



MUNICIPAL ASSOCIATION OF VICTORIA

MUNICIPAL COUNCIL NEIGHBOURHOOD SAFER PLACES PLAN

PLACES OF LAST RESORT DURING A BUSHFIRE

Latrobe City Council

8 February 2010

Introduction and Background

In its Interim Report, the 2009 Victorian Bushfires Royal Commission recommended that neighbourhood safer places, or '**NSPs**', be identified and established to provide persons in bushfire affected areas with a place of last resort during a bushfire.¹

In response to this recommendation, the Victorian Government has introduced the *Emergency Services Legislation Amendment Act 2009* (Vic) ('**ESLA Act**') which amends the *Country Fire Authority Act 1958* (Vic) ('**CFA Act**') and the *Emergency Management Act 1986* (Vic) ('**EM Act**'). The effect of these amendments will be to require the Country Fire Authority ('**CFA**') to certify NSPs against the CFA's Fire Rating Criteria, and Victoria's Councils to identify, designate, establish and maintain suitable places as NSPs in their municipal districts.

NSPs are not community fire refuges or emergency relief centres. NSPs are **places of last resort** during the passage of a bushfire, and are intended to be used by persons whose primary bushfire plans have failed. NSPs are places of relative safety only. They do not guarantee the survival of those who assemble there. Furthermore, there may be serious risks to safety encountered in travelling, and seeking access, to NSPs during bushfire events. Depending on the direction of a particular fire, it may not be a safer place to assemble than other places within the municipal district.

NSPs will be assessed by the CFA as providing some protection from immediate risk of direct fire attack, but not necessarily from other risks, such as flying embers. Where a potential NSP which is used for an operational purpose at many times meets the CFA's criteria, then the CFA considers that those operational activities will be able to continue (to the extent practicable in the circumstances) while the place is being used as an NSP.

This Plan is a neighbourhood safer places plan for the purposes of the legislation, and contains guidelines which have been developed by the Municipal Association of Victoria ('**MAV**') to assist the Council in:

- identifying;
- designating;
- establishing;
- maintaining; and
- decommissioning

places as NSPs within its municipal district.

This Plan also identifies other matters that should be taken into account in identifying, designating, establishing and maintaining NSPs within the municipality.

¹ Recommendation 8.5, 2009 Victorian Bushfires Royal Commission Interim Report

This Plan contains a step-by-step methodology for the Council to follow in identifying, designating, establishing, maintaining and decommissioning NSPs. The Council must consider each of the factors set out in this Plan. It should also consider other factors which are specific to the Council's circumstances, including the resources available to the Council.

Once this Plan has been adopted, Council must make it, and any documents incorporated into it, available at the Council's municipal offices for public inspection during normal office hours free of charge under section 50F(4)(b) of the CFA Act. It must also be published on Council's website under section 50F(4)(a) of the CFA Act.

Structure of this Plan

This Plan has been divided up into four distinct sections.

Section 1 contains a flow chart which summarises the process for councils to adopt in identifying, designating, establishing and maintaining NSPs within their municipal district.

Section 2 contains a more detailed summary of the steps summarised in the flow chart found in Section 1.

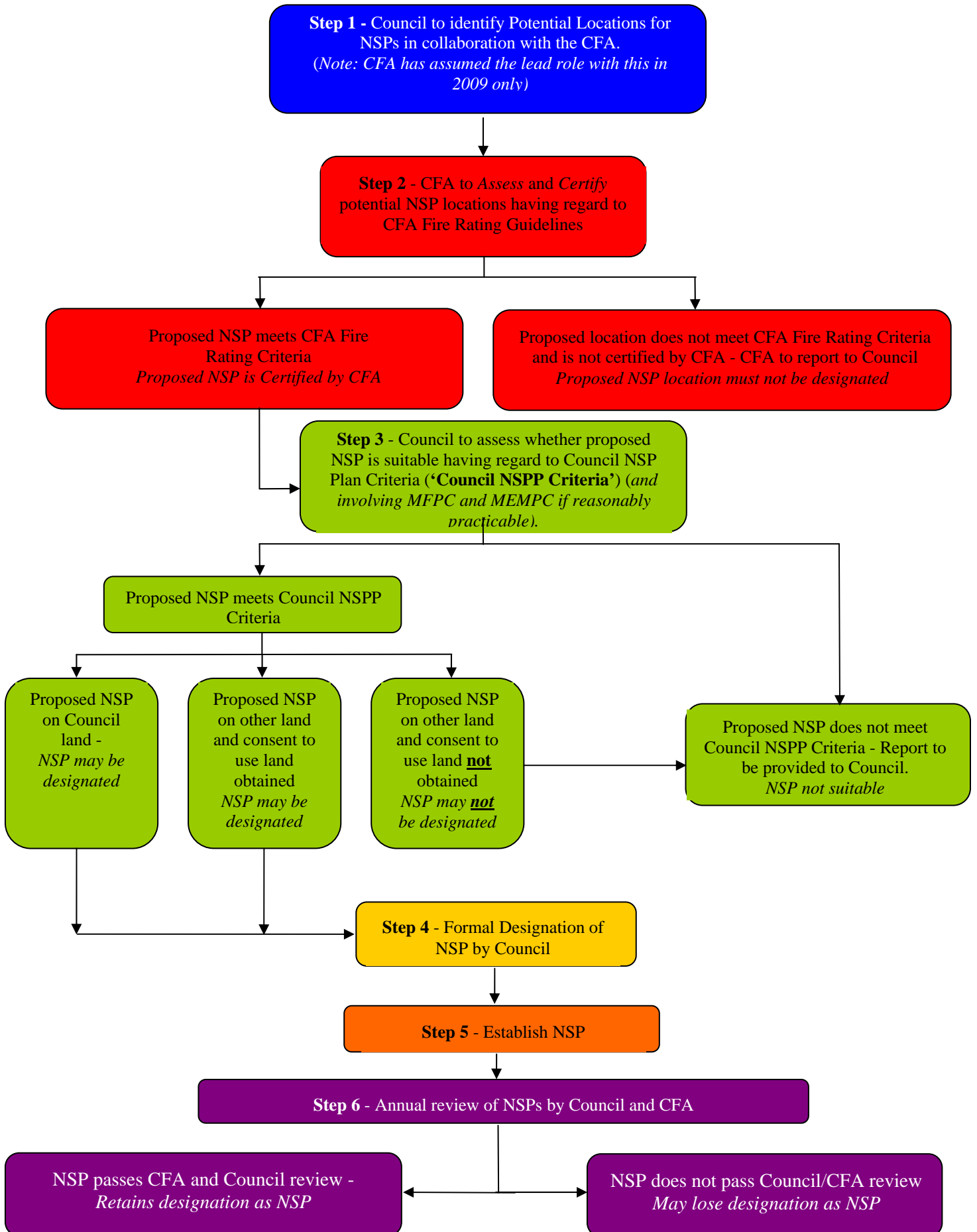
Section 3 contains a summary of the factors for Council to consider in assessing potential NSP locations, prior to designation.

Section 4 contains details of content of signage that Council is required to erect at designated NSP locations.

