

Review of the *Fire Service Act 1979*

Report by Mike Blake

October 2020

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Dear Minister and Secretary,

Review of the *Fire Service Act 1979*

I attach my report into my review of the *Fire Service Act 1979*. While this review did not explicitly include consideration of the *Emergency Management Act 2006*, I found it difficult to review one without the other. As a result, some of my recommendations, if adopted, will have consequences for the Emergency Management Act.

Yours sincerely,



Mike Blake
Independent Chair, Steering Committee
Review of the *Fire Service Act 1979*

28 October 2020

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Foreword

A strength of the review of the *Fire Service Act 1979* (this Review) was its leadership by a Steering Committee comprising very experienced public servants from multiple state entities, including from the State Fire Commission (SFC) and Tasmania Fire Service (TFS). This enabled expert input into the many structural, operational and funding aspects associated with a contemporary fire and emergency services entity. Deliberations were also supported by well-reasoned submissions made to the Review. These submissions were made on two occasions: initially, to an Issues Paper released for comment in June 2018 and then, more recently, in response to targeted consultation undertaken by me as Independent Chair of the Steering Committee overseeing the Review.

All submissions were taken into account and, although suggestions were not always actioned because I reached different conclusions, the submissions will provide a useful resource as Government considers legislation and regulation. Importantly, some of the proposals contained in the submissions can be actioned without requiring new or amended legislation.

Without in any way criticising existing arrangements, an example of the timeliness of a process of reform is the need for TFS to establish, at no extra cost, an executive structure aimed at minimising the risk that very senior personnel are engaged fulltime, on occasion for lengthy periods, when major bushfires occur. This might facilitate completion of very important projects currently underway which have the opportunity to inform operational and structural decisions. For example, projects for completion include the resource-to-risk model, asset management and workforce plans, all of which should have in mind better integrating TFS and State Emergency Service (SES) and their respective volunteers and units.

The 'Steering Committee' approach to this Review enabled different perspectives to be brought to some key issues. This was particularly the case regarding the preferred governance model. Four options are discussed in Section 4, with my conclusion being that a departmental approach is needed. While in no way connected, COVID-19 has highlighted how important it is for the public service to be fit-for-purpose, able to respond quickly, comprehensively and flexibly as required to meet the needs of all Tasmanians. Having fire and prescribed emergency services within a broader police, fire and emergency services entity is, in my view, more likely to achieve this.

That is not to say that current governance arrangements do not work – there is no silver governance bullet. When exploring governance arrangements, regard was had to those in other jurisdictions and, subject to scale, their transferability to Tasmania.

Should Government support the need for change as proposed in this review report (Report), there will be implications for the SFC, TFS, SES, volunteers and units, local government and the Department of Police, Fire and Emergency Management (DPFEM). It has been suggested to me that transition arrangements will need to be carefully managed – I agree, but the objectives and purpose will need to be clear and agreed in advance.

In this regard, while differing points of view were raised, I was, during my discussions with many stakeholders, very encouraged by their willingness to engage. I thank them for this.

Another important feature of this Review was the need to address complicated and multiple funding sources for TFS and SES. A matter that evolved during the course of examining funding options, discussed in Section 5, was whether or not TFS and SES are adequately funded. While I explored and endeavoured, unsuccessfully, to determine a reasonable base level of funding for each, adequacy of existing funding was not an objective of this Review. However, concerns were expressed to me that reasons for increases in the Fire Service Contribution were not clearly articulated. This surprised me. The SFC must, and does, prepare annually a Corporate Plan and its budget forms part of the annual State budget process, providing opportunity for scrutiny during the Estimates process. Needed, and recommended, is clarity about increases and ownership of this levy when Councils issue rates notices.

During the course of this Review, Government initiated development of the Bushfires Mitigation Measures Bill 2020. I have not had regard to this Bill in making my recommendations and I acknowledge there may be overlaps.

The *Fire Service Act 1979* has worked well for Tasmania, as has the SFC and TFS. I anticipate that preparation and finalisation of that legislation in 1979 required difficult decisions as is likely to be the case today. Recommendations made now are aimed at proposing fire and prescribed emergency services arrangements that will remain relevant for the next 40 years.

I am thankful for the opportunity to play a part in this Review. Thank you to the Steering Committee for their time and invaluable advice. Thank you also to those who provided me with secretarial and administrative support.

Mike Blake
Independent Chair, Steering Committee
28 October 2020

Executive summary

Context

Recent fire seasons and other emergencies such as flood events in Tasmania and elsewhere in Australia have highlighted the need to revisit related legislation and resources allocated to these functions. Objectives of such consideration include the need to better protect our citizens and businesses, while at the same time assuring stronger community resilience and understanding. Multiple after-event reviews of these emergencies all suggest a need for change, as do likely emerging impacts of changes in our climate.

However, it needs to be accepted that bushfires occur, and will continue to occur, in the Tasmanian landscape. Bushfire does not recognise tenure. Consequently, all landowners, occupiers and managers have a responsibility to work cooperatively to reduce its impacts¹.

Recent events have provided a unique opportunity for significant change to the way we manage bushfire and its impacts in Tasmania.

This Report is the outcome of a review of the *Fire Service Act 1979 (Review)*. The Report comprises this Executive Summary, followed by a summary of Recommendations arising from the Review. The rest of the Report describes the processes followed, the information gathered, and the factors considered in developing the Recommendations.

While there are many Recommendations, they all address one important question – What changes does Government need to make to best protect our State?

A summary of the information contained in each Section of this Report is provided below.

About this Review (Section 1)

On 24 April 2017, Cabinet approved this Review. The State Government appointed a Steering Committee to carry out the Review and to provide independent advice to the Minister for Police, Fire and Emergency Management (the Minister) about how Government can achieve:

- a clear mandate and operating platform for fire services' functions
- an effective and efficient fire service operation that will provide value for money in the future
- a sustainable, stable, and equitable funding system for fire and other appropriate emergency services².

While this Report is the outcome of the Review, it expresses the views of the Independent Chair of the Steering Committee, which are not necessarily the views of all other members of the Steering Committee. Reasons for this are detailed in Sections 1.1.4 and 1.2.6 of this Report.

A case for change (Section 2)

The discussion in this Section confirms the need for the Fire Service Act to be reviewed and updated. The additional roles and functions that Tasmania Fire Service (TFS) now undertakes, which were not foreseen when the Fire Service Act was written, has led to a wider range of service delivery being expected by the community. This, in turn, puts increasing pressure on TFS to respond and confirms

¹ From the 2019-2020 Inter-Agency Bushfire Management Protocol.

² 'and other appropriate emergency' added to make it explicit that the role of SES was considered as part of this Review.

the deficiencies in supporting legislation. Importantly, the existing legislation does not consider the provision of emergency services in a holistic manner.

Functions and operating platform (Section 3)

Section 3 recommends full integration of TFS and SES into a new entity – Tasmania Fire and Emergency Services (TFES), and outlines the roles and functions that a contemporary fire and emergency services entity should, and should not, perform.

The recommendations in this Section highlight the need to clarify TFES's role as it would relate to:

- a first responder role and capability for medical emergencies
- recovery, or transition to recovery, in that the new entity should have no explicit role other than support as outlined by the Department of Premier and Cabinet (DPAC) and in the Tasmanian Emergency Management Arrangements (TEMA)
- its role in recovery as it relates to environmental recovery following fuel reduction activities, and where TFES infrastructure is damaged, or its employees or volunteers hurt.

This Section also explores the potential for combining the firefighting capabilities of the Parks and Wildlife Service (PWS) and Sustainable Timber Tasmania (STT) with those of TFES.

The conclusion is made that this should not occur. Instead, it is recommended that the Interoperability Protocol between TFS, PWS and STT be formalised and broadened to include, as a minimum, the Department of Police, Fire and Emergency Management (DPFEM), the State Fire Commission (SFC), the State Fire Management Council (SFMC) and DPAC, with approval and oversight the responsibility of the State Controller.

Governance – An effective and efficient governance structure (Section 4)

This Section explores four governance options: an amended statutory authority, the establishment of TFES within DPFEM, a standalone TFES department and a tailored approach which explores the establishment of Statutory Office Holders within DPFEM. These options were evaluated against the following criteria:

- surge capacity
- power to act
- policy advice
- commercial imperative
- scale/efficiency
- who is in charge
- ring-fenced funding
- accountability and transparency
- resource allocation
- complexity
- coordination in times of emergencies
- coordinated investments
- effectiveness and fit-for-purpose
- independence

- affordability
- volunteer risk
- whether the proposed model will stand the test of time.

Regard was given to governance arrangements in other Australian jurisdictions and New Zealand, along with authoritative guidance in Victoria and from the Australian Government.

Conclusions reached are that the governance model best suited to an effective TFES would be the model under which TFES resides within DPFEM but with suitable:

- ring-fencing arrangements for levies raised to fund TFES
- inclusion of suitable reporting arrangements between the head of TFES and the Minister
- continuation of the SFMC, but with revised membership, under a charter to be approved by the Secretary DPFEM and the Minister.

Adoption of this model would result in the need to abolish the SFC but, as proposed in Recommendation 8, membership of the SFMC should include relevant membership transitioned from the SFC.

While transitioning TFES will result in change, this should not be significant in view of existing arrangements including TFS' participation on the Agency Management Group and support provided by DPFEM's Business Executive Services.

Financial management (Section 5)

It is essential that TFES be appropriately funded but it needs to be acknowledged that resources available to governments are limited and must be allocated fairly for all services that governments provide. Governments are held to account for decisions on how and where available resources are allocated through its agencies.

Having allocated resources, it is then incumbent on all service providers to transparently spend those resources and manage associated assets and liabilities. This is not to say the current SFC/TFS and SES organisations do not currently do so.

Current arrangements for funding the SFC and SES are unclear, complicated and make it difficult for either entity to appropriately plan. Adoption of the recommendations outlined in this Section would ensure stronger accountability, transparency, clarity and simplicity and, to the extent possible, guaranteed funding for TFES both now and in the longer term. These factors can best be achieved by:

- introduction of simpler sources of funding for TFES, being property and motor vehicle-based levies
- the levies being paid into the Consolidated Fund and then ring-fenced – doing so ensures accountability to the community rests where it should lie, i.e. with the Government – this arrangement will make more transparent how much has been collected from these levy sources and then where they are allocated and spent
- Treasury playing a central role in determining the proposed levies
- clarifying identification of, and funding of, concessions and exemptions
- transferring all emergency services assets currently owned by local government to TFES with local government then not expected to resource such activities in future

- continuing current arrangements whereby the property-based levy is collected by local government for a fee to be renegotiated and the Motor Vehicle Levy collected by State Growth
- when the property-based levy is determined, a public announcement be made by the head of TFES and Minister
- exploring further the nature and allocation of the property-based levy, including consideration of a higher fixed charge which would likely improve equity
- determining, in consultation with the Insurance Council of Australia and commercial property insurers, savings in insurance premiums and how best to share these savings across the State.

Volunteers (Section 6)

Volunteers, and volunteer organisations in both TFS and SES have played essential roles for many years in protecting the citizens of Tasmania. New legislation must facilitate continuation of this. It will be essential that:

- volunteers and volunteering is recognised and enshrined in legislation and the legislation include a requirement for a volunteer charter to be developed
- legislation provides good faith protection from liability for TFS and SES volunteers, authorised volunteers and permanent staff
- there are no legislative barriers that would preclude the expansion of volunteer roles to include both response and non-response roles.

Operational and other matters (Section 7)

Section 7 deals with a number of operational matters, all of which require clarity and therefore consideration when new legislation is drafted. Each matter in this Section stands alone, with conclusions on each resulting in recommendations 27 to 41.

Legislation and initial transition implications (Section 8)

Discussion in Section 8 confirms the need for new legislation to be drafted to replace the Fire Service Act and for such new legislation to be principles-based, taking into account all factors identified in this Report.

Such new legislation should:

- provide for an integrated fire and emergency service entity (with awareness that consequential amendments to the *Emergency Management Act 2006* will likely be required)
- make provision for a secondary process to change or add mandated functions in the future without the need to amend legislation, but on the proviso that the core legislation cannot be undone without full review by the Parliament and public input
- create an integrated fire and appropriate emergency services entity, the principal objectives of which are:
 - to preserve human life
 - to build resilient communities that actively participate in prevention, preparedness and response to fire and other relevant emergencies

- to limit the economic, environmental (including climate change impacts), social and physical impact of fire and other relevant emergencies on the Tasmanian community
- to recognise that our environment has inherent value for the Tasmanian community
- to ensure/facilitate effective inter-agency interoperability both inter and intra State
- provide clarity that the proposed entity will not be the lead agency responsible for recovery.

Summary of Recommendations

This summary lists the recommendations arising from this Review and includes cross-references to further detail provided in this Report.

Recommendation		See Report	
		Section	Page
1	<ul style="list-style-type: none"> • Legislate to integrate the organisation, functions and activities of TFS and SES. • Make consequential amendments to the <i>Emergency Management Act 2006</i>, having regard to Recommendation 26 that the new integrated service preserve and recognise the role of volunteers/units in order to ensure future capability at a community level. 	3	34
2	<ul style="list-style-type: none"> • Ensure that the functions carried out by the Director SES continue to be performed as outlined in the <i>Emergency Management Act 2006</i>, in particular sections 25-28 inclusive of that Act. 	3	34
3	<ul style="list-style-type: none"> • Prescribe in the regulations to the new legislation – or equivalent mechanism – the following as functions of the proposed new Tasmania Fire and Emergency Services (TFES) entity (subject to appropriate resource allocation and training): <ul style="list-style-type: none"> ○ activities currently undertaken by SES (flood, storm/tempest, earthquake, tsunami, space debris re-entry, and search and rescue) ○ provision of support at events like road crash rescue, response to heatwaves, and counter-terrorism. 	3	38
4	<ul style="list-style-type: none"> • Legislate to confirm: <ul style="list-style-type: none"> ○ the functions for Tasmania Fire and Emergency Services (TFES) as outlined in Section 3 of this Report ○ (subject to finalisation of governance recommendations outlined in Section 4 of this Report), the functions and roles of the Chief Officer (or equivalent) as outlined in Section 3.5.3 of this Report, but having regard to the alternative view offered in Section 3.5.4. 	3	39
5	<ul style="list-style-type: none"> • Do not combine the firefighting capabilities of Parks and Wildlife Service (PWS) and Sustainable Timber Australia (STT) with those of Tasmania Fire and Emergency Services (TFES). 	3	42
6	<ul style="list-style-type: none"> • Include all relevant emergency management entities in negotiations toward the Inter-Agency Fire Management Protocol, with approval and/or oversight by the State Controller. 	3	43
7	<ul style="list-style-type: none"> • Ensure the role in recovery of the Department of Premier and Cabinet (DPAC) remains unchanged. • Acknowledge the support role in recovery to be taken by Tasmania Fire and Emergency Services (TFES), as outlined in Section 3.6.5 of this Report. 	3	45

Recommendation		See Report	
		Section	Page
8	<ul style="list-style-type: none"> • Develop a governance model for Tasmania Fire and Emergency Services (TFES) that transitions it to a division within the Department of Police, Fire and Emergency Management (DPFEM) that includes: <ul style="list-style-type: none"> ○ suitable ring-fencing arrangements for levies raised to fund TFES ○ appropriate reporting arrangements between the head of TFES and the Minister ○ broadening the role, and revisiting the membership, of the State Fire Management Council (SFMC). Revisiting membership should include relevant membership transitioned from the State Fire Commission (SFC) ○ abolishing the SFC. 	4	56
9	<ul style="list-style-type: none"> • Confirm in legislation the continued existence of the State Fire Management Council (SFMC) under a charter to be approved by the Secretary Department of Police, Fire and Emergency Management (DPFEM) and the Minister. 	4	59
10	<ul style="list-style-type: none"> • Broaden the definition in the Fire Service Act of 'brigade costs' to include non-brigade costs. 	5	62
11	<ul style="list-style-type: none"> • Replace all current sources of State Emergency Service (SES) funding with a single, property-based levy. • Explore Appropriation-based funding for SES as an alternative if a single, property-based levy is not supported or sustainable. 	5	66
12	<ul style="list-style-type: none"> • Replace the Insurance Levy with a property-based levy or another funding source providing similar, and consistent (predictable), levels of funding. • Ensure that the Insurance Levy continues to be charged and collected until suitable transition arrangements are identified and implemented. 	5	69
13	<ul style="list-style-type: none"> • Continue the Motor Vehicle Levy. • Base any expansion of the Motor Vehicle Levy to other types of vehicles on a cost-benefit analysis. 	5	71
14	<ul style="list-style-type: none"> • Continue contributions from the Australian Government but do not regard this as a source of base-level funding for Tasmania Fire and Emergency Services (TFES). 	5	71
15	<ul style="list-style-type: none"> • Continue to source funding from the marketing and fire prevention functions of Tasmania Fire and Emergency Services (TFES) and miscellaneous revenue, with these being self-funding and not part of base-level funding. • Discontinue revenue streams from the Motor Accident Insurance Board (MAIB) for both TFS and SES. 	5	72
16	<ul style="list-style-type: none"> • Continue contributions from the State Government but do not regard this as a source of base-level funding for Tasmania Fire and Emergency Services (TFES). 	5	73

Recommendation		See Report	
		Section	Page
17	<ul style="list-style-type: none"> Include up to \$5 million per annum in levy or Appropriation sources of revenue for Tasmania Fire and Emergency Services (TFES) to pay for those State Emergency Service (SES) related functions and services transitioned from local government to TFES. 	5	73
18	<ul style="list-style-type: none"> Continue a property-based levy to provide the bulk of funding for Tasmania Fire and Emergency Services (TFES), basing it on a property's Average Annual Value (AAV) as determined by the Valuer-General from time to time, with movements in the levy determined by Treasury annually. Determine the make-up of the levy, including consideration of fixed and variable components. 	5	79
19	<ul style="list-style-type: none"> Quantify and fund current concessions as a Community Service Obligation. Quantify and remove current exemptions for payment of the Fire Service Contribution (FSC) levy, except for Crown Land, land managed by Sustainable Timber Tasmania (STT) and land and buildings owned by Councils and by Government entities funded predominantly by Appropriation. 	5	80
20	<ul style="list-style-type: none"> Ensure that funds raised for Tasmania Fire and Emergency Services (TFES) are paid into the Consolidated Fund and then ring-fenced for use by TFES. 	5	80
21	<ul style="list-style-type: none"> Develop transition arrangements that mitigate the impacts on property owners of an increase in a property-based levy. Engage with the Insurance Council of Australia and property owners to quantify benefits from lower insurance premiums and consider how these might be shared with the broader community. 	5	81
22	<ul style="list-style-type: none"> Discontinue local government funding of SES and their support for local units. Transition all Councils' associated resources to Tasmania Fire and Emergency Services (TFES). Develop a transition plan with Councils. 	5	83
23	<ul style="list-style-type: none"> Do not fund Tasmania Fire and Emergency Services (TFES) by Appropriation – because doing so may disincentivise property owners from properly insuring their properties or being appropriately prepared. 	5	84
24	<ul style="list-style-type: none"> Have Treasury be responsible for calculating, but not on its own determining – determination will require input from Tasmania Fire and Emergency Services (TFES) – the amount to be collected by local government from the property-based levy annually. 	5	85
25	<ul style="list-style-type: none"> Continue to have local government collect the proposed Tasmania Fire and Emergency Services (TFES) property-based levy and be paid a renegotiated collection fee for doing so. 	5	87

Recommendation		See Report	
		Section	Page
	<ul style="list-style-type: none"> • Have the Head of Tasmania Fire and Emergency Services (TFES) and the Minister make clear annually, in a public manner, how the levy is constructed, reasons for increases, and the fact that it is collected by local government for a fee. • Pay levies collected by local government into the Consolidated Fund but ring-fence them for use by TFES. 		
26	<ul style="list-style-type: none"> • Recognise and enshrine in legislation the contribution of volunteers and volunteering (including SES units) and include a requirement for a Volunteer Charter to be developed by Tasmania Fire and Emergency Services (TFES) and endorsed by the Volunteer Associations and the Minister. • Legislate to provide good faith protection from liability for TFES volunteers/units, authorised volunteers and permanent staff. • Ensure there are no legislative barriers that would preclude the expansion of volunteer/unit roles to include both response and non-response roles. 	6	94
27	<ul style="list-style-type: none"> • Do not include a legislated provision for emergency medical response in the mandate of Tasmania Fire and Emergency Services (TFES); this should be entirely a matter of policy. • Ensure legislation allows for additional functions that fire and emergency services personnel may perform, subject to appropriate training and credentialing, with an overarching responsibility for public safety, property and the environment. • Ensure that, while Ambulance Tasmania remains the primary agency for emergency medical response, legislation does not prohibit it from entering into arrangements with TFES for training and credentialing relevant emergency response activities. 	7	97
28	<ul style="list-style-type: none"> • Develop legislation that empowers Tasmania Fire and Emergency Services (TFES) with functions, powers and indemnities that reflect its broader role in emergency management and response, and which: <ul style="list-style-type: none"> ○ maintains current levels of indemnity ○ broadens TFES' mandate to include the power to confer specified functions, powers and indemnities on individuals and organisations inside and outside TFES, including interstate and international personnel ○ provides authority and indemnity that allows for quick response to fires in the landscape without waiting for formal instruction from TFES, and approval to enter private land to address fire response. This should apply not just for Sustainable Timber Tasmania (STT) and Parks and Wildlife Service (PWS), but also the private forest industry and any other potential first responders, e.g. appropriately resourced private land managers 	7	100

Recommendation		See Report	
		Section	Page
	<ul style="list-style-type: none"> ○ provides clarity regarding authority to act and indemnity, including linkages with existing Memorandum of Understanding (MoU) arrangements with private forests and in circumstances where authority to act may be automatic, such as fires reported through FireComm. 		
29	<ul style="list-style-type: none"> • Legislate to: <ul style="list-style-type: none"> ○ address conflicting, duplicated or gaps in the roles of the proposed Tasmania Fire and Emergency Services (TFES), Parks and Wildlife (PWS), Sustainable Timber Tasmania (STT) and private entities involved in dealing with fires ○ allow non-TFES officers in charge of fire suppression to have access to, and to deal with, a fire as soon as possible ○ include in the mandate of TFES the power to confer specified functions and powers on individuals and organisations, including interstate or international personnel, inside or outside of the entity ○ include a Head of Power, exercisable at the discretion of TFES, allowing protocols to be developed to manage the relationship between the entity and other land management agencies and emergency services agencies, including Tasmania Police ○ provide firefighters, SES workers and other delegated agencies/people with protection from liability (as occurs currently through section 51 of the Emergency Management Act). Other delegated agencies/people to be 'loosely' defined so as to provide protection for the range of persons involved in the provision of fire and emergency services but who may be non-firefighters/non-emergency workers/not public servants ○ authorise TFES, PWS and STT to close roads to protect public safety during a fire, flood or storm hazard and to have a power to regulate traffic, not just close a road. 	7	103
30	<ul style="list-style-type: none"> • Leave the decision-making and nomination process to appoint fire permit officers to the senior management of the relevant responsible agencies, depending on their specific responsibilities in regards, for example, to the land tenure with which it is concerned. 	7	104
31	<ul style="list-style-type: none"> • Include, in the Terms of Reference for the State Fire Emergency Management Sub-Committee, provision for the establishment of Fire and Emergency Risk Area Committees (FERAC), including the number and geographical boundaries of these committees. • Enhance community engagement through community representation on FERACs, without increasing numbers on these committees. • Remove the requirement to Gazette geographical boundaries. • Continue to identify synergies between FERACs and Regional and Municipal Emergency Management Committees. 	7	107

Recommendation		See Report	
		Section	Page
	<ul style="list-style-type: none"> Note that these arrangements do not require legislative support and could instead be promulgated under a Head of Power and detailed, where necessary, in doctrine/Tasmanian Emergency Management Arrangements (TEMA). 		
32	<ul style="list-style-type: none"> Consider, as an alternative to, or in addition to, Recommendation 31: <ul style="list-style-type: none"> having the secretariat function currently fulfilled by SES performed instead by relevant administrative personnel within an agency with primary responsibility for statewide emergency management, such as the Department of Premier and Cabinet (DPAC) or the Department of Police, Fire and Emergency Management (DPFEM) transferring SES's Emergency Management Unit (EMU) functions associated with statewide risk assessments, emergency planning, and emergency management policy to either DPAC or DPFEM. 	7	109
33	<ul style="list-style-type: none"> Legislate to provide a Head of Power for Tasmania Fire and Emergency Services (TFES) to: <ul style="list-style-type: none"> establish and abolish brigades/units determine the membership of brigades/units recommend locations of brigades/units define the structure, functions, powers and responsibilities of brigades/units exercise such other powers and functions as may be necessary for the effective management of, and response to, fire and other prescribed emergencies. Legislate to provide TFES with the power to: <ul style="list-style-type: none"> register/de-register volunteer/unit members appoint unit managers, brigade chiefs, and establish standards, for things like equipment, training, facilities, etc. establish protocols for cooperation appoint industry brigades, making clear that they be under the control of TFES. 	7	113
34	<ul style="list-style-type: none"> Include the recommendations of the review of the fire permit system into new legislation as appropriate, including arrangements for total fire bans. Ensure that new legislation includes scope to modify or change these arrangements if once implemented it is determined adjustments to processes are required. Ensure that, subject to exemptions granted by the Chief Officer, no fire permits are issued when total fire bans are in place. 	7	116
35	<ul style="list-style-type: none"> Expect, but do not legislate for, Tasmania Fire and Emergency Services (TFES) to provide education to the community on how best to prepare for fire and relevant emergency risks. 	7	117

Recommendation		See Report	
		Section	Page
36	<ul style="list-style-type: none"> • Legislate for Tasmania Fire and Emergency Services (TFES) responsibility for issuing permits to install, maintain or repair fire protection equipment, subject to a review of: <ul style="list-style-type: none"> ○ the current regulatory arrangements ○ conflict-of-interest arrangements. 	7	120
37	<ul style="list-style-type: none"> • Do not provide for building fire evacuation systems in any new legislation; instead, establish in law or regulation that high-risk facilities should have their emergency response procedures reviewed and approved by WorkSafe Tasmania and that, in view of its contemporary knowledge and experience in emergency response, advice be sought where needed from Tasmania Fire and Emergency Services (TFES). 	7	124
38	<ul style="list-style-type: none"> • Review current offence and penalty provisions to determine if they remain appropriate, enforceable and contemporary and reflect the expanded roles of TFS and SES and, therefore, Tasmania Fire and Emergency Services (TFES). In doing so, consider provisions in the <i>Police Offences Act 1935</i>. 	7	127
39	<ul style="list-style-type: none"> • Legislate to: <ul style="list-style-type: none"> ○ provide for Tasmania Fire and Emergency Services (TFES) to establish a chain of command for response (including appointment of Incident Controllers) by means of regulations or a statutory instrument, which can, when necessary, be amended ○ make clear that all emergency responders who are present at an incident are, in all respects, subject to the Incident Controller's direction ○ give power to, or require, TFES to ensure that an endorsement or accreditation process is in place for incident management staff that provides authority, accountability, indemnity, consistency and efficiency of process ○ update the roles and responsibilities for emergency management to be consistent with those prescribed in the <i>Emergency Management Act 2006</i> (because command and control arrangements will apply to SES as well as TFS, and therefore to TFES). 	7	128
40	<ul style="list-style-type: none"> • Expect Tasmania Fire and Emergency Services (TFES) to have capability, or access to capability, to advise on, or participate in the development of, strategies aimed at identifying risks associated with changes in our climate and proposed mitigations. 	7	129
41	<ul style="list-style-type: none"> • Undertake a review of contemporary and suitable legislation from other fire jurisdictions across Australia to consider, within the Tasmanian context, how best to allow a more proactive and pragmatic approach to fire safety compliance in the built environment. 	7	131

Recommendation		See Report	
		Section	Page
42	<ul style="list-style-type: none"> • Draft new legislation to replace the <i>Fire Service Act 1979</i>, keeping in mind that: <ul style="list-style-type: none"> ○ in order for any proposed legislation to be contemporary, flexible and sufficiently forward-looking, it needs to be principles-based, providing a Head of Power to Tasmania Fire and Emergency Services (TFES) ○ the functions and mandate of the new entity should deliver an authorising and enabling environment facilitating a broad range of fire and prescribed non-fire related emergency services activities, including multi-hazard, that are aligned with and support the <i>Emergency Management Act 2006</i> in legislation. 	8	135
43	<ul style="list-style-type: none"> • Legislate to make provision for a secondary process to change or add mandated functions in the future without the need to amend legislation, but on the proviso that the core legislation cannot be undone without full review by the Parliament, and with public input. 	8	139
44	<ul style="list-style-type: none"> • Develop new legislation to establish an integrated fire and prescribed emergency services entity, the principal objectives of which are: <ul style="list-style-type: none"> ○ to preserve human life ○ to build resilient communities that actively participate in prevention, preparedness and response to fire and other relevant emergencies ○ to limit the economic, environmental (including climate change), social and physical impacts of fire and other emergencies on the Tasmanian community ○ to recognise that our environment has inherent value for the Tasmanian community ○ to ensure/facilitate effective inter-agency interoperability both inter and intra State. • Clarify, in the new legislation, that the proposed entity is not the lead agency responsible for recovery. 	8	139
45	<ul style="list-style-type: none"> • Draft new legislation to be short, forward-looking and principles-based, with detail addressed in regulations. 	8	140

About this Review

1.1 Introduction

1.1.1 Purpose of this Review

Section 1: On 24 April 2017, Cabinet approved a review of the *Fire Service Act 1979* (Review). The State Government appointed a Steering Committee to carry out this Review and to provide independent advice to the Minister for Police, Fire and Emergency Management (the Minister) about how the Government can achieve:

- a clear mandate and operating platform for fire services' functions
- an effective and efficient fire service operation that will provide value for money in the future
- a sustainable, stable, and equitable funding system for fire and other appropriate emergency services³.

The Review's Terms of Reference are included at Appendix 1.

1.1.2 The problem, as defined in this Review's Terms of Reference

The Fire Service Act was proclaimed in 1979 following the amalgamation of the Rural and Urban Fire Services into the Tasmanian Fire Service (TFS). The Fire Service Act has not been comprehensively reviewed since proclamation. A minor review was undertaken in 1999 to comply with the Competition Principles Agreement which required the State Government to review and, where appropriate, reform all legislation that restricted competition. The minor review of the Act complied with the principles as outlined in the Legislation Review Program at that time.

Over the years, the current legislative framework has become fragmented, overly complex and process-driven.

A comprehensive review of the Fire Service Act, and all subordinate legislation is now considered timely. This is particularly the case with the State Emergency Service (SES) now reporting to the Chief Officer, TFS and the resultant opportunities for further alignment of TFS and SES to be reflected in legislation. The requirement for change is explored further in Section 2 of this *Review of the Fire Service Act 1979* Report (Report)

1.1.3 Outside scope

The Review's Terms of Reference made clear that the following matters were outside scope:

- TFS should maintain its core fire-related role.
- Tasmania should continue to have a single fire service.

This requirement was satisfied.

³ 'and other appropriate emergency' added to make it explicit that the role of SES was considered as part of this Review.

1.1.4 Deliverables

The Review's Terms of Reference required the Steering Committee to develop a project plan to meet four stages of work.

1. Problems identified and substantiated by evidence
2. Range of potential options identified
3. Key options identified
4. Options fully developed and assessed, and recommendations drafted

These matters were to be addressed in:

- a Steering Committee-approved project plan
- an Issues Paper developed by the Steering Committee for public consultation, and analysis of submissions to that Issues Paper
- a Draft Discussion Paper.

The original intent of this Review was for the Steering Committee-approved Draft Discussion Paper to be provided for consideration by the Department of Police and Emergency Management (DPFEM) and by Cabinet. Following this, there was to be publication of a Discussion Paper, a call for submissions, analysis of those submissions and, finally, preparation of a final Review Report.

However, in the interests of timeliness, publication of a Discussion Paper was replaced with targeted stakeholder consultation⁴ recognising that all stakeholders would have the opportunity to comment on proposed legislation when drafted. The outcome of targeted consultation is discussed in Section 1.2.6.

1.1.5 Other reviews

The activities of TFS and SES have been the subject of multiple reviews in recent years. As a result, this Review had regard to several reports, including the following.

- The House of Assembly Standing Committee on Community Development's Inquiry (the HofA Inquiry) into the State Fire Commission (SFC). This inquiry made seven recommendations, all of which have been considered in this Review.
- The Australasian Fire and Emergency Service Authorities Council's (AFAC) Independent Operational Review – an independent review of the management of the Tasmanian fires of January 2016, commissioned by TFS, Parks and Wildlife Service (PWS) and Sustainable Timber Tasmania (STT).
- The AFAC Independent Operational Review: *A review of the management of the Tasmanian fires of December 2018 – March 2019*.
- Department of Justice 2016 review.
- Multiple reviews on strategy, governance and financial matters relating to both TFS and SES.

⁴ Targeted consultation was directed to organisations that responded to the Issues Paper.

1.1.6 Implications of this Review for SES and the *Emergency Management Act 2006*

While not an explicit objective for this Review, but because this was identified as an issue during the course of this work, the Steering Committee took this opportunity to assess not only the operations of TFS, but also those of SES. The Review explored possible full integration of these functions. This is discussed further in Sections 2.2 and 3.2.

1.2 Approach taken to this Review

1.2.1 Terms of Reference

The Terms of Reference for this Review, which details members of the Steering Committee appointed to carry it out, are noted in Appendix 1. These Terms of Reference drove this Review. However, refer to Section 1.2.6 for more information regarding this.

1.2.2 Issues Paper

The Terms of Reference required the Steering Committee to provide the Minister with an Issues Paper within six months of the appointment of an Independent Chair (Chair), outlining the analysis undertaken to date under the stages of work detailed above.

An Issues Paper, which asked 35 questions, was released on 30 May 2018 and discussed key themes including:

- establishing a clear mandate and operating platform
- governance arrangements
- development of a sustainable funding model
- operational considerations.

There was extensive consultation with stakeholders on the issues identified and submissions were encouraged to ensure that all views were considered. The Issues Paper was issued for public consultation for a three-month period. A total of 40 submissions were received from a broad range of stakeholders. These included local government, unions, volunteer associations, government agencies, industry groups, other fire and land management agencies, members of the forest industry, the SFC, TFS, the State Fire Management Council (SFMC), SES, AFAC, environmental groups, DPFEM, the Departments of Premier and Cabinet (DPAC), State Growth, Primary Industries, Parks, Water and Environment (DPIPWE), the Insurance Council of Australia and members of the public.

With one exception⁵, all submissions were made public by including them on the Review website at www.fire.tas.gov.au.

The submissions canvassed a wide variety of views about the future role of the SFC, TFS and SES, including, but not limited to:

- governance and purpose of TFS
- role of the SFC
- role of the SFMC

⁵ One government agency made a submission on the basis that it remains confidential.

- how SES should be included in any new legislation
- the most appropriate funding model
- the relationship between TFS and other fire agencies, e.g. PWS and STT
- building safety
- community education
- response and command and control arrangements
- volunteers
- the permit system
- the evacuation system
- penalties.

All matters raised in submissions were considered and, if relevant, informed the recommendations made in this Report.

In addition, during stakeholder consultations, several possible amendments to the Fire Service Act were suggested that were not discussed in the Issues Paper nor in this Report. A detailed register of these issues is being kept by TFS.

1.2.3 Research undertaken

This Review involved document reviews, engagement with stakeholders, research into practices in other Australian jurisdictions and in New Zealand. The focus was primarily on funding and governance models, engagement of independent advice relating to governance, and identification of base costs needed to run a contemporary fire and emergency services entity.

1.2.4 Engagement with stakeholders

The Terms of Reference required the Steering Committee to ensure thorough engagement with all interested stakeholders. Public consultation occurred following release of the Issues Paper. As noted in Sections 1.1.4 and 1.1.6, in the interests of timeliness, a Discussion Paper was not prepared. It was replaced by targeted stakeholder consultation.

1.2.5 Core issues identified

Responses to the Issues Paper, and research undertaken, identified the following core issues relevant to establishing a contemporary fire and emergency services entity needing to be addressed as a result of this Review.

- Functions (Section 3)
- Governance (Section 4)
- Financial management (Section 5)
- Volunteers (Section 6)
- Operational and other matters (Section 7)
- Legislation (Section 8).

This is not to suggest that these are the only important factors and that others will not emerge should steps be taken to draft new legislation. Relevant is that these core issues align with this Review's Terms of Reference.

1.2.6 Responsibility for completing this Review and targeted consultation outcomes

The decision, noted in Section 1.1.4, to replace consultation on a Discussion Paper with targeted stakeholder engagement also resulted in a request that the Chair of the Steering Committee complete this Report. The impact of this is that this Report reflects the Chair's views, not necessarily those of other members of the Steering Committee.

Targeted consultation, which took place in August and September 2020, resulted in discussions with, and/or submissions from, the following entities:

- SFC *
- TFS
- SFMC*
- AFAC (discussion only)
- PF Olsen (discussion only)
- Insurance Council of Australia (discussion only)
- Local Government Association of Tasmania*
- Kingborough, Huon Valley, Burnie City, Devonport City and Latrobe Councils (Burnie City provided a written response)*
- Ambulance Tasmania (discussion only)*
- Australian Workers Union Tasmania Branch*
- United Firefighters Union of Australia – Tasmania Branch*
- Sustainable Timber Tasmania (discussion only)*
- Tasmanian SES Volunteers Association*
- Tasmanian Volunteer Fire Brigades Association*
- Tasmanian Retained Volunteer Firefighters Association*.

