

FRV-DELWP

AN AGREEMENT FOR FIRE PREVENTION AND FIRE SUPPRESSION ACTIVITIES

FIRE RESCUE VICTORIA

AND

**THE SECRETARY TO THE DEPARTMENT OF
ENVIRONMENT, LAND, WATER AND
PLANNING**

11 FEBRUARY 2021

Date

11 Febraury 2021

The Secretary to the Department of Environment, Land, Water and Planning, a body corporate established by section 6 of the *Conservation, Forests and Land Act 1987* of 8 Nicholson Street, East Melbourne Victoria 3002

(Secretary)

and

Fire Rescue Victoria, a body corporate established by section 6 of the *Fire Rescue Victoria Act 1958* of 456 Albert Street, East Melbourne Victoria 3002

(FRV)

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Recitals

- A. Under the *Forests Act 1958* (**Forests Act**), the Secretary has powers to:
- (a) provide for plans, works and plant for Fire Suppression and Fire Prevention within Fire Protected Areas (s 20(1)(b));
 - (b) undertake Fire Suppression and Fire Prevention in State Forests, National Parks and Protected Public Land (s 62(2));
 - (c) direct, aid and cooperate with any owner or occupier or person or body of persons having the control or management of any land within 1.5 km of the boundary of any State Forest, Protected Public Land or National Park to either remove, destroy by burning or abate a fire hazard on such land, or, if the Secretary is carrying out works on State Forest, Protected Public Land or National Park for fire prevention and control, to carry out on adjoining land within 50 metres, similar work for fire prevention or control (s 65(1) and (2));
 - (d) enter into an agreement or arrangement with any person in Victoria or elsewhere for assistance in relation to the suppression or prevention of fire and recovery from fire, amongst other things (s 62C(1)); and
 - (e) enter into an agreement or arrangement with FRV to enable Specified Persons to:
 - (i) exercise the powers under s 32B(3)(a),(c),(d) and (e) of the *Fire Rescue Victoria Act 1958* (**FRV Act**) of a Senior Member of the Operational Staff in relation to the scene of an Alarm of Fire to the extent authorised by this Agreement; and
 - (ii) carry out related activities in relation to the powers in paragraph A(e)(i),
 in the FRV Fire District. (s 62C(2)).
- B. DELWP is a Control Agency under the State Emergency Management Plan for bushfire on specified public land and certain other emergencies.
- C. Under s 29 of the *Forests Act*, the Secretary may authorise the DELWP Chief Fire Officer to perform any function of the Secretary in respect of fire related activity in State Forest, National Park or on Protected Public Land. Under s 61B of the *Forests Act*, the DELWP Chief Fire Officer is responsible for the exercise of functions authorised by the Secretary in respect of fire related activities in every State Forest, National Park or on Protected Public Land.
- D. FRV is the control agency for fire and other emergencies for the FRV Fire District (including the Port of Melbourne and waters as defined in the *Port Management Act 1995*) including accidents involving gas leakage, hazardous materials, lifts, cranes or scaffolding and amusement structures, and building collapse; fire and explosion incidents involving aircraft and boilers and pressure vessels; and rescue incidents involving rail, aircraft and industrial, road, Urban Search and Rescue, confined space, trench, low-high angle and tunnel, and building structures.
- E. Under the *FRV Act*, FRV:
- (a) has the function to provide Fire Suppression and Fire Prevention services in the FRV Fire District (s 7(1));

- (b) may enter into an agreement to provide services to prevent or deal with the effects of any emergency or hazard (s 55C);
 - (c) may provide emergency prevention and response services within the FRV Fire District (s 55D); and
 - (d) may, on request, assist any person to suppress or prevent a fire in some place outside the FRV Fire District, working to the control of that person (s 55E (1), (2), and (3)).
- F. Following the fire services reforms of 1 July 2020, there is increased interface between the FRV Fire District and the Relevant Public Land in the Fire Protected Area, including overlap between the parties' respective jurisdictions.
- G. In the interests of ensuring community safety and the maintenance of strong fire response capacity, including in areas of overlapping jurisdictions, the parties enter into this Agreement to document:
 - (a) their agreement under s 62C(1) of the Forests Act;
 - (b) their agreement under s 62C(2) of the Forests Act;
 - (c) their agreement under s 55C(1) of the FRV Act;
 - (d) to provide any request for assistance under s 55E(1) of the FRV Act;
 - (e) their commitment to develop further operational protocols in relation to certain matters; and
 - (f) their general working relationship for Fire Suppression and Fire Prevention in different geographic areas, service and assistance arrangements between them and other support measures.
- H. FRV and the Secretary intend to achieve the objectives set out in Recital G whilst still maintaining their own individual requirements to respond to fires and other emergencies.
- I. FRV and the Secretary have agreed that the following principles will guide the operation of this Agreement:
 - (a) It is the intention of each of the Secretary, FRV and FFMVic Partner Agencies to fulfil their primary responsibility to comply with the requirements of the *Occupational Health & Safety Act 2004* during all operational support activities. The Secretary, FRV, FFMVic Partner Agencies and their respective personnel operating within the terms of this Agreement will aim to meet such legislative obligations.
 - (b) The Secretary, FRV, FFMVic Partner Agencies and their respective personnel will respect and acknowledge each other's model of operation, culture and values.
- J. FRV and the Secretary intend that their respective personnel conducting activities under this Agreement present and promote a professional and responsible image to the community at all times.