Section 1

Flow chart Showing Process for Identifying, Designating, Establishing and Maintaining NSPs.

Overview of the process for establishing and maintaining NSPs after adoption of this Plan by Council



Section 2

Detailed summary of steps for establishing NSPs.

OVERVIEW OF THE STEPS ASSOCIATED WITH NSPs

1 Identification of Potential NSP Locations

1.1 Who is responsible for identifying places as potential NSPs?

For the 2009-2010 fire season, the Country Fire Authority ('CFA') has assumed lead responsibility for identifying potential locations for NSPs. This has been done in consultation with Councils. The initial focus was upon the identification of proposed NSPs within those municipalities with CFA Township Protection Plan ('TPP') areas in place. However, identification efforts have now expanded beyond these localities.

From 2010-onwards, Council will be responsible for identifying potential places as NSPs within its municipal district. Section 50G of the CFA Act requires Council to identify potential NSP locations.

1.2 When do potential NSPs need to be identified?

The CFA, in conjunction with Council, is currently in the process of identifying potential NSPs in preparation for the 2009-2010 fire season.

From 2010-onwards, Councils should identify potential additional places as NSPs by 31 May in each year. This should allow sufficient time for:

- (a) **(CFA Certification)** first, assessment and certification of the potential NSP by the CFA;
- (b) **(Council Designation)** secondly, designation of the potential NSP location by the Council; and
- (c) **(Establishment)** thirdly, and subject to the outcome of the assessment and designation process, establishing the NSPs, including the erection of signage and other steps by Council.

The process of NSP identification is ongoing. Following each fire season, Council should assess whether any additional potentially suitable NSP locations can be identified within the municipal district.

1.3 What factors should be considered when identifying potential NSP locations?

When identifying potential NSP locations, Council should consider matters such as:

- (a) the environment surrounding the potential NSP;
- (b) what other uses are made of the potential NSP, and whether or not those uses could be inconsistent with its designation as an NSP;
- (c) whether the land on which the potential NSP is located is Council-owned or non-Council owned land;
- (d) whether there are clear means of access and egress to and from the potential NSP; and

- (e) whether the potential NSP is in close proximity to population centres.

Council's identification of potential NSP locations should be undertaken by the Municipal Emergency Resource Officer ('**MERO**') and the Municipal Fire Prevention Officer ('**MFPO**'), with input from other Council personnel (such as Infrastructure Services Managers, or equivalent) as appropriate.

2 CFA to Assess and Certify Potential NSP Locations

2.1 Who is responsible for assessing potential NSPs against guidelines issued by the CFA ('CFA Fire Rating Guidelines')?

Under section 50G(5) of the CFA Act, the CFA is responsible for assessing potential NSP locations against the CFA Fire Rating Guidelines.² This will be done by appropriately qualified and experienced CFA personnel.

Council is not responsible for the assessment and certification of potential NSPs by the CFA.

2.2 What criteria must the CFA take into account in assessing potential NSP locations?

In assessing potential NSP locations which have been identified by the CFA (for the 2009-2010 fire season), or by Councils (from 2010-onwards), the CFA must consider the criteria and other considerations as set out in the CFA's Fire Rating Guidelines as issued from time to time by the CFA.

The key matters to be considered by the CFA under the current CFA Fire Rating Criteria are:

- (a) For Open Spaces →
 - (i) the appropriate separation distance between the outer edge of the potential NSP and the nearest fire hazard ('**Buffer Zone**')³ should be at least 310 metres; or
 - (ii) an alternative Buffer Zone distance may be prescribed by the CFA, which will ensure that the maximum potential radiant heat impacting on the site is no more than 2 kw/m².
- (b) For Buildings →
 - (i) The Buffer Zone between the outer edge of the building and the nearest fire hazard should be at least 140 metres; or
 - (ii) an alternative Buffer Zone distance may be prescribed by the CFA, which will ensure that the maximum potential radiant heat impacting on the building is no more than 10 kw/m².

2.3 When does the CFA assess a potential NSP?

Following identification of a place which may be suitable as an NSP, the potential NSP is assessed by the CFA as soon as practicable. This is likely to occur shortly after identification.

² The CFA Act refers to "Country Fire Authority Assessment Guidelines". For ease of reference in the context of this MNSP Plan, these guidelines are referred to as the CFA Fire Rating Guidelines.

³ The CFA Guidelines refer to "separation distances". However, for ease of understanding, the term "Buffer Zone" is used throughout this MNSP Plan.

2.4 When does the CFA certify potential NSP locations?

Once the assessment of a potential NSP is completed by the CFA, the CFA will certify the potential NSP if the place meets the CFA Fire Rating Criteria. The CFA will provide a copy of the CFA certification in relation to a potential NSP to Council upon completion of certification, and a summary of the criteria and assumptions upon which the assessment is based.

Council should ensure that the boundaries of both the potential NSP as certified by the CFA, and any Buffer Zone surrounding it, are clearly defined in the CFA assessment.

For reasons of community safety, it is a requirement of the CFA Act, and it is also Council policy, that only those places assessed and certified by the CFA may be considered for designation as NSPs by the Council. The Council must not designate a place as an NSP unless it has CFA certification.

3 Council Assessment of NSPs Following CFA Certification

3.1 What factors should be applied by Councils in assessing the suitability of a place as a potential NSP location?

Following certification of a place as an NSP by the CFA, and once Council has received the CFA assessment and any criteria and CFA assumptions which underpin the assessment, Council must assess the place in accordance with the factors outlined below to determine whether it is suitable to be designated as an NSP. Unless a potential NSP satisfies each of the criteria outlined below, it should not be designated by Council as an NSP.

Council's assessment of CFA-certified potential NSPs may, if reasonably practicable, be conducted by the Municipal Emergency Management Planning Committee ('MEMPC'), with a preliminary assessment to be provided to the MEMPC by the MERO and the MFPO.

The factors to determine the suitability of the place as an NSP are as follows: ('Council NSPP Criteria'):

(a) ***Consents and rights of access***

There must be appropriate land access and tenure arrangements so that Council has the right to:

- use the place as an NSP;
- access the site and surrounding areas for maintenance; and
- erect appropriate signage at the NSP, including the OESC signage and additional NSP information signage.

If the potential NSP is on land owned or controlled by Council, appropriate rights of land access and tenure are unlikely to be an issue. However, Council will need to ensure that where Council land is leased or licensed to a third party, it must be possible to put in place appropriate arrangements on reasonably satisfactory and acceptable terms with the tenant or licensee permitting Council to use the land as a potential NSP. In taking these matters into account, Council should consider what alternative uses may be made, whether temporarily or semi-permanently, of land under Council control or management.

If the potential NSP is on Crown land not owned or controlled by Council, then the consent of the Crown land manager is likely to be required. If the land has been leased or licensed to a third party, such as a caravan park operator, then the consent of the tenant or licensee to use the place as a potential NSP will also be required. In obtaining the consent of the relevant Crown land manager, it will be necessary to consider whether or not the Crown Grant or reservation authorises the place to be used as a potential NSP.

