
TFES DRAFT BILL- SFMC SUBMISSION - Version: Final

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The State Fire Management Council (SFMC) provide the following submission on the draft TFES Bill.

EXECUTIVE SUMMARY

- The State Fire Management Council congratulates the government on a review of the *Fire Services Act 1979* and supports the intended efficiencies in combining the two services: Tasmania Fire Service, and State Emergency Service.
- The SFMC supports the recommendations of the Blake Review, as detailed in two original SFMC submissions to TFES Reform (2021, 2023).
- The SFMC has grave concerns for the lack of detail in the TFES Draft Bill and the intention to put detail into Regulation. Without core components of roles and responsibilities outlined in legislation, there is no consistency or certainty.
- Legal discussion has highlighted ramifications that legislation without governance and main components may leave the government in a liable situation.
- The SFMC cannot conceive how the proposed State Fire Emergency Service Committee will receive consistent, expert opinion on a range of issues including flood, climate change, biosecurity, coastal erosion, and fire and vegetation management to a standard reasonably expected by the Tasmanian community.
- We are entering a period of rapidly changing climate and uncertainty, a period that will place pressures on social, economic, and environmental areas across all sectors in the Tasmanian landscape. With native vegetation covering over 70% of Tasmania, independent advice is essential. The SFMC cannot see where this advice is coming from in the TFES Draft Bill.
- This current submission to the TFES Draft Bill is fortified by the SFMC statewide stakeholder network, which includes environmental legal expertise, and SFMC members who have considerable and extensive expertise and experience in fire and vegetation management.

Principles based, Objectives, Functions

Principles based, Overarching objectives

The Blake Review recommended that reforms produce legislation that was ‘principles-based’ but did not explain what ‘principles-based legislation’ meant. The SFMC understands ‘principles-based legislation’ to mean legislation that departs from prescriptive rules and details, and instead ‘enables decisions to be made, powers to be exercised, or functions to be performed, in line with certain broadly stated principles’ (see Transport Integration Act 2010 Parliament of Victoria). Characteristics of principles-based legislation include,

1. a set of overarching principles. These are drafted at a high level and developed with stakeholder input. These are completely absent in the TFES Draft Bill and the SFMC is not aware of any attempt to engage stakeholders to draft overarching principles.
2. increased responsibility of management, to implement the principles.
3. prescriptive rules being removed and replaced with industry best practice through thought and innovation. In the TFES Draft Bill prescriptive rules have been removed, but actions such as implementing permits in a ‘prescribed manner’ cannot be assessed without over-arching principles.

The SFMC support a principles-based legislation, allowing for fluid decision making that does not require continual amendment to meet business needs. A principles-based legislation should not promote moving prescription into regulatory instruments as this may a) result in a decrease in the level of engagement and consultation with stakeholders and, b) be contrary to legislation being accessible and easy to read.

The TFES Bill requires overarching objectives, principles that guide decision making, and an emphasis on understanding the policy that underpins the legislation. Overarching objectives outline the vision of the Tasmania Fire Service and the government, ensuring that the message in regulations, codes of practice, schedules etc. is consistent. Overarching objectives ensure other participants – e.g., State Fire Emergency Services Committee, other committees, police officers, electricity units – may be obligated to align their actions to a manner consistent with the TFES Objectives. Clause 9 provides objectives for TFES, yet it may not bind these other players to further the objectives of TFES.

Recommendation 1:

The next draft of the TFES Bill to include overarching objectives at the start of the Bill. This will ensure the Bill is consistent with other Tasmanian legislation, and vice versa.

Recommendation 2:

The next draft of the TFES Bill to include industry best practice in the form of decision-making principles to assist and guide decision making. The decision-making principles should be aligned with government policy and be strong on the purpose of emergency management and bushfire risk management.

s9 Objectives of TFES

The Blake Review Recommendation 4 (s3 p39).

The SFMC agree with the TFES model of integrating objectives and functions of the TFS and SES, and the inclusion of Applicable Functions of the *Emergency Management Act 2006* as outlined in the Blake Review.

Contemporary fire management components (prevention, preparedness, response and recovery) provide for improved community fire safety and promote inhibition of unwanted fires. These components should be reflected in the TFES Bill.

