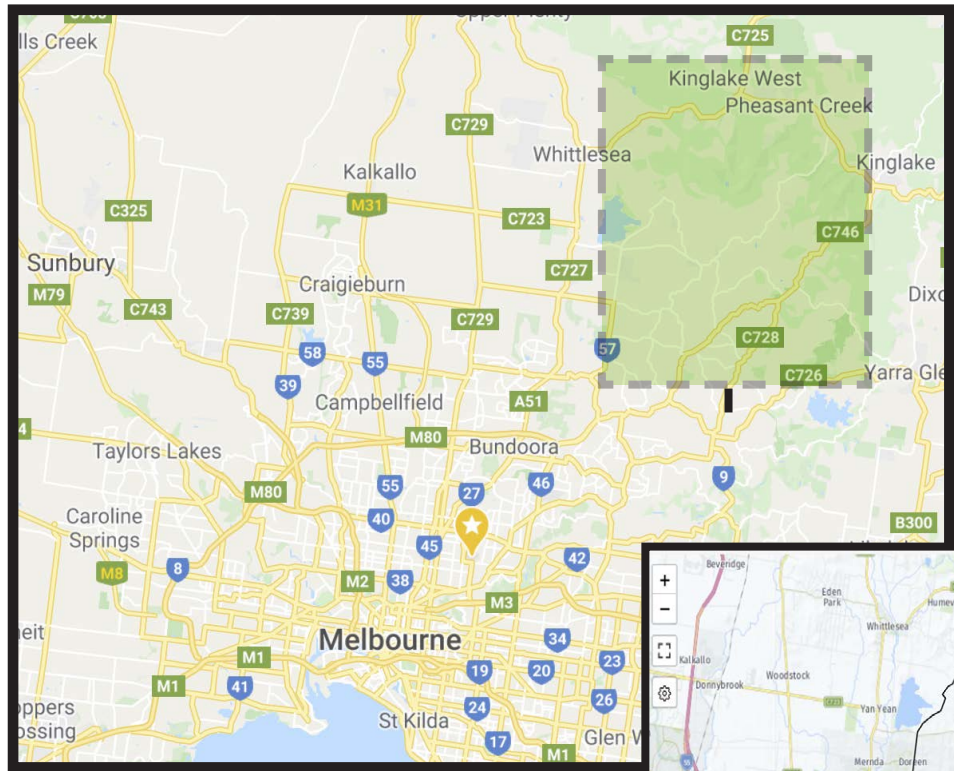
With a landmass of 432 square kilometres Nillumbik has large heavily wooded areas which, given its location to the north east of Melbourne and given the tendency for serious fire events in this part of the country to be historically typically accompanied and exacerbated by northerly wind conditions, makes the Shire a prospectively disastrous “fire wick” for the suburbs of Melbourne. The BRC may be aware but will see from sworn evidence given to the Victorian Inquiry Into Fire Season Preparedness on 25 January 2017 that:

“..... on Black Saturday in 2009 there were 173 people killed in the state of Victoria..... But approximately 125 of those deaths occurred in the Shire of Nillumbik. We are aware that in modelling bushfire activity and behaviour in our area the projections for a catastrophic fire coming either from our north, particularly, or north-west perhaps and travelling through the Shire of Nillumbik and into areas to our south, the projections for the fatalities are well over 4000. That gives you an idea of the potential scale of disaster that could occur either at the instigation of a fire or if a fire passes through our shire.”

Source: Transcript from Victorian Inquiry Into Fire Season Preparedness 25 January 2017 @ p19

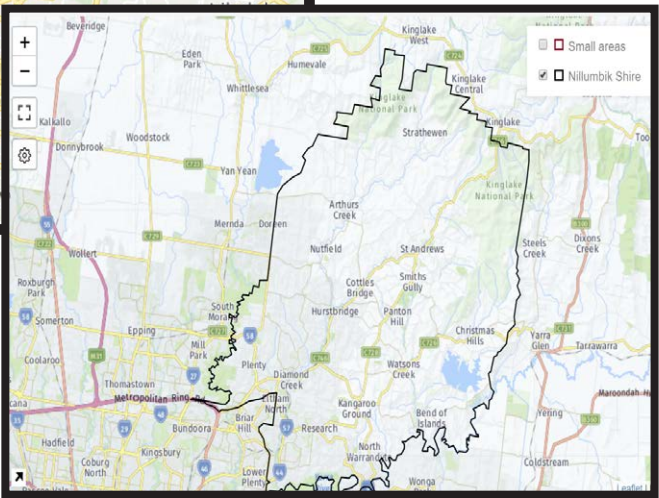


Nillumbik Shire is located only about 25 kilometres from the Melbourne CBD, bounded by Murrindindi Shire in the north, the Yarra Ranges Council area in the east, the Manningham City Council area and the City of Banyule in the south, and the City of Whittlesea in the west. Its boundaries are the Kinglake National Park in the north, the Yarra escarpment in the east, the Yarra River in the south, and the Plenty River and Yan Yean Road in the west.