* In these cases, consultation involved a PowerPoint presentation, provision of draft proposals and discussions about possible governance models. Targeted consultation did not include discussions with those members of the Steering Committee that represented various government departments because their views were already well-known and had already been taken into account.

Outcomes from all discussions and submissions, where relevant, have been considered.

1.3 Approach taken to preparing this report

1.3.1 Reporting

This Review's Terms of Reference required preparation of various reports as follows:

1.3.1.1 Report

Provision of a report to the Department⁶ within six months of the closing date for public submissions on the Issues Paper. However, and as noted in Section 1.1.4, a report for discussion with stakeholders was not prepared. The timeline for completion of this Report did not meet the original timeframes mainly due to the appointment of a new Steering Committee Chair in January 2019.

1.3.1.2 Final Report (and actions taken up to and including finalisation of this Report)

Provision of advice to the Minister no later than six months of the closing date for public submissions on the Discussion Paper, in the form of a final report with recommendations⁷. This final Report was provided to the Minister, via the Secretary DPFEM, on 30 October 2020.

1.3.2 Format of this Report

This Report is structured along the lines of the core issues identified in Section 1.2.5. Sections 3, 4 and 5 start by noting the outcomes anticipated in the Terms of Reference. Section 7 addresses, in part, Outcome 2, while Outcome 4 is addressed throughout the Report; in particular, in Sections 4 and 5.

1.3.3 Recommendations and options outlined in this Report

Matters addressed in this Review are complex, with the Steering Committee not always agreeing on single recommendations. As a result, this Report has been prepared by the Chair, following research and discussion with all Steering Committee members. Recommendations in this Report are primarily concerned with threshold issues that will fundamentally shape new legislation although, for completeness, a range of more operational issues are included in Section 7.

The recommendations made are aimed at ensuring that stakeholders understand the direction being proposed for new legislation.

1.3.4 Transition arrangements

The Terms of Reference did not require consideration of transition arrangements. Transition arrangements refer to matters that need to be addressed should legislation be promulgated as proposed by this Review. For example, should the proposed funding arrangements for SES be agreed, resulting in the need for local government to transfer resources to the proposed integrated entity, then transition arrangements related to these resources, including volunteers, will require consideration.

As a result, transition arrangements will need to be identified and explored prior to developing legislation. Some initial transition considerations are outlined in Section 8.

⁶ This is the Department of Police, Fire and Emergency Management.

⁷ Refer Sections 1.1.4 and 1.2.6 outlining the change in approach to the need for a Discussion Paper

A case for change

While this Section makes a case for change to the Fire Service Act, that is not to say that the current legislation is broken, or that it prevents TFS (and SES) from appropriately responding to fires and other relevant emergencies. While current arrangements do work, they require review for the reasons outlined below.

Section 2: 2.1 Existing legislation as this impacts the SFC and TFS

Under existing legislation, the SFC's primary purpose is to minimise the social, economic and environmental impact of fire on the Tasmanian community⁸. This is achieved through TFS implementing strategies to develop community self-reliance to prevent and prepare for fires, supported by timely and effective responses to emergencies. However, the Fire Service Act has not kept up with the changing role of TFS.

- Some functions performed by TFS are not clearly supported by the Fire Service Act or another source of legislative power. These include:
 - road crash rescue in assigned areas
 - managing incidents involving hazardous materials
 - undertaking urban search and rescue
 - carrying out community training and trading activities
 - providing a response to terrorist incidents involving chemical, biological and radiological agents.
- The Fire Service Act does not provide adequate mechanisms to enforce compliance or penalise non-compliance with fire safety obligations.
- The Fire Service Act:
 - does not reflect the considerable change emergency services have undergone in the past 40 years, nor does it support operational efficiencies or reflect how emergency services organisations operate in modern communities
 - largely reflects the prevailing influences at the time it was enacted and, as time passes, becomes less and less reflective of the fire and emergency services environment in Tasmania
 - will hinder the ability of fire and emergency services providers and the community to implement and effectively execute contemporary strategies to prevent, prepare for and respond to emergencies
 - may not effectively deal with the changing demographic environment in Tasmania
 - may not have suitable flexibility in responding to changing climatic circumstances.
- There is overlap between the Fire Service Act and other laws, leading to uncertainty in key operational and regulatory frameworks, including:
 - roles played by, and integration with, agencies with land tenure responsibilities such as PWS and STT (discussed in Section 3)

⁸ Section 8 of the Fire Service Act.

- the fire permit system (Fire Service Act, *Land Use Planning and Approvals Act 1993*, *Environmental Management and Pollution Control Act 1994* and local government by-laws and building safety laws (General Fire Regulations 2010, *Building Act 2016* and Work Health and Safety Regulations 2012⁹).

2.2 Implications for the Emergency Management Act 2006

This Review identified that amending the Fire Service Act as proposed must have implications for the *Emergency Management Act 2006*. This Report proposes continuance of separate, high-level, non-prescriptive, emergency management legislation with detailed requirements continuing to be dealt with by regulation.

The Emergency Management Act would be retained as the primary piece of legislation for describing whole-of-government emergency management control, coordination and risk management arrangements. However, consequential legislative changes that may arise as a result of this Review are likely to require a broader review of the Emergency Management Act, including to adopt more of an all-hazard approach.

In any event, separate emergency management legislation will continue to be needed, especially because the proposed integrated entity must not be expected to respond to all kinds of emergencies.

2.3 Other Fire Service Act related factors since 1979

Factors having an impact on, or impacted by, the Fire Service Act since 1979 include, but are not limited to:

- the limited ability of TFS to quickly reallocate capital to align resources to risk
- constantly changing structural fire and wildfire fighting methods and technologies which are impacting on capital and other resource requirements
- the trend in Tasmania and elsewhere for bushfires to be more extreme, last longer and occur at different times during the year, not just in the summer months
- the need to develop a personnel management plan that covers both the employed workforce (TFS and SES) and the volunteer workforce (TFS and SES)
- the need for a resource-to-risk model to explicitly address –
 - demographic changes – population growth is uneven, with almost two thirds of the growth in the south of Tasmania, some of which is not urban
 - climatic changes
 - uncertainty in relation to how SES will continue to be funded, given there have been no additional State Government contributions beyond 2017-18
- funding based on types of brigades, and where they are or are not located, relevant in 1979, but less so today.

⁹ Some of the gaps were also noted by the HofA Inquiry into the SFC.

2.3.1 Multiple entities involved in fire and emergency services related activities in Tasmania

Responsibility for fire and emergency services related activities falls across several agencies including TFS, PWS, STT, SES, the Environment Protection Authority (EPA), DPFEM, DPAC, State Growth, the Department of Health (which includes Ambulance Tasmania) and local government. DPAC's Climate Change Office provides policy advice and research on climatic factors, which are already more evident in fire and emergency services activities and which may have to be addressed in future legislation.

Respective responsibilities and accountabilities of all these entities require clarification in new legislation or, preferably, in the Tasmanian Emergency Management Arrangements (TEMA) which replaced the Tasmanian Emergency Management Plan version 8 (TEMP).

2.3.2 January 2016 AFAC review

As evidenced by actions taken following receipt of the report by the AFAC Independent Operational Review into the Tasmanian fires in January 2016¹⁰ (the AFAC Review), work is ongoing between TFS, PWS and STT to continually improve the management of severe fire events, including pre-season engagement in order to ensure communities have a better understanding of fire management tactics.

In recent years, pre-season engagement included, but was not limited to, environmental groups. In addition, in the 2018-19 fire season, many operational improvements were successfully applied, in particular improved community communication and information-sharing, and the National Resource Sharing arrangements, including aircraft.

2.3.3 Use of volunteers

The January 2016 AFAC Review included in its 12th recommendation that 'a review be undertaken of the benefits and costs of training a cadre of Tasmanian volunteer firefighters in remote area firefighting, with reference to the experience of jurisdictions interstate that already do so.'

Discussions with TFS about this recommendation indicated that its implementation would provide Remote Area Team (RAT) surge capacity for firefighting and that this concept was validated by the level of interstate assistance required for remote area firefighting in Tasmania in the 2016 fire season, and was reinforced during the 2019 bushfire activity. RATs are now in place but this Report does not explore the effectiveness of these arrangements nor whether legislative change is needed regarding this.

Arrangements relating to volunteers are not explicit in the Fire Service Act but are explicit in the Emergency Management Act. This is discussed further in Section 6.

¹⁰ This piece of work was commissioned by TFS, PWS and STT.

2.3.4 Establishment of auxiliary brigades and similar arrangements

Auxiliary brigades are established and operated by PWS and STT. For the purposes of workplace health and safety legislation, persons engaged in such brigades are classified as 'workers', addressing, therefore, indemnity concerns.

Persons engaged on private properties to respond to fires and who are properly trained to do so, could be required to operate under instruction of TFS, but this is not currently legally permissible.

On the other hand, TFS currently has arrangements in place with the farming community to appoint farmers as 'spontaneous volunteers' which is allowed for under the Fire Service Act.

New legislation needs to deal with these anomalies and/or reconfirm them, including protection for non-TFS, PWS, STT and other personnel.

2.3.5 Other developments

Additional developments include, but are not limited to, the following.

- The commencement of national and international arrangements. In this respect, TFS coordinates support from national and international agencies when they assist Tasmania to respond to wildfires and other emergencies. While these arrangements have existed for some time, national resource sharing is a more recent initiative, often involving multiple agreements.
- Climate – while this Review did not set out to form a view regarding this matter, it is evident that changes in our climate are taking place with consequences for fire and emergency services.

2.4 Conclusions

The discussion in this Section, read alongside recommendations from the HofA Inquiry referred to in Section 1.1.5, confirm the need for the Fire Service Act to be reviewed and updated.

The additional roles and functions that TFS now undertakes, which were not foreseen when the Fire Service Act was written, has led to a wider range of service delivery being expected by the community. This puts increasing pressure on TFS to respond and confirms deficiencies in supporting legislation.

Importantly, the existing legislation does not consider the provision of emergency services in a holistic manner.

Functions and operating platform

3.1 Introduction

Outcome 1 of this Review as anticipated in the Terms of Reference was that:

- Section 3:
- TFS has a clear mandate and operating platform for the functions it performs, and that it is clear how those align with functions performed by other emergency services providers, in particular, SES.

It required that this Review:

- assess current TFS functions and how these align with roles of other emergency management agencies and service providers
- provide recommendations on future statutory and non-statutory functions for TFS, including the impacts of those recommendations on other services and how they might be managed.

This Section considers these matters as follows.

- Current statutory and non-statutory TFS functions and their alignment
- Future statutory and non-statutory functions of an integrated entity
- Impacts on other services and how, and by who, these should be managed.

Related operational matters are discussed in Section 7.

3.1.1 Objective of this Section

The objective adopted by the Steering Committee Chair in developing this Section was to identify the functions that need to be provided by a fire and appropriate emergency services entity in the best interests of the Tasmania community.

In particular, there will need to be a transparent mechanism to (i) define and (ii) amend from time-to-time the specific functions to be performed by the integrated entity

One means by which an appropriate level of certainty, transparency and oversight could be achieved is to provide a Head of Power enabling the specific functions of the integrated entity to be prescribed in regulations.

The legislation should be framed in such a manner that appropriate indemnities apply in relation to the performance of any and all of the integrated entity's prescribed functions.

In addition, functions and powers of the integrated entity should:

- facilitate effective management of fire and prescribed emergency risk, including consistent planning and mitigation activities
- build community capacity and awareness, through collaborative community development and engagement
- promote interoperability, operational effectiveness, planning and asset management of vegetation fire management activities and effective response and allocation of firefighting and prescribed emergency management resources
- provide opportunity for collaborative policy development and implementation
- allow for clear advice to the Secretary DPFEM, the Minister and key stakeholders.

3.2 An integrated fire and emergency services entity

Before considering current and proposed TFS functions, the future of SES needs to be resolved. SES is now administratively aligned to TFS and the Fire Service Act could not, therefore, be the sole focus of this Review.

As part of the 2014 State Budget, the Minister announced that there would be a change for TFS and SES, in that the SES Director would report to the TFS Chief Officer (who in turn reports to the Secretary DPFEM and to the SFC) but that, as part of these arrangements, the SES identity needed protection. One outcome of this was that annual resourcing of elements of (but not all) SES activities were incorporated into the SFC budget¹¹.

As a result, from operational and administrative perspectives, SES is now broadly aligned with the TFS senior management structure¹². It would be illogical to undo this important step towards true integration by reverting to previous reporting arrangements. The current arrangements have now been in place for over five years and legislation creating an integrated entity will enable a more consolidated approach to financial and annual reporting, as well as strategic and business unit planning.

3.2.1 Chair's initial view regarding an integrated entity

The Chair supported moving beyond alignment, preferring integration and noting one integrated entity will provide a strategic framework for the operation of relevant emergency services. SES and TFS already work together and have many synergies; both have a large pool of dedicated volunteers, respond to emergency incidents, operate within the same regional boundaries and have many collocated premises. Many initiatives for closer collaboration and resource sharing have already been identified within the areas of emergency management policy and planning, operations and training, facilities and assets, learning and development, and community education and awareness.

The proposed change would assist in resolving current difficulties, including the following.

- While the Director SES reports to the Chief Officer TFS, and some synergies in operations are occurring, this does not reflect a truly integrated fire and emergency service entity.
- While funding is partially provided through the SFC, the current model does not yet support a fully integrated and centralised funding model. In this regard, some costs incurred by SES are separately funded by DPFEM.
- Currently, SES works within a number of governance arrangements of DPFEM, including both Business Executive Services and TFS, while still maintaining statutory functions specific to SES.
- As noted, the Director SES currently reports to the Chief Officer TFS; however, under the Emergency Management Act, the Director SES reports to the State Controller (the

¹¹ In the form of an annual contribution by the SFC to the activities of SES. Resourcing SES is explored in Section 5.

¹² Currently, SES is aligned with TFS structures, but not “integrated into the TFS”. However, TFS has no authority over SES. The Chief Officer TFS only has authority over the Director SES due to Ministerial edict. Under s28 of the Emergency Management Act, the Director SES is ultimately responsible for the management of SES.

Commissioner of Police), primarily in the capacity as Executive Officer of the State Emergency Management Committee (SEMC).

- Financial accountabilities and reporting frameworks require further resolution in line with discussions concerning the most appropriate funding model. For example, the financial statements of SES are reported in the DPFEM Annual Report while the achievements of SES against the Strategic Directions document are reported in the TFS/SFC Annual Report.
- Under workplace health and safety legislation, the Crown is the Person Conducting a Business or Undertaking (PCBU) for SES, while the SFC is the PCBU for TFS.

3.2.2 Stakeholder views

The majority of stakeholders who responded to this issue in the Issues Paper supported an integrated entity in the new legislation. However, some respondents specified that the discrete identities, brands and culture identities of TFS and SES should be retained, at least at a community level. There was considerable disparity among submissions about how an integrated entity would appropriately be funded. Other stakeholders saw benefit in fully integrating TFS and SES, including their branding and identities.

As noted by Emergency Management Australia, with the increasing frequency and intensity of natural hazards, the challenges faced by Tasmania will evolve to be more complex. Therefore, Tasmania's fire and emergency services governance needs to be flexible. The ability to direct State resources to major incidents and to provide additional support to remote locations will be paramount and an integrated fire and emergency service will facilitate a total view of the entity's people, places and resources, enabling evidence-based planning. One leadership team will be able to manage the entity more strategically. Emergency Management Australia also noted that "...we encourage Tasmania to develop a single, unified governance model for all fire and emergency services which provides clarity around roles and responsibilities for service heads in times of complex crises".¹³

3.2.3 Options considered

The Chair considered the following options.

1. Comprehensively integrate TFS and SES as a fire and emergency services entity under a single piece of legislation¹⁴.
2. Retain the status quo with SES administratively contained within TFS but with legislative authority for SES remaining in the Emergency Management Act.
3. SES reverts to being administered, and funded, by DPFEM, with the Director SES reporting to the Commissioner of Police/Secretary of DPFEM.

¹³ Department of Home Affairs

¹⁴ Under s28 of the Emergency Management Act, regardless of the governance model, the Director SES is still referred to. Depending on the selected model, there could be consequential changes required to the Emergency Management Act.

The Chair supported Option 1. This is fundamental to modernising TFS and SES in relation to appropriate emergency response. Several independent reviews have also suggested that this option should be further considered¹⁵.

- The HofA Inquiry into the SFC noted that the Fire Service Act should recognise SES and incorporate sections of the Emergency Management Act¹⁶.
- The AFAC independent operational review of the 2016 Tasmanian fires recommended that further conversations take place between TFS and SES to identify what skills and capabilities may be transferable between agencies, not just in the event of a future fire, but in case of future hazards for which SES is the primary response agency, including flood, earthquake and tsunami¹⁷.

It is not unusual for multiple and different emergencies to occur simultaneously and, where this is the case, resource and personnel availability must be considered from a regional or State perspective. TFS and SES often respond to incidents together and provide mutual support and assistance. Greater combined expertise and experience in key functional areas that contribute to an efficient multi-agency, multi-hazard approach and reduced duplication in emergency management planning across Tasmania would now seem to be appropriate. The legislation must support rather than hinder this mode of operation.

The functions of an integrated entity would focus on fire and relevant emergency service prevention, preparedness and response. Primary responsibility for community recovery from emergencies would be excluded as this is managed by other organisations across the three tiers of government¹⁸.

To achieve an integrated entity, much of the content of Part 2, Division 4 and Part 3, Division 5 could be moved from the Emergency Management Act into the new legislation.

3.2.4 Conclusions regarding TFS/SES integration

There are many similarities between TFS and SES in terms of the nature of the services they provide, their command structures, the need to maintain and use specialist equipment, and a strong culture of volunteerism in both organisations.

The creation of an integrated fire and emergency service encompassing and expanding on the functions of both TFS and SES will facilitate efficiency and more complete coverage of prevention, preparedness, response and transition to recovery from fire and other prescribed emergencies.

Within the new integrated service, it will be necessary to preserve and recognise the role of volunteers in order to ensure future capability at a community level, particularly in a crisis situation.

¹⁵ The ACT Standing Committee on Legal Affairs concluded that a standalone statutory authority is an appropriate model for effective emergency management. August 2008 p. 110.

¹⁶ House of Assembly Standing Committee on Community Development Inquiry into the SFC.

¹⁷ AFAC Independent Operational Review: *A Review of the Management of Tasmanian Fires in January 2016*, Recommendation 5.

¹⁸ This is not to suggest that TFS and/or SES or an integrated TFS/SES have no responsibility for community recovery. Clearly they do, but in a support, rather than primary, role.

Recommendation 1

- Legislate to integrate the organisation, functions and activities of TFS and SES.
- Make consequential amendments to the *Emergency Management Act 2006*, having regard to Recommendation 26 that the new integrated service preserve and recognise the role of volunteers/units in order to ensure future capability at a community level.

The remainder of this Report has been prepared on the basis that integration of TFS and SES is a given and that the proposed new entity be called, at least for the purposes of this Report, Tasmania Fire and Emergency Services (TFES).

TFES can establish an overarching identity and also retain local TFS and SES identities, at least as an interim step. These would be matters to be addressed by the new entity. The same applies to respective volunteers. It is noted that, at the time Government decided the Director SES report to the Chief Officer of TFS, Government agreed the SES identity required protection. However, that does not mean this cannot be revisited.

A matter requiring clarification prior to full integration of SES and TFS, and drawing conclusions regarding how an integrated TFES should be funded, is the role played by DPAC in emergency management. The SES Emergency Management Unit and DPAC work collaboratively, along with Special Response and Counter Terrorism, and currently operate from the same premises. DPAC's responsibilities regarding emergency recovery/transition to recovery is addressed in Section 3.6.5.

3.2.5 Implications for the role of the Director SES

Integration of TFS and SES may or may not have implications for how emergency services are managed within TFES and/or the role played by the Director SES. In any event, the functions carried out by the Director SES as outlined in the *Emergency Management Act*, in particular sections 25-28 inclusive, must continue to be performed.

Recommendation 2

- Ensure that the functions carried out by the Director SES continue to be performed as outlined in the *Emergency Management Act 2006*, in particular sections 25-28 inclusive of that Act.

3.3 Services to be provided by TFES

Table 1, read alongside Appendix 2, notes the intended essential services that must be mandated in legislation and related regulation.

To be provided	Not to be provided
Prevention, preparedness and responses to fires, flood, earthquake, tsunami, training, community education, advice relating to emergency management, road crash rescue, rescue and retrieval when or as authorised by the State Controller, and recruitment and training of volunteers.	Activities related to biosecurity, animal and human disease, such as pandemics.

Table 1 – Services to be provided by TFES¹⁹

3.4 Current statutory and non-statutory functions and their alignment

The current statutory functions and powers of TFS/SFC²⁰, are to:

- formulate the policy in respect of the administration and operation of TFS
- coordinate and direct the development of all statewide fire services
- develop effective statewide fire prevention and protection measures
- develop and promulgate a State fire protection plan
- standardise, as far as is practicable, fire brigade equipment throughout the State
- establish and maintain training facilities for brigades
- conduct necessary investigations into fires and prepare reports and recommendations for the Minister
- conduct necessary investigations into the use of fire, instruct the public in the wise use of fire, and disseminate information regarding fire protection measures and other related matters
- advise the Minister on such matters relating to the administration of the Fire Service Act as may be referred by the Minister and on matters that the SFC believes should be brought to the attention of the Minister
- exercise such other functions vested in or imposed on it by the Fire Service Act or functions relating to the preventing or extinguishing of fires as may be imposed on it by the Minister from time to time.

In addition:

- any land proposed to be acquired by the SFC under the authority of section 7(2) of the Fire Service Act may, with the consent of the Governor, be taken in accordance with the provisions of the *Land Acquisition Act 1993* and the purpose for which the land is so taken shall be deemed to be an authorised purpose within the meaning of that Act

¹⁹ This does not include support functions which are dealt with in Section 4.

²⁰ Summarised from Section 8 of the Fire Service Act.

- the SFC is to perform its functions in respect of Wellington Park as outlined in the *Wellington Park Act 1993* and with any management plan in force in respect of Wellington Park
- the SFC is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with any management plan in force in respect of the reserved land.

This Review does not propose any changes to these provisions. In particular, it is essential that Section 8(7) of the Fire Service Act is retained because it is necessary for TFES to have regard, and not do anything contrary, to both the Nature Conservation Act and the National Parks and Reserves Management Act.

Also relevant in the National Parks and Reserves Management Act is its Section 88A 'Code of practice for managing fires in reserve land'; wherein it is stated that:

“the Minister may approve a code of practice for the purposes of providing practical guidance to –

(a) the managing authority²¹ in respect of its functions in relation to preventing, managing or controlling fire in reserved land, having regard to the management objectives for that reserved land; and

(b) any other person involved in the undertaking of any such functions²²”.

The benefits of developing a code of practice as envisaged is discussed in Section 3.6.4.

3.5 Future statutory and non-statutory functions

3.5.1 Discussion

Bearing in mind the discussion above regarding the current functions carried out by the SFC/TFS, new legislation should establish TFES as the lead authority for prevention, preparedness, response and transition to recovery²³ for fire and other prescribed emergency 'incidents' (meaning Level 1, 2 and 3 incidents under the Australasian Inter-service Incident Management System (AIIMS) framework and other emergency functions outside incident management, such as Strategic Command).

The Emergency Management Act framework will be retained for disaster scale ('state of emergency') events which exceed the ordinary powers and functions of TFES.

New legislation should establish the core functions of TFES as the following.

Response	<ul style="list-style-type: none"> • Lead and coordinate fire and prescribed emergency response including directing other agencies and volunteer organisations assisting in the response. • Develop and maintain physical and human resources to respond
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²¹ Managing Authority means the managing authority for reserved land, as specified in [section 29](#) of this Act.

²² The inter-agency fire management protocol between TFS, STT and PWS is discussed in Section 3.7.

²³ Transition to recovery is discussed in Section 3.6.5; suffice to say that local government and DPAC are responsible for community recovery.

Prevention	<ul style="list-style-type: none"> Prevent and/or limit the impact of fire and other prescribed emergencies through a range of strategies, including mitigation programs, community education and development, community readiness, regulation and enforcement.
Preparedness	<ul style="list-style-type: none"> Oversee fire and emergency planning and governance, including for climate change and other emerging risks, and intra-state, interstate and international collaboration. Provide relevant community programs, including education for communities to plan for fire and other prescribed emergencies. Undertake activities in readiness, including prepositioning aircraft at airfields. Help to build resilient communities that actively participate in prevention and preparedness so that they are ready to respond to fire and other prescribed emergencies. Support communities to transition to recovery through the prompt return of normal business and essential services.

Importantly, new legislation should express these functions in broad rather than prescriptive terms to ensure flexibility and adaptability into the future. A possible list of functions is included in Appendix 3.

In any event, future legislation must be principles-based – this is discussed in Section 8.2.

With regards to the ability of TFES to direct other agencies and volunteer organisations assisting in a response, this power must be subject to retention of the development requirement in section 8(7) of the Fire Service Act.

3.5.2 Further detail on response functions

In relation to response, the Emergency Management Act will continue to define lead combat. The following will apply to TFES.

- Lead response for the functions currently performed by TFS (fire, Hazmat, technical rescue)
- Lead²⁴ response for all of the functions currently performed by SES (flood, storm/tempest, earthquake, tsunami, space debris re-entry, and search and rescue)
- Continue to support Tasmania Police by providing road crash rescue functions
- Continue to support Ambulance Tasmania and consider expanding services to include a 'first responder' capability for medical emergencies.

The Emergency Management Act may also provide for TFES to support other agencies in responding to incidents for which those agencies have the lead response role, e.g. supporting the Department of Health in responding to heatwaves and Tasmania Police in counter terrorism events, although these support roles are already addressed in the TEMA.

²⁴ SES is not currently the 'lead' response management authority for flood, storm/tempest, earthquake, tsunami, space debris re-entry and search and rescue. New legislation will need to clarify who will be the lead response management authority. For purposes of this Review, it is assumed this will be TFES.

Recommendation 3

Prescribe in the regulations to the new legislation – or equivalent mechanism – the following as functions of the proposed new Tasmania Fire and Emergency Services (TFES) entity (subject to appropriate resource allocation and training):

- activities currently undertaken by SES (flood, storm/tempest, earthquake, tsunami, space debris re-entry, and search and rescue)
- provision of support at events like road crash rescue, response to heatwaves, and counter-terrorism.

3.5.3 Further detail on TFES roles and those of the Chief Officer (or equivalent)

The following matters should also be addressed in new legislation.

- Establish the necessary Heads of Power under which details can be prescribed and amended from time to time in schedules, regulations or other statutory instruments under a TFES Act.
- Require TFES to ensure that operational plans and directives are in place.
- Provide for TFES to establish and approve response command and control arrangements. To ensure flexibility and currency of the arrangements, they should be contained in doctrine rather than prescribed in the new Act.
- Enable safe decision-making and protections for those deployed and operating within the Tasmanian chain of command, including the whole Incident Management Team.
- Capture the responsibilities of other fire and emergency incident response authorities and local government resources.
- Recovery agencies to capture the range of players responsible for recovery, including DPAC.
- Enable and indemnify interstate and local support agencies under the authority of TFES.
- Subject to confirming governance arrangements, including associated position titles:
 - establish the Chief Officer (or equivalent) as the head of the chain of command for response
 - provide for the Chief Officer to authorise/designate a person or persons to act as the Deputy Chief Officer in the Chief Officer's absence (without the need for an acting appointment to be made by the relevant Minister) and to have all the powers, functions and authorities of the Chief Officer at such times²⁵
 - confer power on the Chief Officer to delegate his or her functions, responsibilities and powers
 - provide for the Chief Officer to make regulations or a statutory instrument to establish the response chain of command
 - retain the power of the Chief Officer to confer specialised functions, powers and indemnities on people within TFES to exercise certain powers or authorities as part of their role

²⁵ In the event that a departmental model (as discussed in Section 4) is adopted, this authority should rest with the Secretary DPFEM but in coordination with the Chief Officer.

- create a new power of the Chief Officer to confer specified functions, powers and indemnities on individuals and organisations outside of TFES and/or to appoint individuals as officers or equivalent.

Recommendation 4

Legislate to confirm:

- the functions for Tasmania Fire and Emergency Services (TFES) as outlined in Section 3 of this Report
- (subject to finalisation of governance recommendations outlined in Section 4 of this Report), the functions and roles of the Chief Officer (or equivalent) as outlined in Section 3.5.3 of this Report, but having regard to the alternative view offered in Section 3.5.4.

3.5.4 Alternative view

In making the above recommendation, regard was given to how internal governance arrangements, specifically the roles and functions of the Chief Officer (or equivalent) might differ in the event that Government decides to adopt an amended statutory authority governance model.

An option proposed to the Chair was that, under an amended statutory authority model for TFES, as this relates to the internal governance arrangements, the role and functions of the Chief Officer (or equivalent), would comprise either:

1. a Chief Executive Officer (CEO) as the head of the internal governance structure, with a Chief Officer below this position as head of the chain of command but not responsible for corporate governance; or
2. the Chief Officer having responsibility both for leading the chain of command and for corporate governance.

The second option is recommended.

It was also proposed that the legislation must provide flexibility for TFES to establish an appropriate organisational management structure. In particular, the legislation should not limit the number of Deputy Chief Officers that may be appointed and that TFES must also be able to ensure it has sufficient resources to maintain continuity of corporate governance functions during fire season and other major incidents.

In having regard to this proposal, the Chair concluded that:

- for reasons outlined in Section 4, the amended statutory authority model is not the preferred governance model
- in the event that Government supports the amended statutory authority model, the Chief Officer having responsibility both for leading the chain of command and for corporate governance is appropriate, however –
 - legislation should confirm the need for a Chief Officer (or equivalent) to be appointed and by whom

- how or what the Chief Officer or TFES establish as an appropriate organisational management structure (including the number of Deputy Chief Officers [or equivalent]) should not be established in legislation. These are matters for the Chief Officer and TFES
- it is the responsibility of TFES and its Chief Officer to manage TFES in such a way, consistent with government policy, as to ensure it has sufficient resources to maintain continuity of corporate governance functions during fire season and other major incidents.

3.5.5 Business Executive Services

Business Executive Services is a division within DPFEM that provides corporate-type services to DPFEM and SFC/TFS and has done so since about 2015, an objective being to facilitate efficiencies in the provision of such services. The role played by this division only has relevance in the event that Government supports the amended statutory authority model.

This Review has not explored whether or not Business Executive Services provides an efficient or effective service to SFC/TFS.

Importantly, outsourcing such services as currently occurs does not shift responsibility for these functions from SFC/TFS to DPFEM.

3.6 Impacts on other services and how these should be managed

Multiple entities, in both the public and private sectors, play roles in fire and emergency services related activities, including DPFEM, TFS, SES, PWS and STT, as well as recovery agencies. Significant detail about the roles played and entities involved is outlined in the TEMA. The authority for emergency management related activities sits in the Emergency Management Act, with detail outlined in the TEMA and/or the State Fire Protection Plan²⁶.

3.6.1 Alignment of current functions

Those public sector entities with fire-related prevention, preparedness and response responsibilities are TFS, PWS and STT, with the TEMA specifying respective roles and responsibilities.

Factors requiring clarification before finalising roles for TFES include the following.

- The possible lack of coordination and collaboration between these agencies when major fire emergency events arise.
- It was not always clear as to who was in charge, disparate processes may be applied, incident management arrangements may be replicated and there is a risk of there being no 'State' view when major fire incidents arise. A suggestion made was that in the case, for example, of the 2018-19 bushfires, the land tenure agencies may have been overwhelmed and changes are needed, probably based on trigger events, managed by the Chief Officer and through him/her the Police Commissioner in his/her capacity as the State Controller.

²⁶ The most recent State Fire Protection Plan was approved by the SFC on 28 February 2020.

- TFS, currently, does very little remote area firefighting. PWS responds to fires in these areas and carries out planned burns for ecological outcomes and they now increasingly carry out cultural-related burning. These practices are not necessarily linked to fuel reduction objectives. Should it be decided that the land tenure responsibilities of PWS (and of STT but noting that STT acquires the services of contractors to assist in managing forests including burns) be merged into TFES, that new entity would have to take on these roles.

3.6.2 Roles of TFS, PWS and STT under the proposed models

During the course of this Review, a proposition was made that the bush firefighting capabilities of TFS, PWS and STT be merged within TFES. This clearly has issues associated with land tenure but might assure a more coordinated response to bushfires, ensuring there are no gaps. It might also provide clarity as to whether a fire is being tackled or not and, more importantly, who is in charge and when circumstances warrant intervention by the State Controller.

From a community safety/protection point of view, it may be in the best interests of the Tasmanian community for this change to be made. This possibility was explored with the following issues noted.

- To an extent, coordination is already addressed by current interoperability arrangements.
- PWS manages bushfires and uses fire (planned burns) to achieve land management outcomes prescribed under the National Parks and Reserves Management Act. This is significant and often glossed over and was particularly evident in 2016 when conservation groups felt that insufficient firefighting resources were directed to protecting natural values.
- TFS has traditionally just put fires out until, in recent years, it has become involved in implementing statewide fuel reduction programs around built assets. PWS has a Tasmanian Wilderness World Heritage Area fuel reduction program but, due to a lack of resources, is finding it is constantly drawn into undertaking asset protection burns rather than strategic burning. This could well result in a catastrophic situation in Tasmania where fires ignited in the west sweep eastward and burn out the rest of Tasmania. Past AFAC reviews have highlighted this risk.
- The environment making up the reserve system in Tasmania is reliant on periodic burning. The competencies required to undertake this work are equivalent to a firefighter. In other words, bushfire suppression is one of a number of fire management actions required to maintain our parks and reserves.
- PWS works well with STT in recovery, finding it more efficient to carry out rehabilitation immediately following a bushfire incident because machinery and personnel are already available.
- Even if it is concluded that PWS and or STT bushfire capabilities should merge with TFES, a residual bush firefighting workforce will need to remain within each of these two entities.
- TFS does not have a role to play in rehabilitating infrastructure, this being the responsibility of land management agencies and State Growth.

- STT has a role to play in recovery of its own forestry assets – essential to supporting businesses relying on wood supplies. In the main, STT must be left alone to manage its own assets.
- Private forests need to be handled quite separately.

Initial conclusions from this are that, in line with the need to ensure structural arrangements support functions, functional requirements need to be understood and as result, current arrangements should remain unchanged. Solutions assuring better integration and response might be to:

- better understand respective resource capabilities
- clarify, and keep simple, response-trigger events requiring greater coordination and by whom
- clarify which 'smaller'-scale events require no coordination
- explore the involvement of more than only TFS, PWS and STT in developing future versions of the Interoperability Protocol
- finalise an arrangement along the lines of a code of practice.

Recommendation 5

- Do not combine the firefighting capabilities of Parks and Wildlife Service (PWS) and Sustainable Timber Australia (STT) with those of Tasmania Fire and Emergency Services (TFES).

3.6.3 Inter-Agency Fire Management Protocol (now the Inter-Agency Bushfire Management Protocol 2019-2020)

The 16th edition of the Inter-Agency Bushfire Management Protocol (Protocol) was signed in November 2019. The Protocol is the operating agreement between the three organisations most closely involved with the management of bushfires in Tasmania: TFS, PWS, and STT (collectively referred to in the Protocol as the 'fire agencies'). It is aimed at underpinning the cooperative spirit which exists to ensure that the management and suppression of fires in Tasmania is safe, efficient and cost-effective.

The Protocol recognises the close working relationship that exists across the fire agencies in Tasmania. It recognises the importance of a seamless, integrated approach to prevention, preparation, response and recovery for bushfires in the State. Its purpose is to enable the safe and effective control of bushfires on public and private land across Tasmania to achieve a range of community, cultural, agricultural, silvicultural and environmental objectives.

Bushfires occur, and will continue to occur, in the Tasmanian landscape. Bushfire does not recognise tenure. Consequently, all landowners, occupiers and managers have a responsibility to work cooperatively to reduce its impacts.

The Protocol maintains and explicitly recognises the following principles.

- The most able firefighting resource of any agency will be deployed immediately to a reported fire as a priority, regardless of the land tenure involved.
- There is one statewide point of command for major unwanted fires burning in the State of Tasmania – the State Operations Centre. This will include a single voice for public communications. Relevant to this point is recommendation 5 of AFAC's review of the 2018-19 fire season. That review:

explicitly recognises the right of each of TFS, PWS and STT to have their objectives prioritised in incident action planning and adequate resources applied to those objectives, and provides a mechanism for executive decision-makers from TFS, PWS and STT to come together and agree objectives and resourcing levels that will then be operationalised by whole-of-State control structures.

- The fire agencies will work collaboratively to make strategic decisions, organise, prepare, and enable collective capability and capacity building.
- Each of the fire agencies will have their objectives for management heard and accounted for in incident action planning, with adequate resources applied to meet those objectives. Where there are insufficient resources available, all objectives will be considered through an agreed triaging framework.

The Protocol goes on to spell out roles and responsibilities to be undertaken by each of TFS, PWS and STT, with an objective being to ensure the resources of the State are used in suppression efficiently, using a structured risk-based approach to decision-making. Put simply, the Protocol fulfils operational requirements involving PWS, STT and TFS, nothing more. If the emergency event gets beyond the capacity of these organisations, they work under the Emergency Management Act.

Not explored by this Review, although it is assumed to operate in practice, is the need to ensure decisions are informed immediately by the State Operations Centre based on the nature of a fire. For example, PWS, STT and private landowners are expected to be better placed to inform immediate action needed in the case of bushfires.

However, a gap in current arrangements concerning this Protocol is that it is approved in isolation from other relevant emergency management entities, in particular the SFC, DPAC, DPFEM, SFMC and SES. Formalising the current Protocol by engaging with these other entities and persons, and requiring approval and/or oversight by the State Controller, would facilitate enhanced coordination and surge capacity by more than just the fire agencies.