Agreed terms

1. Definitions and Interpretation

1.1 Definitions

In this agreement unless the context otherwise requires:

Agreement means this agreement as amended from time to time and any Operational Protocols which are incorporated by reference.

Alarm of Fire has the same meaning as in s 32A of the FRV Act, and for the purpose of this Agreement, includes a Fire Incident.

Business Day means any day that is not a Saturday, Sunday or a public holiday (being a public holiday appointed as such under the *Public Holidays Act 1993* (Vic)) in Melbourne.

Chief Officer has the same meaning as in s 3 of the EM Act.

Confidential Information means information (in whatever form) of a party including but not limited to technical, scientific and financial information which comes into the possession of the other party through intentional or unintentional disclosure, excluding information which:

- (a) is in or comes into the public domain other than by disclosure in breach of the terms of this Agreement;
- (b) is or becomes available to the recipient party from a third party lawfully in possession of it and with the lawful power to disclose it to the recipient party;
- (c) is rightfully known by the recipient party (as shown by its written record) prior to the date of disclosure to it under this Agreement; or
- (d) is independently developed by an employee of the recipient party who has no knowledge of the disclosure made under this Agreement.

Control Agency means the agency primarily responsible for managing a response with the function and role described in the State Emergency Management Plan.

DELWP means the Department of Environment, Land, Water and Planning.

DELWP Chief Fire Officer means the chief fire officer of DELWP appointed under s 61A of the Forests Act.

Deputy Incident Controller means an individual whose role is to support the Incident Controller in the management of the Fire Incident, with the function and role and as delegated by the Incident Controller (or as otherwise appointed and having the functions and roles described in the State Emergency Management Plan).

Dispute Notice has the meaning given to it in clause 12.1.

EM Act means the *Emergency Management Act 2013*.

Emergency Management Commissioner means the person appointed to that role under s 25 of the EM Act.

FFMVic is a combined workforce from DELWP, PV, Melbourne Water and VicForests operating under separate assistance arrangements with the Secretary under s 62C(1) Forests Act, and delivering, amongst other services, Fire Prevention and/or Fire Suppression services on Relevant Public Land, FFMVic Partner Agency Land and Private Land.

FFMVic Partner Agencies means DELWP, PV, Melbourne Water and VicForests.

FFMVic Partner Agency Land means land managed by PV in the FRV Fire District but which is outside Relevant Public Land.

Fire Incident means any unplanned fire event or a risk of an unplanned fire event which requires a response from one or more agencies.

Fire Prevention means activities undertaken to manage and prevent the occurrence or spread of fire including planned burnings and other fuel management activity (and to avoid doubt, this includes services of the type referred to in s 55C and s 55D of the FRV Act).

Fire Protected Area(s) has the same meaning as 'fire protected area' in the Forests Act. For the purposes of this Agreement, 'Fire Protected Area' comprises Relevant Public Land and Relevant Private Land.

Fire Suppression means the activities related to the exercise of powers under s 32B(3)(a), (c), (d) and (e) of the FRV Act undertaken in response to a Fire Incident.

FRV means Fire Rescue Victoria as established under s 6 of the *Fire Rescue Victoria Act 1958* (Vic).

FRV Fire District has the same meaning as 'Fire Rescue Victoria fire district' in the *Fire Rescue Victoria Act 1958*.

Incident Controller means the person establishing control of, and having overall management of, a Fire Incident in accordance with the Australasian Inter-Service Incident Management Systems (**AIIMS**), and appointed by the Control Agency, or as otherwise appointed and having functions and roles as described in the State Emergency Management Plan, including regional controllers.

Liaison Officer means the person responsible for communicating information (such as requests for assistance or resources) between the Incident Controller and the agency to which the Liaison Officer belongs.

