

DP, you have pleaded guilty to six counts of unlawfully setting fire to vegetation. The six fires you lit were all on Flinders Island. The first was on 30 December 2019. The last was on 27 December 2021. At the commencement of that period of almost exactly two years you were aged 17, and by the end you were 19, about three months short of your 20th birthday. Throughout the period you were an active volunteer firefighter with the Tasmanian Fire Service. That you were the person responsible for the fires was not established until you admitted it during an interview conducted by police officers on 30 December 2021.

Without understating the seriousness of all of the fires, the first was the most serious. It was lit when you were 17. That means that, subject to any order to the contrary, the law prohibits publication of your name. The fire was in the Foochow Conservation Reserve, an area on the eastern side of Flinders Island comprising about 52 square kilometres. It is an area which supports a wide variety of flora and fauna including protected and endangered species. It shares a boundary with Markana Park Farm. You set fire to vegetation on a day on which the temperature reached 38 degrees with low humidity and strong winds. The fire burnt almost 3,000 hectares of native bush and destroyed about 34 kilometres of rural fencing. Wallabies found alive had to be put down as a result of burns they suffered. The farm was also affected. The TFS and the Tasmanian Parks and Wildlife Service worked for a week to extinguish the fire. Volunteer firefighters devoted a total of almost 300 hours to control the fires. Independently of that volunteer labour, the total cost to the authorities approached \$700,000. The fencing and other property costs to the farm were about \$120,000.

On 18 April 2020 (2), by which time you were 18, you set fire to native scrub on a privately owned rural property near Whitemark. The fire was quickly brought under control by volunteers and only 20 square metres was burnt. On that day you sent a phone message to a resident of the area asking that smoke you had seen be checked. You were seen in your car in the area, and you later attended as a volunteer firefighter. After a police investigation you were interviewed in November 2020 but you denied any responsibility.

The next fire (3) you lit was about a year and a half later in September 2021. It was on another rural property near Whitemark consisting of grazing land and scrub. The fire was lit along a fence line adjacent to the road and was quickly brought under control. Only 25 square metres of grass and 75 metres of rural fencing was burnt.

On 10 October 2021 (4) you lit a fire in the Arthur Bay Conservation area, just north of Whitemark. It is an area of about 3.23 hectares of coastal heath and wetlands. At 6.30 pm you reported the fire and attended as a volunteer firefighter. The fire was brought under control within a couple of hours but not before about 3500 square metres of coastal grass was burnt, although it is the type of area likely to regenerate.

The next fire (5) was on 18 December 2021 on Crown land designated as public reserve covering almost 10,000 square metres, managed by Parks and Wildlife, near Whitemark. It is mostly native scrub. The fire was noticed just after midday and quickly brought under control by volunteers. About 100 square metres was burnt, but is likely to regenerate.

The final fire was lit on 27 December 2021 in the Wingaroo Conservation area on the eastern side of the island. It is an area of about 152 hectares which is considered a nationally recognised

area of biogeographic significance containing threatened heathland and species. At about 5.00 pm volunteer firefighters responded to the report of a fire in an area of native bush. It was extinguished relatively quickly and about 500 square metres was burnt.

You are now aged 20. You were brought up on Flinders Island. Your parents separated when you were young but you maintained a good relationship with both as well as your step-father. Your family is supportive and I am informed that you also live within a supportive aboriginal community. You have vocational training in agriculture and have mostly been employed on the island as a farm hand. You lost your job as a result of your apprehension for these crimes. For a period this year, following your apprehension, you lived in north east Tasmania and worked as a labourer for a plasterer. However you have been back on Flinders Island for the last two months and commenced working on a local farm where your father is also employed.

Your plea of guilty is in your favour. It avoids the need for what may have been a very long and costly trial, and provides some indication of an acceptance of responsibility. You eventually made some admissions but not before having denied responsibility for earlier fires. You have no history of criminal offending behaviour. You have no health problems and do not, as far as I have been informed, abuse drugs or alcohol. You are not prescribed medication. I have a report from Dr Georgina O'Donnell. She describes no major mental illness, personality disorder or diverse anti-social conduct condition, whether or not related to this offending. Dr O'Donnell refers to the fact that from age 17 you were a volunteer firefighter, following in the footsteps of your grandfather who you looked up to but had died some years earlier. A factor relevant to sentencing is that, according to the assessment conducted by Dr O'Donnell, you present with borderline intellectual functioning, not indicative of intellectual disability, but below average in most areas. You fall within a risk profile consistent with the phenomenon of volunteer firefighters who are also active fire lighters motivated by the adrenalin rush experienced when lighting and fighting a fire. In Dr O'Donnell's opinion you were not motivated by a wish for notoriety or praise. The risk is added to by your low intellect and some limited social skills. You have engaged in some, albeit limited, counselling which may have made you realise the consequences of your actions, but Dr O'Donnell also recommends further participation in psychological therapy to reduce the risk that you may act in this way again.