Recommendation 6

- Include all relevant emergency management entities in negotiations toward the Inter-Agency Fire Management Protocol, with approval and/or oversight by the State Controller.

3.6.4 Code of practice for managing fires in reserve land

Section 88A 'Code of practice for managing fires in reserve land' of the National Parks and Reserves Management Act envisages the development of a Code requiring approval by the responsible Minister. The Code would be specific to how to deal with fire on reserved land to achieve management objectives, but one has not been developed.

The Protocol may achieve objectives similar to the Code but it has no legislative authority. Formalising the Protocol as envisaged by the Code could be an important mechanism to managing fires on reserved land in a consistent way to ensure compliance with the National Parks and Reserves Management Act, regardless of who is managing the fire – TFS, STT or PWS.

No recommendation is made. In any event, TFS, PWS and STT should work together to prepare such a Code, perhaps as a more formal replacement of the Protocol. Doing so would require Ministerial support for the Protocol/Code, probably leading to stronger accountability.

3.6.5 Role in recovery

Evident during the course of this Review was a lack of clarity regarding the role played by TFS and or SES (and therefore by a proposed new entity) in recovery during and following an emergency incident.

The definitive situation, provided by DPAC, is that TFS and SES do not currently have a role in recovery and DPAC does not support TFES having any statutory responsibility for recovery or that this be proposed for consultation.

In accordance with emergency management arrangements, recovery is managed through regional structures, supported by government agencies such as DPAC, the Department of Health, State Growth and DPIPWE, as required. At a state level, DPAC is responsible for whole-of-government coordination of recovery. These existing arrangements remain appropriate, and were recently reviewed, resulting in amendments to the Emergency Management Act and the TEMA. The TEMA now recognises that response and recovery agencies work in partnership with individuals and communities to ensure the safety of Tasmanians during and after emergencies.

DPAC notes the following.

- Current transitional arrangements involve a transition from emergency management authorities (i.e. Regional Controller or State Controller) to a recovery authority, rather than from a Regional Management Authority (i.e. TFS/SES).
- TFS and SES undertake important work to inform recovery, primarily through undertaking Rapid Impact Assessments and sharing data, but DPAC considers that these functions relate to the conclusion of response activities.
- Any new entity should continue to have a responsibility for undertaking the rehabilitation of damage caused by response (counter-disaster) operations. This remedial work related to damages incurred as part of the operational response is important both for community relations and for reducing disruption and trauma to affected communities.
- Under the TEMA, DPIPWE/PWS may have a role in environmental recovery.

The position described by DPAC is accepted and no recommendations are made.

However, this is not to say that TFS (and PWS) has no leading role in environmental recovery following fuel reduction activities. If TFS infrastructure was damaged, it would have a leading role in its recovery. If its firefighters were sick because of firefighting or Hazmat operations, it would take a lead with their recovery. SES and TFS roles in Rapid Impact Assessment following bushfires or floods are a leading function in recovery.

Clearly, therefore, and as proposed by DPAC, TFES will play an important support role in recovery. However, this Review supports the current role played by DPAC.

Recommendation 7

- Ensure the role in recovery of the Department of Premier and Cabinet (DPAC) remains unchanged.
- Acknowledge the support role in recovery to be taken by Tasmania Fire and Emergency Services (TFES), as outlined in Section 3.6.5 of this Report.

3.6.6 Responsibility for all hazard/multi-hazard activities

A hazard is defined in the TEMA as:

a place, structure, source or situation that may potentially endanger, destroy or threaten to endanger or destroy human life, property or the environment further defined by the Emergency Management Act 2006.

The TEMA defines a hazard advisory agency as one which:

provides subject matter expertise and advice about risk and key mitigation strategies relating to particular hazards and emergencies. Hazard advisory agencies may have legislative and strategic policy responsibilities in Tasmania and nationally.

This section was included here to clarify the often-used terms 'all hazard' and or 'multi-hazard'. Clarification is needed because many hazards will not involve either TFS or SES – pandemics, for example. Table 1 and Appendix 3 are included in an effort to address this – they outline respective responsibilities for managing emergencies. No recommendations are made regarding this.

3.7 Conclusions

Section 3 recommends full integration of TFS and SES into TFES and outlines the roles and functions that a contemporary fire and emergency services entity should, and should not, perform. These recommendations must be addressed when drafting legislation to replace the Fire Service Act.

The recommendations in this Section highlight the need to clarify the role of TFES as it relates to:

- a first responder role and capability for medical emergencies
- recovery, or transition to recovery, in that it should have no explicit role other than support as outlined by DPAC and in the TEMA

- an acknowledgement that TFES has a role in recovery as this relates to environmental recovery following fuel reduction activities it may be involved in and where TFES infrastructure is damaged, or its employees or volunteers hurt.

This Section also explored combining the firefighting capabilities of PWS and STT with those of TFES, but concluded that this should not occur. Instead, the Interoperability Protocol between TFS, PWS and STT should be formalised and broadened to include, as a minimum, DPFEM, SFC, DPAC and SFMC as applicable and be approved and/or overseen by the State Controller.

An effective and efficient governance structure

4.1 Introduction

Outcome 2 of this Review as anticipated in the Terms of Reference was that:

- Section 4:
- The Commission (meaning the SFC) and TFS are organised and operating as effectively and efficiently as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation and will provide value for money in the future.

It required that this Review:

- consider and analyse options for governance and structure that would enable TFS/SES to operate as effectively and efficiently as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation while taking into account –
 - the economic value that government and communities receive from volunteers in our fire services, and measures to enable and encourage volunteers' service
 - the SFC's capital investments (including asset replacement), including the building types and location of fire stations, and the types of fire appliances, communications systems and other investments²⁷
- provide recommendations on how the SFC's business operating model could be improved, as well as when and how any such changes could be implemented.

4.1.1 Objective of this Section

The objective adopted by the Chair in developing this Section was to recommend a governance model that:

- will stand the test of time
- results in the most coordinated and informed response to fires and relevant emergencies
- has simpler lines of reporting
- is in the best interests of Tasmania
- recognises where accountabilities must reside.

A word of caution. There is no silver bullet in recommending a particular model.

²⁷ Dealt with in Section 5 Financial Management. The transfer of assets between TFS and SES, and potentially between Councils and TFES, could be addressed through transitional arrangements.

4.1.2 Context

4.1.2.1 Change or stand still?

Section 2 of this Report makes a case for change to the Fire Service Act, just as there must have been such a case made in 1979. As outlined previously, much has changed in Tasmania since that time. The opportunity now exists for this Review to propose governance arrangements that will stand the test of time. This requires questioning whether current arrangements may be suitable in the longer term.

4.1.2.2 Bureaucratic versus autocratic decision-making

The ability to efficiently and effectively respond to emergencies requires clear protocols on who can do what. Overly bureaucratic decision-making processes can significantly slow a response. Conversely, an autocratic decision could result in action that causes irreversible damage to a natural environment. It is acknowledged that when lives are at stake, autocratic decisions are appropriate. The trick is to develop and implement systems that find the right balance, and which are not reliant on personalities or organisational cultures. Also essential is that in times of emergencies, responses be coordinated maximising use of available resources.

4.1.2.3 Starting point

The starting point for designing the governance framework of TFES should be:

- clarity regarding its functions
- simplicity, with clear communication and reporting lines that allow for flexible and efficient coordination of normal business activities and a unified command structure during times of emergency
- a unified command structure, in particular during emergencies such as bushfires and floods that require a statewide response, must facilitate effective surge capacity and recognition of the oversight role and responsibility of the State Controller and ultimate accountability by the State Government.

The objective here is that emergency services must be seamless in that, from a Tasmanian community perspective, who or what responds to an emergency for which TFES has responsibility is irrelevant. Somebody must respond, and be in charge, in a coordinated and effective manner. The governance arrangements proposed in this Section have this as an overriding objective. Cost and funding considerations must be borne in mind and are addressed in Section 5.

4.1.2.4 Accountability must be clear

Once there is clarity on functions, costs and funding, regard is needed to responsibility and accountability to the Tasmanian community. This Review affirms the need for recognition that, ultimately, it is the State Government, through the appointed Minister, which is responsible and accountable. Proposed governance models must reflect this.

4.1.2.5 Current arrangements

Assuming clarity regarding the role of the Minister, it is worth reflecting on current arrangements which, in brief, include:

- the establishment of the SFC which runs/oversees the operations of TFS
- the SFC as a representative board with an independent Chair reporting to the Minister
- the Chief Officer being a public servant appointed by the Governor. This position is a member of the SFC and has multiple reporting lines including to the:
 - SFC
 - Minister
 - Head of the State Service (Secretary of DPAC) and through her/him to the Premier
 - Secretary DPFEM. The Chief Officer is a member of the Agency Management Group chaired by the Secretary of DPFEM
- the Head of SES reporting to the Chief Officer (on SES operational activities) and the State Controller (on emergency management matters relating to SEMC business)
- the Chief Officer and his/her Deputy taking a lead role when emergencies arise
- the establishment of comprehensive committee structures within DPFEM aimed at integrated management of police, terrorist, fire and other emergency-related matters (including SES). These arrangements are not addressed in the Fire Service Act but they seem to work well when emergencies arise, supported by specifications in the TEMA
- the need for recognition, in a small jurisdiction like Tasmania, that persons holding senior positions are likely to, and do, hold more than one position or fulfil more than one role as is the case with our Commissioner of Police. He is also the Secretary of DPFEM, chairs the Agency Management Group, and is the State Controller.

4.1.3 Initial conclusions

The current arrangements outlined above can give rise to tensions as to who is in charge in emergency circumstances and who is accountable. These tensions are unlikely to be in the best interests of our State.

This Section explores options on how best to address this.

4.2 Options for governance and structure

4.2.1 Introduction

This Review examined several possible governance options. Regard was had to arrangements in other jurisdictions which vary and include both statutory authority-type models and departmental arrangements. For completeness, regard was also had to the following.

- Recommendations made by John Uhrig AO in his report *Review of the Corporate Governance of Statutory Authorities and Office Holders*, released on 12 August 2004. The following two recommendations have some relevance to this Review.
 - The role of portfolio departments as the principal source of advice to Ministers should be reinforced by requiring statutory authorities to provide relevant information to departmental secretaries, in parallel to that information being provided by statutory authorities to Ministers.

- Boards should be used only when they can be given full power to act. It is not feasible to have a board in authorities where Ministers play a key role in the determination of policy. In this case, governance can best be provided by executive management.
- Outcomes from the *2006 Commonwealth Review of the Corporate Governance of Statutory Authorities and Office Holders*²⁸, from which the following are noted.
 - In comparison to the direct relationship between a Minister and his/her portfolio department, statutory authorities often operate with a greater level of separation. It is this separation, or 'independence', that creates the need for robust governance structures.
 - The need for governance increases when independence is combined with power. Consequently, statutory authorities should be created only where there is sufficient need for:
 - efficiency: that is, a clear purpose is required to achieve objectives and it is considered beneficial to undertake functions outside the portfolio department
 - independence: when functions require a level of separation from government to ensure objectivity.
- Initial conclusions from the 2006 Commonwealth Review include that:
 - operating independently can result in coordination difficulties, lack of clarity regarding decision-making and who is, overall, in charge, especially during emergencies. Separate 'objectivity' is not suitable in emergency circumstances
 - efficiencies are more likely where entity activities are conducted within a department primarily due to scale of operations both as this relates to operating costs and investment in capital
 - where statutory authorities undertake a narrow set of functions (fight fires, respond to emergencies), delegation to an executive group, coupled with an appropriate framework of governance (not a board) will be the most practical and effective arrangement to achieve alignment between operations and the priorities of government
 - a board does not provide an appropriate governance structure for statutory authorities operating in fields of service provision or regulation, as it is unlikely that such a board can be delegated full power to act. In these types of authorities, Government typically retains, and is expected to retain, control of policy and approval of strategy. Creativity by the statutory authority is limited to achieving the most efficient methods of executing the service provision or regulatory function. A board in these circumstances is likely to struggle with establishing an effective role for itself and may dilute accountability by adding a layer between Ministers and management.

However, organisational forms or structures are not an end in themselves. There is no perfect organisational structure, with performance very much dependent on sound relationships, behaviours and cultures.

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https://web.archive.org/web/20070212151317/https://www.finance.gov.au/governancestructures/corporate_governance_report.html

4.2.2 Submissions to the Issues Paper

Submissions to this Review on these matters were mixed but two stand out.

- Strong support for the new entity to retain its status as a Statutory Authority and to have this recognised in the *State Service Act 2000*.
- That it would be inappropriate for the new entity to be a statutory authority unless it had full authority to act on all aspects of TFS and SES business.

4.2.3 A way forward

This Section explores and evaluates four options.

1. Establishment of an amended statutory authority model.
2. Integration of TFES into a departmental model. This governance model would see TFES become a division in DPFEM with the Chief Officer reporting to the Secretary DPFEM.
3. Integration of TFES into a standalone departmental model.
4. A tailored departmental approach.

Research indicated use in other Australian jurisdictions and in New Zealand of (1) (2) and (3) models and, in the case of option (3), with its own 'ring-fenced' source of funding.

4.2.4 Amended statutory authority model

The amended statutory authority model envisages continuation of the SFC but with the following characteristics.

- A skills-based (rather than representative-based) board appointed by, and reporting to, the Minister.
- The board will establish its own governance arrangements, including committee structures and shared services (if any) arrangements.
- The board will be responsible for strategy and risk.
- The board will be responsible for the financial sustainability of the proposed organisation and, in doing so, be funded as envisaged in Section 5; in particular, that funds raised to cover base level (level 1) costs would be under the control of the board and its management, providing it with the independence, and associated accountability, to manage its own financial affairs.
- The board will annually prepare a Corporate Plan for public approval by the Minister and Treasurer with an Annual Report outlining achievements against that plan.
- The board appoints a skills-based Chief Officer or chief executive who:
 - will report to the Board and Minister
 - will not be a public servant as envisaged under the State Service Act
 - will report to the State Controller and continue to be a member of the Agency Management Group.
- DPFEM would provide policy advice to the Minister.

A weakness of this model is that it does not firmly resolve the circumstance under which the Chief Officer has multiple lines of reporting. A solution is to remove the requirement for the

Chief Officer to report to the State Controller or be a member of the Agency Management Group. However, removing this requirement adds to the risk of the Minister and community not knowing who is in charge and making critical and timely decisions in emergencies.

Should this model be adopted by Government, it would be necessary to change the current DPFEM by dropping the reference in its title, and responsibilities, to 'fire', with clarity then needed as to DPFEM's role in prescribed and other emergencies. This is unlikely to be a good outcome and could give rise to confusion as to responsibility and accountability.

A proposed organisational chart for this model is included at Appendix 4.

4.2.4.1 Amended statutory authority model proposed by the SFC

In response to the targeted consultation undertaken as part of this Review, the SFC (with support from TFS in its submission) proposed adoption of the amended statutory authority model. The SFC also proposed the role for the Chief Officer (or chief executive) as outlined in Section 3.5.4.

There is little doubt that these proposals could work but they would not, in the view of the Chair, provide the best outcome in line with the objective noted in Section 4.1.1 and based on the criteria applied in Section 4.2.9.

4.2.5 Departmental model

Government departments are machinery of government arrangements under which governments establish agencies through which public services are provided and resourced through appropriated funds. They are not in their own right legal entities. Examples are the departments of education, justice and health.

For the purposes of TFES, this model would have the following characteristics.

- Led by the Secretary DPFEM/Commissioner of Police.
- Establishment of a division – as occurs currently in DPFEM in relation to the Deputy Secretary responsible for police matters – responsible for fire and emergency management at the Deputy Secretary level, with the level to be appropriately classified.
- The relevant Deputy Secretary will report to the Secretary/Commissioner on day-to-day operational matters and to both the Secretary/Commissioner and Minister when fire and prescribed emergency events occur.
- The Secretary/Commissioner will be responsible for all financial controls, recognising that monies raised to fund the fire and emergency services division will be ring-fenced for application to fire and emergency services related activities. However, funds raised will be subject to the same budget management principles as apply currently, and from time to time, to all government departments.
- With the Secretary/Commissioner responsible for all financial controls, the Deputy Secretary responsible for fire and emergency management will focus on that position's core business of fighting fires and managing other prescribed emergencies.
- The role of the SFMC will be broadened to include advising the Secretary DPFEM and Minister on emergency management related matters.

- The provision of policy advice to the Minister; and importantly, as is the case with all departments, clear lines of reporting to the responsible Minister.
- Abolishment of the SFC but with relevant membership transitioned into the SFMC.

This is the Chair's preferred approach because this model would facilitate absolute clarity regarding decision-making and accountability during emergencies – that will rest with the Secretary/Commissioner and through this person, the responsible Minister. However, it would still be possible, and appropriate, under this model, for the head of TFES (in this case, the Deputy Secretary) to have a direct reporting relationship with the Minister, in particular during periods of relevant emergencies. At a minimum, this should be catered for in appropriate statements of duties.

Under these arrangements, it would still be very appropriate for interoperability arrangements to continue, amended as proposed in this Report.

A proposed organisational chart for this model is included at Appendix 5.

4.2.6 Standalone departmental model

This model might be called the Department of Fire and Emergency Services and would have the following characteristics.

- Led by a Secretary (the Chief Officer would have to transition into this role).
- The Secretary will establish, working with the State Service, his/her organisational arrangements.
- The Secretary will be responsible for all financial controls, recognising that monies raised to fund the department will be ring-fenced for application to fire and emergency services related activities. However, funds raised will be subject to the same budget management principles as apply currently, and from time to time, to all government departments.
- Likely to continue to use the services of Business Executive Services as outlined in Section 3.5.5.
- The role of the SFMC will be broadened to include advising the Secretary DPFEM and the Minister on emergency management related matters.
- The provision of policy advice to the Minister; and importantly, as is the case with all departments, clear lines of reporting to the responsible Minister.
- Abolishment of the SFC but with relevant membership transitioned into the SFMC.

This model might better reflect the very important roles played, and economic value contributed, by volunteers in both SES and TFS, but this is a transition matter that could be resolved regardless of the model adopted.

This model would facilitate clarity regarding decision-making and accountability during fire and prescribed emergencies – that will rest with the Secretary and through this person, the responsible Minister.

Under these arrangements, it would still be very appropriate for interoperability arrangements to continue, amended as proposed in this Report.

Should this model be adopted by Government, it would be necessary to change the current DPFEM by dropping the reference in its title, and responsibilities, to 'fire', with clarity then

needed as to DPFEM's role in prescribed and other emergencies. This is unlikely to be a good outcome and could give rise to confusion as to responsibility and accountability.

A proposed organisational chart for this model is included at Appendix 6.

4.2.7 Tailored approach

This approach is the same as a departmental model (not the standalone departmental model) but introduces independent statutory office holders established under legislation. The objective here is to lock in a relationship for them with the Minister, especially during times of emergencies but without diluting the role of the Secretary/Commissioner. It has the advantage of reducing the multiple reporting arrangements for the Chief Officer under the amended statutory authority model and at the same time improving coordination and decision-making during emergencies.

The tailored approach envisages inclusion within the departmental structure referred to previously, with the following governance aspects.

- Establishment of the statutory position of a Commissioner of Fire and Emergency Management held in conjunction with a statutory State Service Office (in this case the Deputy Secretary responsible for fire and prescribed emergency services).
- As a statutory position holder, the Commissioner will have a reasonably high level of independence, e.g. as this might relate to policy advice to Government, in relation to fires and prescribed emergencies²⁹.
- This position will be a member of the Senior Executive Service, reporting to the Secretary DPFEM, but to the Minister when fires and prescribed emergencies occur.
- The Secretary DPFEM will continue to be the Head of Agency.
- The Commissioner will appoint a Deputy who would also be a statutory office holder and act up when necessary.

A proposed organisational chart for this model is included at Appendix 7.

Further assessment as part of this Review indicated that, in at least one Tasmanian department, the role of Statutory Officers had the effect of, on occasion, confusing accountabilities, and such roles had been absorbed into core business.

Should this model be adopted, it will also result in abolishing the SFC but with relevant membership transitioned into the SFMC.

4.2.8 State Fire Management Council

The two departmental approaches and the tailored approach would see abolishment of the SFC, resulting in the Minister perhaps not having access to the full suite of policy advice he/she may need.

This role could most suitably be achieved by expanding the role of the SFMC and by reviewing its membership, which would include relevant members of the SFC.

²⁹ These arrangements propose that the Commissioner's Deputy would automatically act in the Commissioner's role in his/her absence.

4.2.9 Summary of governance options and conclusion

While some initial conclusions are provided above, the advantages and disadvantages of each of the four governance options was explored by reference, in no particular order, to the criteria noted in Table 2 below. Scoring was limited to higher or lower capability or not applicable (note that, other than ring-fenced funding, funding considerations are not addressed until explored in Section 5). When ranking each model, regard was had to the factors outlined in Section 4.2.1.

Criteria	Amended statutory authority	Department	Standalone department	Tailored
Surge capacity	Lower	Higher	Higher	Higher
Power to act	Lower	Higher	Higher	Higher
Policy advice	Lower	Higher	Higher	Higher
Commercial imperative	N/A	N/A	N/A	N/A
Scale, efficiency	Lower	Higher	Lower	Higher
Ring-fenced funding	Higher	Lower	Lower	Lower
Accountability and transparency	Lower	Higher	Higher	Higher
Resource allocation	Lower	Higher	Higher	Higher
Complexity	Higher	Lower	Lower	Higher
Coordination in times of emergencies, who is in charge	Lower	Higher	Lower	Higher
Coordinated investments	Lower	Higher	Higher	Higher
Effectiveness and fit-for-purpose	Lower	Higher	Higher	Higher
Independence	Higher	Lower	Lower	Lower
Affordability	Lower	Higher	Lower	Higher
Volunteer risk	Lower	Higher	Higher	Higher
Stand test of time	Lower	Higher	Lower	Higher

Table 2: Governance options ranked

Table 2 suggests that, subject to suitable funding arrangements being agreed upon, the departmental model is superior but that the standalone and tailored approaches could work.

This is not to suggest that the amended statutory authority model may not be suitable but that the two other options are superior, based on the above criteria.

In the event that any of the departmental approaches are adopted, risks associated with volunteer workforces will need careful management and transition.

While the standalone departmental model is a valid option, a risk with it includes the possibility that machinery of government changes might find it absorbed into DPFEM in time.

Recommendation 8

- Develop a governance model for Tasmania Fire and Emergency Services (TFES) that transitions it to a division within the Department of Police, Fire and Emergency Management (DPFEM) that includes:
 - suitable ring-fencing arrangements for levies raised to fund TFES
 - appropriate reporting arrangements between the head of TFES and the Minister
 - broadening the role, and revisiting the membership, of the State Fire Management Council (SFMC). Revisiting membership should include relevant membership transitioned from the State Fire Commission (SFC)
 - abolishing the SFC.

4.3 State Fire Management Council

4.3.1 Discussion

The SFMC is currently established under section 14 of the Fire Service Act. It is an independent body that has the responsibility of providing advice to the Minister and the SFC about the management of vegetation fire across Tasmania, particularly in the areas of prevention and mitigation of fires. It also formulates and promulgates policy in relation to vegetation fire management within Tasmania as this relates to bushfire fuels and mitigation.

The primary function of the SFMC is to develop a State Vegetation Wildfire Management Policy that is used as the basis for all fire management planning.

The SFMC recently reviewed their role and their strategic direction framework. The outcome was their view that the SFMC has a clear role to play in the provision of advice and advocacy, rather than in the operational sphere.

Some of the strengths of the SFMC identified in its review included provision of quality advice, actions linked to strategies for preparedness and prevention, the formulation of the Tasmanian Vegetation Fire Management Policy and increasing public awareness and acceptance in relation to bushfire management. Its broad representation across public and private landholders is a significant contributor to the value of the SFMC.

The SFMC concluded that a key strength is its inter-agency and broad representation, facilitating coordinated approaches, strategies, advocacy, research and community development.

Opportunities for improvement were also identified, including reform of the Fire Service Act, clarity regarding the role and reporting lines of the SFMC and lack of linkages to the emergency planning framework. The SFMC also did not consider it appropriate that they continue to appoint fire permit officers.

The SFMC coordinating Fire Management Area Committees is an element of a model that is adopted in several other jurisdictions³⁰.

³⁰ Emergency Management Victoria oversees regional and municipal fire management plans in conjunction with local government. In South Australia, the State Bushfire Coordination Committee is responsible for bushfire

4.3.1.1 Chair views

The Chair had regard to the role played by the SFMC and noted differing points of view including the following.

- The SFMC includes representation by persons working for entities with land management responsibilities; this puts it in a good position to carry out effective work.
- It is unclear who the SFMC reports to, with the proposal made that, subject to the outcome of the governance model discussion earlier in this Section, it should report to whomever heads TFES.
- The new Act should provide for TFES and/or the Minister to establish such other advisory councils as necessary to manage other hazards (such as flood/storm risk and climate change threats).
- The Head of TFES could also establish underlying committees to support the operation of the new councils (like the role of the Fire Management Area Committees [FMAC] for the State Fire Management Council today).
- Acknowledging the SFMC in the TFES Act as the peak multi-agency body advising TFES on its management of bushfire hazard and risk in rural and urban areas.
- Providing in the TFES Act for the SFMC to have a function of advising on joint initiatives across fire agencies.
- Expanding the remit of SFMC to include advising on operational matters relating to bushfire and urban interface fire that need collective agency endorsement.
- Facilitating interagency bushfire management functions and collaborations (i.e. the functions of the current Multi-Agency Committee³¹), including research.
- The SFMC could be turned into an advisory board/council with no decision-making role and its current functions transferred to TFES.
- If a departmental governance model is determined, the SFMC could become advisory with its membership reviewed.
- The new Act could identify the functions of FMACs but how that is achieved and managed should lie with TFES.
- There could be a requirement in the new Act for a statewide vegetation fire management plan to be established but it would be up to TFES as to how that is achieved.
- At least one Steering Committee member supported the recommendation in regard to the continued existence of this committee but that the development of any Terms of Reference should be a requirement for any committee/sub-committee formed under legislation.

management planning. The Committee has divided the State into nine Bushfire Management Areas. There is a sub-committee for each area that is responsible for the preparation of a Bushfire Management Area Plan. The *Fire and Emergency Act 2005* requires the Committee to prepare a State Bushfire Management Plan. New South Wales also has a Bushfire Management Committee which provides a forum for cooperative and coordinated bushfire management in a local area. A range of stakeholders sit on the Committees in order to ensure the whole community has a say on bushfire management activities. They include landowners, land managers, fire authorities and community organisations.

³¹ Is a coordinating committee referred to in the interagency protocol between TFS, PWS and STT.

- That committees should be able to be created as required by a Service Head, or Head of Agency (or Board, should there be one).

Clear from this discussion is that there are varying views about the role for a body such as the SFMC, including how it is established and who it reports to. Also evident is that its role, membership, functions and powers in relation to vegetation fire management policy are primarily an operational question for TFES.

4.3.1.2 Chair's further considerations

Submissions to the Chair following targeted consultation were persuasive, resulting in the need to have regard to the following.

- Not losing the effective role already played by the SFMC. SFMC has demonstrated the provision of consistent and timely advice as required by the Minister and key stakeholders, both internally and, more importantly, externally.
- Not losing the ability of the SFMC to independently report directly to the Minister and/or the Secretary DPFEM because this allows issues and suggestions to be promptly raised at the highest level of government without the need for feedback to be sanctioned.
- The indicated lack of structural linkages between either the SFMC, FMACs and Emergency Management Committees and that membership of these three committees overlaps.
- Confirm that bushfire is the most significant natural hazard in Tasmania, and that a statewide strategic approach to vegetation fire risk management continues to be needed.
- Acknowledgment that the other significant natural hazard in Tasmania is flood, including floods arising from severe weather and storm events and that, therefore, a statewide strategic approach to flood risk management is also warranted.

Some of these matters are beyond the scope of this Review but will be relevant should Government support the establishment of TFES. If that occurs, Government could take the opportunity this Review offers to allocate the strategic risk management functions for both vegetation fire and flood within Emergency Management Committee structures, ideally at State and Regional levels.

This may require amendment of the Emergency Management Committee Terms of Reference to expressly include:

- strategic management of vegetation fire risk
- strategic management of flood risk.

Implications will include reviewing the membership of Emergency Management Committees to expressly include relevant land managers.

This approach would reduce the number and complexity of committee arrangements in relation to fire and emergency risk management, whilst providing more effective arrangements encompassing all relevant stakeholders. These proposals may require consequential amendments to the Emergency Management Act.

No recommendation is made because these proposals, while included here for consideration, have not been tested as this relates to impacts on non-fire or flood type emergencies for which the Minister, Ministerial Emergency Management Committee and State and Regional

Emergency Management Committees have responsibility. However, this Review supports the need for FMACs to continue and for there to be better linkages with Emergency Management Committees, recognising that bushfires and floods occur over very different boundaries.

4.3.1.3 Chair's conclusions

In any event, should TFES be established within a departmental arrangement as proposed, there will be a need for an advisory body, with the SFMC model being the most appropriate. Legislation should reflect continuation of the role of the SFMC under a charter to be developed and approved by the Secretary DPFEM. Such a charter should be explicit concerning:

- the SFMC's scope of responsibilities, advisory role and reporting requirements
- appointment of an independent chair
- membership from volunteer organisations (including SES volunteers), private land owners (including the farming community and other private land owners), the Forest Industries Association of Tasmania, the Local Government Association of Tasmania (LGAT), a representative of the Secretary DPFEM and a person with expertise in flood risk management and, possibly, a person representing environmental risks
- administrative support.

The representation proposed above does not mention nominees from either PWS or STT (both currently represented on the SFMC). Their membership should be revisited once a decision is made regarding the membership or formality of Recommendation 6 discussed in Section 3.

The role played by the SFMC in relation to FMACs and appointment of fire permit officers is addressed separately in Section 7, but its charter should continue to include its current role in relation to management of vegetation fire across Tasmania. This role may be broadened to include other prescribed emergency risks. Should this occur, SFMC's name would have to change to reflect this.

This Review has not had regard to implications of the Bushfire Mitigation Measures Bill currently under development.

Recommendation 9

- Confirm in legislation the continued existence of the State Fire Management Council (SFMC) under a charter to be approved by the Secretary Department of Police, Fire and Emergency Management (DPFEM) and the Minister.

4.4 Conclusions

This Section explored four governance options: an amended statutory authority, establishment of TFES within DPFEM, a standalone TFES department and a tailored approach which explores the establishment of Statutory Office Holders within DPFEM. These options were evaluated against the following criteria:

- surge capacity
- power to act
- policy advice

- commercial imperative
- scale/efficiency
- who is in charge
- ring-fenced funding
- accountability and transparency
- resource allocation
- complexity
- coordination in times of emergencies
- coordinated investments
- effectiveness and fit-for-purpose
- independence
- affordability
- volunteer risk
- whether the proposed model will stand the test of time.

Regard was given to governance arrangements in other Australian jurisdictions and New Zealand, along with authoritative guidance in Victoria and through the Australian Government.

Conclusions reached are that the governance model best suited to an effective TFES would be the model whereby TFES resides within DPFEM but with:

- ring-fencing arrangements for levies raised to fund TFES
- inclusion of suitable reporting arrangements between the head of TFES and the Minister
- continuation of the SFMC, but with revised membership, under a charter to be approved by the Secretary DPFEM and the Minister.

Adoption of this model would result in the need to abolish the SFC but, as proposed in recommendation 8, membership of the SFMC should include relevant membership transitioned from the SFC.

While transitioning TFES will result in change, this should not be significant in view of existing arrangements including TFS' participation on the Agency Management Group and support provided by DPFEM's Business Executive Services.

Financial management

5.1 Introduction

Outcome 3 of this Review as anticipated in the Terms of Reference was that:

- Section 5:
- There is sustainable, stable, simple and equitable funding for TFS and SES, with the sources of that funding aligning with the functions and associated risks³² that they need to perform.

It required the Review to:

- assess the SFC's funding base data and identify future funding options
- undertake an analysis of future funding options against the following criteria –
 - provide sufficient funding to ensure the fire and emergency services can perform the functions agreed by Government
 - be administratively simple to calculate and collect
 - be stable and predictable
 - be equitable so that:
 - (a) those who receive the various services performed by TFS and SES contribute to the costs for both fire and other relevant emergency services related activities
 - (b) levy payers in rural fire districts and all other asset owners receive benefits that reflect their needs and contribution
 - (c) minimise distortions in investment decisions, insurance price and coverage
- provide recommendations for the SFC's future funding base so it can be more sustainable, stable, simple, equitable and commensurate with future functions and business operating model, including:
 - how improvements could be made to the current insurance-based levy
 - whether there are other viable funding sources.

5.1.1 Objective of this Section

The objective adopted by the Chair in developing this Section was to recommend a funding model that is sustainable, stable, predictable and commensurate with future functions and business operating model. Achieving an equitable model proved more difficult. Equity is only achievable if TFES is fully funded by the State, which is not proposed.

The funding approach applied in Western Australia was identified as worth considering (see Appendix 8) but was not explored here.

³² Added because it is evident that there needs to be a link between the risk of fire and other relevant emergency services functions and who pays more or less for these activities

5.1.2 Context

The revenue model developed in 1979 took into account fire and bushfire risks at that time. While there were significant fire events prior to this date (the 1967 fire event, for example), many things have changed since then, including greater interoperability, both locally and nationally, use of aircraft in fighting fires, much-improved technology, demographic changes, longer fire seasons and likely impacts of climate change.

As a result, the funding model used to fund fire and emergency services needs to take into account these differing circumstances and, at the same time, be future-proof.

5.1.3 Linkage with governance

Funding models must have regard to the proposed governance models discussed in Section 4, which were:

- the amended statutory authority model – subject to completion of a costs and benefits study, and application of DPAC’s framework for fees paid to members of a skills-based board, this model is likely to be a marginally more expensive model³³
- departmental models and the tailored approach – considered together because likely to involve similar costs although a standalone department is likely to be marginally more costly.

However, while any proposed governance has relevance to costs and funding, this should not necessarily drive development of the most appropriate funding model.

5.1.4 SES integration

This Section assumes any proposed funding model must raise funds to pay for the services of an integrated TFES.

5.1.5 Brigade operating costs

A concern identified during the course of this Review was that the sources of funding identified below (refer Table 3), inclusive of the Fire Service Contribution (FSC), only cover brigade costs as defined in the Fire Service Act. It is understood that this definition does not include, for example, costs associated with administration, community education or trading activities. In practice, however, the FSC has been used to fund all level 1 costs and the SFC’s contribution to DPFEM towards the costs of running SES. This practical interpretation and application of ‘brigade costs’ requires clarity. The SFC (and TFES) cannot operate without an administration which must be paid for from funding sources.

Recommendation 10

- Broaden the definition in the Fire Service Act of ‘brigade costs’ to include non-brigade costs.

³³ Based on fees currently paid to members of the SFC, assuming secretarial support of about one FTE and associated administration costs, this is estimated at approximately \$160 000 per annum.

5.1.6 Initial overview

The sustainable funding of emergency service activities is an important consideration. The legislation should support a suitable revenue stream to fund the provision of fire and prescribed emergency services to an acceptable level to achieve an effective service delivery which supports the community's safety while at the same time encouraging community resilience. The model should be equally applicable in similar risk/service provision situations, and not discourage property owners' resilience-building activities, such as the taking out of an appropriate level of insurance. Nor should the model devalue the contribution of volunteers or result in differing levels of service delivery based on the ability to fund the specific services, as opposed to the level of risk. The funding system implemented should be aimed at securing funds to directly contribute to the operation of the legislatively defined emergency services.

The process used should consider levy options in which citizens' and users' dependent on these services make an equitable contribution towards these services. That is not to say that existing or proposed levies must be determined by TFES or collected by it. Alternatively, and consistent with other publicly provided services, emergency services could be funded by annual Appropriation.

5.2 Current SFC/TFS funding arrangements

5.2.1 Funding sources and quantum

Prior to exploration of funding arrangements, there must be understanding of how the SFC is currently funded to meet its costs other than costs associated with fighting bushfires which are funded separately by Treasury.

While the quantum of revenues and costs currently earned/incurred by the SFC is clear (total recurrent funds earned by the SFC was \$86,121³⁴ million in 2018-19 and costs in that year totalled \$85.212 million, inclusive of depreciation totalling \$6.169 million), there is uncertainty regarding:

- impacts on fires of variations in our climate
- impacts of COVID-19 and recovery investments by governments
- amounts needed to fund prescribed non-fire emergency services (discussed in Section 5.3.1).

For the purposes of this Review, it was concluded that at least \$100 million³⁵ is currently needed to fund the activities of TFES. This amount is used when exploring funding options and impacts on citizens and businesses expected to pay or in proposing exemptions and/or funded Community Service Obligations.

The Fire Service Act prescribes various sources of funding for the SFC. These are articulated – in the order in which they arise in the Fire Service Act – in Table 3 below. The first four sources of funding are aimed at identifying the amount that the FSC needs to amount to in order that the SFC can cover brigade operating costs.

³⁴ Revenues and costs exclude bushfire related items, capital contributions, the SFC's contribution towards SES, fuel reduction costs and borrowing costs.

³⁵ TFS +/- \$86m (rounded to \$90m) plus SES +/- \$10m.

Funding source	%
Insurance Fire Levy	25
Motor Vehicle Fire Levy	10
Australian Government funding	0
Revenue from marketing/fire prevention activities	7
Operating costs (includes depreciation)	(99)
Fire Service Contribution	53
State Government funding (general funding only)	2
Other/miscellaneous revenue	3
Net surplus	1

Table 3: SFC's prescribed funding sources – percentages are those relating to the 2018-19 financial year

5.2.2 Funding requirements

Any discussion about funding sources must be cognisant of total costs which, as noted, totalled about \$85 million in 2018-19, excluding a contribution in that year of about \$2.7 million towards the costs of running SES. Also excluded, other than direct costs of providing uniforms and equipment, are in-kind costs associated with volunteering.

