



**To The Secretariat**

House of Representatives  
 Select Committee on Recent Australian Bushfires.  
 By email bushfires.reps@aph.gov.au

**Overview Summary**

Please acknowledge receipt of this submission. How many times do bushfires have to cause death, disability, and economic setbacks before something is done? What should be done? This submission addresses the Inquiry Terms of Reference parts a, b, c, e, f and i but in a different order.

Our overall argument is that death, disability, and economic loss can and should be reduced by improving compliance with existing planning and building codes. We ask the Select Committee to consider an alternative low-cost, non-regulatory approach to achieving this. We would be pleased to offer professional advice on the implementation and economic case for our proposed approach.

**Re. f Appropriateness ... of codes ...**

Existing codes generally apply to private land owners but do not necessarily apply to public land owners, even when devised in some cases by some public land owners. There has been considerable criticism of public land owners and there is probably scope to increase coverage of them by the codes and increase their compliance with the codes for the public good; however, that is not the focus of this submission.

We believe existing codes for private land owners are generally adequate as we have had no trouble gathering useful fire reduction siting, urban design, architecture, building, land use and house maintenance guidelines and recommendations from a multitude of authorities and agencies throughout Australia over the last 25 years. These recommendations/ guidelines have in some cases been given effect as legal instruments by legislation, sometimes with enforcement arrangements and penalty fines for non-compliance.

Appropriately, the codes vary somewhat by region but leave no doubt about what individual private land owners can and should do to minimise bushfire impacts, irrespective of whether they are mere suggestions or legally enforceable codes. Several codes draw on the same basic references. There seems no point in producing additional codes until the existing ones are more fully observed and complied with. Lack of compliance, not lack of codes, is the heart of the issue in terms of the economic consequences for the nation.

### **Re. b The causes and risk factors ...**

We have conducted several formal and informal sample surveys of compliance in areas rebuilt after bushfires over many years – we have developed a method of assessing compliance in terms of 10 measurable composite indicators, which encompass the commonly mentioned fire-prevention principles in most codes and recommendations.

Our most recent formal survey of Aireys Inlet properties rebuilt after the 16.2.83 Ash Wednesday bushfire conducted in April 2003 illustrates the point. We found that compliance by landowners who re-built after their houses were destroyed was only 54% - these were owners who had suffered loss and should have been acutely aware of fire danger and codes for rebuilding, as the local council and the Victorian Ministry for Planning & Environment had intensively publicised the codes after the fire. Whilst 100% compliance is probably too ambitious, this survey showed that only 46% of the principles were being ignored by these owners in 2003, some 20 years after the disaster.

The figure was considerably worst in surveys of other houses in Aireys Inlet i.e. those current owners who did not suffer loss on Ash Wednesday or who bought the land more recently. Whether or not they were aware of the codes, their house and land did not reflect it, with upwards of 55% of the basic fire prevention principles being ignored. There was even a small proportion of houses that displayed zero or virtually no compliance as measured by our 10 bushfire prevention indicators. Similar findings are common elsewhere. The codes are largely being ignored in almost all risk-affected areas of Australia.

### **Re. i Liability, insurance ...**

The approach of the peak insurance councils and insurers seems to be to turn a blind eye to this lack of compliance and merely inflate all premiums sufficiently to defray the risk at large. This exacerbates the situation. They are merely spreading liability uniformly across property owners regardless of their extent of individual compliance. A more risk-based, user-pays approach would be more equitable and more efficient as a market mechanism for changing the behaviour of owners for the better.

### **Re. a The extent and impact of bushfires ...**

The so-called smart country has not learnt from past fires. Potential economic losses have not been adequately reduced by the codes and by smarter redevelopment of properties after the last fires. property owners will undoubtedly incur unnecessarily high impacts from the next bushfire. The extent and impact of the next bushfire in terms of death, disability, and economic loss will be significantly greater than if the codes were more fully complied with.

### **Re. c Adequacy ... of strategies ...**

We believe that the largely voluntary implementation of the codes in the past has been unsuccessful in most, if not all, bushfire areas. There are negligible incentives for complying, apart from the owner's own safety improvement.

Property owners are free to neglect the codes and put others at risk. This applies across the whole gamut of construction from owner-builders to professional builders of architect-designed buildings. There are no penalties for ignoring the codes; not for the owner, builder or anyone else involved. Very few codes are enforced. As bush fire prevention is only as good as the weakest links in the chain, there is little point in having codes that are ignored by some private land owners, who in effect are putting the whole community at risk. This seems like negligence on a grand scale. Just as individual owners' responsibilities have been inadequate, the community strategies have been inadequate.

#### **Re. e Any alternative ... approaches ...**

Is a carrot or stick approach better? Incentives or penalties? We submit that in this era of deregulation, the introduction of regulations mandating compliance and legislating for enforcement and penalties is too draconian, given that more cost-effective approaches have not been tried.

We recommend consideration of an approach whereby the peak insurance organisations stipulate that their members (property insurers) require property owners to complete a self-administered questionnaire prior to them being offered policy renewal: The cost of renewal should include up to, say, 100% premium loading (penalty) for 100% non-compliance, based on measures such as 10 indicators as we have developed. Just as the owner has responsibility for stipulating the amount insured, the owner would have an incentive to reduce non-compliance towards 0% in order to minimise the insurance premium loadings. Owners are aware that any incorrect disclosure to their insurer may affect their ability to make a successful claim.

In support of such a scheme, municipal councils would need, upon re-notification of municipal rates, to ask the owner, in the event of their property not being insured, to complete a similar questionnaire as part of a system of complementary municipal rate loadings/incentives for compliance. Many rural municipal councils mandate that primary producers install and maintain of minimum summer fire breaks and they enforce penalties. Councils such as Melton and Wyndham in Victoria already require rural property owners to complete a detailed property questionnaire to increase environmental (weed and pest eradication) compliance. A Justice of the Peace has to authenticate the owner's signed declaration that the answers are correct and accurate. Such schemes achieve high compliance with reasonably low administration costs.

Other variations are possible, suffice it to say that there is great scope for the insurance councils and insurers to actively bring about compliance and significantly reduce the economic losses to the nation. With the increased risk of terrorism, bushfire prevention is more important than any previous time in history. We ask the Select Committee to give thorough consideration to this approach.

**Russell Smith** DipFAICD, MBA, MEngSci, BE