

Firestick Estate Inc.

4 Felicia Rise, Diamond Creek, 3089
secretary@firestickestate.com

Acting State Coroner Mr Iain West
Coroners Court of Victoria
65 Kavanagh Street,
Southbank Vic 3006
team3@coronerscourt.vic.gov.au

30 March 2019

Dear Mr West,

Inquest into involuntary manslaughter through negligence on Black Saturday

Please find attached letter and reference documents. Other reference documents can be accessed via our website firestickestate.com.

Given the seriousness of this issue, would you please acknowledge receipt of this letter.

Yours faithfully,



Belinda Clarkson (Secretary)
www.firestickestate.com

cc: Prime Minister of Australia, Scott Morrison

"...trying to set fires, rather than prevent them" - Bill Gammage 2012

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30 March 2019

Dear Mr West,

Inquest into involuntary manslaughter through negligence on Black Saturday

Would you please conduct an inquest into the deaths caused by 'negligent' official bushfire warnings. The Prime Minister of Australia, Mr Scott Morrison, said the State is "...negligent..." regarding "...native vegetation laws...". He was reacting to bushfire damage in Queensland ¹. Clearly, manifestly far worse bushfire damage occurred on Black Saturday, with 'negligent' official warnings, to use the Prime Minister's word, causing people to be killed. The definition of negligent endorses Prime Minister Morrison's leadership on this issue ².

The 2009 Victorian Bushfires Royal Commission hearing testimony, not only "...shocked the world..." ³, but also revealed the 'negligence' of official warnings given to victims, with media reports stating:

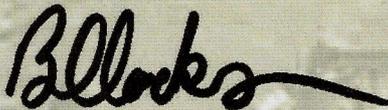
- "The two most senior (CFA) officers...knew more than three hours before 38 people were killed at Kinglake...that the township was at risk, but took no steps to ensure it had been adequately warned" ⁴.
- "Kinglake residents have testified how the lack of warnings left them trapped... with no time to escape the firefront. A number of people were killed in cars trying to flee the township at the last minute" ⁴.

The 2009 Victorian Bushfires Royal Commission Final Report found:

- "...warnings to communities in the path of the fire were not timely and did not reflect the available fire information. Crucial warnings to communities in the path of the fire were not provided or were late" ⁵.
- "The heads of the Country Fire Authority, the Department of Sustainability and Environment and Victoria Police did not demonstrate effective leadership in crucial areas such as ensuring that prompt and accurate warnings were issued to communities in the path of the fires" ⁶.

Two weeks after Black Saturday, Prime Minister Rudd told Parliament, "What we cannot allow to happen is for this to drift on into the future without resolve". Yet ten years later, bushfire "...fuel loads...could be even higher than prior to Black Saturday" ⁷. We have documented this issue in letters to the PM etc, copied to your office and responded to ⁸ & ⁹. Thankyou. With the greatest respect we request you conduct an inquest into involuntary manslaughter through negligence, by 'negligent' official bushfire warnings on Black Saturday.

Yours faithfully,



Belinda Clarkson (Secretary)
www.firestickestate.com

¹ Radio interview with Alan Jones, 6 December 2018

² Negligence, Macquarie Australia's National Dictionary

³ "Black Saturday lessons ignored", The Weekly Times, 12 December 2018, Page 16

⁴ "Fireys failed to monitor warnings", The Australian, 4 September 2009, Page 8

⁵ 2009 Victorian Bushfires Royal Commission, Final Report 2010, Volume I, Page 85

⁶ 2009 Victorian Bushfires Royal Commission, Final Report 2010, Volume II, Part one, Page 70

⁷ "Fire risk back to black", The Weekly Times, 12 December 2018, Page 1&4

⁸ Letter from Coroners Court of Victoria, Her Honour Judge Hinchey, 10 August 2016

⁹ firestickestate.com Letters to PMs, GG etc & Responses and Acks, No.144

cc: Prime Minister of Australia, Scott Morrison

"...trying to set fires, rather than prevent them" - Bill Gammage 2012

RADIO INTERVIEW WITH ALAN JONES, 2GB**TRANSCRIPT**

05 Dec 2018

Prime Minister

Border protection; encryption legislation;