GREATER MELBOURNE INCLUDING NILLUMBIK

NILLUMBIK SHIRE
COUNCIL AREA



NILLUMBIK SHIRE



SERIOUS AND DANGEROUS BURDEN OF LAND MANAGEMENT CONTROLS

The landscape within which we proudly live is included within the Nillumbik Shire Green Wedge and is comprehensively burdened with onerous planning controls set out in the Victorian Planning Provisions (VPP). These include but are not limited to:

- Rural Conservation Zone (RCZ)
- Green Wedge Zone (GWZ)
- Environmental Significance Overlay (ESO)
- Significant Landscape Overlay (SLO) and most importantly
- Bushfire Management Overlay (BMO).

Landowners are overwhelmed with regulations, planning controls and restrictions that continue to prohibit meaningful and responsible measures that could significantly reduce and minimize the risk of major bushfire events traversing the landscape – and making their way into the midst of suburban Melbourne. These regulatory burdens, which are found in extensive State based ***Native Vegetation Clearing Regulations*** were even planned to be largely replicated in local planning amendments – which was only averted by coordinated and concerted efforts of PALs via litigation and electoral action.

Whilst, to the best of our knowledge, none of our members or supporters were geographically impacted by the 2019/20 seasons' *Black Summer* bushfires, many of our group were indeed either directly and tragically, or indirectly and emotionally impacted by the 2009 *Black Saturday* fires. Many within our Shire remain deeply emotionally, physically and financially scarred.

As an advocacy group for peri-urban and rural landowners, we are well placed to respond to many of the *Terms of Reference* for this BRC. PALs has extensive recent significant experience. The issues surrounding bushfire preparedness and, in particular, robust bushfire mitigation measures have been of paramount importance to PALs since our inception in early 2016.

In 2016 and 2017 PALs delivered valuable contributions to the ***Victorian Government Parliamentary Inquiry into Fire Season Preparedness 2016*** through submissions and twice giving direct evidence to the Inquiry. Inquiry Chair Hon David Davis MLC in his Foreword to the Final Report noted:

“Decisions by the Andrews Labor Government to retreat from planning amendments in the City (sic) of Nillumbik follow a revolt by land owners and residents who did not want their lives and property placed at risk by cumbersome and poorly targeted planning overlays and associated bureaucracy. There is a lesson in this for the Government as it implements its native vegetation framework state wide.”

Note also key issues concerning targets for bushfire planned burning and issues surrounding indigenous burning practices.



Links to **Victorian Government Parliamentary Inquiry into Fire Season Preparedness 2016** and PALS submissions:

- Inquiry into Fire Season Preparedness – Victoria 2016
- Fire Season Preparedness Inquiry Final Report
- PALS 1st Submission to Inquiry
- PALS Supplementary Submission to Inquiry

PALS Evidence Delivered 28 February 2017 in which a key recommendation was ***"... what we are wanting as landowners representing a large number of people in the most bushfire-prone zone on earth is any land that is subject to a bushfire management overlay to be excluded from the application of the native vegetation permitted clearing regulations, absolutely. So that is quite unambiguous, and we think that would be a really effective means of protecting people in fire-prone zones."*** (@p 75)

PALS have also made important contributions to the development of the recently adopted *Nillumbik Shire Bushfire Mitigation Strategy 2019 - 2023*. See links below.

