

## **The approach to the 2003 fires - delays and caution**

- 4.1 The Captain of a volunteer brigade called out early in the development of the fires that devastated Canberra encapsulated much of the evidence received by the Committee in a submission that said:

it is disturbing that a lightening strike on 8th January can develop into such a destructive blaze and destroy so much over a week later when you consider the knowledge and resources available for its control.<sup>1</sup>

- 4.2 Many of the submissions received by the Committee made it clear that there was an initial failure to control or extinguish fires in the first few hours even though there was reasonable access and comparatively benign conditions.
- 4.3 It was no comfort to the Committee when the McLeod report came to a conclusion that was consistent with the picture being formed by the evidence to the Committee:

I am not convinced that the ACT Authorities' response during the first two days ... when the fires were most amenable to extinguishment reflected the sense of urgency that in my opinion should have prevailed ...

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1 Tim Webb, *Submission no. 179*, p. 2.

the ACT authorities did not respond as aggressively in this vital period as they should have ... the responses to all the fires in the first few days present a picture of a measured approach to a threat that was growing on a daily basis – as opposed to an all-out attempt to beat the fires from the outset.<sup>2</sup>

4.4 McLeod notes that the ‘commitment and personal endeavours of the fire fighters and others supporting them in the field ... deserve the highest praise’. Similar comments about lack of aggression in the command and control of the fire fighting response coupled with unqualified praise for the fire fighters on the fire line were repeated in many submissions and much of the evidence taken by the Committee throughout the areas affected by fires in recent years.

4.5 The same comments can be made in relation to Victoria. Mr Athol Hodgson told the Committee that:

I would say to anyone that the fires in the north-east of Victoria in the mountain areas this year, despite the lack of fuel management, could and should have been put out in the first two weeks. I have no doubt about that ... They were ideal firefighting conditions, because there was no wind.<sup>3</sup>

4.6 It has to be acknowledged that there were many instances where rapid initial attack was successful in limiting the spread and subsequent damage. Numerous fires were started by lightning in the south east of New South Wales and the north east of Victoria in early January and quickly extinguished. A Brindabella landholder told the Committee that:

the Forestry people – with some help from the Brindabella bushfire brigade – did pounce on some of the fires very quickly ... and got them under control.<sup>4</sup>

4.7 Mr Peter Webb commented on the delays in responding to some, but not all, of the fires in New South Wales:

I suppose the delays appear to relate back to a philosophy of the National Parks and Wildlife Service. Some fires started at the same time on private property or in New South Wales state forests, and they were extinguished and contained and controlled within a day or two – and that is usually the case

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2 Ron McLeod, *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, August 2003, pp. 57 and 60–61.

3 Athol Hodgson, *Transcript of Evidence*, 30 July 2003, pp. 80 and 83.

4 David Menzel, *Transcript of Evidence*, 15 July 2003, p. 28.

on private property. What happened here was that these fires started within the National Parks and Wildlife Service area. I think there was a desire to retain control of them or to not relinquish control to the Rural Fire Service ...<sup>5</sup>

4.8 Another Brindabella landholder, Mr Wayne West, put a similar view to the Committee;

On 8 January there was a prime example of fire management policy by two New South Wales government bodies, being National Parks and State Forests, with conflicting results. Tumut forestry had 12 lightning strikes and one of these was directly to our west. Mr Don Hobson, the Tumut forestry officer in charge, has informed me that they contained 11 of the 12 fires within 48 hours and only one fire was not contained. These fires caused no property loss, no loss of homes or lives. On the other hand, National Parks failed to contain or control any of their fires within 48 hours. We all know the damage caused by the McIntyre's Hut fire. The management policy of State Forests is working, whereas we hear every year at least once, if not on numerous occasions, of major bushfires in national parks causing grief and loss of property.<sup>6</sup>

4.9 This view was supported by an experienced volunteer fire fighter from the Snowy Mountains region and Chair of the Snowy River Bushfire Management Committee who, in a personal capacity, told the Committee that:

On 8 January 2003 there were some 50 lightning strikes in the alpine areas from the Victorian border to the ACT. Approximately 30 of these strikes were in national parks, and the remainder were on private property. Within 24 hours, all the fires on private land were either extinguished or contained. As we all know, the section 44 on the Kosciuszko South complex of fires was revoked at 10 a.m. on Monday, 24 February 2003 – some 47 days later.<sup>7</sup>

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5 Peter Webb, *Transcript of Evidence*, 14 July 2003, pp. 5–6.

6 Wayne West, *Transcript of Evidence*, 14 July 2003, p. 33.

7 David Glasson, *Transcript of Evidence*, 10 July 2003, p. 24.

- 4.10 Not all of the recent fires started on public land, for example the Committee was told during its inspections in north east Victoria that at least one of the fires in the Beechworth area started on private land. Not all fires on public lands got out of hand.
- 4.11 The Captain of the Licola Bush Fire Brigade provided an example from his area where there was ‘anywhere up to 20 lightning strikes around the Licola area’ that were all extinguished within 48 hours with the assistance of his brigade, despite being on crown land.<sup>8</sup>
- 4.12 In the Omeo area some fires on public land were also quickly attended to. One senior bushfire control officer came forward at the public hearing in Omeo and told the Committee that:
- All the fires that started in the Swifts Creek fire district were contained out of that same lightning strike that started the ones from the north-east that were not contained. In evidence of that we had fires on Mount Ned ... [where] ... There were two lightning strikes there. They ended up burning – and I can be corrected here – about half a hectare to a hectare. Both of those fires were contained with the use of DSE personnel and the Omeo fire brigade plus locals on the ground.<sup>9</sup>
- 4.13 However, much of the evidence points to different outcomes with some other fires and this evidence from Omeo does not contradict the more general view, as put by the MCAV that their members were totally dismayed by the way that agencies failed to tackle the fires aggressively in the initial period when the fires were small and the weather was relatively benign. The submission from the Association included a comment from their President that it took too long for the fire agencies to get serious about the fires in the Victorian high country. Their submission cites failure to properly deploy aircraft and a reliance on fall back positions (rather than suppression). It is suggested that concerns of possible litigation overshadowed decision making.<sup>10</sup>
- 4.14 As noted by Mr Webb above, many, but not all, fires were quickly contained because public land managers and rural fire authorities made concerted efforts to locate and attack the fires. The Committee is concerned about where and why this failed to occur or was not successful. The Committee noted for example, the comments of Dr Kevin Tolhurst who told the Committee that in Victoria all except

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8 Lindsay (Ralph) Barraclough, *Submission no. 407*, p. 49.

9 Kevin Symons, *Transcript of Evidence*, 28 July 2003, p. 75.

10 Mountain Cattlemen’s Association of Victoria, *Submission no. 424*, p. 8.

eight out of 90 fires caused by lightning strikes were contained before the weather deteriorated but those remaining eight uncontained fires burnt about 1.1 million hectares.<sup>11</sup>

- 4.15 Mr Webb's explanation, at least in part, for the delays was included in his written submission:

Weather conditions in the week from the 8 January to 15 January provided ideal control and back burning conditions. The mild easterly weather was not really capitalised on. Ironically, these mild easterly weather patterns may have acted to negate warnings to Canberrans. Since the wind prevailed from the east for this crucial period, many people, and indeed even the authorities, were almost unaware that there were several large fires burning between 30 to 50 km to the west of the capital in very high fuel loads. No smoke was coming over the city, no heavy smoky mornings, no wind, firebrands or charred embers to warn people.<sup>12</sup>

- 4.16 The Committee has endeavoured to understand why the initial response was inadequate in some cases. From the evidence outlined above it appears that there may be a variety of reasons and that circumstances varied from one area to another. Some of the fires that were quickly contained were on land managed by national parks agencies. However, much of the criticism by experienced fire fighters and landholders of the failure to respond quickly and aggressively was related to fires that started in, or rapidly spread to, national parks.

## **Lack of aggression in responding to fires**

- 4.17 The Committee heard evidence about the lack of aggression in the initial response to fires in all of the areas badly affected during the January 2003 fires. The evidence suggests that some of these fires need never have been as damaging as events turned out.

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11 Kevin Tolhurst, *Submission no. 210*, p. 3.

12 Peter Webb, *Submission no. 317*, pp. 4–5.

4.18 Mr Webb told the Committee that:

The lightning strikes there, down through Kosciuszko and into Victoria on 8 January should have been controlled within two or three days. The capacity was there for us to get into those areas using RAFT – remote area fire fighting teams – and other control methods and hit those fires within two or three days. We have done that in the past and we should have done that again then.

A lot of questioning is needed about those delays. They were a major factor that allowed those fires to grow quite rapidly over 10 days and then, in the case of the Canberra fires, to allow three fire fronts to combine and cause a massive loss of property and, in fact, life. A similar effect was had down south, although the fires were contained before a lot of property damage was done. But, because of the delays and the magnitude of the fires in the Kosciuszko area, there was a very high financial impact on business, including tourism, throughout that whole region. That probably would have been in the order of \$50 million to \$100 million; it is very difficult to quantify.<sup>13</sup>

4.19 The current Captain of the Fairlight Brigade agreed, in a written submission, that valuable time and advantageous weather conditions were lost in relation to the McIntryes Hut fire.<sup>14</sup> This fire was identified in the McLeod inquiry as being responsible for a major contribution to the impact on Canberra and rural areas of the Australian Capital Territory. The Committee heard other evidence of serious delays in the response to this fire. Mr West outlined what happened after lightning ignited the McIntryes Hut fire:

the actions that were taken by the Rural Fire Service and the National Parks in the very early stages leave a lot to be desired. On Wednesday I rang the Rural Fire Service ... and spoke to them about the fire. The impression that I received from the control centre was that there was just a fire up there of no significance.'

I ... made a phone call to fire control (at Queanbeyan), who said to me, 'We have a unit on patrol and the fire has travelled seven kilometres.' ... I asked the question, 'Was there only one unit on patrol? What were they doing?' The

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13 Peter Webb, *Transcript of Evidence*, 14 July 2003, p. 3.

14 Tim Webb, *Submission no. 179*, p. 2.

answer was, 'Yes.' Fire control closed down that night. The fire controller went home to bed. The office closed for the night.<sup>15</sup>

4.20 When asked if the fire could have been suppressed soon after it started Mr West said that after the lightning strike on Wednesday 8 January that:

The fire on Wednesday night-early Thursday morning died. It flared up again at around 12 o'clock, when we got a gust of wind. The fire then died during the early hours. On Thursday, Friday and Saturday the fire burned at a very slow rate ...

[By] Friday ... The fire, in relation to the ignition point, had crept only slowly down the hill and may have crept a distance as little as 400 metres in that time. The fire did not flare at all on Thursday, and throughout the day the fire was a cold burn with very little smoke. The evidence on the ground when you go back over there and see where the fire burnt for the first four, five, six, seven or eight days indicates that they were all slow burns.

In the adjacent area to the ignition point there was evidence of the fire where it ripped up the ridge face to Webbs Spur on Wednesday afternoon, and there were another four small locations where the fire ripped up some ridges in strips when the wind blew up. Those winds blew up for five or 10 minutes and mostly in the afternoon. Just after dark the wind blew up and the flame at that stage grew, whereas during the day time the flame was very small. So there was no evidence from my observations to show that the fire travelled at any speed at all for nine days. From the 8th to the afternoon of the 17th, when the fire jumped the river, we are talking about a distance from the ignition point to the river of one kilometre. We are not talking about 30 kilometres, which it was from Canberra. So the fire in our area was not an active fire. It was a very slow cold fire.<sup>16</sup>

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15 Wayne West, *Transcript of Evidence*, 14 July 2003, p. 31.

