

# Herald Sun

## Ex-top cop Christine Nixon breached her duties, QC to say

- Peter Mickelburgh, John Ferguson
- From Herald Sun
- May 25, 2010 12:00AM

### CHRISTINE Nixon faces accusations she lied to cover up her failure to carry out her basic duties on Black Saturday.

In a damning summation of Ms Nixon's evidence to the bushfires Royal Commission, counsel assisting the commission will say the former police chief commissioner was "disingenuous" and attempted to mislead and conceal and omit the truth.

Ms Nixon failed to tell the commission during her first appearance last month that she'd had her hair cut, met her biographer, and gone out to dinner on Black Saturday.

Ms Nixon's "hands-off management" style is also attacked in a draft submission by Jack Rush, QC, and his team, which has been distributed to interested parties for comment.

But Ms Nixon's office rejected the criticism and said she would fight back, vowing to "strenuously defend" any allegations put by Mr Rush.

The submission says it appears that Ms Nixon's only decision on Black Saturday was to ask that Assistant Commissioner Paul Evans be recalled from leave to deal with the emergency unfolding in his region.

"This reveals a stunning lack of engagement with the responsibilities of state co-ordinator of DISPLAN," the submission says.

But the harshest criticism is reserved for Ms Nixon's failure to fully detail her actions during her first appearance at the commission.

"The evidence demonstrates Ms Nixon attempted to mislead the commission on the first occasion on which she gave evidence," says a copy of the submission, seen by the Herald Sun.

It says any suggestion that Ms Nixon had forgotten she went out to dinner was "disingenuous", and that her claim she had not meant to mislead should, on the basis of the evidence given, be rejected.

"This omission was not affected by poor memory. It was a deliberate omission," the submission says.

"The omission was calculated to leave the impression that she had monitored the fires continuously, via the media of phone, radio, internet, and TV. Ms Nixon attempted to conceal the fact that her capacity to monitor events had been compromised during the period she was absent from home."

The submission is also critical of former CFA boss Russell Rees and Police and Emergency Services Minister Bob Cameron. Mr Rees and two other CFA officials had failed to adequately discharge their responsibilities.

But Ms Nixon, among the emergency services chiefs, has been singled out for criticism that she breached her duty on Black Saturday.

Former state Labor leader Jim Kennan will defend Ms Nixon's position this week, when Mr Rush's final allegations are aired.

The State Government spent yesterday debating how to respond to Mr Rush's withering commentary.

The Government's response to Mr Rush also is expected to be detailed to the commission this week.

Sources said Ms Nixon would be the only chief to face the serious claim that she had breached her duty.

This was because Mr Rees and DSE fire chief Ewan Waller did not have the statutory responsibility for warnings or whether to declare a state of emergency.

However, Mr Rush also faces his own challenges as counsel assisting.

There is expected to be strong resistance to an apparent push to entirely scrap the existing "stay or go" policy.

Most of the 173 Black Saturday victims died in their homes, and Mr Rush is believed to favour huge changes to the way this system works.

But emergency services figures are alarmed that if the commissioners back Mr Rush, there will be the potential for many people to die on the roads during bushfire evacuations.

Until Black Saturday, this had been the most common way for people to die during bushfires.

Mr Rush is expected to present submissions relating to Ms Nixon on the final day of hearings this week.

The commission will revisit the "stay or go" policy tomorrow, and the topics of leadership, emergency management, co-ordination, and command and control on Thursday.

The final day of the inquiry into Black Saturday will wrap up after commission has held more than 150 days of hearings into the fires on February 7 last year, which killed 173 people and destroyed more than 2000 homes.

# Herald Sun

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## An axe swings at former police chief Christine Nixon

- John Ferguson
- From: Herald Sun
- May 25, 2010 12:00AM

**CHRISTINE Nixon is running on empty.**

Counsel assisting's submission is legally, politically and personally devastating.

It is the headline feature among the hundreds of pages collated by Jack Rush, Rachel Doyle and others.

While the legal team does not specifically use the word lie, that is what they are saying. That Ms Nixon deliberately left out important details and, when it came to her memory, she was disingenuous.

It also suggests, damningly, that she made only one decision on Black Saturday.

The former police commissioner will fight Rush and others in the commission and, to a limited extent, she will have government sympathy.

Jack Rush, QC, is not a man who is much liked in the government offices in Treasury Place.

His language is both colourful and inflammatory; some would say he can be over the top. Some of his commentary may not even be accepted by the royal commissioners.

But there is little sympathy in government for the way Ms Nixon conducted herself in the commission.

Senior government figures were appalled with the way she stumbled like a lame steeplechaser. There were no notes. She contradicted herself. Her memory was faulty. Ms Nixon got things wrong. It looked terrible.

Yet the Premier pledged to stand by her.

But if the commissioners agree with Mr Rush and his learned friends and find against Ms Nixon, her position as bushfire recovery chief would be untenable, even if Ms Nixon has done her best in what have been awfully tough conditions after the fires.

Mr Brumby will make his final call on her future once the commissioners' verdict has been delivered by the end of July or in late July or early August.

Just a few months later, the Premier will face the ultimate court of public opinion: a general election.

This, not loyalty to Ms Nixon, will be foremost in Mr Brumby's mind.

As the *Herald Sun* reported earlier this month, Labor figures are privately making it clear that Ms Nixon must go as bushfire recovery chief if the commission finds against her. This now seems more likely than not.