The Objectives include prevention and preparedness but are phrased from the perspective of a response capacity in an emergency event, or emergency management operation, or a fire-fighting operation. This may not include bushfire risk mitigation activities outside of these situations.

The Objective cl 9(1)(a) ‘to preserve human life and to protect property and premises if an emergency event occurs;’ omits the environment. Clause 9(1)(c) invites the TFES simply ‘to recognise, when performing emergency management operations, that the environment has an inherent value for the Tasmanian community’.

The majority of Tasmania is at risk of bushfire: 73% (4.96 million ha) of the state is covered by native vegetation; of this, ~10% is native vegetation managed by agriculture and 66% is managed by key land management agencies as part of Tasmania’s reserve estate. The social, economic, and productive value of vegetation is about maintaining structure and function to promote resilience and provide sustained benefits for future Tasmanians. It is important that the new legislation expands on how TFES will ‘recognise’ that the environment has an inherent value for the Tasmanian community and does not restrict this recognition to ‘when performing emergency management operations’.

With a focus on ‘emergency events’ and ‘emergency management operations’, and a lack of consideration of protection of the environment, and the absence of an advisory body to provide expert evidence-based advice to the TFES Commissioner and the Minister (see below), it is unclear in the TFES Bill how fundamental hazard management programs such as the SFMC initiated Fuel Reduction Program, the SFMC managed Red Hot Tips program, and the Tasmania Fire Service Community Fire Safety Bushfire Ready Neighbourhoods program, would be enabled, supported and resourced. These strategic bushfire management programs are replicated in similar forms across Australia, demonstrating their high priority. Enabling these programs must be priority for the next iteration of the TFES Draft Bill.

Recommendation 3:

Clause 9(1)(a) to include the environment. This could be ‘natural and cultural values’. This places these values as a priority for emergency management.

s10 Functions of TFES

There is no function for TFES, ‘to develop effective fire prevention and protection measures throughout the State; to develop and promulgate a State fire protection plan’ (*Fire Service Act 1979* cl 8 (1)(c) and cl 8 (1)(d)). There is no requirement ‘to develop a state fire and vegetation management policy to be used as the basis for all fire management planning.’ (*Fire Service Act 1979* cl 15. (1)(a)).

The draft legislation does not demonstrate a good understanding of the current context, environment, and culture of vegetation fire management in Tasmania. The draft legislation may achieve more complexity to existing processes, rather than simplification.

The Tasmanian Vegetation Fire Management Policy (the Policy) enables the safe and effective conduct of vegetation fire management activities on public and private land across Tasmania to achieve a range of community, cultural, agricultural, silvicultural, and environmental objectives. The Policy outlines the Principles and Strategies by which vegetation fire management will occur in Tasmania. The Policy was developed by key stakeholders, and it would be remiss to overlook this and devalue the significant commitment and contribution made by stakeholders to transparent governance.

Recommendation 4:

The next iteration of the Bill should include functions clauses that require TFES to develop and promulgate planning and policy to enable effective fire prevention and protection measures throughout the State.

Governance

s13 Commissioner of Fire and Emergency Service and S14 Functions of TFES Commissioner

Blake Review Recommendation 4 (s3, p39); Recommendation 4 (s3, p39) and 8 (s4, p56).

The SFMC support that the TFES Commissioner has ‘the technical expertise, and the management and professional skills, to perform the function of the TFES Commissioner.’ The clause would further meet the expectations of the Tasmanian public if the incumbent’s skills and expertise included those pertinent to fire.

Currently, there is a Tasmania Fire Service Deputy Chief Officer, but there is no provision for that role in the TFES Bill. Current arrangements for appointment include procedures as per the State Service Act and elevation to Acting. Formalising a process for appointment of a Deputy TFES Commissioner in the TFES Bill ensures the appointment of this authority is transparent. This is critical as the Deputy is delegated

all the functions and powers of the TFES Commissioner in the absence of that person, and thus the Deputy in the TFES Commissioner role is subject to the same constraints and objectives as the TFES Commissioner when employing the role.

