



Issues Paper

Review of the *Fire Service Act 1979*

June 2018

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Purpose of the Review

The Fire Service Act was proclaimed in 1979 following the amalgamation of the Rural and Urban Fire Services into the Tasmania Fire Service (TFS). The Act has never been comprehensively reviewed since proclamation. Over the years, the current legislative framework has become fragmented, overly complex and process driven. A comprehensive review of the Act and all subordinate legislation is now considered timely. The aim is to simplify and modernise the legislation to be more reflective of how TFS and the State Fire Commission serve the community today.

Review Scope

The deliberately wide Terms of Reference for this Review provide the opportunity to make broad ranging recommendations to enhance the operation of TFS and the State Fire Commission and to deliver benefits to the community. In accordance with the Terms of Reference the Review will focus on four main outcomes:

Outcome 1: that TFS has a clear mandate and operating platform for the functions it performs, and that it is clear how those align with functions performed by other emergency services providers, in particular, the State Emergency Service (SES). This will include analysis of any gaps or overlays in the delivery of any TFS / SES services and identify the future role and functions for TFS / SES.

Outcome 2: that the Commission and TFS are organised and operating as effectively and efficiently as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation and will provide value for money in the future.

Outcome 3: that there is sustainable, stable and equitable funding for TFS and SES, with the sources of that funding aligning with the functions that they need to perform.

Outcome 4: that governance, accountability and financial management arrangements for the Commission are renewed to facilitate the most effective management of the Commission's resources and the meeting of community and government expectations.

The complete Terms of Reference are at Appendix A.

Submissions

The Steering Committee will engage with all interested stakeholders. Given how important the fire service is to Tasmania, it is important that the wide range of people and organisations impacted by, or involved in, the fire service have their say about the future of the sector. These include the public, firefighters, members of rural communities, workforce representatives, community members and representatives, businesses, forest, land and farm owners and their representatives, people who pay fire levies or insurance, local government and fire and emergency service providers.

Extensive consultation will be held following the release of both this Issues Paper and the Draft Report including forums, written submissions and feedback from interested parties. Further advice on the Review and its progress, including consultations, will be posted regularly on the Review website: www.fire.tas.gov.au.

This Issues Paper provides guidance on making a submission. There are a series of high level questions throughout the document that seek views on the overall direction of the Review. There are also questions on particular issues that may assist the focus of submissions. It is not expected that all submissions will cover all issues – the Issues Paper has been written to allow you to focus on areas of particular interest. Nor should your submission be limited by the issues or questions contained in this Issues Paper. The Committee wants to hear from all interested parties on any issues that affect the delivery of fire and emergency services in Tasmania.

A number of possible amendments to the Act have been suggested that have not been discussed in the Issues Paper. The Review Team is keeping a detailed register of these issues and they will be considered at an appropriate stage of the Review process. It is important to note that the revised legislation will not be intended to cover every policy decision, nor will it contain details around how policy will be implemented. These details may be managed at an operational level through policy, doctrine and procedures.

Formal submissions may be lodged in the following ways:

By email to Act.Review@fire.tas.gov.au or

By mail to:

Fire Service Act Review
GPO Box 1526
HOBART TAS 7001

Submissions close on 7 September 2018.

What will happen to your submission?

The Steering Committee will publish the submissions it receives and provide a summary of them on the Review web page. This would include your name or the name of your Organisation but not your contact details. Submissions may be subject to a request to the Department under the *Right to Information Act 2009*. Personal details can be withheld under this Act.

Tasmania Fire Service Context

Tasmanian firefighters have served the Tasmanian community since the earliest days of European settlement. Maintaining a legislative responsibility since 1883, the present day Tasmania Fire Service (TFS) was established by the *Fire Service Act 1979* which establishes the State Fire Commission (the Commission) as a Crown entity and the TFS, as the operational arm, for which the Commission is responsible.

The workforce consists of a mix of career, retained ¹ and volunteer members and support staff. As at December 2017, there were 4090 volunteer fire-fighters, 319 career firefighters and 120 support staff². There are over 230 brigades throughout the state.

TFS career workforce provides a multifaceted service. Strategic risk reduction planning, all-hazard response, community education and organisational governance are key service delivery areas. TFS operational personnel are equipped and trained for structural firefighting, bush firefighting, vehicle and transportation incidents, road crash rescue, urban search and rescue, hazardous materials and the effective deployment of resources and information through the fire communication centre. Importantly, the community fire safety personnel contribute directly to the resilience of the State through education and community engagement. It is important that the governing legislation supports and reflects this multifaceted service.

The TFS assists the community to reduce the incidence and impact of unwanted fires, and to empower people to act safely when fire threatens. TFS pursues these goals through:

- advertising and publicity, training and community development programs
- emergency warnings
- the sale and maintenance of fire protection equipment
- the development and promotion of community protection plans, and
- monitoring and administering the application of fire safety legislation, codes and standards.

The TFS undertakes emergency response through its career brigades in Hobart, Launceston, Devonport and Burnie and its volunteer brigades throughout the State with support from trained non-operational staff. Emergency call receipt and dispatch of fire brigades are centrally managed through FireComm which is located in Hobart. Training is provided to both career and volunteer firefighters enabling them to be safe and effective members of TFS. Training is delivered on-station, in local venues and at TFS' hot-fire training facilities at Cambridge, Launceston and Burnie.

¹ Members of retained brigades receive a small payment to compensate for the inconvenience and expenses due to the level of brigade risk and activity.

² This does not include support staff previously located in TFS and who have transferred into Business and Executive Services as part of the Departmental integration of Corporate Services.

In addition to responding to fire incidents the State Fire Commission now financially supports the State Emergency Service. These arrangements build upon existing relationships between volunteer organisations across the broader Emergency Services spectrum, and reflect the close alignment and opportunities for synergies in the delivery of these services.

Volunteers are multi-skilled and undertake a range of planning and prevention activities to ensure communities are ready for the impact of fire. Importantly they respond, in conjunction with career firefighters, to incidents and emergencies within their respective communities. Indeed, volunteers are the very fabric of the community and their commitment of time and effort in maintaining competence and training levels promotes a sense of teamwork, respect and community spirit.

Establishing a Clear Mandate and Operating Platform

This section examines how a clear mandate and operating platform can be established for TFS and the functions it performs. It discusses the following:

- problems identified with the current Fire Service Act
- the issue of mandate, and
- how better coordination and collaboration across the emergency services can be achieved.

CONTEMPORARY GOVERNING LEGISLATION

The *Fire Service Act 1979* was enacted “to amalgamate fire services in the State, to consolidate and amend the law relating to preventing and extinguishing fires and the protection of life and property from fire, to make provision with respect to incidental matters, and to amend and repeal certain enactments.”³ In the 38 years since the proclamation of the Act, TFS has been through a significant change management process to integrate Tasmania’s urban, rural, volunteer and career services. No other jurisdiction in Australia has managed to achieve this level of integration for the fire services.

The current model of integration represents structural and management efficiency that is highly respected across fire and emergency services nationally and is a significant achievement. There will be, at the direction of the government, no consideration of a reversion to an urban/rural fire service.

The State Fire Commission’s primary purpose is to minimise the social, economic and environmental impact of fire on the Tasmanian community⁴. This will be achieved through TFS implementing strategies to develop community self-reliance to prevent and prepare for fires, supported by a timely and effective response to emergencies. However, the TFS is also responsible for road accident rescue in assigned areas, managing incidents

³ *Fire Service Act 1979*, Long Title.

⁴ Section 8


involving hazardous materials, undertaking urban search and rescue (USAR), and providing a response to terrorist incidents involving chemical, biological and radiological agents. As noted by the House of Assembly Standing Committee on Community Development's Inquiry into the State Fire Commission, the Act does not currently reflect the contemporary operations of firefighting and emergency management in Tasmania. TFS also provides national and international response to wildfires and other emergencies in other states of Australia and internationally. The consequences of these changed expectations are increasing commitments in terms of resources, training and on-going support for non-fire services.

The additional roles and functions that the TFS now undertakes which were not foreseen when the Act was written has led to a wider range of service delivery being expected by the community which in turn puts increasing pressure on the organisation to respond and highlights the deficiencies in the supporting legislative framework.

Societal expectations have also changed since the 1970s when the Fire Service Act was enacted. For example, there is new legislation on resource and land management, local government, employment and workplace health and safety accountability and responsibility. These expectations put TFS under increasing financial pressure and the prescriptive nature of its legislation makes it difficult for TFS to change to meet these expectations in innovative and more flexible ways.

The existing legislation is complicated, unwieldy, confusing and out dated. This is due in part to its creation in an era of prescriptive and over-detailed legislation. However, ad hoc drafting of amendments has also contributed to the confusing nature of the legislation.

There is therefore an overwhelming need to modernise and contemporise the legislation. This will be one of the key outcomes from this Review process.

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|  | 1 | Should the purpose of the legislation more accurately reflect the range of activities undertaken? |
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EMERGENCY SERVICE LEGISLATIVE ENVIRONMENT

The Fire Service Act also impacts on a range of other, often more modern legislation. Any changes to the Fire Service Act will need to take into account possible implications for other legislation. Conversely, the impact of relevant provisions in other legislation will need to be considered during the Review process. A list of relevant legislation is at Appendix B.

