



CARAVAN PARKS, FIRE DANGER PERIODS, AND TOTAL FIRE BANS.

Information regarding the use of various appliances in caravan parks during declared Fire Danger Periods and Total Fire Bans

Community Safety Directorate

Version 3: 4 July 2006

(This version updates Version 2 – dated 1 April 2004.)



CARAVAN PARKS AND TOTAL FIRE BANS

Caravans

- Using gas and electric stoves and fridges within a caravan is allowed on total fire ban days, because by the definitions under Section 34A of the *Country Fire Authority Act 1958* (“CFA Act”), they are within a “permanent structure” and not in the “open air”
- The same applies for other appliances producing flames - inside a caravan: they are not considered to be in the “open air,” hence their use would be permitted.
- As the CFA Act does not define the term “caravan” the normal dictionary definition applies. Consequently, “caravans” would include pop - top caravans.
- Although a caravan is considered a “permanent structure” in Section 34A of the CFA Act, it is not a “dwelling” for the purposes of section 40(4A) of the CFA Act. As a consequence, on days of Total Fire Ban:
 - Gas or electric barbecues, frypans, woks or any other portable or fixed domestic appliance designed exclusively for meal preparation and fired by gas or electricity may not be used outside any caravan, including in the annexe.
 - Any item which produces a flame would be likewise prohibited outside a caravan, as it would be in the “open air”. Candles, gas lanterns and kerosene stoves would fall into this category.

Tents

Tents are not permanent structures or dwellings under the CFA Act. Therefore, where the declaration of Total Fire Bans apply:

- Gas or electric barbecues, frypans, woks or any other domestic appliance designed exclusively for meal preparation and fired by gas or electricity may not be used inside or outside any tent unless the person is in one of the special (usually business or statutory authority) categories for whom permits are available. The average camper will not fit into any of these categories.

Other items of issue

The Crown Solicitor in 1986 gave the legal opinion that the following specific items constituted fire in the open air and are therefore prohibited on days of Total Fire Ban:

- Gas lanterns, gas refrigerators and gas stoves in tents,
- Gas or kerosene lanterns in the open air;
- Fixed appliances, such as gas stoves and gas refrigerators in tent type camper trailers;
and
- Gas stoves or barbeques in the back of station wagons.

The CFA Act includes caravans in the definition of “permanent structures,” within which domestic appliances are considered not to be in the open air and therefore permissible to use. The term “caravan,” however, is not defined in the CFA Act, so the problem arises of defining what constitutes a caravan, in order to ascertain whether domestic appliances may be used in a particular vehicle.

Where the legislation does not give clear direction or definition, CFA recommends that campers and caravan park operators adopt a precautionary approach and err on the side of safety whenever in doubt.



DETAILED NOTES AND LEGISLATIVE FRAMEWORK

These notes are intended to outline the legislative framework underpinning restrictions on fires in the open air in declared Fire Danger Periods and Total Fire Bans, which apply to caravan parks and camping areas.

Note that direct quotes from the relevant sections of the *Country Fire Authority Act 1958* (hereafter referred to as the CFA Act) are placed within single quote marks and are written in italics at the end of each section

I. DEFINITION OF OPEN AIR:

The CFA Act defines a fire “**in the open air**” for the purposes of Division 3 of Part 3 of the Act as being **any place other than a permanent structure**.

A permanent structure, needs to be of a **permanent kind, have a roof and being fully enclosed on all sides**. The Act specifically **includes caravans** and **excludes tents** from this definition

The general prohibition in fires in section 37 of the CFA Act therefore does not apply in caravans, because within the caravan is deemed not to be in the open air.

*‘Division 3—Fire Prevention
34A. Meaning of “in the open air”*

(1) For the purposes of this Division, a fire is in the open air if it is in any place other than within a permanent structure.

(2) In this section “permanent structure”—

(a) means a structure of a permanent kind consisting of a roof and fully enclosed on all sides;

(b) includes a caravan; and

(c) does not include a tent.’

II. FIRE DANGER PERIOD

Section 37 of the CFA Act mandates a **general prohibition on lighting fires in the open air in the country area of Victoria in declared fire danger periods**.

The maximum penalty for breaking this prohibition is up to 50 penalty units or twelve months imprisonment or both.

‘37. General prohibition against lighting open air fires

A person shall not light a fire in the open air in the country area of Victoria (not including any land within a fire protected area) during a fire danger period unless authorized or directed by or pursuant to some other provision of this Act.’



FIRE PROTECTED AREAS

NB: In **fire protected areas**, restrictions on fires are controlled by legislation and regulations other than the CFA Act, **except when the CFA declares Total Fire Bans**. When a **Total Fire Ban** is declared, it **can cover any area of the state**.

The definition of “fire protected area” is given in the *Forests Act 1958*, section 3:

‘ **“fire protected area”** means any land which is—

- (a) within any State forest;
- (b) within any national park;
- (c) (unless excised pursuant to an Order under sub-section (3) of this section or affected by a declaration made under sub-section (4) of this section) within 1.5 kilometres of—
 - (i) any reserved forest or any area of unoccupied Crown land proclaimed as a protected forest pursuant to this Act or any corresponding previous enactment;
 - (ii) any national park; or
 - (iii) any protected public land;
- (d) within any protected public land;’

For information on fire regulations in fire protected areas, either visit the Department of Sustainability and Environment’s website: www.dse.vic.gov.au/fires, or contact their Fire Management Branch.

