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Fire and Emergency Service Taskforce
DPFEM
Hobart Tasmania

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Submission on the TFS Funding Aspects and the Draft Tasmanian Fire and Emergency Service Bill 2023 and Related Matters

Introduction

Thank you for the opportunity to comment on the Draft Tasmanian Fire and Emergency Service Bill 2023 (Draft TFES Bill) and the funding options proposed.

The writer is an Australian citizen, a Tasmanian landowner and hence rate payer of the current Fire Service Levy, as resident of , a Municipality with no 'employed fire brigades' and the owner and manager of two private conservation covenant forest reserves, established under the RFA and now a part of the National Reserve System of Australia, both with management plans which detail vegetation fire matters.

It is accepted the TFS and the SES are being merged or amalgamated.

Unfortunately the Draft Tasmanian Fire and Emergency Service Bill 2023 (Draft TFES Bill) cannot be supported, because it is not fit for purpose and is not adequate contemporary legislation.

The Draft TFES Bill fails to adequately take into account the over 900 instances spread across Tasmania of privately reserved land under the Nature Conservation Act (Tas.), a part of the RMPS suite of legislation.

Also it cannot reasonably or wisely be supported, in part because there is a vast number, (about 55 instances in fact), of mentions within the Draft TFES Bill, of the word "prescribed", referring amongst other things mostly to the absent Regulations, which clearly have not yet been published and which may not even exist, even in draft form. The Draft TFES Bill is thus currently a bit like a headless chook.

The simple proposition that much of the meaning and force of the Draft Bill is yet to be available to the public, making the decision one of whether one is comfortable with that level of uncertainty, ambiguity and avoided disclosure of discretion about laws which are deferred (including without the slightest scrap of an indication now

as to what the implications and standards may be), is absolutely unfair and unjust. Indeed from a reading of the Draft Bill the word "prescribed" does not always mean a prescription via the regulations so this in some ways is rather shambolic drafting of the Bill.

Regarding the Two Funding Options proposed, both of which entail a massive hike of the financial impost proposed (read unacceptable) to escalate almost all of the 29 Municipalities current Fire Service Levies, when it becomes the Fire and Emergency Service Levy. Firstly, I criticise the Options Paper's dishonesty and the selective information it portrayed. Only some 8 of the 29 LGA TFS Fire Levy rates were provided conveniently seeking to bolster the Taskforce's case in the Options Paper's 'Table 1 Examples - Current Funding Inequities'. On principle I am opposed to the proposition, which the Two Options represent and this is discussed below.

It is accepted the TFES funding aspects obviously needs revision.

One cannot even see who wrote these two options. Tasmanians are not even told there is an interdepartmental task force working on this and have no idea of who may be reviewing the submissions.

In short, I do not consider the process sufficiently advanced to warrant a Draft Bill at all. For example nothing useful has been done in response to the consultants, Wise Lord and Fergusson's 2018 paper, with its criticism and recommendations on the TFS Fire Permit System, now several years old. This insightful and respectful report dates back to an Inquiry recommendation post the 2013 Forcett Dunalley escaped fire, conveniently regarded as a bushfire.

Finally the Options Paper mentions by the by, more or less, as a *faite accomplii*, a proposition for a doubling of funding for fuel reduction (burning). Nowhere however is it mentioned that in most other places of Australia fuel reduction is termed 'Prescribed Fire' and nowhere is it mentioned that this modern industrial process is a massive liquidation of carbon, releasing very considerable amounts of CO₂ into the overheated atmosphere, exacerbating the dangers Climate Change. It also represents a liquidation of nature and a simplification of forest structure leading to more loss of species and higher wind speeds. I think Tasmanians can understand such matters if they are transparently explained.

It seems vastly nonsensical for Tasmania to adopt a destructive proposition (of applying Napalm to large areas of Tasmania's natural forests), an activity that very likely makes Climate Change worse, ostensibly to meet the claim of reducing risk or achieving a quota. Although this is not the primary subject of the Options Paper (which is the funding purpose) it is the primary stated justification of the massive funding hike, so it is a relevant consideration. This submission rejects this justification of an imperative to "double fuel reduction" (burning) and in so doing very simply solves much of the funding problem.