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1 website, so you had email and web access?" You said  
2 "Yes." I asked, "Throughout the evening were you  
3 available by phone?" You said "Of course." Then at page  
4 17356, line 8, I asked you, "In terms of your capacity to  
5 monitor the situation, is it something that you devoted  
6 the whole evening to or were you otherwise engaged and  
7 just checking on websites or emails?" You said, "No,  
8 I had a meal and then I went backwards and forwards.  
9 I was obviously listening to the radio, the ABC Radio as  
10 the broadcaster, I was aware of that, and watching  
11 television and also obviously, as it says there, other  
12 sources as well." Now, pausing there, you referred to a  
13 meal when you gave your oral evidence but you still  
14 omitted reference to a meal out at a pub?---And I also  
15 omitted that in the statement and I think I have already  
16 explained to you that particular statement and the way it  
17 was prepared and the fact that I was trying to recall from  
18 quite some time ago.

19 But you have just agreed, Ms Nixon, that the omission of the  
20 reference to the meal out in the statement was a matter of  
21 choice. You decided it was not relevant?---I did.

22 You weren't having a memory difficult on 6 April, were you? You  
23 knew you had been out for a meal at a pub?---Look, I had  
24 done that, yes.

25 I suggest to you you deliberately omitted reference to the meal  
26 being out at a pub both in your statement and in your oral  
27 evidence because you didn't want to reveal that you had  
28 gone out for a meal rather than stayed at home?---Look,  
29 I don't agree with that point at all. It was an  
30 arrangement that was easily cancelled. It wasn't  
31 significant. It wasn't a celebration. It wasn't anything

 **VIC:Brumby stands by Nixon**

Tuesday, 25 May 2010 at 12:13pm; Category: Australian General News; Low priority; Story No. 2526.

VIC:Brumby stands by Nixon

Teague Nixon 2nd Update

MELBOURNE, May 25 AAP - Victorian Premier John Brumby continues to stand by his former police chief Christine Nixon as she faces damning allegations she misled the inquiry into the deadly Black Saturday bushfires.

It has been revealed that lawyers for the commission will argue in their closing remarks that Ms Nixon sought to deliberately mislead the royal commission about her actions on February 7, 2009.

Mr Brumby said the leaks undermined the royal commission, cast a cloud over its work, and the allegations were borderline defamatory.

He said it was important to remember that the criticisms were the views of counsel assisting the commission, Jack Rush QC, and not the findings of the commissioners, he said.

Mr Brumby said he stood by Ms Nixon, despite calls for her to quit her current role as chair of the Bushfire Reconstruction and Recovery Authority.

"I have made it clear that I continue to support her," he told Melbourne Talk Radio on Tuesday.

"I don't believe that there's been any question that has been raised about her commitment or dedication or indeed her drive to do her current job, which is as chair of the bushfire reconstruction authority.

"I respect that there's a difference of views. My view is that I stand by her and support her."

But Fran Bailey, the federal MP whose McEwen electorate was devastated by the fires, renewed her calls for Ms Nixon to resign for leaving her post the night 173 people died.

"At the time I thought that the honourable thing was for her to resign. I still hold that view and I think it's a great shame that she hasn't and I think it sets a very bad example," she told ABC radio.

"I think that she has nowhere to go but to resign and I think it's a great shame for her personally to end a career in that way."

Prominent Melbourne lawyer David Galbally QC called for an inquiry into the leaking of the draft submission ahead of its official release at the commission this week.

Mr Galbally said the leak was "grossly unfair".

"I can't recall ever in a royal commission or in any judicial inquiry for that matter where a draft submission, days before it's made public and at a time when it's not been settled, is leaked and then becomes headline news in a daily newspaper," he told Fairfax Radio Network.

"It's appalling. It clearly undermines the very process and the independence of the commission."

Mr Brumby said he hoped the leak would be investigated by the commission.

"It's not for me to set up an inquiry, it's not for me to tell the commissioners how to do their work - they are the masters of their own destiny," he said.

"But I think this is a most serious matter which, you know, impugns the integrity of a whole range of people unfairly. This is not tested, this is not found, this is not a conclusion of a court of law and the commission needs to get to the bottom of it."

AAP ce/gfr/maur/cdh

25-05 1213



# Herald Sun

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## Victorian Premier John Brumby calls for inquiry into Christine Nixon leaks

- From: AAP
- May 25, 2010 10:37AM

**DAMNING allegations against former Victorian police chief commissioner Christine Nixon are borderline defamatory and the leak should be investigated, Victorian Premier John Brumby said today.**

Further details of submissions by counsel assisting the bushfires royal commission have been leaked to the media.

It has been revealed that lawyers for the commission will argue in their closing remarks that Ms Nixon sought to deliberately mislead the royal commission about her actions on Black Saturday.

Mr Brumby said the leaks undermined the royal commission and cast a cloud over its work.

It was important to remember that the criticisms were the views of counsel assisting the commission, Jack Rush QC, and not the findings of the commissioners, he said.

"His views are by no means tested, they're not proved, they're not found in a court of law," Mr Brumby told Fairfax Radio.

"The front page of today's *Herald Sun* (<http://www.heraldsun.com.au/>) in relation to Christine Nixon is quite unfair, quite inappropriate - defamatory in any other sense, if somebody had said that outside a court of law.

"I obviously hope that the commission itself would take some steps to try and determine where this leak has come from."

Mr Brumby said he had seen part of Mr Rush's submission as the government prepares its response, due to be heard later this week.

The Nixon criticisms have taken the heat off the government after an earlier leak lambasted it over bushfire failures.

Mr Brumby would not be drawn on whether the leak could have come from within the government.

"It's not for me to set up an inquiry, it's not for me to tell the commissioners how to do their work - they are the masters of their own destiny," he said.

"But, I think this is a most serious matter which, you know, impugns the integrity of a whole range of people unfairly. This is not tested, this is not found, this is not a conclusion of a court of law and the commission needs to get to the bottom of it."