



2009 Victorian Bushfires
Royal Commission

Response to Discussion Paper – cover sheet

Post your response (if over 5 megabytes in size) with this cover sheet to:

Response
2009 Victorian Bushfires Royal Commission
GPO Box 4358
Melbourne VIC 3001

Or

Email your response with this cover sheet to: enquiries@royalcommission.vic.gov.au

Title: Mr	First Name: Ian	Surname: Liddell
Organisation represented by your response (if applicable): Mitchell Community Health Service		
Email address:	[REDACTED]	
Postal address:	[REDACTED] Broadford VIC 3658	
Telephone:	03 [REDACTED]	
Main topic(s) addressed by your response (please tick:)	<input checked="" type="checkbox"/> Insurance	<input type="checkbox"/> Fire Services Levy

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Signature: _____

Date: 17/12/2009

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FIRE SERVICES LEVY AND INSURANCE RESPONSE TEMPLATE

The following response template is provided to assist interested parties to respond to the issues raised in the Victorian Bushfires Royal Commission's Fire Services Levy and Insurance Discussion Paper.

The Commission welcomes comments on any or all aspects of the discussion paper. Respondents should not feel confined to the issues raised by these questions and may comment on any issues the funding of fire services and insurance.

The use of this template is optional. All responses require a coversheet.

FUNDING FIRE SERVICES DISCUSSION QUESTIONS

1. *What are the advantages and disadvantages of requiring insurance companies to fund a major part of the fire services?*

2. *What are the advantages and disadvantages of applying a levy to non-insured and under-insured properties (while maintaining the FSL on other properties)?*

3. *What are the advantages and disadvantages of funding fire services through a property-based levy on all Victorian property and vehicle owners? Are there any factors that make a property-based levy more or less practicable in Victoria compared with other states?*

4. *What are the advantages and disadvantages of all Victorian property owners contributing to one fund for the funding of both the MFB and the CFA?*

5. *What are the advantages and disadvantages of introducing compulsory property insurance to address issues associated with the FSL?*

INSURANCE DISCUSSION QUESTIONS

6. *Is non-insurance and under-insurance a problem in Victoria? Do we have accurate data on this issue?*

7. *What reasons, if any, are there for the government to ensure residents in bushfire prone areas are adequately insured? What form should any government involvement take?*

8. *What effect would removing the FSL and stamp duty on premiums have on the uptake of property insurance?*

9. *Are there better tools, for example web sites, ready reckoners, etc that could be made available to property owners to assist them in accurately calculating the replacement cost of their property? Would the availability of such tools reduce under-insurance?*

10. *Would it be practical for insurers to rate houses in bushfire prone areas for fire safety? If so, would this affect premiums? What are the practical advantages and disadvantages of involving the CFA (or persons accredited by the CFA) in reporting a property's fire readiness for insurance purposes?*

OTHER COMMENTS

11. Please feel free to comment on any other issues relevant to the fire services levy and insurance below.

I wish to comment on section 67 and 75 of the Fire Service Levy and Insurance Discussion Paper.

My comments are made having worked in the Finance Sector for 23 years, but specifically within that industry as both a mortgage lender and a securities officer of a major Finance company connected to the old Commercial Banking Company of Sydney, CAGA Finance.

My current role is Senior Financial Counsellor (Bushfire Response Plan funded by Office of Gaming and Racing, Department of Justice) with the Mitchell Community Health Service where I have been the only financial counsellor covering the shires of Mitchell and Murrindindi prior to the fire on the 7th February 2009. I have been in this position for the past 18 years.

Compulsory Property Insurance Section 67

The discussion paper mentions “there is no Australian precedent requiring individuals to insure their own property”. This applies if the property is owned and without a mortgage, and to the best of my knowledge I agree.

However if there is a mortgage over the property, the statement is incorrect.

In a recent case where I was advocating on behalf of a client whose house was destroyed in a local bushfire in 2002 and had a mortgage with one of the major banks, I was reminding the bank of Section 75 (d) of the Transfer of Land Act 1958 (Victoria) and the need to ensure that mortgagors need to have insurance before the loan is settled. This dealing with the bank was because it was discovered after the fire that he was in fact uninsured and the bank had settled the loan without proof of insurance. The Transfer of Land Act 1958 (Victoria) Section 75 (d) makes reference to the wording of the covenant to insure, and that the covenant is to be contained in every mortgage. The wording is set out in the Fifteenth Schedule of the Act. A copy of the Fifteenth Schedule is also attached to this submission.

