



State Fire Commission

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Dear Michael,

**STATE FIRE COMMISSION FIRE SERVICE ACT REVIEW SUBMISSION**

Please find enclosed the State Fire Commission (SFC) submission to the Fire Service Act 1979 review.

If you have any questions please do not hesitate to contact me on 0418 372 030.

Yours sincerely

Rodney Sweetnam  
**CHAIR – STATE FIRE COMMISSION**

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# Review of the Fire Service Act 1979

STATE FIRE COMMISSION SUBMISSION TO THE REVIEW OF THE FIRE  
SERVICE ACT 1979

## Table of Contents

Introduction .....	2
Summary .....	2
Outcome 1.....	2
Outcome 2: .....	2
Outcome 3: .....	3
Outcome 4: .....	3
Commission Response .....	4
Outcome 1 - TFS functions and operating platform .....	5
Outcome 2 - Commission is organised such that it operates effectively and efficiently.....	8
Outcome 3 - State Fire Commission and SES Funding .....	11
Outcome 4 - Governance accountability and financial management arrangements.....	16

## Introduction

The State Fire Commission (Commission) welcomes the opportunity to respond to the Review of the *Fire Service Act 1979*.

The Commission considers that the Review of the Fire Service Act provides the opportunity to improve and clarify the governance and funding arrangements for the Commission and the State Emergency Service (SES), as well as clarify their roles and the services to be delivered by them. The Commission also believes that the Review provides the opportunity to further integrate the Commission and SES for the benefit of the Tasmanian community and both entities.

This response addresses the four outcomes identified in the Terms of Reference for the Review. The relevant section of the summary is repeated at the start of the discussion about each outcome

## Summary

### 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 service providers, in particular, the State Emergency Service (SES). This will include an analysis of any gaps or overlays in the delivery of any TFS/SES services and identify the future role and functions for the TFS/SES.***

The new Act should allow for both the Commission and SES to be fully integrated over time as efficiencies and opportunities are identified. Functions of the integrated organisation should comprise prevention, preparation and response to fire and other emergencies. The functions in the new Act should exclude the provision of ambulance services, other than the existing emergency first responder arrangements.

The new Act should also recognise the vital role of volunteers in fire and emergency prevention and response.

The *Emergency Management Act 2006* which establishes the SES, its governance and its funding arrangements will also need amendment to reflect this integration, with the new Act to specify these arrangements.

### 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.***

Existing arrangements are efficient and effective and provide value for money but can be improved by legislative change to enable the integration of the Commission and SES to benefit from a range of potential synergies.

Evidence of the effectiveness of the Commission is that the death rate from fires in Tasmania has nearly halved over the last ten years. Commission strategies that have contributed to this outcome include early fire response during days of total fire ban preventing these outbreaks becoming major fires with potential loss of life and property, effective fuel reduction activities and improvements in the safety and training of its paid and volunteer workforce.

A measure of the efficiency of Commission activities is its expenditure per person of State population. This has largely tracked the national average over the last ten years.

Volunteers provide a very cost effective fire response. Interstate estimates suggest that if all Tasmanian volunteers were to be paid, Commission outlays could double, increasing from \$90 million to around \$180 million per annum.

#### 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.***

The Commission believes that the original intent of the Fire Service Act 1979 to provide dedicated funding to meet 'brigade costs' through the Fire Service Contribution has served the community well, as evidenced by the above discussion of outcomes. There is no need for wholesale change to this revenue source. Property based levies are used extensively to fund fire services in other States.

The Commission expects its strong record in outcome delivery to be mirrored through the integration of the Commission and the SES, funded by an expanded Fire (and Emergency) Services Contribution. Further the Commission notes that a continuation of funding through the State Budget is essential to supplement its independent funding sources to enable it to respond to incidents such as significant wildfires and floods and to fund the Fuel Reduction Unit, Community Education and other allied activities in the areas of prevention and mitigation.

The Commission views the maintenance of an independent and dedicated revenue stream that is adequate to meet its core operational needs as a key factor in being able to attract, retain and provide adequate facilities and equipment for its volunteer workforce.

The Commission considers that the revenue base for the Fire Service Contribution (FSC) should be expanded to help fund the SES integration and replace local government funding and in the longer term, to replace the insurance fire levy. In addition, the revenue base of the Motor Vehicle Fire Levy should be expanded to help fund these changes.

#### 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.***

The Commission and the SES are unique in Government with over 90 per cent of their workforces comprised of volunteers. Further, both organisations need to provide and fund equipment, vehicles, buildings, training etc for a total combined workforce comprising volunteers and paid employees of over 5700 people. The governance arrangements for an integrated organisation need to reflect this uniqueness and the ability of the workforce to have input into decisions affecting the Commission and SES.

It is the Commission's view that it should not continue to operate within a Departmental structure, because:

- it is more likely to continue to attract and retain an important and vital volunteer workforce as a State Authority with representation from volunteer groups on its board;
- the governing board model for fire and emergency service provision has been effective in other jurisdictions;
- a clear focus on fire and emergency prevention, preparation and response is essential which can be diluted within a department which has a broader and more complex set of functions, such as emergency management in the case of DPFEM;
- it is important for transparency and accountability that activities funded by the Commission's independent revenue sources are 'kept together' in a State Authority;
- the current governing board model has worked very well as shown by the above discussion on effectiveness and efficiency; and
- governance arrangements need to be clear and well defined, unlike at present where the accountabilities of the Secretary of DPFEM, the Chief Officer (CO) and the Commission are unclear.

These arrangements would be clarified by the inclusion of the Commission as a State Authority under the *State Service Act 2000*. The Chief Officer would then become a Head of Agency with employment powers. As such the Commission can then operate outside the current departmental structure. This would not preclude a continuation of the Commission's commercial outsourcing agreement with DPFEM for the provision of corporate services. The Commission should be recognised as one organisation with a governing board, rather than the State Fire Commission/TFS separation currently in the Fire Service Act.

The board should comprise directors who are all skills based. Some of these skills based directors would continue to be nominated by volunteer groups. One person should be nominated by each the three volunteer groups – the Tasmanian Retained Volunteer Firefighters Association, the Tasmanian Volunteer Fire Brigades Association and the SES volunteers.

Given that the Chief Officer's (CO) performance as the CEO of the organisation is critical to the performance of the Commission and the board is accountable for this performance under the State Authority model proposed, the Commission should have input into the selection of the CO/CEO. Examples of where this occurs include Tourism Tasmania and Government Business Enterprises under the *Government Business Enterprises Act 1995*. The Commission does not see this as incompatible with the CO's appointment being made by the Premier under the State Service Act.

The Commission's powers in the new Act should be broadly defined as those required to perform its functions in keeping with contemporary legislation for several other Tasmanian statutory authorities. For example, this would enable existing provisions in the Fire Service Act 1979 such as those relating to fire prevention, response and suppression and also the power to set fees and charges to be maintained and enhanced as required.

