



**New South Wales
Aboriginal Land Council**
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NSW Independent Bushfire Inquiry
GPO Box 5341
Sydney NSW 2001

Via email: inquiries@bushfireinquiry.nsw.gov.au

Dear Mr Owens APM and Professor O’Kane AC,

NSW Bushfire Independent Inquiry

The NSW Aboriginal Land Council (NSWALC) welcomes the opportunity to comment on the Independent Inquiry of 2019/2020 Bushfire season.

About the NSW Aboriginal Land Council

NSWALC is the peak body representing Aboriginal peoples in NSW and with over 23,000 members is the largest Aboriginal member based organisation in Australia. NSWALC is an independent, self-funded non-government organisation with an elected governing Council operating under the *Aboriginal Land Rights Act 1983 (NSW) (ALRA)*. We work to improve, protect and foster the best interests of Aboriginal peoples in NSW.

The ALRA recognises that ‘*Land is of spiritual, social, cultural, and economic importance to Aboriginal Peoples*’ and establishes 120 autonomous Local Aboriginal Lands Councils (LALCs) that NSWALC supports. LALCs have similar functions to NSWALC which include land management, protection and promotion of Aboriginal culture and heritage, and supporting Aboriginal communities.

Overarching comments

Enhanced systems and approaches are needed to both manage bushfire risks and support the involvement of Aboriginal people as key partners in managing fire and Country.

Aboriginal peoples have inherent rights over lands, waters and natural resources. The continuing occupation of land and sustainable use of land, water and natural resources were, prior to dispossession, typified by active and sustainable management of Country. Land, water and all natural resources were managed for the spiritual, cultural, environmental and social benefit of generation after generation. It is essential for bushfire legislation, policies and practices to recognise and provide for the unique status of Aboriginal peoples in Australia in all aspects of environment, fire and land management.

Aboriginal peoples in NSW and the network of Aboriginal Land Councils that represent them must be recognised as key stakeholders in fire management. At a local level LALCs and Aboriginal people are holders of specific Traditional Ecological Knowledge (TEK) and land management expertise

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accumulated over millennia. Involving Aboriginal people in managing fire on country through effective partnerships and involvement in decision-making is critical.

Key recommendations

Recommendation 1:

That the NSW Government recognise the value of Indigenous knowledge systems and the innumerable benefits of that knowledge for land and fire management.

Recommendation 2:

That bushfire, land management and environmental legislation and policies recognise and provide for the rights and interests of Aboriginal people, including to:

- Recognise the importance of, and support Aboriginal fire practices and consensual knowledge sharing,
- Support and facilitate formal roles and decision making by Aboriginal in fire and land management regimes.

Recommendation 3:

That the NSW government and key agencies partner with peak Aboriginal community controlled organisations, including NSWALC, LALCs and Firesticks to develop and improve approaches to land and fire management.

Recommendation 4:

That Government fund peak Aboriginal organisations to develop and implement comprehensive Aboriginal Traditional fire management regimes across NSW.

Recommendation 5:

That Government fund Aboriginal-led research into fire management systems, including integrating best practice methods of Traditional fire management into land and fire management regimes.

Recommendation 6:

That reforms to improve bushfire management systems are guided by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Further comments are provided below in response to key terms of reference.

1. The causes of, and factors contributing to, the frequency, intensity, timing and location of, bushfires in NSW in the 2019-20 bushfire season, including consideration of any role of weather, drought, climate change, fuel loads and human activity.

For millennia Aboriginal peoples have cared for and managed Country. Fire was one of the mechanisms used by Aboriginal people to manage Country in a holistic way. The use of fire as a tool is one aspect of Indigenous science and specifically, Traditional ecological knowledge. As noted in Bruce Pascoe's *Dark Emu* "fire was a powerful tool that Aborigines (sic) used systematically and purposefully over the landscape...(there is) little doubt that Aboriginal burning was skilful and was

central to the maintenance of the landscapes colonised by Europeans in the 19th century”.¹ The disruption in Aboriginal management of the landscape due to invasion and dispossession has resulted in the ongoing systematic mismanagement of Country.

We also note that in its 2013 fifth assessment report, the Intergovernmental Panel on Climate Change (IPCC)² stated that it is “*extremely likely that more than half of the observed increase in global average surface temperature*” from 1951 to 2010 was caused by human activity. By “extremely likely”, indicates that there is between a 95% and 100% probability that more than half of modern warming is due to humans.³

2. The preparation and planning by agencies, government, other entities and the community for bushfires in NSW, including current laws, practices and strategies, and building standards and their application and effect

5. Preparation and planning for future bushfire threats and risks

The United Nations has acknowledged that:

*“Indigenous peoples are among the first to face the direct consequences of climate change, due to their dependence upon, and close relationship, with the environment and its resources. Climate change exacerbates the difficulties already faced by indigenous communities including political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment.”*⁴

Given this, we urge government and emergency response agencies to better involve and consider the needs of Aboriginal people in planning and preparing for bushfire threats. Local Aboriginal Land Councils and Aboriginal communities must be a key partner in this process. The 2019-20 bushfire season demonstrated that a number of improvements are required to meet the needs of Aboriginal communities. For example, improvements could be made in how government and key agencies work with many discrete Aboriginal communities across NSW, of which there are more than 60, to both prepare for the bushfire season, and better coordinate emergency responses.