My excellent and responsible funding solutions are far less expensive, adopt the User Pays Principle which I seek be enshrined in the Draft Bill and tackle the primary problem of the vast majority of fires head on, far more elegantly and avoid the harmful pollution, avoid the escaped burns, and the ecological damage of repeat burns, as well as being more considerate of crucial catchment values.

Process and Culture Related Issues

The last round of public consultation was back in late 2021 and this writer was one of the submitters to that process. Since then there has seemingly, despite many fundamental issues being raised, been various undisclosed decisions and at least 8 draft iterations of this Draft Bill (version 08), now termed the Draft Tasmanian Fire and Emergency Service Bill 2023 (Draft TFES Bill) and dated August 2023.

The TFS obviously has one of the most untransparent and secretive cultures on the planet. Untransparent behaviours risk often being considered untrustworthy. This serious behavioural problem should be rectified but it is hard to understand the best way to do so within the legislation. It is noted there is no overarching set of principled objectives incorporated into the Draft Bill.

I recommend that 'Transparency' as a broad principled objective must be included in any new legislation.

Another broad principle which needs to be enshrined in culture in the objectives of The Act is to become 'Trustworthy' and to be 'Honest'.

There are some things that the TFS performs well and there are other things (obligations, functions and duties) over which it is obviously totally inadequate and where it fails to meet community expectations. The TFS and the SES perform a wide range of functions but only some of these are well performed, whilst others are more or less avoided.

Foremost of the matters which are performed very poorly is the regulation of Prescribed and Permit related vegetation fire. The term Prescribed Fire is not even defined in the Draft TFES Bill, even though it is a term and concept, which is, apparently, agreed Australia wide.

Instead the Options Paper refers to seeking a doubling of funding for Fuel Reduction (whatever that may be) as that is not defined either in the Draft TFES Bill.

I recommend the term: 'Prescribed Fire' to be used and that a definition be incorporated into a further draft of the Draft TFES Bill. Reasoning: To become consistent with the other States and to avoid the colloquial description that effectively mis-describes the liquidation of carbon as being merely "fuel reduction", potentially very misleading.

This vegetation fire aspect, gives rise to one of my most important and indeed obviously necessary recommendations.

Recommendation: To create a separate independent regulatory Authority, the Tasmanian Fire Authority, to ensure that regulation and fire fighting and the lighting of fires and so forth are separated, removing the compromising conflicted situations which are enmeshed in any self regulatory system which is the current state of affairs under the 1979 Act.

It is not reasonable, wise or acceptable that the TFES regulate itself.

Likewise it is not sufficient, while the TFS is the regulator that the TFS promote a cooperative approach with its favoured fellow “burn buddies”, as I call them. This is so incestuous as to result in no regulation at all and it is a discrimination and favouritism for those lighting fires, now to be termed emergencies. That regulatory favouritism is unacceptable.

I can see the benefits from a cooperative approach but not while one is the regulator, it is simply a fundamental flaw of self-regulation.

The Most Important Aspects –Those Crucially Required but not in the Draft Bill

Separate the day to day fire and emergency fire fighting functions from the regulatory functions by creating the Tasmanian Fire Authority (TFA) and by diligently ensuring its operations are completely independent, characterised by openness, integrity and transparency.

There must be no buddy, buddy favouring consultative arrangements or advisory committees or councils within the TFA. Proper arms-length regulation of the lighting and control of fires is urgently required in Tasmania.

Even though there were important consultants reports advocating and recommending the overhaul of the TFS Fire Permit System, it remains a feature of inadequate regulation Laissez Faire culture within what appears to be virtually all aspects of the TFS. This approach remains in the Draft TFES Bill but should be removed.