- PALS Submission to NSC Bushfire Mitigation Strategy
- NSC Bushfire Mitigation Strategy 2019 – 2023



Terms of Reference

The Terms of Reference for the BRC listed below are copied from the Letters Patent:

- A. the responsibilities of, and coordination between, the Commonwealth and State, Territory and local Governments relating to preparedness for, response to, resilience to, and recovery from, natural disasters, and what should be done to improve these arrangements, including with respect to resource sharing;
- B. 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;
- C. 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;
 - 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;
- D. any relevant matter reasonably incidental to a matter referred to in paragraphs (a) to (c).
- E. the findings and recommendations (including any assessment of the adequacy and extent of their implementation) of other reports and inquiries that you consider relevant, including any available State or Territory inquiries relating to the 2019-2020 bushfire season, to avoid duplication wherever possible;
- F. ways in which Australia could achieve greater national coordination and accountability — through common national standards, rule-making, reporting and data-sharing — with respect to key preparedness and resilience responsibilities, including for the following:
 - i. land management, including hazard reduction measures;
 - ii. wildlife management and species conservation, including biodiversity, habitat protection and restoration;
 - iii. land-use planning, zoning and development approval (including building standards), urban safety, construction of public infrastructure, and the incorporation of natural disaster considerations;
- G. any ways in which the traditional land and fire management practices of Indigenous Australians could improve Australia's resilience to natural disasters.



- H. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the Royal Commissions Act 1902 or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- I. the need to establish appropriate arrangements for information-sharing in relation to any other inquiries or reviews, in order to support concurrent inquiries or reviews as well as your own, in ways consistent with relevant obligations, and in ways that avoid unnecessary duplication, improve efficiency and avoid unnecessary trauma to witnesses.
- J. require you to begin your inquiry as soon as practicable; and
- K. require you to make your inquiry as expeditiously as possible; and
- L. authorise you to submit to Our Governor-General any interim recommendations that you consider appropriate; and
- M. require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 August 2020.



Pals Submissions to BRC Terms of Reference

PALs wish to make submissions to many, but not all, of the Terms of Reference.

Some of the items lie outside our experience and expertise and are best addressed by experts in the particular field.

Responsibilities, co-ordination and improvements

As PALs understand it the current response protocol in relation to any natural disaster within a particular State is that the responsibility for responses to that event lies with the State.

The relationship between the State and Local Government in response to an event can be clouded, confusing and open to demarcation issues, both from Local Government and State Government through Emergency Response Agencies including the Fire Services.

A key to strong Local Government partnerships with Agencies is the experience, strength, leadership and transparency from the Emergency Management and Response framework within the relevant Council.

It is of critical importance that both the members and leaders of the Emergency Management Committees within Local Government (particularly within a Shire such as Nillumbik) have appropriate experience and knowledge of disaster related events, especially fire related events, to enable the appropriate responses and actions that are required, free from peripheral and/or irrelevant issues such as planning and environmental considerations.

Responses to natural disaster events, including bushfires, should be viewed only through the prism of Emergency Services responses and should be actioned accordingly.

Appreciation of the true value of resource sharing is best acknowledged and delivered when the management of the relevant Service (be it Local, State or Federal) is comprised of people expert and experienced in their fields. The relevant experience should be field related and derived from longstanding practical knowledge and hands on involvement. This should include the ability to focus on the practical issues and their required immediate responses. Theorising and the inclusion of ideological positions should be separated and dealt with at Government level and in another forum.

Over recent years it is all too often the case that genuine on the ground experience is far too readily dismissed in favour of "qualified" graduates and office bound experts.

The responsibilities of, and co-ordination between, the differing levels of Government in response to natural disaster events would improve significantly if bias and demarcation issues are removed from the equation and immediate emergency issues are placed at the forefront.

Managers that have the experience and knowledge are far more likely to deliver better co-ordination, assume greater direct responsibility and be more attuned to relevant resource sharing requirements. The various tiers of Government have to be assured that they can deal and resource share with each other with absolute confidence in a time of crisis.



A. Improving Resilience and Accountability

At a threshold level, PALs representative views and submissions are informed by the primacy of human life being the predominant consideration in relation to bushfire management. This is a key outcome of the Victorian 2009 Bushfire Royal Commission. Every consideration which flows from an examination of previous bushfire events and preparation for inevitable future events is influenced primarily by that abiding principle of the primacy of human life.

The issue of adapting to changing climatic conditions and Government responses to changing climatic conditions should drive evidence based responses that consider issues that are more broad and far reaching than the matters considered in direct response to the *Black Summer* bushfires.

Climate Change policy should be the subject of a separate process conducted by the Federal Government to properly evaluate a National response.

The intent of the BRC is to evaluate the physical components and actual, direct and ever increasing on ground factors that culminated with the *Black Summer* bushfire scourge.