Melbourne Water means the water corporation known as Melbourne Water Corporation under the *Water Act 1989*.

National Park(s) has the same meaning as 'national park' in the *Forests Act 1958*.

Non-fire Emergency means an emergency which involves the actual or imminent occurrence of an event other than a Fire Incident.

Notice means a written notice, consent, approval or other communication in the English language, given under this Agreement.

Operational Protocols means any operational processes or protocols which are agreed between the parties under clause 7.

Private Land means land in the FRV Fire District that is:

- (a) privately owned or occupied; or
- (b) public land that is vested in, managed or controlled or cared for by a Minister, local Council or other public authority. To avoid doubt, such public land excludes Relevant Public Land and FFMVic Partner Agency Land.

Protected Public Land has the same meaning as 'protected public land' in the *Forests Act 1958*.

PV means Parks Victoria being the body corporate established by s 5 of the *Parks Victoria Act 2018*. PV is also the land manager responsible for fire prevention works on parks and reserves managed by PV in the FRV Fire District.

Relevant Private Land means land within 1.5 kilometres of the boundary of any State Forest, Protected Public Land, National Park or FFMVic Partner Agency Land.

Relevant Public Land means State Forests, National Parks and Protected Public Land in the Fire Protected Area.

Senior Member of the Operational Staff has the same meaning as in s 32B(6) of the FRV Act.

Specified Person has the same meaning as in s 62C(4) of the Forests Act.

State means the Crown in the right of the State of Victoria.

State Emergency Management Plan means the State Emergency Management Plan prepared under the *Emergency Management Act 2013* and as approved by the State Crisis Resilience Council and in effect from 30 September 2020.

State Forest(s) has the same meaning as 'State forest' in the *Forests Act 1958*.

State Response Controller means a person appointed under s 37 of the EM Act as a 'State Response Controller', being the function and role described in the State Emergency Management Plan.

Support Agency means an agency providing a support agency role as described in the State Emergency Management Plan.

VicForests means the State body established under s 14 of the *State Owned Enterprises Act 1992* by Order in Council published in the Government Gazette No. S 198 Tuesday 28 October 2003.

1.2 Interpretation

- (a) In this Agreement, unless the context otherwise requires:
 - (i) words in the singular include the plural and vice versa;
 - (ii) if a word or phrase is defined, its other grammatical forms have corresponding meanings;
 - (iii) 'includes' means includes without limitation;
 - (iv) a reference to:
 - (A) a document includes all amendments or supplements to, or replacements or novations of, that document;

- (B) a clause, paragraph, schedule, annexure or attachment is to a clause or paragraph of, or schedule, annexure or attachment to, this Agreement;
 - (C) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and
 - (D) if the date on or by which any act must be done under this Agreement is not a Business Day, the act must be done on or by the next Business Day.
- (b) Headings do not affect the interpretation of this Agreement.
 - (c) This Agreement is to be read without reference to any previous agreements, including those referred to in clause 2 of this Agreement.

1.3 Status of this Agreement

The parties agree that:

- (a) this Agreement is not intended to create a legally binding agreement between them. However, the parties agree to comply with all of the terms of the Agreement; and
- (b) this Agreement is:
 - (i) an agreement under both s 62C(1) and (2) of the Forests Act, as further described under clause 4;
 - (ii) an agreement to provide any other property protection or loss mitigation service for the prevention of or to deal with the effects of any emergency or hazard under s 55C(1) of the FRV Act; and
 - (iii) to provide any request for assistance made under s 55E(1) of the FRV Act to prevent or suppress a fire in a place outside the FRV Fire District.

2. Previous Agreements

The Parties agree that this Agreement supersedes all previous agreements and memoranda of understanding between the parties dealing with the same subject matter, including in relation to response arrangements concerning the former Metropolitan Fire and Emergency Services Board and Country Fire Authority areas, now defined as the FRV Fire District.

3. Term

This Agreement will commence on the date it is entered into and will continue, unless terminated in accordance with clause 14.

4. Purpose of this Agreement

The purpose of this Agreement is to:

- (a) agree to a high-level approach to Fire Prevention and Fire Suppression based on geographic location of the fire;

- (b) clarify additional services and assistance arrangements between the parties for Fire Suppression and Fire Prevention which they may provide to each other to assist in the performance of their respective functions;
- (c) clarify other cooperation and support measures which they may offer to each other to assist in their respective functions, including in relation to Non-fire Emergencies
- (d) confirm their intention to enter into the Operational Protocols; and
- (e) confirm the circumstances and extent of power which the Agreement authorises under s 62C(2) of the Forests Act, as set out in clause 5.