Where it is proposed that a place on privately-owned land is to be used as an NSP, then the consent of the relevant landowner (and, where applicable, occupier) for the place to be designated and used as an NSP is required. If the landowner (or occupier) does not consent to the place

being designated and used as an NSP on terms which are reasonably satisfactory and acceptable to the Council, it must not be so designated and used.

Where a potential NSP is located on non-Council land, with the result that consent and rights of access need to be negotiated with the owner and (where necessary) occupier, Council officers responsible for negotiating such consent and rights of access should provide a draft form of consent to the owner/occupier for their consideration. The form of consent will be required to be approved either by Council (through a formal resolution), or by the CEO acting under delegation.

Any amendments to the form of consent which may be requested by the landowner or occupier would need to be thoroughly considered before they are agreed to by Council. If it is not possible or appropriate for Council to agree on amendments that may be requested to the consent document, then the proposed NSP should not be designated by Council.

(b) ***Access and Egress***

Council must assess whether there is sufficient access to the potential NSP which will allow:

- anticipated potential numbers of people to move to and from the place; and
- the CFA and other emergency services to attend the place for asset and personnel protection activities and operations.

Council must assess potential access and egress routes, bearing in mind the fact that NSPs are **places of last resort**.

As people may be seeking access to an NSP in a rushed or panicked state, a number of people could be seeking access in a relatively short time and visibility could be affected by smoke, easily navigable routes to and from an NSP are crucial.

In considering whether access and egress routes are adequate, consideration should be given to issues such as:

- (i) the condition of the road surface;
- (ii) the proximity of the NSP to major roadways and population centres;
- (iii) the type and amount of vegetation along any access routes, and whether that vegetation could be affected by fire and pose a risk of harm to those seeking access to the potential NSP, or otherwise block access to the NSP;
- (iv) the capacity of access routes to accommodate potentially large numbers of vehicles, and to accommodate potential vehicle break-downs;
- (v) parking at the place;
- (vi) any hazards that may exist for persons accessing the place by foot, including in the buffer zone;

- (vii) any relevant matter contained in Council's Road Management Plan prepared pursuant to the *Road Management Act 2004* (Vic); and

If appropriate and satisfactory access and egress routes are not available, then the proposed NSP should not be designated by Council.

(c) ***Maintenance of potential NSP in accordance with CFA assessment criteria***

Council must ensure that the potential NSP can be maintained in accordance with the criteria taken into account by the CFA in arriving at its fire rating assessment.

If additional information is required from the CFA to understand the criteria they have considered in arriving at their fire rating assessment, Council should seek this information from the CFA. If necessary, Council may request the CFA to undertake a further assessment to provide Council with additional information.

(d) ***Opening of the NSP***

Council must consider

- (i) whether it will be possible or practicable to open the potential NSP or otherwise make it available for use on a 24 hour basis during the declared fire danger period;
- (ii) the potential for damage to the place during times that it is open and available for use, but is not being used as an NSP;
- (iii) the potential costs to Council associated with (i) and (ii) above; and
- (iv) the possibility that a potential NSP could be used for unintended purposes, such as an emergency relief centre.

(e) ***Defendable space and fire suppression activities***

CFA have advised that there is no guarantee that fire units will attend an NSP, and that individuals who use NSPs are doing so at their own risk. There should be **no expectation** that fire units or other emergency services personnel will attend an NSP during a bushfire.

Despite this, the potential NSP should be surrounded by sufficient open space to enable the CFA and other fire services to conduct asset protection and fire suppression operations around the place.

Any open space **should be reasonably** free of obstacles which could hinder fire suppression activities. Obstacles may include, amongst other things:

- fences;
- buildings and sheds;
- steep inclines in close proximity to the potential NSP;
- vegetation, particularly large trees;

- other land formations, including rocks, boulders or knolls which could substantially hinder fire suppression operations.

If necessary, advice should be sought from the CFA about their defensible space and fire vehicle access requirements.

When assessing the defensible space factor, Council must consider whether or not approval to clear or disturb flora and/or fauna could be required, whether under legislation such as the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) ('**EPBC Act**'), *Flora and Fauna Guarantee Act 1988* (Vic) ('**FFG Act**') or the *Planning and Environment Act 1987* (Vic) ('**PE Act**'). If such approval is required, then it must be obtained before the potential NSP location is designated.

If the proposed NSP does not have adequate defensible space around it, or if approval to clear or disturb flora and/or fauna is required but cannot be obtained before the NSP is required to be established, or cannot be obtained on reasonably satisfactory conditions, it should not be designated as an NSP by Council.

(f) ***Defendability of Buildings***

If the potential NSP is a building, Council must consider whether or not it is likely to be subject to risk from ember attack.

As the CFA is not required to assess the risk of ember attack to a building in undertaking the CFA fire rating assessment when certifying NSPs, the Council should consider this issue. In considering this issue, Council may need to seek expert advice from appropriately-qualified CFA personnel.

If there is an appreciable risk of the proposed NSP being compromised by ember attack which cannot be satisfactorily defended, then the building is unlikely to be suitable as an NSP and should not be designated by Council.

(g) ***Signage***

- Council must assess whether it will be possible to have signage at the entry to, and in the vicinity of, the potential NSP. Such signage must generally be in accordance with the Signage Template, which is at **Section 4** of this Plan.

Council must refer to the Signage Template when considering whether or not appropriate signage can be erected.

If signage must be placed on private land, then the consent of the landowner will be required.

(h) ***Maintenance and maintainability***

Council must assess whether ongoing maintenance of the proposed NSP, and the surrounding area, is both possible and practical, having regard to the resources reasonably available to the Council. This factor should be considered by the Council not only in relation to the suitability of a proposed NSP, but also as to the total number of proposed NSPs that can be reasonably maintained within the municipal district. This is needed to ensure that the place remains suitable for use as an NSP during each fire season.

Specifically, the place must be capable of being maintained so as to ensure continuing compliance with the CFA Fire Rating Criteria and the Council NSPP Criteria. It is Council policy that if it is not possible to maintain a potential NSP, then it must not be designated as such.

When assessing the maintainability of the potential NSP, both the NSP and the Buffer Zone may require various maintenance activities to be undertaken on a periodic basis. The potential introduction of hazards into the Buffer Zone, such as structures, animals and vehicles, should be taken into account.

There may be cases where maintenance activities can only be undertaken by, or with the consent of, an adjoining landowner. This may, in turn, require assurances from such landowners that the place, and areas surrounding it, will be maintained to a satisfactory level.

When assessing the maintainability of a potential NSP, Council must consider whether or not approval to clear or disturb flora and/or fauna could be required, whether under legislation such as the EPBC Act, FFG Act or the PE Act. If such approval is required, then it must be obtained before the potential NSP location is designated.

If the proposed NSP is not capable of being satisfactorily maintained, then it should not be designated by Council.

(i) ***Disabled access***

Council must consider whether or not there are clear means of access for disabled and mobility-impaired persons to the potential NSP.

In considering this issue, regard should be had to such matters as whether or not it would be necessary for cars or other vehicles to enter the NSP area to allow persons with disabilities to be dropped off within the place.