## Commission Response

The following response to the four outcomes identified for the Review examines the key issues arising under each and provides the Commission's views on them.

## Outcome 1 - TFS functions and operating platform

***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 service providers, in particular, the State emergency Service (SES). This will include an analysis of any gaps or overlays in the delivery of any TFS/SES services and identify the future role and functions for the TFS/SES.***

### *Summary*

The new Act should allow for both the Commission and SES to be fully integrated over time as efficiencies and opportunities are identified. Functions of the integrated organisation should comprise prevention, preparation and response to fire and other emergencies. The functions in the new Act should exclude the provision of ambulance services, other than the existing emergency first responder arrangements.

The new Act should also recognise the vital role of volunteers in fire and emergency prevention and response.

The *Emergency Management Act 2006* which establishes the SES, its governance and its funding arrangements will also need amendment to reflect this integration, with the new Act to specify these arrangements.

### *Integration of the Commission and SES*

The House of Assembly Standing Committee on Community Development in 2016 report on its Inquiry into the State Fire Commission noted that the Fire Service Act should recognise the SES and incorporate sections of the Emergency Management Act. The Committee came to this view based on evidence provided to it including:

- overlapping functions and existing operational synergies;
- significant overlap in volunteer workforce across Commission and SES;
- extensive and continuing co-location of facilities around the State;
- substantial opportunities for closer collaboration and resource sharing including in policy and planning, operations and training, facilities and assets, learning and development and community education and awareness;

The Committee also heard evidence that:

- the Commission currently provides a \$2.5 million annual funding contribution to SES, about half of its funding. This would be funded by the Commission through efficiencies and lower cash balances in the short to medium term, but was an unsustainable model in the longer term; and
- the current SES funding model is unsustainable.

The Committee also noted the importance of the sense of identity to the SES and Commission for their organisations and their volunteer and paid workforces. The Committee recognised the efforts of both organisations to ensure that neither organisation loses its identity as a result of the transfer.

The Australasian Fire and Emergency Services Council Ltd (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 tsunami.

The synergies between the two organisations arise from being able to access scale economies and reduce the duplication of services. These synergies and the importance of the preservation of identities and cultures is recognised in the Strategic Directions *Framing the Future* document prepared jointly by the Commission and SES. It outlines a ten year plan through to 2028 for the Commission and SES. It highlights the significant overlap in vision, mission and core values of both organisations. The following five strategic directions are identified in the plan:

- supporting community resilience;
- providing trusted emergency response;
- a collaborative organisation;
- valued and capable people; and
- an efficient and effective organisation.

Achievements against the deliverables specified in this document are reported annually in the Commission's annual report.

The Commission considers that greater integration of the Commission and SES would initially centre on senior management. The other employees and the volunteer arms of each organisation could retain their separate identities.

The legislation should provide a broad head of power for this to occur. The legislation does not need to specify the structure of a more integrated organisation but should allow it to evolve over time to reflect changing circumstances. Full integration is a likely outcome in the medium term.

The functions of a more integrated organisation would focus on fire and emergency service prevention, preparedness and response. Responsibility for community recovery from emergencies should be excluded as this is the role of other organisations across the three tiers of Government as well as community groups.

The new Act should provide for these functions to be broadly defined to cover the existing legislated functions of Commission and SES as well as other specified functions currently undertaken by the Commission and SES. For the Commission these include road accident rescue in assigned areas, managing hazardous materials incidents, undertaking urban search and rescue and providing a response to terrorist incidents involving chemical, biological and radiological agents. Further, new legislation should also provide for the Commission to continue to provide a response when requested, to fire and emergencies in other Australian jurisdictions and internationally.

New legislation should provide for the functions required to be undertaken by a more integrated organisation. If this is well drafted, the addition of further functions should not be required. In the event that circumstances change and there is a supporting business case for the performance of additional functions it would be sensible to provide for this in the new legislation.

There is already scope for policy guidance in relation to functions and powers for Government businesses and other statutory authorities through the use of ministerial charters, statements of expectations and in some cases ministerial directions. The *New Zealand Crown Entities Act 2004*



section 14 provides for the Minister to direct that additional functions be performed, where the portfolio act provides for this power of direction.

The SES is established under the Emergency Management Act which provides for its governance arrangements (s25-28) and funding from councils (s 48-49). The State Controller (Secretary of DPFEM) should retain primary responsibility for emergency management as currently provided under the Emergency Management Act. This Act will need to be amended to enable integration to proceed.

While there are some operational synergies between the Commission and the Ambulance Tasmania such as a shared call centre, the overlaps are minor compared with those identified for the Commission and SES. Ambulance Tasmania is primarily focussed on emergency ambulance care and health transport services and should remain separate. This should not preclude further operational synergies where these create efficiencies. An example is the provision by Commission personnel of an Emergency Medical Response where they are first responders at a road accident. The Commission's functions specified in the new Act should be sufficiently broadly defined to give authority to provide an Emergency Medical Response if this is a service that the Tasmanian Government wishes the Commission to continue to provide.

Section 121 of the FSA provides for the Commission to be protected from liability in undertaking fire prevention or response provided it has not acted in bad faith. This protection covers the paid and volunteer work force as well as Commission members. The Commission strongly supports the continuation of this protection in the new Act given the inherent risk in fire prevention and response. The protection should match the Commission's functions in the new Act and hence may be wider than just fire prevention, preparation and response.

The Inquiry into the State Fire Commission by the House of Assembly Standing Committee on Community Development noted that volunteer fire fighters are at risk of being undervalued and under rated and recommended that the Government should use its best endeavours to ensure full acknowledgement and recognition of these services.

It is the Commission's view that a statement of commitment to volunteers should be included in the new legislation. For example, the Victorian *Country Fire Authority Act 1958* (CFA Act) sections 6F to 6I provides for this to be done through a Volunteer Charter which is a statement of principles that apply to the relationship between the Government, CFA and volunteers. It requires the CFA to:

- recognise, value, respect and promote the contribution of volunteers to the wellbeing and safety of the community;
- consult with volunteers on any matter that might reasonably be expected to affect them; and
- encourage, maintain and strengthen the capacity of volunteers to provide the CFA's services.

In addition, it is essential for volunteers to continue provide input to the Commission given that they provide over 90 per cent of its workforce and have a vital role in basic fire response. Volunteers are an essential complement to the paid firefighters, who are trained for deployment on higher risk and more complex fire and other events. Further discussion regarding the future composition of the Commission is outlined in the Commission response to Outcome 4.