16 Wayne West, *Transcript of Evidence*, 14 July 2003, pp. 35-36.

- 4.21 These views of fires in the Brindabellas are confirmed by Mr Peter Smith, the Captain of the Brindabella Brigade, one of the first persons to attend the various fires started by lightning on 8 January. Mr Smith told the Committee that, like Mr West, he believed the McIntryes Hut fire could have been contained soon after it started.<sup>17</sup> He submitted that there was a good chance of extinguishing the McIntryes Hut fire in the period 8–10 January if resources were available. He said also that if it and the Broken Cart fire had been suppressed the spread to Brindabella and Canberra would not have happened.<sup>18</sup> Mr Smith specifically refuted the comment that the *Canberra Times* attributed to the Commissioner of the RFS that the fire was too dangerous to deal with. Mr Smith suggested that controllers with insufficient information or understanding might make a more cautious assessment:

It is a difficult decision to make. A person who is in charge of an incident must have paramount in his mind the safety of people – lives first. I can understand that people who are not familiar with and are not used to the behaviour of fire in our terrain could come to the conclusion that they thought it would be too dangerous to send people in to fight a fire there.<sup>19</sup>

- 4.22 More specifically, Mr Smith detailed the conditions that made an early attack on the fires possible:

For a start, when you are at 6,000 feet you are at the top of a hill. Lightning generally strikes at or near the top of the ranges, and it is a frequent occurrence in the mountains. The typical behaviour of fires in the mountains – and we have seen plenty of them – is that at night they ‘trickle’ around, as I call it. Their flame heights are very low. ... Because we had easterly air coming in over that period, at altitude we had high levels of moisture and cool temperatures at night. Under those conditions, fire behaviour is very benign. Let us face it: although we said it was too dangerous then for the rest of the campaign, we sent people in at night to burn off. I suppose what it boils down to is that, had the local knowledge of fire behaviour been used, I believe we would have attacked those fires ...

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17 Peter Smith, *Transcript of Evidence*, 15 July 2003, p. 11.

18 Peter Smith, *Submission no. 378, Attachment A Report on aspects of the McIntyre and Bendora fires*.

19 Peter Smith, *Transcript of Evidence*, 15 July 2003, p. 13.



the Bendora fire and the Stockyard fire were addressed on the 8th. One of them had a hose line and a rake trail right around it. The other was 50 metres by 70 metres, but the people were pulled off them. From where I sit, that seems to be an outrageous decision, but if you are sitting in Queanbeyan and you are looking at a map and you know that these people are in forests it is not, so I can appreciate very easily how the commissioner or a fire incident manager who was unfamiliar with the terrain would come to the conclusion that it was too dangerous to send people in there.<sup>20</sup>

4.23 In response to a question from the Committee Mr Smith confirmed that he had fire units and plant fully crewed and ready to respond by 4.30pm on the day of the lightning strikes, but the brigade was not tasked by Yarrowlumla fire head quarters. They then stood down until the following day, and therefore there were resources doing nothing when the fires were small.<sup>21</sup>

4.24 A report on the fires by Mr Smith states that:

It has been stated publicly that a response was made within two hours but it must be asked if that was a firefighting response or a reconnaissance response. I understand that at least one NPWS vehicle observed the McIntyre fire on the afternoon of the 8th and that the Baldy Range fire was so small that a NPWS ranger actually walked around the fire (this fire was not engaged until 10 Jan and later joined with the McIntyre fire). An RFS unit from Fairlight was sent on reconnaissance that evening.

The following day Mr Wayne West actually went to the toe of the fire and has reported that the fire was limited in extent and exhibiting benign behaviour.<sup>22</sup>

4.25 Mr Smith makes it quite clear that there were serious delays in the response to the fires in the Brindabellas, not just on the first day but subsequently when strategic back burning was not initiated even though the conditions were most suitable. The back burns were therefore incomplete when the fire weather deteriorated. These delays affected attempts to suppress the McIntyres Hut fire and others in the area which eventually merged on Saturday 18 January and ran into Canberra. Mr Smith's view is that delays in the commencement of

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20 Peter Smith, *Transcript of Evidence*, 15 July 2003, p. 14.

21 Peter Smith, *Transcript of Evidence*, 15 July 2003, p. 18.

22 Peter Smith, *Submission no. 378, Attachment A Report on aspects of the McIntyre and Bendora Fires*.

critical strategic back burns were a major contributor to the failure to suppress the McIntyre and Brindabella fires.<sup>23</sup> He cites withholding of permission to begin operations and the withdrawal of resources, specifically:

- A back burn on the critical sector of the McIntyres Hut fire was not started until 11 January despite unusually good conditions on 9 and 10 January.
- Critical back burning to help contain the development of the Bendora fire into the Brindabella area did not commence until three days after the fire spotted into this area and other back burns were not completed before conditions became uncontrollable on 18 January.

4.26 Mr Bill Bates a, former fire fighter from the Uriarra forestry settlement that was subsequently devastated by the fire also told the Committee that, based on his considerable experience in managing fires in the Brindabellas, the situation could have been given more attention overnight:

I do not believe (that it would have been too dangerous to send a fire crew in to attack the fire, even within a couple of hours of it starting). I have fought fires out there since back in the fifties. We had the big fire of '52. We fought that with hoses and rakes. We did get a couple of dozers in there towards the finish, and we put in trails ... [the fire] ... would die down in the night-time. They always die down in the night-time, particularly if there is no continuous wind.<sup>24</sup>

4.27 Mr Bates was speaking from a position of considerable experience and knowledge of fires and fire fighting in this area. In his contribution to the written submission from the Uriarra Community Association Mr Bates outlined the initial response to the three main fires to the west of Canberra, those at McIntyres Hut, Stockyard Spur and Bendora:

For 6 days following, the wind came from the east blowing the fire back towards Brindabella. After this the wind changed direction and blew from the north west. I believe that the fire could have been stopped during the first 6 days whilst the weather conditions were favourable. In the Uriarra Forest area, no firebreaks had been maintained for the past

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23 Peter Smith, *Submission no. 378, Attachment A Report on aspects of the McIntyre and Bendora Fires*.

24 Bill Bates, *Transcript of Evidence*, 15 July 2003, p. 45.

10-15 years, nor had any hazard reduction been carried out during that time. Further to that I also believe that there were no experienced leaders who knew the country and tracks.

[In relation to the] Stockyard Spur fire –

On 8 January 2003, the 10 person crew sent out to fight the Stockyard Spur fire noted that it was about 50 by 70 metres. The track to get to the fire was over grown. The crew was keen to walk in and stay overnight and put the fire out – it was about 9pm. After radioing it's intentions into Emergency Services Bureau, the crew was told that the track was too dangerous and to go home. Conditions were mild enough at this time to have stood a good chance of putting the fire out.

[In relation to the] Bendora fire -

On 8 January 2003 a 12 person crew had raked a trail around the fire and maintained a hose line around fire. They had arrived between 5-6pm and wanted to stay the night and continue fire fighting efforts to contain the fire but were told to go home. When they returned the following day the fire had jumped containment lines and was out of control. This fire burnt for several days before crews were sent in to work around the clock to try to bring fire under control.<sup>25</sup>

4.28 Mr Val Jeffery, a very experienced fire fighter and former Chairman of the ACT Bushfire Council, told the Committee that:

When those fires started with lightning strikes on 8 January, they should have been attacked immediately, hard and heavily with everything we could have thrown at them. That is the way we would have done it in the past. We never lost a lightning strike in my experience since the 1939 fire, so why did we lose them on 8 January? We did not try, frankly, as sad as it seems, to put those fires out. They could have been put out. Those fires were virtually all accessible by vehicle. They were not like some of the lightning strikes that I have fought over the years where you would have to walk for two or three hours to get to them, carrying knapsacks, chainsaws and everything you could get there or be dropped in by a helicopter onto a flat granite rock or ride a horse for a couple of hours ...

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25 Uriarra Community Association, *Submission no. 392*, p. 6.

Part of bushfire fighting culture is that you control lightning strikes by 10 o'clock the next morning or you are in trouble. We have done that over the years and we have done it successfully. We had not lost them before. But nobody seemed to want to put these out. I do not know why. I keep asking myself why, in the middle of January, in the middle of a drought and with the highest fuel loads ever, nobody seemed to want to put those fires out. It is just sickening.<sup>26</sup>

4.29 The McLeod report provides further details of the situation confronting the crew assigned to fight the Stockyard Spur fire:

The crew ... was able to drive to within 4 kilometres of the fire; crew members began walking but, because of overgrowth, were unable to locate a track leading to the site. The incident controller was in contact with an observation helicopter, which informed him that he was about an hour's walk from the seat of the fire. After reporting back to headquarters, the incident controller was advised to return to Canberra.<sup>27</sup>

4.30 Commissioner McLeod also reported on the initial response to the Bendora fire:

When the crew arrived at the site of the Bendora fire, at about 6.00 pm, efforts were made to put the fire out with the assistance of water bombing by the Snowy Hydro Southcare helicopter, but as evening approached the incident controller concluded it was not advisable to continue fighting the fire overnight ... the incident controller's judgement was influenced by the possible danger to the crew, the unfamiliar terrain, potential fatigue of the crew and doubt about adequate rotating.<sup>28</sup>

4.31 The Committee shares the concerns of Commissioner McLeod when he questioned why the crew initially committed to the Stockyard Spur fire and withdrawn was not redeployed to either the Bendora fire:

which they passed on their return journey ... to double the numbers on the fire ground. Alternatively, the Stockyard

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26 Val Jeffrey, *Transcript of Evidence*, 15 July 2003, pp. 67–68.

27 Ron McLeod, *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, August 2003, p. 58.

28 Ron McLeod, *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, August 2003, p 58.

Spur crew could have attempted to deal with the Gingera fire, which was burning about 6 kilometres further south.<sup>29</sup>

- 4.32 The Committee notes with concern observations offered by Commissioner McLeod in relation to the standard procedure of fighting bushfires in the conditions that were present at the Stockyard Spur and Bendora fires:

It is common practice to fight bushfires in mountain country overnight, when in some respects conditions are often easier than during the day. Wind strength and temperature are invariably lower, the moisture content of the air is usually higher, and it is easier to see where the fire is burning. Firefighting in rough country often involves arduous physical effort, particularly when hand tools are needed to clear and build firebreaks. At night conditions are often more comfortable than during the day for this work. These factors offset to some degree the difficulties created by lack of light.<sup>30</sup>

- 4.33 Most telling, the CSIRO's Mr Phil Cheney told the Committee that he agreed that weather conditions, in his opinion, were receptive to very early aggressive suppression of the fires in the initial stages.<sup>31</sup>

- 4.34 The Committee was also told that there were fire fighting aircraft available but not deployed and that they could have had a significant impact on aiding ground attack. The use of aircraft for fire fighting is discussed in detail in chapter 6. One excerpt from the evidence is particularly telling in relation to the fires in the Brindabellas. Mr Phil Hurst, the Executive Officer of the Aerial Agricultural Association of Australia (AAAA) told the Committee that:

the ACT fire should never have happened. If aggressive initial attack had been the commitment by the fire authority in that state and the aircraft available had been tasked, that fire, in my view, would have been able to have been at least slowed down enough so that the ground crews could do a more controlled job.

