

SUBMISSION TO THE INQUIRY INTO NSW BUSHFIRES

EUROBODALLA COAST ALLIANCE

We lodge the following submission on behalf of members of the Eurobodalla Coast Alliance (ECA), a registered community organisation in the Eurobodalla Shire. This shire was seriously affected by the NSW bushfires, and our submission is intended to identify the administrative and legislative failures that allowed such dangerous fire conditions to develop, and to identify possible solutions to prevent it happening again.

The committee should bear in mind that damage caused by the latest bushfire event could have been far worse if the north-west and south-west winds in some areas of the Eurobodalla had persisted for another hour or two on New Year's Eve.

ECA believes the Inquiry should review all legislation and regulations which inhibit or prevent risk reduction activities being undertaken, and recommend their repeal.

The history of bushfires in Australia and failure of governments at all levels to act on the recommendations of subsequent inquiries shows that memories can be very short. Unless the community, particularly those who live in the centre of large cities where the only risks from bushfires is smoke irritation, continues to understand the need for risk mitigation, future disasters are inevitable. The current situation arose in very large part because well-meaning people with misguided concerns about environmental protection allowed fuel loads to build to catastrophic levels. The same individuals who would be apocalyptic about the idea of a nuclear power station nearby, are happy to encourage far more dangerous firebombs virtually in their own backyard. And those concerned to protect "endangered species" endanger them more by resisting risk mitigation. Fire has no concern for life, whether it be human or animal. An ongoing education campaign about the need to protect lives and properties is essential to stop the negligence of the past continuing into the future. Our children deserve better than that.

ISSUE ONE – LIABILITY

It is a primary responsibility of governments to protect the lives and well-being of its people. It must be negligent of any government to legislate public policies and administer legislation that place its residents and their properties, or those entrusted with the protection of those residents and their properties, at extreme risk. First, do no harm.

The inquiry should address the legal responsibility of both State and local government to repeal and /or replace legislation that has now been shown to place many of its residents and volunteer fire fighters at extreme risk of injury and death.

- **THE INQUIRY SHOULD SEEK AND PUBLISH COMPETENT LEGAL OPINION ON THE RESPONSIBILITIES OF GOVERNMENT AND ITS DUTY OF CARE IN THE PROTECTION OF ITS PEOPLE FROM UNNECESSARY BUSHFIRE RISKS.**
- **LEGISLATION AND REGULATION WHICH PREVENT OR INHIBIT RISK MITIGATION SHOULD BE REPEALED.**

ISSUE TWO- ENVIRONMENTALLY FRIENDLY OR ECO LAND SUBDIVISIONS

The Eurobodalla Shire is awash with “environmentally friendly” or “eco-subdivisions” that extend into or have a direct interface with lofty eucalyptus forests, often spotted gums (AKA widow makers). These locations are so deadly that RFS personnel made it very clear during the recent fires that many of these locations are “indefensible”.

If land subdivision is to be allowed in areas afforested by Eucalypts, the area must be clear felled and tree-scaped with non-combustible plant life if Governments and councils are to meet their basic “duty of care”.

Most importantly at this time, and in response to the intensity of the recent fires, action must be taken to reduce the fire risk in all built up residential areas to an acceptable level that places neither the residents or emergency services personnel at undue risk of injury or death, when action is needed to protect properties or assets in that locale.

A three-pronged attack is recommended. Firstly, large stands of Eucalyptus trees within the existing subdivisions should be removed. Secondly, where the density of Eucalyptus trees on individual allotments creates a fire path, owners should be encouraged and subsidised to thin these trees. Thirdly, a one hundred metre asset protection zone should be cleared around the entire subdivision to be kept clear of combustible trees and used as a containment line in the event of future fires.

Current tree protection legislation must be amended to facilitate this type of remedial action.

- **THE INQUIRY SHOULD COMPILE AND PUBLISH A LIST OF ALL RESIDENTIAL SUBDIVISIONS/ BUILT UP AREAS WITHIN THE PRECINCTS OF LOCAL TOWNS AND VILLAGES THAT ARE CONSIDERED TO HAVE A HIGH / VERY HIGH OR EXTREME BUSHFIRE RISK THAT RFS STAFF CLASSIFY AS INDEFENSIBLE IN EXTREME FIRE WEATHER CONDITIONS**
- **ACTION SHOULD BE TAKEN IN EXISTING RESIDENTIAL AREAS, IN THE INDEFENSIBLE CATEGORY, TO REDUCE THE FIRE RISK TO AN ACCEPTABLE LEVEL.**
- **ACTION SHOULD BE TAKEN TO ENSURE THAT NO FURTHER INDEFENSIBLE RESIDENTIAL AREAS ARE CREATED.**
- **RELEVANT LEGISLATION SHOULD BE REPEALED AND REDRAFTED TO ALLOW THE REMEDIAL ACTION TO BE DETERMINED AND UNDERTAKEN AT A LOCAL LEVEL.**

ISSUE THREE- RURAL PROPERTIES IN HIGH RISK AREAS

The ECA is divided on the issue of the protection of residences and outbuildings in heavily wooded rural areas.