Additionally, research has shown that Traditional Aboriginal Burning regimes lower the chances, intensity and impact of uncontrolled Bushfires.⁵ Many LALC’s, working with Firesticks and other partners, are developing and implementing a Traditional burning regime on their lands. LALCs, such as Ulladulla LALC, and Firesticks are also working with private land owners and public land managers to undertake traditional burning. A number of positive examples were highlighted over the 2019-20 bushfire season of the reduced fire impacts in areas where traditional burns had been undertaken.

¹ Bruce Pascoe, Dark Emu, first published 2014, page 172

² <https://www.ipcc.ch/report/ar5/wg1/>

³ https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_SPM_FINAL.pdf

⁴ <https://www.un.org/development/desa/indigenouspeoples/climate-change.html>

⁵ <https://www.firesticks.org.au/cultural-burning-benefits-the-totemic-echidna-at-wattleridge-indigenous-protected-area/>

Support and funding to LALC's and peak Aboriginal organisations to further develop and implement Traditional burning practices will assist reducing the impacts of out of control bushfires, thus minimising the threats of severe damage to the community, ecology, and infrastructure.

4. Any other matters that the inquiry deems appropriate in relation to bushfires.

Additional resources are needed to develop and share knowledge of fire management practices and also identify opportunities for collaboration between western and Indigenous knowledge systems. An approach that draws on the strength of both Western and Indigenous Knowledge systems will be key to delivering appropriate and beneficial outcomes.

We also wish to highlight the mental health impacts on Aboriginal communities as a result the recent bushfires. This trauma has been amplified by the fact that important cultural and sacred sites homes and livelihoods have been destroyed. Country, trees, plants and animals are intensely significant to Aboriginal people, as a conduit for connecting Traditional Custodians to their culture, country, lore and ancestors. As such, any damage to country causes an immense sense of grief⁶. Aboriginal culture and livelihoods continue to be connected to all aspects of country, including animals and plants.⁷

Furthermore, reforms to improve bushfire management systems and practices must support the rights, aspirations and interests of Indigenous Peoples outlined in the United Nations Declaration on the Rights of Indigenous Peoples, particularly:

- Article 25 – Connections to Country
Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- Article 29 – Caring for Country and the Environment
Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

It is also important to note that Article 8 (j) of the Convention on Biological Diversity already commits governments to “*respect, preserve and maintain knowledge, innovations and practices of Indigenous ... communities ... for the conservation and sustainable use of biological diversity*”.

6. Land use planning and management and building standards, including appropriate clearing and other hazard reduction, zoning, and any appropriate use of indigenous practices

7. Appropriate action to adapt to future bushfire risks to communities and ecosystems.

⁶ <https://theconversation.com/friday-essay-this-grandmother-tree-connects-me-to-country-i-cried-when-i-saw-her-burned-129782>

⁷ <https://theconversation.com/strength-from-perpetual-grief-how-aboriginal-people-experience-the-bushfire-crisis-129448>

Aboriginal people's understandings of fire has been described as a

*"...holistic approach to fire knowledge emphasises the importance of linkages between diverse components including people, law, spiritual significance and knowledge of plants, animals and country."*⁸

Additionally, Kohen (cited Pascoe 2016) argues that

*"While Aboriginal people used fire as tool for increasing the productivity of their environment, Europeans saw fire as a threat. Without low intensity burning, leaf litter accumulates, and crown fires can result, destroying everything in their path. European settlers feared fire, for it could destroy their houses, their crops, and it could destroy them. Yet the environment which was so attractive to them was created by fire."*⁹

Cultural burning has been used for thousands of years to not only prevent uncontrolled burning of Country but also to promote the health of particular plants and animals such as native grasses, emu, black grevillea, potoroo, bushfoods, threatened species and biodiversity in general. Depending on the requirements of Country it can involve patch burning to create different fire intervals across the landscape or it could be used for fuel and hazard reduction. Fire may be used to gain better access to Country, to clean up important pathways, maintain cultural responsibilities and as part of cultural heritage management. It is used in ceremony to welcome people to Country or it could also be as simple as a campfire around which people gather to share, learn, and celebrate¹⁰.

