

*NSW Independent Bushfire Inquiry - Submission from Styles Creek Pty. Ltd.*

NSW Independent Bushfire Inquiry  
GPO Box 5341, Sydney NSW 2001

Submission from Styles Creek Pty. Ltd.

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Personal details:

Mr Robert Irvine

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Address: [REDACTED]

[correspondence to: [REDACTED]]

Submission details:

I am making this submission as a resident and property owner in a bushfire affected area.

Submission type:

I am submitting on behalf of my organisation

Organisation making the submission:

Styles Creek Pty Ltd

Position in the organisation:

Company Secretary

Consent to make submission public:

I give my consent for this submission to be made public.

Our story:

On or about the 13th November 2019 our property, "Styles Creek" [REDACTED] [REDACTED] (lot 66 DP [REDACTED]) was burnt out by the Rumba Dump Fire, which burned fiercely across the forested ridges from Bobin in the west to Killabakh in the east. The fire moved quickly through the mainly forested areas of our property, clearing the undergrowth but leaving mature trees standing. The fire was most intense in previously cleared areas, then overgrown. We lost our farmhouse, farm buildings and boundary fences. Fallen trees blocked internal access roads. The damage and the loss of our house has been devastating.

The extent of damage was greatly exacerbated by the breakdown of local road access into the upper Kippax valley over the past 10 years. This has prevented us from carrying out regular maintenance to roads and to protect our house and farm buildings. It has prevented Telstra from maintaining their land line (there is very limited mobile coverage in the upper Kippax valley). It has also prevented the RFS from accessing the area for preventive fire maintenance and, on 13th November it prevented the RFS from accessing the fire ground along the Kippax Road to the Yellow Rocks Creek and through to Comboyne and Killabakh.

Since 2008 we have done our best to keep up basic property maintenance by walking in, and by arranging precarious access through other neighbouring properties, including NPWS. This has required a 75km detour, extended negotiations with multiple property owners and inevitable minor road clearing. This burden has proved unsustainable for us. It has been

*NSW Independent Bushfire Inquiry - Submission from Styles Creek Pty. Ltd.*

difficult to maintain internal access roads and impossible to maintain a safe cleared area around our house and farm buildings. We know the risks. We have fought fires here before.

Apart from a warning call from the Local Land Services Hunter regional office, we have had no support from RFS, the local council or the NSWG. The heavy track marks where RFS vehicles approached the entrance to our property at Syds Bridge, and turned back, are a stark reminder of our isolation.

Our attempts to notify and discuss the damage to our property and seek assistance were dismissed and ignored by the RFS Taree office and by the local council. We feel, justifiably, that we have been let down by the NSWG and allowed to fall through the cracks. We believe we are not alone.

We pay NSWG local council rates and land board rates for no service.

Without practical road access we have been unable to insure the farmhouse and have little prospect to rebuild. This is a devastating loss for us.

### Background

Our company, Styles Creek Pty. Ltd. has owned and managed the property known as "Styles Creek" [REDACTED] (lot 66 DP [REDACTED]) for the past 40 years. The property has an area of 126.9ha, mostly native forest regrowth with a single dwelling and farm buildings. The property was operated as a dairy farm from about 1910 to 1980. For the past 40 years it has been managed for nature conservation and as an occasional rural retreat for company members.

From about 1915 to 1980 Kippaxs depended on public road access along 'fit for purpose' local roads supervised by the former Manning Shire Council in conjunction with the local Land Board and property owners. These included the Marsh Forest Road running east to the Comboyne Road; the Den Road running south-east to the Moorall Creek Road; the Waterfall Road running north to Collings Road; and the Kippax Road running west to the Bulga Road.

The section of Kippax Road from the Dingo Creek crossing (at council's bridge) upstream to the Yellow Rocks Creek junction has served as a public road for almost 100 years. The upstream properties all have a nominal rights of access to Kippax Road along existing but often impassable Crown roads easements. In all cases they rely on the track in use for practical vehicle access.