There is no question that owners of operating farms and hobby farms in generally cleared farming areas should be permitted to clear areas sufficient to protect their homes and outbuildings from direct bushfire attack.

On the other hand, there has been a proliferation of rural dwellings in high risk and non-productive bushfire areas, and the clearance of acceptable asset protection zones around these homes will cause a lot of community concern over the loss of native vegetation to satisfy the lifestyle wishes of some individuals.

At the same time, the State has approved these dwellings for occupation, and as such has a duty of care to protect the occupants to the greatest extent possible.

- **THE INQUIRY SHOULD REQUIRE THE STATE GOVERNMENT (THROUGH LOCAL COUNCILS) TO IDENTIFY AND PUBLISH THE BUSH FIRE RISK ASSESSMENT OF ALL RURAL HOUSING IN COUNTRY SHIRES.**
- **THE RFS SHOULD BE COMMISSIONED TO INSPECT ALL PROPERTIES WITH A HIGH BUSHFIRE RATING OR ABOVE IN THEIR AREA, AND REPORT ON THE MEASURES NEEDED TO MAKE EACH PROPERTY REASONABLY FIRE SAFE AND DEFENSIBLE.**
- **ASSISTANCE MIGHT BE CONSIDERED TO ENCOURAGE EXISTING RESIDENTS TO UPGRADE THE FIRE RESISTANCE OF THEIR PROPERTIES.**
- **FUTURE RESIDENTIAL DEVELOPMENTS IN EUCALYPTUS FORESTS SHOULD BE RESTRICTED TO ESTABLISHED RURAL ENTERPRISES THAT HAVE A SIGNIFICANT COMMERCIAL VALUE TO THE LOCAL COMMUNITY.**
- **IF DEVELOPMENT IS NOT PERMITTED ON PRIVATE LAND THE GOVERNMENT SHOULD OFFER TO BUY BACK THE PROPERTY AT THE SAME VALUE AS IF DEVELOPMENT WAS PERMITTED.**

ISSUE THREE – INSURANCE

In the case of flood insurance, insurers base their risk on the assessed risk to the individual property. In the case of bushfires, the risk is apportioned amongst residents over a particular postcode. In our coastal areas, property owners in low lying locations at low risk of bushfires (other than ember attack) are being penalised with heavy flood premiums, while they are required to subsidise properties in high risk bushfire locations.

This subsidisation of insurance premiums in high risk bushfire areas has allowed coastal councils to promote and maintain the saleability of “environmentally friendly” or “eco” developments in native bushland. By hiding the fire risk with subsidised insurance premiums, insurance companies are complicit in an action that disguises the bushfire risk to individual properties.

Currently disaster insurance is optional, and given Government’s commitments to provide assistance packages to the uninsured those prudent enough to insure their own properties are required not only to pay insurance premiums but also levies for Emergency Services. Governments should require all property owners to contribute to a disaster pool which would cover the costs of removal of

disaster affected buildings and an amount, say \$25,000, for housing assistance and other costs. As with Medicare, owners would be free to take out additional private cover but not be required to pay additional levies for emergency services.

- **THIS ISSUE NEEDS TO BE THRASHED OUT WITH THE INSURANCE INDUSTRY.**

ISSUE FOUR – THE CREATION AND MANAGEMENT OF NATIONAL PARKS

The Eurobodalla has numerous National Park areas within its boundaries. Most of these areas are inaccessible to fire-fighting vehicles due to the absence of maintenance on fire trails since the time the Parks were gazetted. Locals have seen little evidence of control burning over the past 30 years and fuel loads in the lead up to this fire event were excessive for forests dominated by combustible Eucalyptus trees.

Eurobodalla residents observed the inability of the RFS to tackle fires within the park with anything other than water bombing aircraft. Even when fires were dampened by water bombing there were no personnel on the ground to mop up and stop the fires from reigniting.