VALIDATING THE MANDATE OF THE TASMANIA FIRE SERVICE

As noted above, the *Fire Service Act 1979* was enacted “to amalgamate fire services in the State, to consolidate and amend the law relating to preventing and extinguishing fires and the protection of life and property from fire, to make provision with respect to incidental

matters, and to amend and repeal certain enactments.” The Act established the Tasmania Fire Service, which is under the control of the State Fire Commission.

Section 8 of the Act specifies the functions and powers of the Commission which include:

- coordinate and direct the development of fire services throughout the State
- develop effective fire prevention and protection measures
- develop and promulgate a State fire protection plan
- establish and maintain training facilities for brigades
- conduct investigations into fires, and
- advise the Minister on matters relating to the administration of the Act.

Section 77A states that the operating costs of all brigades shall be defrayed out of contributions to be paid to the Commission by insurance companies, the Treasurer and local councils.

In addition, Section 41 of the Act currently provides for a brigade chief, with the approval of the Chief Officer, to employ or allow to be employed any brigade under his command in the performance of services other than fire-fighting and section 40 allows for a brigade chief to use the brigade under his command to render assistance in respect of a civil emergency. Civil Emergency is defined in the Act to include:

- (a) the escape or potential escape of a non-flammable gas, chemical or other potentially hazardous substance
- (b) the flooding of a building or public place
- (c) the stranding or entrapment of a person or animal, and
- (d) such other dangerous or potentially dangerous circumstances as may be prescribed.

In 2016-17, TFS members attended 1,299 bushfires, 548 structural fires, 78 Road Crash rescues and 1,143 Motor Vehicle Accidents.⁵


As it stands at the moment, the Act does not reflect the wide variety of roles that the TFS undertakes.

⁵ For TFS, Road Crash Rescues are Motor Vehicle Accidents where Road Crash Rescue Equipment is used to gain access to the driver or passenger.

Lack of a clear mandate of TFS to respond to non-fire emergencies

The limited discretion for TFS to attend and to respond to non-fire emergencies presents a number of problems:

- under current legislation broad interpretation is required to allow TFS to prepare for, or respond to, non-fire emergencies.
- no person or agency is formerly authorised to establish service delivery standards for the type of response provided at these non-fire emergencies.
- greater clarity is required as to the authority to expend funds on training and equipment intended solely for the purpose of responding to non-fire emergencies.
- there may be confusion with other emergency service providers as to which is the mandated agency at an incident.
- In the event that there is no response, or a delayed or ineffective response, to a non-fire emergency, no-one can be held to account for the failure to deliver the service.

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|  | 2 | How should legislation validate the delivery of the current range of non-fire services that communities and government expect TFS to deliver? |
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Emergency Medical Response


One further area that could be considered for inclusion in a TFS mandate is Emergency Medical Response.

TFS has, over the past few years, initiated medical response arrangements in the form of supporting Ambulance Tasmania's Early Access to Defibrillator Program and its own Emergency Medical Response in rural and isolated areas. These are characterised as "Community First Response". TFS has supported the purchase of Automatic External Defibrillators (AEDs) by its volunteers and has trained and assisted in equipping willing volunteer firefighters to respond to emergency medical incidents. This is an "opt-in" program for brigades and their members. Currently 65 TFS brigades are considered approved Medical Brigades. In 2016-17, these brigades responded to 59 emergency Medical call outs.

Firefighters, mainly in urban areas, are also called to "Ambulance Assist" calls. However, these incidents are generally of a support nature.

There may be benefits in appropriately trained firefighters undertaking more formalised response programs to initiate pre-hospital care on suitable patients before a higher medical authority arrives to intervene.

Emergency Medical Response would utilise firefighters to respond to medical emergencies if they are available, close, trained and equipped to attend. Unlike Community First Response, Emergency Medical Support is designed to be utilised where Ambulance resources already exist.

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|  | 3 | Do TFS firefighters have a role in Emergency Medical Response and, if so, should that role be reflected in legislation? |
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INTEGRATION OF THE STATE EMERGENCY SERVICE

Throughout Australia there is a wide variety of structures for emergency services. These are more fully outlined in Appendices C and F.

As part of the 2014 state budget, the Minister announced that there would be a change for TFS and SES in that the SES Director would report to the TFS Chief Officer rather than the Secretary of the Department of Police, Fire and Emergency Management⁶.

Annual resourcing for the SES is now incorporated into the State Fire Commission budget.

The House of Assembly Standing Committee on Community Development's Inquiry into the State Fire Commission noted that the *Fire Service Act 1979* should recognise the State Emergency Service and incorporate sections of the Emergency Management Act.⁷


Provisions regarding the SES are currently contained in the *Emergency Management Act 2006*. Division 4 Part 2 of that Act outlines the functions of the SES and the function and powers of the Director SES including the power to establish and maintain volunteer units and training facilities.

Already, the SES and TFS work together and have many synergies; both have a large pool of dedicated volunteers, respond to emergency incidents, operate within the same regional boundaries and have many collocated premises. SES has 31 premises which are owned by councils, TFS, Ambulance Tasmania or Tasmania Police. 13 of these premises are collocated with TFS. In 2015, SES moved into the new Devonport Police Station and there may be more opportunities for the sharing of facilities in the future.

Many initiatives for closer collaboration and resource sharing have already been identified within the areas of emergency management policy and planning, operations and training, facilities and assets, learning and development and community education and awareness. In addition, the SES and TFS volunteers now have the opportunity to benefit from the additional support of the collective SES and TFS volunteer management system.

⁶ Issues concerning governance arrangements are discussed more fully on page 15 ff.


⁷⁷ House of Assembly Standing Committee on Community Development Inquiry into the State Fire Commission 6.40.

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|  | 4 | Should the State Emergency Service be included in the new legislation and removed from the Emergency Management Act in order to support personnel in emergency management? |
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VOLUNTEERS

The House of Assembly Standing Committee on Community Development's Inquiry into the State Fire Commission noted that volunteer firefighters are at risk of being undervalued and underrated and recommended that the Government should use best endeavours to ensure the full acknowledgement and recognition of these services.⁸

Volunteers provide critical fire and rescue cover in rural townships and smaller more remote communities. Volunteers also provide contingent capability in urban centres in support of career brigades. In some classes of emergencies, such as road crash rescue, volunteers attend the majority of call outs. Volunteer brigades comprise approximately 90 per cent of the total TFS brigades and personnel. The Fire Service Act makes provision for the establishment of Brigades that may be permanent, composite or volunteer⁹ and outlines the powers and functions of brigade chiefs. It has been suggested that the revised legislation should contain a statement of commitment to volunteers and require a framework for consultation to be developed with volunteer Associations and their members to promote the contributions made by volunteers to the safety of their communities.

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|  | 5 | Should a statement of commitment to volunteers be included in the new legislation and, if so, who and what should it cover? |
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OTHER FIRE AGENCIES

TFS is recognised as a leader nationally in the area of interoperability. Protocols¹⁰ with key land management agencies – Sustainable Timber Tasmania (STT) and Parks and Wildlife Service (PWS), together with TFS/Tasmania Police Bushfire Arrangements¹¹ are strong evidence of operational efficiency and effectiveness in ensuring excellent and efficient service is provided to the Tasmanian community.

The Fire Service Act makes specific reference to forest and national parks officers and conveys powers to those officers.¹² There is no consistency between the two sets of powers. Forest officers have greater and wider ranging powers than employees of PWS.

⁸ Recommendation 9

⁹ *Fire Service Act 1979* Section 26.

¹⁰ *Inter-Agency Fire Management Protocol 2017-18*. This is the fourteenth edition of the Protocol which is the operating agreement between the three organisations most closely involved with the management of bushfires in Tasmania.

¹¹ *Joint Bushfire Arrangement Tasmania Fire Service and Tasmania Police 2017-18* outlines the joint arrangement for TFS and Tasmania Police to prepare and respond to bushfires.

¹² Sections 43 and 45.

This reflects the history of the then Forestry Tasmania and the PWS, the different ways in which their involvement in fire management and suppression evolved and the different times at which these roles were set out in legislation.

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

The powers of a forest officer are set out in section 43 of the Act are more comprehensive, but still closely defined. A forest officer may:

- Enter upon any land in, or within three kilometres of the boundaries of, any State Forest to ascertain whether a fire is burning and to take action to control or extinguish any fires so burning, and
- When present at a fire at which there is not present a person having supreme charge of the operation of extinguishing the fire may, if he considers the fire a threat to any State Forest or Crown Land, assume charge of extinguishing or controlling the fire.

A forest officer has no legislative authority to initiate works as a first responder, or to direct others to undertake work in connection with a fire which is not, in his opinion, a threat to State Forest or Crown Land.

