

Submission No.328



**SUBMISSION TO
PARLIAMENT OF AUSTRALIA
House of Representatives**

INQUIRY INTO THE RECENT AUSTRALIAN BUSHFIRES

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Background

I live at Lindfield, New South Wales, where the family property has a direct interface with Lane Cove National Park. The site:

- is located on a ridgetop above the Lane Cove Valley;
- has a vulnerable north-westerly aspect;
- is approximately 1 km down a long cul-de-sac, which is surrounded by national park and private/public bushland for 360°; and
- has a total loss of water supply during bushfire events.

In the past 21 years, we have experienced three bushfires, the last being the wildfires of January 1994, during which time approximately twenty homes were lost in this area, and approximately 200 homes in New South Wales. Innumerable properties suffered fire damage, ranging from major to minor.

I have convened a local community group for the past 15 years, which was instrumental in assisting the victims of the 1994 bushfires with emergency clothing, housing, toys, financial and insurance assistance, etc., and general moral support.

My eldest son, then aged 17 years, worked tirelessly as a volunteer fire-fighter for the duration of the 1994 bushfires.

I am a registered bush regenerator with both the local Council and Lane Cove National Park.

I provide this information only as a means to demonstrate that, while I do not have any technical expertise, I have considerable knowledge from a community perspective, of many of the areas that the Select Committee will be examining.

A. The extent and impact of the bushfires on the environment, private and public assets and local communities

Impact on Local Communities

My knowledge on this subject relates directly to my 1994 experience. However, I believe the experiences of this community would be duplicated in any community that is impacted by bushfire, irrespective of the year.

Approximately 20 homes were lost in West Lindfield/Killara area. Many others suffered fire damage ranging from minor to major.

The fires swept down upon our community with unimaginable speed, in high temperatures and fanned by north-westerly winds, which from recollection were about

180kph. As it arrived, a resident's call to 000 gave a response that "you are on your own. We have no units available." Spot fires were exploding all around, fuelled by flying embers, well in advance of the fire front. A total loss of water had occurred. Apart from a couple of uniformed police officers and a couple of detectives, the community was certainly on its own in the initial stages. The one and only NSW Fire Brigade unit to enter the area was dispatched to CSIRO. It was not until the fire front had passed that the NSW Rural Fire Service volunteers arrived. Many homes were beyond saving, and others were lost and damaged because of lack of water. When the fire-fighters connected their standpipes to the street mains, they found the pipes empty. While waiting for water tankers, more homes were lost. Water tankers ran out, and another home was completely destroyed.

Of course, there were many heroic stories and much camaraderie. The latter being short-lived as the danger passed and trauma took hold. Many felt they could not face another fire so, after waiting for the focus to be taken off the area, sold and moved on. In some respects this was unfortunate as their knowledge and experience was lost.

It is obvious that most newcomers to the area since 1994, have had no experience of bushfires and have little understanding of the cause and effect. Any education programs, therefore, need to be on a regular rotating basis.

One very stressed resident subsequently contracted cancer and lost her life. Both she and her family saw a direct link to the fire stress.

Community relief systems were slow in being activated. I believe these systems may have been reviewed in the intervening period and subsequently upgraded. The Australian Red Cross was the first to try and make contact with the victims but as NSW Government services would not provide it with names, addresses etc, it had to work through the local community group to identify those affected.

The Salvation Army diverted its efforts and bushfire donations to those areas affected to the south of Sydney in the belief that the northern areas were more affluent. This was a further blow to the people of this community, who were ordinary working people. It was not the fact that they were to receive none of these funds, but that they were being differentiated against on a false premise and their losses were of lesser importance.

Our group was eventually contacted by victims in Ryde and Elanora for assistance as they had no assistance available to them locally and what Government community service were available, were less than adequate.

The people of Australia and overseas, gave generously to the NSW Bushfire Appeal. From memory it was approximately \$25 million. After the initial grant of \$10K, no further funding was forthcoming. Our local community group combined its efforts with a church group from southern Sydney to fight for the distribution of the funds. Ultimately, a meeting at with the NSW Government administrators and representative charities, resulted in equal distribution of funds to the victims.

Impact on the Environment

The initial impact of the bushfires was aesthetically catastrophic. Wherever one looked the landscape was black and barren. Flocks of ravens feeding off the dead fauna was a constant reminder of the losses. Ringtail possums still hanging from trees as though they had been frozen in time. These things all added to the post-fire trauma of residents.