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29 Ron McLeod, *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, August 2003, p. 58

30 Ron McLeod, *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, August 2003, pp. 58-9.

31 Phil Cheney, *Transcript of Evidence*, 22 August 2003, p. 29.

In fact, on the Thursday before I happened to be flying in Canberra and I had direct vision of the fire seat from Canberra Airport at 1,000 feet. That is a distance of some 25 miles, which is very good visibility when you are talking about firefighting. The fire had just crested the Brindabellas and was burning downhill, which slowed it up. It was burning into an easterly, which was pushing all of the ash back onto the already burnt out area. It was a good opportunity to get stuck in. My understanding is that at that stage there were approximately three aircraft at Tumut that were not tasked and, in addition to that, there were approximately another 10, or perhaps more, aircraft around the state that could have been tasked but were not.<sup>32</sup>

- 4.35 The Committee has given careful consideration to this evidence. It has been provided by experts and experienced fire fighters with particular knowledge of the conditions in the mountains to the west of Canberra. Mr Smith tried to understand the actions of incident controllers by referring to their need to make decisions from the remote incident centre and without local knowledge of the conditions in the mountains. However, this does not explain the apparent failure for whatever reason to make use of the extensive local knowledge and experience which was available and offered. From the evidence before the Committee those people well placed to offer sound advice based on practical experience of the field conditions were not utilised. The overwhelming evidence to this effect makes it difficult for the Committee not to conclude that opportunities to control the fires that ultimately contributed to the devastation of those parts of the Australian Capital Territory were not taken. The evidence also shows that resources were available, including experienced local ground crews and aircraft, and in the first week following the initial outbreak, the conditions were suitable for fire fighting. As Mr Smith and others submit, the fire could have been suppressed. The majority of the Committee agrees.
- 4.36 It was put to the Committee that perhaps those with responsibility for managing the fires were complacent or disinclined to believe that a major disaster was possible, as illustrated by the apparent lack of concern early on in the fires in the Brindabellas.<sup>33</sup> It was also alleged that the fire controllers were out of touch, lacking information and

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32 Phil Hurst, *Transcript of Evidence*, 30 July 2003, p. 20.

33 Val Jeffrey, *Submission no. 16*, pp. 3-6

disinclined to listen to local advice.<sup>34</sup> Possibly it was a combination of all these things, and perhaps others, as indicated by one of the submissions from the Brindabellas:

Wayne rang fire control, was assured that if the fire crossed the river they would put it out.' He rang them at 10.26 p.m. on Friday night and said that the fire was on Tommy's Flat, which is across the river from McIntyre's Hut. He was basically told that no, the fire was not there, it was behind containment lines, and not to worry. It was more or less, 'Go to bed, we've got it under control.' As people who were watching the fire happening and who were where the fire was, we found that remote authority laughable – that would be a kind word to use. The fire, as I said, had crossed the river and it burnt a lot of property, including Wayne's house, effects and machinery, on that Saturday.<sup>35</sup>

4.37 This comment refers to the incident management by the New South Wales RFS. A similar response was shown by authorities in the Australian Capital Territory:

the Bendora Dam fire (in the mountains to the west of Canberra) had a hose line right around it and that the Stockyard fire was quite small but there was a team there which wanted to fight it. This has been a bit of a common story, because on the Friday evening before the disastrous fires here on the Saturday people were pulled off the mountain too. The fire fighters themselves wished to stay to complete the back-burn but, if you are an officer responsible for your crew and you have been given an order to withdraw, you are bound by it because you have to take on board that that order has been given by someone with information that you do not have.<sup>36</sup>

4.38 The Committee can only surmise on the evidence available to it that the initial delays outlined in the evidence and the failure of New South Wales and Australian Capital Territory authorities to take decisive and effective action in the first few days following the lightning strikes in the Brindabellas lead to the devastation of urban edge and a large part of the rural areas of the Australian Capital Territory.

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34 Val Jeffrey, *Submission no. 16*, pp. 3-6.

35 David Menzel, *Transcript of Evidence*, 15 July 2003, p. 28.

36 Peter Smith, *Transcript of Evidence*, July 15 2003, p. 24.

- 4.39 Similar problems were reported to the Committee in relation to the fires in north east Victoria. Numerous submissions referred to a lack of interest in dealing aggressively with some fires while they were still relatively small and easily contained. It appears that this lack of response reflected a policy of caution in attacking fires rather than lack of information, resources or ability. One landholder submitted that:

The first few days after ignition these fires were relatively small fires, but were not aggressively fought with traditional proven methods of containment lines and back burning. The two fires that started near Bogong Village were in the Bogong National Park, were not contained within the Park ...

The authorities were extremely lucky that there were only about four days of wind during the first three weeks of the fires in 2003. In fact in this area, they had eight days without strong winds to contain the fires. Further, the eucalypt leaves had only reached the gaseous stage on the higher and drier ridges where the firestorms did occur. Largely the fires in our area were cool to medium hot burns and should have been contained in the early stages.<sup>37</sup>

- 4.40 Another landholder who was burnt out by the fires and spent many hours, as the Captain of the Dartmouth Brigade, working to contain the fires provided a more detailed account:

Only very limited D.S.E. and Parks Victoria resources were mobilised into the Razorback in the first 6 days ... When the local Parks Victoria Officer requested additional resources, he was refused assistance. The fire expanded from Day 4 onwards with no resources allocated to suppress it. By Day 6 the fire had reached Sheever's Point and local farmers and CFA captains became concerned, and drove in to assess the problem. ... Contact was made with Parks Victoria representatives ... offering the services of a dozer and C.F.A. crews to help suppress the Fire ... he [stated he] didn't need help, he had dozers and resources to deploy. There was a failure to recognise the problem early and deploy adequate resources. It was two days later that the proposed local plan was activated.

Resources did not start to arrive till Day 8 on the Razorback Fire. The slow response and delay of 2 days cost the Mitta

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37 Allan Mull, *Submission no. 120*, p. 1-2.



Valley community valuable farming land. 'The 2 day delay' meant the containment line and back burning plan eventually adopted in the Razorback, was not completed on time. The fire jumped the line near Begg's property, at the uncompleted section of the plan, and crossed into the Bogong National Park. Time delays in decision-making exacerbated the spread of fire and meant fire plans put into action were doomed to failure.<sup>38</sup>

4.41 Other landholders and fire fighters put similar views. The Dederang Fire Brigade Management Team submitted that:

In our opinion the initial response by the Department of Sustainability and Environment (DSE) was not aggressive enough. Back burning was not allowed in the first instance and when back burning was allowed, the procedure followed by the DSE was more in the nature of a 'controlled fuel bum', that is allowing the fire to come to the control lines, as opposed to correct procedure where staggered lighting of undergrowth and fine fuels would be undertaken to burn up to the fire from the control line.<sup>39</sup>

4.42 The submission from the Carboor Rural Fire Brigade details two examples of crews that were turned out to attend active fires but spent most of their time waiting, driving around or observing:

When there was something that they could see needed doing they were not allowed to do it, by orders of someone who wasn't even there.<sup>40</sup>

4.43 These volunteer crews put in a lot of time but did only a very small amount of fire fighting. Similarly, the Noorongong Rural Fire Brigade commented on how it took nearly three days to get effective direction from the Incident Control Centre.<sup>41</sup>

4.44 The timber industry and farmers also put similar views to the Committee. The VAFI submitted that:

It was evident that an extremely cautious approach was taken throughout the entire fire effort and brings into question the level of experience and confidence of our fire fighting personnel.

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38 John and Robyn Scales, *Submission no. 161*, pp. 1-2.

39 Dederang Fire Brigade Management Team, *Submission no. 152*, p. 1.

40 Carboor Rural Fire Brigade, *Submission no. 264, Attachment*, p. 2.

41 Noorongong Rural Fire Brigade, *Submission no. 301*, p. 1.

While VAFI appreciates and fully supports concerns about safety—and the Linton inquiry has highlighted the responsibility of decision makers in this regard - it is deeply concerned that for reasons of lack of experience, senior fire personnel may lack the necessary confidence and experience to make appropriate decisions regarding crew deployment. The media has suggested this lack of aggression is linked to the focus of the fire fighting effort, which was to protect private property assets. VAFI is disappointed that the focus on private property assets appears to have led to a markedly reduced willingness to devote resources to protect the valuable commercial alpine ash forest assets. In excess of 20,000 ha of production alpine ash forest was burnt, possibly significantly affecting the supply of sawlogs for the next 80 years.<sup>42</sup>

4.45 The Victorian Farmers Federation (VFF) view was that:

The apparent reluctance of Parks Victoria and DSE to tackle the fires quickly, when they are small and conditions are right has drawn repeated criticism from our members.

During the recent fires, too much emphasis was put on asset protection kilometres away from the fire front, instead of attacking the fire at the front. As a result, fires got out of control and escaped from public lands with such violent intensity that no amount of resources could stop them.<sup>43</sup>

4.46 Mr John Cardwell who attended fires in the north east noted that that was little pro-active response from fire controllers:

Early on in the fire the people in control seemed very reluctant to be pro-active to the fire. Most noticeable, was the fire on the south side of the Mitta River from McDonald's to Dartmouth, which was just watched for over a week in calm conditions. It was that cold at night fire-fighters were lighting fires to keep warm. Why was that small unburnt area not burnt out! On Australia Day when the strong winds blew up that small area spotted into Springpole, burnt Dartmouth, Callaghan Creek and part of Tallangatta Valley as well as thousands of hectares of bushland. Were the people in charge more obsessed with having an injury free fire, rather than extinguishing the fire! Did OH&S mean more attention was

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42 Victorian Forest Industries Association, *Submission no. 212*, p. 9.

43 Victorian Farmers Federation, *Submission no. 423*, p. 10.

given to meal breaks and time on duty rather than extinguishing the fire!<sup>44</sup>

- 4.47 Mr Cardwell raised some questions to ascertain why this approach was taken. He said:

the Razorback fire ... seems to be the one that threatened us the most, but there was never much action on it. It started on 8 January 2003 due to lightning strikes, but it was not until Sunday, 12 January at a meeting at my house of four local captains that some action was finally taken on this fire. ...

In the light of the resulting concerns and questions, we now realise that this fire could have been put out in the early stages. The local DSE rep on the fire line asked for resources and was refused. Why weren't the local CFA crews, such as Mitta, Eskdale, Dartmouth or Noorongong, contacted and used to control this fire on 8 January by helping to support the DSE?<sup>45</sup>

- 4.48 Further evidence from Mr Cardwell indicated the difficulty in getting an active response from the fire control authorities:

We had a meeting and could not seem to get any recognition of the size or the concern of the fires. At that time, a report to John Scales made by Mrs Anne Walsh of live embers falling on Granite Flat altered the agenda of that meeting. We did realise then that there were concerns that this fire was a lot bigger than we were led to believe. We wanted it noted that we had expressed our concerns. This was the trouble: it took four hours of phone calls to DSE and CFA to establish any details of the fire. We were assured by DSE that the controller had flown over and it was of no concern. We were also assured by the controller at Corryong that there were no worries with the fire – that was on the Sunday. But Mrs Anne Walsh reported to John Scales that live embers were falling at her house.<sup>46</sup>

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44 John Cardwell, *Submission no. 178*, p. 3.

45 John Cardwell, *Transcript of Evidence*, 24 July 2003, p. 24.

46 John Cardwell, *Transcript of Evidence*, 24 July 2003, p. 33.

- 4.49 Another experienced fire fighter who was involved in the north east fires commented on the delays: 'My biggest criticism of the way the Bogong complex of fires was managed were the lost opportunities to reduce the impact of the fires. Lack of decision making was a serious impediment to action.'<sup>47</sup> He went on to suggest why this occurred:

It is my firm belief that since the Linton Fire tragedy and the subsequent outcome of the Coronial Inquest, fire managers and crew leaders have become so paranoid about safety and litigation no one wants to make a decision and initiative is stifled.