A quick search as I prepared this comment has located a similar covenant in the Transfer of Land Act 1893 (Western Australia) section 115 and in the Conveyancing Act 1919 (NSW) Section 81 schedule 4. I have not tried to find it in other states or territories in Australia due to time constraints, but believe that similar insurance requirements would be found.

If there is a requirement that when obtaining money to buy a property and securing that loan by a mortgage, that the mortgagor must insure, then this surely is a requirement to insure property. Failure to do so means the mortgagor would be in breach of the terms and conditions of the loan. In the old days of the State Bank of Victoria, when it was discovered that insurance was not current, that bank would insure the property and pass on the premium by adding the premium to the loan balance. The property was then insured when the mortgagor had failed to do so, as per the Fifteenth Schedule.

Most recently (the past 15 years?) the major banks have ceased policing the renewal of insurance policies citing the Privacy Act. However, they should also have a legal responsibility to ensure the asset that they have lent against has adequate insurance and to police their own covenant in their own mortgage document.

As a result banks and other lenders have no way of knowing if a policy has been renewed or not, leading to

Insurance and the Fire Services Levy

properties being both under insured and uninsured and in breach of the terms and conditions of their own mortgages.

If the various requirements to insure as set out in the various legislation were to be policed, it would at least cover properties that have a mortgage loan against them. This however does not answer your question on those properties that are owned outright by their owners, and therefore no requirement to insure. It is hoped that other comments to the paper will address this issue.

Subsidising Insurance for Low Income Households Section 75

In my role as the Financial Counsellor for the shires of Mitchell and Murrindindi for the past 18 years where the target group is low income individuals and families, and who have low disposable income, mainly from Centrelink, my first thoughts after the fires was that up to 25% of people in the area would have no insurance. I made this observation based on assisting low income households and their inability to pay house, contents and car insurances over that period of service delivery.

In those past 18 years I have counted no more than 10 clients out of some 2000 low income households that had car insurance. I was expecting clients to have lost houses, contents and cars and not having insurance as they could not afford to do so based on their budget ability while on Centrelink income. Insurance to these households was not a priority.

While the paper suggests subsidising insurance premiums, this suggestion may require much more thought and discussion. I am sure that this would be an interesting topic to raise with the State funded financial counsellors who would no doubt appreciate being able to have input into this process.

If some sort of thresholds were to be set, who would be eligible, what criteria we would apply and even applying concession program criteria, such as exists with the utilities companies and the Utilities Relief Grant scheme, and would leave many families who could not afford insurance, without cover.

A recommendation therefore would be to consider a levy to fund the MFB and the CFA, be collectable from shires and councils at say 3% of the rate value of the property. This is also a complex area that needs further consideration and debate, as is the 3% suggestion.

Attempting to recommend how we enforce necessary insurance on homes and contents and how it would be collected and monitored as to current cover to avoid under insurance and no insurance is also far to complex to make in this submission, and therefore no further comment is made.

Please send your completed response by email (if under five megabytes) to enquiries@royalcommission.vic.gov.au or post to:

Response
2009 Victorian Bushfires Royal Commission
GPO Box 4358
MELBOURNE VIC 4358

TRANSFER OF LAND ACT 1958

FIFTEENTH SCHEDULE

COVENANT IN MORTGAGE TO INSURE

Sch. 15

That I my executors administrators or transferees will insure and so long as any money shall remain secured by this mortgage keep insured against loss or damage by fire in the name of the mortgagee or his transferees in some public insurance office to be approved of by him or them all buildings fixtures or other improvements which shall for the time being be erected on the said land, and which shall be of a nature or kind capable of being so insured, to the amount either of the principal money hereby secured or of the full value of such buildings and will when required deposit with the mortgagee or his transferees the policy of such insurance and at least seven days before each premium is payable the receipt for such premium. And that the moneys which shall be received on account of such insurance shall at his or their option be applied either in or towards satisfaction of the moneys secured by this mortgage or in rebuilding or reinstating under the superintendence of his or their surveyor the buildings fixtures or other improvements destroyed or damaged. And that on any breach or non-observance of this covenant he or they shall be at liberty to effect such insurance and continue the same for such period as may be deemed fit and the costs and expenses paid on account thereof shall be a charge upon the said land and bear interest at the same rate as if principal money overdue.