

Submission to the Independent review of the *Environment Protection and Biodiversity Conservation Act 1999*

Name of Organisation:

Country Fire Authority of Victoria (CFA)

Name of Author:

Lisa Sturzenegger, Director Community Safety

Confidentiality Statement:

I do not want this submission to be treated as confidential and/or anonymous

Dear Sir/Madam,

Thank you for the opportunity to make this submission and for the extension of time until 12 January 2009, at the request of our Environmental Manager, Helen Bull. Please note that CFA considers this a preliminary submission, identifying matters of concern that we anticipate will be explored in further consultation.

CFA Submission

The Country Fire Authority (CFA) falls within the Victorian State Government portfolio of the Department of Justice and reports to the Minister of Police and Emergency Services. It is largely a volunteer organisation, supported by career staff. There are currently 1,228 CFA brigades with 58,000 members, servicing the operational areas throughout regional Victoria (except state forests and parks) and outer metropolitan Melbourne.

CFA is constituted under the Country Fire Authority Act 1958. Under section 20 of that Act, CFA has the duty of taking superintending and enforcing all necessary steps for the prevention and suppression of fires and for the protection of life and property in case of fire in the country area of Victoria.

CFA responds to a variety of fire and emergency incidents including:

- Wildfires
- Structure fires
- Transport related fires
- Other emergency activities including flood assistance
- Specialist response activities
-

CFA is also involved in a range of other activities, including

- Fire safety building inspections
- Delivering community awareness, education and safety programs
- Post incident analysis and fire investigation
- Fire prevention planning and land use planning at a municipal level
- Working together with Forest Industry Brigades

CFA's corporate planning takes the widely accepted "comprehensive approach" used by Australian emergency service organisations — Prevention, Preparedness, Response and Recovery.

CFA is committed to environmental care, and has undertaken a program to improve its environmental performance across all aspects of its business, including its operations.

CFA is concerned that the EPBC Act does not provide exemptions for impacts on matters of national significance due to emergency activities other than those on Commonwealth land and those involving national emergencies.

A recent Victorian parliamentary committee, the Environment and Natural Resources Committee has recommended that much more prescribed burning be undertaken across the state, to reduce fire risk from large scale fires. A writ has currently been issued against the Department of Sustainability and Environment and Parks Victoria for negligence in relation to the 2003 North East fires and the 2006 fires in this state.

CFA is aware that the Act does provide mechanisms for seeking exemptions based upon a best practice approach. However, CFA recommends that there be parallel protection for fire services to that which already exists on Commonwealth lands where actions are taken that are 'reasonably necessary to deal with an emergency involving a serious threat to life and property' (s197, EPBC Act).

Currently, under Victorian law, fire services operating under emergency conditions, which accidentally damage significant species or biological communities, but have exercised reasonable care, would not be prosecuted under the Flora and Fauna Guarantee Act 1988, but could be prosecuted under the EPBC Act. This has significant ramifications for all volunteer fire services across the country. The fear of litigation/prosecution looms large in the mind of many volunteers. If volunteers were to be prosecuted for responding to an immediate threat to life and property, under emergency conditions, fire services could face a backlash from their volunteers with a withdrawal of services. In Victoria alone, the value of volunteer fire brigade services amounts to around \$840 million per annum.

CFA is not seeking carte blanche immunity for fire service volunteers, but rather seeks protection for people behaving reasonably in emergency situations, guided by appropriate organisational processes and procedures, where life and property is at serious risk.

CFA acknowledges that the EPBC Act requirements can be accommodated in planned (non emergency) fire management activities. CFA currently has in place processes and procedures for fire management works on road and rail reserves. It is expected that these will integrate well with EPBC Act requirements.

CFA recommends that the EPBC Act Review Team involve the fire services in the further consultation that the Review Team will undertake this year and suggests a consultation with the fire services become a particular focus. Such consultation could cover areas, such as where the Act might be amended to provide exemptions within stated parameters for various fire emergencies.

If you require further information in relation to this submission, please contact me on (03)9262 8406, or on email at l.sturzenegger@cfa.vic.gov.au

Yours sincerely



Lisa Sturzenegger

Director Community Safety

12/01/09