However, it wasn't long before the first rains saw green shoots springing from the blackened earth and stumps, but it took a few years before the landscape returned to its pre-fire appearance. Environmentally, there were both positives and negatives to the fire. The negatives included the loss of flora and fauna that have not returned. The positives saw areas of bushland previously degraded and weed infested, spring to life with natives from seed banks within the soil. However, in the intervening years, those areas that did not get ongoing follow-up maintenance returned to weed infestations.

Private and Public Assets

Public assets were well protected at the cost of private assets (see B below).

B. The causes of and risk factors contributing to the impact and severity of the bushfires, including land management practices and policies in national parks, state forests, other Crown land and private property.

Causes and Risk Factors

It is recognised that some fires are deliberately started, but mostly fires have their genesis in the forces of nature or unintentional acts.

Cause and risk factors relate directly to town planning and building outcomes. A large proportion of dwellings destroyed in urban areas have been located on predictably vulnerable sites.

The town planning issues combined with extreme weather conditions are the causal properties of the impact and severity of fires.

Planning issues can be controlled, but weather conditions cannot. Those living in established vulnerable areas must accept the risks associated with that choice. However, this does not act to prevent any level of government from legislating controls to prevent such future developments and to minimise the risks associated with existing developments, particularly with infill development and renovations.

While the NSW Government has strengthened legislation for new subdivisions in bushfire prone areas, it has only minimally addressed the increased and ongoing infill development and renovations.

Commonwealth and State Government Lands

In the Lindfield area, CSIRO's National Measurement Laboratory and the University of Technology's Ku-ring-gai Campus sustained minimal damage due to their priority over the area's water supply. The use of their on-site fire hydrants and booster systems, drained the mains supply.

In recent times, CSIRO has run a public relations exercise stating that it now has a tank holding 100,000 litres of recycled water, which is sufficient to fill "X" number of water tankers. In reality, the suburb could burn in the time it takes to fill one tanker. It also fails to identify that its own fire hydrant system is still drawing from the area's mains supply.

National Parks

Causes and risk factors cannot be directed at national park management. If governments, developers and homeowners choose to locate developments in bushland areas, then all must take responsibility if homes are lost.

My home having a direct interface with Lane Cove National Park is a choice I made. In making that choice, I accepted the attendant risks. I do not seek or want the national park managers to destroy, through clearing and burning, the very reason I chose this site, i.e. the native environment, in order that my home take priority over national park land.

In accepting the risks, I also accept the responsibility for taking all available steps to safeguard my home through available means, viz. a static water supply, fuel-powered pool pump and attendant fire hoses, gutter treatments, building maintenance and, particularly, landscaping with fire-resistant trees.

However, it is a considerable irritation that negligent property owners are free to ignore their own responsibilities, which subsequently negate my efforts and place my property at risk. One of the major issues is the "dumping" of rubbish on national park land outside their properties. These persons are often the first to demand national parks take responsibility for the protection of their private property.

There needs to be a clear delineation between the responsibility for the protection of private property and the biodiversity of our bushland. That line has to be drawn at the common boundary. If property owners want a cleared area between the bushland and the building as a fire-break, then that must be provided on privately owned land – not on public land.

C. The adequacy and economic and environmental impact of hazard reduction and other strategies for bushfire prevention, suppression and control.

The suburb of Lindfield falls within the Ku-ring-gai Local Government area to the north of Sydney. Ku-ring-gai is surrounded by three national parks; Lane Cove, Garigal and Ku-ring-gai.

I make this point to demonstrate the impracticality of relying on hazard reduction for bushfire prevention, suppression or control over such extensive urban/bushland interfaces.

There is only, at best, a 6 month window of opportunity to carry out hazard reduction burns, i.e. March to September. The consistent rain over the period from March to May 2003 that has fallen across Ku-ring-gai, amply demonstrates why this strategy can easily fail.

*“Characteristics of fuel, (as well as of weather), have a fundamental influence on bushfire behaviour and intensity. Fuels are created from less combustible materials during a mild fire as well as accumulating by subsequent vegetation growth. **Regular hazard reduction burning can therefore help add to subsequent fuels.***

Maintenance of fuel levels below 8 tonnes per hectare may lead to wildfires being less intense and therefore controllable. However, fuel reduction burning would need to be repeated every 2 to 3 years to maintain fuel below this level in most areas of bushland.

Burning at a frequency of every 2 to 3 years, apart from being impracticable over large areas, causes ecological change to bushland involving loss of plant species and increased vegetation flammability.