## Outcome 2 - Commission is organised such that it operates effectively and efficiently

***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.***

### *Summary*

The Commission believes that the original intent of the Fire Service Act 1979 to provide dedicated funding to meet 'brigade costs' through the Fire Service Contribution has served the community well, as evidenced by the above discussion of outcomes. There is no need for wholesale change to this revenue source. Property based levies are used extensively across fire services in other States.

The Commission expects its strong record in outcome delivery to be mirrored through the integration of the Commission and the SES, funded by an expanded Fire (and Emergency) Services Contribution. Further the Commission notes that a continuation of funding through the State Budget is essential to supplement its independent funding sources to enable it to respond to incidents such as significant wildfires and floods and to fund the Fuel Reduction Unit.

The Commission views the maintenance of an independent and dedicated revenue stream that is adequate to meet its core operational needs as a key factor in being able to attract, retain and provide adequate facilities and equipment for its volunteer workforce.

The Commission considers that the revenue base for the FSC should be expanded to help fund the SES integration and replace local government funding and over time, to replace the insurance fire levy. In addition, the revenue base of the Motor Vehicle Fire Levy should be expanded to help fund these changes.

### *Measuring Effectiveness and Efficiency*

Effectiveness is a measure of how well desired outcomes are achieved. The Productivity Commission in its *Report on Government Services – Emergency Services for Fire and other Events 2018* (Productivity Commission 2018) identifies fire deaths as a key outcome measure for fire services across Australia (see Attachment 1). The Commission has overseen strategies that have delivered effective performance resulting in nearly halving the death rate from fires over the last decade as shown in Chart 1 below.

Strategies that have contributed to this outcome include:

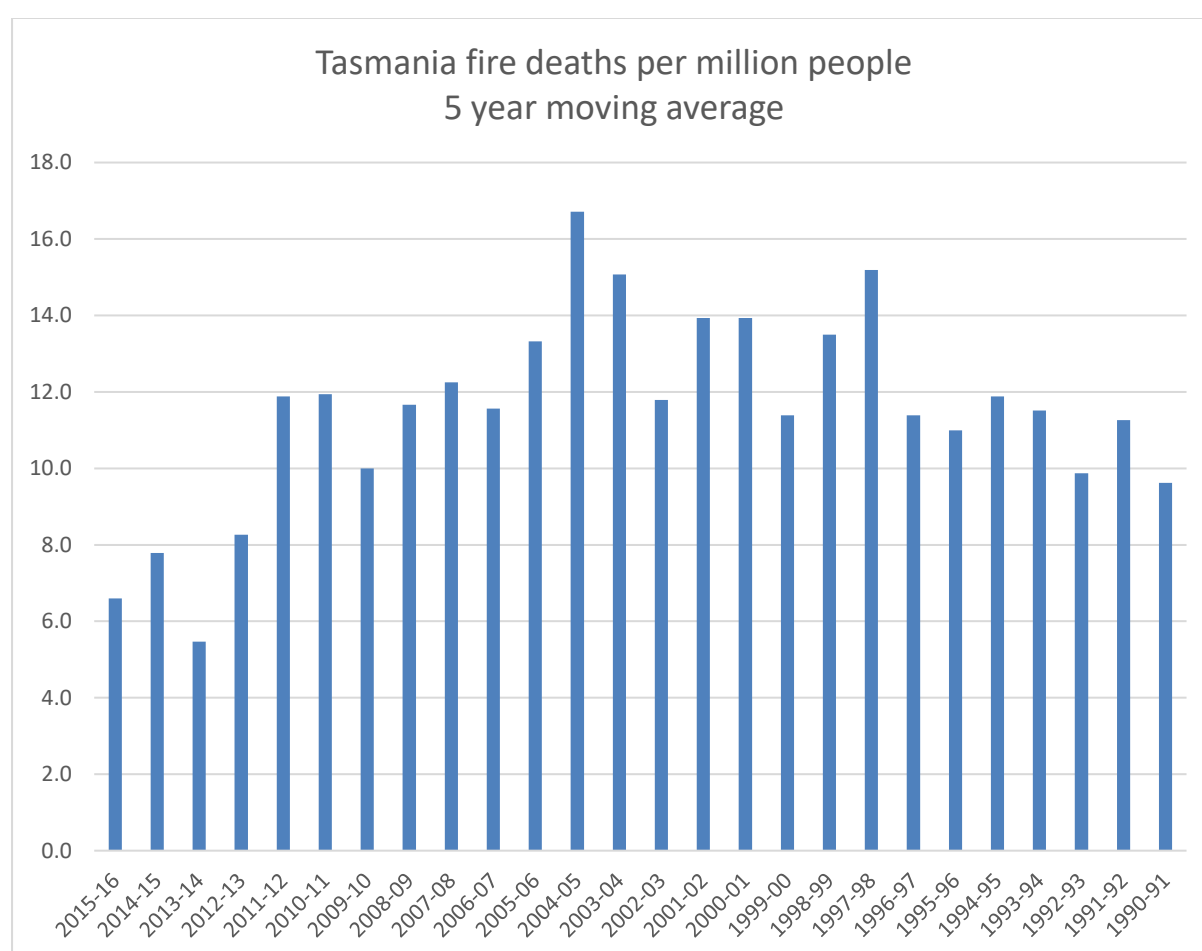
- a significant reduction in bushfire risk through the activities of the Fuel Reduction Unit;
- in some years, such as 2017-18, Tasmania has faced severe fire weather events which have not resulted in large or catastrophic fires due to the significant effort of the Commission working with other emergency services providers and the media to prevent and prepare for outbreaks. Years in which the Commission has not had to respond to large fires are as much evidence of its effectiveness as successful responses to major fires;
- effective community fire safety work on fire prevention;
- improvements in workforce safety through the activities of the Workplace Health and Safety Committee including reducing staff and volunteer exposure to diesel particulate emissions;
- the adoption of national training standards for volunteers;

- a modern vehicle and appliance fleet and infrastructure;
- effective interaction with other State and interstate agencies on fire prevention and response; and
- the introduction of compressed air foam system in fire appliances and other new technologies.

The Commission's performance in respect of fire response has been reviewed in 2013 in an AFAC audit review of Tasmania's January 2013 fires and an AFAC operational review of the Tasmanian fires of January 2016. In both cases AFAC was complimentary about the Commission's management of the fires and that there was no fire related loss of life.

A report by the Auditor General on Bushfire Management Special Report No 99 in 2011 found reasonable evidence to conclude that state entities with a responsibility for bushfire management were committed to keeping pace with contemporary knowledge and practice.

Chart 1



Source: Productivity Commission *Report on Government Services – Emergency Services for Fire and other Events* 2018 (Productivity Commission 2018)

Includes accidental and deliberate fire deaths. Data not comparable across jurisdictions.

Five year moving average used to smooth annual volatility in data.