EASO

JONES: Can I just take another Labor point and I want to thank you on behalf of people in Queensland who are writing to me because you have announced a fire fighting package and just for the benefit of our Queenslanders who are listening right across Queensland, \$11 million to be spent leasing large planes to be used as water bombers in Queensland they will come from interstate and this will help save Queensland from repeat devastation like they have faced in the last weeks, six million spent on developing a new national fire danger rating system which will help log fires. Now can I tell you what is happening in Queensland this morning, they are up there saying farmers and they have taken to social media and they are saying it is the Labor government's laws which makes it almost impossible to remove growth which creates more fuel for bushfires now I know James McGrath yesterday moved a motion in the Parliament to recognise that state government laws prevented land holders from safe guarding their property and the motion was beaten. Now isn't this a manifestation of stupid Labor policy again? What can you do about it? Farmers want to remove stuff that makes bushfires less likely and Labor are saying no you can't touch it. I know it is your land but you can't touch it.

PRIME MINISTER: It's outrageous and the native veg laws in Queensland are exactly that and I remember I was up in Rockhampton last year and these same issues were being raised. **The Queensland State Government is negligent when it comes to how they are handling these native vegetation laws** and I know that Matt Canavan has also called for an enquiry into fires so these issues could be addressed and they should be.

JONES: And the other side of the coin as you would be aware the same farmers who are facing drought want to feed their cattle on mulga and the government is prosecuting them for using mulga to keep animals alive.

PRIME MINISTER: I saw that when I was out in Quilpie that time Alan and they took me all through the mulga issue there, and yes these laws are basically undermining the livelihoods of people living in rural Australia and they are doing

children, by punishing instances of it (opposed to positive reinforcement).

negative resistance /nɛgətɪv rə'zɪstəns/ *n.* *Elect.* the property of certain devices in which an increase in the voltage applied causes a decrease in the current passing through them.

negativism /'nɛgətəvɪzəm/ *n.* **1.** behaviour marked by resistance to a stimulus. **2.** any system of philosophy in which denial is the prominent feature of its conclusions, as agnosticism, scepticism, etc. –**negativist**, *n.*

negatory /nə'geɪtəri/ *adj.* denying; negative.

Negev /nə'ɡeɪv/ *n.* a desert area in southern Israel on the Gulf of Aqaba. 12 170 km². Also, **Negeb** /'nɛɡɛb/.

neglect /nə'ɡlɛkt/ *v.t.* **1.** to pay no attention to; disregard: *a neglected genius*. **2.** to be remiss in care for or treatment of: *to neglect one's family*. **3.** to omit (doing something), through indifference or carelessness. **4.** to fail to carry out or perform (orders, duties, etc.). **5.** to fail to take or use: *to neglect no precaution*. –*n.* **6.** the act or fact of neglecting; disregard. **7.** the fact or state of being neglected; negligence. [L: unheeded] –**neglecter**, *n.* –**neglectful**, *adj.*

negligee /'nɛɡləʒeɪ/ *n.* **1.** a woman's dressing-gown, especially a very flimsy one, of nylon, or the like. **2.** easy, informal attire. Also, **négligé**. [F: neglected]

negligence /'nɛɡlədʒəns/ *n.* **1.** the state or fact of being negligent; neglect. **2.** an instance of being negligent; a defect due to carelessness. **3.** *Law* the failure to exercise that degree of care which, in the circumstances, the law requires for the protection of those interests of other persons which may be injuriously affected by the want of such care.

negligent /'nɛɡlədʒənt/ *adj.* guilty of or characterised by neglect, as of duty: *negligent officials*. [ME, from L: neglecting] –**negligently**, *adv.*

negligible /'nɛɡlədʒəbəl/ *adj.* that may be neglected or disregarded; very little. –**negligibility** /nɛɡlədʒə'biləti/, **negligibleness**, *n.* –**negligibly**, *adv.*

negotiable /nə'ɡoʊʃəbəl/ *adj.* **1.** capable of being negotiated. **2.** *Finance* (of bills, etc.) transferable by delivery, with or without endorsement, according to the circumstances, the title passing to the transferee. –**negotiability** /nə'ɡoʊʃə'biləti/, *n.*

Opinion

THE WEEKLY TIMES

Black Saturday lessons ignored

FEBRUARY 7 marks 10 years since Black Saturday's firestorms tore through 400,000ha, destroying 2100 homes and killing 173 people.

Victoria's worst natural disaster **shocked the world** and prompted politicians and emergency service leaders to swear it would never happen again.