A case study of the Ku-ring-gai Chase/Warringah fire in January 1994 confirms that areas burned more than two years previous to that fire carried fire that was uncontrollable in the weather conditions experienced.” [Chapter 4 Summary, Management Aspects of the January 1994 Bushfires in New South Wales – A report prepared for the Deputy State Coroner, New South Wales; Cunningham, Hobbs, Pagram, Pisanu, Smith. Department of Geography and Planning and The Centre for Disaster Management, University of New England]

The alternative to hazard reduction burning is clearing large swathes of bushland. This alternative is mainly promoted by 4WD and horse-riding enthusiasts, who want access to trails through our highly sensitive natural areas. However, the credibility of the clearing method was eliminated in a recent Sydney bushfire, which jumped Warragamba Dam. This demonstrated that clearing even wide areas of bushland is of little to no value.

Ultimately, hazard reduction, as recognised by the above methods, is merely a “feel good” tool used by authorities to placate vocal community members and certain interest groups.

D. Appropriate land management policies and practices to mitigate the damage caused by bushfires to the environment, property community facilities and infrastructure and the potential environmental impact of such policies and practices.

Landscaping Strategies

One of the interesting observations made after the 1994 fires was in my own garden. The fires had destroyed three-quarters of the yard, which encouraged me to look at what was different in the remaining garden that saved it. The first thing I noticed was that part of the garden had a dense covering of needles that had fallen from a neighbour's casuarina tree. I then took a handful of these casuarina needles and tried to burn them. They would smoulder for a short period and then go out – they would not sustain fire once the flame source was removed. Hence, they also contributed nothing to the intensity of the flame.

Further research showed that much has been written in recent times about the fire-resistance of certain trees. This does not imply that such trees will not burn at the fire-front, but could go a long way towards protecting urban properties by slowing the rate of spread and preventing spot fires in urban gardens – a major contributor to the loss of homes.

Landscaping and the use of certain trees is a significant tool overlooked by all levels of government in protecting urban areas from the onslaught of bushfires.

Community Fire Units

One of the strategies currently being employed by the NSW Fire Brigade is the Community Fire Units (CFUs). This is implemented by the Fire Brigade establishing fire boxes, containing stand-pipes, fire hoses, etc, at strategic sites and training local residents how to use the equipment in the event of fire.

While this appears to be a commendable project, and in recent fires was shown to be effective, I have grave fears for the inexperience of the local residents at a nearby CFU. I believe that all residents involved in this project are new to the area and are unaware of what occurred at that site in 1994, when the Rural Fire Service officers fitted the stand-pipe to the street mains, only to find there was no water supply.

What happens when these people discover there is no water in the street's main supply? Are their lives at risk?

F. The appropriateness of existing planning and building codes, particularly with respect to urban design and land use planning, in protecting life and property from bushfires.

Since 1999, both State and Local Governments in New South Wales have amended existing legislation and introduced new planning instruments to strengthen the planning and building requirements in bushfire prone areas. However, the majority of these actions concentrate on new subdivisions, when the greatest risk is in existing urban areas and where infill developments occur. Little attention has been given to the latter and, where it has, local Councils, Governments and the Courts, fail to implement or uphold the criteria or, alternatively, use and manipulate other legislation to avoid the implementation of the criteria for bushfire protection.

The best way to demonstrate the aforementioned is to provide the detail of two recent examples.

Example 1:

In 1999, Ku-ring-gai Council was looking to raise funds from the sale of public land. One such parcel of land was located at 153 Bradfield Road, Lindfield. This land was approximately 1200sqm and contained a Girl Guide's hall until it was mysteriously burnt down. It is situated at the end of a cul-de-sac and surrounded on two-and-a-half boundaries by Lane Cove National Park. The site was used by emergency services to access the fire trail, which commenced/ended at the northern side of the block.

During the 1994 wildfires, the fire-fighters used this land to access the fire trail and stayed within close proximity to site while defending properties at that end of Bradfield Road.

The local community voiced strong objections to Ku-ring-gai Council's corporate management as the sale of the land removed one of the only two accesses and exits to the fire trail behind all the properties in Bradfield Road. Subsequently, an examination of the staff's report to a full meeting of Councillors, found that staff misled the Council by stating that this one access point was irrelevant as the fire trail had three other access and exit points. The Council, relying on this false information, resolved to sell the land.

While the land was on the market, representations were made to the General Manager, pointing out that the land was in an extreme fire prone area, as deemed by the Australian Standard 3959 *Building in Bushfire Prone Areas*, and not only should it not be developed, but using the assessment criteria of this standard for clear fire protection zones to be established on the land, it could not be developed as these required zones consumed all the available land.