Efficient is defined as achieving the desired outcomes within existing resources. The Productivity Commission 2018 measures efficiency as fire services expenditure per person (population of the

jurisdiction). All else being equal, lower expenditure per person suggests greater efficiency. The Productivity Commission notes several caveats around this measure. For example, high or increasing expenditure per person may reflect an improved response, or more challenging fire events. Conversely, declining expenditure per person may reflect a poorer response or less challenging fire events. Further, the role of volunteers needs to be considered given that they provide a substantial proportion of fire services, the labour costs of providing fire services would be greater in their absence. Tasmanian numbers have generally tracked national average expenditure per person fairly closely over the last 10 years with average outlays in \$2016-17 for Tasmania of \$169 per person compared to \$164 nationally. (Productivity Commission 2018)

In the 2014-15 Tasmanian State Budget the Government announced that the SES would report through the Commission to better reflect the close alignment of these entities. The revised arrangements were intended to achieve economies of scale and eliminate duplication of services. The Commission's 2018-19 draft corporate plan includes provision for the ongoing funding of SES of \$2.706 million in 2018-19 increasing to \$2.871 million in 2021-22.

As discussed under Outcome 1 above, legislative amendment to enable integration of the Commission and SES should allow a number of synergies to be realised. In 2018-19 the Commission is responsible for providing half of the funding required to operate the SES but has no legislative authority to progress integration. A centralised funding and more integrated operating model for the SES and Commission would support improved outcomes. These changes are more likely to be reflected in a medium rather than short term improvement in financial performance outcomes, given that SES is currently under resourced both operationally and for asset replacement such as vehicles.

The contribution by volunteers enables a very cost-effective fire response, although training, vehicle and other asset costs are still required for a volunteer workforce of 4700. (see Productivity Commission 2018 for workforce numbers for the Commission and SES) A 2009 estimate of the value of Country Fire Authority volunteers in Victoria was \$840 million. (*Report of Inquiry into the Effect of Arrangements made by the CFA on its Volunteers* July 2011). If this number is adjusted pro rata for current Tasmanian volunteer numbers compared with the CFA, the annual value of Commission volunteers in Tasmania is about \$70m, ignoring inflation. ( $4700/56159 \times 840 = \$70$  million).

An estimate by the Western Australia Economic Regulation Authority *Review of the Emergency Services Levy 2017* (ERA 2017) of the annual cost to fund a rural fire service found a wide variation depending on whether it is staffed by volunteers or paid staff, equipment required and head office costs. This ranged from an extra \$4 million to \$560 million annually. Based on this estimate the pro rata equivalent for Tasmania of the value of its volunteers would be up to \$116 million annually ( $4700/22645 \times 560$  \$million=\$116million).

From the above studies, the implied annual value of fire volunteers in Tasmania ranges between \$70 million and \$116 million. This is clearly a very broad brush estimate in the absence of a Tasmanian specific study. However, these studies suggest that if all Tasmanian volunteers were replaced by paid staff total Commission expenses could be in the order of \$180 million per annum, around double its actual expenses in 2016-17.

### Outcome 3 - State Fire Commission and SES Funding

***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.***

#### *Summary*

The Commission believes that the original intent of the Fire Service Act 1979 to provide dedicated funding to meet 'brigade costs' through the Fire Service Contribution has served the community well, as evidenced by the above discussion of outcomes. There is no need for wholesale change to this revenue source. Property based levies are used extensively to fund fire services in other States.

The Commission expects its strong record in outcome delivery to be mirrored through the integration of the Commission and the SES, funded by an expanded Fire (and Emergency) Services Contribution. Further the Commission notes that a continuation of funding through the State Budget is essential to supplement its independent funding sources to enable it to respond to incidents such as significant wildfires and floods and to fund the Fuel Reduction Unit, Community Education and other allied activities in the areas of prevention and mitigation.

The Commission views the maintenance of an independent and dedicated revenue stream that is adequate to meet its core operational needs as a key factor in being able to attract, retain and provide adequate facilities and equipment for its volunteer workforce.

*The Commission considers that the revenue base for the Fire Service Contribution (FSC) should be expanded to help fund the SES integration and replace local government funding and in the longer term, to replace the insurance fire levy. In addition, the revenue base of the Motor Vehicle Fire Levy should be expanded to help fund these changes.*

#### *Funding Sources*

Table 1 below shows the main funding sources for the Commission in 2016-17 by dollars and percentage of total funding. It can be seen that the Fire Service Contribution is the largest source of funds (46%) for the Commission, followed by the Insurance Fire levy (19%), the State Government contribution (11%) and Motor Vehicle Fire Levy (9%). The State Government contribution can vary markedly depending on the fire season. In 2015-16 it contributed 28 per cent of total Commission income, reflecting its contribution to wildfire fighting (WFF) during a very severe fire season. This funding support for WFF is a vital insurance policy for the Commission to be able to fund its response to larger fire events – level 2 and level 3 fires. The current funding arrangements do not enable the Commission to 'self insure' for these larger fire events. The present arrangements work effectively and avoid the need for Commission to carry very large surplus funds to respond to these ad hoc events.

The revenue sources for other Australian fire jurisdictions are shown in Table 2 below. This shows that property based levies comprise the bulk of revenue for fire service organisations across all States, except for the two Territories which are principally Budget funded. These levies apply to property owners in all States except for NSW where revenue is solely based on insurance levies pending reform in this area, and Tasmania where part of the levy revenue consists of the Insurance Fire Levy.

**Table 1: State Fire Commission Revenue Sources 2016-17**

<b>Income</b>	<b>\$000</b>	<b>% of total income</b>
Fire Service Contribution	41009	46
Insurance Fire Levy	17141	19
State Government Contribution	9818	11
Motor vehicle fire levy	7979	9
Fire prevention charges	6068	7
Sundry Income	6132	7
Australian Government Contribution	1437	1
<b>Total Income</b>	<b>89584</b>	<b>100</b>

**Table 2: Major sources of fire service organisations revenue 2016-17**

		NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
2016-17										Wtd. av.
Per cent of total revenue		%	%	%	%	%	%	%	%	%
Government grants		28.0	42.1	11.1	10.0	1.6	13.0	91.8	92.9	28.1
Levies		64.1	51.7	77.5	86.2	94.5	67.0	-	-	64.4
User charges		4.4	4.2	8.7	2.7	2.6	13.0	6.4	6.9	5.0
Miscellaneous revenue		3.4	1.6	2.6	1.0	1.3	7.1	1.8	0.1	2.3
Indirect government grants		-	0.3	-	-	-	-	-	-	0.1
<b>TOTAL</b>		<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: Productivity Commission 2018

The SES funding sources estimated by WLF Accounting and Advisory appear in Table 3 below which shows that the principal sources of funding for the SES are the Commission, DPFEM and local government. This can be contrasted with the situation for emergency service provision in other jurisdictions where the major source of funding is either from a levy, or from Government grants and appropriations. Table 4 below clearly shows this disparity.