The crimes to which you plead guilty are of obvious seriousness. Terrible damage was done by the first fire in particular. A victim impact statement from the owner of a farm which was damaged and threatened by the first fire paints a graphic picture of the immense stress it caused over a very prolonged period and cost and burden of repairing the damage you caused. I will make compensation orders but you are unlikely to be able to pay for the damage you caused, at least for a very long time. On repeated occasions you put the lives of the many volunteer firefighters and others at real and potential risk. You caused great harm to natural flora and fauna, and created the risk of further harm. You caused significant damage to property and businesses and created the risk of further damage. Of at least equal significance is the devastating psychological distress and trauma suffered by those threatened with fire and those tasked to fight the fires. All of those factors would ordinarily require imposition of a significant prison sentence, to punish you for what you did and to make clear to others the consequence of such conduct.

What has persuaded me to take a lenient course, and give you the opportunity to avoid actual imprisonment, is principally your youth, combined with your low intellect. I have decided that I will not expose you to the undoubtedly corrupting influence of prison. For persons of your age, imprisonment should be ordered only if there is no other alternative reasonably available.

If you can demonstrate the capacity to be a responsible, productive and law abiding citizen, and not re-offend the whole community will benefit. At the same time the sentences I am about to impose must impose a significant impact on your liberty in the form of home detention for the longest period available to me, as well as a sentence of imprisonment suspended on condition that you do not commit any further offence.

DP, you are convicted on all counts. I make compensation orders in favour of Markana Grazing Company Pty Ltd, Tasmania Fire Service, Tasmania Parks and Wildlife Service, Michael Schlick and David Blundstone and adjourn the further terms of those orders to a date to be fixed. On complaint 30348/22, which relates to the first fire, you are sentenced to imprisonment for two years. I wholly suspend that sentence for three years from today. It is a condition of that order that while it is in force you do not commit any offence punishable by imprisonment. If you breach that condition then a court must order that you serve that term unless it is unjust. I would have imposed a further condition requiring the performance of community service but will not do so because there are no programs available on Flinders Island where you will be subject to the home detention order I am about to make.

On each other count I impose one sentence. I make a home detention order. The operative period of the order is 18 months from today. I specify the premises at which you are to reside during the operational period of the order as [address]. I order that immediately upon your leaving Court you report to the office of Community Corrections at 111 Cameron Street Launceston, for induction into this order, and a further explanation as to its full terms. The order will be subject to all of the core conditions set out in the *Sentencing Act* 1997, s 42AD(1). They will be set out in the order that you will be given, but include that you will submit to electronic monitoring and must, during the operational period of the order, if directed to do so by a police officer, probation officer or prescribed officer, submit to a breath test, urine test, or other test, for the presence of an illicit drug. I specify that you must be at the home detention premises at all times unless for a relevant reason. In short, that means that you must be at those premises unless there is a need for urgent medical treatment, there is a serious risk of death or injury, or you already have the approval of a probation officer to be absent. It will be for the probation officer to determine what to approve so as to allow for employment, treatment or rehabilitation, or for any other purpose. The conditions will include that you not commit another offence punishable by imprisonment and that you comply with all directions given to you by your probation officer. I impose special conditions that:

- you must not, or allow anyone else to, remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
- you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by a police officer, probation or prescribed officer, or any other person whose functions involve the installation or operation of a device or a system used for the purposes of electronic monitoring;
- you must submit to the supervision of a Community Corrections officer as required by that officer;
- you must attend for any medical, psychological or psychiatric treatment rehabilitation or program as required by a Community Corrections ;
- you must attend any other rehabilitation or reform program as directed by a Community Corrections officer;

- you must not take any illicit or prohibited substances. Illicit and prohibited substances include any controlled drug as defined by the *Misuse of Drugs Act 2001*, and any medication containing an opiate, benzodiazepine, bupropion, hydrochloride or pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication;
- you must maintain an active mobile phone service, provide the contact details to Community Corrections and be contactable through that device at all times.

This order comes into effect immediately. You must understand that if you do not comply with the conditions, imprisonment is likely. If you breach the order by committing another offence, the order must be cancelled unless there are exceptional circumstances, and in that case imprisonment would be highly likely.