(j) ***Alternative Uses of potential NSP***

Council must consider what other uses may be made of the potential NSP which could impact upon its ability to properly function as an NSP.

Where a potential NSP which is used for an operational purpose at many times has been assessed by the CFA as meeting the criteria in the CFA Fire Rating Guidelines, and has been certified by the CFA, then the CFA has advised that those operational activities will be able to continue (to the extent practicable in the circumstances) while the place is being used as an NSP.

If the place is used for other uses which could compromise its ability to be used as an NSP, then it should not be designated as an NSP by Council.

(k) ***Communication with the community***

Council must be able to communicate the location of the potential NSP to the community. There should be good community awareness of the location of the place, together with the risks that relate to the use of the potential NSP, and the risks associated with travelling to the potential NSP in the event of a bushfire.

(l) **Public liability insurance**

As a matter of prudent risk management, Council should have regard to:

- (i) any additional factors which are relevant to Council's maintenance of insurance coverage for legal claims relating to the identification, designation, establishment, maintenance and decommissioning of a place as an NSP, as well as travel to an NSP; and
- (ii) any statutory defences to claims.

3.2 Who is responsible for undertaking the Council assessment of potential NSPs?

A report prepared by the MERO and MFPO detailing whether or not the potential NSP meets the above criteria should be prepared and provided to:

- (a) the MEMPC, where it is practicable for the MEMPC to be involved in the Council assessment process; and
- (b) the Council.

The MEMPC must assess the potential NSP, taking into account the MERO's report, and make a recommendation to Council as to whether or not to designate the potential NSP.

3.3 When are potential NSP locations required to be assessed by Council?

Any potential NSPs certified by the CFA should be assessed by Council no later than 30 June each year, so as to allow time for the places to be designated and established as NSPs by Council, and for any appropriate amendments to be made to the MEMP and MFPP prior to the commencement of the bushfire season.

This timing is obviously subject to the CFA assessing and certifying the potential NSP location in a timely manner.

4 Council Designation of NSPs

4.1 Who is responsible for Council designation of NSPs?

Council must formally determine whether or not to designate a place as an NSP. Council should not designate a place as an NSP unless it is satisfied that the place is suitable, having regard to the Council NSPP Criteria.

An NSP may only be designated by a resolution of the Council.

4.2 When should Council consider the designation of a potential NSP?

Following preparation of an assessment of a potential NSP by the MEMPC, Council should determine whether or not to designate a potential NSP location by no later than 31 July. This will enable any necessary establishment works to be undertaken.

4.3 What must the MFPO do once a potential NSP is designated by Council?

Once the Council has designated a place as an NSP, the MFPO must provide an updated list of all designated NSPs within the municipality to the CFA under section 50K of the CFA Act. This updated list must be provided by no later than 30 September in each year.

5 Establishment and Maintenance of NSPs Following Designation

5.1 Who is responsible for establishing NSPs?

Following designation, Council will establish all designated NSPs within the municipal district.

5.2 What must be done when establishing NSPs?

To establish a NSP after its designation, Council must:

- erect appropriate signage at and near the NSP;
- undertake any necessary preparatory works, including the construction or establishment of any required infrastructure and the clearance of vegetation, so as to enable the area to be used as an NSP;
- publish the location of the NSP on the Council website; and
- update Council's Municipal Emergency Management Plan and Municipal Fire Prevention Plan to include the location of the NSP.

The MFPO must provide an up-to-date list of NSPs to the CFA no later than 30 September each year under section 50K of the CFA Act.

Following designation, all designated NSPs within the municipality must be identified in:

- the MFPP, under section 55A(2) of the CFA Act; and
- the MEMP, under section 20(2) of the EM Act.

5.3 When must NSPs be established?

NSPs should be established no later than [**30 October**] each year.

5.4 Maintenance of NSPs

NSPs within the municipality need to be maintained by Council. Maintenance activities must include vegetation management, hazardous tree removal and the maintenance of infrastructure required for the satisfactory functioning of the place as an NSP. If additional works have been required to establish the NSP, then those works should be subject to periodic review.

The fuel load in the vicinity of the NSP must not increase so as to affect the fire rating of the NSP.

Council must ensure that defensible spaces, the Buffer Zone and access and egress routes are appropriately maintained.

Council must inspect the NSP, Buffer Zone and access and egress routes on a periodic basis, and in any event not less than once every month during the declared fire danger period, to ensure that the NSP continues to be capable of

functioning as an NSP. If Council identifies issues that may impact upon the functioning of the place as an NSP, then Council must:

- (a) address the issue;
- (b) take reasonable steps to have the issue addressed, such as requesting the owner of the land on which the NSP or Buffer Zone is located to address the issue; or
- (c) consider decommissioning the NSP and revoking the designation of the place as an NSP.

6 Annual Inspections of NSPs

6.1 Who is responsible for the annual review of NSPs?

Council must undertake an annual review of all designated NSPs within the municipality.

Council must also request the CFA to undertake an assessment against the CFA Fire Rating Criteria of each NSP within the municipality on an annual basis.

These reviews are intended to ensure that each NSP remains suitable for use as an NSP during the up-coming fire season.

6.2 What must be considered when undertaking inspections?

NSPs should be assessed annually against the Council NSPP Criteria. The CFA will assess NSPs against the CFA Fire Rating Criteria.

If an NSP no longer meets:

- (a) the CFA Fire Rating Criteria, then it must be decommissioned; and
- (b) the Council NSPP Criteria, then Council must determine whether or not it wishes to address any of the identified non-compliances. If it does not, then the NSP must be decommissioned.

6.3 When must NSP locations be inspected?

NSPs must be inspected prior to 31 August each year under section 50J of the CFA Act.

Section 3

Summary of factors for Council to consider in assessing potential NSP locations prior to designation

Factors to Consider in Assessing Potential NSPs

Council NSPP Criteria	Issues to consider	Council comments	Satisfied? Yes/No
Consents and rights of access <i>See section 3.2(a)</i>	If the potential NSP is located on Council-owned land, can Council use the land as an NSP if required? Consider whether or not Council allows the land to be used for potentially inconsistent purposes, such as for farmers' markets, fetes, circuses etc.		
	If the potential NSP is on private land, or public land under the control of a Crown Land Manager (other than Council), can Council enter into arrangements which allow it to use the land as a potential NSP on reasonably satisfactory terms? Also consider whether Council has the right to: <ul style="list-style-type: none"> • access the site and surrounding areas for maintenance; and • erect appropriate signage at the NSP. 		
Access and egress <i>See section 3.2(b)</i>	Do access routes to the potential NSP allow for: <ul style="list-style-type: none"> • the anticipated potential number of people to move to and from the place; and • the CFA and other emergency services to attend the place for asset and personnel protection activities? 		
	Are access routes easily navigable, bearing in mind they could be affected by smoke? Consider the condition of the road surface, proximity to population centres and major roads, capacity of access routes to accommodate large numbers of vehicles, the availability of car parking at the place and any other relevant matters.		
Maintenance of NSP in accordance with CFA assessment <i>See section 3.2(c)</i>	Can Council maintain the potential NSP in accordance with the criteria taken into account by the CFA in arriving at its fire rating assessment? <i>If the CFA have not provided sufficient information in relation to the criteria it has taken into account in arriving at its fire rating assessment, it may be necessary for Council to seek further information from the CFA.</i>		
Opening of the NSP <i>See section 3.2(d)</i>	Will it be possible and practicable to make the potential NSP available for use on a 24 hour basis during the declared fire danger period? This is a particular issue where the potential NSP is a building. Consider the potential for damage to the NSP which could result during times that it is open and available for use, but is not being used as an NSP.		
	What costs could be incurred by Council in making the potential NSP available on a 24 hour basis during the declared fire danger period? Are these costs reasonable, and capable of being borne by Council?		
	Could the potential NSP be used for an unintended purpose which could impact upon its use as an NSP		