Of note is that the \$85 million referred to relates only to 'level 1' costs. That is, costs associated with responding to level 2 and 3 wild-fire related costs are excluded. These totalled about \$59 million in 2018-19.

When exploring alternative funding sources, it is assumed that on-going level 1 costs associated with running TFS components of TFES will total about \$90 million per annum, inclusive of depreciation.

5.2.3 Excluded functions

Not included in funding considerations or costs are activities like fuel reduction or similar prevention initiatives which are assumed will continue to be separately funded.

5.3 Funding the State Emergency Service

Before considering funding for TFES, discussion about funding SES is needed and is explored here. At the outset, the following assumptions are made.

- Proposed funding will be simplified. Current arrangements are unclear and uncertain.
- SES-related costs will also likely be impacted by climatic changes but any such costs are ignored here – the intent is to arrive at a base level of costs
- Additional roles associated with SES' flood and storm prevention and mitigation responsibilities, including facilitating community awareness and resilience, are not currently funded but need to be.
- SES costs, inclusive of depreciation, should represent about 10% of TFES' costs. This is not unreasonable and includes all those costs currently incurred by local government – and, if this assumption is in fact reasonable, would mean costs of about \$9 million per annum (for the purposes of this Section, rounded to \$10 million).

5.3.1 Funding SES activities

5.3.1.1 Unclear and uncertain funding arrangements

The current funding model for SES relies on several revenue streams which in 2018-19 included the following.

- Contribution by the SFC sourced by an increase in its FSC
- Appropriation via DPFEM
- Local government
- Treasury assistance to the SFC
- Contributions from time to time by the Australian Government
- Donations and other fundraising activities
- Motor Accident Insurance Board (MAIB) payments to SES (via DPFEM).

While not completely clear regarding costs or revenues, it is estimated that the contribution by the SFC (\$2.7 million in 2018-19) and DPFEM (about \$0.9 million in 2018-19) make up the bulk of direct SES funding. This ignores cash and in-kind resources associated with volunteers and/or provided by local government.

5.3.1.2 Costs to be funded

Various exercises carried out in recent years have proven inconclusive in trying to identify what it costs (both capital and operating), statewide, to run a contemporary SES. Of particular concern is the difficulty in quantifying amounts, and benefits of, contributions (in cash or in-kind terms for both operations and capital) made by local government. Incomplete estimates suggest this could vary between \$3 million and \$5 million per annum.

These arrangements are clearly unsuitable, especially if SES is expected to provide a statewide service benefiting all Tasmanians. The role played by local government in providing emergency services is explored further below and, for the purposes of this Section, it is assumed that, in the main, emergency services related functions transition to TFES. Doing so will enable TFES to take on a statewide responsibility for fire and prescribed emergency activities.

5.3.1.3 Clarity about who currently funds SES

Prior to the submission of this Report to Government, there was commentary suggesting a lack of understanding of how SES is currently funded. On the assumption that the \$5 million referred to above is correct, then the community is already funding the bulk of SES-related costs as follows:

	<u>\$ million</u>
Funded via local government (therefore rates)	5
Funded via the SFC (therefore from the FSC)	3
Funded via annual Appropriation to DPFEM	1
Other sources – estimate/rounded	1
Total	10 (or 10%)

5.3.1.4 Discussion

Funding for SES lacks clarity and is uncertain. It is proposed that all funding of SES be by way of a property-based levy so that it has a single, predictable funding source. A property-based levy represents sound policy because the work SES carries out generally relates to damage to property, including vehicles. An alternative also explored in this Report is full Appropriation funding.

Recommendation 11

- Replace all current sources of State Emergency Service (SES) funding with a single, property-based levy.
- Explore Appropriation-based funding for SES as an alternative if a single, property-based levy is not supported or sustainable.

5.4 Funding level needed

This Review notes that robust efforts at identifying the full amount required to fund a contemporary TFES are inconclusive and it is assumed that the proposed revenue sources explored below will raise approximately \$100 million per annum in 2018-19 dollars.

5.5 Funding models – TFES

This section explores four funding options.

1. Base case – continuation of the current integrated approach for the SFC, which includes the interdependencies between the main funding sources and assumes the FSC funds the entirety of costs associated with administration and SES
2. A single property-based levy
3. A property-based levy combined with a vehicle levy
4. Fully funded by annual Appropriation.

Regardless of the option chosen, it is assumed that:

- funds collected or appropriated are ring-fenced for use by TFES
- the Department of Treasury and Finance (Treasury) are directly involved in calculating the amounts to be collected/Appropriated.

Table 4 summarises these options, with each evaluated in accordance with the criteria associated with their sustainability, stability, simplicity and being equitable. In all four options, it is assumed that the funds to be raised will be sufficient to fund both TFS and SES in an integrated TFES and the funding required totals \$100 million. This also assumes no funding is provided by local government.

Revenue sources	Notes	Base case	Single property-based levy	Property and vehicle-based levies	Appropriation
Insurance levy	5.5.1	Yes	No	No	N/A
Motor vehicle fire levy	5.5.2	Yes	No	Yes	N/A
Australian government funding	5.5.3	Yes	N/A	N/A	N/A
Marketing/fire prevention activities	5.5.4	Yes	N/A	N/A	N/A
FSC/Property-based levy	5.5.7	Yes	Yes	Yes	N/A
State government	5.5.5	Yes	N/A	N/A	N/A
Miscellaneous	5.5.4	Yes	N/A	N/A	N/A
SES funding	5.3	Yes	Yes	Yes	N/A
Council support for SES	5.5.6	Yes	No	No	N/A
Appropriation	5.7	In part	No	No	No
Ring-fenced capability		N/A	Yes	Yes	Yes
Sustainability		No	Yes	Yes	Yes
Stability (predictability)		No	Yes	Yes	Yes
Simplicity (less complex)		No	Yes	Yes	Yes
Equitable		No	Subject to transition	Subject to transition	No
Ranking conclusion		4	3	2	1

Table 4: Comparative funding options

While Appropriation-based funding appears attractive, it may result in unintended consequences including lower community resilience. It is not, therefore, the preferred option.

5.5.1 Retain/ discontinue the fire insurance levy

5.5.1.1 Discussion

This levy generated \$21.389 million in 2018-19 (\$18.652 million in 2017-18) and averaged \$17.4 million per annum over the past five years to 2017-18. It represented 25% of TFS' funds in 2018-19.

The levy is prescribed by Division 2B of Part VI of the Fire Service Act and is collected by insurance companies through a levy on premium income for certain prescribed classes of business insurance. The levy differs depending on the type of insurance, with the amount added to insurance premiums varying from 2% to 28%.

When considering the continuation of this levy, the following were noted.

- This levy currently represents more than 25% of SFC revenue.
- It is only paid on certain classes of business insurance.
- It is not paid by entities that are insured by mutual insurers.
- This levy can have unintended consequences, including under-insured properties and, in some cases, property holders paying more than one levy.

- While there are provisions in the Fire Service Act under which the SFC may conduct audits of insurers to ensure the correct levies are always charged, in practice this is not done and it is probably unrealistic to think that it would be.
- The collectible amount is not predictable.
- This levy does not satisfy any of the sustainability, stability, simplicity or equitable tests.

An alternative view provided was that this levy be:

- reviewed and analysed with a view to simplifying the current arrangements
- continued but remove ‘loopholes’ and enhance stability/predictability of funds generated.
- indexed to CPI.

5.5.1.2 Submissions to the Issues Paper

Submissions included the following points.

- There was strong support for the removal of the levy on insurance policies, with one submission accepting that this may lead to an increase in an Emergency Service Levy which may require transitional arrangements to be put in place.
- It was acknowledged that businesses that choose to insure are effectively paying the existing FSC twice. That is, they pay the FSC *and* the insurance levy.
- Some Councils did not support fire and emergency services being funded through a levy system.
- There were indications that the insurance levy should be replaced by a fire and emergency services land title levy, applied as a flat rate across all titles and tenure and that it should not delineate between different types of brigade coverage.

5.5.1.3 Relevant national considerations

The NSW Review of Federal Financial Relations (NSW Review) noted that Victoria shifted to a property-based levy following the recommendations of the 2009 Victorian Bushfire Royal Commission. This resulted in NSW being the last mainland state still taxing insurers to fund fire and emergency services³⁶. The NSW Review also noted that:

- there is no principled case for applying a special tax on insurance
- insurance taxes are inefficient: they drive up premiums and discourage consumers from adequately insuring
- taxes in insurance are also inequitable – insurance taxes should be abolished, with replacement revenue sourced from more efficient and equitable taxes.

The Insurance Council of Australia estimates only 60% of businesses have building insurance. In Tasmania, this means 20% to 25% of SFC funding is sourced from only 60% of businesses.

A recent White Paper on tax from the Australian Government stated that insurance levies are highly inefficient as they have the potential to discourage households from taking out appropriate levels of insurance (especially amongst demographic groups that are vulnerable to

³⁶ NSW Review of Federal Financial Relations Draft Report July 2020.

a significant loss)³⁷. For these reasons, there has been a nation-wide trend away from insurance-based levies and a general move towards property-based levies.

The Economic Regulation Authority of Western Australia cites evidence that rates of insurance by property owners increased after replacing insurance-based levies with property-based ones both in Western Australia and South Australia³⁸.

Also relevant is that a report by the New Zealand Institute of Economic Research noted that, of 12 reports produced since 1993, almost all recommended moving away from an insurance-based levy to at least partial use of alternative bases, including greater use of general tax revenue funding³⁹. Nevertheless, the reforming legislation in 2017 retained the use of an insurance levy as the principal means of funding fire services in New Zealand; however, this is currently under review in that country.

5.5.1.4 Mutual insurers

Under the current arrangements, the FSC is only liable to be paid by those who have a traditional insurance policy. Those who maintain a mutual fund or who insure offshore are often able to avoid a contribution due to legislative loopholes. This arises from the fact that mutual insurance companies are not currently governed by the Australian Prudential Regulation Authority (APRA). Furthermore, how insurers recover costs from policyholders is usually at their discretion, which means that similar properties can be charged different amounts, depending on the particular policy.

Recommendation 12

- Replace the Insurance Levy with a property-based levy or another funding source providing similar, and consistent (predictable), levels of funding.
- Ensure that the Insurance Levy continues to be charged and collected until suitable transition arrangements are identified and implemented.

5.5.2 Retain and expand the Motor Vehicle Levy

5.5.2.1 Discussion

The Motor Vehicle Levy raised \$8.810 million in 2018-19 (\$8.164 million in 2017-18) and averaged \$7.686 million per annum over the past five years to 2017-18. This levy represented 10% of TFS' funds in 2018-19.

The levy is prescribed by Division 2C of Part VI of the Fire Service Act and is collected by Government through a fire levy applied to all motor vehicle registrations. It is not currently payable for motorcycle, trailer, caravan, commercial marine vessels or watercraft registrations.

³⁷ *Re-think – Tax Discussion Paper*, the Australian Government, March 2015.

³⁸ Economic Regulation Authority, Western Australia, *Review of the Emergency Services Levy 2017*

³⁹ *Better ways of funding fire services in New Zealand*, April 2013 p. ii

Regarding this levy, the Chair noted the following.

- The levy reflects and supports TFES's functions and service provision in relation to road crash rescue, marine fire and rescue and vehicle fire response, but its application could be expanded to include all registered vehicles, including motorcycles, trailers, caravans and watercraft.
- While an objective of the levy is to fund road crash rescue, allocation to road crash rescue should not be a prescribed requirement as long as TFES continues to provide this service.
- The levy should be indexed to CPI.
- The Registrar of Motor Vehicles should continue to collect the levy.

5.5.2.2 Submissions to the Issues Paper

Submissions were generally supportive of the retention of the Motor Vehicle Levy.

5.5.2.3 Options Considered

The Chair considered two options.

1. Retain and expand the Motor Vehicle Levy
2. Discontinue the Motor Vehicle Levy

The Chair supported option 1. This levy has marginal volatility. While there is no price variance, there are variances in the number of vehicle registrations.

It is appropriate that the Motor Vehicle levy be retained as road crash rescue and motor vehicle accident incidents are frequent and attendance at these incidents should reflect this⁴⁰. It is also appropriate that such a levy fund not only fire-related road crash rescue but also the roles that other relevant emergency services personnel have in relation to road crash rescue.

The Motor Vehicle Levy does not currently apply to all vehicles (it excludes caravans, horse floats, motorcycles, and trailers). The impact on revenue of these exclusions is estimated to be in the order of \$2 million per annum after allowing for concession discounts. Charging the levy on these vehicles would bring the levy more into line with the road safety levy, registration fees, motor tax and the MAIB premium. It also supports TFES' functions (both fire and other prescribed emergency services roles) and service provision in relation to road crash rescue, marine fire and rescue and vehicle fire response.

However, while on face value introducing such a levy might meet an equity test, doing so may have unintended consequences which have not been explored. Until this is done, no such levy should be introduced, especially having regard to the relatively minor amount that may be collected.

Another related revenue source might be a levy on boat owners in relation to which TFS has in recent times had a growing involvement. Consideration (if not already implemented) could be given to applying a similar levy formula (as used on vehicles) on boat/vessel registrations administered by Marine and Safety Tasmania (MAST) through either motor boat registrations

⁴⁰ South Australia currently has a Motor Vehicle Levy and the 2003 Victorian Department of Treasury and Finance's *Review of Victoria's Fire Services Funding Arrangements* recommended the introduction of a charge on motor vehicles in recognition of the role played by Victorian Fire Authorities in motor vehicle callouts and events.

or annual infrastructure administration fees for commercial vessels. Before doing so, a cost-benefit analysis would need to be completed, including an assessment of amounts that may be collected.

It is, however, acknowledged that the continuation of the Motor Vehicle Levy may detract from transparency, add complexity and raise equity considerations, given that a cohort of people would pay multiple levies if they were both landowners and vehicle owners. However, there is no link between property risk and motor vehicle risk.

On balance, it was concluded that retention of the Motor Vehicle Levy meets the sustainability, stability, simplicity and equitability tests but expanding it to cover other forms of vehicle would fail these tests. There is a case for retaining the current levy which is estimated will fund about 10% of TFES activities but, as outlined later, a single property-based levy is preferred.

Recommendation 13

- Continue the Motor Vehicle Levy.
- Base any expansion of the Motor Vehicle Levy to other types of vehicles on a cost-benefit analysis.

5.5.3 Australian Government funding to the SFC

The Australian Government contributes funding to the SFC under a Memorandum of Understanding (MoU) for the protection of Commonwealth land (\$0.306 million in 2017-18, nil in 2018-19). Contributions in recent years have included volunteer grants (\$0.343 million in 2018-19, \$0.002 million in 2017-18). While not significant, it seems reasonable that the Australian Government should make a contribution for protection of its property a/s intended by the MoU.

However, on the basis of materiality, this level of financial support does not meet the sustainability, stability, simplicity tests although being required to make payments would be equitable.

Recommendation 14

- Continue contributions from the Australian Government but do not regard this as a source of base-level funding for Tasmania Fire and Emergency Services (TFES).

5.5.4 Marketing/fire prevention activities and miscellaneous (MAIB) funding

Review of recent annual financial statements of both TFS and SES suggest three things.

1. Miscellaneous sources of funding are evident but do not meet the sustainability, stability or simplicity tests.
2. Marketing and fire prevention functions that TFS carries out provide essential services to the Tasmanian community but at best they break even, not having a profit motive.

3. Road crash rescue costs recovered from the MAIB and an annual contribution by the MAIB to SES of circa \$330 000.

The revenue sources mentioned in 1 and 2 above primarily comprise provision of fire safety services, sale of fire safety equipment, alarm-related fees, inspection fees, insurance recoveries, donations and interest earned. This Review supports continuation of these revenue streams but notes they lack predictability, sustainability or stability and therefore have been ignored in arriving at a base level of funding for TFES.

Regarding funding provided by the MAIB:

- a) Road crash rescue – claims for recoveries from the MAIB have legislative backing (under the *Motor Accidents (Liabilities and Compensation) Act 1973*, the MAIB must accept claims associated with extricating persons from vehicles) and in 2018-19 the SFC reported revenue from this source of \$0.207 million (2017-18: \$0.208 million).
- b) The contribution of circa \$330 000 per annum arises under an MoU between SES and MAIB.

Regarding a), despite it being a legislative responsibility of the MAIB to make these payments, subject to receipt by them of a valid claim issued by TFS, the amounts involved are immaterial, represent unnecessary administrative burden and are not predictable. Discussions with the MAIB indicate support for removing this legislative requirement.

Regarding b), discussions with the MAIB again support removal of this funding as a formal source of revenue. This is not to say that the MAIB sees no role for it in supporting road safety and emergency services but that, as an alternative, this be justified on a case-by-case basis.

Recommendation 15

- Continue to source funding from the marketing and fire prevention functions of Tasmania Fire and Emergency Services (TFES) and miscellaneous revenue, with these being self-funding and not part of base-level funding.
- Discontinue revenue streams from the Motor Accident Insurance Board (MAIB) for both TFS and SES.

5.5.5 State Government funding for the SFC

This funding comprises three components:

- general contributions under Section 101 of the Fire Service Act, which provides that the Treasurer must pay to the SFC such amount as the Treasurer determines is appropriate towards defraying the operating costs of the SFC
- funds for specific program costs that are not funded by the FSC, such as the Bushfire Readiness Program (operating and capital expenditure) and wildfire fighting reimbursements
- non-wildfire related funding provided by other agencies such as Ambulance Tasmania.

In addition, Section 107 of the Fire Service Act specifies that the Chief Officer may, in any financial year, expend out of the funds of the SFC any sum of money for any purpose

approved by the Minister, notwithstanding that that expenditure may not be authorised under any other provision of the Act. This Section of the Fire Service Act was used when the Minister 'enabled' the SFC to make annual contributions to DPFEM towards the costs of running SES.

General (non-capital related) contributions made by the State Government totalled \$2.009 million in 2018-19 (\$3.299 million in 2017-18) and contributions made by agencies totalled \$0.757 million in 2018-19 (\$0.756 million in 2017-18). Assuming 2017-19 are representative, on average and in total, this is about \$3.410 million per annum and it is assumed these sources of funding will continue. These amounts ignore election commitments which should not be assumed to be part of base funding.

However, while the amounts involved are not inconsequential, they do not meet the sustainability, stability or simplicity tests. No assessment was made as to the equitability of this source of funding.

Recommendation 16

- Continue contributions from the State Government but do not regard this as a source of base-level funding for Tasmania Fire and Emergency Services (TFES).

5.5.6 Revenue from local government

5.5.6.1 Discussion

On the assumption that arguments made in this Section are accepted, \$5 million has been included in the \$100 million base level funding for TFES that needs to be generated from sources identified in Table 4 in this Section. Necessary transition issues are considered in Section 8.

On the basis that this \$5 million fails all of the sustainability, stability and simplicity tests, it should be generated from property-based levies or Appropriation. Also relevant is that SES support by Councils to Tasmanian citizens is not equitable – Councils across Tasmania provide very different levels of SES-based support.

Recommendation 17

- Include up to \$5 million per annum in levy or Appropriation sources of revenue for Tasmania Fire and Emergency Services (TFES) to pay for those State Emergency Service (SES) related functions and services transitioned from local government to TFES.

5.5.7 Property-based levy (currently the Fire Service Contribution)

5.5.7.1 Fire Service Contribution (FSC)

Under current arrangements, the FSC is, effectively, the balancing number in that it is aimed at ensuring the SFC meets all of its costs (including asset replacement or depreciation), with the objective that, at worst, a break-even result is achieved. Costs to be recovered includes the annual contribution made in 2018-19 by the SFC towards the costs of running SES – about \$2.7 million in that financial year. The amount of the FSC is approved annually by the Minister via approval of the SFC's Corporate Plan.

The SFC is subject to Parliamentary scrutiny in that its budget forms part of the State Budget – refer Chapter 26 in Part 3 of the 2019-20 Budget Papers. However, that budget provides no breakdown of levies to be collected by SFC.

The Fire Service Act outlines how the FSC is to be determined and paid with Councils advised of the amounts each must collect. Of relevance is that amounts to be collected will depend on the nature of brigades (permanent brigades, composite brigades, volunteer brigades and general land).

Based on the FSC collected in 2019-20 (\$48 145 187) and the number of properties in respect of which a FSC was levied (229 224 properties), the average FSC per property was \$201.02. However, and not unexpectedly, the FSC per property varies considerably across the State, with a high of \$477.27 per property in Hobart City Council and a low of \$52.79 per property in Tasman Council. And yet, all properties, and persons, in Tasmania are entitled to the same level of fire or other prescribed emergency service as would be the case with health, ambulance or education services, although recognising that service provision to outlying centres can take longer.

The current FSC is complex to calculate and may not be equitable for all property owners in Tasmania.

5.5.7.2 Discussion

A revised funding model is needed, although views about how this might look were mixed. The following issues were noted.

- The funding model should continue to be a direct funding model.
- The basis for collection of income could be modernised to ensure the funding base is equitable and sustainable, and to better enable appropriate recovery of costs to be incurred in providing core services.
- Funding streams must ensure that TFES has enough funding to adequately cover the costs of an efficiently managed entity and any identified additional expenses associated with new functions of an integrated fire and emergency service.
- Ratepayers who own more expensive houses pay a higher level of FSC than those with less expensive houses, yet their access to fire and prescribed emergency services they expect to receive should be similar.
- The FSC does not reflect the scope of services carried out by the SFC/TFS, with a rising proportion of activities undertaken by TFS involving responding to non-fire emergencies.

- Currently there is some inequity due to relative Average Annual Values (AAV). All properties in each Council are revalued on five-year cycles by the Valuer-General. Councils that aren't revalued have an index factor applied to them by the Valuer-General. Despite this indexation, if a large Council has all its properties revalued in a given year, then the contribution increase in smaller Councils tends to be much lower than the State increase. If smaller Councils are revalued upwards, and larger Councils aren't, the smaller Councils can have a much larger increase than the total State increase. This was addressed some years ago by a smoothing formula, limiting the variance to +/- 5% of the total State increase. Prior to this, if the total State increase was 5%, there were Councils with increases over 20% and others with decreases. Even now, with a 5% State increase, some Councils may have no increase and others can have increases of up to 10%.
- There is, apparently, a lack of transparency in the application of the FSC and calculations are complex, making it difficult for stakeholders and ratepayers to understand how particular rates for the FSC are calculated.
- There will need to be some flexibility to adjust for unforeseen costs of integration but which should be one-off.
- It is anticipated that, by integrating fire and emergency services, efficiencies will be identified through better alignment of capabilities and service provision, e.g. colocation of premises for TFS brigades and SES units⁴¹, centralised asset management and shared utilisation of command centres.

5.5.7.3 Submissions to the Issues Paper

Relevant submissions included the following points.

- Property-based levies were used extensively in other jurisdictions.
- The 4% commission that local governments receive for collecting the FSC could provide additional funding for fire and emergency services if it was replaced with a fee for service arrangement.
- Councils raised concerns around the rating of districts and the disparity in the FSC between residents who are serviced by a metropolitan brigade compared to a voluntary brigade. The current model assumes the two services operate exclusively within their rating district, where, in reality, the resources are dispatched to where the need exists at the time of an event, which is as it should be.
- Compensation for the provision of Government-agreed Community Service Obligations was also raised, with the TFS submission noting that TasFire Equipment and TasFire Training should not be considered as revenue streams as their sole purpose should be to provide services to remote and isolated areas or communities who otherwise would not be able to receive these services.

⁴¹ Colocation of premises and facilities has or is happening – an outcome of which has been less reliance on Councils.

5.5.7.4 Initial conclusions

The FSC as currently implemented does not satisfy the sustainability, stability, simplicity or equitability tests. However, a property-based levy is congruent with the nature of fire and prescribed emergency events in that they impact properties. In the absence of TFES being funded in full by annual Appropriation, a property-based levy remains a valid means of funding. However, its basis needs to be changed to ensure stability, predictability and equity.

5.5.7.5 Options considered

The following two options were considered.

1. Introduce a TFES property-based levy to replace the current FSC, Insurance Levy and local government contributions to SES units
2. Retain the current FSC model.

The Chair supported option 1.

A TFES property-based levy should be designed to replace the current FSC, the local government contribution (in the case of capital and recurrent costs of SES units) and the Insurance Levy. Therefore, the new levy would not be an additional funding source or tax.

No explicit proposal as to what a levy of this nature might look like is made but the following two examples are provided for illustrative purposes.

A) Fixed and variable rate

1. a fixed charge which may be different for residential and non-residential properties and will increase from time to time based on a business case developed for approval by the Minister, plus
2. a variable rate based on a property's:
 - o location
 - o classification – there could be six property classifications: residential commercial, industrial, primary production, public benefit and vacant.

This variable rate applies the AAV approach but, for those Councils that elect to determine rates by applying an improved capital value (ICV) methodology, the value of land and buildings and any other capital improvements to the property, which could be determined by a general valuation process, could be allowed.

B) Minimum rate based on the average at 30 June 2020

Apply a minimum fixed charge for all property owners based on the average of the FSC paid by all properties in Tasmania in the 2019-20 financial year plus a variable rate for properties that contributed above this rate in 2019-20 based on AAV.

The average FSC on all non-exempt 229 244 properties in 2019-2020 was \$210.02 and in this financial year the FSC contributed \$48.146 million to the SFC. However, 47% (or 107 008) of these properties contributed less than \$210.02 per property and the range in contributions is considerable – from a low of \$52.79 to a high of \$477.27. On the assumption that all property owners pay not less than the current average of \$210.02, considerable additional funds could be raised.

The current fixed charge in Tasmania is \$41. Doubling this would generate an additional \$9.4 million and go some way towards more equitable arrangements across Tasmania. However, this is simplistic and requires further work.

No conclusions are drawn or explicit recommendations made. A model that seemed transferable to Tasmania, also based on a departmental governance model, is that applied in Western Australia by its Department of Fire and Emergency Services. In any event, this Review found that change is needed, with the existing FSC complex in nature and not resulting in equitable levies across Tasmania.

5.5.7.6 Comparative assessments of property type levies

There are two types of property-based levies – AAV (currently in use) and ICV.

- AAV – the gross annual rental value of a property excluding GST, municipal rates and land taxes, but is not to be less than 4% of the capital value⁴².
- ICV – the total value of a property, excluding plant and machinery, and includes the land value.

In order to properly explore these two options, documents were reviewed and discussions held, as follows.

- Valuation of local government rating in Tasmania: a robust framework for the future, October 2010 by Access Economics, which concluded that:
 - there is a strong case for shifting the valuation base employed for local government rating to either capital value or land value
 - ultimately, the choice between the two valuation bases rests with policymakers, as it hinges on the significance placed on, primarily, capacity to pay considerations (the Chair noted that capacity to pay is an even greater issue today when compared with 2010 in particular, due to higher property prices and rentals caused by various factors)
 - regardless of which valuation base is preferred by policymakers, the specific design of an optimal rating strategy will vary between Councils based on local characteristics (as noted below, discussions with selected Councils indicated differing approaches to the use of fixed charges and use of AAC or ICV).
- *Division of Local Government's (in DPAC) Valuation of Local Government Rating Review final report April 2013* which seems to have resulted in Councils in Tasmania being given an option as to which of AAV or ICV to adopt in setting rates.
- Local Government – report August 2016 – Review of the Local Government Rating System in NSW by the Independent Pricing and Regulatory Tribunal which proposed, based on its view of the need to give Councils more flexibility to better meet the needs of the community, integrating the use of the CIV valuation method into the local government rating system.
- DPAC's current review of Tasmania's Local Government legislation framework. The opportunity was taken to meet with the team undertaking this work, with the intention of ascertaining the appetite for any changes to the *Local Government Act 1993* regarding

⁴² Both definitions taken from the Division of Local Government's (in DPAC) Valuation of Local Government Rating Review final report April 2013.

the use of AAV or ICV. While no decision had been made, it seemed unlikely that current arrangements would change.

- Discussions with three Tasmanian Councils regarding the use of either AAV and or ICV – both approaches were being used, with differing views as to which was superior.
- Discussions with a former Council executive.
- Consultation with the Valuer-General who advised his office can provide valuation services applying either model.

Other relevant factors noted from this work included:

- confirmation that disclosure of the FSC on local government rates notices was an issue in particular explaining, and providing accountability for, increases
- possible duplication and conflict between the Fire Service Act and Local Government Act.

5.5.7.7 Conclusion regarding the nature of a property-based levy

There is a need for a revised fire and emergency services property-based levy which should be aimed at addressing the following.

- The proposal must be equitable, transparent and understandable.
- It should result in greater clarity of funding for TFES.
- Any proposed levy must ensure every property owner contributes (subject to funded concessions determined by Government).
- ICV is likely to be more equitable and efficient because the cost of fire and emergency services relates more closely to protecting the capital on a property rather than the property itself. Using this as a base for the levy is more consistent with efficiency and equity principles as the benefits received from emergency services increase with market value as new capital is invested. Furthermore, it better meets the 'ability to pay' principle as it is highly correlated with levy payers' assets and wealth⁴³.
- Because most Councils apply AAV, this approach to determining the FSC levy should be allowed to continue.
- GST and stamp duty should not be charged on the levy.
- As with the Victorian model, the property levy should apply to all property. Properties that are currently exempt from council rates should be subject to the proposed new property levy.
- Such a levy is likely to provide for a stable and predictable source of funding. A levy on property values would provide a stable funding base that would increase with the rising value of property. This option would avoid distortions to the insurance market, potentially increasing incentives for people to insure their properties and ensuring that those who chose not to insure, still pay the levy.

⁴³ Independent Pricing and Regulatory Tribunal NSW *Review of the Local Government Rating System*, August 2016, 85 per cent of developed countries use a market value approach which makes basing the levy on improved capital value consistent with international best practice (although this report referenced levy payers' income and wealth. This has been changed to 'assets and wealth' because levy payers can be asset rich but income poor).

- It is essential that this is a user pays levy linked to risk and services (including readiness, response and prevention/mitigation), addressing relevant hazards including flood, fire, rescue and hazmat⁴⁴.

Recommendation 18

- Continue a property-based levy to provide the bulk of funding for Tasmania Fire and Emergency Services (TFES), basing it on a property's Average Annual Value (AAV) as determined by the Valuer-General from time to time, with movements in the levy determined by Treasury annually.
- Determine the make-up of the levy, including consideration of fixed and variable components.

5.5.8 Revisit current exemptions, concessions or rebates

5.5.8.1 Discussion

This Section is prepared on the basis that TFES will be required to respond to all fires and prescribed emergencies so all properties are protected, meaning that all property owners must contribute. However, it is accepted that the State Government will wish to support selected communities/organisations. The principle should be that exemptions, concessions or rebates should only be considered where alternative mechanisms are in place to contribute to protection from fire and prescribed emergencies.

Currently, various exemptions, concessions and rebates are provided as follows.

- Those entities that are exempt from paying local government rates do not pay the FSC, the continuation of which needs to be, where applicable, accommodated.
- Pensioners and health care card holders receive discounts on the FSC and motor vehicle fire levy⁴⁵. It is anticipated that this will also apply to any proposed TFES property-based and/if continued vehicle levy but that the amount would be explicitly identified and funded as a Community Service Obligation by the State Government (in a manner similar to arrangements currently existing for power concessions provided by Aurora Energy Pty Ltd).
- As a result of the exemptions provided under current legislation, some Tasmanian Statutory Authorities and Government Businesses appear to make no direct contribution to the operating costs of fire brigades or emergency services where relevant.
- The basis on which these exemptions are made is not consistent (e.g. Hydro Tasmania is required to pay the FSC while no other Government Businesses are so required⁴⁶). Those who are exempt do not necessarily contribute to fire protection through other means.

⁴⁴ Hazmat is an abbreviation for hazardous materials.

⁴⁵ For 2018-19 the amounts, as reported in the SFC's annual report, were: Pensioner rebates (municipal) - \$1.337 million; Pensioner rebates (transport) - \$0.504 million

⁴⁶ Hydro is required to pay the FSC as it is listed in Schedule 8 of the *Government Business Enterprise Act 1995*, specifying that it is not the Crown.

Conclusions from this analysis are that current exemptions for payment of the FSC should be quantified and removed for the proposed TFES property-based levy except for Crown Land, land managed by STT, land and buildings owned by Councils and by Government Departments and Statutory Authorities funded predominantly by Appropriation. Once this is done, and impacts assessed as to levels of exemptions, concessions and rebates Government may wish to provide – in particular to disadvantaged communities – the amounts to be raised by a property-based levy could be determined and impacts on individual citizens and entities assessed.

Recommendation 19

- Quantify and fund current concessions as a Community Service Obligation.
- Quantify and remove current exemptions for payment of the Fire Service Contribution (FSC) levy, except for Crown Land, land managed by Sustainable Timber Tasmania (STT) and land and buildings owned by Councils and by Government entities funded predominantly by Appropriation.

5.5.9 Ring-fencing

Considerable concern was expressed by various parties to the effect that under a departmental governance model, or Appropriation funding model, funds raised, from whichever source, especially if in the first instance these are paid to Treasury, and therefore into the Consolidated Fund, might not be collected for, or given to, TFES. A high element of certainty can be provided by ensuring all funds raised are ring-fenced for use by TFES. Ring-fencing means that the funds must be used for the purpose intended and by the entity intended.

Regarding the suitability of introducing ring-fenced arrangements, it is noted that to the Road Safety Levy (the Levy) is an annual fee charged as part of vehicle registration and is used to fund Government road safety initiatives and support the Towards Zero – Tasmanian Road Safety Strategy 2017-2026. The Levy was introduced on 1 December 2007 for a period of five years and has since been extended until 30 June 2027.

Recommendation 20

- Ensure that funds raised for Tasmania Fire and Emergency Services (TFES) are paid into the Consolidated Fund and then ring-fenced for use by TFES.

However, in making this recommendation, this Review found that property-based fire and emergency services levy in WA is collected by local government and paid directly to the Department of Fire and Emergency Services, thus avoiding the need for ring-fencing arrangements.

5.5.10 Implications of introducing a property-based levy

On the assumption that this Review's recommendation is accepted that TFES be funded predominantly via a property and vehicle-based levy (the levies) with the Insurance Levy removed, this would mean increasing the levies to address the \$25 million gap generated by the Insurance Levy. In round terms, this is 25% of TFES income.

Government will need to enter into transition arrangements over a reasonable period to support those persons or entities required to pay more, in particular if the fixed and variable components are introduced.

Such transition arrangements would likely involve discussions with local government should Recommendation 17 be adopted although the impact of this Recommendation on individual Councils is likely to be difficult to quantify and probably not material.

Discussions will also be needed with the Insurance Council of Australia. Discussions with this body indicate that they have done modelling on what the impact might be on commercial property insurance premiums should the insurance levy be removed. At the time of writing this Report, details of this modelling were outstanding. It may well be reasonable to expect that, should commercial property insurance premiums decrease, those property owners be expected to pay a higher property levy. This should be explored as part of the transition arrangements referred to above.

Recommendation 21

- Develop transition arrangements that mitigate the impacts on property owners of an increase in a property-based levy.
- Engage with the Insurance Council of Australia and property owners to quantify benefits from lower insurance premiums and consider how these might be shared with the broader community.

5.6 Discontinue local government funding and support for SES units

5.6.1 Discussion

Discontinuation of local government support for SES units received some support from Steering Committee members as did the need to fund SES in full via TFES levies, therefore reducing reliance on support from local government. However, still unclear is the quantum of support by local government in both operating and capital costs. For the purposes of this Section, it is assumed that the contribution varies between \$3 million and \$5 million per annum.

Section 5.3 argues for SES to be funded from a single source. Inconsistencies in the support given to SES across local government became evident during the course of this Review. Standardisation of local government contributions is likely to be difficult, with existing arrangements not being equitable as, for example, ratepayers in larger Councils are contributing less than those in smaller Councils. However, based on Council feedback in the past, if the future funding model involves the Councils making funding contributions towards

SES (now TFES), they will want each Council's contribution to only go towards each 'donor' Council and not spent by SES on a statewide basis. This proposition is rejected on the basis that:

- every Tasmanian citizen or entity should be expected to receive access to the same level of service
- SES is unable to budget effectively as it is unable to forecast revenue streams or contributions from local government giving rise to SES funding risk
- while Councils are required to establish units and provide certain levels of equipment and/or facilities, it is the Director SES who is responsible for the units and their outcomes. This creates a potential conflict with the Director having limited capacity to influence the appropriateness of resourcing yet being accountable for outcomes
- SES lacks direct control over the procurement and management of its assets and, to a large extent, relies on the goodwill of Councils
- current governance and financial arrangements with Councils limit the ability of SES to strategically manage their financial and physical assets.

However, any transition of resources would need to ensure the strong goodwill that currently exists between Councils and SES continues. Relationships between local government and SES (now TFES) should still be maintained through emergency management arrangements.

5.6.2 Submissions to the Issues Paper

Comments from submissions were mixed and included the following points.

- Several submissions supported the centralisation of the SES budget to fund volunteer facilities, fleet and operational expenses to ensure appropriate and consistent management.
- One submission advocated that local government contributions should be maintained but be restructured to facilitate centralised management.
- Funding of local facilities by local government is considered appropriate by some proponents as the facilities exist primarily to support and implement emergency management arrangements.

A move to a single funding model would need to be supported by an asset transition plan to be agreed with the appropriate local government authorities and extensive consultation with Councils would be necessary to formulate an agreed plan.