**Table 3: Sources of SES Funding 2014-15**

Income	\$000	% of total income
Commission contribution	2299	56
DPFEM	873	21
Councils	455	12
MAIB	300	7
Other	185	4
<b>Total Income</b>	<b>4111</b>	<b>100</b>
Unfunded operations equipment and vehicle depreciation	753	
<b>Total annual ongoing funding required*</b>	<b>4864</b>	

Source: WLF Accounting and Advisory *DPFEM Project 9 Costing Analysis of the SES in Tasmania Draft Report* February 2016

\*Excludes SES corporate support functions from DPEM (HR, Procurement, finance, IT and those shared accommodation costs unable to be apportioned).

**Table 4: Major sources of State and Territory emergency service organisations' revenue 2016-17**

		NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
2016-17										Wtd. av.
Per cent of total revenue		%	%	%	%	%	%	%	%	%
Government grants										
• Australian	%	na	-	-	na	na	0.1	-6.6	na	-
• State/Territory	%	21.3	95.7	97.8	na	0.8	13.0	100.2	100.0	47.0
• Local	%	10.7	-	-	na	na	na	-	na	5.7
Levies	%	64.7	na	-	na	98.4	na	-	na	42.4
Other revenue	%	3.3	4.2	2.2	na	0.9	87.0	6.4	na	4.8
<b>TOTAL</b>	%	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>na</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: Productivity Commission 2018

The Commission considers that those aspects of the current funding arrangements that are operating well, include the Fire Service Contribution (FSC) and State and Australian Government financial support particularly State Government funding for wildfire fighting (WFF). These revenue sources are vital to enable the Commission to perform its legislated functions.

The Commission considers that aspects of the current arrangements which should be addressed through the outcomes of the review include:

- the lack of an adequate dedicated source of funding for the SES;
- the coverage and disincentive effects of the insurance fire levy; and
- the narrow revenue base for the FSC and motor vehicle fire levy (MVFL).

As noted above, unlike in other States there are no dedicated funding sources for the SES. The Commission currently provides over half of the funding for SES from its existing revenues. The Commission's principal source of revenue is the FSC. SES costs are unable to be recovered from the FSC under the current legislation as it relates only to the recovery of (fire) brigade costs. Further the

Commission has no legislative authority to influence SES outlays and fully capture the synergies between the Commission and SES referred to in the discussion on Outcome 1 above.

The Insurance Fire Levy is the Commission's second largest source of funding. This has become more variable since 2014-15. In addition to concerns about the lack of funding certainty from this levy, the Commission acknowledges that it is also not equitable or efficient in an economic sense. The lack of equity stems from not everyone holding insurance or being under insured. Further, not all insurance companies are covered by the levy, with mutual funds being exempt. Several inquiries (Henry Taxation Review, NSW Review of Emergency Services Funding, Victorian Bushfires Royal Commission 2009, ERA 2017) have concluded that imposition of a levy on top of insurance premiums distorts the price of insurance and can lead to under, or no insurance against fire. The ERA 2017 cites evidence that rates of insurance by property owners increased after replacing insurance based levies with property based ones in WA and SA.

The Fire Service Contribution has some significant exemptions specified in the Fire Service Act including for example many State Government businesses and local government. Similarly, there are several exemptions from coverage of the MVFL, including caravans, motorcycles and trailers. These exemptions restrict the tax base and mean that those taxpayers included in the current revenue base make a higher contribution to fire management than would otherwise be the case. The Emergency Services Levy in Western Australia was designed to have few exemptions, with State and local government being included in the tax base as well as most Government corporations.

The principles underlying the Commission's funding arrangements should be:

- that funding is appropriate to enable the Commission and SES to deliver the services that the Government and community expect, as outlined in legislation;
- that appropriate indexation of funding is provided, to enable the Commission to maintain its level of service provision over time; and
- sufficient funding flexibility is available to respond to higher requested levels of service provision by Government, or for growth in the volunteer workforce.

Funding options include:

- increased use of the FSC and MVFL to also fund emergency response and prevention provided by the SES and the phased removal of the Insurance Fire Levy. Legislative change would be required to give this effect; or
- status quo – increase the FSC to fund SES and enable the Insurance Fire Levy to be removed. The latter could be removed by amending the *Fire Service (Finance) Regulations 2017*, however legislative reform would still be required to use the FSC to fund the SES, because the Fire Service Act only allows (fire) brigade costs to be funded; or
- State Budget funded by taxpayers. This is not the preferred option as it is not necessarily consistent with the above funding principles. In addition, the Commission views the maintenance of an independent and dedicated revenue stream that is adequate to meet its core operational needs as a key factor in being able to attract, retain and provide adequate facilities and equipment for its volunteer workforce.



The Commission's preferred option is for the increased use of the FSC and MVFL as both are consistent with the above funding principles. Further the ERA 2017 found that the design of the Emergency Services Levy in Western Australia met the criteria of equity, efficiency, simplicity and effectiveness outlined in the Issues Paper. The FSC shares many of the design features of the WA levy, other than its relatively narrow revenue base. The same mechanism would continue to be used to set the FSC, although it may benefit from a different name such as the Fire and Emergency Services Contribution to reflect its broader scope.

This option would see local government funding of vehicle and unit facility operating and administrative expenses for the SES being replaced by the FSC and MVFL. The Commission considers that centralised funding and management of the SES volunteer unit facilities, fleet and operational expenses would lead to efficiencies. Any ownership concerns by councils as to existing vehicles and equipment could be addressed by a service level agreement with the relevant councils.

There are issues with the operation of the insurance fire levy as identified above. This levy is however, a significant funding source for the Commission currently contributing 19 percent of its revenue. In addition, the Commission sees the priority as to fund the integration of SES. As such a phase out of this levy funded by greater reliance on the FSC and MVFL is seen as the preferred way of balancing these competing factors in the longer term.

As noted above, a continuation of State Government funding for wildfire fighting for level 2 and level 3 fires is essential. State Government funding would need to continue for the other outlays it currently funds including the Fuel Reduction Unit (FRU), Community Education and other allied activities in the areas of prevention and mitigation. The FRU should continue to be funded from the State Budget because it principally operates on public land tenures, not on private property whose owners are liable to pay the FSC.

The Fire Service Contribution is collected by councils for which they receive a 4 per cent commission, or about \$1.6m annually. The Commission expects that additional funding could be available for fire and emergency service provision if this commission was replaced by a fee for service.

The Commission currently forgoes revenue of nearly \$2 million annually for pensioner and health care card holder concessions on the FSC and motor vehicle fire levy. These are social policy decisions of Government and legislative requirements in the Fire Service Act. Should the State Government wish to continue to provide for these concessions in the new Act they should be explicitly funded or recognised by the Government as is the case for many Government businesses.