Council NSPP Criteria	Issues to consider	Council comments	Satisfied? Yes/No
	(such as an emergency relief centre)?		
Defendable space and fire suppression activities <i>See section 3.2(e)</i>	<p>Is the potential NSP surrounded by sufficient open space to enable the CFA to conduct asset protection and fire suppression operations? Is that open space reasonably free of obstacles (such as fences, buildings, steep gradients, vegetation and other land formations)?</p> <p><i>Council should seek CFA advice concerning the defendability of the potential NSP and the Buffer Zone, including in relation to fire vehicle access requirements.</i></p>		
	<p>Will approval be required under legislation such as the <i>Environment Protection and Biodiversity Conservation Act 1999 (Cwth)</i>, <i>Flora and Fauna Guarantee Act 1988 (Vic)</i> and the <i>Planning and Environment Act 1987 (Vic)</i>? Can such approval be obtained before the NSP is established?</p>		
Defendability of buildings <i>See section 3.2(f)</i>	<p>If the potential NSP is a building, has Council has sought expert advice from the CFA to determine whether the NSP is likely to be subject to risk from ember attack? If it is subject to such a risk, can that risk be safely managed?</p>		
Signage <i>See section 3.2(g)</i>	<p>Can appropriate signage be erected at the entry to the potential NSP, and in its vicinity?</p> <p>If signage needs to be placed on private land, can Council obtained the consent of the relevant landowner to the erection of the signage?</p>		
Maintenance and maintainability <i>See section 3.2(h)</i>	<p>Is the potential NSP capable of being maintained to ensure continuing compliance with the CFA Fire Rating Criteria and the Council NSPP Criteria?</p> <p>Where relevant, consider whether adjoining land owners and occupiers will provide Council with an assurance that both the potential NSP and the Buffer Zone can be maintained to a satisfactory level.</p>		
Disabled access <i>See section 3.2(i)</i>	<p>Are there are means of access for disabled and mobility-impaired persons to the potential NSP, including vehicle access to drop off people with disabilities?</p>		
Alternative uses of potential NSP <i>See section 3.2(j)</i>	<p>Can Council manage alternative uses which may be made of the potential NSP so as to ensure that those uses will not compromise the function of the place as a potential NSP?</p> <p><i>The CFA has advised that where a potential NSP which is used for an operational purpose at many times meets the CFA Fire Rating Criteria, then the CFA considers that those operational activities will be able to continue (to the extent practicable in the circumstances) while the place is being used as an NSP.</i></p>		
Community Communication <i>See section 3.2(k)</i>	<p>Will it be possible to ensure that there will be good community awareness of the location of the potential NSP, and the risks associated with using the potential NSP?</p>		

Section 4

NSP Signage Template

WARNING

THIS *DESIGNATED NEIGHBOURHOOD SAFER PLACE (NSP)* IS A PLACE OF LAST RESORT DURING THE PASSAGE OF A BUSHFIRE. WHILST IT MAY OFFER SOME PROTECTION FROM BUSHFIRE, THE SAFETY OR SURVIVAL OF THOSE WHO ASSEMBLE HERE IS NOT GUARANTEED.

BEFORE DECIDING TO HEAD TOWARDS, OR ENTER, THIS NSP IN THE EVENT OF BUSHFIRE, BE AWARE THAT:

- MANY HOUSES MAY OFFER BETTER PROTECTION THAN THIS NSP
- TRAVELLING TO THIS NSP WHEN THERE IS BUSHFIRE CAN BE EXTREMELY DANGEROUS. THERE IS NO GUARANTEE THAT YOU WILL BE SAFE DOING SO.
- THIS NSP MAY NOT PREVENT DEATH OR INJURY FROM FIRE, EMBERS OR RADIANT HEAT WHEN YOU GET HERE
- YOU SHOULD ONLY USE THIS NSP WHEN YOUR PRIMARY BUSHFIRE PLAN HAS FAILED OR CANNOT BE IMPLEMENTED
- THIS NSP ONLY HAS LIMITED CAPACITY
- THERE IS NO GUARANTEE THAT CFA OR OTHER EMERGENCY SERVICES WILL BE PRESENT AT THIS NSP DURING A BUSHFIRE
- NO FACILITIES ARE PROVIDED FOR PEOPLE WITH SPECIAL NEEDS, INCLUDING THOSE REQUIRING MEDICAL ATTENTION
- THIS NSP MAY BE UNCOMFORTABLE AND NO AMENITIES SUCH AS FOOD AND DRINKS WILL BE PROVIDED
- THERE IS NO PROVISION FOR ANIMALS

VICTORIAN BUSHFIRE INFORMATION LINE - 1800 240 667

Section 5

Deed of consent guidance note

Consent and Indemnity Deed for Non-Council Owned Land



NEIGHBOURHOOD SAFER PLACES - DEED OF CONSENT WITH NON-COUNCIL LANDOWNERS

Guidance notes for Council Officers negotiating Deeds of Consent with non-Council landowners and occupiers

This note contains a brief explanation of the Deed of Consent document that MAV has provided to Councils (“**Deed**”), which is to be used when it is proposed to designate a Neighbourhood Safer Place (“**NSP**”) on non-Council owned or occupied land. It is intended to provide background information to assist Council officers when negotiating with owners and occupiers of non-Council land which is proposed to be designated as an NSP, and to explain the reasons why the Deed of Consent is required.

1. Why do we need the Deed?

Under the *Country Fire Authority Act 1958 (Vic)* (**‘CFA Act’**), which is the legislation requiring Councils to identify, designate and establish NSPs, a Council may only formally designate an NSP if it is:

- located on land occupied by Council; or
- in the case of non-Council owned land, where the occupier or person in control of the land consents to the designation of the place as an NSP.

The Deed deals with cases where an NSP is proposed to be located on land not occupied by Council. It is the means by which a private landowner and occupier consents to the designation of their land as an NSP.

Where non-Council owned land is occupied by someone other than the owner (such as a tenant under a lease), then **both the owner and occupier** will need to sign the Deed. This is because both parties need to consent to the designation of the land as an NSP.

2. What are the key obligations in the Deed?

The Deed places a number of obligations on owners and occupiers of non-Council owned land which they will need to comply with if they agree to allow their land to be designated as an NSP. The main obligations are:

- to allow Council to formally designate the land as an NSP in accordance with the CFA Act;
- to maintain the land to a standard specified in the Deed;
- to allow Council to enter the land to undertake maintenance activities which are required to enable the land to function as an NSP; and
- to allow residents of, and visitors to, the municipality to enter the land and use it as an NSP on days where the area around the NSP is beset or threatened by fire.