The General Manager's response was that Council had included a clause in the contract of sale stating that AS 3959 had to be observed in development of the site. The corporate

management of Council clearly believed it had exonerated itself from any liability by the inclusion of this clause and it was a case of “buyer beware”.

Subsequently, the land was purchased by a developer and a development application for a dual occupancy, i.e. two dwellings, was submitted to Council. The development application showed the setback for the fire protection zones as 6m on the southern boundary and 15m on the western boundary, instead of the required 30m.

Local community representatives brought the development application to the attention of the NSW Rural Fire Service, who sent an urgent fax to the Council that the fire protection zones had to be implemented and if they could not be implemented, the development should be refused.

In the following days, a council officer contacted the Rural Fire Service with the result being that a letter was sent to Council from the Commissioner of the Rural Fire Service stating that, based on the information provided by Council, the Commissioner supported the application.

The then Council, having learnt of the volatility of the land, continually deferred dealing with the application as the Local Government elections were near. The councillors were in a difficult position. Having initially agreed to the sale of the land and then subsequently learning of the site’s volatility, it was unable approve the development of the site for fear of eventual loss of life if it did so, while at the same time knowing that the applicant would rightly have the belief that he should be able to develop land sold to him by the Council.

A new group of councillors were elected in September 1999 and later rejected the application on the failure of the application to provide adequate fire protection zones.

The developer subsequently appealed the Council’s decision to the NSW Land & Environment Court.

*The Court upheld that appeal on the grounds that “under the new Australian Standard it is noted that the subject site falls under the **extreme** category for levels of attack. This is greater than those designated as high in the table and the extreme category is outside the scope of the new Standard. However, there is a note in the Standard which states where the degree of attack exceeds high the relevant authority may consider a performance based design approach [and]... DCP38¹ and DUAP’s² Circular C10 are not relevant for infill development but rather set out planning requirements at the subdivision stage of residential areas.”*

¹ Ku-ring-gai Council’s Development Control Plan #38

² NSW Department of Urban Affairs and Planning

Example 2:

In recent months, a neighbour demolished a timber boundary fence, with a westerly aspect, adjoining Lane Cove National Park.

Ku-ring-gai Council's Development Control Plan 46 (DCP 46) states clearly the requirement for *"a maximum height of 1.5m, above existing ground level, if constructed adjacent to a bushland area, and must be constructed of a wire fence material"*.

On observing timber posts being placed for the new fence, I provided the neighbour with a copy of the fencing requirements under DCP46. The new timber fence proceeded unimpeded to completion.

This was of concern to me as this property had no static water supply for fire-fighting purposes and, with the crossbeams for the fence now being on the bushland side of the fence, which would capture flying embers, there was an increased risk of fire being conducted to that property and adjoining properties.

It should be noted here that, as previously stated, we have our own static water supply and fire-fighting equipment, which should be sufficient for our own requirements. However, under the NSW Rural Fires Act, the Rural Fire Service officers have the legal right to enter our land and commandeer our water supply. This holds enormous implications for our property. With the fires usually approaching from the north-west, this neighbour's property will be the first exposed. Should the fires take hold on that property, the Rural Fire Service officers can use our water supply to extinguish that fire, thus, leaving us without a water supply for the protection of our own property. Under these circumstances, there is the potential for the neighbour's property to be saved, while our property is lost. This is unacceptable when this neighbour and Council fail to implement the building requirements for the Extreme Fire Zone category.

The legislative requirements that should have been applied to this land and the fence are set out in Appendix 1.

Upon pursuing this offence with Ku-ring-gai Council, I was stunned to discover the lengths to which it had gone to legitimise this timber fence, rather than issue an order for its demolition.

The actions of Council's Development Control Officers are summarised at Appendix 2.

I subsequently sought and was given an appointment with Council's Mayor and General Manager. A summary of this meeting is attached at Appendix 3.

This meeting offered no apology for the actions of Council's staff and refused to implement the legislative remedies available to it. These remedies are summarised at Appendix 4.

Conclusions

Rather than implement the legislation and Council's own planning instruments for high/extreme fire prone areas, the development control staff interfered with Council files, introduced false statements onto the file, and manipulated the legislation to accommodate an illegal structure, with impunity.

While this is not an isolated incident in Ku-ring-gai, the common thread in all cases has been Council staff's challenge to residents to take legal action against them "*if you don't like it*". Most of these residents are not in a financial position to pursue legal recourse through the courts. Consequently, development officers have unchecked autonomy on the implementation of planning/building controls.

Until such time as these officers are held accountable and legally liable for such actions by all levels of Government, then legislating to control planning and building in fire prone areas is misplaced.