

Australian Bushfire Response: Adaptation, Planning and Climate Change.

Bushfires continue to rage across the country. Last week the Australian Capital Territory became the latest State to declare a state of emergency. And yet the fire season is not over. Last week's Bushfire Condolence Motion in Federal Parliament was completely overshadowed by leadership bids and infighting. It was far from resolving core causes.

Our thoughts are with those who lost homes or loved ones. We extend our deepest condolences and pay respect to everybody directly and indirectly affected, including fire fighters and emergency services.

We reflect on these catastrophic bushfires and, in the shadow of the grief, sadness and suffering, consider what we can learn and how land use, planning or government policy can better protect people in high bushfire risk areas. Thoughts and condolences can only do so much. Government must be realistic about the impact of climate change and develop policy and planning tools to respond and protect against bushfires.

The Country Fire Authority (CFA) warns that Victoria is one of the most fire-prone regions in the world.¹ It combines large areas of highly flammable, dry eucalyptus forest and grasslands, climatic patterns of mild winters and hot dry summers with protracted droughts and increasing population density in rural-urban fringe areas.

It is well known that the frequency and severity of bushfires have increased significantly due to increased summer temperatures. For example, what was once a 'once-in-20-years' extreme heat day is now projected to occur every two or three years. Fire seasons are starting earlier and finishing later. As a result of higher temperatures and insufficient rain, areas not normally prone to fire are now burning, irreversibly altering their natural ecosystems. This trend will continue.

In 2019, Global Forest Watch recorded over 4.5 million fires larger than one kilometre in size. This 2019 figure exceeds the 2018 figure by nearly half a million fires. The 2018 Intergovernmental Panel on Climate Change reported that even the Arctic experienced fires never seen before.

Given the increased intensity and likelihood of bushfires, how our nation designs and builds communities is critical to protecting life, homes and businesses. In Victoria, land-use planning regulations provide a logical and consistent basis to guide and influence built-form outcomes. Is it time to review Victoria's Bushfire Management Overlay (BMO) and how communities in high risk bushfire areas are planned and developed long term?

Australia has a long history of devastating bushfires. But as long as that history is, it is often overlooked, forgotten or ignored, particularly in cities such as Melbourne where housing supply pressure is unrepentantly feverish. For example, the town of Noojee was destroyed in the Black Sunday fires of 1926. It was one of the 4 towns rebuilt after these fires. Just a little over 10 years later, in 1939's Black Friday, fires decimated Noojee again. After 1939, questions arose as to whether the town ought to be abandoned. It was not.

In 1983, Ash Wednesday bushfires severely affected the towns of Cockatoo and Upper Beaconsfield. 27 lives were lost. Both towns lost over half their housing stock. However, there was little impact on both towns long-term population growth.

¹ CFA, Am I at Risk? <https://www.cfa.vic.gov.au/plan-prepare/am-i-at-risk>

Similarly, despite the almost total loss of the settlements of Kinglake and Marysville during Black Saturday, these towns have rebuilt and continued to grow. Population data reveals that, even after a major bushfire, communities predominantly choose to return. Memories fade and fear subsides. Often, in urban fringe areas young people take opportunities for cheap land for affordable housing but generally bring limited bushfire management skills or knowledge.

In 1997, Victoria's first significant bushfire related planning tool was introduced - the Wildfire Management Overlay (WMO). Its corresponding mapping system was in conjunction with the CFA.

In 2011, in response to the Victorian Bushfires Royal Commission, bushfire risk was re-assessed across Victoria and the mapping system overhauled. Planning controls were changed to require new buildings to meet much higher bushfire protection standards i.e. 'defendable space.'² The WMO was changed to BMO, and its mapping was determined by 'bushfire prone areas,'³ to grade fire hazards from low to extreme risk, with BMO applied in high risk areas.

BMO required any subdivision to complete a bushfire hazard site assessment, a bushfire hazard landscape assessment and a bushfire management strategy. Additional protection measures apply to vulnerable uses (e.g. schools, childcare facilities) and development areas of significant landscape risk. However, these controls do not apply to subdivisions or buildings built before 2011. Both BMO (and WMO before it) impose no ongoing obligations to manage land, update plans, or improve buildings to ensure they are line with management best practice.

Australia is not alone in rebuilding on land known to be at extreme fire risk. In the US, within days of the devastating 2018 Camp Fire, which killed more than 80 people, Los Angeles County approved the development of 19,000 new homes in an area already designated as high or very high fire risk.

Kellehers Australia has long been at the forefront of climate change law. Currently, Hubert Algie leads the Monash University's Clinical Legal Practice Justice program. Samantha Thorogood completed Melbourne University Masters subjects in both Climate Change Law and Disaster Law and Climate Adaptation. Sadly, our team's informed approach is possibly not yet reflective of Australians at large.

The Australian Government is now globally perceived as a climate change denier. At the latest climate change talks in Madrid, Australia was grouped with Russia and Saudi Arabia as 'regressive' on climate change. Our federal and trade department is actually promoting new coal fired power stations in Bangladesh. Staggeringly, as Australia burnt, on 22 December 2019 the Prime Minister refused to rule out supporting the construction of new coal fired power stations within Australia. Australia's current approach will result in *increased* global emissions.

Despite overwhelming science clearly linking fossil fuel emissions to greenhouse gas emissions, which in turn create an increased, unnatural rate of climate change, including increased bushfires and drought, Australian continues to export fossil fuels and remains fourth on the list of those responsible for global fossil fuel emissions.⁴

Both Victoria and NSW announced inquiries into the bushfire 'crisis', committing further funding to understanding the bushfires without any equivalent funding on practical steps to combat climate change or even precautionary steps to combat it.

² AS3959 (Standards Australia 2009)

³ *Building Act 1993 (Vic) S192A*

⁴ Adams, P; Australia's Climate Reputation, ABC News (online), 4 February 2020

Two Federal Government Inquiries involving fire responses are currently underway - the Senate Standing Committee on Rural and Regional Affairs and Transport – Response to drought and the adequacy and appropriateness of policies and measures to support farmers, regional communities and the Australian economy; and House of Representatives’ Standing Committee on the Environment and Energy – Inquiry into the efficacy of past and current vegetation and land management policy, practice and legislation and their effect on the intensity and frequency of bushfires and subsequent risk to property, life and the environment.

Further Inquiries without climate change action are costly and likely ineffective. Funding inquiries and massive relief and tourism grants programs whilst actively promoting coal globally are almost unethical. Can Australia afford the costs of bushfires (or floods) next year and annually? What could we achieve as a nation if we applied our fervour to the challenge of climate change and securing environmental sustainability? What a truly profound, unifying and healing achievement that would be.