3. Can owners and occupiers be liable for death and injury claims arising in relation to the NSP?

Some owners and occupiers may ask whether or not they could be legally liable as a result of people using their land as an NSP if a fire occurs and it is necessary for their land to be used as a place of last resort in a fire.

There is a clause in the Deed (clause 5) which deals with this issue. This clause reflects the position under the CFA Act.

The CFA Act provides that the owner or occupier of land on which an NSP is located will not be liable for claims for death or personal injury under contract, tort (eg. negligence) or statute in cases where the death or injury:

- occurred at the NSP, while the place was being used as an NSP and at a time when the area in which the place is located was beset or threatened by fire; and
- did not arise from an intentional act of a person at the NSP.

In such cases, it is Council, rather than the owner or occupier of the land, who will be liable. Council then has protection from some of these claims under other provisions of the CFA Act.

It is important for owners and occupiers of land to understand how this liability arrangement works. It is also important for them to understand the limitations associated with this arrangement. For example, it does not provide any protection from liability arising from damage to property. It will also not arise where a person dies or is injured as a result of the intentional act of the owner or occupier.

Given this is a complicated legal issue, it is important that Council officers strongly recommend that owners and occupiers get their own legal advice before signing the Deed. This is discussed further in section 4 below (see step 6 in particular).

4. What is the process for negotiating and signing the Deed with owners and occupiers?

Council officers need to follow the below steps when negotiating the Deed with owners and occupiers of land which has been identified as suitable for an NSP:

- **Step 1** - Approach the occupier of the land to determine whether they would be willing to consider consenting to the land being designated as an NSP, and to determine whether or not they are also the owner of the land.
- **Step 2** - If the occupier of the land is willing to consent to the land being designated as an NSP (subject to the Deed being acceptable), then obtain a Title search of the land to confirm the identity of the legal owner of the land. This will ensure that Council enters into the Deed with the right parties. MAV can assist in obtaining title searches.
- **Step 3** - If it has not done so already, Council will need to formally adopt the Municipal Neighbourhood Safer Places Plan ('MNSPP'). The MNSPP will be attached to the Deed, and will eventually form part of the Deed.
- **Step 4** - Prepare a plan of the land (which needs to be attached to the Deed at Annexure 2) which shows:
 - the boundaries of the property (this may be taken from the survey plan attached to the title search);
 - the location of the NSP; and
 - the location of the buffer zone surrounding the NSP.
- **Step 5** - Finalise a full draft of the Deed for presentation to the owner and occupier. This will involve attaching a copy of the title search at Annexure 1, a copy of the plan (discussed above under Step 4) at Annexure 2, and a copy of the Council-adopted MNSPP at Annexure 3.
- **Step 6** - Give the occupier of the land (and the registered owner identified on the title search, if it is a different person) a copy of the Deed for their review. When doing this, it is essential to point to the note on front of the Deed, which strongly suggests that owners and occupiers get their own independent legal advice before signing the Deed.
- **Step 7** - Once the occupier of the land (and the owner, if it is a different person) have had the Deed independently reviewed, and once they have confirmed that they will sign it, then the Deed should be formally executed. If the owner or occupier (or both) of the land is a company, then special requirements will need to be complied with when the Deed is executed. Council should contact the MAV to obtain advice on what those requirements are.

5. How can an owner or occupier terminate the Deed?

Clause 1.3 of the Deed allows the owner and/or occupier of the land on which the NSP is located to withdraw their consent to use their land as an NSP by giving at least 28 days' written notice.

A notice withdrawing consent can only be given outside the declared fire danger period. This is intended to minimise the disruption that would result to Council if consent to designate and use a place as an NSP were to be withdrawn during the fire season, which could make the task of finding an alternative location much more urgent. It could also result in people within the municipality being exposed to risk.

If the owner and/or occupier gives a notice withdrawing their consent, the consent is terminated from the date on which the notice takes effect.

Council must stop using the place as a designated NSP from that date-onwards. It will also need to ensure that

- its Municipal Fire Prevention Plan and Municipal Emergency Management Plan are amended to reflect the decommissioning of the NSP; and
- the Country Fire Authority is notified by 30 September (as required under section 50K of the CFA Act) of the decommissioning of the NSP.

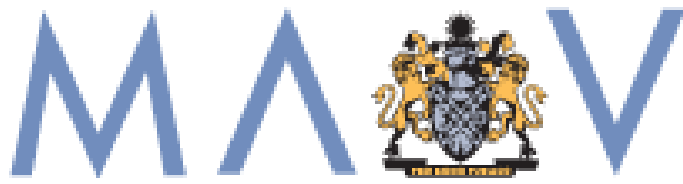
6. Who do I call if I have any questions?

The MAV understands that this is a new process, and that the identification, certification, designation and establishment of NSPs is complex. This is made even more complicated when it is necessary to enter into the Deed with owners and occupiers of non-Council owned and occupied land.

If you have any questions which are not addressed in this guidance note, then please feel free to contact:

- **Alison Lyon**, General Counsel and Corporate Secretary of the MAV on (03) 9667 5522; or
- **Damien Gardiner**, Senior Associate at Mallesons Stephen Jaques, on (03) 9643 4459.

They would be happy to provide you with any further assistance you may require.



MUNICIPAL ASSOCIATION OF VICTORIA



NEIGHBOURHOOD SAFER PLACE

Latrobe City Council

DEED OF CONSENT FOR NON COUNCIL-OWNED LAND

IMPORTANT NOTE TO LAND OWNERS AND OCCUPIERS

This is a legally binding and enforceable document which gives rise to legal obligations on Owners and Occupiers of Land.

Before signing you should obtain independent legal advice so that you understand what obligations are imposed upon you under this Deed. You should also refer to the relevant extracts of the Country Fire Authority Act 1958 (Vic) which are at Annexure 4 to this Deed.

Neighbourhood Safer Place Consent & Indemnity Deed

Parties' Details:

[Insert Council & address] ("Council")

and

[Insert name and address of owner of the Land on which the Premises are located.

Where the NSP is on non-Council owned Crown Land, the Committee of Management in the case of Crown Land Reserves, or the Department responsible for the management of the land (such as Department of Education and Early Childhood Development in the case of schools) will be considered to be the Owner for the purposes of this Deed.]

("Owner")

and

[Insert name and address of the occupier of the Land on which the Premises are located ONLY where there is another occupier on the Premises who is not the owner, eg lease or licence.

Where the NSP is on Crown land under the control of a Committee of Management, or under the control of a government Department, and that land has been leased or licensed to a third party, the third party is the Occupier for the purposes of this Deed.

Where a sub-lease is in place, each of the tenants and sub-tenants may need to be listed. This Deed may require amendment to accommodate such a situation.]