All of these local roads were developed through arrangements facilitated by the former Manning Shire Council to construct and maintain fit for purpose tracks giving practical effect to existing Crown roads, often without formal survey and land transfer. This practice was common in rural areas of NSW and accepted by Local Lands Boards and local shire councils until the 1980's.

Following the spate of local council amalgamations from 1980 onward, local shires were merged with municipalities that often adhered to more formal road management practices, seeing roads as urban civil works and planning matters. Lacking familiarity with the historical roles of Land Boards and Shires in adapting and integrating Crown and local roads in rural areas they are perhaps less concerned and less willing to provide a remedy when

*NSW Independent Bushfire Inquiry - Submission from Styles Creek Pty. Ltd.*

private landowners block traditional access roads that diverge from Crown Road easements.

In 2008 our neighbour at [REDACTED], locked gates and erected barriers to block access to our property along the Kippax Road, which deviates from the Crown road easement by about 300M in places. The local council (then GTCC) supported this action and determined that the council road would end at the entrance to our neighbour's property, about 1km from our gate.

The relevant NSW Topographical map shows Kippax Road as a public road to Syds Bridge and as a 4WD track from Syds Bridge to Yellow Rocks Creek [Attachment Fig. 2]. The council has never provided us with an explanation for their arbitrary decision to declassify that key section of the public road.

Since then we have made persistent efforts to engage with all affected parties and to seek support from the council, as the road authority, to maintain practical vehicle access to our property and to other upstream properties.

For the past 40 years we have allowed permissive access along the section of Kippax Road through our property, which also deviates from nearby Crown road easements, to four upstream neighbours. The road from our gate to the Yellow Rocks Creek junction is in fair all weather condition, and quite safe.

The council tells us that maintaining the short 1km section of Kippax Road to our gate is "not economically viable". The effect is to leave our property and 3 others, isolated from the council road network, and to block access and egress to and from the Kippax valley to the north, east and south-east, leaving a single route of access and egress to the west, for those able to access it.

As ratepayers we sympathise with cost pressure on our local council and seek a practical, affordable solution to restore the previously existing, practical road access in both directions, to and from the Kippax valley.

An Attachment is provided with figures showing:

1. Styles Creek property overlaid on a NSW spatial data map
2. Kippax Road to Syds Bridge on a NSW topographic map
3. Roads and Crown road easements on a NSW spatial data map
4. Kippax Road at Syds Bridge prior to private closure in 2008
5. Telstra telephone cable across Dingo Creek at Syds Bridge, Kippax Road
6. Telstra telephone pole destroyed by fire at Syds Bridge, Kippax Road
7. Styles Creek Farmhouse burnt out by bushfires Nov 2019

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Terms of Reference:

1.1 Causes and contributing factors

Climate change, ecosystem degradation and increasing population density in forested areas of NSW make catastrophic bushfires more likely. Easy access to forested areas is a key requirement for future bush fire management services.

The breakdown of traditional local road access in many parts of rural NSW over the past 10 years is particularly problematic for rural property maintenance and practical bush fire management. The causes are a consequence of changing social values, farm management practices and local government priorities, all compounded by rising costs and legal issues around indemnity and liability.

The breakdown of traditional road access arrangements in NSW has been gradual and piecemeal. In many areas 'informal' road alignments continue to operate. Off-alignment roads are maintained by councils and property owners utilise related Crown road easements. But the arrangements are fragile. It only takes one affected land owner to block a road and the informal road system fails.

Local councils usually step in when there is an economic imperative. A new survey is made and lodged, a Crown road land swap is facilitated by the NSWG and the problem is fixed. But councils need not act when costs are seen to outweigh benefits, despite the significant burden on affected property owners. In this case, the only solution for affected property owners is the purchase of right of carriageway easements from unwilling sellers, or an even more costly appeal for a remedy to the NSW Supreme Court. When these costs are prohibitive, upstream properties become landlocked and cannot be accessed or maintained.

Meanwhile, the owners must continue to pay council and land service rates.