There is irrefutable expert opinion that confirms that bushfires and their given intensity are directly related to the amount of available fuel. The vast majority of available fuel lies at ground level in the form of ground litter (leaves and fine twigs) and fallen branches and dead forest material.

It is irrelevant how those physical components came to be, rather it is how those physical components can be practically mitigated into the future to minimise the opportunity for repeat events while dealing with a factor of their severity.

High fuel loads are a physical fact. Left unattended or unimpeded, fuel loads will continue to rise exponentially into the future which will result, by whatever trigger, in ever increasing bushfire intensities each and every year.

PALs submit that, given the differing State conditions (both in terms of on ground factors and climatic scenarios) it would appear logical to develop and adopt a National standard and accountability framework for responsible fuel loads.

There is an obvious need for such a framework to be developed in close consultation with the relevant State Authorities, but emphasis should be placed on the attainment of appropriate and proper advice and input from genuine and practically experienced experts, rather than derived from any politically or ideologically based platforms.

It is of paramount importance that a lead in this area needs to be taken and it would appear logical for the Commonwealth to take that lead as it presents the only genuine opportunity for a framework in the National interest. The National interest should be cited in recommendation adoption aims for this BRC together with the means of review periodically by the Commonwealth to ensure that intended outcomes are achieved.



B. Changes to Australia's Legal Framework

BUSHFIRE EVENT RESPONSE CONSIDERATIONS

PALs understand that, technically, the Commonwealth cannot insert itself into a State's natural disaster event without a formal State request for assistance.

The *Black Summer* bushfires have clearly demonstrated the effectiveness of Commonwealth involvement via the deployment of the Australian Defence Force and the timely and effective evacuation of the victims of the various bushfires, as well as other highly effective inputs and additional resources as required.

PALs submit there is a very strong case for the appropriate amendment to relevant legislation to allow the Commonwealth the power to declare a state of national emergency. Further, the Commonwealth should be granted the power, once a national emergency has been declared, to assume overall responsibility for the natural disaster response, including whatever measures are deemed appropriate to provide maximum assistance and ensure the best, most timely and effective action and subsequent recovery.

It would be critical, however, that the Commonwealth work in close consultation with the relevant State and Local Agencies to achieve the best possible co-ordinated outcome and the most comprehensive response across all affected areas and communities.

The key bushfire event response outcomes must be first, control and second, recovery, both delivered within the shortest possible timeframe.

BUSHFIRE PREPAREDNESS CONSIDERATIONS

Given an important focus on bushfire preparedness and its intrinsic connection to the primacy of the protection of human life, appropriate consideration should also be given at a national level to the influence of the Commonwealth Government in recommending land management practise changes to deal with excessive red tape, particularly in relation to responsible public and private land management activities in bushfire zones, which are in direct conflict with environmental regulation (the emphasis of which is inherently environment, not human based).

The severity of the events of the immediate past Black Summer has drawn sharp attention to the absurdity of both public and private land managers (whether custodians or owners – the distinction being irrelevant for any purpose driven by the primacy of the protection of human life) having been thwarted over years and decades in their attempts to responsibly clear land for bushfire preparedness.

The frustration of land managers in bushfire preparedness has been caused by a combination of arcane Local and State environmental regulation and its enforcement which has been achieved via an atmosphere of significant pecuniary penalties and inexplicable delay or absolute denial of permits for responsible bushfire preparedness and mitigation works.

While the overall extent of recent major bushfire events has seen locations which previously would not have been considered high risk areas for conflagrations – and even less likely areas to experience fatalities from bushfire (eg Yarra Glen, Victoria on Black Saturday 2009) suffer sever



impact, it is vital that this BRC seize the opportunity to deliver national reform in critical bushfire preparedness legal settings.

Recommendation:

Land management regulation should be urgently reviewed with particular focus on areas of known high bushfire risk. A framework to exempt specified high risk landscapes from complex and highly restrictive environmental regulation should be introduced and regularly reviewed (every 5 years for example) to ensure fitness for purpose.

This BRC presents the opportunity for the Commonwealth Government to respond effectively to the demonstrable and dangerous imbalance between Governments' and landowners shared responsibilities to protect human lives and the protection of the environment at the clear expense of human life. Recognition should not only be given to the consideration of the primacy of human life as actual survival , but so too should emphasis be placed on the social, psychological and economic welfare of people all over Australia in framing responses from this catastrophe.