Exceptions to the general prohibition during a fire danger period

Section 38A of the CFA Act gives an exemption to the general prohibition, during a **declared fire danger period** if a person lights a fire **for the purpose of meal preparation or personal comfort**, provided that:

- (1) Air movement is 10 km/h or less;
- (2) Fire is in a trench at least 30cm deep, or a properly constructed fireplace
- (3) Nearest log or stump is more than 7.5 metres from the fire;
- (4) Flammable materials are cleared horizontally and vertically for 3 metres around the fire; and
- (5) The fire must occupy 1 square metre or less; and
- (6) The fire size and solid fuel dimensions are the minimum necessary for the purpose.

‘38A. *Fires for certain purposes to be lawful*

(1) *Section 37 does not apply to a person who lights a fire—*

(a) *for the purpose of meal preparation or personal comfort if—*

- (i) *the air movement in the vicinity of the fire is no stronger than ten kilometres per hour;*
- (ii) *the fire is lit in a properly constructed fireplace or in a trench at least 30 centimetres deep;*



- (iii) the fire is not within 7.5 metres of any log or stump;*
- (iv) the ground and air space within a distance of three metres from the outer perimeters and uppermost point of the fire are clear of flammable material; and*
- (v) the fire does not occupy an area in excess of one square metre and the size of the fire and the dimensions of solid fuel used are the minimum necessary for the purpose; ...'*

III. TOTAL FIRE BANS

General total fire ban provisions

Section 40(4) of the CFA Act states that notwithstanding the provisions contained in section 38 or 38A, a person in a part of Victoria where a declaration of Total Fire Ban applies,

Shall not light a fire in the open air or allow a fire in the open air to remain alight or use or leave in operation any producer - gas equipment* on or in connexion with any vehicle.

(* Producer gas is a combustible gas formed by passing air, or air and steam, through red - hot carbon.)

Specific provisions regarding total fire bans

A. Fires near dwellings

An owner or occupier of a **dwelling**, using a **domestic appliance** for the sole purpose of meal preparation, may light a fire or allow a fire to remain alight for the sole purpose of meal preparation, on a day of total fire ban, providing **mandatory conditions are met:**

- The appliance is within twenty metres of the dwelling;
- All flammable material is cleared for a distance of 3 metres around the appliance;
- There must be water on hand and available for immediate use in the form of either a hose connected to a reticulated water supply or a container holding at least 10 litres of water; and
- The appliance is attended by an adult at all times when the appliance is being used

Note that:

- “**domestic appliance**” means any **fixed or portable appliance** designed exclusively for meal preparation and **fired by gas or electricity**; and
- “**dwelling**” means a **building** used or designed for use as a **residence**, but **does not include a caravan or tent** or other **portable place of residence**.

B. Fixed appliances

A person may in a **fixed appliance**, on a day of total fire ban, light a fire or allow a fire to remain alight for the **sole purpose of meal preparation**, with mandatory conditions:

- All flammable material cleared for three metres from the outer perimeter of the appliance;



- There must be water on hand and available for immediate use in the form of either a hose connected to a reticulated water supply **or** a container holding at least 10 litres of water; and
- The appliance is attended by an adult at all times when the appliance is being used.

Note that “**fixed appliance**” means a properly constructed and permanently fixed structure of brick, stone or concrete designed exclusively for meal preparation and **fired by gas or electricity**.

The relevant section of the CFA Act states:

‘40. Provisions about total fire bans

(1) The Authority may when it thinks fit declare a day or partial day of total fire ban in respect of the whole or any part or parts of Victoria and may at any time amend or revoke such a declaration.

(2) The Authority shall cause to be broadcast from a broadcasting station in Victoria any declaration made under sub-section (1) and any amendment to or revocation of any such declaration.

(3) The Chief Executive Officer of the Authority may authorize in writing the Chief Officer or an officer exercising the powers of the Chief Officer (either generally or in a particular instance) to cause any broadcast referred to in sub-section (2) and may withdraw any such authority by notice in writing.

(4) Notwithstanding the provisions contained in section 38 or 38A, a person in a part of Victoria where and at a time when a declaration of total fire ban applies—

- (a) shall not light a fire in the open air or allow a fire in the open air to remain alight; or*
- (b) use or leave in operation any producer-gas equipment on or in connexion with any vehicle.*

(4A) Sub-section (4) does not apply to an owner or occupier of a dwelling who, in a domestic appliance on the premises on which the dwelling is situated, lights a fire or allows a fire to remain alight for the sole purpose of meal preparation, where—

- (a) the appliance is located within twenty metres of the dwelling;*
- (b) the area within a distance of three metres from the outer perimeters of the appliance is clear of flammable material;*
- (c) there is at hand and available for immediate use—*
 - (i) a hose connected to a reticulated water supply; or*
 - (ii) a vessel containing at least ten litres of water; and*
- (d) the appliance is attended by an adult at all times when the fire in the appliance is alight.*

(4B) In sub-section (4A)—

- (a) “**domestic appliance**” means any fixed or portable appliance designed exclusively for meal preparation and fired by gas or electricity; and*
- (b) “**dwelling**” means a building used or designed for use as a residence, but does not include a caravan or tent or other portable place of residence.*

*(4C) Sub-section (4) does not apply to a person who, in a **fixed appliance**, lights a fire or allows a fire to remain alight for the sole purpose of meal preparation, where—*



- (a) the area within a distance of three metres from the outer perimeters of the appliance is clear of flammable material;*
- (b) there is at hand and available for immediate use—*
 - (i) a hose connected to a reticulated water supply; or*
 - (ii) a vessel containing at least ten litres of water; and*
- (c) the appliance is attended by an adult at all times when the fire in the appliance is alight.*

*(4D) In sub-section (4C), “**fixed appliance**” means a properly constructed and permanently fixed structure of brick, stone or concrete designed exclusively for meal preparation and fired by gas or electricity.*