I recommend: The Fire Permit System should operate all year round (not a discretion) and should include publicly visible registration and location details, just like Local Government Planning Applications for example. An application for a Fire Permit should always be in writing and should always include a precise map/plan of the burn treatment area regardless of the sort of burn, should always be accompanied by the required fee. The Fire Permit System should be administered by employed and trained officers of the proposed independent regulatory entity: The Tasmanian Fire Authority. A Fire Permit should only be granted if the applicant can demonstrate their capacity including, as stated in the plan, that they can contain the fire to avoid an escape and can both supervise and extinguish the fire. Obligations to advise neighbours in advance should be compulsory but may be best handled by the Authority.

The other feature of the Fire Permit System, which should be changed in the Draft TFES Bill, is the absolving of responsibility for the consequences and harm, which may be attributed to the fire, subjected to the Permit. The Principle, which should be enshrined: If you (that is as a landowner or renter, as a Department, the TFES, or a GBE or a private company) light an outdoor fire, you accept responsibility for it. This change would radically improve the safety of Tasmanians. This is a public interest matter. This change recognises the inherent risks of lighting a fire outside in today’s climate. NB Tasmania’s climate is about 1.5 degrees C hotter now than earlier in the 20th century.

The term 'Fire Permit' should surely be issued under the Draft Bill and not under the regulations.

The definition for a Fire Permit Period seems useless.

The reasons for opposing this absolving of responsibility would appear obvious. I cannot think of anywhere else where such risky activity is given such protection. Why wouldn't the management of a fire, always be the responsibility of those who lit the fire and who applied for a Permit.

Tasmania currently has a Tasmanian Police force which has genuine regulation, which it is not afraid to enforce and prosecute and fine irresponsible road use and other dangerous and criminal behaviour but Tasmania does not have a Fire Authority, which is prepared to do likewise in relation to vegetation fire, Prescribed Fire, Fire Permits and Total Fire Bans. The current unregulated fire regime in relation to outdoor fire in Tasmania has to urgently be changed.

Recommendation: That all the regulatory and penalty aspects of the Draft TFES Bill be removed into a new draft bill and that a Tasmanian Fire Authority to be created. Then it is recommended to create a single and contemporary new draft TFES Bill (to be the new Act) by including the Emergency Management Act and relevant remaining functions of the Fire Service Act so that from a reading of The new Act the functions of the amalgamated organisation (The Tasmanian Fire and Emergency Service) can be understood clearly and unambiguously by all.

Currently there is no adequate or accurate reporting to public the record of outdoor fires in Tasmania. Escaped fires from Prescribed Burns called Fuel Reduction Burns become the amorphous Bushfire when they are actually Escaped Fire. I can see nothing in the Draft TFES Bill that addresses such matters.

Failings of the Draft Bill

This Draft TFES Bill does not have a set of overarching Principled Objectives.

It is recommended to draft a set of Principled Objectives. They would need to include such matters and values as Integrity, Respect and Trustworthiness.

The Draft TFES Bill should have a principle for the TFES to become Carbon Neutral. This is indeed highly important and necessary.

The Draft TFES Bill should have a principle for the TFES to achieve Intergenerational Equity.

Various necessary principled objectives are mentioned throughout this submission.

This Draft TFES Bill does have too strong a dependence on many aspects being resolved in Regulation rather than in The Act.

This Draft TFES Bill does not have sufficient definitions. There is no definition of the colloquial term "fuel". Any definition should include the fact that fuel is carbon.

The regulatory functions and the fire fighting functions are unwisely included in the one draft bill, raising significant probity issues.

Amazingly, this Draft TFES Bill does not have a definition for 'Escaped Fire' and it is thus not regarded as an offence. This omission is not accidental but a part of the absence of proper independent regulation.

It is recommended that an offence termed: Escaped Fire be included in the Draft Bill and a clear definition and set of recommended fines be adopted in the Draft Bill.

It is recommended that an offence termed: Unattended Fire be included in the Draft Bill and a clear definition and set of recommended fines be adopted in the Draft Bill.

It is recommended that an offence termed: Unextinguished Fire be included in the Draft Bill and a clear definition and set of recommended fines be adopted in the Draft Bill.