5. Arrangements for the purposes of s 62C(2) of the Forests Act

- (a) For the purpose of s 62C(2) of the Forests Act, the Secretary and FRV agree that the Secretary and any other Specified Person may exercise the powers of a Senior Member of the Operational Staff in relation to the scene of an Alarm of Fire in the FRV Fire District under section 32B(3)(a), (c), (d) and (e) of the FRV Act, and carry out activities relating to the exercise of those powers, in the circumstances specified in clause 5(b) to the extent authorised in clause 5(c) of this clause.
- (b) The specified circumstances are where, following an Alarm of Fire, the Secretary or any FFMVic personnel are present at a Fire Incident in the FRV Fire District and one or more of the following occurs:
 - (i) the Fire Incident is on FFMVic Partner Agency Land or Relevant Private Land and FRV is not present at the scene;
 - (ii) the Senior Member of the Operational Staff of FRV has directed or requested the Secretary or FFMVic personnel to undertake a Fire Suppression activity;
 - (iii) the State Response Controller, or a Chief Officer with overall control of response activities in relation to a Fire Incident, has directed or requested the Secretary or FFMVic personnel to undertake a Fire Suppression activity on such land (where such a direction or request is made pursuant to the EM Act or the State Emergency Management Plan); and
 - (iv) the Emergency Management Commissioner has directed the Secretary or FFMVic personnel undertake a Fire Suppression activity on such land (where such a direction is made pursuant to the EM Act or the State Emergency Management Plan).
- (c) Any Specified Person may exercise the powers or carry out the relevant activities referred to in clause 5(a) in the circumstances specified in clause 5(b) to the following extents:
 - (i) to the extent permitted by s 32B(3)(a),(c),(d) and (e) of the FRV Act, as applied by s 62C(2)(a) of the Forests Act for the purposes of the Fire Incident; and
 - (ii) to carry out activities relating to the exercise of powers in clause 5(c)(i) to the extent authorised by this Agreement.

6. Key principles

6.1 Guiding principles

The parties:

- (a) **(Cooperation)** will work cooperatively together to ensure community safety, the maintenance of fire emergency response capacity and high quality service delivery standards;
- (b) **(Expertise)** bring particular expertise and experience to Fire Suppression and Fire Prevention applicable to their responsibilities as a Control Agency and Support Agency under the State Emergency Management Plan. In particular:
 - (i) FFMVic supports the Secretary in its functions under separate arrangements of assistance, and is particularly suited to deal with bushfires in Relevant Public Land as set out in the State Emergency Response Plan; and
 - (ii) FRV responds to alarms of fires in the FRV Fire District as set out in the FRV Act;
- (c) **(Mutual Assistance)** wish to generally assist each other in the performance of their Fire Suppression and Fire Prevention responsibilities, where operating in overlapping jurisdictions, and otherwise, by establishing processes to manage risk, promote and facilitate the exchange of personnel, knowledge, skills and specialist equipment; and
- (d) **(Communication)** will communicate effectively with each other in relation to Fire Suppression and Fire Prevention activities, and will ensure that their respective staff involved in these activities have an operational understanding of relevant protocols and standard operating procedures which support the implementation of this Agreement.
- (e) **(Existing Emergency Management Responsibilities)** acknowledge that they should respond to Fire Incidents and carry out Fire Suppression and Fire Prevention activity according to their statutory responsibilities and any corresponding roles set out in the State Emergency Management Plan, and that nothing in this Agreement requires a party to act in a manner that is inconsistent with those responsibilities or roles.

6.2 Relevant Public Land in the FRV Fire District

Guiding principle

- (a) The parties require clarity as to the operational arrangements for Fire Suppression in areas of the FRV Fire District which overlap with Relevant Public Land.

Fire Suppression - FRV is first on the scene

- (b) Where FRV arrives first on the scene of a Fire Incident on land that is Relevant Public Land and also part of the FRV Fire District, FRV will initially provide Fire Suppression services and appoint an Incident Controller.
- (c) Following FRV's arrival, upon the first FFMVic vehicle arriving on the scene of a Fire Incident on the land specified in clause 6.2(a):

- (i) control of the Fire Incident will transfer to the Secretary; and
- (ii) the Secretary may request assistance from FRV including to:
 - (A) appoint a Deputy Incident Controller or Liaison Officer, as determined by FFMVic, to be co-located with the FFMVic Incident Controller. Any Deputy Incident Controller or Liaison Officer appointed under this clause will be subject to the command of the Incident Controller; and/or
 - (B) provide the services of appropriately skilled personnel to assist the Secretary with the Fire Suppression activity. Any personnel provided under this clause will be subject to the command of the Deputy Incident Controller (or the Incident Controller if a Deputy Incident Controller is not appointed); and/or
 - (C) provide specialist fire-fighting equipment or apparatus.
- (d) FRV will consider a request under clause 6.2(c)(ii) with reference to FRV's other operational demands and may refuse the request if FRV determines this is not reasonably practicable.