A brigade chief has more comprehensive powers than a forest officer who has, in turn, more comprehensive powers than an authorised national parks officer. In the case of a PWS employee the critical powers which are lacking are a subset of those by brigade chiefs which include:


- Shutting off or disconnecting gas, electricity or other forms of energy
- Remove or destroy vegetation or flammable material in the vicinity of a fire
- Make firebreaks, and
- Cause access to any place threatened or likely to be threatened by fire to be made or improved.¹³

Therefore, it appears that advances in inter-agency cooperation which have been enshrined in the Protocols and demonstrated by the establishment of Inter-Agency Incident Management Teams have outstripped the provisions of the Fire Service Act. This

¹³ Fire Service Act Section 29(3)(i), (j), (k) and (l)

is further evidenced by the Fuel Reduction Program which sees the three Agencies cooperating in a tenure blind approach to bushfire risk mitigation.

This is also apparent through the issue of traffic management at incidents. Section 47 of the Act states that a police officer can close and regulate the use of roads in the vicinity of a fire. TFS may close roads but are not legislated to regulate traffic and PWS officers have no authority to close roads, other than reserved roads on reserved land. This can be an issue when PWS officers are managing a fire in a remote location where Tasmania Police are not on site. This is also an issue for STT officers managing fires on their land.

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|  | 6 | Should the legislation provide PWS and forest officers with appropriate legislative authority to undertake fire control work and reflect contemporary Tasmanian practice in relation to Inter-Agency Incident Management? |
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Governance Arrangements

The House of Assembly Standing Committee on Community Development's Inquiry into the State Fire Commission recommended, inter alia, that the governance arrangements of the State Fire Commission should be included in the reform of the governing legislation.¹⁴ An organisation structure chart for the Department is at Appendix D and a diagram of the current governance arrangements is at Appendix E.

GOOD GOVERNANCE IN THE TWENTY FIRST CENTURY

Corporate governance describes the processes and structures for overseeing the direction and management of an enterprise so that it effectively achieves its objectives. Good corporate governance practices have the potential to enhance business performance, improve risk management and augment business integrity and reputation.¹⁵

In the public sector, corporate governance is also concerned with the interaction of the enterprise and Parliament, the Minister, and board of directors (or Commissioners) in stewardship and accountability matters.¹⁶

There is no universal formula for good corporate governance. Organisations vary considerably in size, complexity and ownership structures and operate in varying business environments, so that each must develop, using the appropriate legislative framework, the corporate governance structure that best meets its needs. In short, one size does not fit all. Often a structure highly suitable at a point in time becomes less suitable as the organisation evolves.

The ASX Corporate Governance Council's eight corporate governance principles and recommendations form the basis of good corporate governance practices that can be adopted by authorities even though they were developed for listed companies.¹⁷ The Principles are:

1. Lay solid foundations for management and oversight
2. Structure the board to add value
3. Promote ethical and responsible decision making
4. Safeguard integrity in financial reporting
5. Make timely and balanced disclosure
6. Respect the rights of shareholders (owners)
7. Recognise and manage risk
8. Remunerate fairly and responsibly

A full discussion on the ASX Principles and Recommendations can be accessed at <http://www.asx.com.au/documents/asx-compliance/final-revised-principles-complete.pdf>.

¹⁴ Recommendation 10

¹⁵ Department of Treasury and Finance, *Corporate Governance Principles*, October 2008, p. 1

¹⁶ *ibid*

¹⁷ ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations*, August 2007.

ROLE OF THE MINISTER


The role of the Minister is established by the legislative framework. Under the Act the Minister has the power to direct the Commission regarding the performance and exercise of its functions and powers as defined in the Act. This is because, under our Westminster system of government, Ministers act in the public interest and are accountable to Parliament.

The Ministerial Charter¹⁸ outlines relevant government policies, including the Government's current objectives and expectations as to how the Commission should conduct its operations. The Commission responds with the preparation of a Corporate Plan for endorsement by the Minister and the subsequent issue of a Statement of Corporate Intent.

STATE FIRE COMMISSION AS A STATUTORY AUTHORITY

While the Commission is a statutory authority under the *Fire Service Act 1979*, it is not recognised as a statutory authority under the *State Service Act*. As such, the Chief Officer TFS is not a Head of Agency and, for State Service matters, reports to the Secretary of the Department of Police, Fire and Emergency Management (DPFEM). In effect, the Secretary has delegated a range of functions and powers to the Chief Officer, but the Secretary retains ultimate responsibility.

The Commission's status as a Statutory Authority allows it to be scrutinised by the Minister, the Parliament and the Auditor-General. More informally, there are other forms of scrutiny including analysis by academics, and the media as well as by sections of the community affected by the operations of the Commission. Its status as a statutory authority reflects a decision by Government, and legislated by Parliament, that it was deemed desirable for the Commission to operate outside a traditional departmental structure. As a general rule, the services provided by a statutory authority remain the same regardless of the government of the day. The boards of statutory authorities tend to be governing boards, that is, they are decision makers for the organisation they govern and are held responsible for those decisions. In the case of the State Fire Commission, many of its powers and functions have been delegated to the Chief Officer or are in fact governed independently of the Commission through delegations to the Secretary under the *State Service Act*.

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|  | 7 | Should the State Fire Commission remain as a Statutory Authority? |
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¹⁸Fire Service Act Part VA Division 1

GOVERNANCE ARRANGEMENTS – STATE FIRE COMMISSION

As stated above, the Commission is currently a statutory authority created under the *Fire Service Act 1979*. The TFS is the operational arm of the Commission, delivering services to the community through career and volunteer brigades and Community Fire Safety.

The portfolio Minister must issue a ministerial charter specifying his or her broad policy expectations for the Commission, and the processes for developing corporate and strategic plans.

The Commission has many attributes of a governing board but does not neatly conform to a specific board category despite it being assessed as a policy board operating in an area of whole of community effect.¹⁹ According to the Government Board Policy a Policy/Review/Specialist Board is characterised by:

- the predominate influence of the Board is on policy direction
- its employees are employed under the State Service Act 2000
- budgetary freedom is constrained by a public service department
- it is subject to Ministerial direction
- it directly advises government on substantive Government policy issues, and
- requires specialist professional appointees.

While some of these characteristics apply to the State Fire Commission, others do not. It is not easy to categorise which characteristics specifically apply to the SFC and which do not. For example, the Commission can influence policy but under the Act it also has responsibility for many operational aspects of TFS.


Again, according to Government Board Policy, the nature of Board accountability for a Governing Board is:

- it has its own Act
- it sets its own policies
- it is subject to broad Ministerial direction
- the CEO is accountable to the Board
- it has a financial impact on the State Government

¹⁹ Sizing Statement State Fire Commission, Department of Premier and Cabinet

- Directors are fully accountable for the actions of the Board and organisation
- It is not a trading enterprise
- Funds are predominantly provided by Government.

Again, while some of these characteristics apply to the Commission, others do not.

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|  | 8 | Should the State Fire Commission have the role of a governing Board? |
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MEMBERSHIP OF STATE FIRE COMMISSION

The Commission currently consists of:

- (a) An independent Chair²⁰
- (b) the Chief Officer
- (c) a person nominated by the United Firefighters Union (Tasmania Branch)
- (d) a person nominated by the Retained Volunteer Firefighters Association
- (e) a person nominated by the Tasmanian Volunteer Fire Brigades Association
- (f) a person nominated by the Secretary of the responsible Department in relation to the *Public Account Act 1986*
- (g) 2 persons nominated by the Local Government Association of Tasmania

As such, the Commission is largely composed of nominees of interest groups, particularly employee associations and local government, which is inconsistent with it exercising the role of a governing board. There is the potential for these appointees to be primarily concerned with the interests of those they represent rather than the best interests of the Commission/TFS. Representative Boards can create tension between the needs of the whole organisation as opposed to the needs of the constituency they represent. This often exhibits itself in conflicts between the need of the Board to operate in confidence and demands from constituencies for reporting back.

However, representative boards can have some strengths. Through personal connection to the fire-fighting industry directors can be committed and enthusiastic contributors and a healthy diversity of views and experience is possible. Having directors that are respected within their constituencies can provide credibility and ownership amongst stakeholders and may be able to predict whether management strategies and proposals will be acceptable to stakeholders.

²⁰ The Independent Chair was created by the *Fire Service (Amendment) Act 2016*. Prior to this amendment, the Chair of the Commission was the Chief Officer, TFS.

An alternative would be for the Commission to be constituted by members appointed for their particular skills and/or experience. Skills based Boards are composed of members who possess the skills and knowledge to provide effective oversight and to identify and assist in meeting the strategic priorities of the organisation. A skills based board can still maintain links with stakeholders without having representative directors. This could include strengthening the board's visibility and presence in communication with stakeholders, involving stakeholders in strategic planning or undertaking CEO-board member stakeholder visits.

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| ? | 9 | Should members of the Commission be appointed as representatives of their organisation or on the basis of skills/knowledge that they possess? |
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SCOPE OF THE STATE FIRE COMMISSION

The *Fire Service Act 1979* was written to bring urban brigades and rural brigades together administratively. There is now a need to move beyond this narrow focus. The current scope of the Commission is a mix of strategic and narrow operational roles and functions. For example, one role is to formulate policy in respect of the administration and operation of the Fire Service while another is to standardise fire brigade equipment throughout the State. The current scope of the Commission does not provide explicit recognition of the TFS as a prevention and preparedness entity rather than merely a response entity. The Commission's role as a conduit to the Minister, in providing high level governance, financial and strategic oversight is not explicit.