D. Other Matters

PALs submit that the clear and present danger is to not deal appropriately with the conditions that exist here and now across the vast areas of Australia that are prone to bushfire events. Unlike other natural disasters, bushfires occur by requiring 3 basic components. Ignition, Oxygen and Fuel.

Only one, Fuel, can be physically addressed although it can only be minimised, but never removed.

Despite numerous previous Royal Commissions, Inquiries, Investigations and Audits covering a host of bushfire events since Federation, few recommendations and/or outcomes have ever been effectively or fully implemented. It is critical that this BRC not simply add to the library of inquiries without delivering real change. In the same way that life has changed dramatically in a Covid 19 world, the time for dramatic change in outcome from the national natural disaster of Black Summer demands that genuine reforms are delivered – particularly in responsible land management which can contribute meaningfully to improving both preparedness and real world outcomes.

Political positioning is inevitable. However encouragement should be taken from the recently formed National Cabinet which has somewhat marginalised politicisation in the face of nationally declared disaster situations. Local, State National interests should properly align to protect and preserve lives, livelihoods and the emotional and financial wellbeing of the population.

Clear, directive and mandated reforms which do away unambiguously with any misinterpretation or malapplication which can introduce delay and thwart the real intent of an initiative should be developed and implemented to avert the intervention of bureaucrats and/or environmental champions who may have misconstrued the import of the primacy of human life and whose favoured solution is to lock up land and deny rights to manage, use, enjoy and live within landscapes.



EMERGENCY RESPONSE ISSUES AND SPENDING

Recent history has indicated that:

1. A loss of “on the ground” experienced personnel across all the Fire Agencies and Government Departments has occurred.

Many of the former Government Departments (e.g. Forests Commission in Victoria) included officers with vast, practical ground-based experience of how bushfires were tackled and, more importantly, what mitigation works were required on an annual basis to help minimise the risk of significant events taking hold.
2. A wealth of experience has now been lost from within the Forestry Industries that had great knowledge of the bushland they worked in as well as providing invaluable expertise, machinery and time to assist with mitigation works and fire breaks.
3. A changing of emphasis has developed within Government Departments teams from experienced, practical personnel to academically “qualified” personnel, who often have little or no field experience and seek to implement policy and procedures from the desk rather than in the field.
4. Increased unionisation which has introduced confusion in relation to control and deployment of personnel, demarcation disputes and internal staff and personnel friction has compromised bushfire event responses.
5. A move has evolved to control of emergency responses being managed from centralised locations with consequential loss of valuable “on the ground” feel for what are always fast moving, dynamic fireground situations.

This was evident in recent bushfire events with critical appliances sitting idle at staging areas without specific instructions and/or directions on ideal deployment

6. There has been a systematic move towards increased reliance on aerial firefighting with consequential massive budgetary implications. This has resulted in limited if any meaningful increase in the ability to control wildfires or any tangible benefits in successful delivery of shorter timeframes in major fire events being controlled.

Budget allocation towards aerial response resources has resulted in consequential decreases in available funding to facilitate ground works to pro-actively initiate bushfire mitigation works and fuel reduction works at the coalface. This is counter productive and compromises the delivery of an integrated disaster preparedness and response strategy.

7. There has been a reduction in available machinery and personnel to support both fuel reduction programs as well as fire break works at the fire front.

PALs submit that the combined overall firefighting capabilities of the Fire Agencies has been adversely affected by an over reliance on aerial firefighting techniques.

The BRC presents an opportunity to recalibrate and re-assess the effectiveness of the aerial capability versus the proven work undertaken by ground crews year round and during major events. The BRC should also further assess the effectiveness of the current management practices in relation to how precious resources, both human and mechanical, can be best deployed to give maximum return for investment.



E. Other Reports

PALs refers the BRC to the links at the head of this submission for other relevant submissions made by PALs which will be of significant assistance to this Royal Commission.

RECENT VICTORIAN INITIATIVES and CONTRIBUTIONS by PALS

Much of the recommended output in the *Victorian Government Parliamentary Inquiry into Fire Season Preparedness 2016* remains to be implemented but remains critical for a comprehensive commission of inquiry into world's best practice and valuable real world information for the benefit of the entire Australian community. PALs commends this BRC to the volume of information PALS has previously submitted given its recognised value.

It is of significant ongoing concern to PALs that the Victorian Government has not only neglected comprehensive action in relation to that worthwhile inquiry, it has actually moved in a policy direction against one of the main recommendations of the Inquiry, that of achieving a minimum 5% fuel reduction burns across the State.