Funding Issues, Principles and the Two Expressed Options and Related Matters

The Options Paper – Funding Model for the Tasmania Fire and Emergency Service, apparently is focused on assisting the insurance industry.

The Options Paper fails to provide sufficient information to brief the public so they might reliably and usefully provide alternate funding schemes and proposals and funding sources because the relevant information is not at hand to assist them.

The Options Paper for a new funding model was seemingly predicated upon a Government commitment to: A/ "Double fuel reduction funding" and B/ (presumably funding for the) "Implementation of minimum standards for volunteer fire brigades".

No useful detailed information on the above two subjects was included.

No useful detailed financial information about these two subjects was provided in the Options Paper either. This deficiency must be rectified before the next draft.

Obviously, there must be brigades, which do not meet minimum standards. But how many? There is no discussion as to how many, how important these deficiencies are to upgrade and the associated cost and urgency, so it is very hard to simply accept the validity of the so called requirement in the above one line statement.

The issue of "fuel reduction" and its expanded funding is discussed below, as it is the primary premise of the proposed increased Levy. Fire however is regarded in the Draft TFGES Bill as an "Emergency". So it seems the funding may be proposed to be going directly to a funding of more emergencies.

I note there is no discussion about the cost implications of the amalgamation of the TFS with the SES. This seems a crucial subject and yet the obvious cost is not

even mentioned. That is all amazing. Perhaps the amalgamation has already occurred.

It has been reported there has been problems with funding the SES, but this is not detailed for the reader of the paper.

The funding Options paper is so bereft of underlying financial information about the funding problems or challenges of the existing TFS and SES and of course the upcoming TFES, that I am calling for a full background paper to explain the funding problems and claimed shortfall so the Tasmanian public can have a chance of properly understanding the issue and making suggestions.

NB: I am not disputing the need to increase funding but it is important the Tasmanian public is given the knowledge about such critical emergency institutions as the TFES. One media commentator, close to/within the State Fire Commission suggested that there has long been a funding shortfall in relation to the TFS.

One presumes the premise of the new tax in order for the proposed doubling of funds spent on "fuel reduction" (burning), would be based on a consensus over the need and benefit for such vast increase. I am not convinced that this "double fuel reduction funding" should be enshrined as a policy nor is it a reasonable excuse for the proposed hike in the fire tax.

Fuel Reduction (burning) has a significant array of adverse environmental impacts including on Listed Threatened and Endangered Species and it also has its advocates who rely on the industry doctrine. Amazing! When one reads the national literature on ways to keep people and their houses safe, it is recommended a range of initiatives be pursued and that Prescribed Fire has many restrictions, limited application and can be expensive.

I cannot support the proposed EMPCA exemption for smoke pollution in the Draft TFES Bill. That is immensely dangerous to human health. Again the victims of the fuel reduction burn, the neighbouring landowners, are being given no protection. This is immensely stupid and unacceptable. The fact is that more people die from smoke pollution affects of Prescribed Fire, rather than the smoke from bushfires. (Fay Johnston Menzies Institute for Medical Research: Burning to reduce fuels: the benefits and risks of a public health protection strategy.)

So again asking the landowning victims of vegetation fire to stump up a new expanded Fire Tax whilst deliberately not protecting them under EMCA when doing dangerous and risky Fuel Reduction (Prescribed Fire) Burns is completely and utterly unacceptable.

What the TFES need to acknowledge is: That it cannot be proven that under "Catastrophic Conditions" those Prescribed Burns (for which we as landowners are already paying and being asked to pay more) fail to make things any safer, according to the literature.

Such Prescribed Burns also often escape, threatening the victims of course. Escaped Fire must be documented, reported, regulated and penalised.

It is highly recommended that such facts be considered within any new Policy on this subject. The writer wishes to reiterate his opposition to the proposed doubling of funding for “fuel reduction”.

