



MEMORANDUM

TO: Region 13 All

FROM: General Manager, Yarra Area

SUBJECT: GM's Update re: - Royal Commission Summary – 15th February 2010

DATE: Tuesday 16th February 2010

Please find below the Summary of the Royal Commission Hearing for Monday 15th February 2010.

The Daily Summary should not be relied on as a complete record of the proceedings of the Royal Commission. A full transcript of the proceedings is obtainable at www.royalcommission.vic.gov.au

Key points:

- The commission today began two days of panel discussion by six experts addressing the planning issues raised by the Black Saturday fires.
- The government should not have allowed Marysville to be rebuilt, said planning expert Professor Roz Hansen. Disaster management expert Athol Yates said the government had acted in a knee-jerk fashion by proclaiming destroyed towns would be rebuilt.
- The previous state government, in the 1990s, changed to performance-based planning, saying it would give more certainty and be less costly and less complex, said planning expert Michael Buxton. Instead, it was now more costly, less certain and more complex. Some of the gatekeepers of the planning system were those who developed it, and it was very difficult to get them to change.
- Governments should no longer allow development on the urban fringe and bush rural areas to occur in an incremental, ad hoc fashion, said Dr Buxton.

Time: 9.40am

Counsel Assisting: Melinda Richards

Event: Panel discussion on planning issues

Six planning experts have been engaged to discuss the town planning issues the royal commission heard evidence on last week. They first introduced themselves and gave a short outline of the key problem area as they saw it:

Debbie Pinfold, Sutherland Shire Council planner: It is essential that bushfire planning be integrated with land use planning, not tacked on as an afterthought.

Athol Yates, executive director, Australian Security Research Centre, Canberra: Land use planning is central to disaster risk management. These issues will become more important and the risks worse because of climate change and increasing population.

Mark Chladil, Tasmanian Fire Service fire management planning officer: We need policies and practices for infill and re-development, as well as assurance and enforcement of policies.

Professor Roz Hansen, planner, Hansen Partners, adjunct professor, Deakin: Need stronger strategic planning in bushfire-prone areas, better integration between building and planning laws, and a major overhaul of the Wildfire Management Overlay which was confusing and had inadequate criteria.

Brett Lane, Brett Lane and Associates, flora/fauna advisors: Need to resolve the tensions between preserving fauna and flora and bushfire risk mitigation.

Dr Michael Buxton, associate professor, environment & planning, RMIT: Increasing problems caused by the rapid rate of population increase on the fringe of Melbourne, in areas with the highest fire risk on the planet.

They were then asked to address issues raised in a series of questions which they had discussed informally at an earlier non-public, facilitated session.

Question: What role should land-use planning have in the overall management of Victoria's bushfire risk?

Hansen – Land use planning plays an important role in managing bushfire risk. It is time to review the strategic basis as it is not performing well. The Victorian Planning Policies (VPPs) should be more prescriptive rather than performance based. There is a need to increase community certainty by reducing the conflict between biodiversity and risk management. **Need to focus more on the prevention side – to prevent disaster occurring and protect the public from the consequences. The best way is to not have people in vulnerable areas, or better equip people there to resist disaster.** Evacuation routes are an obvious land planning issue.

Pinfold – The key thing the WMO process has to do is identify more comprehensive communities where the risks are – by better mapping.

Kerry Judd, counsel for the state – objected to Ms Richards asking lengthy questions of panel members. The commission had a lot to get through and it was better to let the witnesses have their say rather than Richards questioning them. Commissioner Teague said it would be desirable to move on more generally rather than in detail.

Buxton -- The system needs to let planners stop incremental development in bushfire-prone areas. It was a weakness it did not allow this. We found it strange that the government has a strategic tool for climate change in coastal areas, but no similar tool for bushfire-prone areas.

Richards – Last week Mr Gilmore of the Department of Planning and Community Development said Victoria had moved deliberately away from a prescriptive approach in planning to a performance-based approach. Should a predictive approach be used more?