Decisions were having to follow the chain of command back to head office for consideration and debate, instead of crews on the fire line making the judgement. A number of times I was pulled out or stood down because managers from afar deemed my situation either "unsafe," or everything was "under control"! Usually this meant that one could not take the initiative. As a result back burn decisions and actions were painfully slow. Either, events overran the proposed control lines or back burns did not happen at all!<sup>48</sup>

- 4.50 Many submissions alluded to this restraint on aggressive fire fighting and proposed similar explanations, at least in relation to Victoria, for example one brigade Captain submitted that:

Since Linton the CFA hierarchy went into crisis management mode ... The hierarchy of the DSE and CFA are paranoid of safety issues. They have this perception that the fire crews have been working unsafely in the past and they have to change the management of fire suppression to make it safer. But this is not so. Our record shows we have been safety conscious all through these fire seasons.

They have pushed themselves into doing nothing or very little to lower the risk of litigation. There comes a time when it is a bigger risk of litigation when nothing or little is done.<sup>49</sup>

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47 Chris Commins, *Submission no. 337*, p. 2.

48 Chris Commins, *Submission no. 337*, p. 2.

49 Maurice Killeen, *Submission no. 371*, pp. 5–6.

- 4.51 At the Committee's public hearing in Wodonga a group of brigade captains and senior experienced fire fighters from north east Victoria agreed that an over-cautious approach now prevailed. One senior brigade member explained how concerns about liability affected decisions about fire fighting:

The coroner's findings in the Linton fire have made everybody very nervous ... That has affected the effectiveness of brigades getting in and doing their job. We tend to be told, 'If in doubt, get out.' We have better resources, much more expensive equipment and more training and yet our ability to get water onto a fire has deteriorated because people are worried about the liability. If you say, 'Go in and do it' and something happens, they do not want it on their neck.<sup>50</sup>

- 4.52 A rural fire brigade Captain told the Committee

I agree wholeheartedly that the Linton inquiry has definitely put the wind into everybody. Unfortunately, the way the law operates today, if you do something and it goes wrong, you know you are going to cop it – so you don't do it. People have got the wind up.<sup>51</sup>

- 4.53 This view was expanded by a fellow brigade Captain:

As regards the liability, strike team leaders have five trucks and many a time you hear of those trucks parked out on asphalt watching the farmers putting out their own fires with slip-on units. They make those decisions because of the liability. They have at the back of their mind, 'If I take those five trucks in there and something goes wrong, I'm at fault.' There is a fine line between safety and getting water on fire. With fire fighting you are fighting an unknown enemy. It is an unpredictable enemy. And that is why we had a lot of trouble this year with the strike team leaders with that litigation in the back of their brain, that 'I may be at fault.' ... Five years ago it was not a problem. Since the Linton inquiry, everyone is so frightened to make a decision that we are not getting water on fire quick enough.<sup>52</sup>

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50 Robin Box, *Transcript of Evidence*, 24 July 2003, p. 66.

51 Tony Menz, *Transcript of Evidence*, 24 July 2003, p. 66.

52 Mervyn Holmes, *Transcript of Evidence*, 24 July 2003, p. 67.

4.54 The situation in Victoria was summarised by the Australian Assembly of Volunteer Fire Brigades Association (AAVFBA):

The Gippsland/North-East fires of January and February 2003 mark a watershed in modern Victorian rural fire fighting practice. Instead of adopting a policy of active, aggressive fire fighting the policy which governed the firelight could be identified as safety first and 'built-asset' protection. As a consequence the fires ran for more than 50 days...<sup>53</sup>

4.55 The AAVFB also went to comment about the reasons why this occurred:

One can trace the genesis of this policy through the experience of the New South Wales Campaigns of 1994, 1997, and especially over the last two years. It is clear that a dedicated "built-asset" protection policy led to fewer losses from fire. The CFA had previously adopted a policy of aggressive fire fighting so much so that in its advice to home owners in high risk areas it told them to make their own preparations to stay and fight (or leave early) because they couldn't rely on the availability of fire trucks that would be fighting the running fire.

There are possibly two key reasons why this policy has been adopted, the first relates to the deaths of fire-fighters at Linton which led to the more cautious, 'safety first' approach and the second is a recognition of fire research evidence that a direct attack is only likely to succeed at very low fire intensities of say 3 MW/m of fire front when the fires concerned were producing intensities of 50 to 100+ MW/m.

The Gippsland/NE fires were both extensive and intense. ... Fire intensities clearly reached the extreme levels on occasion. There were however many times when crews simply sat back and watched when intensities were low and well within the fire fighting capacity of the assembled resources.<sup>54</sup>

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53 Australasian Assembly of Volunteer Fire Brigade Association, *Submission no. 399*, p. 12.

54 Australasian Assembly of Volunteer Fire Brigade Association, *Submission no. 399*, p. 12.

- 4.56 The Committee notes the comments of Mr Athol Hodgson who compared the 2003 fires in Victoria to those of the most comparable 1984/85 season.<sup>55</sup> He pointed out that the 84-85 fires were contained in two weeks and burnt only 150,000 hectares of which only about one third was in alpine. This was compared to the 2003 fires which took seven weeks to contain and burnt out 1.3 million hectares. Mr Hodgson argued that one of the reasons for the difference was that in 84-85 the initial attack by ground crews was faster and more effective – partly because a larger and more experienced workforce was available.
- 4.57 Mr Hodgson suggested that one area where the 2003 response showed a ‘dramatic improvement’ was in the protection of life and private property. This was achieved by concentrating resources at the interface of public and private lands for back burning and protection against ember attacks. The Committee notes particularly the qualifications he put on this conclusion – firstly that this approach is a costly strategy that places enormous burden on volunteers and local communities and secondly, that there was still a need to examine why the fires were allowed to get so large. The Committee is concerned that the approach adopted in 2003 did contribute to the fires being bigger than would have been the case with a more aggressive rather than defensive approach.
- 4.58 At a public hearing in Wodonga Mr Brian Bettles, a forester with considerable experience with the Forestry Commission of Victoria and the State Electricity Commission, cited rapid response to fires and strong inter-agency cooperation between public land managers and fire suppression agencies as preventing major fires in areas that were burnt out in 2003:

The fire that started at Little Arthur, which I might add I believe with a crew of eight we would have put out in an hour, ended up being one of the major fires that linked up with the Mount Pinnibar section, which went right across the top of Bogong down the other side and just kept going ...  
In the period that we were in charge up there, we never had a major fire in our area, but we did assist Forestry and CFA outside our areas ...

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55 Athol Hodgson, *Submission no. 450*, p. 9. The fires in 84/85 were more comparable to the 2003 fires because they also occurred after a long drought, were preceded by sufficient winter and spring rains to promote fuel growth, and arose from numerous lightning strikes.

I believe we had more lightning strikes and hotter weather. With regard to the fire in January this year, I class the weather as reasonably mild, other than on a couple of days. I thought it was very mild.<sup>56</sup>

- 4.59 The disappointment and frustration of fire fighters in Victoria is also reflected in comments made by the Chairman of one of the area conferences of the New South Wales RFSA, Mr Brian McKinlay, at the public hearing in Richmond. The Association believes that that there is reluctance on the part of some land managers to seek the appropriate emergency support in a timely manner.

Our submission really says that there are no black marks on the wall for someone to put up their hand and say, 'Hey, give me a hand as soon as you can.' It is not a political game; it is not an ownership game; it should be a game to put the fire out as soon as possible across all agencies and across all barriers.<sup>57</sup>

- 4.60 Overall, the situation was summed up by Dr Kevin Tolhurst who submitted that:

It seems that both in the case of the Canberra fires and in the Victorian fires, fire suppression resources were not engaged in sufficient numbers enough to control the fires in their early stages. In both Victoria and in the ACT, there were a number of days when little suppression work was undertaken on fires which ultimately burnt significant areas. This is due partly to the priority process and partly to inefficient use of resources. When resources are scarce, fires must be dealt with in priority order. If the resources never match the task at hand (as this year), some fires will remain uncontrolled for too long and become a significant problem. A more realistic assessment of the task at hand would have suggested more resources should have been sought earlier ...

The requirement to work safely when firefighting was emphasized by the Linton Coronial Inquiry. The safety of firefighters must always take the highest priority. However, better systems need to be put in place to reduce the amount of valuable skills and expertise tied up in maintaining the paper trail. Often the most experienced firefighters were involved in an incident management team rather than on the fireline.

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56 Brian Bettles, *Transcript of Evidence*, 25 July 2003, pp. 47-8

57 Brian McKinlay, *Transcript of Evidence*, 9 July 2003 (Richmond), p. 37.



Once the requirements of the Incident Management Teams were satisfied, the rest were left for fireline duty. With the reducing number of experienced firefighters nationally and internationally, this meant that most of the experience was in the office not in the field and this resulted in much lower achievement rates on the fireline and lost opportunities. Whilst I acknowledge the need for experience people in the Incident Management Teams, there needs to be a better balance between field and office. A certain amount of streamlining and centralizing is needed.<sup>58</sup>

## Weather during the January fires

4.61 The Bureau of Meteorology presented the Committee with evidence that indicated that the fire authorities were forewarned about the pending fire season, had access to good forecasts and data about lightning strikes and should have been in a position to make informed decisions following the outbreak of fires on 8 January. The Bureau submitted that:

The drought prevailing at the time of the recent fires was one of the most severe in the nation's recorded history. Large areas of the country were experiencing serious or severe rainfall deficiencies. Additionally, atmospheric humidity and cloudiness were below normal and daytime temperatures were at record high levels. This combination of factors led to an early curing of fuels across most of Eastern Australia. Although many of these factors were also present during previous major bushfire events the high temperatures in the lead up to the 2002/03 fire season appear to be unprecedented. The likelihood of conditions conducive to a bad fire season had been identified in seasonal outlooks as early as mid-July 2002.<sup>59</sup>

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58 Kevin Tolhurst, *Submission no. 210*, pp. 2-3.