The Blake Review recommended suitable reporting arrangements between the head of TFES and the Minister outlining an objective to achieve simpler lines of reporting and command. The TFES Draft Bill sets the Commissioner of Fire and Emergency Service (TFES Commissioner) with more responsibilities than the current Chief Officer. Many of the responsibilities were under the jurisdiction of the State Fire Commission. Under the TFES Draft Bill, responsibilities include:

- to provide advice and recommendations to the Minister (cl 13) (an arrangement that is current),
- strategic direction and funding decision making (cl 14) (historically the responsibility of the State Fire Commission)
- specific allocation of chain of command (cl 15) (historically the responsibility of the State Fire Commission)
- as the Chair of the State Fire Emergency Services Committee (SFESC) (SFESC provides advice to the Minister (cl 17). It is not clear SFESC is responsible for financial governance),
- as responsible for ensuring a charter in respect of volunteer members and volunteering within the TFES in general is developed and maintained (cl 12(2)),
- as responsible for the appointment committees and for providing a copy of the instrument of appointment upon request (cl 18).
- to appoint fire permit officers in the prescribed manner (cl 34)

The SFESC does not appear to be tasked to assist the TFES Commissioner with any TFES Commissioner responsibilities as SFESC cannot be delegated certain functions by the TFES Commissioner (cl 16). The TFES Commissioner appears to be left with no formal oversight or support, and only one accountability procedure where they provide advice directly to the Minister as the TFES Commissioner and/or as the Chair of SFESC. As well as having the power to prevail over SFESC, the TFES Commissioner also has the power to establish other committees for any reason they choose. There is a risk that the TFES Commissioner perspectives may succeed over (and potentially at the expense of) any other perspective, which not only is concerning in that it prevents productive resolution processes but may also put at risk TFES Objectives. The SFMC supports the Minister hearing directly from the TFES Commissioner but is concerned that this is the only voice the Minister will hear on TFES matters. This arrangement falls short of the good governance that is expected by Tasmanians and stakeholders.

An independent chair of an advisory body with a membership representative of skills and expertise in emergency management, fire risk, ecology, and vegetation management can provide independent advice from beyond the TFES, directly to the TFES Commissioner. Advice that is representative of land managers and landowners tasked with fire and vegetation management across the landscape, including private land, brings a range of perspectives and enables community consultation.

The SFMC provided advice to the Minister and government has achieved much in fire and vegetation management for Tasmania, including:

- Funding for:
 - statewide Fuel Reduction Program
 - statewide Red Hot Tips Program. Review of program and implementation, achieving successful statewide delivery. Strategic planning and direction.
 - review of Fire Protection Plans. Bushfire Risk Management Planning Project: nationally recognised bushfire risk management framework and risk assessment process for identifying state bushfire risk priorities.

- Policy: Tasmanian Vegetation Fire Management Policy: a nationally recognised and stakeholder supported fire and vegetation management policy.
- Publication and development of:
 - Bushfire in Tasmania (2014). A new approach to reducing our Statewide relative risk
 - Planned burning booklet for farmers and landholders (2nd edition)
 - Planned burning manual. Guidelines to enable safe and effective planned burning on private land
 - Machinery Operations Guidelines
 - New Bushfire Risk Management Framework. Development and implementation. Assist FMACS to develop consistent Bushfire Risk Management Plans bushfire risk priorities.
 - Tasmania State Bushfire Risk Management Plan 2021. Identifying state treatment priorities
 - Bushfire Risk Management Planning Guidelines 2020
 - Bushfire Risk Management Plans: Approval of 10 Bushfire Risk Management Plans for consistent, tenure-blind strategic bushfire risk management.
 - Fire and vegetation management research and innovation environmental scan for Australia
 - Red Hot Tips case studies
 - Position paper on management of smoke arising from prescribed burning in Tasmania
 - Stakeholder communication – SFMC Newsletter.
- SFMC network events:
 - Influencing the future of vegetation fire management in Tasmania
 - Guest speaker presentations
- SFMC stakeholder consultation:
 - Bushfire Mitigation Measures Bill. Stakeholder consultation and advice to the government
 - Fire Service Act Review
 - Fire Management Areas and Fire Management Area Committees
 - Machinery operations
- Review of:
 - Fire Permit System Review: Steering Committee membership, 2017
 - FMAs: revision and reduction of the number of Fire Management Areas and Fire Management Area Committees.
 - Machinery Operations Guidelines
 - Fuel Reduction Program, Steering Committee membership. Strategic planning.
- Submission to:
 - Environmental Management and Pollution Control (Smoke) Regulations
 - Cronstedt Review of the Management of Bushfires during the 2018-19 fire season
 - Royal Commission into National Natural Disaster Arrangements
 - Fire Service Act 1979 Review
- Representation on and support to:
 - Machinery Operations Working Group: Chair
 - Red Hot Tips Advisory Group: Chair
 - Fire Management Area Committees
 - Forest Industry Fire Management Committee

