

## 7 ADVOCACY AND COMMUNITY SERVICES

### 7.1 RESPONSE TO NOM 927 SMALL TOWN FIRE PREVENTION AND MITIGATION

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**File No:** CM17/223

**Attachments:** Nil

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#### SUMMARY

This report provides a response to Notice of Motion No. 927 relating to reviewing the current fire prevention roadside slashing and spraying works. With specific focus on increasing the area of roadside slashing and spraying activities conducted for fire prevention works within speed reduction zones of townships to improve fire prevention measures.

The liability of slashing Vicroads roads is very high. If Council acknowledges that there is a municipal fire risk on one section of road this requires all Vic Roads roads to be assessed to ensure that the risk is managed.

#### RECOMMENDATION

**THAT** Council write a letter to the responsible Minister to increase funding to Vic Roads to maintain roadsides responsibly. Council to continue to work with Vic Roads to explore measures to improve the concerns on Vic Roads roads.

#### BACKGROUND

At the Ordinary Council meeting held on the 20 November 2017, a Notice of Motion was moved and resolved as follows:

*THAT Council officers in conjunction with any relevant Government agencies undertake a review of the current fire prevention works program, with specific focus on increasing the area of works undertaken within the speed reduction zones of the townships to improve fire prevention measures and prepare a fully costed report and present to Council by March 2018.*

Mitchell Shire Council (MSC) manages approximately 1,500km of roads and roadsides. The resources required for comprehensive roadside fire management, in addition to the current general maintenance of roadsides that are performed by Council, are considerable.

It is very important to remember that roadside fire prevention works include slashing roadside at height and width clearance from guide posts where possible (three meters, one slasher width) to ensure safe clearway for vehicles to be able to pull off the road safely without risk of the vehicle catching fire. Slashing on roadsides also creates a small fire break. Roadside spraying is generally conducted when a slasher is not able or is too dangerous to access an area due to the landscape.

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## ISSUES AND DISCUSSION

Whilst it is acknowledged that the concerns raised within this Notice of Motion relate to municipal fire prevention schedule of works around speed reduction zones of townships, this report includes the authority of Council and the responsibility of public authorities.

Following consultation with Vicroads, it is clear that they will not alter their slashing regime to include areas raised in the motion. Vicroads slash a mower width from the guide post where possible, which provides a safe area for vehicular drivers to move off the road safely where required, which in turn also provides a clearway in the case of a fire so that vehicular traffic can reasonably move along the road, where practicable during a fire.

The majority of the small township roadsides mentioned within the Notice of Motion are Vicroads roads who are only committed to one slash per year. Vicroads will slash a mower width from the guide post where possible other roadsides are already managed by Mitchell Shire Council.

*In the written response to Council November 2018, stated that, VicRoads' Road Bushfire Risk Assessment Guidelines were developed in response to this recommendation and was a direct result of the work undertaken by VicRoads, with the support of the Country Fire Authority (CFA), the former Department of Sustainability and Environment, the Municipal Association of Victoria and associated municipalities.*

*The Road Bushfire Risk Assessment Guidelines address four key fire management objectives:*

- 1. Prevent fires on roadsides;*
- 2. Contain roadside fires;*
- 3. Manage safety of road users; and*
- 4. Provide control lines.*

*Objectives 1 and 2 are relevant to VicRoads' obligations under section 43 of the Country Fire Authority Act 1958.*

*VicRoads has applied the Road Bushfire Risk Assessment Guidelines across the State, and determined the required mitigation works as part of the annual fire management works program.*

*For the Mitchell Shire, the high-risk roads were identified and assessed with respect to Objectives 1 and 2. The Wallan-Whittlesea Road from Wallan to the Epping-Kilmore Road intersection was identified as 'high risk' and a more detailed assessment of the roadside was conducted by VicRoads as per the Guidelines. This road did not meet the Guideline triggers for additional works over and above the routine grass mowing program.*

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*The Epping-Kilmore Road was identified as a moderate risk road and does not receive additional fire management works per the Guidelines.*

*Both roads will receive routine grass mowing in accordance with VicRoads' standard maintenance specifications which is to cut to 3m behind the guideposts with a tractor and drawn slasher where possible and practicable. On many roads the desired 3m width cannot be achieved due to narrow road shoulder widths and the presence of table drains or cut batters, etc. This work is programmed for completion by 30 November and no other mowing or fire management works are planned.*

All Government agencies (Public Authorities) have a responsibility which is equal to Councils to ensure that the land that they own is managed in accordance with the *Country Fire Authority Act 1958*, therefore the Municipal Fire Prevention Officer (MFPO) is not able to issue a Fire Prevention Notice in accordance with the *Country Fire Authority Act 1958* which in part states;

#### **Section 41 Fire Prevention Notices**

- (1) *In the country areas of Victoria, the fire prevention officer of a municipal council may serve a fire prevention notice on the owner or occupier of land in the municipal district of the council (other than a public authority) in respect of anything-*

Public Authorities are responsible for managing their own land. The Local Laws unit does request Public Authorities to conduct works within their management on a regular basis.