Fire Suppression - FFMVic is first on the scene

- (e) Where FFMVic arrives first on the scene of a fire on land that is Relevant Public Land and also part of the FRV Fire District:
 - (i) FFMVic will provide Fire Suppression services and appoint an Incident Controller; and
 - (ii) the Secretary may request assistance from FRV including to:
 - (A) appoint a Deputy Incident Controller or Liaison Officer, as determined by FFMVic, to be co-located with the FFMVic Incident Controller. Any Deputy Incident Controller or Liaison Officer appointed under this clause will be subject to the command of the Incident Controller; and/or
 - (B) provide the services of appropriately skilled personnel to assist the Secretary with the Fire Suppression activity. Any personnel provided under this clause will be subject to the command of the Deputy Incident Controller (or the Incident Controller if a Deputy Incident Controller is not appointed); and/or
 - (C) provide specialist fire-fighting equipment or apparatus.
- (f) FRV will consider a request under clause 6.2(e)(ii) with reference to FRV's other operational demands and may refuse the request if FRV determines this is not reasonably practicable.

6.3 FFMVic Partner Agency Land in the FRV Fire District

Guiding principle

- (a) The parties require clarity as to the operational arrangements for Fire Prevention and Fire Suppression on FFMVic Partner Agency Land in the FRV Fire District.

Fire Suppression - FFMVic first on the scene

- (b) When FFMVic arrives first on the scene of a Fire Incident on FFMVic Partner Agency Land which is in the FRV Fire District, FRV requests the Secretary to provide Fire Suppression services and appoint an Incident Controller until FRV arrives on the scene.
- (c) Following FFMVic's arrival, when the first FRV vehicle arrives on the scene:
 - (i) control of the Fire Incident will transfer to FRV;
 - (ii) upon request by the FRV Incident Controller, the Secretary may appoint a Deputy Incident Controller or Liaison Officer to be co-located with the FRV Incident Controller;
 - (iii) FRV may request the Secretary to provide the services of appropriately skilled personnel to assist FRV with the Fire Suppression activity, or to provide specialist fire-fighting equipment or apparatus; and
 - (iv) FRV may request the Secretary appoint an Incident Controller, if FRV considers that this action is a practical means of suppressing the Fire Incident because the nature of the fire or terrain is particularly within the scope of FFMVic's operational expertise.
- (d) The Secretary will consider a request under clause 6.3(c)(iv) or 6.3(c)(iv) with reference to the Secretary's other operational demands and may refuse the request if the Secretary determines this is not reasonably practicable.
- (e) If the Secretary agrees to FRV's request under clause 6.3(c)(iv) or 6.3(c)(iv), control of the Fire Incident will transfer to FRV at a time determined by the parties.

Fire Suppression - FRV first on the scene

- (f) Where FRV arrives first on the scene of a Fire Incident on FFMVic Partner Agency Land which is in the FRV Fire District, FRV will provide Fire Suppression services and appoint an Incident Controller.
- (g) In the circumstances set out in clause 6.3(f), FRV may request the Secretary:
 - (i) to appoint a Deputy Incident Controller or Liaison Officer to be co-located with the FRV Incident Controller;
 - (ii) to appoint an Incident Controller if FRV considers that this action is a practical means to suppress the Fire Incident, because the nature of the fire or terrain is particularly within the scope of FFMVic's operational expertise; and/or

- (iii) to provide the services of appropriately skilled personnel to assist FRV with the Fire Suppression activity, specialist fire-fighting equipment, or apparatus.
- (h) The Secretary will consider a request under clause 6.3(g) with reference to the Secretary's other operational demands and may refuse the request if the Secretary determines this is not reasonably practicable.
- (i) If the Secretary appoints an Incident Controller under clause 6.3(g)(ii):
 - (i) FRV remains the Control Agency; and
 - (ii) control of the Fire Incident will revert to FRV at a time determined by the parties.

Fire Prevention

- (j) The parties agree that FFMVic Partner Agencies may request FFMVic to attend FFMVic Partner Agency Land in the FRV Fire District to carry out Fire Prevention activities.
- (k) FRV requests the Secretary, on behalf of FRV, to provide Fire Prevention services in the circumstances set out in clause 6.3(j), due to the particular expertise of FFMVic personnel in the terrain.