59 Commonwealth Bureau of Meteorology, *Submission no. 369*, p. 4.

4.62 The Bureau's Deputy Director expanded on this in evidence:

What was also very unusual about the season was that the actual dryness, the lack of rain, was not exceptional. It was something like 1938-39 or 1982-83; it was not exceptional in that respect. However, what we did have was higher temperatures. In some cases we had average maximum temperatures which were, for some localities for a month, about three degrees above average. Averaged over a month, that is a large departure. So we had this combination of very dry conditions plus above average temperatures and we feel that certainly made this season quite exceptional. It was a combination of those two things.<sup>60</sup>

4.63 The Bureau also made it clear that this information was available to the fire agencies:

Prior to the 2002–2003 fire season (September/October), senior officers from the Bureau of Meteorology's Victorian Regional Office, the Canberra Meteorological Information Office and the New South Wales Regional Office met with and briefed their respective regional fire services on current rainfall deficiencies and the Seasonal Climate Outlooks for both temperature and rainfall. Agencies briefed included the NSW Regional Fire Service, NSW National Parks and Wildlife Service, State Forests NSW, NSW Fire Brigade, ACT Emergency Services Bureau, the Victorian Department of Natural Resources (now the Department of Sustainability and Environment), and the Victorian Country Fire Authority. The National Climate Centre also invited agencies to its Monthly Climate Meetings, at which seasonal outlook policy for rainfall and temperature is formulated. The Victorian Country Fire Authority and the Victorian Department of Natural Resources and Environment sent representatives to several pre fire season meetings. Further updates were supplied via monthly email documents to NSW and ACT fire agencies, whilst in Victoria, regular updates on seasonal outlooks for rainfall and temperature were provided to fire agencies through direct communication with the Regional Office's severe weather section.<sup>61</sup>

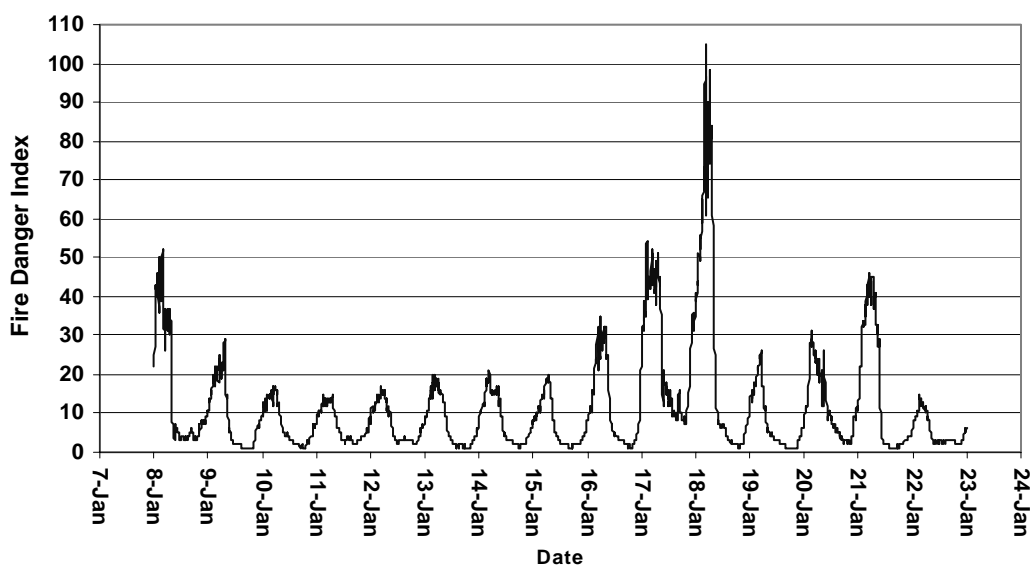
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60 Kevin O'Loughlin, *Transcript of Evidence*, 21 August 2003, p. 33.

61 Commonwealth Bureau of Meteorology, *Submission no. 369*, p. 15.

- 4.64 This evidence suggests that opportunities were available to make an all out effort to contain fires in initial stages before conditions deteriorated. There was clearly a need for a rapid initial response to stop the fires spreading and joining up.
- 4.65 Data presented by the Bureau also showed that once the lightning storms passed through, the remaining period in which fires ran in south east Australia was characterised by generally benign fire weather, that is conditions were relatively conducive to fire fighting. In the Australian Capital Territory region the fire forest fire danger index on 8 January, when the fires ignited, was in the extreme range but for much of the remainder of the period and leading up to 18 January, it was in the high range. The Bureau's data indicated a similar situation at Mount Hotham and at Hunters Hill in north east Victoria not far from the border with New South Wales. The variation in the fire danger index is shown in Figures 4.1, 4.2 and 4.3.<sup>62</sup>

Figure 4.1 Forest Fire Danger Index – Canberra



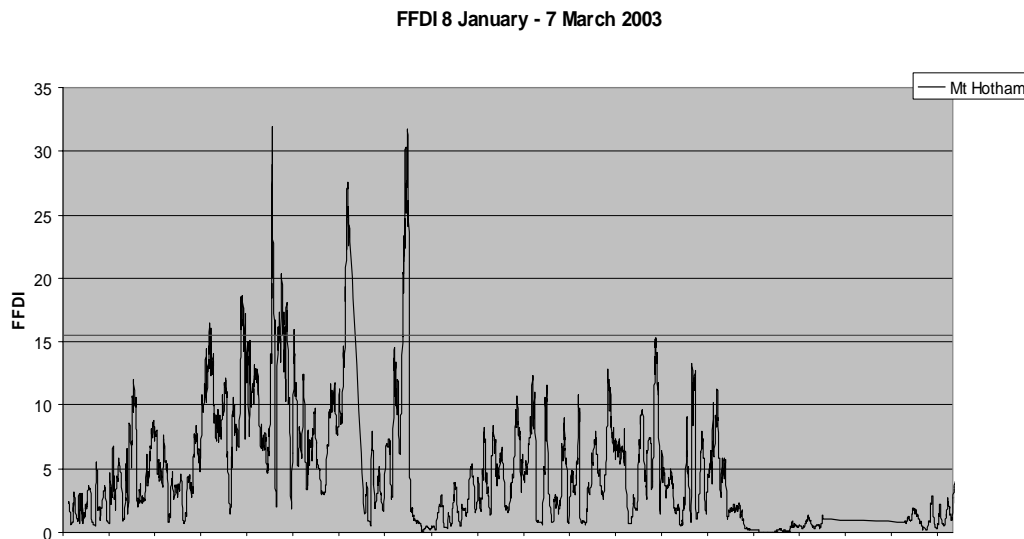
Source: Bureau of Meteorology

62 Barry Southern, *Transcript of Evidence*, 21 August 2003, pp. 37-38.

4.66 In relation to the critical period, particularly for the fires in the Australian Capital Territory and to some extent the north east Victoria fires, from 8 January onwards the Bureau said:

There was certainly a weather event around 8 January and lightning appears to have started the fires. Then there is a relatively benign period after that, until about 17 January when things started to really get quite serious from the weather point of view again. One thing I would point out about that is that, although the actual weather conditions were relatively benign and the fire danger ratings were reduced over that period, there was virtually no rain. In fact some places went for about 50 days with no significant rain.<sup>63</sup>

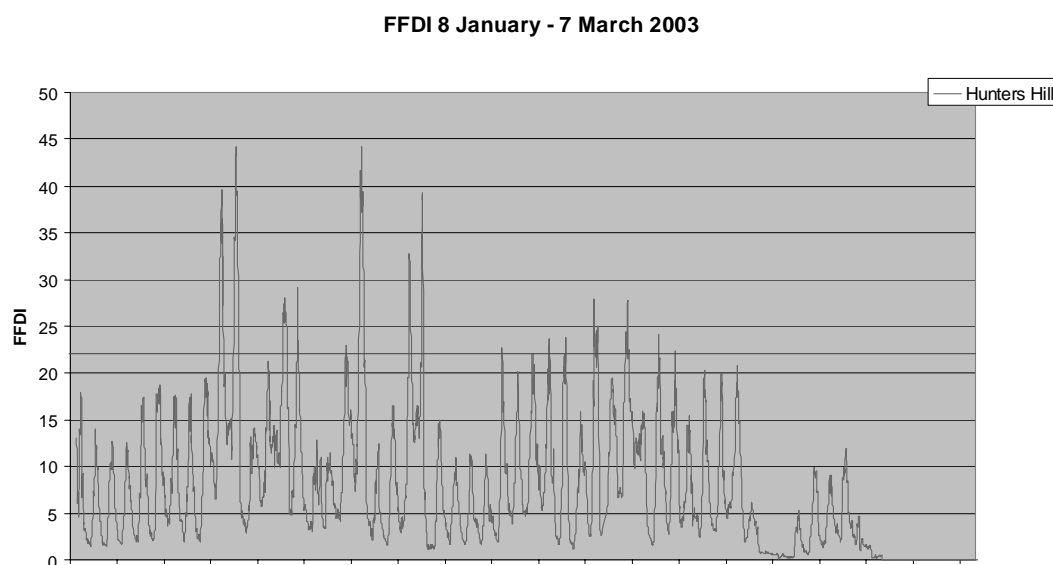
Figure 4.2 Forest Fire Danger Index – Mount Hotham



Source: Commonwealth Bureau of Meteorology

63 Kevin O'Loughlin, *Transcript of Evidence*, 21 August 2003, p. 33.

Figure 4.3 Forest Fire Danger Index – Hunters Hill (Victoria)



Source: Commonwealth Bureau of Meteorology

- 4.67 This data supports the views put by experienced and knowledgeable fire fighters who told the Committee that the fires could have been contained before the fire weather deteriorated later in January. This is not to say that the fire fighting task would have been without risk. The Bureau pointed out that there have been incidents in the past that involved danger or deaths where the calculated fire danger was actually quite low.<sup>64</sup>
- 4.68 However the lack of aggression shown in some instances in deploying ground and aerial forces was not warranted based on the data and the direct field observation presented in evidence to the Committee.
- 4.69 Mr Nic Gellie undertook an analysis of the diurnal variation in forest fire danger rating in Canberra during January 2003 which showed that there were about 59 per cent of occasions overnight when the Forest Fire Danger Rating was less than or equal to 10. It was suggested that at higher elevations, this relative frequency of low fire danger ratings would have been closer to 66-70 per cent of occasions.<sup>65</sup>

64 Kevin O'Loughlin, *Transcript of Evidence*, 21 August 2003, p. 38.

65 Nic Gellie, *Report on: Causal and Risk Factors, Fuel Management, including Grazing and the Application of the Australian Incident Management System*, p. 27.

## Underutilisation and withdrawal of fire fighters

- 4.70 Evidence received by the Committee pointed to problems in coordinating and tasking fire fighting assets in the field. This, in part reflected the non-aggressive, cautious approach highlighted above. It also indicates failures in command and control systems. The under-utilisation and, in some cases, withdrawal at critical times, was a matter of considerable concern to people who made submissions. One landholder in east Gippsland explained the situation in his area:

In the Wulgulmerang area there was a fleet of CFA tankers waiting for the fire on the 30th January. However, their control centre with limited local knowledge indicated to the Wulgulmerang CFA fleet that the fire was three days away. Meanwhile, a Wulgulmerang farmer drove a few miles down the Benambra road and determined that the fire would hit Wulgulmerang that day – this farmer's judgement was correct. When the farmer returned, the CFA tankers could not be found. Apparently the tankers had gone for a lunchbreak 30 kilometres away. Farm families protected their lives and property by themselves in Wulgulmerang and Suggan Buggan. They had no assistance from any Government agency.<sup>66</sup>

- 4.71 Similar concerns were expressed from landholders in north east Victoria:

In the evening of 26/1/03 when the fire was very close to hitting us. The Granya tanker was calling over their CFA radio for support but got no reply. I then placed an emergency telephone call to 000 and asked for support, as the fire was imminent.

I then rang Captain John Scales of the Dartmouth brigade to see if he could find out what was going on, as I knew that there was a CFA communications base at Dartmouth. He rang back at around 8:35pm with the news that a CFA strike team would be in the area in approximately 1 hour.

That strike team did not arrive and I understand they were diverted to Mt Beauty, leaving us to burn.<sup>67</sup>

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66 Nick Margetts, *Submission no. 12*, p. 2.

67 Robert Bethune, *Submission no. 124*, p. 3.

4.72 Much of the concern about the utilisation of fire crews in Victoria centred on the role of strike teams. Whilst little criticism was made of the commitment and the intention of team members there was a wide spread view that the teams were not properly tasked and were subject to restrictions imposed by remote incident controllers:

spot fires were left unchecked as crews in tankers were instructed that they were not to work on a running firefront so all strike teams became observers of a fire that kept spreading for three days and nights unchecked and was to become a juggernaut that no-one could control ...