When the fires were ready to exit the parks into more accessible areas, their intensity, size and ferocity was such that backburning efforts were marginal or ineffective.

The UN concept of locking up forest land as a global sustainability measure does not work for Australian Eucalyptus forests.

- **LEGISLATION PROMOTING THE LOCKING UP OF NSW NATIONAL PARKS SHOULD BE REPEALED AND REDRAFTED.**
- **THE NSW GOVERNMENT MUST REVIEW THE SIZE AND NUMBER OF NATIONAL PARKS IT HAS CREATED AND IF IT CANNOT MAINTAIN THESE PARKS AT AN ACCEPTABLE LEVEL, RETURN LESS REMARKABLE FORESTS TO THE STATE FORESTS, WHERE THEY CAN BE OPERATED AND MANAGED ON A COMMERCIAL BASIS.**
- **FIRE TRAILS MUST BE REINSTATED AND REGULARLY MAINTAINED TO AN ACCEPTABLE FIRE FIGHTING STANDARD.**
- **REGULAR CONTROL BURNING MUST BE REINTRODUCED TO KEEP FUEL LOADS AT AN ACCEPTABLE LEVEL TO PREVENT FUTURE INFERNO'S THAT KILL FLORA AND DECIMATE THE ANIMAL POPULATIONS IN THESE AREAS.**

ISSUE FIVE- THE MANAGEMENT OF STATE FORESTS

It is a common belief on the Far South Coast that Australian State Forests were the best maintained commercial forests in the world before the introduction of stringent environmental legislation in the nineteen nineties, and the tightening of the legislation since that time.

Our State forests are much better maintained and far more accessible than National Parks. But at the same time foresters are required to leave pruning and logging debris in place for the benefit of the native fauna. As a result, the fuel load problem extends across boundaries from National Parks into State Forests, and beyond.

It is our understanding that control burning programs have been curtailed in State Forests due to a lack of funding and understaffing.

- **STATE FORESTRY LEGISLATION MUST BE EASED OFF TO ALLOW PRUNED AND FELLED FOREST AREAS TO BE CLEANED UP. THERE MUST BE ALTERNATIVE METHODS OF PROVIDING ADEQUATE HABITAT FOR OUR NATIVE ANIMALS RATHER THAN LEAVING THE DEBRIS TO BUILD UP, AND WIPING THEM OUT EVERY 20 TO 30 YEARS AS THE FUEL LOADS PEAK.**
- **THE STATE GOVERNMENT MUST ENSURE THAT FORESTRY IS ADEQUATELY FUNDED TO MANAGE THE NON-COMMERCIAL ACTIVITIES RELATING TO FOREST MANAGEMENT AND ITS FIRE CONTROL RESPONSIBILITIES.**

ISSUE SIX- BIODIVERSITY CERTIFICATION AND ENVIRONMENTAL PROTECTION ZONING

In recent years NSW Planning and Environment Departments have introduced land development and management legislation that has or will effectively lock up large tracts of native forest to preserve their environmental values. When this legislation was introduced the government did not consider the risks involved in locking up land that is primarily vegetated by highly flammable Eucalyptus trees...indeed, trees which need fire to regenerate.

Bio diversity certification is an offset scheme that allows land subdivision and development in forested areas. It requires the developer to acquire and lock up a much larger tract of similar land, in perpetuity.

Environmental protection zoning identifies land of supposed environmental significance. Of the 4 zones, E1, E2, and E3 lock the land up permanently and prohibit most development activities. E4 facilitates 'environmental living' amongst the gum trees, but without the plum trees to catch burning embers.

Developers are required to set up management funds as part of the biodiversity approval process, but the Eurobodalla community certainly does not trust the local council to undertake or police the management of the protected areas. The government is creating even more Eucalyptus "lock ups" to build up fuel and cause bushfire problems in the future.

Likewise, E-zones are by their very nature and definition comprise land that is required to be locked up by the councils as the Governments agents, or by the private owners. The "lock-up and leave" mentality that supports the creation and management of E-zones in Australian forests is creating another "bushfire waiting to happen".

These land planning concepts might work well in the temperate deciduous forests of Europe and North America. They could even have an application in wet equatorial rain forests. But they do not have a place in highly combustible Australian Eucalyptus forests.

- **THE NSW GOVERNMENT MUST REVIEW ITS PLANNING LEGISLATION AND REPEAL/REPLACE ANY ENVIRONMENTAL LEGISLATION THAT SUPPORTS POLICIES THAT INCREASE THE FIRE RISK TO NSW RESIDENTS.**

ISSUE SEVEN – COMMUNICATIONS

During the most serious bushfire build up on New Year's Eve 2019, communities up and down the Eurobodalla coastline complained of the lack of up to date and meaningful bushfire information.