The TFES Draft Bill provides the government with the perfect opportunity to create an advisory body that is representative of community, industry, and government, and that is tasked to work together to effectively to build community capacity and resilience in the face of the uncertain future of bushfire and natural disasters.

An advisory body ensures that views competing or contrasting with the TFES Commissioner are represented to the Minister, and that the TFES Commissioner has formal and transparent access to expert advisors who can advise on ways to employ the latest research and technology to help TFES and the Minister to adapt the organisation in ways to help achieve TFES objectives.

Recommendation 5:

The TFES Draft Bill should guarantee good governance. To ensure that the advice of a committee is reported to the Minister and the TFES Commissioner, the new TFES Bill would need to a) establish an advisory body with an independent chair that advises the Minister and TFES Commissioner, and b) support the power and authority of that committee.

cl 17 State Fire and Emergency Service Committee (SFESC) Established

Blake Review Recommendation 9 (Section 4, page 59)

As stated above, the established SFESC advises the Minister (but not the TFES Commissioner). The scope, functions, terms of reference, and skills and expertise of SFESC members are not specified in the TFES Draft Bill but appear to be at the extensive discretion of the Minister. Until at least the scope and functions are specified, it is premature to specify membership of the SFESC. Members specified should reflect the Objectives and Functions of TFES.

The exact membership of the SFESC (cl 17) is not specifically indicated other than that the Minister is to ensure that the Members of the SFESC have the skills and expertise required by the Terms of Reference for the SFESC. Having said this, in addition to the TFES Commissioner, two (2) SFESC positions are specified: a nominee representative of the most relevant trade union and/or a nominee representative of the most relevant association for volunteer members. Without knowledge of the terms of reference for the SFESC, assigning particular members (noting their relevant skills and expertise) is difficult, and inclusion of other members to the current is pre-emptive. Industrial relations and corporate governance functions can be addressed through a committee(s) established under cl 18.

After including the SFESC membership outlined in cl 17, there is a risk that the remaining 5-9 persons are insufficient, both in number and in skills and expertise, to ensure cl 9 and cl 10 are met and to adequately achieve the governance accountability and transparency, and delivery of emergency management that covers the scope (community, government, health, flood, biosecurity, coastal, and fire and vegetation management, etc.), to a standard reasonably expected by the Tasmanian community.

There is the risk that cl 9 and cl 10 will not be met with the establishment of the SFESC including members (cl 17 2b(i)(ii)) specified in the draft legislation. Establishment of a committee, akin to the State Fire Management Council, with skills and expertise-based membership that aligns with TFES Objectives and Functions will reduce this risk as formation can provide independent, evidence-based, expert fire science knowledge and advice to achieve effective and efficient management of bushfire related risk for Tasmania.

Recommendation 6:

At a minimum, the new iteration of the Bill should articulate the role of the SFESC. This will enable stakeholders to assess the structure and function of the SFESC, and suitable membership based on skills and expertise.

cl 18 Other Committees

Blake Review Recommendation 31 (Section 7, p107)

Clause 18 enables the TFES Commissioner to establish committees, such as the SFMC and Fire Management Area Committees, that are specific to fire and vegetation management in Tasmania (Blake Review Recommendation 31 Section 7 p107, and/or Blake Review Recommendation 31 Section 7 p107). In the absence of the SFMC or alternative 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.