It has been discussed previously whether or not the SES should be removed from the Emergency Management Act and included in the reformed legislation. If this is the case, then some consideration will need to be given to whether the powers and functions of the Commission are expanded to include responsibility for the SES. As it stands at the moment there is potential tension in determining how far the Commission or the Chief Officer should become involved in the operations of the SES.

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| ? | 10 | What should be the State Fire Commission's role and function and should it include the strategic policy setting and administrative oversight of the State Emergency Service. |
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THE ROLE OF THE SECRETARY OF THE DEPARTMENT²¹

Under the *State Service Act 2000*, the Secretary of the Department is the Head of Agency, the powers and functions of which are set out in section 34 of the *State Service Act*. The Head of Agency is responsible for the efficient and effective running of the Government Department. In the case of DPFEM, the Secretary has ultimate responsibility for Police, TFS, SES and Forensic Science Service Tasmania (FSST). The Secretary is able to delegate a range of his powers and functions to other officers (for example the Chief Officer TFS) but he can also rescind these delegations at any time. The Secretary is not able to delegate his power of delegation, the power to terminate a State Service employee or the power to appoint senior executive officers.

The Secretary has to reconcile a range of competing priorities, including providing support to the Minister and the Government in fulfilling their policy objectives, evaluating the effectiveness of policy, evaluating the performance of the portfolio in achieving government priorities as well as providing a range of services. The Secretary and the department are the Minister's principal source of advice on the performance of the portfolio and on emerging risks. The Secretary also facilitates liaison between the Commission and the Minister and between the Commission and central agencies.

Under the current legislative framework, there is no formal mechanism for the Secretary and the Commission to manage the relationship to ensure the objectives of Commission and the Department are aligned. A Report into governance arrangements undertaken by Wise, Lord and Ferguson recommended that the review of the Fire Service Act will need to address the governance arrangements between the Department and the SFC to ensure that the legislative framework provides greater clarity on the governance arrangements and authority of the SFC and the Secretary.²²

The relationship is further complicated in that the Secretary, DPFEM is also the Commissioner of Police, State Controller and the Chair of the State Emergency Committee, the Executive Officer of which is currently the Director SES. It is somewhat problematic and unusual that the individual who holds the role of State Controller remains unable to exercise organisational influence or control over the entity that is responsible for Tasmania's most frequent emergency management situation – fire. The Department of Justice's Independent Review of Tasmania's Emergency Management Arrangements suggested that further work be undertaken to consider what best practice in governance arrangements are necessary and appropriate for TFS and DPFEM to operate effectively.²³ It went on to state that a closer examination of the SFC/TFS/DPFEM arrangements should be considered to ensure that Tasmania is optimising the use of resources. The current


²¹ Under current arrangements the Secretary of the Department is concurrently the Commissioner of Police. These roles should not be confused. While the Secretary of the Department has a role in the governance of the Commission and TFS, the Commissioner of Police does not and it is possible that, at some time in the future, the roles are undertaken by two appointees not one.

²² Wise, Lord and Ferguson, *Project 9, Governance Draft Report*, February 2017, p. 6

²³ The Department of Justice's Independent Review of Tasmania's Emergency Management Arrangements, p. 54

level of uncertainty may have implications for the establishment of clear lines of responsibility and accountability in relation to both administrative and operational issues.

The role of portfolio departments as the principal source of advice to the Minister should be reinforced by requiring the statutory authority and office holders to provide relevant information to the Secretary in parallel to that information being provided by the Commission and the Chief Officer to the Minister.


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|  | 11 | What structural arrangements would best allow the Commission and TFS to achieve their objectives while operating in a departmental environment? |
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THE ROLE OF THE CHIEF OFFICER, TASMANIA FIRE SERVICE

The Chief Officer is the chief executive officer of the Fire Service as set out in the *Fire Service Act 1979*. He is responsible, amongst other things, for the control and management of the fire-fighting resources of the Fire Service and the training of officers and fire-fighters. On operational matters concerning TFS, the Chief Officer reports directly to the Minister for Police, Fire and Emergency Management.

The Chief Officer is currently appointed by the Governor. Under the provisions of the Act, the Governor may appoint a State Service officer or employee to be Chief Officer. He is currently appointed as a State Service Officer by the Minister administering the State Service Act through the Secretary of the Department. There are a number of implications and consequence arising from this type of appointment:

- as the head of the TFS, the operational arm of the Commission, the Chief Officer technically reports to the Commission.
- under a pure Statutory Authority model, the Commission would have the power to appoint or to remove the Chief Executive Officer, however, the Commission has no employment powers.
- where the day-to-day relationship with government is primarily between the CEO and the Minister (rather than between the Chair and the Minister) the Commission's ability to influence is lessened.

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|  | 12 | How should the Chief Officer be appointed and to whom is he responsible? |
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Section 10(1A) of the Fire Service Act states that the person appointed as Chief Officer is to be a person who appears to the Governor to have expertise and experience in fire service administration and in the management of firefighting operations. If the legislation is reformed to include the SES and to reflect the non-fire related operations of TFS this may be too narrow and may exclude individuals experienced in other forms of emergency management or other experienced CEOs.

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| ? | 13 | Should it still be specified that the Chief Officer is to have expertise and experience in fire service administration and in the management of fire-fighting operations? |
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GOVERNANCE ARRANGEMENTS – TASMANIA FIRE SERVICE AND STATE EMERGENCY SERVICE

Currently SES works within a number of governance arrangements of the DPFEM including both Business and Executive Services and TFS while still maintaining statutory functions specific to SES. The Director SES currently reports to the Chief Officer TFS; however, under the Emergency Management Act the Director SES reports to the State Controller (the Commissioner of Police), primarily in the capacity as Executive Officer of the State Emergency Management Committee. The financial accountabilities and reporting frameworks require further resolution in line with discussions concerning the most appropriate funding model.²⁴ For example, the financial statements of the SES are reported in the DPFEM Annual Report while the achievements of the SES against the Strategic Directions document are reported in the TFS Annual Report.

Furthermore, under Workplace Health and Safety Legislation the Crown is the person conducting a business or undertaking (PCBU) for the SES, while the Commission is the PCBU for the TFS. Specific consideration will need to be given to how the SES interacts with the Workplace Health and Safety framework of TFS and, more broadly, the DPFEM.

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| ? | 14 | How should potential tensions between the roles and accountabilities of the Chief Officer TFS, the Director SES and the State Controller be best resolved? |
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ROLE AND FUNCTION OF THE STATE FIRE MANAGEMENT COUNCIL

The State Fire Management Council (SFMC) is established under Section 14 of the *Fire Service Act 1979*.

It is an independent body that has the responsibility of providing advice to the Minister and the State Fire Commission about the management of vegetation fire across Tasmania, particularly in the areas of prevention and mitigation of fires. It also formulates and promulgates policy in relation to vegetation fire management within Tasmania in relation to bushfire fuels and mitigation.


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

²⁴ This is discussed more fully below.


The SFMC also advises and reports to the Minister for Police, Fire and Emergency Management on matters that relate to the administration of the Act as it applies to vegetation fire management. The Minister may also ask the SFMC to perform other functions relating to the prevention or extinguishment of vegetation fires.

This includes the development of a strategically managed fuel reduction program, designed to mitigate the risk of catastrophic vegetation fires in Tasmania.


SFMC may also provide advice to the State Fire Commission on matters relating to the prevention and extinguishment of vegetation fires. There should be formalised and strong consultative mechanisms between the SFC and the SFMC need to be formalised and strengthened.

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|  | 15 | What is the appropriate role and function of the SFMC and what should the relationship be with the State Fire Commission/TFS? |
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The Fire Service Act currently prescribes the membership of the SFMC which consists of a person nominated by the Minister, the Chief Officer TFS and one other member of TFS, the CEO of Sustainable Timber Tasmania, Director, Parks and Wildlife Service plus another representative from Parks, and a nominee from each of Tasmanian Farmers and Graziers Association, Forest Industry Association of Tasmania and the Local Government Association of Tasmania. Given its role as an Advisory body and its value as a vehicle to enable all stakeholders to have input, it may be beneficial if membership was broadened and to remove potential duplication in representation of TFS and PWS – each currently having two representatives.

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|  | 16 | What is the appropriate membership of the SFMC and should the membership be prescribed in legislation? |
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Section 65 of the Act specifies that the [State Fire Management] Council, on the recommendation of a [Fire Management Area] Committee may appoint fire permit officers in respect to land within the Committee's Fire Management Area. It would appear to be incongruous that an Advisory Council has the power to make such appointments which may more appropriately rest with the Chief Officer.

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|  | 17 | Should the State Fire Management Council have the power to appoint permit officers? |
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ROLE AND FUNCTION OF THE FIRE MANAGEMENT AREA COMMITTEES

After a review of the strategic arrangements for bushfire fuel management in Tasmania, in 2012 changes were made to the *Fire Service Act 1979*. The changes administratively


aligned the responsibility for the management of bushfire fuels across the State in recognition that it is a shared responsibility across all sectors including the public arena.

The fire management area committee (FMAC) structure was reviewed and there are now 10 fire management areas for the State, reflecting the broader landscape and strategic focus that is required. The final boundaries were in the *Gazette* on 11 September 2013.