The Victorian Government has adopted a policy of "residual risk", referred to in publications as ***"the idea of residual risk", (used) "to assess whether activities such as fuel management are reducing bushfire risk. Residual risk is the risk, on average and across the whole landscape, that bushfires will impact on a property or other assets. It is expressed as the percentage of risk remaining after bushfire history and fuel management (mainly planned burning) activities are taken into account. For example, 80% residual risk means that the risk of property and infrastructure being impacted by a bushfire—on average, throughout the landscape—is 80% of what it would have been if we had never had bushfires and planned burning to reduce the fuel hazard."***

Source: Strategic bushfire management plan – West Central
Department of Environment, Land, Water and Planning – November 2015

The exact practical meaning remains unclear, however it seems that the responsible risk reduction metrics omit entirely land management by means other than natural or human induced burns, which ignores the risk reduction reality of vegetation removal, maintenance and management. It also fails to prioritise the protection of human life and the preservation of property, infrastructure and livelihoods. It fails to even prioritise the protection of flora and fauna, although it is portrayed as doing exactly that. Instead it sets arbitrary targets in poorly assessed locations purely for appearances, with dubious practical effect. Its measure of success is a computer modelled numerical attribute.

This is an important consideration for the BRC.

This BRC must ensure that its outcomes are genuine, monitored and delivered. Meaningful delivery would be a legitimate achievement.

PALs is concerned by the lack of participation of the Victorian State Government in the BRC proceedings. This dismays the Victorian community, not only those impacted by the *Black Summer* bushfires, but also those who have been emotionally and financially scarred for the remainder of their lives from any bushfire event.



It appears that that recent policy directions (since the 2009 *Black Saturday bushfires*) have demonstrated that control of direction, policy, delivery, mitigation and the protection of people's rights to housing security and rights to live within the landscape have been significantly compromised by the Government, influenced by external pressure groups. The essential thrust of the primacy of human life has been marginalised as a result.

While it is not possible in this submission to attribute a rationale to the Victorian lack of participation in this BRC, PALS notes with concern:

*"Constitutional lawyers said a refusal by a state to participate in the royal commission could prevent Air Chief Marshal Mark Binskin, who will lead the inquiry, from accessing that state's documents and compelling high-level public servants to give evidence."*¹

As the BRC has subpoena powers for documents and witnesses it is vital to the legitimacy of the BRC that all Local and State Governments' relevant documents, policies and evidence be tabled and subject to this Royal Commission to ensure that the national interest is served and the intent of the commission is achieved. This will ensure that the outcomes are comprehensive and the resultant recommendations carry the full weight of a proper and legitimate national response.

Failure to discover all of the above would result in a compromised Royal Commission. PALS contends that given the gravity of this Royal Commission and the devastation wrought across this State, it is a fundamental right of the community for this State's preparedness and response to be the subject of comprehensive review and resultant recommendations for the local, statewide and national good.

¹ *The Australian* – March 16, 2020 Reporter Rosie Lewis



F. Land Management and Land Use Planning

PALs central focus here includes the issues of land management and land use planning.

Both of these issues are controlled by the States and found in the respective planning controls. In Victoria these issues fall under the control of the VPP.

It would appear that the most important facets of a successful ongoing strategy in relation to Bushfire Mitigation and fuel minimisation are the two facets most removed from the Federal sphere. That should not diminish the importance of these issues to this BRC.

PALs submit that the core consideration for the BRC is the issue of fuel and bushfire mitigation through the proper use of managed burns, fire mitigation works and appropriate land management techniques to minimise the intensity of future significant bushfire events.

In the areas north east of Metropolitan Melbourne familiar to PALs it has been reliably reported to us that ground fuels have been exponentially increasing. This is particularly evident since the last catastrophic bushfire event, the *2009 Black Saturday Bushfires* ².

The VPP's set very restrictive and punitive controls across the areas generally covered by a designated green wedge or contained within areas designated with a Bushfire Management Overlay. PALs asserts that this regulation is antipathetic to the 2009 Bushfire Royal Commission recommendation of the primacy of human life being paramount in any regulation development.

Within our area, these controls prohibit any works to minimise or remove ground fuels, or undertake any bushfire mitigation works on private property without having first obtained a planning permit.