Benefits of cultural burning extend beyond hazard reduction, health, safety and environmental benefits to include employment through the creation of jobs for local Aboriginal people, and health and wellbeing outcomes by supporting Aboriginal people to maintain connections to Country.¹¹ Providing long-term funding and resources to Aboriginal organisations for improved fire management will be key to supporting this work. The lack of funding has been consistently raised as a key barrier.¹² Resource are required for training and employing fire officers, opportunities to share knowledge about good fire management practices with neighbouring groups, and scientific and technical expertise to manage fire for different purposes¹³.

The importance of Traditional Aboriginal burning regimes in helping to limit the impacts of bushfire to communities and ecosystems is being increasingly recognised as a critical part of land and fire management.¹⁴ Aboriginal people can read when country is ready to be burnt¹⁵ which may not

⁸ https://knowledge.aidr.org.au/media/4916/protocols_for-indigenous_fire_management_partn.pdf (page 9)

⁹ Bruce Pascoe, 2014, *Dark Emu*, Page 165

¹⁰ <https://www.firesticks.org.au/about/cultural-burning/>

¹¹ <https://www.sbs.com.au/news/indigenous-leader-calls-for-a-rethink-of-nsw-hazard-reduction-burns-policy> and <https://www.abc.net.au/news/2019-11-14/traditional-owners-predicted-bushfire-disaster/11700320>

¹² See for example https://knowledge.aidr.org.au/media/4916/protocols_for-indigenous_fire_management_partn.pdf and

¹³ https://knowledge.aidr.org.au/media/4916/protocols_for-indigenous_fire_management_partn.pdf

¹⁴ <https://www.csiro.au/en/Research/LWF/Areas/Pathways/Indigenous-futures/Collaborative-indigenous/Cultural-burning-partnerships> and <https://theconversation.com/aboriginal-fire-management-part-of-the-solution-to-destructive-bushfires-55032>

¹⁵ When to Burn <https://www.creativespirits.info/aboriginalculture/land/aboriginal-fire-management#fnref13>

necessarily align with legislative restrictions on burning¹⁶. Burning country at the right time reduces the intensity of bushfire therefore reducing the impact.

We refer the Inquiry to reports on the benefits of traditional Aboriginal burning practices, including:

- The Firesticks Alliance reports, including a report on the Wattleridge Indigenous Protected Area that highlights the benefits traditional burning practices provide to a totemic species¹⁷.
- The Paddocks Alight project¹⁸ implemented in 2010 by what was then the Lachlan Catchment Management Authority (CMA) to study the effects of traditional cool mosaic burns on both native and introduced plant species¹⁹
- The CSIRO has been involved with numerous reports focused on Indigenous land management practices including fire. Two notable reports are 'Aboriginal Wetland Burning in Kakadu'²⁰ and 'Three Practical Ways to Support Indigenous Landscape Burning in Australia'²¹
- The Australian Institute for Disaster Resilience has a knowledge hub²² containing a number of reports on Aboriginal burning practices, namely 'The Return of Cultural Burning: Churchill Fellowship Report' and 'Protocols for Indigenous Fire Management Partnerships'.

8. Emergency responses to bushfires, including overall human and capital resourcing

Emergency responses to bushfires must better involve Aboriginal people and Aboriginal organisations including Local Aboriginal Land Councils. This includes both the immediate fire-fighting response, as well as broader health and community safety and wellbeing responses.

Aboriginal community organisations were working on the ground to respond to the bushfire crisis, providing vital assistance and guidance to Aboriginal people and communities including health, housing, food and mental health supports. The role of Aboriginal community organisations was and continues to be vital in providing and coordinating responses. This has continued in the rebuilding process. However, increased coordination with and better resourcing of Aboriginal organisations is needed to minimise future fire impacts.

Additionally, resourcing Aboriginal fire teams will increase the human and resource capital available during a bushfire response.

NSWALC is committed to working with government and other partners to improve social, cultural and economic outcomes for Aboriginal people and the wider community.

¹⁶ 3.3.1, 3.3.4 <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/natural-resources/landcare/submissions/ilm-report.pdf>

¹⁷ <https://www.firesticks.org.au/cultural-burning-benefits-the-totemic-echidna-at-wattleridge-indigenous-protected-area/>

¹⁸ <http://www.nrm.gov.au/indigenous-nrm/central-tablelands/paddocks-alight>

¹⁹ <http://www.lewag.com.au/portfolio/paddocks-alight-traditional-burning-lachlan-video/>

²⁰ <https://www.csiro.au/en/Research/LWF/Areas/Pathways/Indigenous-futures/Indigenous-NRM/Aboriginal-wetland-burning-in-Kakadu?ref=CSIRO/Website/Research/Environment/Land-management/Indigenous/Kakadu-burning>

²¹ <https://ecos.csiro.au/three-practical-ways-to-support-indigenous-landscape-burning-in-australia/>

²² <https://knowledge.aidr.org.au/resources/traditional-owners-and-cultural-burning/>

We welcome the opportunity to provide further comment to this inquiry. If you have any questions regarding this submission, please contact the NSWALC Strategy and Policy Unit on [REDACTED].