The 2009 Victorian Bushfires Royal Commission highlighted the failings of the past, calling on future governments and forest managers to raise the bar and burn at least 390,000ha of public land each year.

But that target sputtered and died in the midst of reviews, red tape and pressure to spend the money on projects that delivered more immediate political gains — such as level crossing removals.

Forest Fire Management Victoria only managed to treat 74,825ha in 2017-18.

Why aren't we listening to former CSIRO bushfire scientist Phil Cheney's warning that "if you look at risk, what you can control, fuel load is the only thing that matters"?

The Victorian Government refuses to release fuel load data, instead giving us a computer-generated residual risk of 80 per cent — where we were just prior to Black Saturday.

Does Environment Minister Lily D'Ambrosio think there's a problem? Apparently not.

Yet the reality is Victoria's most dangerous bushfire zone has millions of tonnes of fuel ready to explode this summer or next in the wake of drought and extreme heat.

The Minister best hope she doesn't have to front another Royal Commission to explain her government's failure that led to another black day in Victoria's history.

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THEWEEKLYTIMES.COM.AU WEDNESDAY DECEMBER 12 2018



Fireys failed to monitor warnings

Gary Hughes

THE two most senior officers with Victoria's Country Fire Authority knew more than three hours before 38 people were killed at Kinglake on Black Saturday that the township was at risk, but took no steps to ensure it had been adequately warned.

Country Fire Authority state co-ordinator Geoffrey Conway told the Black Saturday royal commission he concluded about 2pm on February 7 that Kinglake and several other communities were in the likely path of an out-of-control bushfire that started shortly before noon at Kilmore East.

He said he advised the CFA's chief officer, Russell Rees, of his concerns and called a meeting at about 2.30pm with other officers at the state's central emergency co-ordination centre to tell them public warnings should be issued.

But neither he nor Mr Rees, who had agreed with the threat assessment, later checked whether the Kinglake or other public warnings were actually being sent out.

"There were no proactive steps taken by myself or the chief officer to monitor (the issuing of the Kinglake warning) further," he said.

The royal commission has previously been told a public warning for Kinglake was not issued until 5.55pm, just before it was devastated by an unstoppable firestorm.

Kinglake residents have testified how the lack of warnings left them trapped on Black Saturday, with no time to escape the firefront. A number of people were killed in cars trying to flee the township at the last minute.

Mr Conway said he was not aware until later that the Kinglake warning had not been immediately issued.

He did not bother checking whether adequate public warnings were going out because he assumed if they were not, someone would have told him there was a problem.

"No information came back and certainly at no point was I made aware that there were any concerns about information flow," he said.

Asked by senior counsel assisting the inquiry, Jack Rush QC, whether the integrated emergency co-ordination centre failed to fulfil one of its key roles on Black Saturday of ensuring public warnings matched all the latest fire information available, Mr Conway said: "I would agree."

He said he did not know why an urgent public warning about the "catastrophic" impact of a forecast wind change on the evening of Black Saturday, which he asked to be prepared, was never issued.

He was also at a loss to explain why personal maps used by himself and Mr Rees to record information about the fires at the central command centre had disappeared shortly after February 7.

Mr Conway said his map contained his rough, hand-drawn predictions about where he thought the four most serious fires on the day were likely to spread.

He was aware on Sunday, February 8, of the significant loss of life on Black Saturday and that all documents and maps used in the control centre were likely to be needed for a later coronial inquest.

The maps had gone missing, despite the CFA having a comprehensive records management system to ensure such documents were preserved, he said.

Asked by royal commissioner Susan Pascoe whether the events of Black Saturday had overwhelmed the resources and management systems of firefighting agencies, Mr Conway said: "Certainly the events of the seventh of February tested them like no other incident we've had."

The intensity of the fires on the day were "beyond anything in my experience, beyond anything in my imagination", he said.