The above planning permits are rarely, if ever, obtained as the planning authority (Council or Victorian Department of Environment, Land, Water and Planning (DELWP)) require such punitive conditions and/or Agreements to be placed on the Applicant or registered on their title, it makes the intent of the planning application so restrictive on the landowners that total control over what can occur on the property is passed to the council and/or DELWP, contrary to the concept of shared responsibility.

Requirements for Consultants Reports, Vegetation and Ecological Reports, Land Degradation Reports, Arborists Reports, Vegetation Removal Assessment Reports plus the cost of establishing Section 173 Agreements on title, Trust for Nature Covenants, ongoing Land Management Plans and annual reporting all significant expense, often tens of thousands of dollars to any application, with no guarantee of a successful and/or useful planning permit as the end result.

In addition, the rigorous and arcane requirements for vegetation offsets, often not offered by means of vegetation replacement on the Applicants land, which PALs calls for wherever practicable, rather through the auspices of the Victorian Native Vegetation Removal Scheme which accepts only cash. PALs, with endorsement of recommendations from Christopher Wren QC has called for the dismantling and reconstitution of the Offset Scheme, as it appears to have become perverted and has been rendered corrupt from its original intent. While complex formulae are prescribed in regulations, often round financial amounts are applied – which are arithmetically impossible

² Local CFA brigades report ground fuel loads within areas affected by the Black Saturday fires are significantly higher in 2020 than they were prior to the 2009 fires. Some bush properties are now estimated to carry in excess of 25 tonnes / hectare of fine ground fuels. Estimates of manageable ground fuel loads usually lie between 1 and 5 tonnes/hectare.



if the arcane prescriptions are properly applied. In addition, the financial management of the scheme appears opaque at best and troubling from a governance perspective. The sums imposed disappear without appropriate acquittal and deliver no direct benefit to the Applicant or the surrounding communities, but will cost the Applicant, typically, between \$10,000 and \$100,000. Green offsets are traded, unknown by most in the community with the exception of a small group of traders. Innately inappropriate examples abound of a Shire being both the party which imposes the offset scheme financial contribution required and being the vendor of offset credits – fertile and unacceptable conflicts of interest.

As a result of the above controls, landowners either do no bushfire maintenance works across their properties at all, or, venture to do the works without a planning permit and run the risk of enforcement action against them either by council and/or DELWP.

This represents the framework that exists across fire prone areas in Victoria. It extends to mitigation works along road reserves as well where local CFA brigades have all but abandoned trying to properly maintain roadsides, remove fallen timber, trim understory and remove fine ground fuels. Many public entities require planning permits to undertake the works – often delayed or not issued.

The situation with public land is little different. Government is so focused being seen to be protective of our environment, that they fail to see that conflagrations, as evidenced by the 2009 *Black Saturday Bushfires* and the *Black Summer Bushfires*, cause infinitely more destruction, more loss of life (both human and animal) and more trauma than sensible and reasonable fire mitigation and managed fuel burns could ever collectively cause.

PALs submit that the only pathway forward to minimise the impacts of future significant bushfire events is the establishment and ongoing use of controlled burns and sensible land management that empowers landowners, local fire services and Authorities to undertake appropriate and reasonable bushfire minimisation works across the landscapes, both public and private without the need for any planning permit. Specific exemptions from controls could appropriately be replaced by simple self-reporting requirements to acquit the shared responsibility burden on private landowners.

Many existing planning controls are ill fitting and fail in both design and administration. The consequences of the planning controls with respect to *"land management, including hazard reduction measures"* condemns any genuine and measured actions to failure.

With respect to *"wildlife management and species conservation, including biodiversity, habitat protection and restoration"* this term of reference ticks all the boxes intended to demonstrate empathy, but is intrinsically and irrefutably directly connected to proper fuel management and appropriate bushfire minimisation works across the whole landscape.

It is conflagrations that annihilate vegetation, flora and fauna, not controlled burns and proper bushfire mitigation.

Unless the likelihood of those conflagrations is reduced to the lowest possible minimum by proper and appropriate bushfire mitigation works, all levels of Government must bear mutual responsibility for the ensuing devastation.



However, while it is challenging to identify a direct or clear role in relation to "*land-use planning*" for the BRC or for the Commonwealth as all related issues lie within State jurisdiction, the terms of reference provide the ideal opportunity for the Federal Government to provide national leadership on this critical issue by publishing and monitoring adoption of strong recommendations as submitted here in relation to suitable exemptions from environmental red tape in specific bushfire prone areas.