## Outcome 4 - Governance accountability and financial management arrangements

***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.***

### Summary

The Commission and the SES are unique in Government with over 90 per cent of their workforces comprised of volunteers. Further, both organisations need to provide and fund equipment, vehicles, buildings, training etc for a total combined workforce comprising volunteers and paid employees of over 5700 people. The governance arrangements for an integrated organisation need to reflect this uniqueness and the ability of the workforce to have input into decisions affecting the Commission and SES.

It is the Commission's view that it should not continue to operate within a Departmental structure, because:

- it is more likely to continue to attract and retain an important and vital volunteer workforce as a State Authority with representation from volunteer groups on its board;
- the governing board model for fire and emergency service provision has been effective in other jurisdictions;
- a clear focus on fire and emergency prevention, preparation and response is essential which can be diluted within a department which has a broader and more complex set of functions, such as emergency management in the case of DPFEM;
- it is important for transparency and accountability that activities funded by the Commission's independent revenue sources are 'kept together' in a State Authority;
- the current governing board model has worked very well as shown by the above discussion on effectiveness and efficiency; and
- governance arrangements need to be clear and well defined, unlike at present where the accountabilities of the Secretary of DPFEM, the Chief Officer (CO) and the Commission are unclear.

These arrangements would be clarified by the inclusion of the Commission as a State Authority under the *State Service Act 2000*. The Chief Officer would then become a Head of Agency with employment powers. As such the Commission can then operate outside the current departmental structure. This would not preclude a continuation of the Commission's commercial outsourcing agreement with DPFEM for the provision of corporate services. The Commission should be recognised as one organisation with a governing board, rather than the State Fire Commission/TFS separation currently in the Fire Service Act.

The board should comprise directors who are all skills based. Some of these skills based directors would continue to be nominated by volunteer groups. One person should be nominated by each the three volunteer groups – the Tasmanian Retained Volunteer Firefighters Association, the Tasmanian Volunteer Fire Brigades Association and the SES volunteers.

Given that the Chief Officer's (CO) performance as the CEO of the organisation is critical to the performance of the Commission and the board is accountable for this performance under the State Authority model proposed, the Commission should have input into the selection of the CO/CEO.

Examples of where this occurs include Tourism Tasmania and Government Business Enterprises under the *Government Business Enterprises Act 1995*. The Commission does not see this as incompatible with the CO's appointment being made by the Premier under the State Service Act.

The Commission's powers in the new Act should be broadly defined as those required to perform its functions in keeping with contemporary legislation for several other Tasmanian statutory authorities. For example this would enable existing provisions in the Fire Service Act 1979 such as those relating to fire prevention, response and suppression and also the power to set fees and charges to be maintained and enhanced as required.

### *Governance and Financial Management Arrangements*

The following points from the second reading speech for the Fire Service Bill 1979 provides some background as to why the Commission was initially established. The reasons included:

- weak administrative capacity of the rural fires board;
- a lack of progress in fire protection plan completion after 10 years by municipal fire committees administered by local councils;
- inadequate training and equipment for volunteers;
- poor accountability of rural fires board;
- uneconomic appliance and equipment policies;
- the real possibility of a strategic or tactical failure at a major fire;
- inadequate communication systems; and
- poor accountability for urban fire brigade boards.

The above issues have all been well addressed since that time. Evidence for this statement can be drawn from recent AFAC reviews of fire events that found no fundamental issues of concern but did suggest operational improvements.

The principal elements of the 1979 Bill relating to funding and administration included:

### *Funding*

- Following a Parliamentary select committee inquiry, the Government decided that the Commission should be funded 25% from taxpayers and 75 % from property owners. The latter's contribution reflecting the gains to property owners from significantly less loss of life and property from fires. It would be raised through a levy of 4% on the AAV of properties, with AAV chosen as a proxy for capacity to pay;
- the property owner's contribution was to be collected on a commission basis by councils;
- local government was to be exempt from the levy as would be charitable institutions, but the State would attempt to charge the Commonwealth for its properties; and
- pensioners to pay no more than 50 per cent of the levy for their home.

### *Administration*

- a six person commission was proposed to replace a chief administrator, 22 urban fire brigade boards and the rural fires board.
- The Commission was to consist of a Commissioner to chair the Commission, the Director of Urban Fire Brigades, the Director of Country Fire Brigades, a person appointed on the nomination of the Under Treasurer; and two persons appointed on the nomination of the

Municipal Association of Tasmania reflecting that ratepayers would be funding 75 per cent of the Commission's outlays. This was a Tasmanian variant on the successful New Zealand model (three person Commission) that commenced in 1976. In 2017 NZ adopted an integrated model of urban and rural fire and emergency service provision;

- the head of the commission was to be a technically competent fire fighter to head both urban and rural services, with each of the latter headed by an assistant commissioner;
- the Bill also created an advisory council to advise the Commission and the Minister; and
- the introduction of centralised purchasing and standardisation of equipment, sharing of equipment and training and support facilities and buildings.

Significant amendments were made to the Act in 1981 to broaden the revenue sources of the Commission to include the insurance fire levy and the motor vehicle fire levy. The Act was further amended in 1995 to replace the Country and Urban Fire Brigades representatives on the Commission with a representative from each of the volunteer firefighter associations and the United Firefighters Union.

Regarding governance, the Uhrig report (*Review of Corporate Governance of Statutory Authorities and Office Holders* June 2003) noted that a board is the appropriate structure where government is able to provide a wide delegation and authority for the board to operate with entrepreneurial freedom. Statutory authorities whose activities are commercial in nature will generally be better suited to operate under a board. A board has the ability to add value to the governance arrangements through the application of entrepreneurial skill, objectivity, wisdom gained thru appropriate experience including in exercising judgement and authority

The Uhrig report stated that governance boards should be utilised in statutory authorities only where they can be given full power to act – internal strategy setting, supervision of management, oversight of risk and the power to appoint and terminate the CEO. In situations where it is feasible to delegate the full power to act, a board will provide an effective form of governance.

Conversely, the Uhrig report found that a board structure is not appropriate where wide ranging power to act is not provided and a narrow set of outputs is specified. A board does not provide an appropriate governance structure for statutory authorities operating in the fields of Commonwealth service provision or regulation where government generally retains control of policy and the approval of strategy. Creativity by the statutory authority is limited to finding the most efficient methods of service delivery. This a managerial not a board role.

The Uhrig report noted that statutory authorities should only be created where there is sufficient need for:

- Efficiency - a clear purpose is required to achieve objectives and it is considered beneficial to undertake functions outside the portfolio department: or
- Independence - when functions require a level of separation from Government to ensure objectivity.