The principal aim was to bring together the various stakeholders that manage land use across the State, to work together to effectively manage vegetation fuels for the mitigation of bushfires.

Section 18 of the Act specifies the membership of the Committees which consist of:


- The Chief Officer or an officer of the TFS nominated by the Chief Officer
- A representative of each local council whose municipal area lies wholly or partially in the Fire Management Area
- A person nominated by the CEO of the Forestry Corporation if the Area contains or is adjacent to State forest
- A person nominated by the Secretary of the Department responsible for National Parks and Reserved Management Act 2002 if the Area contains or is adjacent to any reserved land
- A person nominated by the Wellington Park Management Trust if the area includes any part of Wellington Park
- A person jointly nominated by the brigade chiefs of the brigades wholly or partly within the Area.

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|  | 18 | Are the Fire Management Areas and the composition of the Fire Management Area Committees still appropriate? |
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The focus of each FMAC is to prepare a fire protection plan for the Fire Management Area and to identify and prioritise bushfire vegetation risks and prioritise strategic works to mitigate any perceived risks. These plans are submitted to the SFMC for approval.

The role of FMACs should not be considered in isolation from the structures established under the Emergency Management Act. Under that Act there are established three Regional Emergency Management Committees and 29 Municipal Emergency Management Committees. Emergency Management Plans are produced at both the Regional and Municipal levels. In some cases there is a high level of shared membership between the three Committees. While Fire Management Area Committees are primarily focussed on prevention and mitigation strategies and the Emergency Management Committees are focussed on response and recovery, the opportunity to remove potential

duplication and to streamline operations in the new legislation should not be lost. This includes defining how Fire Protection Plans relate to Emergency Management Plans.

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|  | 19 | What opportunities exist to streamline Fire Management Area Committees with Emergency Management Committees? |
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A Sustainable Funding Model

The Terms of Reference for the Review state that the Commission's funding base data should be assessed and future funding options identified. Furthermore, an analysis of future funding options should be undertaken against the following criteria:

- provide sufficient funding to ensure the fire services can perform the functions agreed by Government
- be administratively simple to calculate and collect
- be stable and predictable, and
- be equitable so that:
 - those who receive the various services performed by the TFS contribute to the costs for both fire and non-fire related activities;
 - levy payers in rural fire districts receive benefits that reflect their needs and contribution; and
 - minimise distortions in investment decisions, insurance price and coverage.
- provide recommendations for the Commission's future funding base so it can be more sustainable, stable, equitable and commensurate with future functions and business operating model.

CURRENT MODEL IN TASMANIA

Provisions for the finances of the State Fire Commission are contained in Part VI of the *Fire Service Act 1979*. Tasmania currently has a hybrid system using a property services levy for households with a tax imposed against commercial and motor vehicle insurance. The Act specifies that the operating costs of all brigades shall be defrayed out of contributions from:

- An Insurance Fire Levy charged on commercial insurance premiums
- The Motor Vehicle Fire Levy payable on vehicle registration each year
- The Fire Service Contribution collected by local councils from ratepayers, weighted according to the assessed annual value of properties and the fire services available

The operating costs of a brigade include the costs associated with servicing the Brigade and ensuring it is maintained at an appropriate level of operational

efficiency and readiness.²⁵

- The Fire Service contribution provides 45.7 per cent of the SFC budget, the Insurance Levy provides 19.1 per cent and the Motor Vehicle Levy 8.9 per cent.

The Commission also receives contributions from State/Australian governments and raises revenue through the sale and maintenance of fire equipment, the provision of training services to both the public and private sectors, alarm monitoring fees, plan approval fees, avoidable false alarm charges and fire investigation reports.

The pricing and costing policies of the Commission are expected to be determined primarily by outside market forces and the ability of the user to pay for services. Wherever possible the Commission bases its price increases on changes to the Consumer Price Index (CPI). The only major revenue source that the Commission has direct control over and has increased more than CPI, in recent years, is the Fire Service Contribution where larger increases have been provided to cover operational costs.

Fire Service Contribution

The Fire Service Contribution (FSC) is paid by land owners and it is collected by local councils on behalf of the Commission for which it pays Councils a four per cent collection fee. Theoretically it is a balancing item that enables the Commission to recover its brigade operating costs, once all other funding has been taken into account. The total annual increase is determined in the TFS budget and allocated across properties according to their annual assessed values and the type of fire service their area receives. Land is classified into three rating district: permanent brigade rating district, composite brigade rating district or volunteer brigade rating districts.

The Fire Service Contribution does not apply to a broad range of land, including that owned by local council, the Crown, most Government Business Enterprises or to Commonwealth land, to which a fire protection services agreement applies.

It is the most stable of the levies as the amount to be collected is certain.

A minimum levy has applied since 1990-91 in order to provide additional funds to re-equip volunteer brigades. A legislative change to the Act in 1999 resulted in the indexation of the minimum fire service contribution in line with movements in the consumer price index. For 2017-18 the minimum fire service contribution was \$39.

Increases in the Fire Service Contribution are approved by the Minister annually, after consideration of the Commission's Corporate Plan, in accordance with the Act.

Pensioners and Health Card holders receive discounts on the fire service contribution from the Commission.

²⁵ Section 74

Insurance Fire Levy

Contributions are received from insurance companies in respect of premium income on certain prescribed classes of insurance where the risks insured are situated in Tasmania. It only applies to businesses not households. Contributions are received monthly with an approved lodgement return. The current insurance fire levy is 2 per cent on marine cargo insurance, 14 per cent on aviation hull insurance, and 28 per cent on other classes of insurance. The first two rates were established in November 1986 and the last was increased from 14 per cent in October 1990.

Motor Vehicle Fire Levy

The Commission receives income raised through a fire levy applied to most registered vehicles (caravans, horse floats, motorcycles and trailers are exempted). This is collected by the Department of State Growth as part of the vehicle registration fee and forwarded to the Commission. For 2017-18 the motor vehicle fire levy is \$17 per vehicle.

The levy is subject to movements in the Consumer Price Index and a formula in the Act that calculates the amount to be charged to each vehicle registration each financial year.

Pensioners and Health Card holders receive discounts on the motor vehicle fire levy from the Commission.

Payments from State and Australian Governments

Under Section 101 of the Act, the Treasurer is required to pay out of moneys appropriated by Parliament, such amounts as the Treasurer determines is appropriate towards defraying the operating costs of the Commission. It funds specific program costs that are not funded by the Fire Service Contribution.

The Australian Government pays to the Commission an annual contribution towards the operating cost of brigades under a Memorandum of Understanding for Fire Protection of Commonwealth Land. This funding is not legislated in the Fire Service Act. The funding level is determined by a formula that is standard across all jurisdictions and is indexed to the CPI. Commonwealth contributions also include a subsidy from the National Aerial Firefighting Centre to assist with the hiring of aircraft used for aerial reconnaissance and water bombing during the fire season.

Payments from the Motor Accident Insurance Board (MAIB)

In June 2006, the state Government approved the transfer of Road Crash Rescue in urban areas from Ambulance Tasmania to TFS. A Memorandum of Understanding (MOU) between the MAIB and TFS states that the MAIB will pay a charge for each motor vehicle accident that TFS attends. The underlying principle which underpins these payments is the MAIB's legislative responsibility to make reimbursement of expense incurred in providing the service to eligible MAIB claimants. The SES has a separate MOU with MAIB that supports its road crash rescue capability.

Fire Prevention Charges

Revenue is raised by the Commission's TasFire Equipment and Brigades through the sale, inspection, recharging and repair of fire safety equipment throughout the State.

TasFire Training (TFT) and TasFire Equipment (TFE)

Outside market forces determine the pricing policy for TFE and TFT units. Both are required to recover costs for their commercial operations and operate as independent financial units. Both provide valuable fire safety services and education to the community. To date, the indirect benefit to the Commission and the community has not been measured. Pricing for both units is commercially based.

Wildfire Reimbursement

The costs associated with wildfires are collated by the TFS and funded through state and federal funding mechanisms.

CURRENT REVENUE²⁶

| Income | 2017 Actual \$'000 |
|---|-----------------------|
| Fire Service Contribution | 41, 009 |
| Insurance Fire Levy | 17, 141 |
| State Government Contribution | 9, 818 |
| Bushfire Reimbursements from other Tasmanian Agencies | 140 |
| Motor Vehicle Fire Levy | 7, 979 |
| Fire Prevention Charges | 6, 068 |
| Sundry Income | 5, 992 |
| Australian Government Contribution | 1, 437 |
| Total Income | 89, 584 |

MODELS IN OTHER JURISDICTIONS

There are a range of funding and structural models in other jurisdictions with the predominant trend being towards a property based levy. Tasmania and South Australia are the only jurisdictions to have a Motor Vehicle Fire Levy. Arrangements in other jurisdictions are detailed more fully in Appendix F.

²⁶ State Fire Commission Annual Report 2016-17.

ISSUES WITH THE CURRENT MODEL

Insurance Levy

Other than New South Wales, where the implementation of a fire and emergency service levy has been postponed due to unintended consequences for some small to medium businesses, Tasmania is the only jurisdiction across Australia to impose a levy on insurance premiums.