2009 Victorian Bushfires
Royal Commission

FINAL REPORT
VOLUME I

THE FIRES AND THE
FIRE-RELATED DEATHS



Additionally, on 7 February Victoria Police did not receive from the CFA sufficient information about the run of the Kilmore East fire. This limited its ability to plan. A number of municipal emergency response coordinators found it difficult to obtain information about the progress of the fire. The CFA told Senior Sergeant Scully, the Municipal Emergency Response Coordinator for Nillumbik Shire, it did not have sufficient resources to provide a liaison officer to the municipal emergency coordination centre, whilst a liaison officer appointed to the Yarra Ranges MECC was unable to log on to an 'overloaded' CFA computer system. The liaison officer was thus unable to provide information to allow the MECC to 'track the fires and forward plan'. The liaison officer appointed to the Mitchell MECC could not contact the Incident Controller and could not retrieve up-to-date information from the CFA intranet. Police liaison officers at the Kilmore ICC were unable to resolve the problem. The Yarra Ranges MECC had to rely on a council staff member, who was a CFA volunteer, to obtain information on the fire's progression. The MERC was also monitoring his police radio and CFA radio for information.¹²⁰

Because of difficulties obtaining information about the location and spread of the fire, one of Nillumbik's deputy municipal emergency resource officers, Mr Norm Golgerth, attended the Kangaroo Ground ICC in person on the evening of 7 February. He was able to obtain a CFA map predicting the path of the fire and an update on those areas that had already been affected.¹²¹

Senior Sergeant Scully also criticised the lack of information flowing to the Nillumbik MECC about the fire situation and the location of roadblocks from the police Divisional Operations Centre. As a result of the poor flow of information, he was unaware that Kinglake had been affected by the fire until well after the event.¹²²

The problems the Kilmore East IMT had with outward communications might have been exacerbated by the difficulties they were having in processing information within the IMT. Mr Kreltshheim, the level 3 Incident Controller who replaced Mr Gregory Murphy, described being unable to cope with the 'data overload' coming into the ICC. The Commission heard evidence that Mr Kreltshheim found that attempts by his team to document an incident action plan during his shift were continually overrun by events.¹²³

Communications and information sharing are discussed in Chapter 3 of Volume II.

5.3 WARNINGS

Initially, no information officer was appointed to the Kilmore Incident Management Team. Mr Murphy was advised that fire information releases would be processed through the Seymour Regional Emergency Coordination Centre. He was aware of threat messages about the Kilmore East fire being issued, but he was unaware of the frequency or content of the messages and did not see any such messages before 15:30.¹²⁴

By 14:00 it was understood that the fire was burning out of control and had considerable potential to endanger life and property. Observations and reports made by experienced CFA personnel amply demonstrated the fire's severity. But the threat messages failed to convey this information and failed to promptly identify towns and communities in the probable path of the fire. The evidence about warnings for the Kilmore East fire was detailed and analysed by the Commission in its interim report. Suffice here to say that **warnings to communities in the path of the fire were not timely and did not reflect the available fire information. Crucial warnings to communities in the path of the fire were not provided or were late.**¹²⁵

The delays in providing information to the public were the consequence of a number of factors, among them the following:

- Until 16:00 the information officer for the Kilmore ICC was based at the Seymour RECC, where he was overwhelmed with other duties. Threat messages about the Kilmore East fire were therefore not seen or signed by the Incident Controller at Kilmore. Mr Rees stated that if the information officer is located away from the ICC it is probable that this will negatively affect the information flow from the ICC. That is what happened on 7 February.¹²⁶
- Between 12:40 and 14:25 no information about the Kilmore East fire was posted to the CFA website.¹²⁷



2009 Victorian Bushfires
Royal Commission

FINAL REPORT
VOLUME II
PART ONE

FIRE PREPARATION,
RESPONSE AND RECOVERY

2 EMERGENCY AND INCIDENT MANAGEMENT

The State's emergency management framework is fundamental to the effective delivery of emergency services. The framework provides for planning of and preparation for the management of crises and natural disasters; coordinating the actions of government, response agencies and communities in the lead-up to and during disasters; and assigning priorities to response and recovery efforts. On 7 February 2009 state-level emergency management arrangements faltered as a result of confusion about responsibilities and accountability.

At the incident level, AIIMS (the Australasian Inter-service Incident Management System) is an effective tool for fire managers. It relies not on technical application alone but also on individual competencies and commitment, sound operational leadership and effective planning at every level. This was evident to varying degrees on Black Saturday.