The owners of isolated properties are being treated as though their properties were new subdivisions, ignoring the facts of historical road access under the traditional road arrangements operated by Shires and Land Boards for 100 years. While times and circumstances have changed these arrangements have not kept pace. The privileged role of local councils as the road authority for an area is a key factor. Only councils are able to process the road realignment that is necessary in such cases. Private landowners must purchase new easements.

In the upper Kippax valley over 1000ha of forest land has been isolated by the local council's failure to remedy the private closure of Kippax Road. The affected land is near the council's northern boundary, it includes two large areas of NPWS land, and is of little economic importance to the council. There is also a perceived land value benefit to the property blocking Kippax Road.

It appears that landowners and local councils can do this arbitrarily and with impunity, when the opportunity arises and it is in their interest to do so.

We submit that the impact on affected property owners is unconscionable and the impact on essential services, public safety and bush fire management is not in the public interest, nor the interest of the New South Wales Government (NSWG). Local road access is critical

*NSW Independent Bushfire Inquiry - Submission from Styles Creek Pty. Ltd.*

for property maintenance; for essential services; for controlled burning; for prompt access to fire outbreaks; for fire containment; and, for safe egress from threatened properties.

Clearly the breakdown of local road access is often difficult for local councils' and affected landowners to resolve on their own. With the dissolution of Local Lands Boards and limited resourcing of the NSWG Crown roads management functions, an effective procedural or legislative solution is required.

We submit that the Roads Act and regulations should be amended to allow a local council to open a gated 'restricted access' local public road on a practical alignment, with provision for closing related Crown Roads in compensation. Such roads could be subject to a council management plan so that upstream landowners and essential services could work with the council to develop and maintain a 'fit for purpose' carriageway for limited vehicle access. The plan could make specific provision to address the legal issues around indemnity and liability and could set practical carriageway standards, including load and journey frequency limits and user contributions, enforced by a council notice.

This would be far less costly for councils than creating and constructing 'public roads' to general vehicle access standards, and much more practical for landowners responsible for isolated and 'uneconomic' properties. It would also address the concerns of landowners in isolated areas (including those who now chose to block informal roads) regarding privacy, vandalism and liability.

If the Inquiry determines that NSW councils already have power to do all this (we believe they probably do) we submit that the NSWG should issue a Circular to Councils encouraging the provision of effective gated road access to isolated properties and outlining a procedure for applications and appeal.

### 1.2 Preparation and planning

We believe that our submission in relation to 'Causes and contributing factors' is equally relevant to this term of reference.

The failure of many NSWG departments, agencies and local councils to plan for and maintain effective road access to isolated forested areas significantly hindered the efficient management of the Rumba Dump Fire and contributed significantly to its spread and impacts on local communities and landowners.

We believe that the breakdown of road access along Kippax Road and the connecting roads to Comboyne, Killabakh and Moorah Creek from the Kippax valley is a natural consequence of changing NSWG road management functions. No single department, agency or sector is responsible. A whole of government solution is required. We believe that this whole of government Inquiry is well placed to make recommendations towards practical solutions.

### 1.3 Response to bushfires

We wish to acknowledge the valiant service by RFS staff and volunteers managing the Rumba Dump Fire. We regret that lack of practical road access prevented access by RFS to the fire ground along the Kippax Road and also prevented us from better protecting our farmhouse, buildings and property.

#### 1.4 Any other matters

We have no additional comments, although there are many. We are available and willing to discuss the details of our submission with the Inquiry.

We acknowledge that the management of rural roads is a major challenge for the NSWG and rural councils, and that funding for rural roads is constrained. We share the concerns of all rural landowners for practical, cost effective road management arrangements to sustain rural roads as essential services.

In preparing our submission we have relied on the advice of neighbouring landowners, local residents and road contractors, and the MidCoast Council.

Other references include:

Going Nowhere: The rural local road crisis, its national significance and proposed reforms, by Juturna Consulting for Australian Rural Roads Group. November 2010.

Source:

[https://agwhitepaper.agriculture.gov.au/sites/default/files/SiteCollectionDocuments/GP98%20Australian%20Rural%20Roads%20Group%20Inc\\_Part%202.pdf](https://agwhitepaper.agriculture.gov.au/sites/default/files/SiteCollectionDocuments/GP98%20Australian%20Rural%20Roads%20Group%20Inc_Part%202.pdf)

Guidelines — administration of Crown roads, NSW Department of Industry, May 2018.