Insurance based levies can create a disincentive for commercial insurance or an incentive to under insure. Unlike the Fire Service Contribution, where the State Fire Commission advises each council how much it is to collect and for what classes of land, the insurance fire levy is determined by market forces and the Commission does not set an amount to be collected. It is therefore the most volatile of the levies with price and volume variances which can make it difficult to forecast.

Cascading taxes (stamp duty and goods and services taxes – plus any fire and emergency services levy) was acknowledged by the Henry Review ²⁷ and the Victorian Bushfires Royal Commission to be a significant problem. These Reports recognised that it was a quintessential problem for insurance because the taxes, once added to the insurance component, could double the cost of insurance coverage. This could be a considerable incentive to not insure or to under insure. Following the Victorian bushfires in 2009, it was found that many properties were either under-insured or not insured at all and the Royal Commission recommended that the insurance industry contributions should be replaced with a property levy.²⁸

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

Under the current arrangements, the Fire Service Levy is only liable to be paid by those who have a traditional insurance policy. Those who maintain a mutual fund or who insure offshore are often able to avoid a contribution due to legislative loopholes. This arises from the fact that mutual insurance companies are not currently governed by the Australian Prudential Regulatory Authority (APRA) controls.

Motor Vehicle Levy

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

The Motor Vehicle Levy does not apply to all vehicles (it excludes caravans, horse floats, motorcycles and trailers). Charging the levy on these vehicles would bring the levy more into line with the road safety levy, registration fees, motor tax and the MAIB premium.

²⁷ Recommendation 79 stated “All specific taxes on insurance products, including the fire services levy, should be abolished. Insurance products should be treated like most other services consumed within Australia and be subject to only one broad-based tax on consumption.”

²⁸ Royal Commission Recommendation 64.

Fire Service Contribution

The FSC does not reflect the scope of services carried out by the Commission. A rising proportion of activities undertaken by TFS involves responding to non-fire emergencies. Furthermore, the FSC is based on a premise of paying more for an improved quality and timeliness of service, with response by urban brigades attracting the highest contribution, followed by composite brigades and then rural. This was originally designed to reflect the cost of providing the service but costs are not allocated among these types of brigades.

Rate payers who own more expensive houses pay a higher level of FSC than those with less expensive houses, yet the service they receive is very similar. It is arguable that the risk in more expensive properties is less as they may be more likely to have sophisticated fire alarms linked to monitoring services. The FSC is also not calculated according to the level of risk. For example, rural properties may be in a high risk area for bushfire but pay a relatively low FSC as they are serviced by a rural volunteer brigade.

FUNDING THE STATE EMERGENCY SERVICE

Tasmania's SES maintains a skilled, motivated and well-equipped volunteer work force to provide frontline emergency services, such as storm or flood response, road crash rescue, search and rescue and many emergency support functions.

SES provides many broader emergency management functions involving emergency management planning, education/awareness, emergency risk management support and the coordination of various projects or support programs that help build community resilience against natural disasters.

The SES volunteer workforce comprises 34 SES volunteer units, 600 active volunteers and a fleet of over 72 SES emergency response vehicles. SES also employs 24 permanent staff.

SES also supports police, fire, ambulance agencies and local government during disasters and other emergencies including, search and rescue, general rescue, and bushfires.

Australian States and Territories have a variety of structures and funding mechanisms for their emergency services sectors. These are outlined more fully in Appendix F.

Current Funding Model for the State Emergency Service in Tasmania

Prior to becoming the funding responsibility of the State Fire Commission, the majority of resourcing for SES was provided by the (then) Department of Police and Emergency Management, with multiple other funding sources from all levels of government. Based on 2015 numbers reported in a review by Wise Lord and Ferguson (WLF), *Costing Analysis of the SES in Tasmania*, February 2016, the total contribution to the operation of the SES was \$4, 111, 464 which includes contributions from local government, TFS, MAIB, donations and fundraising events

State Fire Commission Allocation

SES currently operates with a State Fire Commission allocation which has been facilitated by virtue of section 107 of the Fire Services Act which states the '*Chief Officer can expend out of the funds of the Commission any sum of money for any purpose approved by the Minister, notwithstanding this expenditure may not be authorised under any provision of this Act.*' The Minister approved this expenditure on 5 January 2015.

Funding from Local Councils

Under the *Emergency Management Act 2006*, the councils are responsible for the establishment and maintenance of municipal SES volunteer unit facilities. Councils must also support the operations of these units to provide a capability to assist the community in an emergency, this may include taking ownership of the SES unit vehicles and funding vehicle maintenance, fuel, insurance, etc. SES manages these arrangements by negotiating and establishing Memoranda of Understanding with each council to clarify support arrangements and any standards.

A strategic asset review conducted by SES in 2011-12 and updated in September 2014 revealed that, on average, each council contributes between \$14,000 and \$20,000 towards their SES Unit each year (this does not include depreciation or associated council staff and on-costs). The actual level of funding by each local Government authority varies significantly.

These contributions primarily cover operational expenses, such as vehicle and unit facility operating and administrative expenses. While seven councils allocate funds directly to SES to manage on their behalf, most manage this expenditure internally; hence SES has little or no control of this expenditure.

SES does not have a SES Unit facilities budget and is totally reliant on external bodies to maintain its facilities. When improvements to facilities are required, SES must seek additional funding or support from the councils, competitive grant programs or one-off budget initiatives or election commitments.

MAIB Funding

SES receives an annual allocation of \$300,000 per annum from the MAIB to support road crash rescue capacity.

Commonwealth Funding

Commonwealth funding is provided to SES under the National Partnership Agreement (NPA) on Natural Disaster Resilience (NDR) in accordance with the agreed Tasmania Implementation Plan. The estimated financial contribution to Tasmania by the Commonwealth under the 2015-2018 NPA NDR is \$3.9M over three years. Under this plan, SES receives \$0.135M per year for the Emergency Management Framework Support Program - to administer and manage the distribution of Commonwealth funding

per year for three competitive grants programs (Emergency Volunteer Fund, Natural Disaster Resilience Grants Program and State Emergency Management Program). A round of NPA grants is currently open and will see \$1.165M allocated to approved projects in early 2018 with a further round of \$1.165M being allocated around the middle of 2018. The future of the NPA program is the subject of an ongoing Australian Government led review and is unclear at this time.

ISSUES AND RISKS WITH CURRENT FUNDING MODEL

Wise Lord and Ferguson was engaged to conduct an independent strategic review of the funding arrangements of the SES in June 2013²⁹. The Review highlighted that the funding of the SES currently occurs from a number of sources and through various means including, but not limited to:

- funding through contributions from the State Fire Commission
- in-kind, assets and some funding support provided by local Councils to their local SES Unit
- in-kind support, primarily through facilities, provide by Tasmania Police, TFS and in some cases Ambulance Tasmania, and
- fundraising and in-kind support from the SES volunteer base.

Due to these funding arrangements, the ability to assess the full cost structure of the SES is complex and cannot be ascertained from one financial system.

There is currently no means to report a 'full cost' analysis of the SES as these contributions cannot be measured in full. Likewise, the total cost of equipping and managing the volunteer units is also not tracked consistently.

The Review also confirmed that there were a number of related organisational risks. These risks included:

- current governance and financial arrangements with local government limit the ability of SES to strategically manage their financial assets.
- SES is unable to budget effectively as it is unable to forecast revenue streams or contributions from local government. Local Government contributions vary under current arrangements.
- there are a number of risks associated with Workplace Health and Safety.
- ability of SES to respond to large scale prolonged incident is limited under current arrangements. The SES traditionally has not obtained additional funding to cover

²⁹ Wise, Lord and Ferguson, SES Strategic Review, December 2013

for major incident response.

- with the national agenda placing greater emphasis on risk assessments, community resilience, and disaster planning, there is a risk under the current resourcing of SES that planning requirements, both statutory and delegated, may not be able to be met. There is an increasing expectation that SES will play a significant role in emergency management planning and community engagement within the State.
- There is a risk that the financial and resourcing levels required to meet the training and support obligations to the volunteer force may be insufficient, putting at risk the RTO status of the SES, and increasing risks associated with work health and safety obligations.

The Report confirmed that the current governance arrangements with council ownership and control of key SES assets, such as facilities and vehicles, were not sustainable. Some councils support SES units very well, financially or in-kind, but others struggle due to competing priorities, often despite a great deal of good will.

Ultimately, the risks associated with this model are reflected in the first three risks identified by Wise Lord and Ferguson, as outlined above. The funding of the various SES units is dependent on the financial situation of their local councils. This creates an additional layer of funding risk which is higher than most other government funding sources. Given there are 29 councils in Tasmania there will often be some that are struggling to fund their commitment to SES.


Furthermore, while local councils are required to establish units and provide certain levels of equipment and/or facilities, it is the Director SES who is responsible for the units and the outcomes. This creates a potential conflict with the Director potentially having limited capacity to influence the appropriateness of resourcing yet being accountable for outcomes.