6.4 Additional Fire Suppression services for other land

Guiding principle

- (a) The parties wish to assist each other to perform Fire Suppression activities on other land as set out in this clause 6.4 and consistently with clause 5.

Fire on Private Land in the FRV Fire District

- (b) If FFMVic becomes aware that a Fire Incident is occurring on Private Land in the FRV Fire District, FRV requests FFMVic attend the scene to provide Fire Suppression services and appoint an Incident Controller, until FRV arrives.
- (c) When the first FRV vehicle arrives on the scene:
 - (i) control of the Fire Incident will transfer to FRV; and
 - (ii) FRV may request the Secretary to appoint a Deputy Incident Controller or Liaison Officer to be co-located with the FRV Incident Controller.
 - (iii) The Secretary will consider a request under clause 6.4(c)(ii) with reference to the Secretary's other operational demands and may refuse the request if the Secretary determines this is not reasonably practicable.

Fire on Relevant Public Land not in the FRV Fire District

- (d) If FRV becomes aware that a Fire Incident is occurring on Relevant Public Land that is not in the FRV Fire District for which there is no apparent response from FFMVic, the Secretary requests and, subject to FRV's

operational demands, FRV agrees to respond to a request to attend that scene to provide Fire Suppression services until FFMVic arrives.

- (e) When the first FFMVic vehicle arrives on the scene:
 - (i) control of the Fire Incident will transfer to the Secretary; and
 - (ii) the Secretary may request FRV to:
 - (A) appoint a Deputy Incident Controller or Liaison Officer, as determined by FFMVic, to be co-located with the FFMVic Incident Controller. Any Deputy Incident Controller or Liaison Officer appointed under this clause will be subject to the command of the Incident Controller; and/or
 - (B) provide the services of appropriately skilled personnel to assist the Secretary with the Fire Suppression activity. Any personnel provided under this clause will be subject to the command of the Deputy Incident Controller (or the Incident Controller if a Deputy Incident Controller is not appointed); and/or
 - (C) provide specialist fire-fighting equipment or apparatus.
- (f) FRV will consider a request under clause 6.4(e)(ii) with reference to FRV's other operational demands and may refuse the request if FRV determines this is not reasonably practicable.

Fire moves from Fire Protected Area onto other land in the FRV Fire District

- (g) If:
 - (i) FFMVic:
 - (A) is undertaking Fire Prevention activities on Relevant Public Land; and/or
 - (B) has directed a person to carry out Fire Prevention activities on Relevant Private Land under s 65C of the Forests Act; and
 - (ii) a Fire Incident occurs in the FRV Fire District in connection with either of these activities,

FRV requests FFMVic, and FFMVic agrees, to attend the scene to provide Fire Suppression services until FRV arrives, following which the usual incident management arrangements under the State Emergency Management Plan apply.

6.5 Other Mutual Assistance

Guiding principle

- (a) The parties wish to provide resources and assistance to each other to assist them to effectively perform their respective Fire Prevention and Fire Suppression functions.
- (b) A request under this clause 6.5 may either be made verbally or in writing.

- (c) Further details on the process for requests and the scope and nature of assistance will be set out in the Agreement or Operational Protocols.

Assistance in relation to a Non-fire Emergency

- (d) If requested by FRV, the Secretary may provide (or assist with the provision of) appropriately skilled FFMVic personnel and specialist equipment to assist FRV to meet its Control Agency responsibilities in relation to a Non-fire Emergency.
- (e) The Secretary will consider a request under clause 6.5(d) with reference to the Secretary's other operational demands and may refuse the request if the Secretary determines this is not reasonably practicable.
- (f) If requested by the Secretary, FRV may provide appropriately skilled FRV personnel and specialist equipment to assist the Secretary or DELWP to meet its Control Agency responsibilities in relation to a Non-fire Emergency.
- (g) FRV will consider a request under clause 6.5(f) with reference to FRV's other operational demands and may refuse the request if FRV determines this is not reasonably practicable.

Assistance with Fire Prevention

- (h) If requested by the Secretary, FRV may provide appropriately skilled FRV personnel and specialist equipment to assist the Secretary to carry out the Secretary's Fire Prevention activities.
- (i) If requested by FRV, the Secretary may provide appropriately skilled FFMVic personnel and specialist equipment to assist FRV to carry out FRV's Fire Prevention activities.
- (j) Each of FRV and the Secretary will consider a request under clauses 6.5(h) and 6.5(i) with reference to their respective operational demands and may refuse the request if either of them determines it is not reasonably practicable to agree the request.