Source: [https://www.industry.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0017/164033/Administration-of-Crown-roads-guideline.pdf](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0017/164033/Administration-of-Crown-roads-guideline.pdf)



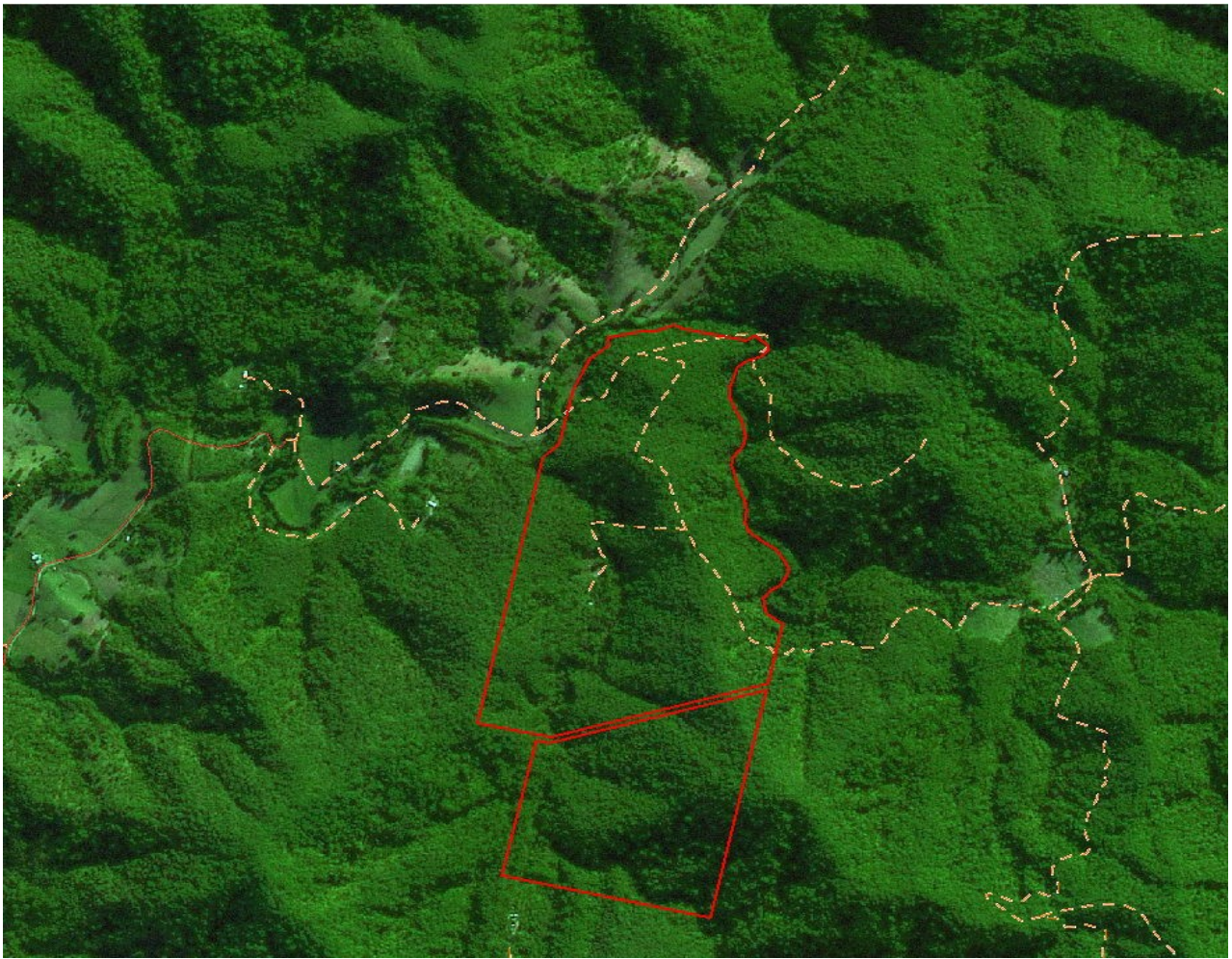


Fig 1: Showing Styles Creek property overlay on NSW spatial data map

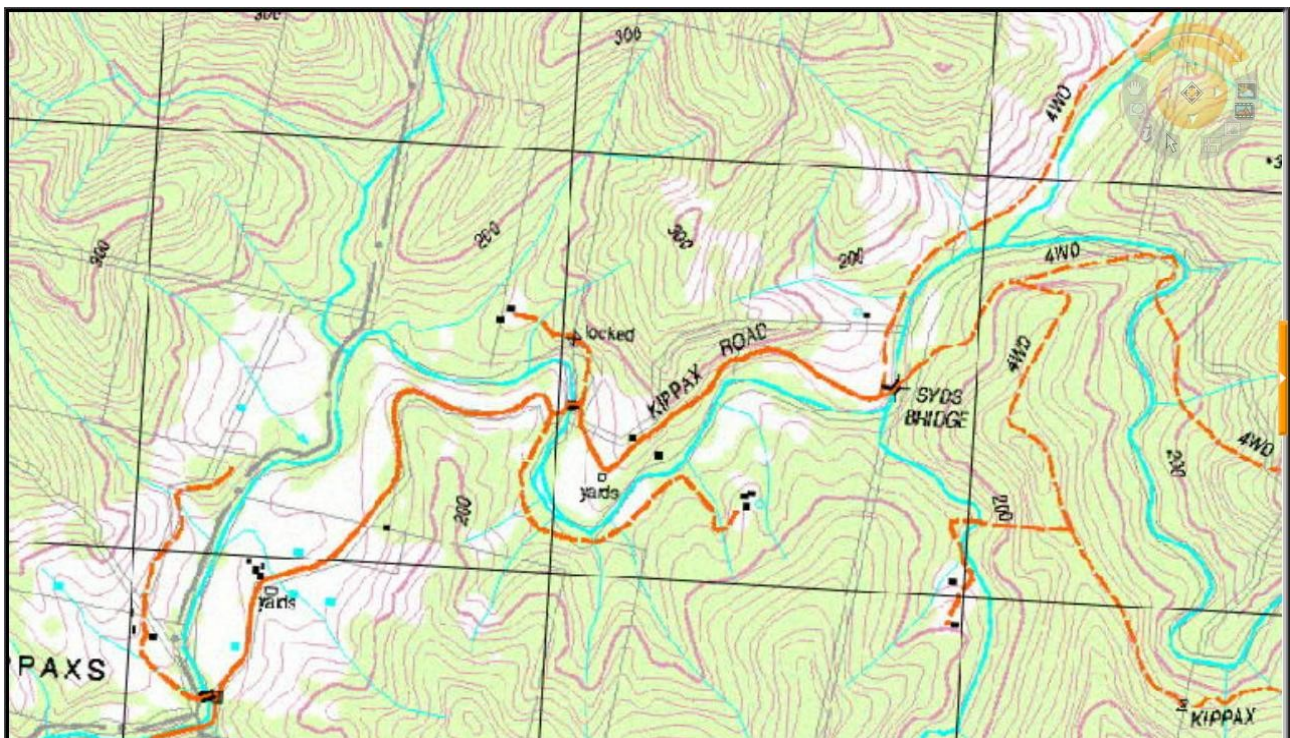


Fig 2: Showing Kippax Rd and Syds Bridge on NSW topo map.





*Fig 3: Showing roads and Crown road easements on NSW spatial data map.*



*Fig 4: Showing Syds Bridge and Kippax Road prior to private closure in 2008.*





*Fig 5: Showing Telstra cable crossing Dingo Creek at Syds Bridge after Bush Fires Jan 2020.*



*Fig 6: Showing Telstra telephone pole and node after Bush Fires, Jan 2020*





*Fig 7: Styles Creek Farmhouse – burnt out by bush fires Nov 2019 (image Jan 2020)*