Days such as 7 February, however, highlight the crucial need for incident- and state-level management teams to prepare, plan and direct operations on the ground and to ensure that information and warnings are provided to firefighters and the community. People risking their lives at the firefront need information about the current status of and predictions for a fire, as well as warnings on safety-related matters such as the arrival of a wind change. Incident management also involves the issuing of warnings to those in the predicted path of a fire—something that is vital for community safety. These are not easy tasks, and they call for experienced, competent and well-prepared incident controllers to lead incident management teams. Fire agencies also need to judiciously select, train and prepare these teams so that they are well positioned to cope with the pressures they will face.

This chapter explores the arrangements for incident and emergency management at the local, regional and state levels as they applied on 7 February, the conduct of some individuals with statewide responsibilities, deficiencies in some emergency management arrangements, and ways in which the arrangements can be improved.

2.1 PRIMARY CONCERNS

The Commission heard evidence about management of the 15 fires detailed in Volume I. Some fires were generally well managed—for example, the slower moving 'campaign' fires of Delburn and Bunyip and a number of the more rapidly burning ones, including those at Coleraine, Horsham, Redesdale, Pomborneit–Weerite, Upper Ferntree Gully and Beechworth–Mudgegonga. The management of other fires exposed a series of systemic shortcomings that impeded incident management and the state-level emergency management arrangements and contributed to the catastrophic consequences arising from 7 February.

The Commission identified the following primary concerns in relation to emergency and incident management:

- The State command and control arrangements for level 3 fires were inadequate and should be revised.
- The potential advantages of declaring a state of disaster were not considered by senior agency and government personnel and were not raised with the Premier at any time.
- **The heads of the Country Fire Authority, the Department of Sustainability and Environment and Victoria Police did not demonstrate effective leadership in crucial areas such as ensuring that prompt and accurate warnings were issued to communities in the path of the fires.**
- AIIMS proved mostly to be an effective management framework but should be refined.
- The flow of information from the fireground to the integrated Emergency Coordination Centre was at times seriously inadequate.
- Agency integration was insufficient to provide seamless fire management across the state.
- Level 3 Incident Controllers from both DSE and the CFA were not consistently trained, exercised and pre-positioned.
- Although emergency management arrangements at the municipal level generally worked well, there were coordination difficulties with some incident management teams.

The

theweeklytimes.com.au

Wednesday, December 12, 2018 \$2.90 (Incl. GST)



WEEKLY TIMES

Drought, regrowth push bushfire danger to catastrophic levels

Fire risk back to black

By **PETER HUNT**

THE bushfire risk is back to Black Saturday levels in Victoria's most dangerous and populous zone, stretching from Kilmore to Morwell and covering 59 per cent of the state's population.

The residual risk in Victoria's East Central zone has climbed from 39 per cent in the aftermath of Black Satur-

day's fire storms to 80 per cent today — the same level it reached just before February 7, 2009.

Drought has exacerbated the situation, with much of the zone facing severe rainfall deficiencies.

Dense regrowth, fallen timber and standing dead trees have led to warnings **fuel loads in areas burnt out in the 2009 firestorms could be even higher than prior to Black Saturday.**

But Forest Fire Management Victoria refuses to release crucial information, telling *The Weekly Times* "fuel load data is only published to Business Level Data (an internal system), which means it is only available to internal DELWP users".

The only information publicly available is Victoria's latest fuel management report, which shows FFMVic applied controlled burns or mechan-

ical treatment to just 8048ha of the East Central zone's 2.3 million hectares in 2017-18.

The Victorian Government's policy states it aims to "maintain residual risk at or below 70 per cent". Yet Environment Minister Lily D'Ambrosio told *The Weekly Times* "we are below the statewide residual risk targets we have set".

Ms D'Ambrosio refused to answer

questions on whether a residual risk of 80 per cent was acceptable in Victoria's most populous bushfire zone. Across the state, the FFMVic's 2017-18 report shows it spent \$107.8 million to burn or treat 74,825ha, at a cost of \$1421/ha, a huge rise on previously reported costs of \$30-\$300/ha in 2003.

- Continued Page 4
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Judge Sara Hinchey
STATE CORONER

10 August 2016

Ms Belinda Clarkson
Secretary
Firestick Estate Inc.
4 Felicia Rise
Diamond Creek Vic 3089

Dear Ms Clarkson

I write as requested, to acknowledge receipt of your letter dated 4 August 2016, addressed to Prime Minister Malcolm Turnbull, with regard to Accountability for extreme bushfire deaths.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Hinchey', written over a horizontal line.

Her Honour Judge Hinchey
State Coroner of Victoria