The SFMC agree that a form of Fire Management Area Committees (FMACs) and Fire Management Areas (FMAs) should continue, due to their critical role in managing bushfire risk at a strategic level. The SFMC agree that linkages between Fire Management Areas and Municipal Emergency Management Committees be investigated.

The committee structure provided for in cl 18 allows for gazettal of fire management areas and FMAC formation but does not demand the same high standard of requirement that is achieved when FMAs and FMACs are legislated. Designation of FMAs and FMACs in legislation delivers on the community expectation that fire management planning and risk mitigation are completed to a high level with transparency, accountability, and independence. The FMACs 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. Local government play roles in both the FMAC and in Municipal Emergency Management Committees; these committees cannot be confused as simply 'a committee'. Likewise, for an 'emergency management plan'. The real benefits of these bodies and associated planning and plans are the co-ordination of actions, establishment of priorities, and the development of genuine co-operation between key stakeholders.

The committee structure provided for in c 18 meets the requirements of the SFMC recommended Fuel Reduction Program Steering Committee, which recommended the appointment of an independent Chair together with a mix of strategic and operational skills on the board, and a strategic and business plan, and communications plan.

cl 34 Fire Permits

Blake Review Recommendation 30 (Section 7 p104)

The SFMC agree that Fire Permit Officers be appointed by the TFES Commissioner.

The TFES Draft Bill devolves to the Regulations the conditions and rules for an individual applying for a permit, assessment and review of that permit, and the operational requirements for a permit to meet compliance with cl 34(3). The SFMC agree that 'prescribed manner' should be responsive to responsible agencies' (TFS/Parks and Wildlife Service [PWS]/Sustainable Timber Tasmania [STT]) operational needs. The devolution to Regulations may provide for flexibility at the detriment of transparency, accountability, and impartiality. If the intention is to house the detail in the Regulations, the TFES Draft Bill needs to specify the constraints on changes to the Regulations and that decision making under Regulations are pursuant to the overarching objectives of the TFES Draft Bill.

Recommendation 7:

The TFES Draft Bill should specify that there be a permit application, issue, and review process. Permit application, issue and review processes should be subject to the overarching objectives of the Act and decision-making principles. If the intention is to set permit application, issue, and review in Regulations, the TFES Draft Bill should specify the constraints on changes to the Regulations and that decision making under Regulations are pursuant to the overarching objectives of the TFES Draft Bill.

Clause 34(3) appears to emulate the *Fire Service Act 1979* cl 66(12). However, cl 34(3) differs to *Fire Service Act 1979* 66(13) with the inclusion of 'control'. It is unclear what 'light and control' provides compared to 'light' when the clause also includes 'maliciously and recklessly'. The application of cl 34(3) appears to be dependent on a fire 'in accordance with the conditions of a fire permit issued to that person' which assumes that the conditions of a fire permit follow an authorised prescribed process. The TFES Draft Bill mentions appointment of a permit officer and issuing of a fire permit as per 'the prescribed manner' (cl 34 (1); cl 34 (2)). However, an 'authorised prescribed process' or if a fire permit is signed by an authority are not included in the TFES Draft Bill. Two issues are unclear: a) what is meant by the word 'control' in the context of a landowner addressing a fuel hazard and not acting maliciously or recklessly and, b) how is it determined if the 'prescribed manner' meets the requirements of insurance if it is not outlined in the TFES Draft Bill?

cl 86(6) Regulations

Without having the detail of the Regulations to examine in conjunction with the TFES Draft Bill, it is difficult to provide earnest support of the TFES Draft Bill. This is particularly important where for example, Clause 86(6) states that 'The regulations may authorise any matter to be from time to time approved, determined, applied or regulated by any person or body as specified in the regulations.' It is understood from this that the Department of Police, Fire and Emergency Management, and/or the Minister can alter the legislation without seeking the approval of Parliament. The Regulations may involve matters that involve liability, such as permit application, approvals, and review, and may matters that involve consequences, such as penalties.

If the intention is to house the detail in the Regulations, then the Regulations must be provided for review in concert with the TFES Bill, and the TFES Bill needs to specify the constraints on changes to the Regulations.