Strike teams were not to work on running edges as directed by Incident Control Centre. These instructions resulted on more than one occasion where on request by farmers and local C.F.A battling to control spotovers were told 'no, we can't go in there, it's too hot' and yet they were at the time observing local efforts to contain fires from 100 metres away in their fully-equipped tankers ...

Strike teams were not under the control of the local group officer as they should have been on the fire line, but were controlled by some person at Incident Control Centre 30 kilometres away who did not have a clue what was going on at the fire front. D.N.R.E. Incident Control Centre instruction to crews had to be seen to be believed. They too were under instruction not to work on running edges and in the frustrating position of watching spot fires escape when normally these fires could be easily mopped up. These instructions to CFA and D.N.R. crews all helped to create what we see today as total devastation of our environment and logging areas.<sup>68</sup>

4.73 Elsewhere in north east Victoria the situation was repeated:

On 17/1/03 I was on duty on the Dartmouth tanker on the Razorback track ... Conditions were very hot, smoky and dangerous ... We were under resourced for the task at hand. In the end the fire got away from us and we had to evacuate by driving through the fire to a turn around point and then back out through the fire again.

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68 Neville Robinson, *Submission no. 119*, p. 2.

We found out later that while we were fire fighting under these arduous conditions a strike team was enjoying a cool swim in the creek half an hour away ... We really could have done with their support ...

The stupid thing is that the CFA controller in charge of that part of the fire that day ... did not even know that the strike team was in the area.<sup>69</sup>

- 4.74 The underutilisation of strike teams in Victoria was severely criticised with much of the criticism coming from brigade captains and fire fighters who looked to the strike teams for assistance. They found that they were unable to work effectively with the strike teams or were disappointed by the limitations apparently put on the tasking of these teams. One brigade Captain and landholder from the Dartmouth region advised the Committee that:

Controllers outside the region controlled C.F.A. Strike Teams. There was no liaison between local or area C.F.A. captains and D.S.E. controllers and Strike Teams. They were controlled outside the fire area – they weren't part of a 'Total Fire Suppression Plan'. The CFA Strike Team resource was a total waste of funds because they didn't contribute to putting out fires ...

C.F.A. Strike Teams were an inappropriate response to controlling the fire. They let fires burn down into farmer's properties before spraying them with water. Strike Teams are not allowed to fight a running fire – too dangerous!<sup>70</sup>

- 4.75 The problem with strike teams was more a matter of how they were directed by incident control centres rather than the commitment of the crews. As a volunteer fire fighter, who was on duty in the Wulgulmerang area, outlined to the Committee:

the firefighters on the ground were as frustrated as what the residents here were. We were prevented from doing things that we wanted to do. We were sitting in trucks and told to wait. This happened to the firefighters that were here that wanted to go up to Wulgulmerang. I know they wanted to go up there, but the hierarchy said we had to sit back and wait.

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69 Robert Bethune, *Submission no. 124*, p. 5.

70 Robyn and John Scales, *Submission no. 161*, pp. 2–3.



The same thing happened at Dinner Plain and Mount Hotham. The same happened with the DNRE on-the-ground workers as well.<sup>71</sup>

- 4.76 These sorts of experiences were not confined to Victoria. Volunteer fire fighters in New South Wales advised the Committee of similar concerns about not being actively tasked to fire mitigation activities. One RFS Group Captain made some comments specifically about the lack of urgency in the response to the fires in Canberra, which he contrasted to his more general experience with major fires:

In most of my recent trips to section 44 incidents the deployment of firefighting resources have been good however the Canberra fire was in my view looking at it from a taskforce leaders position disastrous. ...

Why did it take two @ quarter hours from our arrival at Yarrowlumla Fire Control till the taskforce arrived at Fairlight property [?]

Why did the taskforce travel through the suburbs of Holder and Duffy, which were still burning, to a property, which did not need protection?

Why was the Taskforce allowed to wait in the suburb of Holder for one and half hours and not be tasked?<sup>72</sup>

- 4.77 Observation from the south coast region of New South Wales referred to a similar experience with the deployment of fire fighting resources:

The Eden volunteers got to Michelago, believing that they were desperately needed. They were told to hang about until their orders came through and it was suggested that they might play a game of cricket while they were waiting. A few hours later they were still sitting around waiting, and they said, 'We are going home. Call us when you need us. We are going home to look after our own back doors.' The same thing happened to the Wandandian group. They actually came out. They were to the west of Canberra. They stayed for two days. In those two days, they were not required to help with the hands-on fire fighting that they had the experience and expertise in, so they also went home.<sup>73</sup>

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71 Gina Trotter, *Transcript of Evidence*, 29 July 2003, p. 51.

72 Alan Holding, *Submission no. 28*, p. 3.

73 Jill Lewis, *Transcript of Evidence*, 14 July 2003, p. 21.

- 4.78 Resources within the Australian Capital Territory were also held back. One volunteer fire fighter told the Committee that even after being deployed the fire fighting effort was restrained. Referring to the availability of volunteer based rural fire units he said:

I was in contact with ... [the Captain of the Southern Districts Brigade] ... and ... [he] ... had people there ready to go ... he had people out there that could have left as soon as the calls came to be up there and do something, but nothing happened. Our first real involvement was on Saturday the 11th. I was sent up to one fire at Mount Gingera and told not to do any active fire fighting, just to monitor it and watch it with two fully crewed tankers and that was it, which was what we did. But the fires, even at that stage, were not that dramatic. We could have done something if we had had a go at it. ... If we had had the bulldozers to create some sort of access for tankers on one side of it and if the resources had been put on it, yes. The Stockyard Spur fire was a similar proposition.<sup>74</sup>

- 4.79 The Committee is aware that fire fighters on the fire ground during major, multiple fire situations may not always have a sufficient overview of circumstances to make sound strategic judgements. It is notable, however, that the observations about fire crews being held back when their own observations indicated good opportunities for more aggressive fire fighting were repeated throughout the evidence.<sup>75</sup>

- 4.80 Most disturbingly the evidence includes examples of residents and landholders either being lulled into a false sense of security or being given certain assurance about assistance only to find that they were left to their own devices. In the rural areas of the Australian Capital Territory and the mountains to the west it was reported to the Committee that:

Nobody contacted me, as a property owner, about the danger to my property. Fire control was not aware that I had a house on the property, despite the fact that the fire burnt 200 metres from my house for three days. I watched it from my veranda.

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74 Stephen Angus, *Transcript of Evidence*, 15 July 2003, p. 80.

75 Other submissions from land holders and brigade members, such as 102, 178, 268, 275 and 276 also refer to fire fighting units sitting around waiting to be tasked and not utilised.

While choppers were water bombing, fire control was not aware that there was a house within 200 metres of the front of the fire. It appeared to me as though once the fire was contained, in the view of the National Parks and Wildlife Service, fire services were removed completely from the area ...

I felt abandoned. The fire had seemingly been brought under control in the park, and no fire services or crews were adequately deployed for property protection for private property owners. Brindabella fire brigade were in the area and did do some back-burning, but they were deployed back to Brindabella and we were left on our own to protect our properties. The communication to property owners was minimal, if not absent – in my case, completely – and National Parks made no attempt whatsoever to communicate what sort of strategy or plans they had for containment of the fire. Forestry evacuated us without the option of staying to protect our properties. I believe that, had we been given the option to protect property and the support to protect property, perhaps my neighbour's property would not have been completely destroyed.<sup>76</sup>

- 4.81 In the forestry settlements to the west of Canberra the sense of abandonment was strongly felt following what was perceived to be a deliberate policy of deceit and a lack of intention to protect the settlement houses. During the fires all but six of the 22 houses at the Uriarra settlement were destroyed.<sup>77</sup> Some settlement residents outlined this position to the Committee:

Ms Murphy – We were used for 10 days as a base for the helicopters ... We were assured that we were safe there and that they would help us if the fire did come, but on the morning of the 18th they all left. They completely left us; fire nozzles were taken and our water was drained by the fire fighters. Obviously it was not their fault; they must have thought they were able to use it, but that was our own water supply, and we were left to fight for ourselves.

Mrs Kavanagh – I asked some firies who were walking up my laneway what the situation was. They assured us that everything was calm and told us to water everything down.

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76 Katja Mikhailovich, *Transcript of Evidence*, 14 July 2003, p. 86.

77 Bill Bates, *Transcript of Evidence*, 15 July 2003, p. 41.

They tested the fire-hose that was near my premises. We were assured that they would be there to help us, but instead we were left there by ourselves. We lost all water pressure and had no nozzle, so we had to go and search for one. We were basically left there.

Mr Anderson – I was just the same as everybody else. We all had a sense of security, with all the action that was going on previous to the Saturday, and it was very disturbing to be left behind – if I could put it like that – to fend for ourselves.<sup>78</sup>

- 4.82 This sense of abandonment was also evident in the urban areas of Canberra affected by the fires, but there was also a recognition that by the afternoon of Saturday 18 January, when the fires had made a major run through the rural areas to the west, that the situation was beyond control. However, in these areas many houses were lost to ember attack several hours after the main fire event had passed, in which case the deployment of even moderate capacity fire suppression assets may have prevented some losses. Some residents of Duffy made a joint submission to the Committee in which the question was asked if when and by whom Eucumbene Drive was given up as a lost cause and why no fire tenders attended the street until about four hours after the fire front passed. One of the residents put it this way:

We had no warning to evacuate, there were no fire appliances, firemen or police visible in our part of the street and, it seems to us, we were apparently left to fend for ourselves ...

There are stories circulating that our end of Eucumbene Drive was given up as a lost cause and that is why there was no line of defence in our street ... We (and our neighbours, who also stayed and fought) would like to know if we were abandoned and, if so, the reasons why.<sup>79</sup>

- 4.83 Landholders and volunteer fire fighters in Victoria also relayed their concerns to the Committee. Landholders from near Omeo told the Committee that:

In our area of the valley there were only the residents—not a single CFA or DSE truck or strike team was at hand to protect our property or that of our neighbours, including 17 houses, thousands of head of stock, two historic wooden bridges and

78 Uriarra Community Association, *Transcript of Evidence*, 15 July 2003, pp. 40–41.

79 Mark Douglas, Paul Garret and Phil Tuckerman, *Submission no. 8*, pp. 6–7.

many hundreds of kilometres of fencing. As such, defense against the fire was handled solely by the residents, with neither professional nor volunteer help or equipment.

At approximately 9:45 am, the DSE phone-tree system out of Swifts Creek alerted the residents to the approaching fire, however the advice was that 'it is still a long way from you yet.'... At 10:15, (Mrs McCormack) rang back requesting help, which was denied, as the situation in the valley was deemed too dangerous to send a vehicle. Ten minutes later, the fire front swept through the valley, cutting power and telephony, and leaving the valley burnt and completely isolated.

There is an inherent contradiction in the actions of the DSE on that day: first the advice was that the likelihood of the fire reaching the valley was low. Half an hour later, the valley was too dangerous for CFA or DSE crews to enter. The disparity between these two responses is enormous.