Other assistance

- (k) Where requested, the parties will provide each other with general assistance to carry out their respective Fire Prevention and Fire Suppression functions, which may extend to research, training and the provision of specialist fire-fighting apparatus and equipment where this:
 - (i) is reasonably practicable;
 - (ii) is permitted by their governing legislation;
 - (iii) is within the scope of their respective areas of expertise; and
 - (iv) does not create material occupational health and safety risks.
- (l) The party to whom a request is made under clause 6.5(k) will make the determinations in sub-clauses 6.5(k)(i) - 6.5(k)(iv).

7. Operational Protocols

- (a) The parties will use all reasonable endeavours to agree Operational Protocols including, but not limited to, the following:
 - (i) Procedural details for any **requests for assistance** under the Agreement;
 - (ii) **Training Programs** and materials of mutual interest to the parties;
 - (iii) Any additional **information sharing requirements**, including processes and formats for sharing information, as envisaged under clause 11.2(a)(iii).
 - (iv) **Public announcements** and media releases.

8. Statutory immunities

- (a) The parties acknowledge that the application of immunities under the FRV Act and the Forests Act to their performance of obligations under this Agreement will be determined by those Acts.
- (b) The parties intend that FRV personnel and FFMVic personnel performing obligations under this Agreement are acting in good faith and:
 - (i) in the reasonable belief that their acts are in the exercise of a power or discharge of a duty to carry out Fire Prevention and Fire Suppression; or
 - (ii) for the purposes of carrying out fire management activities in accordance with this Agreement for the purposes of s 72(2)(c) of the Forests Act.

9. Insurance

- (a) The parties acknowledge that:
 - (i) they are both clients of the Victorian Managed Insurance Authority; and
 - (ii) the insurance of both parties is adequate to cover foreseeable losses arising out of each of their own potential liabilities under the Agreement.
- (b) The parties agree that any insurance or indemnity issue arising under this Agreement will be determined having regard to common law principles of liability.
- (c) The parties agree that, should either of them cease to hold an insurance policy with the Victorian Managed Insurance Authority, they will notify the other of this as soon as possible, and consequential amendments to this Agreement may then be necessary.

10. Representatives

- (a) Each party nominates the following representatives to act as the contact point for all communications and issues arising under this Agreement:

- (i) **Secretary Representative**
 Name: Chris Eagle
 Position: Deputy Chief Fire Officer
 Telephone: 0428 592 502
 Email: chris.eagle@delwp.vic.gov.au
- (ii) **FRV Representative**
 Name: Tony O'Day
 Position: Assistant Chief Fire Officer - Interoperability
 Telephone: 0400 551 085
 Email: tony.oday@frv.vic.gov.au
- (b) Each party's representative is authorised to act as the agent of that party in relation to the exercise by that party of its rights, discretions and obligations under this Agreement.

11. Confidentiality and Privacy

11.1 Confidentiality

- (a) Each party may use the Confidential Information of the other party only for the purposes of this Agreement. Each party must keep Confidential Information of the other party confidential except:
 - (i) for disclosures permitted under clause 11.1(b); and
 - (ii) to the extent that party is required by law to disclose any Confidential Information.
- (b) A party may disclose Confidential Information of the other party to its officers or employees who have a need to know for the purposes of this Agreement (and only to the extent that each has a need to know).
- (c) Each party's obligations under this section will survive termination of this Agreement and will continue in relation to Confidential Information until the Confidential Information disclosed to it lawfully becomes part of the public domain.

11.2 Privacy and Information Sharing

- (a) The parties agree, subject to law and clause 11.2(b), to freely share information with each other if such information will assist in the performance of their Fire Suppression and Fire Prevention responsibilities. Specifically the parties agree:
 - (i) to share appropriate information about the skills, suitability, experience and qualification of their personnel as necessary to facilitate a request for the assistance of appropriately skilled personnel under this Agreement;
 - (ii) to share appropriate information about specialist fire-fighting equipment or apparatus if such information is necessary to facilitate a request for such equipment under this Agreement; and
 - (iii) to enter into any Operational Protocol for effective and lawful sharing of information of considered necessary to better support their respective statutory functions.

- (b) Each party will co-operate to ensure it does not cause the other party to breach any privacy obligations that the other party has at law.

12. Dispute Resolution

12.1 Dispute Notice

- (a) A party claiming that a dispute has arisen under this Agreement must give a Notice to the other party, specifying the nature of the dispute (**Dispute Notice**).
- (b) A Dispute Notice may be withdrawn at any time by the party who gave the Dispute Notice.