Fire management agencies

Fire management agencies are referred to in cl 9 and cl 22 and are relevant to cl79 and cl 83.

Clause 9 (1)(d) states as an objective of the TFES 'to facilitate, and initiate if appropriate, effective interoperability between Agencies in this State, and in other jurisdictions, in respect of an emergency event, or potential emergency event, in either jurisdiction.' Clause 22 (b) includes employees of Sustainable Timber Tasmania (STT) and cl 22 (c) includes employees of e.g., Tasmania Parks and Wildlife Service (PWS), and refers to their powers as 'responsible officers'. These agencies are not named elsewhere in the TFES Bill.

Both STT and PWS have specific fire management responsibilities under their respective legislation and other Acts e.g., Emergency Management Act 2006. Multi-agency fire management prevention (planning), preparedness, response and recovery is enabled through the *Inter Agency Fire Management Protocol*, the *Memorandum of Understanding between Tasmania Fire Service and Forest Industry Fire Management Committee Forest Managers for Management of Bushfires*, and Australian and international agreements such as the *Agreement for Interstate Assistance* and the *Agreement for International Assistance* and whole of government agency programs such as the Fuel Reduction Program.

The SFMC support indemnity for respective staff when operating under instruction of TFS. This appears to be considered in Clause 83 for STT and PWS, the private forest industry and any other agency where an interagency or interjurisdictional agreement is current. There is the opportunity to consider private

landholders, some local government, and other components of the forest industry within these arrangements. As stated previously, interagency/ interjurisdictional agreements may be obligated to align agency actions to a manner consistent with the TFES Objectives.

Despite identification of responsibilities in these documents, the TFES Draft Bill has not resolved legislative authority barriers present in the *Fire Services Act 1979*. These barriers (see submissions to the Review of the Fire Service Act 1979 by fire management agencies) need to be addressed for TFES to meet the objectives of the TFES Draft Bill.

As per *Fire Service Act 1979*, in the TFES Draft Bill, TFS members, (but not PWS or STT staff) have the legislative authority to access or take action to protect life and property, which includes closing roads. Clause 21 of the TFES Draft Bill states that ‘an authorised member may direct, or restrict, traffic if the member believes that it is necessary, or reasonable, due to an emergency event, or potential emergency event, in the area.’ It is unclear if restricting traffic translates to using signage to close a road. The SFMC support safe, cost-effective, and necessary deployment of resources in an emergency; restricting traffic has the potential to use resources that may be needed elsewhere.

Interpretation (definitions)

Emergency management operation

As previously stated, much of Tasmania is covered in native vegetation:

- approximately 52% of Tasmania is reserved in a protected area,
- approximately 73% of the state is covered by native vegetation, of this,
 - 10% is managed by agriculture and,
 - 66% is managed by key land management agencies as part of Tasmania’s reserve estate.

The definition should be extended to include environment. The TFES Draft Bill recognises interagency and interjurisdictional agreements and at the centre of many is the protection life, property, and natural and cultural values. The existence of these agreements speaks to Tasmanian’s investing socially, economically, and environmentally to protect, conserve, and sustain natural and cultural values and ecosystem services in ways beyond ‘recognising’ the inherent value of environment.

The inclusion of ‘prevention’ in the emergency management operations definitions includes vegetation management activities that are used in fire and vegetation management, such as regeneration, ecological restoration, and forest thinning operations. This has the potential to be unhelpful to land management agencies, where rather than viewed through the lens of ‘prevention’ and landscape management, a view through the lens of ‘emergency management operations’ may shift towards land clearing.

Vegetation

As previously stated, management of vegetation for fire risk is fundamental to meet the TFES objectives. The TFES Draft Bill definition of vegetation ‘includes all, or any part, of a tree, bush, plant and undergrowth of any kind, whether dead or alive, other than something that is prescribed as not being vegetation for the purposes of this Act.’. It is not clear what is included in ‘prescribed as not being vegetation’.