Other issues associated with this funding model include:

- the vehicular fleet operated by SES is variable. The mixture of ownership is not conducive to consistency of service delivery or in accordance with community risk.
- the model is not sustainable. It treats volunteers of SES Units in a different way to volunteer fire-fighters or volunteer ambulance officers. There needs to be consistency in capacity, equipment and training across the State. Local government's relationship with SES Units is different to its relationship with Ambulance Tasmania or TFS in that it is not required to fund these Units beyond voluntarily providing grants and donations as it does to other local community service organisations. Furthermore, there is an increasing trend to combining SES unit facilities with other emergency service organisations, in particular the TFS. As a result, only half of the existing SES facilities are currently owned by Councils.

With plans for more combined unit facilities with TFS, Police or Ambulance Tasmania the level of council involvement is expected to continue to decline.

- under the current model, SES struggles to meet government and community expectations particularly with regard to volunteer support and community engagement, preparedness, planning, education and awareness. This may result in a decline in volunteer numbers and community resilience against future disasters.


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|  | 20 | Should fire and emergency services be funded through a single mechanism? If so, what is the appropriate model? |
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|  | 21 | Should SES centrally manage and fund its volunteer unit facilities, its fleet and its operational expenses? |
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Operational Considerations

LEGISLATION THAT BINDS THE CROWN


The current Fire Service Act binds the Crown. This means State Government agencies are bound by the provisions of the Act. Non-binding legislation can create ambiguity in respect to responsibilities for risk management across land tenure. If bound the Crown would have to meet any obligations placed on 'landowners/occupiers' unless specifically excluded. This could include risk planning, risk mitigation and obligations to put fires out on State land. This would not apply to Commonwealth land as the State cannot create legislation that would bind the Commonwealth.

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|  | 22 | Should any new legislation bind the Crown? |
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RESPONSE COMMAND AND CONTROL

The authority to control a fire incident in Tasmania is designated according to the tenure of the land on which the fire burns. Currently a number of elements of command and control are prescribed outside legislation including TFS Doctrine, the Inter-Agency Fire Management Protocol and the Australasian Inter-Service Incident Management System (AIIMS).

A basic principle of incident control is that only one person should be in command at any time. Whilst other persons will have responsibilities and provide advice, the person controlling the incident must have a legal basis of authority and be provided with guidance on what can and cannot be delegated. An incident Controller should have appropriate experience, and training and is not necessarily appointed on seniority.³⁰

| | | |
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|  | 23 | How should response, command and control arrangements be handled in new legislation? |
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CHAIN OF COMMAND

Section 42 of the Fire Service Act states that the Commission shall determine the chain of command and order of seniority of members of the Fire Service and members of brigades that applies during fire-fighting operations. According to TFS Doctrine³¹, the Chain of Command provides the order in which authority, responsibility and accountability

³⁰ The AFAC Review into the 2016 Bushfires recommended that the Tasmanian fire agencies develop a multi-agency position to ensure that training for Incident Controllers includes training in how the transition from local incident control to Divisional Command is managed. Recommendation 3

³¹ TFS Doctrine S1.1 *TFS Chain of Command*

are arranged and delegated from the Chief Officer to every member at every level of the TFS operational workforce. Essentially, it is a system empowering designated personnel to exercise authority and direction over people and other resources for the accomplishment of missions and tasks. Under section 28 of the Emergency Management Act, the Director SES is responsible for the management of the SES, any functions imposed by this or any other Act and prescribed functions.

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|  | 24 | Should the Chain of Command be included in legislation with accountabilities included? |
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ENDORSEMENT OF INCIDENT CONTROLLERS

Currently, Incident Controllers are endorsed through a state wide process that includes TFS, Parks and Wildlife and Sustainable Timber Tasmania staff. The Act does not reference Incident Controllers and they are appointed under the more general powers and functions of the Chief Officer or the Commission.

The Act says little about the manner in which the purposes of the Act are to be achieved, and nothing which prohibits the assignment of duties to an Incident Controller from either another agency or from interstate. The Act is largely silent as to how the TFS is to be operated and much is left to the discretion of the Commission and the Chief Officer in the exercise of specific and general powers and responsibilities.

Section 42 of the Act states that the Chain of Command is “restricted to members of the Fire Service and members of Brigades.” This does not include people assisting the TFS in any other capacity, such as people from other agencies or inter-state personnel.

The current process for endorsing Incident Controllers could be enshrined in legislation to provide stronger authority and more permanently establish the process. If the Chief Officer, TFS were to be the authorising authority, the power to authorise could be delegated to PWS and STT as appropriate.


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|  | 25 | Should endorsement of Incident Controllers be legislated? Making it clear that all emergency responders present at an incident are in all respects subject to the Incident Controller’s direction or should Incident Controllers be endorsed through policy? |
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BRIGADE MANAGEMENT

Part III of the Act provides for the establishment and composition of brigades. The Commission may establish permanent, composite or volunteer brigades and appoint brigade chiefs, fire officers and fire-fighters as necessary or expedient. The Commission also determines the operational district within which a brigade is to operate. Section 29 outlines the powers and functions of brigade chiefs including taking any action considered

necessary for extinguishing, or preventing the extension of a fire, to protect life and property, cause water to be shut off and give directions to others.

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

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|  | 26 | Are the provisions relating to the establishment and composition of brigades still appropriate? |
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SALVAGE CORPS AND INDUSTRY BRIGADES

The Act provides for the constitution of Salvage Brigades with the authority of the Commission, to salvage property at fires or to extinguish fire on the premises or land owned or occupied by that person or at which that person is employed.³² This would encompass Industry Brigades formed by private industries such as mining or large manufacturers for the purpose of providing services in respect of their organisation's premises and land. Under the current provisions of the Act, these brigades are not authorised to attend other incidents if they are not on their property. This does not reflect current practice where these brigades may be used outside their industry boundaries to assist in emergency response.

In the past, the TFS has had a number of "industry brigades" registered; however, these brigades have been formed with the intention of providing additional trained firefighting resources to the property of the person who maintains the brigade.

In 2001, the Fire Service Act 1979 was amended to change the terminology in the Fire Service (Miscellaneous) Regulations from "auxiliary brigade" to "industry brigade". In 2007 section 36 of the Act, allowing for the registration of Industry Brigades, was repealed. According to Hansard,³³ the Commission sought the repeal of section 36 of the Act which provided for the registration, inspection, direction and conduct of industry brigades. The Commission believed it was no longer necessary to regulate the operation of these brigades, as they had operated to the satisfaction of the Commission without Commission intervention since their registration. It was thought that Industry brigades derived no benefit from registration.


One of the current functions of the Commission is to coordinate and direct the development of all fire services throughout the State.

The new legislation could provide recognition of Industry Brigades in cases where agreement is reached between the entity and the TFS. The Act still has reference to

³² Fire Service Act 1979, Section 37


³³ Hansard, House of Assembly, debate on the Fire Service (Amendment) Bill 2007.

Industry Brigades where in Section 29(3)(f) a Brigade Chief shall have control and direction of any industry fire brigade present at any fire

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|  | 27 | Should Industry Brigades be recognised in legislation and have the ability to assist in emergency response outside the industry boundaries? |
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FIRE HAZARDS

The current Fire Service Act includes provision for the Commission to enter onto land and undertake all necessary acts to remove fire danger.³⁴ In addition, there are powers for the Commission and Councils to create fire breaks.³⁵ It is not particularly clear in what circumstances the TFS has the authority to undertake hazard mitigation activities in non-emergency situations under the Act without needing additional approvals from either the Forest Practices Authority or Local Government. The issues seem to apply when TFS is burning on private land with the permission of the landowner. There is a school of thought that a Development Application would be required for every burn which would be a significant impediment to some of TFS' mitigation activities. This stems from the potential application of the *Land Use Planning and Approvals Act 1993* (LUPAA) which provides for the general control and management of land use and development in Tasmania, especially through the agency of local government and planning schemes. Consideration of the interaction of fuel reduction burning, any legitimate fuel management works and LUPAA is dependent on the way activities are defined and regulated in LUPAA. Some people think that fuel reduction burning could be considered as works as defined in LUPAA³⁶. Within LUPAA, works are described as development and the control of development is a proper function of a planning scheme.

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|  | 28 | Should the Act be amended to specify these activities are exempt from the provisions of the LUPAA? |
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TOTAL FIRE BANS

The Act currently provides for the declaration of a total fire ban throughout the State or in any parts of the State.³⁷ A Total Fire Ban is generally declared when the expected conditions mean that any fire ignitions are likely to be uncontrollable or when fire

³⁴ Section 49


³⁵ Section 56

³⁶ Works include any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil, but does not include forest practices as defined in the Forest Practices Act 1985, carried out in State forests. Section 3 LUPAA

³⁷ Section 70

operations are so extensive that a total fire ban may be declared on the basis of limited capacity to provide a fire response. The declaration may specify fires that are not subject to the ban and may prohibit or restrict the use of specified machines or apparatus in the open air on days of total fire ban.

For several years there has been a practice of banning agricultural and other machinery operations during days of Total Fire Ban. While there is potential for damage or loss if a fire starts, there is currently no economic case for increasing regulatory controls on machinery operations. In late 2016, TFS issued the Machinery Operations Guidelines as a voluntary code which revised the automatic bans on machinery operations during Total Fire Ban periods to adopt the harvesting Guidelines used on the mainland where harvesting is suspending when relative humidity, temperature and wind speed combine to exceed designated thresholds. These guidelines were designed to mitigate the considerable economic impact that days of Total Fire Bans could have on harvesting operations while still taking into account suitable bushfire risk mitigation practices.