("Occupier")

Recitals:

- A. In response to the tragic Black Saturday bushfires in 2009, the Victorian Government has created the concept of Neighbourhood Safer Places as places to go as a last resort for shelter from the immediate life threatening effects of a bushfire.
- B. The CFA and / or Council has identified the Premises as a possible Neighbourhood Safer Place and the CFA has certified it as meeting the criteria set out in the CFA Assessment Guidelines. The Premises also satisfies Council's criteria set out in the Municipal Neighbourhood Safer Places Plan.
- C. The Owner is the legal owner of the Land on which the Premises are located or, in the case of Crown Land, is vested with responsibility for the control and management of the Land.
- D. The Occupier (where listed as a party to this Deed) has certain rights of occupation and control of the Land or the Premises.
- E. Council intends to designate the Premises as a Designated Neighbourhood Safer Place. However, Council is unable to formally designate the Premises as a Designated Neighbourhood Safer Place

and establish it for this purpose until it has the consent of the Owner and Occupier (in accordance with their respective powers and rights over the Land and Premises), and has a licence in place allowing it to access the Land and Premises for this purpose.

- F. This Deed sets out the terms and conditions on which the Owner and Occupier (where applicable) provide that consent and grant a licence for the use of the Premises as a Neighbourhood Safer Place.

Operative Provisions

1 Consent & Licence

- 1.1 The Owner and Occupier (where applicable) consent to the Council making the Premises a Designated Neighbourhood Safer Place and fully understand the consequences of doing so.
- 1.2 The Owner and Occupier (where appropriate) grant a licence, in accordance with their respective powers and rights over the Land and Premises:
 - (a) to the Council and its officers, employees, agents and contractors and to the citizens of, and visitors to, the Municipality to access and egress the Land and to use the Premises as a Neighbourhood Safer Place; and
 - (b) to the Council and its officers, employees, agents and contractors to do anything to the Premises, or to the Land, that is reasonably required to establish and maintain the Premises as a Designated Neighbourhood Safer Place.
- 1.3 The Owner or Occupier (where applicable), or both, may withdraw the consent or licence, or both given in clause 1 by giving the Council 28 days notice in writing, provided notice is given at any time outside of a declared bushfire season.
- 1.4 If a valid notice is given under clause 1.3, then at the end of the 28 day notice period:
 - (a) the consent and licences granted under this Deed shall terminate; and
 - (b) the Council shall stop using the Premises as a Designated Neighbourhood Safer Place.

2 Powers

- 2.1 Where the Owner is the sole party to this Deed with the Council, then by executing this Deed the Owner confirms that:
 - (a) in the case of land other than Crown land, it is the legal owner and sole occupier of the Land on which the Premises are located; or

(b) in the case of Crown Land, is vested with responsibility for the control and management of the Land; and

is capable at law of granting the consent and licence in clause 1 and undertaking the obligations set out in this Deed.

- 2.2 Where the Owner is not the sole party to this Deed due to the Premises or the Land being subject to rights of occupation and control by the Occupier under a Tenancy, then the Owner and Occupier agree to cooperate to ensure that that they consent to the granting of the licence under clause 1 to the maximum extent of their legal rights of occupation, control and ownership of the Premises and the Land, to ensure that Council is granted all of the consents and licences it requires for the designation and establishment of the Designated Neighbourhood Safer Place.
- 2.3 Subject to clause 2.4, where the Owner or Occupier sells, parts with or otherwise divests its ownership of, or rights in relation to, the Land to a third party ("Successor"), the Owner or Occupier (as the case may be) must:
 - (a) notify Council of its intention to sell, part with or otherwise divest its ownership of, or rights in relation to, the Land;
 - (b) provide the Successor with a copy of this Deed; and
 - (c) procure that the Successor:
 - (i) agrees to be bound by the terms of this Deed; and
 - (ii) signs a copy of this Deed and returns it to the Council.
- 2.4 If the Successor does not agree to be bound by the terms of this Deed, then:
 - (a) the consent and licences granted under this Deed will terminate from the date on which the Owner or occupier (as the case may be) parts with possession of the Land; and
 - (b) the Council shall stop using the Premises as a Designated Neighbourhood Safer Place.

3 Restrictions & Directions regarding use of the Premises

- 3.1 The Owner and Occupier (where appropriate) acknowledge and agree that:
 - (a) the Council may issue written directions, maintenance obligations or policies from time to time in relation to the maintenance and use of the Premises as a Designated Neighbourhood Safer Place;
 - (b) such directions, maintenance obligations and policies may extend to that part of the Land which

- surrounds the Premises in order to maintain a fire buffer;
- (c) the Owner and Occupier (where appropriate) shall comply with such directions, maintenance obligations and policies as notified to them by Council from time to time, within the timelines stated to the extent of their rights of occupation and control of the Land and Premises; and
- (d) at the date of this Deed the Council has identified the maintenance obligations and policies for the Land in the Municipal Neighbourhood Safer Places Plan.

4 Costs

- 4.1 Subject to clause 4.2, the Council will pay to the Owner and the Occupier (as appropriate) the agreed direct costs set out in **Item 7** of the Schedule that they reasonably incur associated with the creation and use of the Premises as a Designated Neighbourhood Safer Place.
- 4.2 The Council shall not be liable to the Owner or Occupier (as appropriate) for any costs or loss (including consequential loss) incurred by either or both of them:
- (a) for the ordinary use of the Premises and the Land other than as a Designated Neighbourhood Safer Place; and
- (b) as a result of or in connection with a breach by either of them of clause 3.1(b).

5 Claims and Liability

- 5.1 Under the CFA Act, liability for the death of, or injury to, a person arising from the use of a Designated Neighbourhood Safer Place that would attach to the Owner or Occupier of the Premises, attaches instead to the Council, subject to certain limitations in the CFA Act. A copy of relevant extracts from the CFA Act is at **Annexure 4**.
- 5.2 The Council is only liable to the Owner and Occupier (as appropriate) to the extent provided under the CFA Act.
- 5.3 The Council or its insurer may, at its absolute discretion, assume the conduct, management, negotiation and defence of any Claim to which the Owner or Occupier is, or may become, a Party.
- 5.4 The Owner and Occupier must:
- (a) not make any admission of liability in respect of or settle any Claim without the prior written consent of the Council or its insurer;
- (b) give notice to the Council upon becoming aware of any Claim or threatened Claim against either of them; and
- (c) render all reasonable assistance to the Council and its insurer in the conduct of any Claim, including without limitation providing any

documents or taking any steps to enable the Council and its insurer to be subrogated to and enjoy the benefits and rights that the Owner and Occupier may have in relation to any cross-claims or in any claims against any third party, subject to the Owner and Occupier's reasonable costs for that assistance being reimbursed by the Council or its insurer.