Statutory authorities contribute to efficiency and independence by:

- separating specialised activities from the broader and more complex set of requirements of a portfolio department;
- providing a narrow and clearly defined range of functions the authority is to fulfil;

- establishing a degree of independence through codifying the role of the authority and defining the powers of the Minister; and
- creating a distinct body that might deal with cross portfolio matters.

The provision of fire and emergency prevention and response services through a statutory authority meets several of the above criteria. These services are specialised and clearly defined functions that can and should be kept separate from the broader and more complex activities of a portfolio department. They are also better kept independent given their reliance on funding sources external to the State Budget and the associated transparency of how the funding is applied.

The Issues Paper identified that other Australian States are reasonably equally divided between the use of a statutory authority model and a department structure to provide fire and emergency services. NSW, QLD, WA and the two Territories use a departmental structure while Victoria, South Australia and Tasmania use statutory authorities. New Zealand has recently amended its governance arrangements for the delivery of fire and emergency services through the passage of the *Fire and Emergency New Zealand Act 2017* and has retained its statutory authority model governed by a board established under the auspices of its *Crown Entities Act 2004*. It has combined the urban and rural, paid and volunteer operations, fire and emergency services into one integrated service.

**Table 5: Governance Arrangements for other Tasmanian statutory authorities**

	Commission	TasTAFE	Macquarie Point Development Corporation	Integrity Commission	Tourism Tasmania
Act	Fire Service Act 1979	Training and Workforce Development Act 2013	MPDC Act 2012	Integrity Commission Act 2009	Tourism Tasmania Act 1996
Significant independent funding sources	Y	Y	N	N	N
Independence needed	N	N	Y	Y	N
Governing board	Y	Y	Y	Y	Y
Board skills specified in Act	N	Y	N	Y	Y
CEO appointed by Board	N	N	N	N	N*
CEO skills specified in Act	Y	N	N	N	N
CEO on Board	Y	N	N**	N	Y
State Authority under the <i>State Service Act 2000</i>	N	Y	Y	Y	Y
Undertakes some commercial functions	Y	Y	Y	N	?
Broad definition of powers	N	N	N	Y	Y***

\*Board is to be consulted on the appointment

\*\* s18 Act provides for this possibility

\*\*\* With limitations in respect of the formation of a company, joint venture etc

Table 5 above shows that a State Authority model established under the State Service Act 2000 is frequently used elsewhere in State Government where an entity requires independence from Government, or has independent funding sources, or undertakes some commercial operations. This model is part way between a department that is Budget funded and generally does not conduct

commercial operations and Government businesses which have a primary commercial focus and are principally funded by revenue from their commercial activities.

The Commission and SES are unique in Government with over 90 per cent of their workforces comprised of volunteers. Although these volunteers are largely unpaid, the Commission and the SES need to provide and fund equipment, vehicles, buildings training etc for a combined paid and unpaid workforce of over 5700. Their governance arrangements need to reflect this uniqueness.

It is the Commission's view that it should operate as a State Authority with a governing board and should not operate within a Departmental structure, because:

- like other State Authority models created within the Tasmanian Government it has some small commercial operations and relies on funding sources predominantly outside of the State Budget;
- a clear focus on fire and emergency prevention and response is required which can be diluted within a department;
- it is important for transparency and accountability that activities funded by these independent revenue sources are 'kept together' in a statutory authority;
- volunteers comprise over 90% of the Commission and SES workforce, it is essential that they are not 'lost' within a department structure;
- the current governing board model has worked very well as shown by the above discussion on effectiveness and efficiency; and
- it is unique in Australian jurisdictions with the successful provision of an integrated urban and rural, paid and volunteer fire service for nearly 40 years.

In other jurisdictions there may be a problem with representative boards because members can have conflicts of interest between those of their nominating organisation and those of the authority they are meant to be governing. This can lead to a failure of independent, critical and objective thinking. The Commission is not a representative board. The Fire Service Act does not provide for Commission members to be appointed as representatives of their organisations. They are nominated by their organisations. There is a big difference. In practice the Commission operates collegiately rather than as a collection of competing interest groups. This is reinforced in the following extract from the Commission's governance charter in relation to the role of Commission members:

"A Commission member's fiduciary responsibility is to the Commission to achieve the best outcomes for the TFS. Commission members are encouraged to voice their organisation's view and perspectives. However, they should endeavour to reach a balanced point of view using their judgement in regard to what is best for the Fire Service when voting decisions are taken."

The Commission's preference is for its membership to be appointed having regard to the skills and knowledge it requires to perform its functions. Some of these skills would be provided by nominees from volunteer associations given they provide over 90 per cent of the workforce and have a vital role in basic fire response. One person should be nominated by each the three volunteer groups – the Tasmanian Retained Volunteer Firefighters Association, the Tasmanian Volunteer Fire Brigades Association and the SES volunteers.

The Commission considers that the skills required by the Board should be specified in legislation, as is generally the case for other Tasmanian statutory authorities as shown in table 5 above. The knowledge and skills required to enable the Commission to perform its (expanded) functions could include:

- expertise in fire and emergency prevention, preparation and response;
- business skills, corporate governance, financial management, legal;
- strategic planning expertise;
- community skills – eg volunteers with skills in fire and emergency prevention, preparation and response; and
- community skills – those with expertise in volunteering and the development of community resilience more generally.

The enabling legislation for TasTAFE – part 5 of the *Training and Workforce Development Act 2013* provides a contemporary governance model that could be used to help draft the new legislation in relation to the Commission's role and functions. The *Fire and Emergency New Zealand Act 2017* provides another example of the objectives and functions (s 10, 11, 12) of an integrated fire and emergency service organisation with oversight by a governing board that would usefully inform the preparation of drafting instructions for the new Act.

The issues paper notes that the Chief Officer (CO) is accountable to both the Commission and the Secretary. The accountability to the Secretary arises under the *State Service Act 2000* because the CO is not a Head of Agency under that act and does not have employment powers. Any role for the Secretary should be at arm's length. To do otherwise is to create an accountability muddle with both the Secretary and the Commission responsible for fire and emergency prevention and response. The Minister may wish to seek advice from the Secretary regarding the Commission's activities. This already occurs with Government businesses where Ministers seek departmental advice on the strategic direction, financial arrangements, restructure, sale etc of these businesses. However, these departments have no role, statutory or otherwise, in respect of the governance of these businesses, it is advisory only.

The Commission's view is that it should not be operating within a departmental environment. The inclusion of the Commission as a State Authority in Schedule 1 of the State Service Act will provide the CO with employment powers and enable the Commission to operate outside a departmental structure.

The Commission currently has a commercial outsourced agreement with DPFEM for the provision of corporate services. The proposed operation of the Commission outside of a departmental environment should not preclude a continuation of these outsourced arrangements for corporate services.