Mr and Mrs McCormack and our neighbours felt completely abandoned.<sup>80</sup>

- 4.84 At the public hearing in Omeo the Committee heard evidence that suggested either a lack of understanding of the situation that local landholders faced or the lack of ability to do anything about it:

Fire tankers were familiarising themselves with the area, but the controller at the base camp called all of the fire tankers back to have lunch and be briefed. It must have been a long lunch, because they were still there at 2 o'clock that afternoon. By half past two or quarter to three, spot fires were starting to ignite in our paddocks. At 3 o'clock we got a phone call – the last phone call before the phones went out – to tell us that we were on our own. They said, 'There'll be no fire tankers; we're sorry; good luck.'<sup>81</sup>

- 4.85 Some of the landholders in the Wulgulmerang area in east Gippsland had expected a better outcome:

It was re-assuring to see the CFA out and about (Before the fires arrived). They explained that they were volunteers from Queensland and we introduced ourselves and described where our house was. I clearly recall one of the men putting his arm on my husband's shoulder and reassuring him that we were not in it alone and there were over 20 trucks and

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80 Margery Scott and Anne Strang, *Submission no. 211*, p. 2.

81 Kevin Rodgers, *Transcript of Evidence*, 28 July 2003, p. 4.

men who would help protect us and our assets....At approximately 1300 hours we noted that the fire trucks (numbering about 12) that we had been told would be staying in the ... district... were heading back down towards their base camp...<sup>82</sup>

- 4.86 Property and assets, including at least one house, were lost in the area and the landholders were severely impacted by the fire. The lack of assistance was distressing to them and to the fire crews:

A CFA captain attended our property after the fire and apologised for the debacle ... he had resigned as brigade captain ... and felt compelled to tell us face to face that the CFA volunteers wanted to join us in the fire fight but were forced to follow orders from the top.<sup>83</sup>

- 4.87 The locals in this area were kept in the dark. In another submission from this area some landholders from Gelantipy stated that the red alert that was placed on the strike teams 'was not made by someone who was in the area or who had local knowledge' and that the red alert status was not conveyed to local people:

... local people were out fighting fires and looking for spotfires and assuming the CFA would be there to help them, as conveyed in last communications, but the CFA was not allowed to assist.<sup>84</sup>

- 4.88 Even volunteers working on public land were at times left to carry on without assistance. One example occurred in Kosciuszko National Park:

we were asked to control ... (a fairly small area of grassland within the park) ... so that it did not jump the river. There were only four of us there – that is inclusive of the parks personnel. At 8 p.m. they were very apologetic but they said that they had to go and that their relieving team would be in there within half an hour. They never appeared.<sup>85</sup>

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82 Samantha and Robert Stoney, *Submission no. 459*, p. 1.

83 Samantha and Robert Stoney, *Submission no. 459*, p. 2.

84 Heather and Peter Henderson, *Submission no. 464*, p. 1.

85 James Litchfield, *Transcript of Evidence*, 10 July 2003, p. 89.

4.89 The position of volunteers who turn out to assist with fires on public lands was put more pointedly in north east Victoria where some of the landholders were themselves burnt out:

Most C.F.A. Captains are farmers. The C.F.A. really needs to re-examine its philosophies if it is to retain members in the future. Your commitment to the C.F.A. is considerably reduced when you fight a State Fire for 3 weeks, only to find out that your own farm is not on the priority list.<sup>86</sup>

4.90 The Committee concludes that not only was the initial response in some cases ineffective but that also the ongoing response was, for some fires not sufficiently aggressive to make the best use of the opportunities that were available. It is noted, however, that there is a view that the fires were not as damaging as they might have been. The Committee believes that this view reflects a failure to understand the perspective of the rural communities as to what constitutes effective and appropriate asset protection. Those communities and the people of the Australian Capital Territory were entitled to a better outcome and the Committee believes it is not sufficient to say that things could have been worse. What should be said is that things should not have become as bad as they did.

### **Asset protection, property loss and the 'success' of 2003 effort**

4.91 The Committee received a lot of evidence from landholders and volunteer fire fighters that argued against a narrow definition of property and pointed to the very extensive loss of pasture, fencing, buildings and machinery that is vital to the livelihood of farmers. The timber industry also pointed to the loss of assets and many submissions commented on the environmental damage done during and since the fire.

4.92 Owners of a property in north east Victoria detailed losses including a hayshed and store fodder, several kilometres of fencing and stock. They also had to sell stock short to the market and the cost of loss of pasture was at least \$2000 per week for fodder to keep core breeding stock alive.<sup>87</sup> Some of these losses could have been prevented if the fire authorities had reacted differently to their situation:

In the days after the main front passed there was some support occasionally from the CFA however I believe it was only given a low priority because our pasture was probably

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<sup>86</sup> Robyn and John Scales, *Submission no. 161*, p. 3.

<sup>87</sup> Robert Bethune, *Submission no. 124*, p. 2.

not deemed by authorities to be an asset needing protection. We lost pasture for six consecutive days.

The authorities' definition of an asset to be protected needs to be reviewed. Buildings, bricks and mortar, etc are obvious assets, however a farmer has other assets that also need to be protected. They include pasture, livestock and fences, without which a farmer cannot operate.<sup>88</sup>

- 4.93 Extensive losses were reported from the Gippsland area where, as indicated in the evidence above, the landholders believed they were left to fend for themselves. One submission outlined losses in the order of 90 per cent of the pasture (approximately 4000 of 4500 acres), 150 kilometres of fencing and 12 cattle. The effect of the fire was that the pasture loss 'plunged us immediately into severe total drought conditions'.<sup>89</sup> Cattle were urgently sold at reduced prices, to purchase extra feed and agistment at high prices, and fodder stored for winter feed was lost. This involved incurring extra transport costs. Extra labour costs were required to provide temporary fencing, immediate stock feeding and cattle work. The view put to the Committee was:

The DSE and the CFA were responsible for the firefighting operation. Fires were left to burn until they were huge and extended out of National Park land causing enormous economic damage to public and private assets. This situation is unacceptable.

There is a belief in the area that there was in place a policy of 'Let it burn; protect lives and assets'. This policy is contradictory. Naturally, lives must be protected above all else. But what is the definition of an asset? In the case of these fires, it seems to be a house, and only a house. In the Omeo valley, each house was protected by its occupants, not the authorities. Of 17, two were lost.

But as primary producers, our asset is our business – pasture, fences and stock. It is our livelihood and adds to that of the local community. A house does not support you.<sup>90</sup>

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88 Robert Bethune, *Submission no. 124*, pp. 3–4.

89 Margery Scott and Anne Strang, *Submission no. 211*, p. 3.

90 Margery Scott and Anne Strang, *Submission no. 211*, pp. 3–4.



- 4.94 The Committee notes that in this instance that not only was the policy of the authorities out of touch with local expectations, but that they failed to deliver on that policy in terms of the asset protection. The Committee notes also the distress that this approach caused in other areas:

Throughout the fire, asset protection for a farming community was not defined. Only houses seemed to be an asset. This caused great distress, as livestock in cattle yards were left unprotected and grassland, the cattleman's livelihood, was left to burn. We could not get the message through that grass is the cattleman's asset; that, without grass, you do not have livestock.<sup>91</sup>

- 4.95 Another landholder, who was heavily involved in the fire fighting in the north east, explained that farmers were more concerned about assets other than their residences:

The definition of 'asset protection' disadvantages farmers. Asset protection as practised by the D.S.E and the C.F.A. hierarchy is 'owns and family homes, public buildings and structures'. There is no regard to farming land, our fences or our stock. A house is more important than our farming land. This definition needs to be altered. Farmers value their farming land more than their homes – their land is their livelihood.<sup>92</sup>

- 4.96 It would appear to be the case that some rural fire authorities are indeed out of touch with the people they are supposed to protect. The need for a new perspective was put by a landholder who gave evidence in Omeo:

I think the biggest problem with the CFA is that it has been a bit regimented and a few things like that. The priorities with the farming community are back to front. I have heard on several occasions where they went in and said, 'We are here to save your house.' The house is not an asset to a farmer. His herds, fencing, pastures, machinery sheds and hay are his assets, not the damn house. Yet they were not interested in protecting those assets.<sup>93</sup>

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91 John Cardwell, *Transcript of Evidence*, 24 July 2003, p. 25.

92 Robyn and John Scales, *Submission no. 161*, p. 3.

93 Robert Pendergast, *Transcript of Evidence*, 28 July 2003, p. 45.

4.97 None of this discussion about assets takes into account the impact of the fires on the physical health and mental well being of the landholders, residents and fire fighters who went through the experience of the 2003 fires. As the VFF put it:

When reviewing these fires consideration must be given to the emotional damage, not just the damage to assets. The majority of the areas affected by the fires was in its fifth year of below average rainfall. Many farmers and the communities, which, rely upon them were at the end of their tether, then they had to face over a month of 24-hour pressure while the fires raged.<sup>94</sup>

4.98 Mr Peter Smith offered the Committee a comment on the trend for fires to be allowed to get bigger and suggested that a more effective early response could save costs and the time of volunteers. He suggested that 'the enforced approach to property protection of sitting and waiting for properties to be over-run then coping with an uncontrolled emergency causes a higher risk of property loss, increased danger to crews and inefficient use of resources'<sup>95</sup>. He argued that:

that the philosophy of initial response be reviewed. There has been a general approach to escalate the fire fighting response behind the escalation of fires. It seems the bigger the response capacity, the bigger the fires we are getting ... so many times I have seen fires escalate to major proportions for want of an adequate early response.<sup>96</sup>

4.99 The Committee considers that the people who live in rural areas and on urban-rural interfaces are entitled to a better outcome than they have been provided with in the recent fires. That their expectations have not been fully understood by rural fire agencies was borne out by evidence to the Committee

4.100 The Committee concludes that there is a need to redress the imbalance that has crept into the management of wildfire. The emphasis needs to be put back on prevention rather than fire fighting. The emphasis on defence and asset protection also needs to change. It is imperative to protect the life of fire fighters and the community but it is not sufficient to allow fires to develop unnecessarily, given the knowledge and technology available today, and given also that

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94 Victorian Farmers Federation, *Submission no. 423*, p. 3.

95 Peter Smith, *Submission no. 378, Attachment*.

96 Peter Smith, *Submission no. 378*, p. 9.

communities have had very effective local volunteer responses in the past. In January 2003 the spread of fires that were not contained had disastrous consequences that far outweighed the cost and potential risk of an effective early response.

## Restoring the balance

- 4.101 The Committee notes the views of the IFA about the extent of the 2003 fires. The Institute said that the loss of life in the major bushfires that have affected New South Wales and Victoria in recent summers was much less than in the 1983 Ash Wednesday bushfires. However, the IFA points out a significant difference between these events:

Ash Wednesday was basically a one-day event, which caught people by surprise and gave them no time to marshal resources or retreat to safety. The recent fires in NSW and Victoria on the other hand, and especially the very damaging ACT fires, had been burning for days, in some case weeks, before they threatened towns and settlements. This gave ample time for last minute defenses, and emergency work directed at saving lives, to be mounted. Furthermore, in Canberra there are excellent road systems which allowed rapid egress from the fire.<sup>97</sup>

- 4.102 It can be clearly concluded that the 2003 fires resulted in far more damage than should have been the case. It is also clear that a prime reason for this was the failure of fire authorities and public land managers to quickly contain all the fires even though circumstances allowed them to do so. The Committee notes also the views of the IFA on this matter, especially considering that the Institute represents the profession which, more than any, has had the training and experience appropriate to managing bushfires in many of the areas affected by the 2003 fires. The Institute said in its submission that

Under conditions which occur regularly in Australian forests, and especially where the fuels are long unburnt, bushfires will always occur in the size, number and intensity capable of overwhelming the best equipped firefighters. To give these forces a chance of success, they must have extensive, strategically placed fuel reduced areas, coupled to a rapid fire suppression capability. The 'stand-and-defend at the edge-of-

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97 Institute of Foresters of Australia, *Submission no. 295*, p. 10.

the-forest' approach will never succeed against high intensity fires driving out of heavy bush.<sup>98</sup>

- 4.103 The whole Australian community can be thankful that the loss of life and property was not worse. However, the community should also be concerned that the fires were as extensive and as damaging as they were. The Commonwealth Government in particular should be concerned because the fires will no doubt result in considerable requests for disaster relief payment. The Committee believes that the Commonwealth should require the states to reverse the suppression-rather-than-prevention approach and the defensive asset protection stand.