6 Governing Law & Notices

- 6.1 This Deed shall be governed by and construed in accordance with the law for the time being of the State of Victoria and the parties submit to the jurisdiction of the courts of Victoria in respect of all matters arising under this Deed.
- 6.2 A notice, consent, demand or any other correspondence or communication (each a notice) under this Deed:
- (a) must be in writing;
- (b) may be signed for the party giving it by the party or the party's authorised officer;
- (c) if given by the Council, must be left at, or posted or faxed to, the Owner's and Occupier's (where appropriate) address or fax number as specified in **Item 5** of the Schedule; and
- (d) if given by the Owner or Occupier must be left at, or posted or faxed to, the address or fax number of the Council as specified in **Item 6** of the Schedule or the other party's as specified in **Item 5** of the Schedule.
- 6.3 A notice is taken as given:
- (a) if delivered, at the time of delivery. But it is taken as received at 9.00am on the next Business Day if it is delivered on a day which is not a Business Day, or is delivered after 4.00pm;
- (b) if posted, 3 Business Days after posting, even if the addressee never receives it, or it is later returned undelivered to the sender; or
- (c) if faxed, when transmission to the addressee is complete. But it is taken as received at 9.00am on the next Business Day if it is faxed on a day which is not a Business Day, or if transmission is completed after 4.00pm in the place where it is received.

7 Variation & Counterparts

- 7.1 Any purported variation of this Deed will be ineffective unless the variation is in writing and signed by the Owner, Occupier (where appropriate) and the Council.
- 7.2 This Deed may be executed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same instrument.

8 Definitions and Interpretation

- 8.1 In this Deed:

Business Day means a day which is not a Saturday, Sunday or public holiday in Melbourne.

CFA means the Country Fire Authority established under the CFA Act;

CFA Act means the *Country Fire Authority Act 1958* (Vic).

CFA Assessment Guidelines means the guidelines issued by the CFA from time to time that set out criteria and other considerations to be applied in relation to Neighbourhood Safer Places, including for the purpose of assessing a place as suitable to be a Neighbourhood Safer Place and carrying out annual assessments of Neighbourhood Safer Places and includes any interim assessment guidelines issued by the Country Fire Authority;

Claim means any writ, summons, application or other originating legal or arbitral process, cross claim or counterclaim arising out of or in any way connected to the death of or injury to a person in connection with or in any way related to a Designated Neighbourhood Safer Place;

Designated Neighbourhood Safer Place means a Neighbourhood Safer Place that the Council has designated as a Neighbourhood Safer Place after it has been certified by the CFA in accordance with the CFA Assessment Guidelines and assessed by Council in accordance with the criteria in Councils adopted Municipal Community Neighbourhood Safer Places Plan.

Land means the land specified in **Item 1** of the Schedule on which the Premises are located.

Municipal Neighbourhood Safer Places Plan means a plan prepared by Council in relation to the identification, suitability, designation, inspection, maintenance and decommissioning of places as Neighbourhood Safer Places, as attached to this Deed at **Annexure 3**.

Municipality means the Latrobe City Council

Neighbourhood Safer Place means a place that may, as a last resort, provide shelter for people from the immediate life threatening effects of a bushfire.

Owner means:

- (a) in the case of non-Crown land, the registered proprietor of the Land; or
- (b) in the case of Crown land, the agency, entity or department vested with responsibility for the control and management of the Land,

as specified in **Item 3** of the Schedule.

Occupier (where applicable) means that where an Occupier is specified as a party to this Deed, a person having rights of

occupation or control under a Tenancy or other arrangement with the Owner.

Plan means the plan of the Land, Premises and buffer, as attached to this Deed at **Annexure 2**.

Premises means the premises specified in **Item 1** of the Schedule.

Tenancy means any lease, sublease, licence, sub-licence, profit a prendre or other right or interest which confers upon You the right to enter upon and occupy the Land, the details of which are described in **Item 4** of the Schedule, and as amended or varied from time to time.

8.2 In this Deed headings are only for convenience and do not affect interpretation and, unless the context requires a different interpretation:

- (a) a reference to an Act or other legislation is a reference to that Act or other legislation as amended and for the time being in force;
- (b) the singular includes the plural and the other way around;
- (c) words of one gender include any gender;
- (d) a reference to:
 - (i) a person includes an individual, a corporation, a government body and any other legal entity;
 - (ii) a person includes that person's successors and permitted assigns and in the case of a natural person, that person's legal personal representative;
- (e) the Recitals form part of and are included in the operative provisions of this Deed;
- (f) no rule of construction applies to the disadvantage of a party only because that party was responsible for preparing this Deed or a provision of this Deed;
- (g) a reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing; and
- (h) a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally.

EXECUTED as a Deed

Neighbourhood Safer Place Consent & Indemnity Deed

Schedule

<p>Item 1:</p> <p>Land</p> <p>Premises</p>	<p>Certificate of Title Vol [] Fol [], at [address].</p> <p>The [describe building, facility or area] on the Land, as shown on the Plan.</p>
<p>Item 2:</p> <p>Owner's Details</p>	
<p>Item 3</p> <p>Occupier's Details [<i>where a Tenancy is in place</i>]</p>	
<p>Item 4 - Details of Tenancy</p>	
<p>Item 5: Owner and Occupiers Address for Notices</p>	<p>See Items 2 and 3.</p>
<p>Item 6: Council's Address for Notices</p>	
<p>Item 7: Agreed Direct Costs</p>	<p>Costs which may be included here could include reasonable legal fees associated with the negotiation and signing of this Deed of Consent, and the direct costs incurred by the Owner and/or Occupier (as appropriate) in undertaking any agreed maintenance activities in relation to the NSP or separation distance/buffer zone.</p>



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Neighbourhood Safer Place Consent & Indemnity Deed

Annexure 1: Title search showing Owner of the Land



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Neighbourhood Safer Place Consent & Indemnity Deed

Annexure 2: Plan showing the Land, Premises & Buffer



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Neighbourhood Safer Place Consent & Indemnity Deed

Annexure 3: Municipal Neighbourhood Safer Places Plan

Neighbourhood Safer Place Consent & Indemnity Deed

Annexure 4: Extract from CFA Act (section 50N)

50N Liability relating to designated neighbourhood safer places

(1) This section applies in respect of a designated neighbourhood safer place.

(2) Subject to this section, any liability for the death of or injury to a person arising from the use of the designated neighbourhood safer place that would attach to the owner or occupier of the land or a person with control of the land attaches instead to the municipal council in the municipal district of which the land is situated.

(3) This section only applies in respect of a death or injury arising from the use of the designated neighbourhood safer place as a shelter from bushfire on a day (or during part of a day) when the area in which the place was located was beset, or threatened, by bushfire.

(4) This section does not apply to a death or injury that was caused in the course of travelling to or from the designated neighbourhood safer place.

(5) A reference to a liability in subsection (2), is a reference to a liability—

(a) that arises in tort, contract, under statute or otherwise; and

(b) that does not arise from an intentional act of a person at the designated neighbourhood safer place.

Neighbourhood Safer Place Consent & Indemnity Deed

Signing page

DATED: _____

SIGNED, SEALED AND)
DELIVERED by [NAME] as attorney)
for [NAME OF COUNCIL] # under)
power of attorney dated #insert date# in)
the presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....
By executing this deed the attorney
states that the attorney has received no
notice of revocation of the power of
attorney

SIGNED, SEALED AND)
DELIVERED by [NAME OF THE)
PRIVATE LAND OWNER] in the)
presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....
Your Signature

SIGNED, SEALED AND)
DELIVERED by [NAME OF THE)
OCCUPIER] in the presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....
Your Signature