Authorised member, member of the TFES, permanent member, volunteer member

The SFMC agree with a Tasmania Fire and Emergency Service model, integrating the objectives and functions of the Tasmania Fire Service (TFS) and the State Emergency Service (SES). A single brand and identity are clear. The SFMC agree with the consideration of members (cl 3, authorised member,

member of the TFES, permanent member, volunteer member). However, further clarity is required. For example, cl 7(2). *'Member of the TFES.'*, is unclear if this definition also includes SES members (also see cl 3. Interpretation, *'member, of TFES'*, where there is no interpretation of *'member, of SES,'*).

Other

Clause 10 (1)(d) outlines as a function of TFES, *'to assist to assist in the provision of medical assistance, and provide medical assistance, if required;'*. The reason TFES would be responsible for rendering medical assistance is unclear. Is medical assistance a function that TFES members are expected to provide? Perhaps the reason is for TFES to assist Ambulance Tasmania, or for TFES to provide first aid (at a particular level) in a first responder situation? Is it perhaps included so that TFES members when performing this function, are covered where Clause 79 imposes the benefit of exemption from liability to TFES members? Provision of medical assistance by TFES members could be captured in definitions e.g., emergency management operations, or through general law e.g., *'Good Samaritan'* and the recognition in the value of rendering first aid.

Funding

The TFES Draft Bill gives the TFES Commissioner more powers and responsibilities than are current in the *Fire Service Act 1979* and does not outline any formal governance or accountability arrangements for the TFES Commissioner. Financial governance (previously the responsibility of the State Fire Commission) is unclear. The TFES Commissioner has the power to establish other committees with only the TFES Commissioner perspective prevailing, thus carrying the risk that good governance, transparency, and accountability are not met.

The *Fire Service Act 1979* cl 77A provides for sources of operating costs of all Tasmania Fire Service Brigades. These sources are:

- (a) by insurance companies as provided in Division 2B;
- (b) by the Treasurer as provided in Division 2C; and
- (c) by local councils as provided in Division 3.

The Insurance Council of Australia in their submission to the Tasmania Fire Service Act Reform consultation, stated that, *'In the 2018-2019 Financial Year insurance company contributions totalled \$25.2m, or 25% of the SFC entire funding'*. Table 1 details the comprehensive income for the years 2017/18 to 2021/22. The Fire Insurance Levy has fluctuated in this time, but currently equates to just below one quarter of the Tasmania Fire Service total revenue.

Table 1. Comprehensive income for the years 2017/18 to 2021/22

Financial Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
	\$'000	\$'000	\$'000	\$'000	\$'000
Insurance Fire Levy¹ (paid by Tasmanian policy holders)	\$18,652	\$21,389	\$25,685	\$48,134	\$33,375
Motor Vehicle Fire Levy² (paid by Tasmanian policy holders)	\$8,164	\$8,810	\$9,391	\$9,256	\$9,600
Fire Service Contribution	\$43,256	\$45,627	\$48,145	\$29,201	\$50,793
Total revenue and other income from transactions	\$100,308	\$153,633	\$133,577	\$122,028	\$136,567
Insurance Fire Levy (% of Total revenue and other income from transactions)	19%	14%	19%	39%	24%

¹TFES Draft Bill Options paper proposes removal of the Insurance Fire Levy.

²TFES Draft Bill Options paper proposes retention of the Motor Vehicle Levy and the inclusion of motorcycles in this levy.

The SFMC acknowledges the current funding model is not sustainable given the widely accepted wildfire science predictions of more extreme wildfires and fire weather, and uncertain fire seasons.

They SFMC agrees that the current funding model requires review, and that the classification rates applied to properties are not equitable. The SFMC acknowledges there has been an Australia wide move away from funding emergency fire services using a levy on insurance premiums, with movement to a broad-based property tax. The TFES Draft Bill will see New South Wales as the only State or Territory to retain a levy on insurance to partially fund emergency services.

The two options proposed by the TFES Draft Bill Options paper are set in Table 2.

- Option 1 – set a single rate across Tasmania, or
- Option 2 – set a two-tiered rate across Tasmania depending on whether you live in a rural or urban area.

Table 2. Proposed Land Classifications and associated rates (%).
Option 1 is a single set rate for all Residential land use. Option 2 is a two-tiered rate for Residential land use.