In Dalmeny on New Year's Eve, the ECA Secretary lost power, mobile phone coverage, and internet coverage, in the morning. His fixed line went down in the early afternoon and the transmitter carrying ABC South East, the official bushfire news carrier, failed at the same time. The local RFS team had also lost outside communications, and were no better informed than the residents. The same was true for virtually all of Eurobodalla, if not on that day, then at various times during the next month. This communications failure was of epic proportions and could have had very serious consequences.

The replacement of copper wire phone lines with the NBN has significantly reduced communication capacities in disaster situations. inevitably power is knocked out and the electricity dependant NBN means landlines are inoperable. Mobile phone towers are also vulnerable. In Eurobodalla many residents, especially those in high risk areas, were without communications and power, in many cases for more than a week. The only information source were radio stations, particularly, but not exclusively, the ABC...for those who had transistor radios and a ready supply of up to date batteries.

The frustration of not knowing what was happening compounded the apprehension and fear felt in many communities. This was made worse when radio announcers or RFS spokespersons urged listeners to get more information from various websites. It should be remembered that those who most need such emergency information are those most likely to be unable to obtain it via either computer or mobile phone. Emergency radio services must provide detailed information about the local and direction of fires, road closures, weather, all of which allow individuals to better consider their options.

- **THE ASSET PROTECTION ZONE AROUND MOBILE PHONE TOWERS MUST BE SUFFICIENT TO ENSURE THAT THEY ARE ABLE TO SURVIVE EXTREME FIRE CONDITIONS.**
- **TELSTRA AND OTHER CARRIERS MUST ENSURE THAT THEIR POWER BACK UP IS SUFFICIENT FOR AT LEAST 48 HOURS.**
- **ALL RFS FIRE STATIONS AND KEY EMERGENCY CENTRES MUST BE EQUIPPED WITH SATELLITE PHONES AND HAVE UNINTERRUPTED INTERNET ACCESS TO HEAT IMAGERY IDENTIFYING THE FRONTS OF SURROUNDING FIRES.**
- **EMERGENCY RADIO SERVICES MUST PROVIDE DETAILED INFORMATION ON FIRE MOVEMENTS, AND ROAD CLOSURES RATHER THAN REFERRING LISTENERS TO WEB SITES WHICH ARE OF LITTLE USE WHEN CONVENTIONAL COMMUNICATIONS ARE NON-EXISTENT.**

ISSUE EIGHT- CONTROL OF BUSHFIRE PREPARATION ACTIVITIES

There have been strong complaints in the Eurobodalla from rural property owners and others about the central control of control burning activities. Local RFS personnel who know the local scene and weather conditions are reportedly excluded from the decision-making process and are given a very small windows of opportunity to undertake their control burning operations.

- **THE INQUIRY SHOULD CLOSELY EXAMINE THE CURRENT ADMINISTRATIVE ARRANGEMENTS FOR CONTROL BURNING OPERATIONS WITH A VIEW TO CUTTING THE RED TAPE THAT HAS BUILT UP IN RECENT YEARS.**

ISSUE NINE – FURTHER TIGHTENING OF BUILDING STANDARDS TO FACILITATE CONTINUED BUILDING IN HIGH RISK BUSHFIRE ZONES.

The usual knee-jerk reaction to large bushfires is to impose further building standards on new houses. The additional cost of compliance with existing standards in high bushfire risk areas is reported to be in the range of 25-30% of the normal building cost. If these standards are tightened further, the costs will be prohibitive. In addition, the development of new standards provides local governments with an excuse to defer rebuilding approvals pending development of new standards. A better course is to eliminate or minimise the risk so new standards are not needed.

It is also believed that these building measures are not as effective as the authorities would like us to believe. Buildings deteriorate over time and the fire resistance of a building diminishes as gaps open up, repairmen are unaware of the care that must be taken to ensure the integrity of the building, and owners make additions and modifications that are not compatible with the fire safety components of the building. Landscaping can also negate the fire resistance of the structure.

A fire safety rating in many instances gives residents a false sense of security and these building standards should not be used to facilitate building adjacent to, or into, combustible Eucalypt forests.