### **Recommendation 20**

- 4.104 **The Committee recommends that the Commonwealth work with the states and territories through the proposed Council of Australian Governments to review the response to bushfires to ensure that principles of fire prevention and rapid and effective initial attack are adopted and implemented by all rural fire authorities and public land managers**
- 4.105 The Committee sees this recommendation as being integral to a new national approach to the prevention and management of bushfires in Australia – a matter that is discussed further in chapter 8.

### **Fear of liability**

- 4.106 The evidence before the Committee shows that, in some cases, where fires got away and damaged communities the incident controllers did not listen to locals or lacked sufficient understanding of local conditions. The outcome of this lack of connection with the locals was exacerbated by an unwillingness to take an aggressive approach – possibly because of fear of retribution.

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98 Institute of Foresters of Australia, *Submission no. 295*, p. 15.

4.107 The Committee was told that fear of adverse repercussions affected many facets of the fire control operation in north east Victoria. This approach was characterised by the VFF as 'If I do nothing, I do nothing wrong'.<sup>99</sup> A group of senior volunteer brigade representatives appeared at a public hearing in Wodonga where one group officer said that

no matter what area you look at, in any of the points that tended to rise as a concern, you run into a liability. People being concerned about liability is seriously impeding the effectiveness of them doing their job. It does not matter whether it is the training, the fuel reduction burns, the departments or for people making decisions for control burns on the day.<sup>100</sup>

4.108 One brigade Captain told the Committee that:

The first thing I saw of it [fear of litigation] ... was when we were heading into the Feathertop fire. The DSE and Parks crews in that area would not go near it because of the situation. They were paid firies. We were local fellows with local crews – Falls Creek, Dederang – with gear going in there, perfectly safe, with a cattleman as a guide. They are going out saying, 'Where are you guys going? You can't do anything in there. Where are you going?' The last thing they told us was, 'Don't do anything.'<sup>101</sup>

4.109 At the Wodonga hearing it was said that the fear of liability for decisions:

comes in from a whole lot of areas. Doing back-burns during the fire was one thing. The consequences of a back-burn getting out of control tended to make people not go ahead with them, when that should have been done and would certainly have been done in the past. It is very difficult for people to do fuel reduction burns adjoining private property because of the liability and responsibility that the departments wear, should it get out into private property. In regard to doing fire training as part of controlled burns, nobody wants to put the responsibility on somebody's shoulder to say, 'Yes, you can go ahead and do it.' Nobody wants to do that, because of the liability. The coroner's

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99 Victorian Farmers Federation, *Submission no. 423*, p. 3.

100 Robin Box, *Transcript of Evidence*, 24 July 2003, p. 63

101 Jack Hicks, *Transcript of Evidence*, 24 July 2003, p. 68.

findings in the Linton fire have made everybody very nervous of even approaching. That has affected the effectiveness of brigades getting in and doing their job. We tend to be told, 'If in doubt, get out.' We have better resources, much more expensive equipment and more training and yet our ability to get water onto a fire has deteriorated because people are worried about the liability. If you say, 'Go in and do it' and something happens, they do not want it on their neck.<sup>102</sup>

- 4.110 The liability issue was said by the Captain of one brigade to have impacted directly on the fire fighting effort:

As regards the liability, strike team leaders have five trucks and many a time you hear of those trucks parked out on asphalt watching the farmers putting out their own fires with slip-on units. They make those decisions because of the liability. They have at the back of their mind, 'If I take those five trucks in there and something goes wrong, I'm at fault.' There is a fine line between safety and getting water on fire. With firefighting you are fighting an unknown enemy. It is an unpredictable enemy. And that is why we had a lot of trouble this year with the strike team leaders with that litigation in the back of their brain, that 'I may be at fault.'

You will always make mistakes; we are not all perfect. Someone will make mistakes somewhere. But every person that is on a truck has had training; they know the risks—what could happen – before they leave home. Five years ago it was not a problem. Since the Linton inquiry, everyone is so frightened to make a decision that we are not getting water on fire quick enough.<sup>103</sup>

- 4.111 The evidence given by the Captain of the Mudgegonga brigade suggests that a way forward might be found in resolving some of the doubt surrounding perceptions of liability:

The CFA policy on liability is, as I understand, if you act in good faith you are then covered by insurance. That is the area which can be interpreted in as many ways as there are firefighters, I would think – a bit of a grey area, but that is the terminology that is used.<sup>104</sup>

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102 Robin Box, *Transcript of Evidence*, 24 July 2003, p. 66.

103 Mervyn Holmes, *Transcript of Evidence*, 24 July 2003, p. 67.

104 David Reeves, *Transcript of Evidence*, 24 July 2003, p. 67.

4.112 There are two issues encompassed by these concerns – fear of liability and litigation for loss of life and property damage, and fear of breaching occupational health and safety provisions in protecting fire fighters.

4.113 A resident from the fire affected area in north east Victoria told the Committee about the impact on volunteer fire fighters of the possibility of being held liable for decisions:

If you have a look at the pressure that the volunteers were put under during the coroner's inquest into Linton—where back-burns were conducted under the authorisation of volunteer officers—you will see why, in this day and age, people out there on the fire ground think twice. Because of the structure of the ICS and its apparent imposition on the activities on the fire ground, where orders have to come from the ICC, the incident control centre ... the people on the fire ground have virtually finished up; they have got to take the action that they have taken.<sup>105</sup>

4.114 It was suggested to the Committee that the situation in Victoria has eased somewhat and been clarified by recent amendment to the legislation:

Volunteers have been questioning the Victorian government for quite a number of years regarding section 92 of the CFA Act which provides indemnity protection for volunteers. It is interesting to note that, since the fires and the autumn sitting of parliament, section 92 of the CFA Act has been altered to incorporate 'acting in good faith' rather than the grey area of the interpretation of 'negligence'.<sup>106</sup>

4.115 Some evidence the Committee received in Western Australia went to the same concerns about liability:

One of the great fears we are now facing as volunteers is the threat of litigation. I think I can use myself as an example – not that I have ever been sued. I am purely and simply a volunteer. I can volunteer to go and do several other things in my local town if I wish to; I do not have to be a volunteer firefighter. All that really stands between me and being sued by someone are the words 'acting in good faith'. It has never been tested. I could make a huge error of judgment as a senior fire control officer in my office and unwittingly place people

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105 Ron Evans, *Transcript of Evidence*, 25 July 2003, p. 43.

106 Ron Evans, *Transcript of Evidence*, 25 July 2003, p. 54.

at risk and then be dragged into the courts if someone were hurt seriously. I could go into a coroner's inquiry. All that is standing between me and any prosecution are the words 'acting in good faith'. That is a lot for a volunteer to hang their hat on. We are all getting very uncomfortable with the fact that we are exposed to more and more litigation and we do not think it is particularly fair on volunteers to place themselves at such risk.<sup>107</sup>

- 4.116 In relation to the occupational health and safety issues the Committee believes that the over-riding concern is always going to be to protect life and prevent injury to fire fighters and the public. Fire fighting operations need to be conducted in the safest way possible, but this does not mean an abandonment of aggressive fire fighting when circumstances allow a good probability of success. Fire fighting is a dangerous and inherently risky business but so is standing back at safe havens and letting fires burn through properties where landholders are battling to protect their assets. The obligation on fire management agencies to comply with occupational health and safety requirements has to be understood in such a way that they also meet their obligations to protect life and property.
- 4.117 The states and territories each have their own occupational health and safety legislation and in each case it applies in bush fire fighting situations. This legislation opens up the possibility of fire fighters being prosecuted for breaches of occupational health and safety principles. The agencies have to do what is practicable to protect fire fighters, including volunteers. The Committee does not think it appropriate to seek a general exemption from liability for occupational health and safety obligations for bush fire agencies but there is a need to determine what is practicable and to apply this concept in a way that meets community expectations of what constitutes adequate bush fire fighting. There is also a need to establish some definitions and standards applicable to training and operational management in a way that meets tests of due diligence and practicality. Consideration must be given to the severity of the risk, the state of knowledge and ways of reducing the risk. The fundamentals that may need to be addressed include:
- The provision of adequate training at all levels and in all tasks.
  - Adequate induction of new staff and volunteers.
  - Provision of adequate safety equipment and training in its use.

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107 Timothy Johnston, *Transcript of Evidence*, 5 August 2003, p. 18.



- Provision of information to the fire fighters on the fire line.
  - Application of sound principles of incident management and communication.
  - Adequate planning before and during fire events.
  - Hazard mitigation including control burning.
  - Provision of safe access to the fire ground.
- 4.118 The days have long gone since, as Mr Peter Smith put it, 'where we jumped on a truck and took the lads and the beaters and went out with a piece of hessian to beat fires out'.<sup>108</sup> It appears from the evidence that the consequence of the modern approach is that volunteers have less flexibility to respond to rapidly developing situations and that incident managers have adopted an overly cautious approach and do not trust the advice from below. In light of recent coroners findings into deaths of fire fighters at Linton in Victoria and Mount Ku-ring-gai in New South Wales and the outcome of the 2003 fire season the Committee concludes therefore that it is now timely to review the implications of occupational health and safety legislation for the proper and effective functioning of bush fire services, especially as they apply to volunteers.
- 4.119 If fire fighting is being restrained by a fear on the part of controllers that they will be found liable or culpable if something goes wrong then the system needs to be changed to protect those individuals when they make decisions that on the basis of the information available to them seem reasonable given the twin objectives of protecting life and limb and of containing the spread of wildfire. It needs to be recognised however that responsible and reasonable decision making depends on good information and that, in wildfire situations, a prime source of such information is going to be the experienced fire captains and senior volunteers on the fire ground.
- 4.120 Evidence to the Committee suggested that some incident control centre staff appear to not understand the culture and needs of the rural communities that they are supposed to protect and some even seem contemptuous of the local knowledge and experience of the volunteer fire fighters. The Committee believes that the shortcomings of the fire response effort is in part due to the reluctance of senior levels in fire control organisations to take risks and to delegate decision making to people on the fire ground. However, these are necessary and unavoidable elements of major fire fighting operations. The whole approach to risk management during fires needs to be

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108 Peter Smith, *Transcript of Evidence*, 15 July 2003, p. 13.

reviewed and the question of liability of fire controllers for reasonable and appropriate decision making also needs to be redressed.

#### **Recommendation 21**

- 4.121 The Committee recommends that the Commonwealth seeks to ensure that the proposed Council of Australian Governments review of the bushfire management initiate with the states, as a priority, a review of the responsibilities and potential liabilities of fire controllers with a view to developing principles of indemnification for reasonable, responsible and informed decision making. This review should extend to defining responsibility for occupational health and safety requirements in a way which allows practicable compliance where a reasonable degree of risk taking is urgently required to prevent the loss of life, property and environmental amenity from wildfire**

#### **Recommendation 22**

- 4.122 The Committee recommends that the Commonwealth Attorney-General engage the Commonwealth, states and territories in a review of occupational health and safety legislation as it affects the proper and effective functioning of bush fire services.**