PALs submit that the BRC make a recommendation to the Federal Government that landowners be entitled and empowered to undertake such works as are reasonable to minimise the likelihood of a significant bushfire event traversing their property in specified bushfire prone areas. The works should be limited to ground fuels, dead and fallen timber, weed infestations and all flora varieties that are highly flammable and shown to accelerate the passage of fire. Works restricted to the above definition should be permitted with no requirement for a planning permit from either local councils or relevant Government departments.

Appropriate legislative powers to enable such a recommendation may need to be enshrined under a species of National Natural Disaster Preparedness Legislation – which if inconsistent with State laws would prevail according to the orthodoxy of Commonwealth Constitutional Law. This would represent tangible and genuine reform of the sort called for in response to national disasters of the scale of Black Summer 2019/20.



G. Traditional Land and Fire Management

So much has been said in relation to the knowledge and sensible fire management practices of our indigenous peoples.

Yet, it has to date not translated into training and widespread adoption by many people, departments, governments and agencies who appear to continue to voice their support without actually embracing the principles and genuinely engaging with indigenous experts to introduce and implement the fire management actions on any broad scale. There continues to be pilot studies aplenty, but broad adoption appears to remain a bridge too far.

The history of our landscape is self-evident. It has been well chronicled and catalogued and our entire bush environment has adapted to those fire and land management practices over 10,000 years. It is time to recognise and accept that our bushland can never successfully return to some type of utopian paradise, a pre-indigenous landscape.

Our national landscapes need regular fire events. The choice for this Country is to let that happen through disaster events like the *2009 Black Saturday Bushfires* and the *Black Summer Bushfires* and inflict widespread destruction or, at least genuinely strive to minimise the effects and the loss by minimising the available fuels to burn.

Indigenous techniques must play a critically important role in the minimisation approach working in conjunction with properly managed, organised, financed and delivered fuel reduction works across the entire bushland areas in Australia. This calls for a National Response, because this is a national problem. The time has arrived for the wholesale adoption of indigenous land and fire management practices.

PALs submit that the BRC recommend the nationwide expansion of indigenous land and fire management practices to be introduced across all of the differing bush landscapes in Australia.

Initially this could take the form of a drastically increased pilot program targeting the different types of landscapes, vegetation types, seasonal factors and personnel training with a view to upsizing to a national scale. Instead of the volume of constraints of red tape requiring multiple permits, consents and consultation, all resulting in no action, a superior outcome would be to give real multigenerational experts (experienced indigenous personnel) the ability to design, plan and action the burns.

What have we got to lose? A failure to explore and develop known successful methodologies and making genuine use of the long history of fire management built up over generations by indigenous populations, is to accept as inevitable the ever-increasing intensity of bushfire events.

Without a revision and reassessment of the failed approaches of recent years the conflagrations will only get worse and what this Country has experienced over the last 100 years will pale to insignificance compared to what our descendants will experience over the next 100 years.

Future conflagrations will be directly attributable to what this generation does, or does not do, to mitigate bushfire severity.

This is directly and irrefutably linked to the level of ground fuels and fire management practices as these are the key factors that will impact the next generation and what they will experience.



The obvious and disgraceful irony of the failure of appropriate land management and fire preparedness, hamstrung by purported conservation virtues, is the annihilation of the very same environment – together with all of its valuable fauna and flora – by more frequent and devastating infernos. It simply does not make sense. Now is the time to generate real reform and to liberate land managers to responsibly curate the landscape for the national good – for current and future generations of Australians.

CONCLUSION

Nillumbik Pro Active Landowners thank ***The Royal Commission into National Natural Disaster Arrangements*** for the opportunity to make this submission. As was the case with our Victorian submissions in 2017 referred to in this submission, if the opportunity is available to make submissions in person (which under current Covid19 circumstances may be via remote video means) our delegation would welcome the opportunity to provide evidence to this Royal Commission and to address any questions which The Royal Commission may have, particularly in light of the particular emphasis given by the ***2016 Victorian Inquiry Into Fire Season Preparedness*** of the importance and relevance of the Nillumbik experience and information.

This submission is commended to the Royal Commission for its consideration.

A handwritten signature in black ink, appearing to read "D. Crock", is written over a light blue circular stamp.

Damian Crock

Chair
Working Group
Nillumbik Pro Active Landowners
27 April 2020