

● Victorian Bushfires Royal Commission Fire Services Levy and Insurance Discussion Paper

In a follow-up to the article in the June edition of *Insight* on the Victorian Bushfire Royal Commission, Kennedys' Lawyer Jason Symons analyses the Fire Services Levy and Insurance Discussion Paper released on 19 November 2009.

On 19 November 2009 the Victorian Bushfires Royal Commission released 'The Fire Services Levy and Insurance Discussion Paper' inviting submissions in relation to two key issues that have arisen from the Commission hearings: non-insurance/under-insurance of properties and the method of funding fire services in Victoria.¹

The current funding model used to finance fire services in Victoria (the 'insurance based model') requires insurance companies to contribute over 75% of the total funding provided to the Metropolitan Fire and Emergency Services Board (MFB) and Country Fire Authority (CFA) via the fire services levy (FSL). In 2009/10, it is estimated that the MFB and CFA will require \$465 million in funding, of which only 25% will be provided by non-insurers such as the Victorian government and municipal councils.

In turn, insurers pass on the FSL to consumers as part of the total cost of building and contents insurance.

The arguments supporting the insurance based model include that it provides a stable revenue base and the FSL is notionally risk rated because premiums are assessed to reflect risk. However, the major objection to the model is that it is an inequitable system of funding in the sense that it allows non-insured and under-insured property owners to have access to the same fire services as insureds without making an appropriate contribution to their funding. Further, according to the Commission, "the FSL in Victoria creates a perception that the cost of insurance is higher than it really is, and creates a potential disincentive to taking out adequate insurance cover".²

According to the Insurance Council of Australia (ICA), 13% of the properties totally lost in the Victorian bushfires were not insured and that a significant number of households were under-insured. ASIC reported in 2005, that as at 2000, 87% of homes were under-insured, with an average level of under-insurance of 34%.³ In their submissions to the Commission, Suncorp provides that between 56% and 90% of their policyholders were under-insured for total losses following the Victorian bushfires.⁴

However, the FSL may not be the reason for the high levels of under-insurance. Some submissions suggest that many property owners rely upon 'good Samaritans' and the Government to provide assistance following a disaster. However, the Commission has found that both evidence collected from the USA and from the Australian insurance industry suggests that the so called 'Samaritan's dilemma' has little impact on levels of insurance.

The Discussion Paper suggests that one of the reasons for under-insurance may be the lack of tools available to property owners to accurately calculate the amount of cover required. Ever increasing building costs may also make it difficult for property owners to maintain adequate levels of insurance.

The Commission admits that according to the current data available, it is not certain whether there is a direct relationship between the FSL-insurance based model and high levels of under-insurance. Nonetheless, the Discussion Paper identifies the following alternatives for funding fire services for discussion purposes:

1. Compulsory property insurance - similar to compulsory third party car insurance, all property owners would be required to insure their property.

2. Property-based funding model - in Queensland, Western Australia and South Australia, a property-based fire services funding system is used, whereby local councils collect a levy based upon the gross rental or capital value of the property.
3. Removing both the FSL and stamp duty - an ICA study suggests that if both the FSL and stamp duty payable on insurance premiums were removed 110,000 additional Victorian households would take up contents insurance and 30,000 would take up building cover.⁵
4. Premium discounts for fire readiness - similar to discounts provided to householders for theft protection.
5. Subsidising insurance for low income households.

The Commission has provided suggested discussion questions which may be addressed in any submissions.⁶ Interested parties have until 21 December 2009 to make submissions to the Commission in relation to the issues raised in the Discussion Paper.

Fires Services and the Non-insured Green Paper

The importance of these issues has been recognised by the Victorian Government (outside the Royal Commission) who has released its own discussion paper, the 'Fires Services and the Non-insured Green Paper'⁷, which seeks a review of the insurance based model of fires services funding and suggests six alternative policy options similar to those proposed in the Discussion Paper.

Submissions will be called for in June 2010 and will close on 15 July 2010. The Treasurer of Victoria intends to consider feedback to the Green Paper, along with the Commission's Final Report due out in July 2010, prior to presenting a White Paper to the Government in February 2011.

Royal Commission Interim Report

The Commission released its Interim Report in relation to the Victorian bushfires on 21 August 2009.⁸ The Commission has found that the responses to the Black Saturday fires by the CFA and the Department of Sustainability and Environment's Fire Agency were inadequate and suggests that the Government's contentious "stay or go" policy understated the risks of fire victims staying to defend their homes.

There are six remaining rounds of hearings scheduled before the conclusion of the Royal Commission in May 2010. A Final Report is due in July 2010.

¹ www.royalcommission.vic.gov.au/Discussion-Paper.

² *Ibid.*, paragraph 29.

³ www.asic.gov.au, 'Getting home insurance right - A report into underinsurance'.

⁴ www.royalcommission.vic.gov.au/Submissions/SubmissionDocuments/SUBM-002-032-0007_R.pdf.

⁵ Insurance Council of Australia, 'The Non Insured Report'.

⁶ www.royalcommission.vic.gov.au/getdoc/f2e050da-6d73-4221-8e34-4bc5049c4a2a/Fire-Services-Levy-and-Insurance-Response-Template.

⁷ www.dtf.vic.gov.au/CA25713E0002EF43/pages/economic-and-financial-policy-fire-levy.

⁸ www.royalcommission.vic.gov.au/Interim-Report.