5.6.3 Words of caution

Council support for SES units should only cease if adequate funding is provided from elsewhere (e.g. the property-based levy discussed and proposed earlier in this Report). It is understood that the State Government will only support related changes to the Emergency Management Act if an asset transition plan from Councils to SES is developed and agreed and that SES has a sustainable and adequate funding model to centrally manage all SES unit assets that are currently owned and funded by Councils (facilities, vehicles etc).

There should still be avenues for local government to provide 'support' to SES volunteer units where appropriate. For example, local government support could involve access to council land for staging areas, bushfire/flood evacuation centres, works depot sand for sandbagging and so on.

Recommendation 22

- Discontinue local government funding of SES and their support for local units.
- Transition all Councils' associated resources to Tasmania Fire and Emergency Services (TFES).
- Develop a transition plan with Councils.

5.7 Appropriation (Consolidated Fund) funding

5.7.1 Discussion

The implementation of this model would mean significant change but could be operated to both a standalone statutory authority and/or a departmental model. This model has the advantage of ensuring that the TFES budget is consistent with overall Government budget policy, with the proposed property-based levy discussed above being paid into the Consolidated Fund, but ring-fenced for use by TFES. This would require annual expenditures to be appropriated by Parliament, thus enhancing clarity and accountability.

In a time of significant change in community expectations about the emergency services they receive, accountability for those services, and who pays, needs to rest with the Parliament, and through the Parliament, the government of the day. The current statutory authority governance model and its funding arrangements result in a lack of clarity around who is responsible, especially for determining resource capability, resource allocation and who pays. Despite this, current arrangements seem to work aided by interoperability and other frameworks. Changes in governance and funding would better embed these arrangements as business-as-usual.

However, the Appropriation funding model was not supported by any stakeholder involved in the provision of fire services, who saw it as a significant threat to the maintenance of volunteer input into the service. In their view, the amended statutory authority model, supported by a simpler funding model (based on revenue sources outlined above), is the preferred model. A more strongly empowered board could satisfy appropriate clarity and accountability.

A concern expressed was that removal of independent financial powers and not ring-fencing revenue streams raised by levies might compromise the activities of TFES. In any event, regardless of the organisational structure or funding sources, it is essential that funding be transparently expended through, as a minimum, the development of a robust Corporate or Strategic Plan outlining the budget position and spending priorities and which must be approved by the Minister and by the Parliament as part of the Budget process (not separate from it).

Despite this, full Appropriation-based funding is likely to be the option that best satisfies all of the sustainability, stability, simplicity tests and equitability tests. It is noted that:

- as already outlined, circumstances in Tasmania are very different to what they were in 1979 in various respects and we should anticipate further changes will arise
- more frequent and, probably, longer and more severe fire events are likely
- response to bushfire events is not currently funded by levies and these events are a growing and more regular threat and cost
- fuel reduction costs are now commonly incurred by fire entities including TFS and are not funded by levies
- other strategies will need to be explored and implemented to address what appears to be a growing threat of changes to climatic conditions in Tasmania –TFES cannot address these matters on its own nor should levies imposed on the community be expected to fund this
- TFS is already constrained in its capacity to keep pace, on a day-to-day basis, with changing technologies, emerging approaches to dealing with emergencies and acquiring relevant assets
- funding via Appropriation provides better flexibility and accountability.

However; funding via Appropriation has the risk of leading to:

- unintended consequences, including properties being under (or not) insured
- less community preparedness or resilience
- less community engagement.

Recommendation 23

- Do not fund Tasmania Fire and Emergency Services (TFES) by Appropriation – because doing so may disincentivise property owners from properly insuring their properties or being appropriately prepared.

5.8 Determination and collection of the proposed levy

5.8.1 Discussion

On the assumption that the recommendations outlined above are accepted, decisions are then needed as to who will determine the levies, who will pay and who will collect. These matters are explored here with the focus being on the TFES property-based levy.

5.8.2 Who determines

Under current arrangements, it is the SFC that determines FSC levies payable based on arrangements outlined in the Fire Service Act. As has been articulated, these arrangements are complicated, inequitable and are alleged to lack accountability and transparency.

A better and likely more accountable and transparent arrangement is where the proposed property-based levy is calculated by the Treasury. Treasury would then also determine who

pays and advise Councils of amounts to be collected. However, Treasury would not on its own set the policies associated with calculating the levy or how it is distributed. This needs input from TFES. Councils would then pay monies collected to Treasury.

This approach would result in a budget outcome line, consistent with all outcomes in the outcome budget process currently adopted in Tasmania, termed TFES in the budget papers and in the DPFEM annual report (assuming the departmental model is adopted).

Treasury would, however, determine who the property-based levy is to be paid by and the amounts to be paid by them. This would mean that the levy is not necessarily connected to local government rates and Treasury could appropriately deal with concessions and exemptions.

It might be argued that by proposing this option, taxes will increase. This is not the case. The existing levies, including the Insurance Levy, are already a form of taxation.

Recommendation 24

- Have Treasury be responsible for calculating, but not on its own determining – determination will require input from Tasmania Fire and Emergency Services (TFES) – the amount to be collected by local government from the property-based levy annually.

5.8.3 Who collects

5.8.3.1 Discussion

Currently, local government collects the FSC and charges 4% for doing so in recognition of the administrative costs incurred in collection. This fee amounted to approximately \$1.7 million in 2018-19 and was established at the time the FSC was introduced. It now appears high in terms of administrative effort required for collection by local government. This was noted by several submissions to the Issues Paper. Relevant is that when the 4% fee quantum was first established, this was when all processing was manual.

Tasmania's bigger Councils receive larger amounts for collecting the levy compared to the smaller Councils. Once systems are in place, collection is partially, or almost completely, automated, with a single quarterly payment to SFC. In 2016-17, the five largest Councils were paid collection commission amounts from \$101 000 up to \$389 000, while the lowest amount paid to a small Council was \$2 400 and the eight smallest Councils received less than \$10 000. The collection fee charged by Councils has, in total, increased from \$780 000 in 2001-02 to \$1 640 000 in 2016-17. This is more than if CPI indexation was applied. However, a question that needs answering is – if the percentage drops, who benefits? It is assumed this will indirectly be the community because the proposed TFES levy could be reduced accordingly.

Councils are not required to use the amount collected to support either the development of fire management plans or mitigation activities or to support SES units.

Given it is proposed that responsibility for supporting SES units be removed from Councils and funded centrally through a TFES Levy, the question that then arises is whether or not local

government should continue to collect this type of levy and, if so, what is a reasonable collection fee for them to do so that is fair to all Councils and to TFES.

An alternative process for collection of the property-based levy was explored – by the State Government Revenue Office. Discussions with this office indicated its systems are not currently suitable for this purpose and considerable investment would be needed to make them so. Given that in all other Australian jurisdictions, local governments fulfil this function, and Tasmania's Councils already carry this out successfully, an investment in the Revenue Office's systems is considered unnecessary and wasteful. Tasmania was not considered sufficiently different from other Australian jurisdictions to warrant an alternative collection service.

An argument provided by local government for not collecting this levy is the apparent lack of transparency and accountability for this levy and its high increases, especially in recent years. This could be remedied by the Minister and TFES making clear annually, in a public manner, how the levy is constructed, reasons for increases and the fact that it is collected by local government for a fee.

5.8.3.2 Submissions to the Issues Paper

The following points were noted from submissions to the Issues Paper.

- LGAT, representing many Councils, argued that Councils not be required to collect the levy because it is the State Government and the SFC that must be accountable for this (FSC) levy and increases in it.
- The requirement for Councils to collect the fire service levy on behalf of the Government has long been an issue of contention and many Councils believe that the State Government should be the collection agent.

Of relevance is that discussions with some Councils during the course of this Review who made no submissions indicated ambivalence about collecting the FSC. Some saw this as a simple exercise resulting in revenue for the Council, while others supported collection by another party, mainly because of ratepayer objection or lack of understanding.

5.8.3.3 Options considered

The Chair considered two options, that the proposed TFES levy is:

1. collected by local government
2. not collected by local government but through another mechanism.

The Chair supported option 1. Councils are well placed to collect the levy by virtue of established property ratings systems and they currently collect the FSC. The support and involvement of local government is a significant feature in fire and emergency management, particularly in local areas, and involvement in the collection of the levy will maintain this relationship.

The levy would not have to form part of local government rates; it must be separate and distinct from rates and clearly identified as a levy solely for the provision of fire and emergency services. Issue of rates notices would need to be accompanied by public statements by the head of TFES and the Minister explaining the nature, purposes, calculation and ownership of the levy and movements in it.

Local authorities may object to the fact that they are required to collect funding when they have no say in how it is spent. However, the same is true of the Australian Taxation Office and most tax collection agencies. The critical issue is the purpose for which, and transparency of how, the funds collected are spent, not the collection mechanism itself.

Any mechanisms that provide local government with some say in how funding is spent will undermine the advantages of a centrally managed fire and emergency service.

Recommendation 25

- Continue to have local government collect the proposed Tasmania Fire and Emergency Services (TFES) property-based levy and be paid a renegotiated collection fee for doing so; and
- Have the Head of Tasmania Fire and Emergency Services (TFES) and the Minister make clear annually, in a public manner, how the levy is constructed, reasons for increases, and the fact that it is collected by local government for a fee; and
- Pay levies collected by local government into the Consolidated Fund but ring-fence them for use by TFES.

5.9 Other matters relevant to funding

5.9.1 Level 2 and 3 fire events continue to be funded from Consolidated Fund

5.9.1.1 Discussion

TFS currently utilises AIIMS to classify every fire incident attended as either Level 1, 2 or 3 as follows.

- Level 1 incidents are generally able to be resolved using local or initial response resources only.
- Level 2 incidents are of medium complexity in size, resource requirements and risk.
- Level 3 incidents, by their very nature, provide a degree of complexity that requires the establishment of divisions for the effective management of the situation. Operational costs for Level 2 and 3 incidents are currently reimbursed from Treasury (although initially funded by DPFEM). In addition, TFS is refunded by PWS and STT for costs incurred in assisting to fight fires on their properties.

SES does not get reimbursed for operational expenses for responding to significant events unless a political decision is made, or it is covered under the *Australian Government's Disaster Relief Funding Arrangements*⁴⁷ when certain natural disaster cost thresholds are met. Under these arrangements, which are administered by DPAC, the Australian Government provides financial assistance up to 75% of costs incurred to Tasmania in respect of eligible expenditure on relief and recovery assistance. The level of financial assistance depends on the type of assistance provided and the level of expenditure incurred by the State within a financial year.

⁴⁷ Changed in November 2018 from *Natural Disaster Relief and Recovery Arrangements* (NDRRA) to the *Tasmanian Relief and Recovery Arrangement: Natural Disaster Relief to Local Government Policy* (NDRLGP).

Also, while SES has a lead role as this relates to many emergencies, like floods, it receives support from all relevant agencies including State Growth, DPAC and DPIPWE.

Under the Tasmanian Relief and Recovery Arrangement: Natural Disaster Relief to Local Government Policy (NDRLGP), financial assistance is provided to local governments affected by a natural disaster. This assistance is paid to Councils rather than to SES directly.

The following were noted when discussing this matter.

- The scale (and length) of events TFES is likely to encounter cannot be reliably budgeted for.
- It is essential for there to be in place accountability mechanisms under which TFES is accountable for its expenditure decisions in the event of it dealing with level 2 and 3 events.
- One would have to question why some level 2 incidents can't be internally funded, especially were they are not protracted and the resources allocated to them are mostly drawn from within DPFEM business groups.
- Currently, PWS and STT incur costs when fighting fires which are recovered from the SFC and vice versa.

5.9.1.2 Options considered

Current arrangements work and should continue with no recommendation needed.

5.10 Conclusions

It is essential that TFES be appropriately funded but recognising this requires acknowledgement that resources available to governments are limited and must be allocated fairly for all services that governments provide. Governments are held to account for decisions on how and where available resources are allocated through its agencies.

Having allocated resources, it is then incumbent on all service providers to transparently spend those resources and manage associated assets and liabilities. This is not to say the current SFC/TFS and SES organisations do not currently do so.

Current arrangements for funding the SFC and SES are unclear, complicated and make it difficult for either entity to appropriately plan. Adoption of the recommendations outlined in this Section would ensure stronger accountability, transparency, clarity and simplicity and, to the extent possible, guaranteed funding for TFES both now and in the longer term. These factors can best be achieved by:

- introduction of simpler sources of funding for TFES, being a property and motor vehicle-based levy
- the levies being paid into the Consolidated Fund and then ring-fenced – doing so ensures accountability to the community rests where it should, in the first instance, lie, i.e. with the Government – this arrangement will make more transparent how much has been collected from these levy sources and then where they are allocated and spent
- Treasury playing a central role in determining the proposed levies
- clarifying identification of, and funding, concessions and exemptions

- transferring all emergency services assets currently owned by local government to TFES with local government then not expected to resource such activities in future
- continuing current arrangements whereby the property-based levy is collected by local government for a fee to be renegotiated and the Motor Vehicle Levy be collected by State Growth as is currently the case
- when the property-based levy is determined, this be publicly announced by the head of TFES and Minister
- exploring further the nature and allocation of the property-based levy including consideration of a higher fixed charge which would likely improve equity
- determining, in consultation with the Insurance Council of Australia and commercial property insurers, savings in insurance premiums and how best to share these savings across the State.

Volunteers

6.1 Introduction

Section 6: Volunteer brigades or units comprise approximately 90% (100% for SES) of the total TFS brigades and SES personnel. Without doubt, these volunteers/units play essential roles in protecting our community. Any legislation must not inhibit this. The creation of an integrated fire and emergency service encompassing and expanding on the functions of both TFS and SES must build on the roles played by volunteers, not compromise them. Both organisations have a strong culture of volunteerism.

TFS and SES, and therefore TFES, recognise the essential role played by volunteers in delivering all of their services. TFS is understood to be preparing a 'volunteers sustainability strategy' – this is supported and should be concluded.

There is no doubt, however, that in creating TFES, there is potential to affect the morale of a heavily volunteer-dependent workforce and create dislocation of staff with significant expertise in specialised areas – this must not be jeopardised. Therefore, this Review, and changes that may arise as a result of it, acknowledges the unique cultures and identity of both services, and that establishment of TFES will not involve a takeover of one entity by another.

It is, however, acknowledged that any merger of the type proposed will involve the need for cultural shift and transition may not be easy.

In addition, it is unreasonable to expect volunteers to rely on multiple and sometimes inconsistent legislation in order to perform emergency services functions. Some volunteers are members of both TFS and SES and the legislation guiding these volunteers must be clear, comprehensive and consistent. With this in mind, and subject to motivations people have for wishing to become volunteers and their competencies, consideration needs to be given to frontline services being cross trained to maximise response, especially for disaster-scale events.

6.1.1 Objective of this Section

The objective adopted by the Chair in developing this Section was that legislation and resulting transition arrangements recognise the essential role played by volunteers in Tasmania and not compromise the effective work that they do. This does not, however, mean that some change might not be a good thing.

6.2 Volunteering

TFS and SES are volunteer-based services that do not fit the stereotype of a public service agency. TFS currently has about 5 018 volunteers and SES about 665 in addition to the +/- 450 permanent staff. The volunteer workforce saves a significant amount that would otherwise be spent on work hours. If each volunteer was considered to be 0.2 of an FTE, then TFES would have, in effect, equivalent to +/- 1 586 FTE.

Tasmanian geography, together with a limited population based in regional areas, results in the only economically viable model being a primarily volunteer-based emergency response. Therefore, it is essential that the unique needs of a volunteer-based organisation are recognised.

While TFS and SES staff are all public servants, the recruitment, retention and development of volunteers is outside public sector approaches. However, these arrangements require the ability to design and purchase operating systems and technologies and independent training/accreditation systems that primarily cater for a volunteer workforce. This includes consideration of literacy, access and security levels.

The opportunity that a new Act presents is to be able to provide a framework where the volunteers of both TFS and SES can be managed in a holistic and unified way to provide a significant service to the community through preparedness, response and education to fire, flood and related emergencies.

Regarding SES, it is noted that its total first response workforce comprises volunteers, while TFS relies on a combination of career (salaried) firefighters and volunteers for first response. This Review recognises that SES and TFS volunteers currently have different identities but that this may not need to always be the case.

6.3 Economic value provided by volunteers

6.3.1 Discussion

The Review's Terms of Reference requires an assessment of the economic value that government and communities receive from volunteers in our fire services, and measures to enable and encourage volunteers' service. It has proven difficult to ascribe an economic value to volunteering. The observation made above that each volunteer may represent 0.2 of an FTE is believed reasonable but unpacking direct costs associated with volunteers has proven more difficult to identify.

Analysis provided to this Review by TFS indicates a range of between \$86 million and \$115 million, based on 5 000 volunteers and varying other assumptions such as:

- \$17 261 cost per volunteer per annum
- All volunteer activity included (i.e. emergency response, operational activities, brigade management, administration, training, community services, and both formal and informal standby arrangements)
- Varying numbers of hours contributed per annum, depending on high to low levels of activity and based on estimated hourly wage rates in this example being \$39.71 per hour.

This Review identified research papers quantifying economic value but noted difficulty experienced by DPFEM personnel responsible for assisting SFC's financial reporting in arriving at a reliable, and auditable, estimate of services provided by volunteers, free of charge, for inclusion in financial statements.

6.4 Acknowledgement of volunteers in legislation

6.4.1 Discussion

Volunteer brigades or units are essential in the provision of fire and prescribed emergency services in Tasmania. The House of Assembly Standing Committee on Community Development's Inquiry into the SFC noted that volunteer firefighters are at risk of being undervalued and underrated and recommended that the Government should use best endeavours to ensure the full acknowledgement and recognition of these services⁴⁸.

This Review concurred but noted other options as follows.

- That a statement of commitment to volunteers would be more appropriate sitting under a new Act as a policy, as it is a broad and dynamic subject. A charter would outline how TFES would recognise, respect and promote the contribution of volunteers to the performance and exercise of its functions, duties and powers and to the maintenance of the wellbeing and safety of volunteers. It would also specify consultation requirements and the requirement to develop policy and organisational arrangements that encourage, maintain and strengthen the capability of TFES volunteers.
- A well-equipped, skilled and sustainable volunteer workforce is critical for long-term, cost-effective delivery of emergency services and the legislation should express an unwavering commitment to volunteerism. In particular, the functions of TFES should include provisions to the effect that the service will:
 - support, train and equip volunteers to deliver frontline, operational, management and support services
 - place obligations on volunteers or set an expectation of volunteer commitment to service
 - continue to provide good faith protections for volunteers and staff consistent with provisions already in place in the Emergency Management Act⁴⁹
 - include supportive arrangements (to be established administratively) for the establishment of training standards, codes of conduct and provision for election of volunteer officers.
- It is unlikely that a volunteer charter on its own will sufficiently address issues around volunteers in the services with more substantive change needed.
- Volunteers and volunteering should be recognised and enshrined in legislation.
- Legislation should set the framework for developing a charter and giving authority for a charter.

⁴⁸ Recommendation 9

⁴⁹ Refer Part 3 of the Emergency Management Act.

6.4.2 Submissions to the Issues Paper

Submissions to the Issues Paper expressed wide-ranging views, including the following.

- Legislation should recognise the intrinsic role volunteers play in Tasmania's emergency service architecture but a statement of commitment to volunteers as discussed in the Issues Paper is unlikely, in isolation, to meaningfully change the way volunteers are treated or how they see themselves and the extent to which they are supported by the Government.
- If a statement of commitment to volunteers is contemplated, consideration should be given as to whether that statement should go beyond consultation mechanisms to also include a commitment to allow volunteers to contribute their expertise across the agency's functions.
- It is unclear how a legislative document could communicate a statement of commitment to volunteers in a practical sense, other than to reflect they are a significant and valued component of the fire and emergency service workforce.
- A more effective use of the new legislation would be to describe the procedures required to ensure volunteers' work health and safety protections, and a consultation process provided for, along with ensuring there is a clear protection of volunteers from liability (where they have not deliberately acted criminally or negligently) in performing their duties.
- The legislation needs to acknowledge the existence of volunteers within TFS and SES workforces and make provisions that specifically supports them on an equal footing as employees.
- Legislation should include compensation arrangements for the occurrence of current and future injury or illness which is attributable to their involvement in emergency services activities.
- The Tasmanian Volunteer Fire Brigades Association (TVFBA) stated that the Association should be recognised in the legislation in terms of being the representative body which advocates on behalf of and promotes engagement and welfare for volunteers.

6.4.3 Conclusions

This Review supported these views in principle, concluding that:

- legislation should provide for best possible legislated protections for TFES volunteers, including workers compensation, legal protections and protection of employment rights
- volunteers and volunteering should be recognised and enshrined in legislation and the legislation include a requirement for a Volunteer Charter to be developed by TFES and endorsed by the Volunteer Associations, TFES and the Minister
- the requirement to develop a charter would be an important step in recognising a unified framework for TFES volunteers
- legislation should provide good faith protection from liability for volunteers, authorised volunteers and permanent staff.

Liability provisions in the current Fire Service Act and the Emergency Management Act with respect to volunteers and units should be maintained.

Recommendation 26

- Recognise and enshrine in legislation the contribution of volunteers and volunteering (including SES units) and include a requirement for a Volunteer Charter to be developed by Tasmania Fire and Emergency Services (TFES) and endorsed by the Volunteer Associations and the Minister.
- Legislate to provide good faith protection from liability for TFES volunteers/units, authorised volunteers and permanent staff.
- Ensure there are no legislative barriers that would preclude the expansion of volunteer/unit roles to include both response and non-response roles.

6.5 Conclusions

Volunteers, and volunteer organisations in both TFS and SES have played essential roles for many years in protecting the citizens of Tasmania. New legislation must facilitate continuation of this.

Operational and other matters

7.1 Introduction

The Review's Terms of Reference noted that it may also provide advice on any other issues determined are relevant. Several matters were identified in submissions to the Issues Paper and during analysis undertaken for this Review.

Section 7:

A general principle has been applied in this Report that operational matters, by their nature, will be handled through the drafting of Heads of Power or alternative doctrine (or in the TEMA) that concern the delivery of services which should then be addressed in subordinate legislation. In this respect, part of Recommendation 28 is repeated here:

'broadens TFES' mandate to include the power to confer specified functions, powers and indemnities on individuals and organisations inside and outside TFES, including interstate and international personnel'

To facilitate this, a TFES Act should provide non-specific reference to creating variations to service delivery. For example, TFES will determine suitable service delivery outputs as required with details to be outlined in regulation or doctrine. In any event, a TFES Act should:

- establish the necessary Heads of Power, under which details can be prescribed and amended from time to time in schedules, regulations or other statutory instruments
- require the head of TFES to ensure that operational plans and directives are in place
- provide for the head of TFES to establish and approve response command and control arrangements. However, to ensure flexibility and currency of the arrangements, they will be contained in doctrine rather than prescribed in the Act
- enable safe decision-making and protections for those deployed and operating within the Tasmanian chain of command, including the whole Incident Management Team
- capture the responsibilities of other fire and emergency incident response authorities and local government resources
- enable and indemnify interstate (and international) support agencies under the authority of TFES (also referred to as providing TFES with the 'authority to act' or enabling other relevant entities, STT for example, to act).

7.1.1 Objective of this Section

Outcome 2 for this Review specifies that the SFC and TFS are organised and operating as effectively and efficiently to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation and will provide value for money in the future. This Section includes several operational matters that if appropriately dealt with in legislation, regulation, policy or doctrine can lead to a more effective and efficient TFES.

7.2 Emergency Medical Response

7.2.1 Discussion

Under a 'first responder model, TFES could be empowered to task nearby available resources to reduce intervention time in responding to critical life-threatening medical cases. This already occurs to some extent in some areas of Tasmania with the provision of defibrillators to TFS volunteers and co-response by career firefighters when requested by Ambulance Tasmania if resources are available. On the basis of an expectation by the Tasmanian community that TFES provides this first responder function, this Review supports its inclusion as long as the expected medical functions to be performed are clearly articulated (e.g. first aid type functions), with appropriate training provided to TFES personnel and subject to seeking the views of Ambulance Tasmania.

However, Ambulance Tasmania is and must remain the 'management authority' for this function. Discussions with Ambulance Tasmania indicated support for TFES personnel to continue to provide first responder assistance, but subject to:

- appropriate credentialing arrangements
- relevant training for TFES personnel (including volunteers)
- the arrangements being pursued under an MoU between TFES and Ambulance Tasmania.

In a similar context, Ambulance Tasmania saw benefit in entering into an MoU with TFES regarding respective roles in urban search and rescue, in particular where circumstances require TFES personnel and Ambulance Tasmania paramedics to work together in emergency situations. New legislation should not prohibit the developments of MoUs of this nature.

When considering the role to be played by a contemporary fire and emergency services entity, this Review noted that a function of TFES should include emergency medical response but that:

- medical support be limited to first aid treatment and fire, road crash rescue and other incidents where TFES personnel are first responders and are first on scene
- the level of training must reflect these arrangements and be suitably resourced
- Ambulance Tasmania should remain the agency responsible for response to medical emergency within the community but this should not preclude the provision of potentially lifesaving first response services in specific circumstances as an operational decision in support of Ambulance Tasmania
- these arrangements could be dealt with as policy or in the TEMA.

7.2.2 Submissions to the Issues Paper

Ambulance Tasmania indicated its support of TFS assisting as a co-responder emergency medical response in support of ambulance services, to specified life-threatening cases. In this respect, the Review noted that the Council of Ambulance Authorities has worked with AFAC to develop National Guidelines for Emergency Medical Response by fire services. Ambulance Tasmania endorses those guidelines under which a fire service would co-respond with an ambulance service to patients in cardiac arrest or highly likely to deteriorate to cardiac arrest.

However, under the emergency medical response model, fire personnel are not paramedics, nor a substitute for paramedics, but rather responders skilled to basic life support (including Automatic External Defibrillators) to assist paramedics.

Ambulance Tasmania is keen to develop an emergency medical response capacity with TFS. This Review supports this occurring.

7.2.3 Discussion

When finalising this Report, and having regard to TFES' potential role in emergency medical response, and specifically whether firefighters and other emergency services personnel have a role at all, this Review noted:

- this should be entirely a matter of policy, rather than being specified in legislation
- the legislation should allow for additional functions that fire and emergency services personnel may perform consistent with an overarching responsibility for public safety, property and the environment
- Ambulance Tasmania should continue to be the primary agency for emergency medical response
- an appropriate level of medical training, suitably resourced, would be required for firefighters and other emergency management personnel.

Recommendation 27

- Do not include a legislated provision for emergency medical response in the mandate of Tasmania Fire and Emergency Services (TFES); this should be entirely a matter of policy.
- Ensure legislation allows for additional functions that fire and emergency services personnel may perform, subject to appropriate training and credentialing, with an overarching responsibility for public safety, property and the environment.
- Ensure that, while Ambulance Tasmania remains the primary agency for emergency medical response, legislation does not prohibit it from entering into arrangements with TFES for training and credentialing relevant emergency response activities.

7.3 Protection from liability

7.3.1 Discussion

Section 121 of the Fire Service Act provides protection from liability in respect of death, injury, or damage, if a brigade, officer, firefighter, employee, or agent acted, or, as the case may be, failed to act, in good faith. Protection from liability applies to the performance of any function imposed under the Fire Service Act. Similar protections exist for 'emergency management workers' under Section 58 in Part 4 of the Emergency Management Act. The definition of an 'emergency management worker' includes, inter alia, a member of a statutory service whether for payment of other consideration or as a volunteer.

Any new legislation should retain and contemporise the protections in Section 121 of the Fire Service Act and Part 4 of the Emergency Management Act for TFES personnel exercising legislative functions (not limited to incident response). Additionally, a new Act should:

- extend the same level of protection to apply to:
 - members of other organisations engaged under an Interoperability Protocol established by TFES, irrespective of land tenure
 - individuals and organisations on whom powers or functions are conferred by or under the proposed new Act (e.g. if such individuals or organisations act under the authority of TFES)
- create indemnity from liability under environmental laws for unforeseen damage that occurs during incident response
- require TFES to maintain appropriate professional indemnity insurance (although this will not be necessary under a departmental model, assuming such risk is addressed by the Tasmanian Risk Management Fund managed by Treasury).

7.3.2 Issues raised in submissions

The following matters were raised in submissions.

- There was broad consensus that provisions regarding protection from liability need to be clear and adequately cover agencies whose staff may be undertaking roles in relevant operations.
- Provisions need to be broadened to match TFES functions under the new Act and would be wider than fire prevention, preparation and response.
- Protection from liability should be consistent for staff and volunteers across all relevant services.
- Authority and indemnity are required to allow for quick response to fires in the landscape, e.g. first response to fire when able to do so without waiting for formal instruction from TFS, and approval to enter private land to address fire response. This needs to be considered not just for STT and PWS, but the private forest industry and any other potential first responders, e.g. appropriately resourced private land managers.
- Clarity is required around authority to act and indemnity, including the linkages with existing MoU arrangements with private forests.
- Consider looking at indemnity of various actions and what authority can be granted prior to particular actions being taken, e.g. if fire reported through FireComm, automatic authority be given to act.

However, one submission considered the current protections as overly generous. This view is not supported, especially because of the potential uncertainty about indemnity.

7.3.3 Options considered

In developing options to consider, the Chair had regard to the following issues.

- All authorised activities outside incident response require the appropriate level of protection for employees, contractors, volunteers and self-presenters.
- Currently, there are grey areas for staff and activities outside the brigade structures, e.g. staff undertaking the fuel reduction program. This needs to be addressed.

With these issues in mind, the Chair considered two options.

1. Maintain current levels of indemnity and, in accordance, with Recommendation 29, include in TFES' mandate the power to confer specified functions, powers and indemnities on individuals and organisations inside and outside TFES
2. Retain the status quo.

The Chair supported option 1.

Section 121 of the Fire Service Act does not deal with any specific activities and there have been some doubts raised as to whether this Section applies to non-firefighting operations of the kind TFS now engages in, e.g. road crash rescue. Furthermore, it is not particularly clear whether risk mitigation activities are covered, as mitigation is not a function specified in the current Fire Service Act.

Furthermore, it is not clear whether employees or contractors of STT or PWS, or employees of private entities engaged by either STT or PWS when assisting TFS at a fire event would be an agent of the entity' and so attract protection⁵⁰. Recommendation 28, if adopted, removes this uncertainty. It will be essential that there is clarity that TFES is the entity approving or instructing such engagement, preferably in writing, and that respective personnel are prepared to take such instruction, with arrangements clear in legislation. These arrangements must apply not only to fire events, but to all events TFES has responsibility for. This will then be relevant to SES units as well as fire brigades and all volunteers.

The Tasmanian Government has on occasions required the assistance of interstate and international firefighting and incident management personnel. Consideration should be given to extension of indemnity from liability to interstate and international personal working in Tasmania under Agreements for Interstate or International Assistance.

⁵⁰ The endorsed Policy for the grant of indemnities and legal assistance to Public Officers of the State of Tasmania is that: (i) Public Officers are eligible for an indemnity and/or legal assistance in respect of civil proceedings, arising out of their acts or omissions done in good faith in the course of their public office unless one or more exclusions apply. *Employment Direction 16*.

Recommendation 28

- Develop legislation that empowers Tasmania Fire and Emergency Services (TFES) with functions, powers and indemnities that reflect its broader role in emergency management and response, and which:
 - maintains current levels of indemnity
 - broadens TFES' mandate to include the power to confer specified functions, powers and indemnities on individuals and organisations inside and outside TFES, including interstate and international personnel
 - provides authority and indemnity that allows for quick response to fires in the landscape without waiting for formal instruction from TFES, and approval to enter private land to address fire response. This should apply not just for Sustainable Timber Tasmania (STT) and Parks and Wildlife Service (PWS), but also the private forest industry and any other potential first responders, e.g. appropriately resourced private land managers
 - provides clarity regarding authority to act and indemnity, including linkages with existing Memorandum of Understanding (MOU) arrangements with private forests and in circumstances where authority to act may be automatic, such as fires reported through FireComm.

7.4 Inter-agency cooperation

7.4.1 Discussion

The Fire Service Act currently makes specific reference to forest and national parks officers and conveys powers to those officers⁵¹. However, there is no consistency between the two sets of powers. Forest officers have greater and wider-ranging powers than employees of PWS. This reflects the history of the then Forestry Tasmania⁵² and PWS, the different ways in which their involvement in fire management and suppression evolved, and the different times at which these roles were set out in legislation.

It appears that advances in inter-agency cooperation, which have been enshrined in the Protocols and demonstrated by the establishment of Inter-Agency Incident Management Teams, have outstripped the provisions of the Fire Service Act and should not be replicated in any new legislation. These advances are further evidenced by the Fuel Reduction Program which sees the three Agencies cooperating in a tenure-blind approach to bushfire risk mitigation.

The House of Assembly Standing Committee's Inquiry into the SFC recommended the Fire Service Act be reformed to allow for a streamlined approach to firefighting between TFS, PWS, STT and other relevant agencies. The Inquiry recommended that new legislation would contain a Head of Power to confer specified functions, powers and indemnities on individuals and organisations inside and outside the entity – dealt with here in Recommendation 28). Specific powers and functions for organisations would not be prescribed in the legislation, which will enable the provisions to be flexible and adaptable to changing circumstances. This would

⁵¹ Sections 43 and 45.

⁵² Now Sustainable Timber Tasmania (STT)

enable non-TFS fire crews to act promptly and with authority to defend and save assets when responding to a fire emergency situation, including on private property, with the appropriate limitation of liability, including for mitigation activities⁵³.

Current legislation provides powers for TFS officers, on days of total fire ban, to enter private property and extinguish fires. PWS officers patrolling areas of the reserve system across the State are often first on scene and are in a good position to take rapid action on fires on private property restricting overall impact. However, they have no authority under the current Fire Service Act to do so. This would be addressed through the appropriate Head of Power or related provisions in the new legislation.

Changes to land tenure have meant that PWS has responsibility for vegetation fires across Reserved Land and Crown Land, yet PWS personnel do not currently have legislative authority to access or take action to protect life and property. Legislative mechanisms are needed that allows non-TFS Officers in charge of fire suppression to have access to, and to deal with, a fire, regardless of tenure, as soon as possible.

Such a Head of Power could also mitigate the situations concerning road closures and traffic management in remote areas where Tasmania Police is not in a position to effect road closures in a timely manner⁵⁴.

Such a provision would also provide legislative authority to assign powers/responsibilities to interstate/international employees as appropriate.

The new Act would expressly provide TFES (or delegate) with the power to establish protocols for interoperability of relevant agencies and organisations in relation to specific hazard types or geographical areas.

Interoperability Protocols established under the Act would have legal status such that they:

- define responsibilities, along the lines of Section 1 of the current Interagency Protocol between the fire agencies
- confer powers and functions
- establish command and control arrangements
- confer protections from liability on participating organisations and their personnel
- create obligations to act (including fire and emergency response) in accordance with the Protocol.

These Interoperability Protocols will enable TFES to engage the assistance of a wider range of organisations, potentially including:

- forestry industry fire brigades
- industry emergency response teams

⁵³ Section 23 of the *Fire and Emergency New Zealand Act 2017* provides a good example of how this would look in legislation where the Board may authorise any person to perform or exercise a function, duty or power under the Act and regulations provided they are suitably qualified or trained to perform or exercise the function, duty or power

⁵⁴ A key recommendation of the investigation of the Lake Burbury bushfire in January 2014 was to provide PWS officers with the necessary authority and powers to close roads and/or stop traffic under extraordinary circumstances

- volunteer organisations with appropriate skills for particular emergencies, such as the assistance provided by Surf Life Saving Tasmania in the 2016 north-west flood event.

Section 45 of the Fire Service Act specifies the powers of authorised national park officers on PWS reserved land. However, a PWS employee has no legislative authority to initiate works as a first responder, or to direct others to undertake work, on land other than that managed by PWS. This becomes problematic when a PWS employee initiates or oversees operations not wholly on land managed by PWS, in particular in those circumstances where damage is caused.

The powers of a forest officer as set out in section 43 of the Fire Service Act are more comprehensive, but still closely defined. As for an authorized national parks officer, a Forest Officer has no legislative authority to initiate works as a first responder, or to direct others to undertake work in connection with a fire which is not, in his/her opinion, a threat to State Forest or/on Crown Land.

This could this be addressed by authorising such officers during a 'prescribed period' or 'prescribed fire'. In this respect, it is understood that the State of Victoria has blended incident management teams and incident controllers from multiple agencies rotating in and out and, issues around being suitably trained are addressed via AFAC's professionalisation scheme approach. These arrangements could be explored for consideration in Tasmania and are to a large extent addressed by Recommendation 28.

7.4.2 Submissions to the Issues Paper

The following matters of relevance were noted from submissions to the Issues Paper.

- STT strongly believes the current legislative authority for Forest Officers should be maintained in the amended legislation. STT considers that the Inter-Agency Fire Management Protocol is an effective framework that aligns STT/TFS and PWS and that these practices should be reflected in legislation.
- That all people, including employees of STT and PWS, undertaking fire control work should have legislative authority (and protections) to undertake fire control work. Others noted that this should also apply to employees and contractors of private forestry companies such as PF Olsen Australia.
- Tasmania Police support legislating to provide consistency of powers and responsibility between PWS officers and STT officers but suggest that care should be taken in legislating these matters as the more prescriptive the legislation regarding specific agencies or authorities, the less flexible and adaptable it will be to changing circumstances.
- Tasmania Police also suggest that additional powers should be examined by the Review to support the expanded roles of TFS, PWS and STT. For example, there have been occasions when PWS officers in remote areas have needed to close roads to protect public safety during a fire, but have not had the power to do so. Similarly, TFS and PWS officers should have a power to regulate traffic not just close a road.