- **INCREASING THE FIRE RESISTANCE OF BUILDINGS SHOULD NOT BE USED AS A SUBSTITUTE FOR REMOVING THE FIRE RISK THAT EXISTS.**

ISSUE TEN: EVACUATION AND ROADS

There are and always will be times and locations where evacuation is the only possible course to save lives. However it is important to avoid panicked evacuations which can result in more harm than good, particularly as more homes are destroyed by embers than flame fronts. Provision of large buffer zones around villages should reduce the need for evacuation. A further problem is that many villages have only one access road, which may make evacuation impossible (and further argues the case for adequate buffer zones).

From the President's home at Broulee there are three choices. Two would have been straight into the flames on New Year's Eve. The third, south to Moruya, was a potential disaster waiting to happen. Had the wind not changed the likelihood is 100 or more cars containing panicked evacuees would have been stopped on the airport road with flaming gums on both sides and fallen trees in front and behind.

And, of course, the major roads from the Eurobodalla to other centres—the Princes, King's and Monaro Highways were all closed at various times, often for long periods. In the absence of a major hospital in Eurobodalla patients needing treatment in Canberra, Nowra or Sydney were in a serious state.

Wherever the terrain allows, forests should not be allowed to grow so close to exit or main roads: the distance should be equal to that of the tallest tree, so that if it falls, it cannot obstruct the roadway. The same must apply to vital infrastructure, power lines, sub stations and communication towers. When evacuation orders are given, police and other authorities must ensure they direct people on a truly safe exit way. If it isn't totally safe it may be better to stay and defend from ember attack.

ISSUE ELEVEN: EDUCATION

As we said at the beginning the history of bushfires in Australia and failure of governments at all levels to act on the recommendations of subsequent inquiries shows that memories can be very short. Unless the community, particularly those who live in the centre of large cities where the only risks from bushfires is smoke irritation, understand the need for risk mitigation future disasters are inevitable. It is particularly important that the younger generation be aware of the importance of ensuring their own protection from future avoidable disasters.

- **THERE SHOULD BE A DESIGNATED BUSHFIRE REMEMBRANCE DAY COMMEMORATED IN ALL SCHOOLS, WITH RFS OR OTHER FIRE MANAGEMENT EXPERTS VISITING TO EXPLAIN TO CHILDREN THE NEED TO MANAGE FORESTS AND STRESS THE IMPORTANCE OF RISK MITIGATION.**

This would include showing scenes of unmanaged forests before and after a conflagration had passed through.

ISSUE TWELVE: ANOTHER CATASTROPHE IN THE MAKING

The Inquiry is alerted to the parallels that can be drawn between the development of forest management legislation in NSW and its latest coastal management legislation.

NSW environmental legislators have moved from "locking up" the forests, to "locking up" the beaches.

Owners of properties in low lying coastal developments face heavy fines for trying to protect their properties against storm and tempest, and SES or other emergency services staff are excluded from helping these owners defend their properties. The controlling NSW Coastal Council opposes engineered mitigation works to protect coastal communities, and insurance is becoming prohibitive as mitigation is rejected and futuristic sea level rise predictions are adopted.

All the elements are in place for a coastal disaster to match the current bushfire disaster, when the next east coast “super storm” of 1974 proportions visits our coast line, and destroys these unprotected or vulnerable communities.

- **THE NSW GOVERNMENT NEEDS TO BE CENSURED FOR CONTINUING TO PASS ENVIRONMENTAL LEGISLATION THAT IS NOT FIT FOR APPLICATION TO POPULATED COASTAL AND RURAL AREAS OF THE STATE. THE NEW COASTAL MANAGEMENT ACT NEEDS TO BE REVIEWED BEFORE IT CAUSES A COASTAL CATASTROPHE TO MATCH THE CURRENT BUSHFIIRE DISASTER.**

ISSUE THIRTEEN – CLIMATE CHANGE

The ECA has no published policy on anthropogenic climate change or the contribution of fossil fuel burning to warmer temperatures. Opinions vary within our organisation, but if the Inquiry is to make allowance for projections of 30% less rainfall, much longer droughts, and warmer/dryer burn off seasons, the mitigation planning will need to be increased threefold to cater for forecasts of an apocalyptic future. The adaptation costs, including manual fuel reduction in native forests, will be horrendous, and must include far more forest clearing around built up areas.

It must be recognised that Australia’s contribution to global CO2 emissions is negligible, and even if we reached a zero net emission status this year, it would do next to nothing to reduce global emissions. With little or no CO2 reductions expected from the major global emitters, especially China and India, the Inquiry cannot rely on any reduction in global emissions in the short term to reduce the future bushfire risk in NSW.

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