Mitchell Shire Council current slashing regime does not include further works to be conducted within speed reduction zones of our small townships. The areas of roadside along Northern Highway Pyalong, Kilmore, Tallarook, Tooborac are slashed a mower width where possible from the guide post.

Roadsides along Kilmore East, Reedy Creek and Clonbinane are maintained by Mitchell Shire Council.

There are several preventative measures taken into consideration when applying risk to the Community when it comes to fire. The MFPO conducts inspections of privately-owned land. Fire Prevention Notices (FPN) are issued to land owners with the intention of protecting the community with minimal fire breaks on the rural urban interface.

Taking this into consideration and the slashing and spraying works conducted on Mitchell Shire Council roadsides Council is applying a risk-based approach. The roadsides that have higher traffic flows are slashed twice where required, less used roads may only require one slash.

#### **CONSULTATION**

Mitchell Shire Council Fire Prevention works are ever evolving and over time areas of focus will change on an annual basis with new roads being included and others being removed

Towards the end of 2017, the Municipal Fire Prevention Officer and Municipal Emergency Management Coordinator consulted with VicRoads on their current

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roadside slashing regime highlighting areas of concern. There was no indication that there would be any variance to the current slashing program.

Every year the MFPO and Emergency Management and Recovery Coordinator (EMRC) met with Brigades and the CFA to determine if the works on roadsides meets expectations and is in line with requirements taking into consideration local knowledge. Each year feedback is received, and the slashing and spraying list adjusted accordingly.

### **FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

There are no financial, resource and asset management implications.

### **POLICY AND LEGISLATIVE IMPLICATIONS**

Whilst investigating this Notice of Motion information was received from the Municipal Association of Victoria (MAV) of a recent class action.

The Hume bushfire class action which was a claim for \$60M is an example of where Councils will significantly increase their risk profile by taking on roadside maintenance for VicRoads. The broad scope of that agreement left open the argument that Council was responsible for amongst other things roadside tree management which brought into play an obligation to assess and report "hazard" trees under the *Electricity Safety Act 2002*. A limb fell onto the adjacent high voltage cables and caused a bushfire.

In that case even though council used a contractor to conduct the inspections there were three (3) problems that caused Council to nonetheless still be exposed:

1. Conflicting reports over time on the condition of the tree that Council didn't pick up.
2. Despite taking on responsibility for the roadside, Council had insufficient funds to carry out all recommended works and as such only actioned high-risk issues and not this identified "moderate" risk. It is crucial that if council takes on such a liability that it also has budgeted adequate funds to carry out any works identified.
3. Council's contract with the contractor didn't require adequate insurance cover. As the contractor only had \$5M coverage (clearly inadequate for the potential liability exposure to bushfire) this meant more fell back onto council in the settlement of the class action.

If Council chose to take on this liability from VicRoads then the following is recommended:

1. Ensure that the agreement documented with VicRoads clearly sets out roles and responsibilities in specific terms leaving nothing open to debate.
2. Suggest the agreement specifically carves out council assuming any responsibility for VicRoads' obligations under the *Electricity Safety Act*. That Council's role is not to include making assessments of the health or structure of a roadside tree which is to remain with VicRoads. However, even with the best attempts at this, if Council conducts an assessment of a roadside tree it will not avoid at least being implicated in any proceedings should that tree ultimately cause damage.

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3. Contract arborists council appoint should ensure they have adequate Public Liability and Public Insurance cover of at least \$50M and that the contractor indemnifies council for any acts or omissions by the contractor.

**RISK IMPLICATIONS**

There are significant risks associated with increasing the beautification and aesthetic works of small townships entrances within speed reduction zones.

Each individual road can be inspected by the MFPO or the Deputy MFPO so that risk can be addressed from a fire management perspective. Where appropriate, contact can be made with Government Authorities to discuss further work required in that area and the possible risk to the road used and community.

<b>Risk</b>	<b>Risk Ranking</b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Fire taking place on Vic Roads roadsides	Med	Slash grass within speed reduction zones on Vicroads Roads	Cost to Council as VicRoads will not conduct further slashing activities
Taking on liability for Vic Roads roads	Med	Slashing activities not to be conducted by Council	No available resource

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

A review of the areas to determine if there are environmental overlays will need to be conducted.

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

**CONCLUSION**

An extensive review of Mitchell Shire Council municipal fire roadside slashing and spraying regime was conducted with significant consultation of brigades and the CFA. The areas were inspected by Mitchell Shire Council Municipal Fire Prevention Officer and it was noted that the standard is applied to Mitchell Shire Council managed roads.

VicRoads are responsible for their roadsides and therefore it is there responsibility to manage and where appropriate conduct works as required.