- The Australian Workers Union (AWU) and the United Firefighters Union of Australia – Tasmania Branch (UFU) considered that fire crew members of PWS should be provided with legislative authority and indemnity to undertake their roles effectively and efficiently in the management of fire across Tasmania, which would be more reflective of the current processes.

7.4.3 A word of caution

The observations in this Section need to be cognisant of those in Section 3.6.3, in particular the need to ensure that there is one statewide point of command for major unwanted fires burning in the State of Tasmania – the State Operations Centre. This will include a single voice for public communications. Relevant to this point is recommendation 5 of AFAC’s review of the 2018-19 fire season. That review:

explicitly recognises the right of each of TFS, PWS and STT to have their objectives prioritised in incident action planning and adequate resources applied to those objectives, and provides a mechanism for executive decision-makers from TFS, PWS and STT to come together and agree objectives and resourcing levels that will then be operationalised by whole-of-State control structures.

Recommendation 29

- Legislate to:
 - address conflicting, duplicated or gaps in the roles of the proposed Tasmania Fire and Emergency Services (TFES), Parks and Wildlife (PWS), Sustainable Timber Tasmania (STT) and private entities involved in dealing with fires
 - allow non-TFES officers in charge of fire suppression to have access to, and to deal with, a fire as soon as possible
 - include in the mandate of TFES the power to confer specified functions and powers on individuals and organisations, including interstate or international personnel, inside or outside of the entity
 - include a Head of Power, exercisable at the discretion of TFES, allowing protocols to be developed to manage the relationship between the entity and other land management agencies and emergency services agencies, including Tasmania Police
 - provide firefighters, SES workers and other delegated agencies/people with protection from liability (as occurs currently in section 51 of the Emergency Management Act). Other delegated agencies/people be ‘loosely’ defined so as to provide protection for the range of persons involved in the provision of fire and emergency services but who may be non-firefighters/non-emergency workers/not public servants
 - authorise TFES, PWS and STT to close roads to protect public safety during a fire, flood or storm hazard and to have a power to regulate traffic, not just close a road.

7.5 Appointment of permit officers

7.5.1 Discussion

The recent review of the fire permit system recommended that the SFMC, as an advisory body, is not able to appoint permit officers and does not hold the authority or accountability for these types of operational decisions. This has been endorsed by the SFMC, the TFS/SES Leadership Team and by the then Minister⁵⁵.

Furthermore, the current process is unwieldy, with permit officers:

- nominated by the region or organisation
- recommended by FMACs (which meet a minimum of two times per year)
- endorsed by the SFMC, (which meets a minimum of four times per year).

This can, and does, lead to delays in appointment, particularly when a permit period is declared and it is necessary to appoint permit officers quickly. For example, the recent appointment of permit officers for the East Coast district had to go through four different FMACs and there is no correlation between FMAC and District boundaries.

The decision-making and nomination process to appoint permit officers should be left to the senior management of the relevant responsible agencies, depending on its specific responsibilities in regards to the land tenure with which it is concerned as permit officers are represented throughout the fire industry. For example, District Officers within TFS could be deemed to be permit officers in the absence of a duly appointed permit officer. This would provide a standing capacity as a secondary source.

Recommendation 30

- Leave the decision-making and nomination process to appoint fire permit officers to the senior management of the relevant responsible agencies, depending on their specific responsibilities in regards, e.g. to the land tenure with which it is concerned.

7.6 Fire and Emergency Risk Area Committees (currently Fire Management Area Committees)

7.6.1 Discussion

The roles of FMACs and Emergency Management Committees (EMC) are different, with the former focusing on prevention and mitigation strategies and the latter on response and recovery. Despite these differences, the role of FMACs should not be considered in isolation from the structures established under the Emergency Management Act. Under that Act, there are established three Regional EMCs and 29 Municipal EMCs. Emergency Management Plans

⁵⁵ Wise Lord and Ferguson, *Tasmania Fire Service Review of the Fire Permit System, Final Report, January 2018*, Recommendation 14.

are produced at both the Regional and Municipal levels. In some cases, there is a high level of shared membership between the three Committees.

While FMACs are primarily focused on prevention and mitigation strategies and EMCs are focused on multiple activities, including response and recovery, the opportunity to remove potential duplication and to streamline operations in the new legislation should not be lost. This includes defining how Fire Protection Plans relate to Emergency Management Plans.

It may also be appropriate that any fire management committees (where formed) report their activities and planning strategies through to the relevant Regional Emergency Management Committees, to ensure a holistic approach is taken in regard to risk mitigation and preparedness activities. This is specifically the case in regard to bushfire management which is one of the State's most significant emergency risks.

Changes to the Fire Service Act in 2012 resulted in administrative alignment of the responsibility for the management of bushfire fuels across the State in recognition that it is a shared responsibility across all sectors including the public arena. The principal aim was to bring together the various stakeholders that manage land use across the State, to work together to effectively manage vegetation fuels for the mitigation of bushfires. These Committees also inform resourcing of brigades.

The FMAC structure was reviewed and there are now 10 fire management areas for the State, reflecting the broader landscape and strategic focus that is required. Section 18 of the Act specifies the membership of these Committees.

The focus of each FMAC is to prepare a fire protection plan for the Fire Management Area and to identify and prioritise bushfire vegetation risks and prioritise strategic works to mitigate any perceived risks. These plans are currently submitted to the SFMC for approval.

FMACs and EMCs perform different functions:

- FMACs have a specific focus on managing vegetation fire risk (the most significant natural hazard in Tasmania). They are a forum for collaboration, particularly in relation to mitigation. FMACs have a key role in preparing, assessing and developing bushfire risk mitigation plans, a function that should continue.
- EMCs have functions relating to disaster planning, response and recovery in relation to a wider range of hazards. They also serve an important role during the recovery phase by facilitating the coordination of public and private resources within the relevant community.

The membership of the two types of committees reflects their respective functions.

Membership of FMACs is centred on those who are actively engaged in and/or responsible for land management. Membership of EMCs is broader and includes Tasmania Police, utilities, local government, emergency responders, and recovery providers.

At this stage, vegetation fire risk is the most significant, and commonly recurring, natural hazard in Tasmania and warrants separate attention. Coordination between the committees is, however, required, and it is proposed that the existing EMC structures under the Emergency Management Act be retained. These structures may, however, need to be reviewed once TFES is established to capitalise on identified efficiencies and synergies. Similarly, no change is proposed to the existing FMAC structure. However, to ensure flexibility to adapt to changing

circumstances, the new legislation should not prescribe the numbers or geographical boundaries of relevant committees.

In any event, this Review proposes that:

- FMACs be renamed Fire and Emergency Risk Area Committees (FERAC) in recognition that TFES manages risks associated with fire and prescribed emergencies that may arise and not their management in the first instance
- FMACs (now FERACs) and EMCs must be resourced to meet their obligations.

The risk with this change is that the responsibility for management of risks associated with non-fire or non-prescribed emergencies encapsulated by the Emergency Management Act may be blurred.

7.6.2 Submissions to the Issues Paper

Submissions to the Issues Paper on this subject included the following points.

- FMACs are operating satisfactorily, with the representation from the rural areas on the FMACs being appreciated.
- It would be good practice to have a wine representative on appropriate FMACs as it would be beneficial in reducing the risks of smoke taint from fuel reduction burns⁵⁶.
- A suggestion that large industrial forest growers and other significant landholders within the FMACs boundaries should be represented.
- A need to streamline and rationalise FMACs in the short to medium term with the possibility to incorporate FMACs into the emergency management structure, and the advantage this would bring.

In a more recent submission from the SFMC, this Review noted and concurred that:

- a form of FMACs should continue, due to their critical role in managing bushfire risk at a strategic level
- the number of Fire Management Areas and linkages between the emergency management committees and FMACs be investigated
- in the absence of the SFMC, or other advisory body involving both government and non-government land managers, the legislation must retain a mechanism to provide direction on the governance and operation of the FMACs. FMACs currently operate to achieve the management of bushfire risk requiring the cooperation of land managers and relevant statutory authorities with the powers to address bushfire risk.

However, others saw the roles and membership of the respective FMACs being mutually exclusive and indicated that integration would not lead to better outcomes given they are comprised of those actively engaged and/or responsible for land management while membership of (Regional and Municipal) EMCs is wider, including Tasmania Police, utilities, emergency responders, local government and recovery providers.

⁵⁶ In regard to wine representation, this can happen already if there are large wine industry landholders who own/manage land – requests can be made through SFMC if representatives fit with the Terms of Reference for FMACs – this is also the case for the forest industry

One submission was very critical of the composition and role of FMACs, considering they do not act in the public interest. Another noted that, while FMACs are essential to the coordination of fire activities with other organisations and land managers, for FMACs to achieve real community engagement and satisfactory representation, they require a fit-for-purpose community engagement model, more appropriate structures, careful selection of candidates and training in risk management ⁵⁷.

7.6.3 Conclusions

This Review, subject to comments in Section 7.7 below, is supportive of the establishment of FERACs, and for broadening their roles to include emergencies other than only fires, providing that:

- this Review provides an opportunity for these arrangements and planning outcomes to be developed in broader consultation with communities and with municipal and regional emergency management committees
- broadening does not increase the number of personnel involved
- doing so does not reduce the focus on vegetation fire management risks
- consideration be given to better linkages (not merging) between FMACs and EMCs and minimising duplication.

Under this option, TFES, on the advice of the State Fire Management Sub-Committee, would have the power to establish Local Advisory Committees, in order to fulfil the relevant functions under new legislation. They would set the boundaries having regard to the efficiency and effectiveness of designated services to operate within the local area and taking into account local risk profiles and the boundaries of other relevant organisations such as Tasmania Police. This model would facilitate moving towards a more integrated approach to fire and other emergencies and facilitate local engagement.

Recommendation 31

- Include, in the Terms of Reference for the State Fire Emergency Management Sub-Committee, provision for the establishment of Fire and Emergency Risk Area Committees (FERAC), including the number and geographical boundaries of these committees.
- Enhance community engagement through community representation on FERACs, without increasing numbers on these committees.
- Remove the requirement to Gazette geographical boundaries.
- Continue to identify synergies between FERACs and Regional and Municipal Emergency Management Committees.
- Note that these arrangements do not require legislative support and could instead be promulgated under a Head of Power and detailed, where necessary, in doctrine/Tasmanian Emergency Management Arrangements (TEMA).

⁵⁷ Parks and Wildlife Service

7.7 Alternative proposal regarding FMACs

7.7.1 Discussion

In a late submission to this Review, the SFC addressed the:

- emergency management functions currently performed by the Emergency Management Unit within SES
- relationship between the SFMC and FMACs established under the Fire Service Act and the EMC established under the Emergency Management Act.

The submission goes on, under a heading of, 'The SES' existing emergency management functions', to note that the Emergency Management Unit within SES currently performs a range of emergency management functions including secretariat support to the state, regional and municipal EMCs. This secretariat function is neither an efficient nor an effective use of the limited resources within the Emergency Management Unit, which comprises a small number of senior SES managers who have considerable expertise in emergency management.

The SFC considers that this secretariat function would be more appropriately performed by relevant administrative personnel within an agency with primary responsibility for statewide emergency management, such as DPAC or DPFEM.

Other functions of the Emergency Management Unit include statewide risk assessments, emergency planning, and emergency management policy. The SFC suggested two options.

- These functions could be transferred to a department or other agency that is appropriately positioned and resourced to coordinate whole-of-government emergency management (encompassing hazards such as biosecurity, pandemic, terrorism for which TFES would not have primary responsibility). TFES and the relevant department/agency would need to maintain a close and effective working relationship. In this case, TFES would continue to be responsible for emergency planning in relation to the hazards for which it has primary responsibility (e.g. fire and flood). In relation to other hazards, TFES would continue to provide input into operational response planning through participation of appropriate TFES subject matter experts in the EMC structures.
- TFES could continue to perform the risk assessment, emergency planning, and emergency management policy functions currently performed by the Emergency Management Unit. These functions would need to be appropriately resourced.

The SFC noted that the above measures may require consequential amendments to the Emergency Management Act.

Recommendation 32

- Consider, as an alternative to, or in addition to, Recommendation 31:
 - having the secretariat function currently fulfilled by SES performed instead by relevant administrative personnel within an agency with primary responsibility for statewide emergency management, such as the Department of Premier and Cabinet (DPAC) or the Department of Police, Fire and Emergency Management (DPFEM)
 - transferring SES's Emergency Management Unit (EMU) functions associated with statewide risk assessments, emergency planning, and emergency management policy to either DPAC or DPFEM.

7.8 Brigade and unit management and industry brigades

7.8.1 Discussion

7.8.1.1 TFS

Part III of the Fire Service Act provides for the establishment and composition of brigades. The SFC may establish permanent, urban, composite or volunteer brigades and appoint brigade chiefs, fire officers and firefighters as necessary or expedient. It also determines the operational district within which a brigade is to operate. Section 29 of the Fire Service Act outlines the powers and functions of brigade chiefs, including taking any action considered necessary for extinguishing, or preventing the extension of a fire, to protect life and property, cause water to be shut off and give directions to others.

Part III also specifies certain facets of brigade management, including the maintenance of a register of brigade members, training requirements and equipment control.

The Fire Service Act provides for the constitution of Salvage Brigades with the authority of the SFC to salvage property at fires or to extinguish fire on the premises or land owned or occupied by a person or at which that person is employed⁵⁸. This would encompass industry brigades formed by private industries such as mining or large manufacturers for the purpose of providing services in respect of their organisation's premises and land. Under the current provisions of the Fire Service Act, these brigades are not authorised to attend other incidents if they are not on their property. This does not reflect current practice where these brigades may be used outside their industry boundaries to assist in emergency response.

The discussion below has regard to the governance options explored in Section 4, in particular the implications of moving to a departmental model as proposed in that Section.

7.8.1.2 SES

Section 28 of the Emergency Management Act empowers the Director SES to establish SES regional volunteer units and, where this is done, requires the Director to appoint a Unit Manager for the unit. As part of establishing TFES, these arrangements should not be changed.

⁵⁸ Fire Service Act 1979, Section 37

7.8.1.3 Auxiliary brigades

PWS and STT can establish auxiliary brigades – such brigades are established and operated for purposes of workplace health and safety legislation, and persons engaged in such brigades are classified as ‘workers’ which, therefore, addresses indemnity concerns. Persons engaged on private properties to respond to fires and who are properly trained to do so, could be required to operate under instruction of TFS but this is not currently legally permissible.

On the other hand, TFS currently has arrangements in place with the farming community to appoint farmers as ‘spontaneous volunteers’ which is allowed for under the Fire Service Act.

New legislation needs to deal with these anomalies and/or reconfirm them, including protection for non-TFS, PWS, STT and other personnel.

7.8.2 Submissions to the Issues Paper

The following issues were noted from submissions to the Issues Paper.

- The provisions relating to brigades contained in the Fire Service Act remain appropriate in terms of the establishment and composition of brigades but the provisions of section 29 of the Act need to be expanded to cover the broadened context of emergency response functions and not inhibit any future roles.
- The provisions of section 26 of the Act are very prescriptive and lead to a lack of flexibility.
- Support for the introduction of a compulsory qualification for brigade chiefs and officers and appointment provisions to be based on merit, similar to arrangements under the *State Service Act 2000*.
- There is little strategic thought or science around the establishment of brigades or their boundaries. For example, Clarence career crew will not respond into the Cambridge volunteer area automatically, even though the boundary is less than 1.5 km from the Clarence station.
- General support for the provision for industry brigades but no consensus as to whether they should operate externally to the industry boundaries.
- Strong support for having industry brigade resources available to an incident controller during an emergency response, similar to the provisions in the current Fire Service Act that states a brigade chief shall have control and direction of any industry fire brigade and of any persons who voluntarily place their services at his or her disposal⁵⁹.
- Strongly advocated that industry brigades be recognised in legislation.

⁵⁹ *Fire Service Act 1979* 29(3)(f)

7.8.3 Consideration of submissions and other matters

This Review noted the following matters.

- The provisions relating to the creation and operation of SES units should be removed from the Emergency Management Act and TFS brigades and SES units would be treated consistently under the new legislation. Should this occur, then the position (not functions) of the Director SES should be removed from the Emergency Management Act and managed as part of the command structure under the head of TFES.
- Regarding the establishment and composition of brigades, section 26 of the Fire Service Act is very prescriptive, leading to lack of flexibility. The new legislation should provide for the head of TFES to:
 - establish and abolish brigades/units
 - determine the membership of those brigades/units
 - to make regulations or a statutory instrument defining the structure, functions and responsibilities of brigades/units, either generally and/or in relation to specific brigades/units.
- Initially, it is likely that there will continue to be fire brigades (TFS) and SES units; however, over time the legislation needs to allow for the establishment of large multi-functional fire and emergency teams that are responsive to community needs.
- The roles and functions of brigades/units and their members need to be defined more broadly to include response and non-response roles, community engagement functions, and mitigation activities. There is a need to include Community Engagement Officers in brigades/units, as well as other flexible brigade/unit structures and membership. Powers and functions of brigade chiefs/unit leaders should include mitigation activities.
- There is a need to confer power on the head of TFES to establish protocols for interoperability of relevant agencies and organisations in relation to specific hazard types and/or geographical areas.
- There is a need for proposed legislation to include authority for the establishment of Interoperability Protocols⁶⁰ such that they:
 - define responsibilities (Section 3.6.3 of current Interagency Protocol between fire agencies)
 - confer protections from liability on participating organisations and their personnel
 - create obligations to act (including emergency response) in accordance with the protocols.

Overall, it was concluded that TFES needs to be able, in the context of preparedness, prevention, response and recovery, to:

- provide surge capacity and a combined permanent/volunteer model needs to exist
- evolve to provide a service-centric approach, not a brigade approach
- authorise the establishment of brigades, including salvage and industry brigades, and then respond under an umbrella approach, regardless of tenure or boundary.

⁶⁰ The current Interagency Protocol between TFS, PWS and STT provides an example of the types of arrangements that could be made under this provision.

It was concluded that the legislation should include provision of a power for TFES to establish brigades/units and to determine their membership and structure, and to be able to recommend their location. Location is important in the context that circumstances in Tasmania today are very different to what existed in 1979, including changing demographics. TFES should, as part of its risk management arrangements, be expected to, from time to time, review the nature and location of its brigades to ensure this continues to meet community needs and response capability.

Functions of brigades/units would be broadly defined to encompass operational and non-operational or non-response roles and community engagement functions.

7.8.4 Provide for the establishment of industry brigades in legislation

This Review supports the option whereby legislation provides for the establishment of industry brigades. There may be some value in considering these resources as co-opted resources and incorporate into the legislation the power of the incident controller to co-opt local resources for the purposes of suppressing a fire or responding to an emergency situation.

This sharing of responsibilities between the emergency services, the company or organisation establishing the industry brigade and the broader community improves resilience and creates opportunities to enhance the social capital of all involved. Industry brigades need clear definition and statement of their role. Except when a response is required, that is relevant to the interests of the particular industry, it is not appropriate for an industry brigade to be at the direction of the Chief Officer. Triggers, roles, responsibilities and funding of response costs would need to be defined and agreed to before registration.

However, it is important that industry brigades can assist in emergency response outside industry boundaries in order to assist in suppression and mitigation activities.

The Country Fire Authority (CFA) in Victoria could provide a useful model. In November 1997, the Victorian Government introduced legislation requiring forest plantation companies to form fire brigades when their plantation assets reached a critical size. These industry-based fire brigades are operated by the plantation company but are under the operational control of CFA. Industry brigades are only required to service the companies' plantation assets for wildfire response and fire management planning. However, if the parent plantation company desires, the brigade is empowered to operate outside their designated area. The operations, apparatus and training requirements for industry brigades are provided for in the Country Fire Authority (Forestry Industry Brigades) Regulations 1998.

South Australia has also considered implementing similar arrangements. A legislative 'head power' has been proposed to facilitate the South Australian Country Fire Service requiring the formulation and maintenance of industry brigades within country areas of South Australia. This proposed Amendment Bill is the first step in the development of a legislative framework that will provide flexibility for the establishment of industry brigades, including those outside of the commercial forestry industry if necessary, in the future.

Also relevant to this discussion is that section 28(2)(c) of the Emergency Management Act makes provision for affiliated organisations to SES and such registered organisations receiving protection.

However, if the establishment of industry brigades is to be progressed, the following will need to be made clear.

- A requirement that they be registered
- Reporting arrangements
- Who pays
- Training requirements and compliance
- Equipment requirements

These arrangements will only work where this is addressed in legislation and reporting is to the head of TFES who must ensure that minimum standards are met. In addition, regarding all brigades, it will be important, when maintaining a link between local units, brigades and local communities, that there be consultation with local government.

Recommendation 33

- Legislate to provide a Head of Power for Tasmania Fire and Emergency Services (TFES) to:
 - establish and abolish brigades/units
 - determine the membership of brigades/units
 - recommend locations of brigades/units
 - define the structure, functions, powers and responsibilities of brigade/units
 - exercise such other powers and functions as may be necessary for the effective management of, and response to, fire and other prescribed emergencies.
- Legislate to provide TFES with the power to:
 - register/de-register volunteer/unit members
 - appoint unit managers, brigade chiefs, and establish standards, for things like equipment, training, facilities, etc.
 - establish protocols for cooperation
 - appoint industry brigades, making clear that they be under the control of TFES.

This recommendation is consistent with other recommendations in this Report, giving TFES a mandate to confer specified functions, powers and indemnities on individuals and organisations outside of the entity. This option would necessitate removal from the Emergency Management Act of provisions relating to the creation and operation of SES units, resulting in TFS brigades and SES units being treated consistently under new legislation.

7.9 Fire permit system and total fire bans

7.9.1 Discussion

As a result of the January 2013 bushfires, the Tasmanian Bushfire Inquiry (TBI) recommended that TFS review the current fire permit system as follows (Recommendation 91):

That Tasmania Fire Service conducts a review of the fire permit system in the Fire Service Act 1979, and implements change to improve the efficiency and effectiveness of the system by:

1. *considering whether it is appropriate to authorise persons or organisations to conduct fuel reduction burning during a permit period*
2. *providing a better match between the period, area and fire risk*
3. *maintaining a timely and efficient process for issuing permits*
4. *naming the period in a way that draws attention to bushfire risk establishing a reporting and accountability process.*

All recommendations of the TBI related to fire permit system review have been endorsed by the Minister. Many of these recommendations will need to be the subject of provisions in the proposed TFES Act.

Total fire bans and some form of fire permit period are important fire safety measures and, as such, are a consistent feature of fire-related legislation across Australia. The parameters for declaring a total fire ban and/or fire permit period are continually improving.

7.9.2 Issues raised in submissions

Matters noted from submissions included the following.

- Broad support for implementation of the recommendations of the review of the fire permit system.
- Suggestions that the fire permit system should include risk-based self-regulation mechanisms which are subject to overarching controls such as bans. In this regard, the Forest Industry Fire Management Committee has developed the Procedure: Fire Prevention at Forest Operations with the objective of minimising the incidence of bushfires from forest and related operations. It outlines the minimum fire requirements for forest operations and procedures to follow to reduce the risk of fire including on days of total fire bans. This procedure is in place annually from 1 October to at least 30 April.
- A call for consistency in industry protocols between forestry and agriculture.
- Broad support for the Machinery Operation Guidelines⁶¹.
- An indication that the development of these guidelines and policy documents should be mandated in legislation.
- Strong support for the retention of the current arrangements for total fire bans.

⁶¹ These guidelines, which are internal, not legislated, provide a mechanism to enable harvesting should total fire bans be in place (normally banned) and monitors local conditions with 'phone trees' informing locals when to desist.

This Review also noted the following.

- One submission did not consider they had been consulted during the fire permit review, in particular regarding the omission of smoke management.
- Another raised concerns that TFS may not have a requirement to verify that the fire permit applicant is the owner of the land.
- Another flagged that the authority to burn should always be restricted to a permit and that the current Fire Service Act does not adequately consider the provisions relating to private land in the Nature Conservation Act.

7.9.3 Options considered

The Chair considered two options.

1. Implement the recommendations of the review of the fire permit system in the new legislation as appropriate.
2. Do not implement these recommendations.

The Chair supported the first option.

The review of the fire permit system provided a very comprehensive analysis, capturing considerable input from a large group of stakeholders. The recommendations were endorsed by the SFMC, the TFS/SES Executive Leadership Team and the Minister for Police, Fire and Emergency Management. Given the comprehensive nature of that review, and the endorsement of its recommendations, this Review supports acceptance of all the recommendations and considers that this Review should not, other than is outlined under 'lighting fires without a permit' below, revisit the permit system. The implementation of a number of the recommendations will require legislation to implement.

7.9.4 Lighting fires without a permit

Currently, if the permit system is in place, citizens can light a fire without a permit if it is less than 1 cubic metre. This Review considered this and concluded no permits be issued when total fire bans are in place.

However, doing so will likely give rise to a range of challenges for various industries and activities on days of total fire ban. In response to these matters, TFS has undertaken detailed analysis to understand the risk, legislative and policy environments. A potential outcome of this will be a more nuanced approach to fire risk management, whereby statutory controls will continue to achieve the desired risk management objective, yet allow certain activities to continue, within reason.

This work is related to a range of activities from the domestic setting to industries such as farming, forestry, mining and construction. The Chief Officer therefore should be able to grant exemptions from the provisions of a total fire ban declaration.

Recommendation 34

- Include the recommendations of the review of the fire permit system into new legislation as appropriate, including arrangements for total fire bans.
- Ensure that new legislation includes scope to modify or change these arrangements if once implemented it is determined adjustments to processes are required.
- Ensure that, subject to exemptions granted by the Chief Officer, no fire permits are issued when total fire bans are in place.

7.10 Community education

7.10.1 Discussion

Prevention programs have been enormously effective in reducing the incidence and impact of fires in Tasmania. TFS and SES have substantial subject matter expertise and are thus well-placed to lead the delivery of these programs. However, while SES has subject matter experts, it is not funded or resourced to lead or conduct prevention programs with affected communities (for flood and storm hazard).

This function in any the new legislation should be broader than education and should encompass 'community safety' so that a wide range of programs can be initiated and undertaken in relation to fire and other hazards.

The new Act could:

- explicitly describe TFES's roles and responsibilities with regard to prevention, mitigation and community preparedness
- acknowledge the range of strategies in hierarchy of controls that may improve prevention/ mitigation and community preparedness. It is not necessary to be exhaustive or include detail of all strategies, unless specifically required for legal protection or authorisation (as per current regulatory compliance)
- provide for certain mitigation activities to be mandatory, with penalties for non-compliance
- ensure that any centralisation of service delivery (including prevention, mitigation and community preparedness strategies) is adequately resourced.

7.10.2 Issues raised in submissions

The following matters were raised in submissions.

- Many observations that community education would benefit from a more holistic all-hazards approach to improve community awareness and resilience.
- AFAC indicated that engaging with communities should remain an explicit function of fire and emergency services, believing that it is important that the legislation also reflects that community engagement is a core role of modern fire and emergency services personnel, as most of the workforce capacity to deliver these programs will come from paid operational staff.

- Community education is a key function in increasing risk mitigation and building community resilience to natural disasters.
- Strong support for a centralised, all-hazard, community education approach, focusing on fire, flood and storm, noting community resilience development is an area where the separation of the current Fire Service Act and Emergency Management Act is most significant.

7.10.3 Options considered

The Chair considered two options.

1. Community education should be an explicit function of TFES and specified in legislation.
2. Community education is not a mandated function but that TFES, along with other relevant entities, should be expected, and resourced, to undertake this activity.

The Chair supported option 2.

Mandating this explicitly implies that TFES is the only entity responsible, when community education is a shared responsibility capable of being addressed by any number of providers. The need for, and delivery of, community education (as TFS provides currently) is best addressed by embracing a service delivery model addressing all prevention, preparedness, response and recovery (PPR&R) functions. Doing so will ensure community resilience is broad-based.

The Parliamentary Inquiry into the SFC found that it should be assessed whether the community engagement programs of TFS and SES should be centralised. The Flood Review concurred, stating at its Recommendation 7:

“That SES and TFS share resources and align their community education programs and adopt an all-hazards approach to awareness.”

While a requirement for community education can be implemented without legislative or regulatory change, this Review provides an opportunity for enhancing implementation of the Flood Review recommendation.

There are resource and structural implications associated with adoption of this option, but this should not inhibit this important community education and resilience-building function and making it an all-hazard approach. In providing such education, it would be good to see collaboration between community education in emergency management provided by TFES with that provided as part of community development by local government. This will help maintain existing expertise in community education regarding fire, and further enhance capability in SES, although recognising that expertise needed to build community resilience to fire is different to flood.

Recommendation 35

- Expect, but do not legislate for, Tasmania Fire and Emergency Services (TFES) to provide education to the community on how best to prepare for fire and relevant emergency risks.

7.11 The built environment – permits to install, maintain or repair fire protection equipment

7.11.1 Discussion

Under the General Fire Regulations 2010⁶² (the Regulations), the Chief Officer may issue a permit for the installation, maintenance or repair of fire protection equipment. There is a very wide range of equipment and systems in this broad category with the Regulations clearly outlining what fire protection systems and equipment are covered under the permit system.

At the same time, TFS has a role in ensuring compliance which may lead to a perceived or actual conflict of interest between the regulatory and compliance role and the operational role.

The permit holder must have appropriate competence in the relevant activity. There is no comprehensive training and qualification framework for the different competencies which includes installation, maintenance, and testing of fire protection equipment. TFS currently has processes in place to ensure the relevant competency is demonstrated and validated through a committee comprised of TFS and industry experts and this must continue. Although in its infancy, the training and qualifications framework within the fire protection industry will provide a good robust approach to ensuring permit holders and contractors within the fire protection industry are appropriately qualified.

TFS administers a system for issuing these permits although the *Occupational Licensing Act 2005*, which is administered by the Department of Justice, may provide an alternative mechanism for administering these permits. However, the Occupational Licensing Act is not suitable legislation from which to license and permit contractors working in the fire protection industry.

Therefore, the existing approval process must remain in place to ensure competency standards are upheld, and the results of TFS audits are considered in respect to ongoing maintenance of standards.

Even if the issuing of permits is transferred to the Department of Justice, the following safeguards must be retained.

- The permit system must include requirements for appropriate qualifications/training and continuing professional development.
- TFS expertise in ensuring fire safety be utilised in maintaining the regulatory framework, including through the adoption of the TFS code of practice and related standards.
- Inclusion of TFS representation on the panel that issues permits.

7.11.2 Related issue: Chief Officer fire safety compliance certificates

The Building Regulations 2016, regulations 26A and 27, require the Chief Officer to assess whether certain 'notifiable building works' and 'permit building works' meet the fire safety requirements of the National Construction Code, whether by means of 'deemed-to-satisfy' or 'performance' measures, and, if so, to issue a Certificate of Likely Compliance.

⁶² Regulation 8

This function should be retained as a function of TFS; however, a review of the fee structure is needed to better reflect the level of expertise and time required to prepare these assessments, particularly in relation to performance measures. There needs to be a clear policy change from this perspective and a joined-up approach across DPFEM in regard to fees and charges relating to building safety compliance, including direct brigade alarm monitoring.

7.11.3 Issues raised in submissions

The following matters were noted from submissions.

- That the new legislation should strive to reduce or remove any potential, or perceived potential, conflicts of interest to ensure community confidence in the governing entity.
- That it was important for this function to be maintained and not privatised.
- That the Regulations must keep abreast with changes to the Building Code of Australia to ensure any conflict between legislative instruments are kept to a minimum.
- Most submissions considered that it was appropriate for the entity to maintain a role in the issue of permits to install, maintain or repair fire equipment, with one noting that the Occupational Licensing Act may provide an alternative mechanism for administering these permits.

7.11.4 Options considered

The Chair considered two options.

1. TFES maintains responsibility for issuing permits to install, maintain or repair fire protection equipment subject to a review of:
 - a. the current regulatory arrangements, including conflicts of interest and cost-benefit
 - b. related legislative frameworks.
2. TFES does not maintain responsibility for issuing permits to install, maintain or repair fire protection equipment, but maintains an advisory role.

The Chair supported option 1.

Although current processes for managing fire industry regulation and permits could be seen as a potential conflict of interest, as TFS in some areas is both a provider and regulator of these services, the expertise required in designing, assessing, and monitoring the compliance of building fire safety systems remains an appropriate role of TFS. This is due to its unique nature, and the need to apply specialist knowledge in a practical way to specific buildings, and their risk profile.

Also, relevant to maintaining this option, is that one of the aims of the building legislation was to reduce red tape. Certain plans, as prescribed in the building legislation, would still be provided to the entity for advice and any fire safety concerns could be highlighted at that time. All pre-occupation requirements would be consolidated in the building legislation.

However, some of these functions intersect with other legislative frameworks including the Land Use Planning and Approvals Act, the Building Act, the Occupational Licensing Act (which

may provide an alternative mechanism for administering these permits) and the *Work Health and Safety Act 2012* (WHS Act). Clarity is needed, for example:

- in how the WHS Act defines workers as this relates to a safe workplace when attending a fire (which is clearly no longer a safe workplace) and how to address the role(s) of patrons who may be attending that work place
- where TFS is also a regulator, e.g. in relation to approving fire evacuation plans.

Another option is to have this function performed by Consumer, Building and Occupational Services Tasmania, a Division within the Department of Justice. This was not explored.

This Review provides an opportunity to revisit the regulatory functions of TFS, having regard to the most effective use of its expertise and resources, and to review related legislative frameworks to ensure consistency, appropriate alignment of regulatory functions across relevant agencies, to minimise potential or actual conflicts, and to explore costs and who pays.

It was concluded that the Chief Officer must remain legislatively responsible for fire equipment and systems permits. TFS is a key stakeholder in firefighter and building occupant fire safety. At the same time, it is evident that the General Fire Regulations are in need of review and updating to reflect contemporary fire protection industry practices and requirements.

Regarding conflicts of interest, while a valid concern, this is perceived and not actual. There is a clear delineation between the regulator role and the service provider role. There is currently no other government department with the need or expertise to regulate the fire protection industry particularly on behalf of firefighters.

Recommendation 36

- Legislate for Tasmania Fire and Emergency Services (TFES) responsibility for issuing permits to install, maintain or repair fire protection equipment, subject to a review of:
 - the current regulatory arrangements
 - conflict-of-interest arrangements.

7.12 The built environment – evacuation plans

7.12.1 Discussion

The Fire Service Act provides for evacuation plans in the event of a fire- related emergency. Part 3 Division 2 of the Regulations provides for Fire Evacuation Plans for specified buildings. Specified buildings are defined in Regulation 5 and include buildings capable of accommodating more than 200 people, residential accommodation for persons requiring medical, psychiatric or geriatric care, residential part of a motel or hotel or a childcare centre. There are currently approximately 10 000 specified buildings in the State which place significant operational/management requirements on TFS. These building are not categorized according to risk of potential hazard.

7.12.1.1 Whole-of-government approach to Emergency Evacuation Plans

A whole-of-government approach to the provision of emergency plans covering all risks in a comprehensive way is proposed by this Review. This would go towards ensuring a more robust and best-practice approach to safety in workplaces and the built environment. However, a considerable amount of policy development and resourcing would be required to deliver such a system.

7.12.1.2 Ensuring that appropriate evacuation plans are in place

At present, the Work Health and Safety Regulations 2012 do not require compliance with appropriate Australian Standards, and the approach taken by the work health and safety (WHS) regulator to the application of these Regulations is generally punitive rather than preventive. For example, the WHS regulator does not routinely undertake audits of emergency plans for existing workplaces. Fire Evacuation Plans are audited by TFS for specified buildings prior to occupancy, but a workplace can be occupied without demonstrating the existence of an Emergency Management Plan.

In the absence of a whole-of-government, all-risk approach to emergency planning in the built environment, TFES must continue to fulfil the role of auditing Fire Evacuation Plans, although this is not ideal in the longer term.

7.12.1.3 Level of involvement of TFS in fire evacuation plans

Currently, TFS has a significant involvement in the compliance and regulatory system for building work, as it relates to emergency planning for building fire and bushfire.

7.12.1.4 Overlap of statutory controls for Fire Evacuation Plans

There is overlap between the provisions of the General Fire Regulations 2010, the Building Act and the Work Health and Safety Regulations 2012. This overlap occurs predominantly for specified buildings.

7.12.1.5 Categorisation of specified buildings

The General Fire Regulations 2010 contain a list of 16 descriptors for specified buildings which appear to be based more on function than risk profile. There is scope to review and modernise the approach to defining specified buildings based on risk profile. This work would have to be undertaken in conjunction with the Director of Building Control under the Building Act.

7.12.1.6 Related issue: Bushfire emergency planning

Although building fire safety in many building types and features is captured through the General Fire Regulations 2010, bushfire risk is not. There are many instances of vulnerable sites located in bushfire-prone areas without appropriate (or any) bushfire planning.

The new regulations will include a requirement for prescribed or specified buildings to have bushfire emergency plans which are consistent with the standard provided in the Tasmania Fire Service Bushfire Emergency Planning Guidelines and to have these plans completed, checked and approved by an accredited Bushfire Hazard Practitioner.

7.12.2 Issues raised in submissions

The following matters were raised in submissions.

- Many were generally supportive of the opportunity that this Review provides to implement best-practice emergency management in Tasmania and that an all-hazards evacuation system would offer valuable efficiency and effectiveness opportunities.
- Additional information on evacuation plan processes in other states and territories would be useful to inform this issue.
- The use of risk potential to categorise buildings has merit.

7.12.3 Matters raised in a subsequent submission from the SFC

Building Safety personnel within TFS currently provide expert input about fire risk to the Tasmanian building regulator (Consumer, Building & Occupational Services within the Department of Justice) for the purposes of building structural assessments and approvals. TFES should continue to provide subject matter expertise about fire (and other) risks in an advisory capacity, with the regulator retaining responsibility for decision-making.