Unacceptably The Funding Options paper irrationally targets the potential victims and not the ones who require the TFES Services in Making an Application for a Permit and in observing and meeting the weak Permit and Registration Regulations. The potential victims are the landowners and it is clear the Tasmanian Government was seeking to add a significant new Fire Victim Tax.

The landowning potential victims, if they have built a dwelling in the last decade, have already paid for additional infrastructure and a higher more resilient build standard designed generally to assist the TFES rather than the owner. The owner is simply stumping up for more resilience and infrastructure explicitly designed to be used by the TFES. The landowner is not even gaining an insurance reduction.

My recommendation: Start charging the humans, the people who are lighting fires, who are almost entirely (at about 85% of all outdoor bushfires in Australia) but who currently access a weak and free of charge poorly regulated service, which results in other landowners being threatened by out of control and escaped fire, now.

Changing these currently free services to chargeable ones would mean the provision of arm's-length, independent regulation services could easily be established and funded.

Additionally there would be funds raised by employing staff whose job it is to regulate and fine the breaches, which are reported and found. Only when Tasmania regulates properly will trust in the TFES and the cohort of landscape burning fellows (such as PWS, Forico and STT) might slowly recover. The benefit of increased community trust in a more trustworthy, TFES organisation would be inestimable.

Currently if I need a Building or Planning Permit from my Local Government, I am required to pay their fee.

I recommend the Principle of User-Pays be added into the Draft Bills proposed.

I recommend that any skerrick of self-regulatory open slather be excised and quashed from the Draft Bill.

Currently the TFS donates its time and resources to the Users of the Fire Permit Service but expects, it seems, the potential landowning victims of an escaped fire to pay for something, which in fact they may never receive. This disparity is completely unjust and unfathomable.

It is ridiculous to not fully and properly regulate the lighting of fires. Outdoor Fire is extensively used by the large land owners especially the forestry industry and I consider their practices currently to be risky. Examples can be provided upon request.

It is absolutely critically essential that poorly regulated outdoor fire be removed from the landscape under increasingly dangerous climate-change conditions.

Just look at what happened when some landowners lit up a stump, calling it a campfire, during an advertised Fire Permit Period at Forcett in January 2013 and a few days later burnt down the town of Dunalley and much of the landscape in between because they failed to monitor and extinguish the fire.

In 2013 we witnessed with horror and alarm the poor regulation of fire, coupled with a culture of supporting the lighters of fire rather than the victims. Isn't that the situation and culture, which remains today?

The victim population, the innocent residents of Dunalley and its surrounds had to take those reckless landowners, responsible for lighting the fire to the Supreme Court of Tasmania to get their justice and it took many years and probably a vast cost.

Bear in mind that humans light 85% of fires.

The climate has significantly warmed since 2013, yet the regulatory regime remains stubbornly centred around demonstrably inadequate and outmoded 1979 laws.

I strongly recommend the escalating threat of climate change, even in Tasmania, must be recognised and included as a consideration in any new further Draft TFES Bill.

Likewise the Principled Objective of the Precautionary Principle should be enshrined in the Draft Bill.

I recommend: A Principle that anyone applying for a Permit to light a vegetation based or outdoor fire should only do so if he or she is confident of being able to extinguish the fire and be capable of demonstrating their capacity to do so, incorporated into the draft bill.

Additionally, I strongly recommend: the regulatory aspects which are going to be needed to better regulate outdoor fire must be designed into the regulatory system now and it must be based on independent oversight, which is employed to perform the independent regulatory function explicitly.

We can no longer tolerate a TFES, which has a culture of supporting the lighters of various types of outdoor fires, via a favouring non-arms-length, free-of-charge regime, whilst charging the victims for what may very well be very little service anyway from under resourced volunteer brigades where the volunteers have an option to not participate. In my view paying an increased Fire Levy for a service, which may never eventuate is in of itself problematical.

The notion that TFES via Local Government might charge me (a potential victim) a massively expanded so-called TFES Levy, which I regard as a new Fire Tax based on my AAV, is also both completely rejected and grossly offensive for several reasons. These reasons are:

By relying on the AAV that becomes some sort of wealth-based tax where those with more capital improvements pay more.