12.2 Good Faith Discussions

Within 10 Business Days from the date of issue of the Dispute Notice, the representatives of each party will use their best endeavours to resolve the dispute between themselves at an operational level through discussion between the representative names in clause 10(a).

12.3 Resolution by Directors of each party

- (a) If the representatives of the parties names in clause 10(a) are unable to resolve the dispute within 10 Business Days from the date of issue of the Dispute Notice, the dispute will be referred for resolution to the following persons:
 - (i) for the Secretary, Deputy Chief Fire Officer - Statewide Integration; and
 - (ii) for FRV, to FRV's Deputy Commissioner of Strategy.
- (b) If, after a further 10 Business Days from the dispute being referred to the persons set out in clause 12.3(a), the parties are unable to resolve the dispute, the parties may refer the dispute to the following:
 - (i) for the Secretary, DELWP Chief Fire Officer; and
 - (ii) for FRV, to the Fire Rescue Commissioner,
 for resolution.

12.4 Performance of Obligations

Notwithstanding the existence of a dispute, the parties to the dispute will continue to perform their obligations under this Agreement.

12.5 Costs

- (a) The parties will bear their own costs in the preparation of this Agreement and the performance of their obligations under it.
- (b) The parties may reach an alternative arrangement on costs in relation to the Agreement.

13. Occupational Health and Safety

- (a) The parties acknowledge that the safety of personnel involved in Fire Suppression and Fire Prevention activity under this Agreement is of paramount importance to the parties.
- (b) Each party remains retains all legal responsibility for its personnel, and their acts or omissions, irrespective of which party the relevant personnel report to at the time of any act or omission.
- (c) Each party retains all responsibilities for its personnel, for any industrial relations issues, workers' compensation and other employee entitlements.
- (d) Where the respective personnel of either party become aware of a potential hazard in the other party's area of jurisdiction and forms the view that the potential hazard requires notification to that party, the personnel will complete the appropriate hazard report notification and comply with its own organisation's respective requirements as though the hazard occurred within its own area of jurisdiction.
- (e) The parties will each ensure that they, and their respective personnel, promptly report to each other any occupational health and safety incidents, injuries and near misses which occur at a Fire Incident involving both parties, as though such incident had occurred within that party's own organisation. Upon request, subject to law, they will provide to each other copies of all relevant documents and information with respect to the incident including any corrective actions.

14. Termination

- (a) This Agreement may be terminated by either party at any time by giving three months' written notice to the other party.
- (b) If a party does not agree to the termination, then this will constitute a dispute to be resolved in accordance with clause 12.

15. Investigations and Complaints Handling

- (a) The parties will co-operate with each other as required to investigate any incidents arising from any Fire Suppression or Fire Prevention activity under this Agreement including, investigations relating to the safety and wellbeing of personnel, the cause of a Fire Incident, coronial investigations and inquests and any other commissions and inquiries.
- (b) Where either party receives a complaint from a member of the public in relation to any activity under this Agreement, the parties agree:
 - (i) to inform each other of the complaint received;
 - (ii) the complaint will be referred to and handled by the party that the complaint mostly relates to; and
 - (iii) the parties will assist each other and co-operate to resolve any complaint.

16. Review

The parties agree to review this Agreement within 2 years of its execution.

17. General

17.1 Variation

This Agreement may be amended or replaced only in writing executed by each party.

17.2 Counterparts

This Agreement may be executed in any number of counterparts. All executed counterparts are taken to constitute one document.

17.3 Time to Act

If the time for a party to do something is not specified in this Agreement, the party will do what is required within a reasonable time.

17.4 Compliance with Laws

Each party must comply with all laws affecting this Agreement.

Signing page

By Authority, the Seal of the Secretary
to the Department of Environment,
Land, Water and Planning a body
corporate established under the
Conservation, Forests and Lands Act 1987
was affixed to this Agreement on:

by:

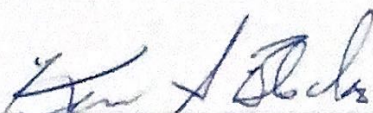


John Bradley
Secretary

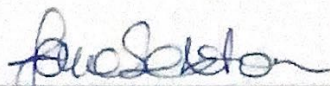


Signed for and on behalf of **Fire Rescue
Victoria** on:

by:



Ken G Block
Fire Rescue Commissioner



Witness Signature

JANE SEXTON, EXECUTIVE ASSISTANT
Witness Name and Title
TO FIRE RESCUE COMMISSIONER