SFC considers that:

- A similar approach should apply to building fire evacuation arrangements. The legal obligation for a person conducting a business or undertaking to have emergency procedures, including effective emergency response and evacuation procedures, arises under clause 43 of the Work Health & Safety Regulations 2012. The WHS regulator is WorkSafe Tasmania.
- WorkSafe Tasmania should retain responsibility for reviewing and approving emergency response procedures for Tasmanian organisations, including high-risk facilities. TFES should be a point of reference for the WHS regulator, to provide advice and guidance about recommended measures for high-risk facilities.
- It would not be appropriate for TFES to be responsible either for reviewing/approving or for providing formal advice to individual organisations about their emergency response procedures.

7.12.4 Options considered

The Chair considered two options:

1. Any new legislation should not provide for building fire evacuation systems but a requirement should be established in law or regulation that high-risk facilities should have their emergency response procedures reviewed and approved by WorkSafe Tasmania and that, in view of its contemporary knowledge and experience in emergency response, advice be sought where needed from TFES.
2. Maintain current arrangements for fire evacuations in the new legislation.

The Chair supported option 1, but noted the following.

- The regulation of building fire evacuation plans for specified buildings has been an important role of the Chief Officer. While the risk profile of specified buildings is not documented, there would be a direct correlation in the type of building occupancy and the risk profile.

- Rescue is the highest risk activity that firefighters undertake. Having approved fire evacuation plans ensure there are measures in place to expedite the evacuation of specified buildings in a systematic and approved manner. If the proposal to make it an all-hazard approach is adopted, then the Chief Officer must be included, at least in an advisory capacity, in the approval process from a fire evacuation perspective.
- If an all-hazards approach is adopted and TFES are responsible for this, then additional resources and expertise will be required for this role.
- The fact that considerable operational/management requirements are placed on TFS relating to the 10 000 specified buildings within the State is more reflective of an increase in the risk profile of the State without a parallel and proportionate increase in resources to manage the profile of work.
- The legislation should not be changed to reflect the workload. Instead, the specified buildings list should be reviewed and agreed based on risk.
- An important aspect of the Regulations is the nature of the penalties for non-compliance. They all require legal action in the Magistrates Court that is time consuming and chokes the legal system. The Fire Offences Bill provided an opportunity to issue infringement notices with monetary penalties. The legislative change together with good policy and business practices would enable authorised officers to issue infringement notices rather than prosecution. Prosecution should still be legislatively enabled.
- Support for a requirement that specified buildings within bushfire-prone areas have approved bushfire evacuation plans.

No other Australian state or territory continues with the (preparation of) standalone fire evacuation plans that are undertaken/required in Tasmania. Currently, TFS only considers evacuation in relation to fire but evacuation procedures should also include assessment of procedures to ensure emergency risks, other than fire, are also covered, e.g. bomb threats, active shooter or building infrastructure failure.

The State Controller endorsed a review of the Emergency Evacuation Framework. The Framework was endorsed by the SEMC on 17 July 2018. The Framework is designed to provide guidelines for consideration by planners during planning for evacuation. It is also designed to identify operational roles and responsibilities during evacuation and establishes a state-level evacuation planning framework consistent with nationally agreed principles for evacuation planning. It would seem logical to consider fire evacuation in the context of this framework rather than in the new legislation.

In addition, new legislation provides an opportunity for a broader approach to the provision of emergency management plans. This would go towards ensuring a robust and best-practice approach to safety in workplaces and the built environment.

It is also noted that, whilst building fire safety in many building types and features is captured through the Regulations, bushfire risk is not. There are many instances of vulnerable sites located in bushfire-prone areas without appropriate (or any) bushfire planning.

This Review also identified that the Regulations contain requirements for the preparation of evacuation plans, in the case of fire or fire alarm, only in certain buildings. However, the Work Health and Safety Regulations 2012 require all workplaces to have an emergency plan

covering all emergencies and is the overriding document if there is any conflict with other legislative instruments.

Given this, and that work health and safety legislation already places an onus on building owners to ensure workers can be safely evacuated, this Review flags the need to revisit the level of oversight needed over those arrangements. Bearing in mind the all-hazards approach to emergency management in Tasmania, it may be appropriate to prescribe a requirement that relevant buildings have an multi-hazard evacuation plan (rather than being fire-specific). It may also be appropriate for organisations other than TFS to be authorised to approve or endorse evacuation plans and therefore for relevant provisions to be housed in other legislation. Doing so could relieve the requirements on TFS.

Taking all of the above into account, it was concluded that high-risk facilities should have their emergency response procedures reviewed and approved by WorkSafe Tasmania but that TFES, due to its range of responsibilities, would be the agency best placed and have most appropriate experts:

- to provide advice when emergency procedures developed for high-risk facilities (denoted as such due to occupant population, design/construction, or activities undertaken) are considered and approved
- to advise on effectiveness of response and coordination measures, especially when factoring in building design and safety features
- to provide emergency coordination.

Using a risk rating system could result in many buildings developing procedures through a process less demanding on the resources of the emergency services, yet at the same time ensuring emergency risk is appropriately addressed.

Providing expert input into planning for emergencies involving storm/flood, natural disasters, fire, hazardous material, structural collapse, coordination of activities and mass gatherings are all in the primary remit of the emergency services contained within TFS/DPFEM. It is proposed that, to ensure public safety, high-risk facilities should have their emergency response procedures reviewed and approved by WorkSafe Tasmania and that, in view of its contemporary knowledge and experience in emergency response, advice be sought where needed from TFES.

Recommendation 37

- Do not provide for building fire evacuation systems in any new legislation; instead, establish in law or regulation that high-risk facilities should have their emergency response procedures reviewed and approved by WorkSafe Tasmania and that, in view of its contemporary knowledge and experience in emergency response, advice be sought where needed from Tasmania Fire and Emergency Services (TFES).

7.13 Offences, penalties and enforcement

7.13.1 Discussion

This Review supports the need for offences and penalties to be reviewed and improved and in doing so, noted that the fire permit system review recommended:

R17. *Change offence, enforcement and authority provisions in the Act to ensure they are effective.*

7.13.1.1 Offences

The new legislation should:

- retain existing offences (simplify if possible)
- incorporate the provisions of the *Fire Service Amendment (Fire Infringement Notices) Act 2016* (to which Royal Assent was given on 10 June 2016 but which was not commenced and has therefore been automatically repealed)
- create offences and penalties in relation to:
 - false alarm callouts, which currently account for 44% of all TFS callouts. Although fees are charged for false alarm callouts, these are not a sufficient deterrent, are not always able to be recovered and are not sufficient to cover the operational costs of attending to the false alarms. Creating offences, in addition to or separate from those already in the *Police Offences Act 1935*, will enable the court process to be activated and higher penalties to be imposed if fines are not paid and/or for repeated offences
 - any accumulation of hazards, or failure to maintain and reduce hazards
 - any reduction in or damage to firefighting resources or equipment or failure to maintain firefighting equipment and resources
 - any potential of cause of fire or escape of fire including negligent activity that may create a fire or hazard
 - threats against fire and emergency responders by others
 - purporting to be or undertaking the work of a bushfire hazard practitioner without appropriate accreditation. This issue is known to be occurring.

Additionally, legislation in other Australian jurisdictions should be reviewed to inform the offences and penalty provisions.

7.13.1.2 Penalties

Penalties for all offences should be reviewed and strengthened to ensure that they are enforceable, scalable, and create a sufficient deterrent. Penalties should be aligned to the level of risk associated with the offence. Additionally, penalties should be set at a level that is greater than the reasonable costs of compliance (to remove incentive for non-compliance).

7.13.1.3 Related issue: Enforcement powers

The new legislation should retain the existing powers of TFS personnel and expand these to empower TFES personnel to take enforcement action such as the issuing of enforceable notices to reduce hazards.

7.13.2 Issues raised in submissions

The following matters were noted from submissions.

- Some consensus that a review is required of the current structures and levels of penalties and offences to ensure they are appropriate and effective to address relevant risks.
- The powers of enforcement need to be reviewed and substantially strengthened.
- New offences should be included in legislation, including interfering with a fire appliance or discarding an object that is known to be alight. These should be considered in the context of offences that may already exist under the Police Offences Act and/or the Criminal Code.
- A review of legislation in other Australian jurisdictions should be undertaken to inform the offences and penalty provisions. Such a review could also examine existing powers to enforce compliance to ensure that they are appropriate, adequate and effective.

7.13.3 Options considered

The Chair considered two options.

1. Review the current offence and penalty provisions to determine if they remain appropriate, enforceable and contemporary and reflect the expanded roles of TFES.
2. Retain the existing provisions relating to offences, penalties and enforcement.

The Chair supported option 1.

There are several deficiencies in current legislation relating to penalties and offences. For example, there is no provision for daily penalties where there is an ongoing offence, such as failure to undertake hazard mitigation activities. Nor is there provision for graduated penalties. Daily penalties for ongoing non-compliance may serve as an incentive to take remedial action in a timely manner. This would be particularly important in situations that involve public safety and risk mitigation.

The current Fire Service Act also does not provide for graduated or increased penalties for repeat offences. If graduated penalties were applied to first, second or third offences, this may act as increased deterrent.

Any review of offences and penalties would need to incorporate the provisions of the Fire Service Amendment (Fire Infringement Notices) Bill 2015 which passed both Houses of Parliament in April 2016. The Bill is yet to be proclaimed. The Bill:

- provides TFS with more effective options to enforce minor breaches of the Fire Service Act and offers another means of reducing fire-offending behaviour
- reflects the principles of restorative justice, recognising the importance of educating individuals and raising community awareness of fire safe practices, rules and responsibilities
- offers processes to inform, and if necessary, penalise offenders, aiming to prevent further offending.

Recommendation 38

- Review current offence and penalty provisions to determine if they remain appropriate, enforceable and contemporary and reflect the expanded roles of TFS and SES and, therefore, Tasmania Fire and Emergency Services (TFES). In doing so, consider provisions in the *Police Offences Act 1935*.

7.14 Response, command and control, chain of command and endorsement/ appointment of Incident Controllers

7.14.1 Discussion

The authority to control a fire incident in Tasmania is designated according to the tenure of the land on which the fire burns. Currently, a number of elements of command and control are prescribed outside legislation, including TFS Doctrine, the Inter-Agency Fire Management Protocol and AIIMS.

These provide solid and consistent response command and control practices, and legislation should be reflective of these and provide Incident Controllers with the relevant legal authority to undertake their role and responsibilities. Having response protocols specified in policy and/or doctrine rather than in legislation would allow for more flexibility, while maintaining the legal authority specified in legislation. This approach would provide the flexibility required to make change as the need arises but provide the overarching principles of command and control arrangements and accountabilities.

A basic principle of incident control is that only one person should be in command at any time. Whilst other persons will have responsibilities and provide advice, the person controlling the incident must have a legal basis of authority and be provided with guidance on what can and cannot be delegated. An Incident Controller should have appropriate experience and training and is not necessarily appointed on seniority. Adaptability in incident control arrangements is in line with the recommendations from the Victorian Royal Commission into the Black Saturday Bushfires which the Tasmanian Government has endorsed.

The appointment of the Incident Controller and Deputy Incident Controllers for Level 3 incidents under section 44 of the *NSW Rural Fires Act 1997* provides a useful model. The power to appoint is conferred by legislation and the process and conditions of appointment are determined by policy and at the discretion of the Commissioner from a suite of suitably qualified and experienced staff who hold currency in the relevant level of incident control.

An industry accepted and standards-based approach to capabilities of Incident Controllers should be adopted rather than a legislated approach which has the potential to become a hindrance as structures evolve. The new legislation should make it clear that all emergency responders who are present at an incident are, in all respects, subject to the Incident Controller's direction.

Currently, Incident Controllers are endorsed through a statewide process that includes TFS, SES, PWS and STT staff. The Fire Service Act does not reference Incident Controllers and they are appointed under the more general powers and functions of the Chief Officer or the SFC.

The legislation could give power to, or require, TFES to ensure that an endorsement or accreditation process is in place for incident management staff that provides authority, accountability, indemnity, consistency and efficiency of process.

Section 42 of the Fire Service Act states that the chain of command is 'restricted to members of the fire service and members of brigades'. This does not include people assisting TFS in any other capacity, such as people from other agencies or interstate personnel. This restriction could be removed in the new legislation.

Command and control arrangements will apply to SES as well as TFS and the roles and responsibilities for emergency management should be updated in the new legislation to be consistent with those prescribed in the Emergency Management Act.

The appointment of Incident Controllers, and other relevant positions, in respect of emergency incidents assumes a certain operating model (AllIMS/ICS). In this regard, to ensure TFES can adapt, new legislation should provide for broad Heads of Power under which TFES will establish appropriate command and control arrangements which can be reviewed and updated in line with evolving industry standards.

Recommendation 39

- Legislate to:
 - provide for Tasmania Fire and Emergency Services (TFES) to establish a chain of command for response (including appointment of Incident Controllers) by means of regulations or a statutory instrument, which can, when necessary, be amended
 - make clear that all emergency responders who are present at an incident are, in all respects, subject to the Incident Controller's direction
 - give power to, or require, TFES to ensure that an endorsement or accreditation process is in place for incident management staff that provides authority, accountability, indemnity, consistency and efficiency of process
 - update the roles and responsibilities for emergency management to be consistent with those prescribed in the *Emergency Management Act 2006* (because command and control arrangements will apply to SES as well as TFS, and therefore to TFES).

7.15 Capacity to respond to climatic changes

This Review did not set out to examine whether or not there are changes to our climate and, if there are, what the causes might be. However, there seems little doubt that emergency incidents (bushfires and flood risks being two examples) are more frequent and severe.

In this regard, the AFAC Independent Operational Review into Tasmania Fires of December 2018-March 2019 (the AFAC Review) states at 3.8:

Consistent with strong scientific evidence and following the significant fire events in Tasmania in 2013, 2016 and 2019, there is broad acknowledgement and acceptance

that projected changes to climatic conditions will result in longer, more severe fire seasons for the State, as with other parts of the country.

If this is accurate, then TFES should have internal capability, or easy access to, or be expected to work in collaboration with, relevant expertise and research into how changing climatic conditions may impact functions they are responsible for.

There are various ways in which this could be achieved, either on their own or in combination.

- Provide TFES with the resources to carry out research into how climatic events impact its functions, including a predictive capacity, and develop action strategies.
- With the same objective, work with DPAC's Climate Change Office, Cooperative Research Centres or the University of Tasmania.

Relevant is that this not be given token recognition and that research results in no action. When relevant, TFES would be expected to advise on, or participate in the development of, strategies aimed at identifying risks and proposed mitigations.

Recommendation 40

- Expect Tasmania Fire and Emergency Services (TFES) to have capability, or access to capability, to advise on, or participate in the development of, strategies aimed at identifying risks associated with changes in our climate and proposed mitigations.

7.16 Warnings

This Review did not set out to examine whether or not current warning arrangements in Tasmania associated with fires and other prescribed emergencies are suitable. However, this Review was made aware of warning principles outlines in *Handbook 16 Public Information Warnings*⁶³ issued by the Australian Institute for Disaster Resilience. There are 10 principles which guide the development and use of warnings in Australia. They outline why warnings are important and how warnings are provided most effectively.

The 10 principles are preceded by the following statement:

The design and use of warnings should be guided by a total warning system, underpinned by clear governance arrangements, operate within an integrated incident management system, and be supported by delivery systems.

No recommendation is made, but if these principles have not already been adopted in Tasmania, consideration to doing so should be given.

⁶³ https://www.aidr.org.au/media/6504/public_information_and_warnings_handbook.pdf

7.17 Fighting bushfires

This Review supports that the one statewide point of command for major unwanted fires burning in Tasmania should be the State Operations Centre. In saying this, the Chair acknowledges observations made as part of the targeted stakeholder consultation that those who make operational decisions in relation to the fighting of bushfires have the specialist knowledge and understanding required for what is a very different type of firefighting than urban or structural based firefighting. In this regard, attention was drawn to an AFAC review⁶⁴ which recommended that:

... explicitly recognises the right of each of TFS, PWS and STT to have their objectives prioritised in incident action planning and adequate resources applied to those objectives, and provides a mechanism for executive decision-makers from TFS, PWS and STT to come together and agree objectives and resourcing levels that will then be operationalised by whole-of-State control structures.

TFS, PWS and STT initiate a discussion among their Australasian peers about good practice around managing new fire starts in remote terrain, to include issues around identification, predictive analysis, risk management and suppression activities. The outcome should be a document which allows for benchmarking to accepted good practice across Australasia, from which Tasmanian fire agencies can develop protocols against which the management of future events can be tested.

It can be concluded from this that specialist bushfire fighting knowledge is integral to ensuring safe and effective operational decisions are made about bushfire emergencies. Operational decision-makers who are dealing with bushfires in Tasmania must have the specialist knowledge and training about relevant matters, e.g. the local terrain, mountains, gullies and valleys, the types of trees and bush, vegetation and flora and the local weather and wind patterns.

No recommendation is made.

7.18 Building safety

7.18.1 Discussion

A matter that has arisen late during the course of this Review, and about which there has not been targeted or other consultation, relates to issuing fire orders in connection with building safety. It is understood that TFS has, on a number of previous occasions, raised matters associated with components of the Fire Service Act and the General Fire Regulations in regards to building fire safety matters. Primarily these concerns stem from the need to prosecute matters, even if they appear trivial in nature.

TFS uses the powers in the Building Act and Building Regulations that enable Councils, as Permit Authorities, to issue building orders and evacuation orders, but these mechanisms are used as a last resort and are reliant on local government to prioritise this work.

⁶⁴ Also discussed in Sections 3.6.3 and 7.4.3.

In other jurisdictions, fire agencies have other tools that are more direct and pragmatic that allow fire officers to issue fire orders at different levels depending on the nature of a fire safety breach. It is understood that:

- in those jurisdictions, issuing these fire orders is well documented and procedures and accountabilities are clear
- TFS' concerns relate to breaches of fire safety matters outlined in fire service related legislation and regulations.

In addition to issuing fire orders, other jurisdictions also have the capacity to issue infringements with monetary penalties attached to them rather than prosecution. Once again, issuing infringements is well documented, and the process clearly enshrined in doctrine with staff well trained in the process.

Recommendation 41

- Undertake a review of contemporary and suitable legislation from other fire jurisdictions across Australia to consider, within the Tasmanian context, how best to allow a more pro-active and pragmatic approach to fire safety compliance in the built environment.

7.19 Conclusions

This Section has dealt with a number of operational matters all of which require clarity and therefore consideration when new legislation is drafted. These matters are not summarised here. Each matter in this Section stands alone, with conclusions on each resulting in Recommendations 27 to 41.

Legislation (and initial transition implications)

8.1 Introduction

8.1.1 Objective of this Section

Section 8: The objective adopted by the Chair in developing this Section was to develop a vision for a proposed new contemporary fire and emergency services entity that the community will have confidence in and that will remain relevant for the next 40 years.

8.1.2 Context

Section 2 makes the case for change to the Fire Service Act. Also relevant is that multiple pieces of legislation (and, where relevant, associated regulations) currently impact strategies such as fuel hazard reduction burning, all of which may also need review. These include, in no particular order:

- Forest Practices Act 1985
- Threatened Species Protection Act 1995
- Land Use Planning and Approvals Act 1993
- National Parks and Reserves Management Act 2002
- Wellington Park Act 1993
- Weed Management Act 1999
- Nature Conservation Act 2002
- Environmental Management and Pollution Control Act 1994
- Work Health and Safety Act 2012
- Aboriginal Relics Act 1975
- Historic Cultural Heritage Act 1995

Section 8 brings together legislative impacts of earlier sections but with a focus on recommendations that legislation be high-level and principles-based. In some case, Section 8 therefore repeats concepts discussed earlier in this Report.

The intent here is to ensure flexibility for TFES, with:

- it being granted the relevant Head of Power referred to throughout recommendations in this Report
- operational details included in regulation, the TEMA or doctrine (organisational policies), whichever is the most appropriate
- legislation that is simpler, contemporary and forward-looking.

This Section does not explore a merger of SES and TFS. That was established as a 'given' early in this Report, as was the need for review of consequential implications for the Emergency Management Act.

8.1.3 Legislative changes proposed by stakeholders and principles applied elsewhere

This Section does not include recommendations on, or discussion of, all the operational issues that may be contained in the new legislation. Rather, it is primarily concerned with threshold issues that will fundamentally shape the new legislation. However, a list of legislative provisions that have been put forward by stakeholders for possible amendment has been provided to TFS and Appendix 9 includes nationally agreed principles and the principles established by SAFECOM (South Australia).

8.2 Principles-based legislation

8.2.1 Overview

The functions of an integrated fire and emergency service should be clearly identified in new legislation, providing a clear mandate and operating platform for all functions. New legislation should express these functions in broad rather than prescriptive terms to ensure flexibility and adaptability into the future. New legislation is required to reflect changes in fire risk due to climate, planning and land management practices, local agreements such as the Inter-Agency Fire Management Protocol, national and international agreements such as the Agreement for Interstate Assistance and the Agreement for International Assistance, and development of whole-of-government programs, such as the fuel reduction program, that may not be reflected in current legislation.

Drafting new principles-based legislation will avoid many of the shortcomings of the current legislation which has become overly complex as a result of multiple amendments since proclamation⁶⁵.

In coming to this conclusion, this Review's work was influenced by the following factors.

- Whatever governance, integration or funding models are decided upon, they must ensure accountabilities and reporting lines for TFES are clear and workable.
- The need for arrangements for dealing with/responding to fire and prescribed emergencies are consistent with Tasmania's multi-hazard approach to emergency management and allow for strategic prioritisation of activities within the broader emergency management context.
- Governance and financial management of TFES must be fit-for-purpose, transparent and accountable.

Also noted is that the following approach should guide the development of any new legislative framework pertaining to the provision of emergency services in Tasmania.

- Agreement on the aspirational best-practice model for the delivery of emergency services in Tasmania which appropriately address the current and projected emergency risks the community may face.
- The proposed model must consider the range of services provided, key performance goals, concepts of operation, standards for resource allocation, level of involvement in resilience and preparedness activities, sustainable funding arrangements, interaction with

⁶⁵ Since 1979, the Fire Service Act has been amended 45 times, either directly or as a result of consequential amendments.

stakeholders, and processes for capability sharing with other partners with shared responsibilities.

- This aspirational model should then be moderated in recognition of existing cultures, budget realities, staffing profiles and volunteer engagement processes to identify the best achievable model.
- Once the best achievable model is determined, it then guides the legislative reform process. The legislation will need to enable the model including by:
 - establishing a clear mandate and operating platform
 - specifying key governance arrangements, without being prescriptive
 - possibly providing guidance on prioritisation (in anticipation of budget constraints that may apply – from time to time).

The recommendations outlined in Sections 2 to 6, if adopted, are aimed at facilitating the aspirational legislative framework as outlined above.

8.2.2 Submissions to the Issues Paper

Submissions to this Review on these matters included the following.

- Consensus that the reformed legislation should not be overly prescriptive but that its purpose should be to deliver an authorising and enabling environment, be principles-based and reflect the contemporary role of a fire and relevant emergency services agency/agencies to contribute to the development of community resilience through risk reduction.
- Detailed organisational arrangements should be made through regulation, policy or doctrine development rather than through the primary legislation.
- New legislation should bind the Crown, noting that the current Fire Service Act binds the Crown as does the Emergency Management Act and most other State legislation.

No submission advocated for the retention of the Fire Service Act in its current form.

8.2.3 Proposed legislation to be principles-based

Evident from this Review, confirmed by multiple other reviews of fire and emergency services in Tasmania, is the need for replacement legislation to be principles-based, allowing sensible but transparent flexibility for a fire and prescribed emergency services entity to fulfil agreed functions in a responsive, adaptable and timely manner. This should include provision of an appropriate Head of Power⁶⁶ for the entity and its partner agencies (e.g. PWS and STT) to fulfil their functions.

Under such proposed principles-based arrangements, legislation would not prescribe operational details that may potentially constrain the operational activities of the proposed entity into the future. Explicit recommendations regarding what principles-based legislation might include are those outlined in the TEMA – refer Appendix 9.

⁶⁶ A 'head of power' normally applies to a Parliament's ability to make laws. In this situation, proposed new legislation should provide the proposed new entity with a head of power to deal with relevant aspects of fire and emergency services without seeking Parliamentary or other approval to do so.

Recommendation 42

- Draft new legislation to replace the *Fire Service Act 1979*, keeping in mind that:
 - in order for any proposed legislation to be contemporary, flexible and sufficiently forward-looking, it needs to be principles-based, providing a Head of Power to Tasmania Fire and Emergency Services (TFES)
 - the functions and mandate of the new entity should deliver an authorising and enabling environment facilitating a broad range of fire and prescribed non-fire related emergency services activities, including multi-hazard, that are aligned with and support the *Emergency Management Act 2006* in legislation.

8.2.4 A word of caution

One submission, appropriately, noted that a greater focus on principles-based legislation brings with it concerns that prescription will be introduced through related regulatory instruments without the same level of engagement or consultation with, for example, Councils. Inclusion of a provision such as currently exists at section 28AA of the Local Government Act would go some way to addressing this concern.

In addition, placing much of the detail into separate instruments would be at odds with an accessible, easy to read legislative approach. A balance is required.

8.3 Purpose of principles-based legislation

8.3.1 Discussion

This Review identified gaps in current legislation which principles-based legislation has the opportunity of addressing, including the following.

- Under current legislation, broad interpretation is required to allow TFS to prepare for, or respond to, non-fire emergencies.
- No person or agency is formally authorised to establish service delivery standards for the type of response provided at these non-fire emergencies.
- Greater clarity is required regarding the authority to expend funds on training and equipment intended solely for the purpose of responding to non-fire emergencies.
- There can be confusion with other emergency service providers as to which is the mandated agency at a particular incident.
- In the event that there is no response, or a delayed or ineffective response, to a non-fire emergency, no-one can be held to account for the failure to deliver the service.

8.3.2 Submissions to the Issues Paper

Submissions to the Issues Paper included the following points.

- The legislation should reflect the contemporary role of fire and prescribed emergency services/agencies which contribute to the development of community resilience through risk reduction for the relevant hazards for which those agencies have a legislative responsibility.

- Better reflecting contemporary practice would further assist in authorising and validating the delivery of the range of relevant non-fire specific services being provided to communities and wilderness areas.
- Fire service personnel and emergency service personnel should have a single framework of operational duties derived from a single source.
- The legislation should include activities in the wider organisational scope of the entity such as provision of educational services about fire and natural disaster, building of community resilience to those events and also risk mitigation operations such as the Fuel Reduction Unit.
- Legislation dealing with the roles of TFS and SES should be sufficiently broad to allow for the wide range of response and emergency support activities that the services currently provide, and provide the flexibility and ability for the services to take on additional responsibilities in the future if required but by doing so in a transparent and accountable way.

Recommendation 43

- Legislate to make provision for a secondary process to change or add mandated functions in the future without the need to amend legislation, but on the proviso that the core legislation cannot be undone without full review by the Parliament, and with public input.

8.4 Advantages of principles-based legislation

There are several advantages in having principles-based, rather than prescriptive, legislation.

- It allows for a greater degree of 'future-proofing' and enables TFES to respond to relevant emerging issues as they arise without the need to amend legislation.
- It is focused on outcomes and provides increased flexibility as to how these outcomes are achieved rather than providing detailed rules prescribing how outcomes are to be achieved.
- It fosters more innovative fire and relevant/prescribed emergency services in the interests of both communities and the environment.
- It encourages professional judgement rather than merely complying with a set of prescriptive rules. However, allowing professional judgement, which this Review supports, requires relevant accountability and transparency arrangements.
- Use of generic descriptors would provide coverage for currently known classes of emergencies.

In summary therefore, Recommendation 42 is aimed at legislation that should define the role of the service as a key driver of an all-hazard approach to emergency management reflecting an emphasis on preparedness, prevention and response. That change would move from a narrow focus on extinguishing fires or responding to floods, to the more modern view that the legislation should reflect the contemporary role of fire and prescribed emergency services agencies to contribute to the development of community resilience and environmental protection through risk reduction for the hazards for which TFES has a legislative responsibility. Better reflecting

contemporary practice would further assist in validating the delivery of a range of non-fire specific services currently/already being provided to communities.

The legislation should make provision for a secondary process, as proposed in Recommendation 43, to amend or add mandated functions in the future without the need to amend legislation. This authority could rest with the Minister and would avoid the need to amend legislation if other functions were identified⁶⁷.

8.5 Independent research on new fire and emergency management legislation

8.5.1 Discussion

To an extent, discussion here overlaps with reasons provided for merging TFS and SES discussed in Section 3. Despite this, this Section notes that several independent reviews have suggested that this option should be considered.

The House of Assembly Standing Committee on Community Development's Inquiry into the SFC noted that the Fire Service Act should recognise SES and incorporate sections of the Emergency Management Act⁶⁸.

AFAC's independent operational review of the 2016 Tasmanian fires recommended that further conversations take place between TFS and SES to identify what skills and capabilities may be transferable between agencies, not just in the event of a future fire, but in case of future hazards for which SES is the primary response agency, including flood, earthquake and tsunami⁶⁹ (but noting that SES is a support organisation for response and is responsible for planning and public education for tsunami).

The submission from Emergency Management Australia noted that "...we encourage Tasmania to develop a single, unified governance model for all fire and emergency services which provides clarity around roles and responsibilities for service heads in times of complex crises"⁷⁰.

8.5.2 Further considerations

This Review concluded the following.

- If there is to be change in emergency services delivery to the Tasmanian community, consequential amendments to the Emergency Management Act are inevitable.
- Efficient use of scarce resources, including volunteers, and ensuring maximum effectiveness of those resources, requires integration of fire and emergency services.
- Integration is fundamental to modernising TFS and SES in relation to emergency response. It is an area where efficiencies are available to be made.

⁶⁷ Such a provision may be in the form of a disallowable instrument which must be tabled in Parliament and open to Parliamentary veto or disallowable for a set period of time. All new legislative instruments are subject to disallowance unless they have been granted an exemption.

⁶⁸ House of Assembly Standing Committee on Community Development Inquiry into the State Fire Commission 6.40.

⁶⁹ AFAC Independent Operational Review: *A Review of the Management of Tasmanian Fires in January 2016*, Recommendation 5

⁷⁰ Department of Home Affairs.

- Many seem to fear the combining of TFS and SES will require new livery. This is not a prerequisite for integration to occur although it may be an outcome and should not be precluded from happening.
- Consequential amendments to the Emergency Management Act will require review of the roles played by local government and potentially other legislation.
- One integrated Act will provide a strategic legislative framework for the operation of emergency services.
- Legislating for individual emergency services brigades or units to operate in isolation of others is no longer appropriate, and it does not conform to what actually happens in the field.
- Interoperability is becoming the norm rather than the exception. TFS and SES often respond to incidents together and provide mutual support and assistance; the legislation must support, not hinder this mode of operation.
- Increased interoperability, uniformity and common standards in equipment, resources, procedures, systems and processes that would lead to more effective operations and allocation of resources must be supported in legislation.
- There are efficiencies to be found in combining services that are quite similar in terms of facilities, dispatch, operating systems, administration and asset management.
- It is unreasonable to expect volunteers to rely on multiple and sometimes inconsistent legislation in order to perform emergency services functions.
- Many volunteers are members of both TFS and SES and the legislation guiding these volunteers must be clear, comprehensive and consistent⁷¹. With this in mind, and subject to motivations people have for wishing to become volunteers and their competencies, consideration needs to be given to frontline services being cross trained to maximise response, especially for disaster-scale events.
- The functions of an integrated TFES would focus on fire and emergency service prevention, preparedness and response.
- Primary responsibility for community recovery from emergencies would be excluded as this is managed by other organisations across the three tiers of government⁷² and these arrangements should be aligned to the TEMA.
- The legislation would provide a Head of Power for integration to occur.
- As noted by Emergency Management Australia, it is clear that with the increasing frequency and intensity of natural hazards, the challenges faced by Tasmania will evolve to be more complex. Therefore, Tasmania's fire and emergency services governance need to be flexible.
- The ability to direct State resources to major incidents and to provide additional support to remote locations will be paramount and an integrated fire and emergency service will facilitate a total view of TFES' people, places and resources, enabling evidence-based planning.
- One leadership team will be able to manage TFES more strategically.

⁷¹ According to a survey in late 2019, 16% of SES volunteers are also TFS volunteers.

⁷² This is not to suggest that TFS and/or SES or an integrated TFS/SES have no responsibility for community recovery. Clearly, they do, but in a support, rather than primary, role with social recovery requiring differing skill sets

- There is already evidence that fire and emergency management personnel are working effectively together and full integration can only enhance this.

Recommendation 44

- Develop new legislation to establish an integrated fire and prescribed emergency services entity, the principal objectives of which are:
 - to preserve human life
 - to build resilient communities that actively participate in prevention, preparedness and response to fire and other relevant emergencies
 - to limit the economic, environmental (including climate change), social and physical impacts of fire and other emergencies on the Tasmanian community
 - to recognise that our environment has inherent value for the Tasmanian community
 - to ensure/facilitate effective inter-agency interoperability both inter and intra State.
- Clarify, in the new legislation, that the proposed entity is **not** the lead agency responsible for recovery.

8.6 What are the key principles?

8.6.1 Research into key principles underpinning new legislation

Research identified the following:

8.6.1.1 Principles already specified in the TEMA

Appendix 9 outlines the principles of emergency management sourced from The Australian Emergency Management Arrangements Handbook – AIDR 2019. These provide an authoritative starting point but are not repeated here.

8.6.1.2 Discussion

This Review proposed the following principles.

- A clear mandate and operating platform for fire and prescribed emergency services in which the community will have confidence.
- Clear governance arrangements ensuring accountability and transparency, through the appropriate Minister, of TFES's functions and services.
- The provision of a properly integrated network of fire and prescribed emergency services based on equitable assessment of community and property risk.
- Strategic alignment of the fire and prescribed emergency services with the common goal of enhanced community and property safety.
- Enhancing community and property safety by providing balanced focus on prevention, preparedness, response and recovery services by TFES in coordination with other emergency service entities including Tasmania Police, DPAC, PWS, and STT.

- Legislation which clarifies and coordinates roles played by TFES, PWS, STT and Ambulance Tasmania.
- A sustainable, simple, stable and equitable⁷³ funding system for TFES that demonstrably operates efficiently and effectively during extreme and non-extreme emergency events.
- Recognition and protection for volunteers/units.
- Relevant and flexible investment in, and locations of, brigades/units and TFES's assets.
- Identified and validated efficiencies and reforms, resulting in savings transparently reinvesting in TFES.
- Legislation sufficiently flexible so as to facilitate changing demographics within Tasmania, including where and how people live.
- Legislation that facilitates action on climate change risk in the context of the natural disaster risks most common in Tasmania being fires and floods.
- Legislation which is short, forward-looking, principles-based, with detail addressed in regulations.

Recommendation 45

- Draft new legislation to be short, forward-looking and principles-based, with detail addressed in regulations.

8.7 Transition matters

This Review has not addressed, nor did it set out to, transitional matters that will arise once drafting legislation commences. However, this Section summarises matters that will likely require transitional consideration. They include the following.

- Impacts of transitioning TFS employees. In this respect it is noted that regardless of the model, all TFS employees are already state servants under the State Service Act.
- If a departmental model under which TFES is transitioned into DPFEM is supported, abolishing the SFC and establishing the SFMC as an advisory council reporting to the Minister under a suitable charter. SFMC's membership to be reviewed.
- If a standalone departmental model is pursued, abolishing the SFC and establishing the SFMC as an advisory council reporting to the Minister under a suitable charter. SFMC's membership to be reviewed.
- Transitioning volunteers, including SES units.
- Transitioning assets and associated resources from local government to TFES.
- In the event that the insurance levy is abolished, developing transition arrangements aimed at minimising immediate negative impacts on some property owners of an increase in the property-based levy.

⁷³ 'Equitable' is aimed at ensuring exemptions from paying any emergency services type levy or tax, assuming such a levy/tax remains in place, is limited to only those persons or organisations most disadvantaged, or most in need, in the Tasmanian community.

- Importantly, transitional matters will require suitable resources to activate and recognition that TFES's costs will increase when, for example, assets previously acquired and managed by Councils, are transferred to TFES. Discussions with Councils will be needed regarding payment, if any, for assets they will be expected to transfer to TFES.
- In addition, a change management process will need to occur to support employees and volunteers during the transition to the new entity and associated arrangements.

8.8 Conclusions

Discussion in Section 8, and throughout this Report, confirms the need for new legislation to be drafted replacing the Fire Service Act and that such new legislation be principles-based, taking into account all factors identified in this Report.

Such new legislation should:

- provide for an integrated fire and emergency service entity (with awareness that consequential amendments to the Emergency Management Act will likely be required)
- make provision for a secondary process to change or add mandated functions in the future without the need to amend legislation, but on the proviso that the core legislation cannot be undone without full review by the Parliament and public input
- create an integrated fire and appropriate emergency services entity, the principal objectives of which are:
 - to preserve human life
 - to build resilient communities that actively participate in prevention, preparedness and response to fire and other relevant emergencies
 - to limit the economic, environmental (including climate change impacts), social and physical impact of fire and other relevant emergencies on the Tasmanian community
 - to recognise that our environment has inherent value for the Tasmanian community
 - to ensure/facilitate effective inter-agency interoperability both inter and intra State
- provide clarity that the proposed entity will not be the lead agency responsible for recovery

In addition, when drafting legislation transition consequences should be identified and managed.

