

May | 2010



VFBV Response to Counsel Assisting's Submission on a new bushfire safety policy – replacing the Stay or Go policy

2009 Bushfires Royal Commission Submission

Volunteer Fire Brigades Victoria makes the following submission to the 2009 Victorian Bushfires Royal Commission, in response to the submissions of Counsel Assisting titled "A new bushfire safety policy – replacing the Stay or Go policy."

2009 VICTORIAN BUSHFIRES ROYAL COMMISSION**Letters Patent issued 16 February 2009**

Date of document: 24 May 2010

Filed on Behalf of:

Volunteer Fire Brigades Victoria

**SUBMISSION OF VOLUNTEER FIRE BRIGADES VICTORIA IN RESPONSE TO
COUNSEL ASSISTING'S SUBMISSIONS ON A NEW BUSHFIRE SAFETY POLICY
– REPLACING THE STAY OR GO POLICY (SUBM.1100.001.0001)**

Introduction

1. Volunteer Fire Brigades Victoria ("VFBV") make these submissions in response to the submissions of Counsel assisting the 2009 Victorian Bushfires Royal Commission ("the Commission") dated 14 May 2010, in relation to 'A new bushfire safety policy – replacing the Stay or Go policy'.
2. These submissions respond only to proposed recommendations 3 and 4 of the submissions of Counsel assisting, which relate to proposed amendments to the role of an Incident Controller, regarding evacuation.
3. As the unified voice for all Country Fire Authority (**CFA**) volunteers, VFBV recognizes volunteers as the core strength of CFA, and understands their fundamental role and importance in relation to emergency management in Victoria.¹ Volunteers would be greatly affected by proposed recommendations 3 and 4.

¹ As outlined in earlier submissions filed with the Commission in April 2010, VFBV.002.001.0001 at [10]-[12].

Response to proposed recommendations 3 and 4

4. Proposed recommendations 3 and 4 of Counsel assisting the Commission are as follows:

Proposed recommendation 3:

The CFA and DSE should amend their standard operating procedures to require the Incident Controller to:

actively assess whether evacuation should be recommended to communities threatened by fire;

recommend evacuation in all cases where it is assessed to be the safest protective action;

include in a recommendation to evacuate advice about the evacuation route and where to go;

provide the earliest possible advice to vulnerable locations and residents of a recommendation to evacuate; and

communicate a recommendation to evacuate in public warnings, through the National Emergency Warning System and, where necessary, in person through Victoria Police.

Proposed recommendation 4:

The CFA and DSE should develop guidelines to assist Incident Controllers to assess whether evacuation should be recommended to communities threatened by fire and to implement a recommendation to evacuate.

5. VFBV does not agree with recommendations 3 or 4.
6. VFBV note recent changes to the principal responsibilities of an Incident Controller, as outlined in the State Emergency Response Plan (**SERP**).² This

² At pages 3-8 to 3-9.

document indicates that one of the more recent additions to the principal responsibilities of an Incident Controller is to ensure consideration is given to relocation or evacuation of affected communities and agencies during an emergency.

7. Proposed recommendation 3 seeks to increase these current responsibilities of an Incident Controller in relation to evacuation. VFBV is concerned that this recommendation is impractical and does not take into account the following factors:

Access to the necessary intelligence/information

- 7.1 The 'active assessment' and 'recommendation' process suggested would require rapid acquisition, evaluation and validation of intelligence from a diverse range of sources during what is more often than not an extremely dynamic event, especially during conditions of severe, extreme or catastrophic fire danger.
- 7.2 Fires are dynamic; consequently it cannot be assumed that the necessary information will be readily available in the relevant time frame. In many instances, particularly on days of severe, extreme or catastrophic fire danger, fires can adversely impact communities within minutes of ignition. These circumstances arose during the Upper Ferntree Gully fire on the 7th February 2009.
- 7.3 The Incident Controller may not have access to all the necessary or most up to date information. It may not be possible to readily determine areas at risk when, for example, visibility is restricted by smoke or on ground intelligence is lacking and predictions cannot be validated. Spot fire development that occurs following the decision to evacuate may also place escape routes and additional areas of the community at risk that may not have been readily discernable or adequately considered during the lead time necessary to gather intelligence, form a conclusion and disseminate a recommendation.