By basing the proposed Levy on the AAV that Levy would automatically become a discrimination, favouring some and penalising others without justice.

The Levy proposed would be based on the "Land Use Class", an administrative classification determined by the Valuer General. This mechanism has flaws and should not be relied upon to set a new taxation impost. It is not necessarily accurate and the system does not consider all land uses. Nor does the Valuer General wish to debate the merits of in accurately describing the Land Use Class.

The Option One Levy suggested that everyone would receive the same service but that too is simply not the case, because some cities and towns have employed brigades, capable of faster response times, at all times of the day and night and therefore a far greater chance of a fast response, saving a burning structure or putting out a fire, compared with volunteer rural based brigades. This is a better grade of service for those areas in towns and cities, which have employed brigades. This differential is reflected in the current TFS Fire Levy charge. This is not intended to be a criticism of the rural volunteer brigades in any way.

Even Option 2 would result in a massive increase in the Levy for rural based landowners of Tasmania. For that reason, it too is opposed.

The current amount of Fire Service Levy contribution is accepted by the Tasmanian community it seems but I can see no acceptance for paying significantly more. I have heard no complaints of inequity.

The ex-auditor general, Mr Blake, suggested the fairest way to fund the TFES was for Government to step up and fund it. I recommend this funding option be carefully considered along with my regulatory charge and fine proposals.

My suggestion is to raise funds from the regulatory services the TFES or (If you accept my model) the Tasmanian Fire Authority (TFA) should charge for Permits and Registration, as well as for breaches and escapes which must be firmly considered to be offences.

Currently in Tasmania we are in the period, in vegetation fire regulation terms, as the Police were prior to the breathalyser and the poor regulations back then (the 1960s) when faced with the challenge to change the dangerous culture of drink drivers. This was a public interest outcome.

Likewise better and independent regulation of outdoor and vegetation based fire is a public interest matter.

Well, lighting fires is immensely risky and the current lack of independent regulation immensely concerning and unacceptable and that open slather situation simply has to change.

Private Conservation Covenant Reserves

The writer is one of over 900 private covenant reserves, which are managed on a volunteer basis mostly by their owners for the public good. Currently, although regarded as a part of Australia's National Reserve System they are not considered to be Reserves, including under the Draft TFES Bill, even though they all have

management plans which include aspects of fire related management. **I recommend this matter be addressed and rectified in the Draft Bill.**

Currently there is no obligation upon the TFS to observe any values over my conservation covenants. There is no adequate process for resolving such issues.

I seek to have a genuinely effective administrative pathway to providing guidance to the TFES over the natural values of the Reserves and how they may be best considered in an Emergency.

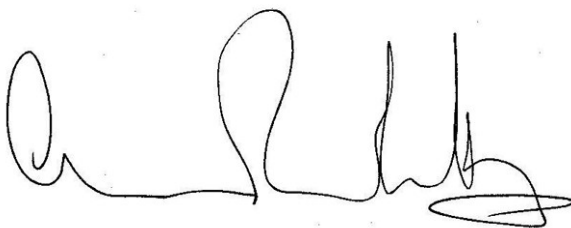
Conclusion

The Draft TFES Bill should be paused while matters such as raised in this submission and including funding solutions are resolved.

Accordingly, for all of the reasons I have raised and stated, I respectfully seek that the Taskforce adopts a position of developing a single fit for purpose draft bill for the day to day functions of the TFS and SES and engage in a further round of consultation and create a separate regulatory authority and a Bill to regulate fire in Tasmania.

For the innate conflicted type problems of an inadequate separation of the day to day functions from the regulatory functions currently poorly administered by the TFS, I strongly urge the Government and the Taskforce to adopt the notion of creating a separate piece of new legislation containing the regulatory aspects, and a better range of enforceable penalties and fines via the creation of a Tasmanian Fire Authority and start regulating vegetation based fire properly and independently and transparently now.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Ricketts', with a large, stylized initial 'A' and a circular flourish at the end.

Andrew Ricketts