Appendices

Appendix 1 – Review Terms of Reference

Purpose:

The Steering Committee is appointed to provide independent advice to the Minister for Police, Fire and Emergency Management (the Minister) about how the Government can achieve:

- a clear mandate and operating platform for fire services' functions;
- an effective and efficient fire service operation that will provide value for money in the future; and
- a sustainable, stable and equitable funding system for fire services.

Context:

There is an expectation that modern twenty-first century fire services operates effectively, efficiently, and seamlessly with the roles performed by other emergency service providers. Cabinet has approved a review of the Fire Service Act 1979 (the Act) to ensure the fire service works effectively and efficiently and continues to provide value for money in the future.

Tasmania remains the sole jurisdiction in Australia to have a fully integrated fire service, career and volunteer, urban and rural and is governed by the Act. The Act establishes the State Fire Commission (the Commission) as a Crown Entity and the Tasmania Fire Service (TFS), for which the Commission is responsible.

The House of Assembly Standing Committee on Community Development's Inquiry into the State Fire Commission recommended that, on the evidence presented, a review of the Act is necessary. The Committee recommended that the Act must be reformed or replaced to allow for:

1. A centralised funding model for the State Emergency Services (SES);
2. Streamlined approach to fire fighting between Tasmania Fire Service, Tasmania Parks and Wildlife Service, Forestry Tasmania and other relevant agencies;
3. Resources to be allocated according to the risk and not according to local government municipal boundaries;
4. The continuation of Tasmania having a singular fire service;
5. Clear reporting lines;
6. Improved governance structure; and
7. Include the fire permit system and inter- agency protocols.

The Problem:

The Act was proclaimed in 1979 following the amalgamation of the Rural and Urban Fire Services into the Tasmania Fire Service. The Act has never been comprehensively reviewed since proclamation. A Minor Review of the Act was undertaken in 1999 in order to comply with the Competition Principles Agreement which required the State Government to review and, where appropriate, reform all legislation which restricted competition. The Minor Review of the Act was compliant with the Principles as outlined in the Legislation Review Program.

Over the years, the current legislative framework has become fragmented, overly complex and process driven.

A comprehensive review of the Act, and all subordinate legislation is now considered timely. This is particularly the case with the SES now reporting through to the Chief Officer, TFS and the resultant opportunities for further alignment of TFS and SES to be reflected in legislation.

Functions of State Fire Commission:

The Commission is a statutory authority created under the Act. The TFS is the operational arm of the Commission, delivering services to the community through career and volunteer brigades and Community Fire Safety. The Commission currently consists of:

- a) the Chief Officer;
- b) a person nominated by the United Firefighters Union of Australia (Tasmania Branch);
- c) a person nominated by the Retained Firefighters Association;
- d) a person nominated by the Tasmanian Volunteer Fire Brigades Association;
- e) a person nominated by the Secretary of the responsible Department in relation to the Public Account Act 1986; and
- f) two persons nominated by the Local Government Association of Tasmania.

Legislation has recently passed both Houses of Parliament to enable the appointment of an independent Chair of the Commission by the Governor on the recommendation of the Minister. Mr Rod Sweetnam has been appointed as the independent Chair of the Commission. The Chief Officer will remain Chief Executive Officer of TFS and in accordance with section 7(3)(a) of the Fire Service Act 1979, the Chief Officer would remain a member of the Commission.

The functions and powers of the Commission are to:

- a) formulate the policy in respect of the administration and operation of the Fire Service;
- b) co-ordinate and direct the development of all fire services throughout the State;
- c) develop effective fire prevention and protection measures throughout the State;
- d) develop and promulgate a State fire protection plan;
- e) standardize, as far as is practicable, fire brigade equipment throughout the State;
- f) establish and maintain training facilities for brigades;
- g) conduct such investigations into fires as it considers necessary, and to prepare reports and recommendations to the Minister arising from those investigations;
- h) conduct such investigations into the use of fire as it considers necessary, to instruct the public in the wise use of fire, and to disseminate information regarding fire protection measures and other related matters;
- i) advise the Minister on such matters relating to the administration of this Act as may be referred to it by the Minister, and on matters that, in the opinion of the Commission, should be brought to the attention of the Minister; and
- j) exercise such other functions vested in or imposed on it by this Act or such other functions relating to the preventing or extinguishing of fires as may be imposed on it by the Minister from time to time.

Finances of the State Fire Commission:

The major sources of revenue to the Commission are contributions from landowners (fire service contribution), insurance policyholders (insurance fire levy), motor vehicle owners (motor vehicle fire levy)

and the State Government. In addition, the Commission raises revenue through the sale and maintenance of fire equipment, the provision of training services to both the public and private sector, alarm monitoring fees, plan approval fees, avoidable false alarm charges and fire investigation reports.

As part of the 2014 state budget announcements, the Minister announced that there would be a change for TFS and SES in that the SES Director would report to the TFS Chief Officer (who in turn reports to the Secretary DPFEM).

Annual resourcing for the SES is now incorporated into the State Fire Commission budget. The current funding model for SES relies on a number of revenue streams across local, state and federal government levels and also the Motor Accident Insurance Board. Work is currently being undertaken on the development of a sustainable funding model for the SES and this will have ramifications for the SFC and will need to be considered in the context of the Review of the Fire Service Act.

Governance Arrangements for the Review:

The Review of the Act will be overseen by a Steering Committee consisting of:

- An independent Chair;
- Chief Officer, Tasmania Fire Service;
- Chair, State Fire Commission;
- Deputy Chief Officer, Tasmania Fire Service;
- Deputy Secretary, Business and Executive Services, DPFEM;
- Director, State Emergency Service;
- A representative of the Department of Premier and Cabinet;
- A representative of the Department of Primary Industries, Parks, Water and Environment;
- A representative of the Department of State Growth; and
- A representative of the Department of Treasury and Finance.

Administrative support will be provided by a Project Team from TFS and with the support of the Legislation Development and Review Unit of DPFEM.

Scope of work:

Cabinet has approved the Steering Committee to provide advice on how the following outcomes might be achieved:

Outcome 1: that TFS has a clear mandate and operating platform for the functions it performs, and that it is clear how those align with functions performed by other emergency services providers, in particular, the SES. This will include analysis of any gaps or overlays in the delivery of any TFS / SES services and identify future role and functions for TFS / SES.

Outcome 2: that the Commission and TFS are organised and operating as effectively and efficiently as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation and will provide value for money in the future.

Outcome 3: that there is sustainable, stable and equitable funding for TFS and SES, with the sources of that funding aligning with the functions that they need to perform.

Outcome 4: that governance, accountability and financial management arrangements for the Commission are renewed to facilitate the most effective management of the Commission's resources and the meeting of community and government expectations.

Outcome 1: TFS functions and Operating Platform

The Steering Committee will:

- Assess the current TFS functions and how these align with roles of other emergency management agencies and service providers.
- Provide recommendation on future statutory and non-statutory functions for TFS, including the impacts of those recommendations on other services and how they might be managed.

Outcome 2: Effective and Efficiently Organised Tasmania Fire Service

The Steering Committee will:

- Consider and analyse options for governance and structure that would enable TFS to operate as efficiently and effectively as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation while taking into account:
 - the economic value that government and communities receive from volunteers in our fire services, and measures to enable and encourage volunteers' service;
 - the Commission's capital investments including the building types and location of fire stations, and the types of fire appliances, communications systems and other investments; and
 - the appropriate mechanism for asset management (including depreciation) and renewal, including the level of reserve funds recognising the cyclic nature of income streams.
- Provide recommendations on how the Commission's business operating model could be improved, as well as when and how any such changes could be improved and when, and how, any changes could be implemented. This may include changes to accelerate the integration of TFS/SES.

Outcome 3: State Fire Commission Funding

The Steering Committee will:

- assess the Commission's current funding base data and identify future funding options;
- undertake an analysis of future funding options against the following criteria:
 - provide sufficient funding to ensure the fire services can perform the functions agreed by Government;
 - be administratively simple to calculate and collect;
 - be stable and predictable; and
 - be equitable so that:
 - a) those who receive the various services performed by the TFS contribute to the costs for both fire and non-fire related activities;
 - b) levy payers in rural fire districts receive benefits that reflect their needs and contribution; and
 - c) minimise distortions in investment decisions, insurance price and coverage.
- provide recommendations for the Commission's future funding base so it can be more sustainable, stable, equitable and commensurate with future functions and business operating model, including:
 - how improvements could be made to the current insurance-based levy; and
 - whether there are other viable funding sources.

Outcome 4: Governance, Accountability and Financial Management Arrangements

The Steering Committee will:

- ensure that governance, accountability and financial management arrangements for the Commission are renewed to facilitate the most effective management of the Commission's resources and the meeting of community and government expectations.

In addition to the above, the Steering Committee may also provide advice on any other issues it determines are relevant.

Outside Scope:

- TFS should maintain its core fire-related role.
- Tasmania should continue to have a single fire service.

Scope Clarification:

Where the SC and Department of Police, Fire and Emergency Management (the Department) are unable to determine whether an issue is within scope, or become aware that an interested party has a different view than the Steering Committee and the Department on whether an issue is within scope, the Steering Committee and Department may jointly seek a determination from the Minister as to whether he considers the issue to be within scope.

Deliverables:

The Steering Committee will develop a project plan to meet four stages of work:

- Problems identified and substantiated by evidence;
- Range of potential options identified;
- Key options identified; and
- Options fully developed and assessed, and recommendations ed.

Issues Paper

The Steering Committee will provide the Minister with an Issues Paper within six months of the appointment of an independent Chair, outlining the analysis undertaken to date under the stages of work outlined above.

Report

The Steering Committee will provide a draft report to the Department within six months of the closing date for public submissions on the Issues paper.

Final report

The Steering Committee will provide advice to the Minister no later than six months of the closing date for public submissions on the draft report, in the form of a final report with recommendations.

The Steering Committee is to ensure thorough engagement with all interested stakeholders. Following the release of the Issues Paper there is to be full public consultation and the Steering Committee is to receive written submissions from all interested parties. In accordance with Government Policy, these submissions are to be published on the TFS internet site.

The Steering Committee should subsequently publish a report and hold further public consultations, before providing a final report to the Government.

Appendix 2 – Functions to be performed by an integrated fire and emergency services entity

Functions performed by an integrated entity should include, but not be limited to, the following features.

- An all-hazards approach that also recognises the need to manage fire in context; in particular, that fire management on reserved land is aimed at not only protecting life and property but achieving conservation objectives listed in the *National Parks and Reserves Management Act 2002*
- The promotion of fire safety, including providing guidance on the safe use of fire as a land management tool
- The provision of fire prevention, response, and suppression services
- Responding to severe weather related events, natural hazard events and disasters, and excluding heatwaves, human and disease emergencies
- Stabilising or rendering safe incidents that involve hazardous substances
- Providing for the safety of persons and property endangered by incidents involving hazardous substances
- Rescuing persons who are trapped as a result of accidents or other incidents but excluding where trapping results from civil unrest incidents requiring law enforcement and other incidents where Police are the lead agency because of threat from person or persons in incidents of unlawful acts
- The provision of urban search and rescue services
- Performing rescues, including rescues from collapsed buildings, rescues from confined spaces, rescues from explosive atmospheres, rescues from heights and other relevant search and rescue activities
- The provision of assistance at transport accidents (e.g. crash-scene cordoning and traffic control)
- The management, recruitment, training and support of volunteers
- The provision of community education
- Support for community emergency planning and resilience-building activities
- Undertaking swift water rescues, and animal rescues
- Inclusion of power to confer specified powers and functions and indemnities on individuals and organisations outside of the entity, including private organisations and persons with appropriate indemnity provided
- Performance of any other functions conferred on the entity as a main function by the Minister and/or as detailed under emergency management plans, fire protection plans, approved risk management plans or other arrangements already approved under the Emergency Management Act

Functions not included above that we added during an independently facilitated workshop aimed at considering different governance arrangements for a proposed new fire and emergency services entity included:

- regulation
- response/operational services
- collaboration with other entities
- management and direction of resources (financial, physical and human)
- provision of operational advice to the government of the day.

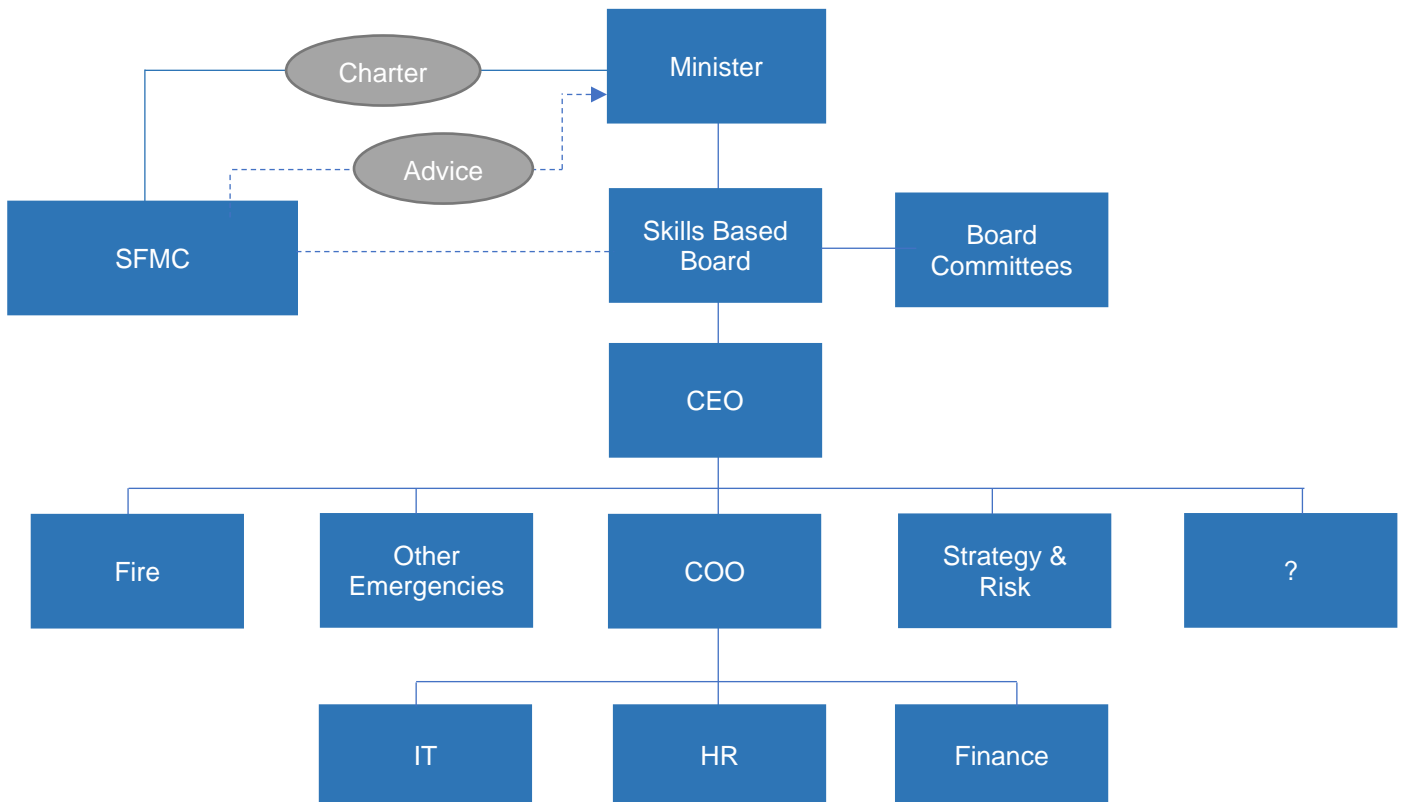
There was no agreement on whether in future the entity would have a role in providing policy advice to government, or whether one of its primary functions was employment of staff.

Appendix 3 – Emergency services functions to be carried out by TFES

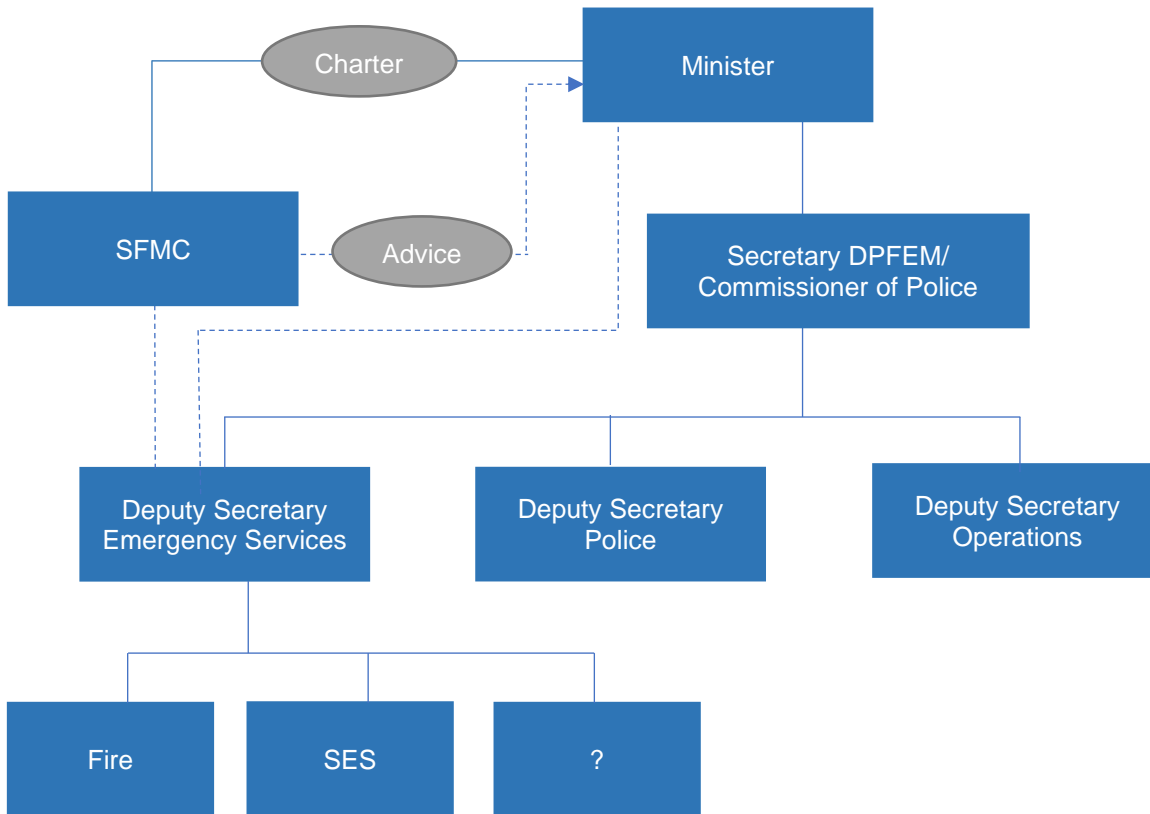
The services noted in the table below are as documented in the Emergency Management Act and the TEMA. This Review may result in changes but subject to the outcomes from consultation with the Community and Stakeholders.

Functions to be provided
<ul style="list-style-type: none"> • All fire response related activities currently performed by the TFS and as outlined in the SF Act • Flood, earthquake and tsunami • Joint (TFS and SES) training and project work, and possibly community educations/development/protection planning for bushfire, flood and storm • EM Ac provisions: <ul style="list-style-type: none"> ○ Provision of advice and services relating to Emergency Management (EM) in accordance with EM plans or as otherwise authorised by the State Controller or Minister in writing provided to the Director SES, other than the provision of a service provided by another statutory service ○ Provision of services relating to rescue and retrieval operations as authorised by the Minister or State Controller (per TEMA) ○ Provision of administrative services for the State Committee and each Regional Committee, including support in the preparation and review of emergency management plans as required by the State Committee and Regional Committees ○ Recruitment, training and support of volunteer members of the SES ○ In time of enemy action or hostilities against the State, to coordinate civil defence measures ○ Other functions imposed on it by the Minister ○ Other functions imposed on it by this or any other Act ○ Director SES to manage the SES ○ Director SES may establish and maintain for the purposes of the regions such volunteer units of the SES and training facilities as considered appropriate and must then appoint a Unit Manager for that unit ○ Director SES may appoint a Unit Manager for each municipal volunteer SES unit ○ The Director SES may issue to councils standards for the adequate storage and maintenance of the equipment used by municipal volunteer SES units ○ Director SES may register suitable persons as volunteer members of the SES ○ Director SES may register, subject to his/her conditions, suitable organisations as affiliated organisations of the SES ○ Director SES may issue identification to volunteer members of the SES ○ Director SES may inspect the facilities and resources of all SES volunteer units ○ Director SES may do all other things necessary or convenient to perform his/her functions • TEMA provisions: <ul style="list-style-type: none"> ○ Hazard Advisory Agency and Response Management Authority for: Coastal inundation ○ Hazard Advisory Agency and Response Management Authority for: Flood (riverine and flash flood) ○ Hazard Advisory Agency for: Space debris/object ○ Hazard Advisory Agency for Tsunami ○ Preparedness Management Agency for Tsunami ○ Hazard Advisory Agency and Response Management Authority for: Storms/high winds/tempest ○ Support agency for: Emergency Management consultation framework ○ Support agency for: Emergency risk framework ○ Support agency for: Mitigation funding programs ○ Support agency for: Emergency coordination (Regional and Municipal) ○ Support agency for: Civil Defence ○ Support agency for: Land-use planning ○ Support agency for: Municipal Councils liaison during emergencies ○ Support agency for: Vehicle crashes (aircraft, rail and road, including extrication) ○ Support agency for: Cave rescue ○ Support agency for: Swift water rescue ○ Support agency for: Urban Search and Rescue (USAR) ○ Support agency for: Vertical rescue ○ Support agency for: Land search and rescue ○ Support agency for: Traffic control ○ Support agency for: Severe weather warnings and community advice ○ Evacuation support to police and Response Management Authorities • Nuclear Powered Warship Visits to Hobart planning.

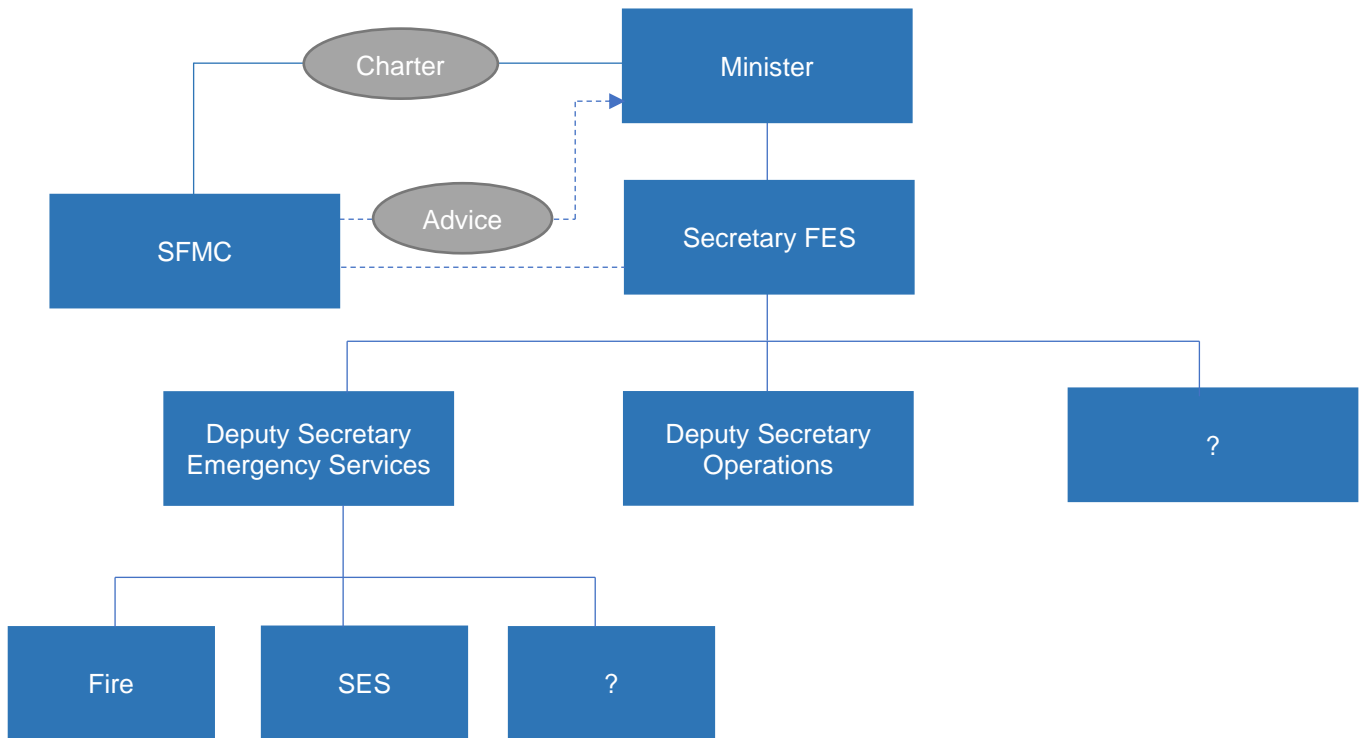
Appendix 4 – Possible amended statutory authority model



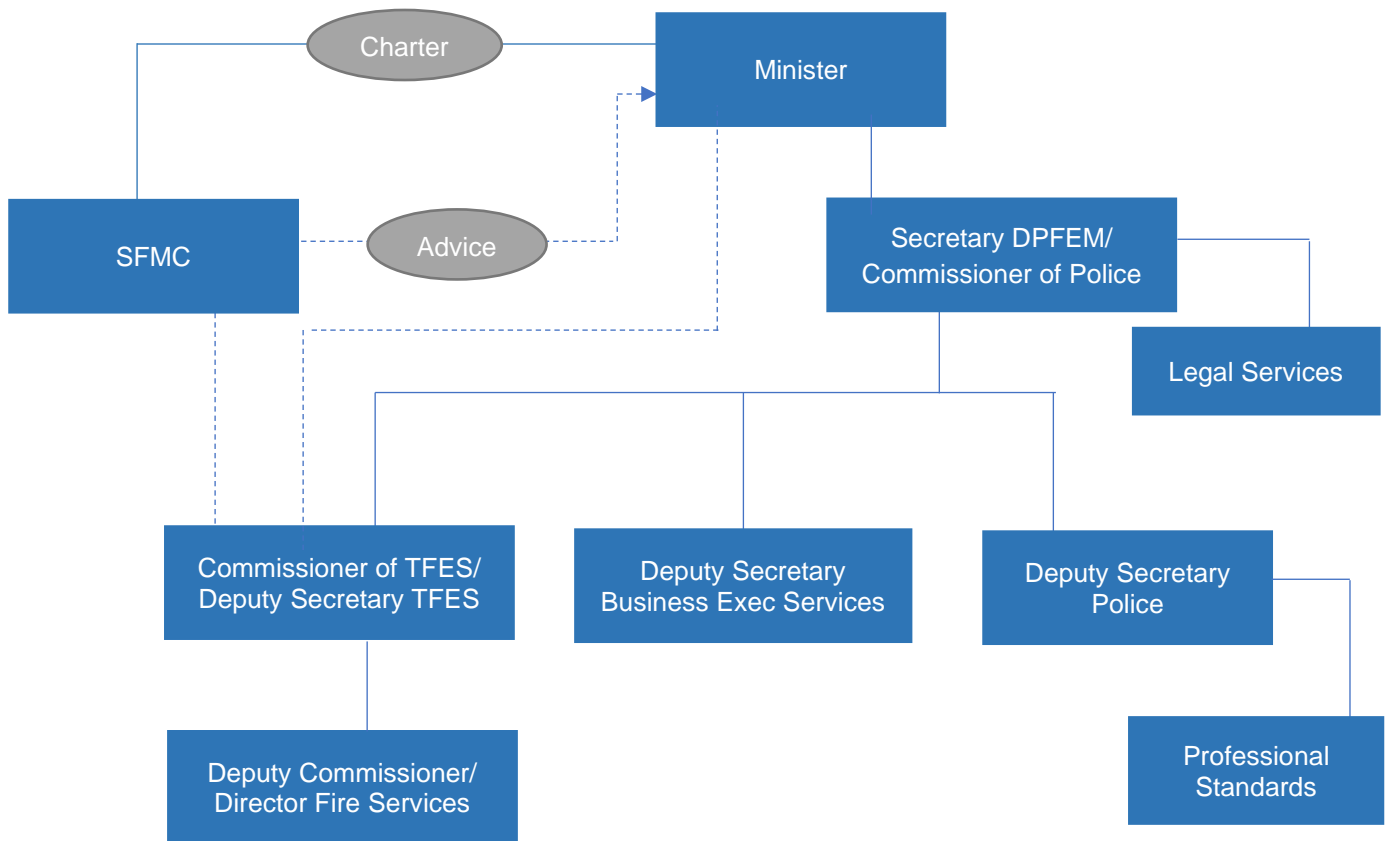
Appendix 5 – Possible departmental model integrated into DPFEM



Appendix 6 – Possible standalone departmental model



Appendix 7 – Tailored approach



Appendix 8 – Funding fire and emergency services in Western Australia

The Emergency Services Levy (ESL) funds Western Australia's (WA) fire and emergency services, including Career and Volunteer Fire and Rescue Service brigades, Volunteer Fire and Emergency Service units, bushfire-fighting and management services including the Rural Fire Division and Local Government Bush Fire Brigades, aviation services engaged over the high-risk bushfire season, the South West Emergency Rescue Helicopter service, SES units, Marine Rescue WA and emergency response services provided by ChemCentre.

ESL funding supports approximately 800 dedicated emergency service groups comprising over 1 600 career firefighters and support staff, and more than 26 000 volunteers. Every cent collected from the ESL goes towards providing emergency services to the community.

Since the ESL was introduced in 2003, WA's fire and emergency services have dramatically improved, particularly in regional and remote areas, thanks to the provision of new equipment provided for volunteer groups.

The ESL benefits all West Australians as emergency response involves a cohesive approach from across the state.

Why was the ESL introduced?

The ESL was introduced to overcome three major problems and inequities that existed with the old funding arrangements.

1. All property owners had access to fire and emergency services, but not everyone contributed to them.
2. The old system consisted of many different funding arrangements, resulting in very few people being able to calculate exactly how much they contributed.
3. Not all volunteer fire brigades, units and services received the funding and equipment they needed to operate safely and effectively.

Under the ESL, this has been fixed. Now all property owners contribute a fair, equitable and identifiable amount, and distribution of funding and equipment to brigades, units and services is according to need.

What does ESL pay for?

The ESL funds fire and emergency services to respond to building and bushfires, road crash rescue, hazardous and toxic material spills, storms, cyclones, floods, earthquakes and tsunamis, sea rescue, land and sea searches for missing persons, and cliff and cave rescues.

Specifically, the levy funds the:

- Career Fire and Rescue Service
- Volunteer Fire and Rescue Service
- Local government bushfire brigades
- Volunteer SES units
- Marine Rescue Western Australia
- Volunteer Fire and Emergency Service units combined from the former Volunteer Fire Service (VFS) and Volunteer Emergency Service (VES).

Operating costs covered by the levy include running and maintenance of vehicles, vessels and facilities, personal protective equipment, operational equipment and consumables.

Capital equipment purchases include firefighting appliances, vehicles, road rescue trailers, rescue/flood boats and buildings.

The levy also funds training of volunteers, fire investigations, building inspections, community safety programs, emergency management planning and the Department of Fire and Emergency Service's (DFES) costs.

What the levy does not fund:

The ESL is not used to fund the Unexploded Ordnance Unit and RAC Rescue, the state's emergency rescue helicopter service. While these services are part of DFES, they are funded by the state government, grants, sponsorship and donations.

St John Ambulance, WA Police, Surf Life Saving Society and other like services are not funded by the levy.

Appendix 9 – Principles-based options

Proposed high level principles underpinning legislation to be drafted

In addition to the proposals in Section 8, included in this appendix are:

- Nationally agreed high-level principles
- The principles behind the establishment of SAFECOM (South Australia).

Nationally agreed high-level principles

These are based on the nationally agreed, high-level principles which guide Tasmania's approach to emergency management and are set out in the table below and outlined in the TEMA. The national principles improve and provide consistency in policy and decision-making and support a disaster-resilient Tasmania (and Australia).

Principles of Emergency Management (source: The Australian Emergency Management Arrangements Handbook – AIDR 2019)

Principle	Explanation
Primacy of life	The protection and preservation of human life (including both communities and emergency service personnel) will be paramount over all other objectives and considerations.
Comprehensive	The development of emergency and disaster arrangements to embrace the phases of prevention, preparedness, response, and recovery (PPRR) across all hazards. These phases of emergency management are not necessarily sequential.
Collaborative	Relationships between emergency management stakeholders and communities are based on integrity, trust and mutual respect, building a team atmosphere and consensus. Planning and systems of work reflect common goals and all stakeholders work with a unified effort.
Coordinated	The bringing together of organisations and other resources to support emergency management response, relief and recovery. It involves the systematic acquisition and application of resources (organisational, human and equipment) in an emergency situation. Activities of all stakeholders are synchronised and integrated. Information is shared to achieve a common purpose and impacts and needs are continuously assessed and responded to accordingly.
Flexible	Emergency situations are constantly changing. Emergency management decisions may require initiative, creativity and innovation to adapt to new and rapidly emerging challenges. Emergency plans need to be agile to change and adapt to these new circumstances.
Risk based	Emergency managers use sound risk management principles and processes in prioritising, allocating and monitoring resources to manage the risks from hazards. Risk based planning will anticipate the effect of efforts, the changing hazard landscape and the changing consequences of the emergency.

Shared responsibility	Everyone understands their own responsibility in an emergency, and the responsibility of others. Communities and individuals understand the risk. This encourages all stakeholders to prevent, prepare for, and to plan for how they will safely respond to and recover from an emergency situation.
Resilience	The ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions through risk management (UNISDR).
Communication	Information is crucial to decision making and to the preservation of life. Emergency managers need to support common information systems and are responsible for providing and sharing clear, targeted and tailored information to those who need it, and to those at risk, to enable better decision making by all stakeholders.
Integrated	Emergency Management efforts must be integrated across sectors, not progressed in silos, ensuring the engagement of the whole of governments, all relevant organisations and agencies, the private sector and the community.
Continual improvement	All sectors continuously learn and innovate to improve practices and share lessons, data and knowledge so that future emergency management is better and the overall cost of impact of emergencies and disasters is reduced. Continuous monitoring, review and evaluation should examine the processes, timelines and outcomes of plans. Review informs communities and displays transparency and accountability. Review also enables facilitation of the adaptive change process with communities.

The principles behind the establishment of SAFECOM (South Australia)

These included the following.

- Ensuring governance and accountability of the sector.
- The provision of a properly integrated network of emergency services based on equitable assessment of community risk.
- The consolidation of support services within a unified emergency services sector.
- The strategic alignment of the emergency services with the common goal of enhanced community safety.
- Enhancing community safety by providing balanced focus on prevention, preparedness, response and recovery services by the emergency service organisations, i.e. CFS, MFS and SES.
- Pursuing opportunities for efficiencies and reforms and reinvesting savings within the sector.
- To enhance participation and support of volunteers from within local communities.

Appendix 10 – Acronyms and abbreviations

AAV	Average Annual Value
ABS	Australian Bureau of Statistics
AED	Automatic External Defibrillator
AFAC	Australasian Fire and Emergency Service Authorities Council
AIIMS	Australasian Inter-service Incident Management System
AIRS	Australian Incident Reporting System
APRA	Australian Prudential Regulation Authority
AWU	Australian Workers Union
DPFEM	Department of Police, Fire and Emergency Management
DPIPWE	Department of Primary Industries, Parks, Water and Environment
EMC	Emergency Management Committee
EMR	Emergency Medical Response
EPA	Environmental Protection Authority
EVF	Emergency Volunteer Fund
FERAC	Fire and Emergency Risk Area Committee
FireComm	State Operations Call Receipt, Dispatch and Communications Centre
FMAC	Fire Management Area Committee
FSC	Fire Service Contribution
Hazmat	Hazardous materials
ICS	Incident Control System
ICV	Improved capital value
IMT	Incident Management Team
LGAT	Local Government Association of Tasmania
MAC	Multi-Agency Coordination Group

MAIB	Motor Accident Insurance Board
MAST	Marine and Safety Tasmania
MEMC	Municipal Emergency Management Committee
MoU	Memorandum of Understanding
MVA	Motor Vehicle Accident
NAFC	National Aerial Firefighting Centre
NDR	National Disaster Resilience
NDRLGP	Tasmanian Relief and Recovery Arrangement: Natural Disaster Relief to Local Government Policy
NDRRA	Natural Disaster Relief and Recovery Arrangements
NPA	National Partnership Agreement
PCBU	Person Conducting a Business or Undertaking
PPR&R	Prevention, preparedness, response and recovery
PWS	Parks and Wildlife Service
RAT	Remote Area Team
RCR	Road Crash Rescue
REMC	Regional Emergency Management Committee
SEMC	State Emergency Management Committee
SEMP	State Emergency Management Program
SES	State Emergency Service
SFC	State Fire Commission
SFMC	State Fire Management Council
STT	Sustainable Timber Tasmania
TBI	Tasmania Bushfire Inquiry
TBMGP	Tasmanian Bushfire Mitigation Grants Program

TEMA	Tasmanian Emergency Management Arrangements
TEMP	Tasmanian Emergency Management Plan
TFB	Total Fire Ban
TFE	TasFire Equipment
TFES	Tasmania Fire and Emergency Services
TFS	Tasmania Fire Service
TFT	TasFire Training
the Levy	Road Safety Levy
Treasury	Department of Treasury and Finance
TRVFA	Tasmanian Retained Volunteer Firefighters Association
TVFBA	Tasmanian Volunteer Fire Brigades Association
UFU	United Firefighters Union of Australia (Tasmania Branch)
USAR	Urban Search and Rescue