- 7.4 Even if the Incident Controller (and other Incident Management and fireground personnel) had the capacity to obtain and transmit real time intelligence, it would be impractical, particularly in the crucially important early stages of an incident, to require the Incident Controller to execute a detailed analysis of such information within a short enough timeframe to enable the evacuation message to be disseminated to the community and actioned by the police.
- 7.5 There is also an inherent assumption by CA that communities are somehow homogenous and that the evacuation of a community in a township environment can be treated the same way as a rural community dispersed over a number of square kilometres. CA appears to also assume that all members of the community have the same level of mobility and ready access to transport to enable them to leave the area. What is clear is that in many circumstances, any delay in reacting to the recommendation to evacuate has the potential to place additional lives at risk.
- 7.6 The proposal also ignores the practical application of the policy when the road infrastructure itself would not only inhibit rapid evacuation but in all likelihood will add to the potential risk to evacuees by being overwhelmed by the passage of a fast moving fire as they travel to what they have been led to believe is a safer place.

Responsibility for implementation of a decision to evacuate

- 7.7 The ability to suggest an evacuation route and destination for the community would rely on timely and verifiable information being available to the Incident Controller and on that information being static. Given the changing, dynamic nature of fire, the ability to provide such a direction would be extremely difficult and the proposed recommendation would place the Incident Controller in an invidious position.

- 7.8 In many circumstances it will not be possible to secure a controlled evacuation, with factors such as timing, route and capacity of evacuees all being highly variable. Evacuation routes thought to be clear could quickly become unpassable. By the time this information was fed back to the Incident Management Team, residents may have already acted upon the evacuation direction and adopted the suggested route.
- 7.9 It is similarly not realistic to suggest that an Incident Controller will be in a position to make a determination about where each member of a community should 'go' in the event of evacuation. This information will depend on a large number of variables, including their starting location, the details of their own bushfire plan, their capacity, their willingness to evacuate in time to reach the suggested destination and their available modes of transport.
- 7.10 It should also be recognised that in many rural areas throughout Victoria, it cannot be guaranteed that those responsible for implementation of the decision to evacuate i.e. Victoria Police, will have the necessary resources to carry out an evacuation across a dispersed area in addition to performing their other responsibilities including emergency co-ordination and traffic management.
8. It is apparent that throughout the conduct of the Royal Commission, there has been no widely held evidentiary basis put forward that supports the view of Counsel Assisting on this matter. VFBV further notes that the proposed change to the function and responsibility of the Incident Controller's position has not been put to any witness, to test the veracity and practical application of the proposal. The views of those who regularly perform the role of Incident Controller should be carefully considered before such a recommendation is accepted by the Commission, given the increased responsibilities and stated difficulties.
9. In the absence of such consultation, and careful consideration, VFBV is concerned that implementation of proposed recommendation 3 may act as a

disincentive to personnel in accepting the responsibility to act as Incident Controller.

10. What must also be considered in any proposal of this nature is the likelihood that evacuations will be regularly recommended as a precautionary measure. Should fire not subsequently impact these communities, the affected community will not only criticise the decision but will become increasingly immune to any future advice of this nature and will choose to ignore the advice.
11. There is also the added potential outcome that some members of the community will expect to receive advice to evacuate and will adopt this strategy as an alternative to taking action to prepare their home to minimise the impact of fire. In these circumstances, any delay in either receiving advice to evacuate or in executing the advice will leave the occupants in an unprepared environment that will adversely impact their chances of survival.
12. Notwithstanding the practical difficulties associated with this proposal, if any such change were to be made, adequate protection regarding potential liability of Incident Controllers who determine, or determine not, to recommend an evacuation must be ensured. Incident Controllers required to accept the responsibility of recommending evacuation should be offered indemnity protection, for example by application of an extended statutory immunity under the Country Fire Authority Act 1958.

Andrew Ford
CEO, Volunteer Fire Brigades Victoria