Land Use Classification	Option 1 Rate (%)	Option 2 Rate (%)
Commercial	2.4	2.6
Community Services	0.5	0.6
Industrial	3.2	3.4
Other	0.5	0.6
Primary Production	2.4	1.2
Residential (Urban)	NA	1.2
Residential (Rural)	NA	0.6
Residential	1.0	NA

The SFMC agree that the proposed funding options are not a property-based levy, but instead are a property-based emergency services tax. This stance agrees with the that of other states and territories (except for NSW). Feedback from SFMC Members and the SFMC stakeholder network has indicated there has been little to no consultation on the two proposed funding options. Landowners see fire management as an essential service, like the right to education, health, and transport, and therefore should be funded in a similar way. Landowners understand the need to contribute. However, the SFMC have received strong concerns from stakeholders and landowners who have reported they would be paying significantly more to emergency services than they are currently (Table 3), based on the proposed options in Table 2.

Table 3. Calculations by landowners of expected property-based fire tax they will pay using Option 1 or Option 2. AAV is based on 2017 or 2019 property values. These values have significantly increased in recent years, so estimated property-based emergency services tax payments are conservative. Data source: TFGA 2023.

Details	Property 1	Property 2	Property 3	Property 4
	AAV = \$238,000	AAV = \$287,708	AAV = \$129,200	AAV = \$ 269,620
Land use classification	Primary producti on	Primary producti on	Primary producti on	Primary producti on
Current Insurance Fire Levy paid	\$1,321	\$1,301	\$938	\$234
Current levy on rates with a combined AAV	AAV x \$0.0028= \$666	AAV x \$0.0028= \$806	AAV x \$0.0028= \$362	AAV x \$0.0028= \$755
Total current	\$1,987	\$2,107	\$1,300	\$989
Option 1	\$5,712	\$6,905	\$3,100	\$6,471
Option 1 increase (%) indicated by ↑ decrease (%) indicated by ↓	\$3,725↑ (187%)↑	\$4,798↑ (228%)↑	\$1,801↑ (139%)↑	\$5,482↑ (554%)↑
Option 2	\$2,856	\$3,453	\$1,550	\$3,235
Option 2 increase (%) indicated by ↑ decrease (%) indicated by ↓	\$869↑ (44%)↑	\$1,346↑ (64%)↑	\$251↑ (19%)↑	\$2,247↑ (227%)↑

Private forest industry and farmers and graziers are significant stakeholders in the management of fire in the Tasmanian landscape through a proactive approach to fire and land management practices. Fire management planning addresses bushfire risk to assets (environmental and commercial) and includes private fire suppression resources, investment in trained staff, strategic fuel reduction burning, resource maintenance, and sharing of resources with the Tasmania Fire Service.

Private forestry and rural property owners who are members of their local fire brigade spend a significant amount of their own time maintaining their skills, managing their local brigade and associated activities, and responding to emergency management events. A rural volunteer fire brigade member may be employed on a neighbouring property and be granted time away from paid work to attend to duties. In addition to this, rural volunteer fire brigade members undertake a substantial amount of bushfire risk mitigation on their own and neighbouring properties on an annual and continuous basis.

This includes the costs in maintaining their own on-property firefighting units. Farming on-costs have increased sharply and this, combined with the negative impacts of a dry season means rural landowners cannot afford an increase in an emergency service payment (property-based emergency services tax). There is a risk that rural volunteer fire brigades will see a decrease in membership and/or capacity to respond if rural landowners are burdened with a significant financial increase. A reduced emergency service capacity in rural areas will have detrimental impacts to Tasmanian society, the economy and environment, and will add to the predicted pressures of climate change on ecosystem services (clean air, water, and food).

A well-managed and well-maintained Tasmanian landscape supports multiple benefits beyond farming and wood fibre production to include biodiversity, conservation, water, carbon sequestration, social and cultural values. These ecosystem services should be communicated and promoted to all stakeholders given that farms and forests are a nature-based solution in the battle against climate change.

Local Government collection of the levy is efficient and effective and should continue. However, the SFMC support that the fee charged for this service should be capped in recognition of the improved efficiencies of collection (electronic and automatic payments). In the unlikely event that collection costs increase, a review should of local government collection and their percentage fee should occur.