Hansen – The WMO is one of a number of examples in overlays where a performance-based approach does not work. It's time to look at a blend of performance and prescriptive.

Yates – Around the world, there has been a move away from performance-based to a dual track approach of prescriptive and performance.

Buxton – **The previous government, in the 1990s, changed to performance-based and said it would give more certainty and be less costly and less complex. There has been a major failure as it is now more costly, less certain and more complex. The government has resisted fundamental change. Believe some of the gatekeepers of the system are those who developed it, and it's very difficult to get them to change.** The DSE is a fire response agency but within DSE, there is no horizontal integrated approach to fire prevention and management. The group involved in vegetation and biodiversity is not involved in fire responses. It's not a horizontal agency. It's the same in local government, which is in vertical silos.

Question: Should residential development be allowed at all in areas of high bushfire risk?

Hansen – the fires showed there were settlements of such high risk that building would not be allowed if they were starting as greenfields developments. They were so close to the forests. **I saw it as a lost opportunity. Though recognising the need to rehouse people, and the attachment people had to areas such as Marysville. But from a planning view, those settlements should not have been resettled. I was disappointed, and somewhat alarmed, by the government letting those communities be re-established.**

Yates— **We often see a knee-jerk reaction by governments after disasters – “we will rebuild.” They don't have a formalised retreat policy from past inappropriate land use decisions.** We should ensure for example that insurance is not a simple replacement procedure. There should be a trigger whether development is appropriate.

Chladil – Many urban fringe people don't believe they live in the bush, so they think bushfire awareness doesn't apply to them. Underestimating or denying the risk is common. They pay their fire levies and see their part of the bargain as dialling Triple 0 and expecting fire services to turn up.

Pinfold – the mechanism to create defensible space is the planning permit. It's easy when putting an application in to say “we can maintain this,” but so often it's the developers. You should be looking at the mums and dads who will live

there – can they maintain the space? It needs more emphasis on design rather than the assumption that maintenance will continue.

Hansen – If you can't enforce the conditions, permits are not worth the paper they are written on. Conditions should be stringently enforced but councils don't want to do it as it's the dirty end of planning. Someone should be empowered and resourced to enforce permits, be it the CFA or councils.

Question: Climate change projections for Victoria are for a hotter and drier climate with more frequent occurrences of catastrophic fire weather. How should these changes be factored in to land use planning?

Yates – Planning should be “all hazards.” Climate change is already part of coastal development planning. Climate change does not need a new overlay – it's just another factor. It just means tweaking of existing measures, such as mapping.

Buxton – The precautionary principle is an admonition to act in a cautionary way. A lack of full certainty is not sufficient reason for inaction. The risk from bushfires is long established in many parts of Australia yet subdivisions and other developments continue to be approved in high-risk areas.

Pinfold – Predictions are for more days like February 7, so safety and the protection of life should take precedence over vegetation. The precautionary principle means you should get permission for clearing.

Buxton – there is sufficient reason to be acting prudently even if the mid-point projections of climate change don't happen. It's been recognised in coastal vulnerability but not in bushfire vulnerability, which is extraordinary given the history of bushfires.

Lane – There is a general prediction that vegetation will dry out, making them for flammable.

Question – What is the interaction between Victoria’s growing population and urban boundaries and the bushfire risk in peri-urban areas? How can Victoria’s growing population be accommodated without increasing the risk of loss of life and property due to fire?

Buxton – Need to build in the true cost of building in these areas. The true cost of living in peri-urban areas is hidden, for example insurance. Development should be in terms of a population policy of the state. About 750,000 people live in the broader peri-urban area if you include Ballarat, Bendigo and Geelong. We thought it very important that future developments should be related to a settlement policy. We asked the question, should population be directed into larger towns? We thought it desirable for development to be concentrated in larger towns, for economies of scale, safety and the provision of services. Larger towns are less vulnerable. **Governments should no longer allow development to occur in an incremental, ad hoc fashion.**

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Regards,

Lex de Man
General Manager