The CEO is generally not on the board of other Tasmanian State Authorities as shown in table 5 above, and most Tasmanian Government businesses. This should also be the case for the Commission.

The CO/CEO needs to have the skills required for the effective performance of the Commission's functions. This does not necessarily mean that they should be expert in fire and emergency prevention and response. They should have a strong understanding of the area and have the managerial skills to effectively deliver the Commission's functions. These skills do not need to be specified in legislation.



This is generally the case for other statutory authorities as shown in table 5 above and many Government businesses where CEO skills are not specified.

A governing board is generally responsible for the review of strategy and policy, external accountability, monitoring the performance of the organisation and appointing the CEO. The performance of the CO as the CEO of the organisation is critical to the effective delivery of the Commission's functions. If the Commission is accountable for its performance as proposed, it needs to have input into the appointment of the CO. The Commission recognises that the CO is appointed as a State Service Officer by the Premier and that the Commission does not have, or wish to have, an employment power. This should not preclude Commission representation in the selection of a CO. Board input into the selection of the CEO appointed under the State Service Act is understood to occur for other State Authorities that do not have an employment power and where Board input on CEO selection is not specified in legislation. GBE boards have a significant role in the selection of the CEO as specified in the *Government Business Enterprises Act 1995*.

The Commission's powers in the new Act should be broadly defined as those required to perform its functions, in keeping with contemporary legislation for several other Tasmanian statutory authorities. These include the Integrity Commission, Tourism Tasmania, the Economic Regulator and the Superannuation Commission. For example, this would enable existing provisions in the Fire Service Act 1979 such as those relating to fire prevention, response and suppression and the power to set fees and charges to be maintained and enhanced as required. Similarly, the broad definition of powers proposed above would enable the Commission to choose the most effective medium for advising the public regarding days of total fire ban, rather than being required to use tv, radio and newspapers under s70 of the FSA.

The State Fire Management Council (SFMC) performs a valuable role in respect of vegetation fire management. It should be an advisory body to the Commission not the Minister as at present. The current arrangement muddles accountability. As an advisory body, its membership does not need to be specified in legislation. The Commission's powers should be broad enough to create advisory bodies with the appropriate skills where required.

It is the Commission's view that the FRU should remain part of the Commission given its important role in fire prevention. It should continue to be funded from the Budget because it principally operates on public land tenures, not on private property whose owners are liable to pay the FSC.



### *Naming dichotomy*

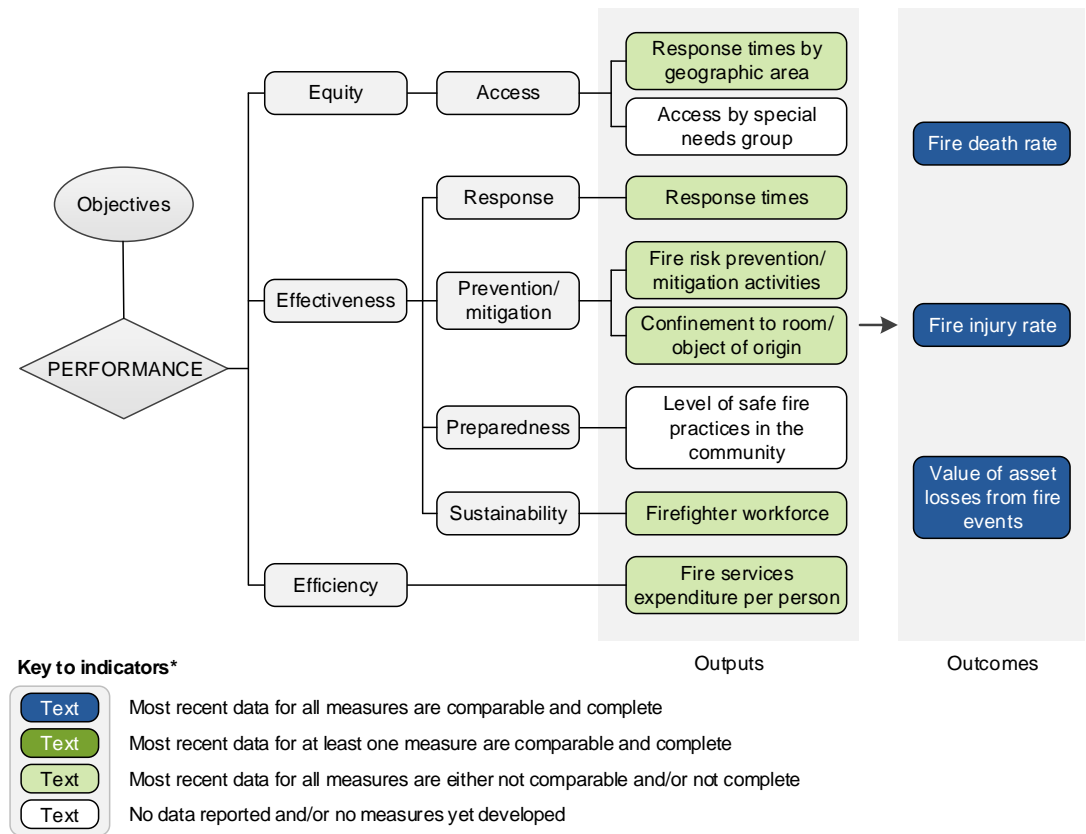
The new legislation should address the current Commission/TFS naming dichotomy which is unhelpful. It is one organisation with oversight by a governing board – its name should reflect that. For example, TasTAFE is the name of the entity which has a governing board. The name of the new entity will also need to reflect the SES activities if integration is adopted by Government.

Rod Sweetnam

Chair State Fire Commission

September 2018

Figure 9.1     **Emergency services for fire and other events performance indicator framework**



\* A description of the comparability and completeness of each measure is provided in indicator interpretation boxes within the chapter

Source: Productivity Commission Report on Government Services 2018

## Attachment 2

## Glossary

<b>AFAC</b>	Australian Fire and Emergency Services Council Ltd
<b>CEO</b>	Chief Executive Officer
<b>CFA</b>	Country Fire Authority
<b>CFA ACT</b>	Victorian Country Fire Authority Act 1958
<b>CO</b>	Chief Officer
<b>COMMISSION</b>	State Fire Commission
<b>DPFEM</b>	Department of Police, Fire and Emergency Services
<b>FRU</b>	Fuel Reduction Unit
<b>FSC</b>	Fire Service Contribution
<b>MVFL</b>	Motor Vehicle Fire Levy
<b>NSW</b>	New South Wales
<b>SES</b>	State Emergency Service
<b>SFMC</b>	State Fire Management Council
<b>TFS</b>	Tasmania Fire Service
<b>WFF</b>	Wildfire Fighting
<b>WLF</b>	WLF Accounting and Advisory