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|  | 29 | Are the provisions relating to the declaration of Total Fire Bans still appropriate? |
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FIRE PERMIT SYSTEM

The role of the Tasmania Fire Service (TFS) is to protect life, property and the environment from the impact of fire and other emergencies. The TFS Fire Permit System (FPS) plays an important role in this context and enables monitoring and control of use of fire within Tasmanian communities.

The Fire Service Act does not specify which person or organisation has overall responsibility for the Fire Permit system. Nor does it expressly allocate responsibility for directing, supervising and/or controlling Fire Permit Officers, who may presumably include Sustainable Timber and Parks and Wildlife employees in addition to TFS employees and volunteers.

The Commission has the power, with the approval of the Minister, to declare a Fire Permit Period. No criteria are specified for deciding whether to declare a Fire Permit Period or the nature or extent of the restrictions to be imposed.³⁸ Fire Permits may be granted by a Fire Permit Officer, subject to such conditions as the Fire Permit Officer or the Commission may determine. Fire Permits automatically cease to have effect, and cannot be granted, if a Total Fire Ban is declared in relation to the land to which the Permit relates.

Lighting and controlling a fire in accordance with the conditions of a fire permit has two important legal benefits for the person.

- The person is exempt from the Environmental Management and Pollution Control Act 1994, and

³⁸ TFS has an internal Chief Officer's Command Doctrine about declaring Fire Permit Periods.

- Provided the person complies with the directions contained in the permit, the person is “not liable for any loss, injury or damage caused by that fire unless it is proven that the person acted maliciously or recklessly.”

Other Tasmanian legislation, other than the Fire Service Act, also restrict the use of fire in certain circumstances. Local governments have powers to abate, or order the occupier to abate, a “nuisance and under Environmental Protection Regulations there are restrictions on the production of smoke and burning of waste and fuel.

As a result of the January 2013 bushfires, the Tasmanian Bushfire Inquiry (TBI) recommended that the TFS review the current Fire Permit System (Recommendation 91):

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

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

The review project commenced in late 2016, and a steering committee was established with representatives from TFS, SFMC, STT and PWS.

The review of the FPS was conducted by Wise Lord and Ferguson. The review had the following stages:


1. Establishing the context and methodology
2. Undertaking a literature review
3. Engage with stakeholders either one-on-one or in small meetings to explore their current concerns with the permit system and opportunities for change
4. Review the systems and governance of the FPS
5. Undertake a full stakeholder workshop to provide consensus recommendations for change
6. Report on findings and make recommendations.

The report provides a very comprehensive analysis of the FPS in context, as well as capturing the considerable input made by a large group of stakeholders. The recommendations have been endorsed by the State Fire Management Council and the TFS/SES Executive Leadership Team. Given the comprehensive nature of the Review, it is not intended to revisit the issues associated with the Permit System in the Issues Paper. However, in order to implement a number of the recommendations, changes to the current legislation change will be required and these will be considered during the next stage of the Fire Service Act Review.

The Recommendations from the Review are at Appendix G.

COMMUNITY EDUCATION

The Parliamentary Inquiry found that the SFC should assess whether community engagement programs of TFS and SES should be centralised. The Flood Review agreed with this, stating at Recommendation 7 “*That SES and Tasmania Fire Service (TFS) share resources and align their community education programs and adopt an all-hazards approach to awareness.*” While this can be implemented without legislative or regulatory change, the Review provides an opportunity for legislative amendments to enhance the implementation of the recommendation.

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|  | 30 | Should Community Education be an explicit function of SFC/TFS and should it include the SES? |
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THE BUILT ENVIRONMENT

The Department of Justice is responsible for building control legislation in Tasmania and is also responsible for ensuring the development and implementation of relevant building control legislation. Through the Building Regulations 2016 the Department enforces compliance with the Building Code of Australia, and TFS, who provides a vital support role in relation to building safety, works closely with the Department of Justice. There is potential conflict between the Building Act and the General Fire Regulations.


Under the current Fire Service Act, the Commission can authorise an officer of the TFS to enter and inspect land or premises to prevent fire, minimise fire risk or protect life and property.³⁹ Through its Building Safety Branch, the TFS provides advice to building surveyors and other fire safety practitioners to make sure plans for new buildings meet the fire safety requirements set out in the Building Code of Australia and other relevant standards and legislation.

PERMITS TO INSTALL, MAINTAIN OR REPAIR FIRE PROTECTION EQUIPMENT

Under the General Fire Regulations 2010⁴⁰, the Chief Officer may issue a permit authorising its holder to do a restricted activity or any combination of activities if he has the relevant competence. At the same time, TFS has a role in ensuring compliance which may lead to a perceived or actual conflict of interest between the regulatory and compliance role and the operational role.

³⁹ Fire Service Act Section 48

⁴⁰ Regulation 8

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|  | 31 | Is it still appropriate that TFS issues permits to install, maintain or repair fire protection equipment? |
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EVACUATION PLANS

The Work Health and Safety Regulations provide for⁴¹

1) A person conducting a business or undertaking at a workplace must ensure that an emergency plan is prepared for the workplace that provides for the following:

(a) emergency procedures, including –

- (i) an effective response to an emergency; and
- (ii) evacuation procedures; and
- (iii) notifying emergency service organisations at the earliest opportunity; and
- (iv) medical treatment and assistance; and
- (v) effective communication between the person authorised by the person conducting the business or undertaking to coordinate the emergency response and all persons at the workplace;

(b) testing of the emergency procedures, including the frequency of testing;

(c) information, training and instruction to relevant workers in relation to implementing the emergency procedures.


The decision to evacuate or exclude people from an area is made with due consideration of the dangers and difficulties inherent in evacuation and the likelihood of evacuated people being injured. The decision to evacuate people is made by the Incident Controller, who should consult with TASPOL and other experts. In the instance of fire or potential fire, the TFS is responsible for making decisions with respect to evacuation of people. TASPOL is responsible for the overall coordination on an evacuation. The way this is managed for bushfire is described by the Joint Bushfire Arrangements between TASPOL and TFS in 2014. To assist TASPOL in this role emergency management planning should consider the identification and needs of vulnerable groups within communities as outlined in the Emergency Management Framework for Vulnerable People.

The Fire Service Act provides for evacuation plans in the event of a fire related emergency. Part 3 Division 2 of the General Fire Regulations provides for Fire Evacuation Plans for specified buildings. Specified buildings are defined in Regulation 5 and include buildings capable of accommodating more than 200 people, residential accommodation for persons requiring medical, psychiatric or geriatric care, residential part of motel or hotel or a child care center. There are currently approximately 10,000 specified buildings in the State which place significant operational/management requirements on TFS. These building

⁴¹ Work Health and Safety Regulations 2012 section 43.

are not categorized according to risk of potential hazard. Furthermore, no other State or Territory continues to do standalone fire evacuation plans that are undertaken in Tasmania. Currently TFS only considers evacuation in relation to fire but evacuation procedures should also include assessment of procedures to ensure other emergency risks, other than fire, are also covered, for example bomb threats, active shooter or building infrastructure failure.

Furthermore, the current General Fire Regulations place considerable operational requirements on TFS. Due to the high number of specified buildings, it is difficult at times for a facility operator to receive the timely assistance they need in approving or endorsing their emergency procedures.

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|  | 32 | <p>Should there be a whole of government Emergency Evacuation System that deals with all threats, not just fire risks, in the built environment?</p> <p>Should prescribed buildings be categorised by risk potential?</p> |
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OFFENCES AND ENFORCEMENT⁴²

Currently, offences and corresponding penalties are spread throughout the Act and accompanying Regulations. These offences include, but are not limited to, operation of vehicles and machinery, burning rubbish, obstruction, interference and damage to property and the storage of hazardous or flammable materials. The basic model for issuing penalties under the current legislation is largely through the issue of an Infringement Notice for non-compliance and, depending on the outcome, court action may follow to enforce the penalty.

In the current legislation there is no provision for daily penalties where there is an ongoing offence, such as failure to undertake hazard mitigation activities. Nor is there provision for graduated penalties for repeat offenders. Daily penalties for on-going non-compliance may serve as an incentive to take remedial action in a timely manner. This would be particularly important in situations that involve public safety and risk mitigation.

The current Act also does not provide for graduated or increased penalties for repeat offences. This may act as increased deterrent if graduated penalties were applied to first, second or third offences.


⁴² The Fire Service Amendment (Fire Infringement Notices) Bill 2015 passed both Houses of Parliament in April 2016. The Bill is yet to be proclaimed. The Bill provides TFS with more effective options to enforce minor breaches of the Fire Service Act and offers another means of reducing fire-offending behavior. The Bill reflects the principles of restorative justice, recognizing the importance of educating individuals and raising community awareness of fire safe practices, rules and responsibilities. The Bill offers processes to inform and if necessary penalise offenders aiming to prevent further offending. .

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|  | 33 | Are the current levels and structure of penalties appropriate? |
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The current Act does not provide for offences relating to the disposal of cigarettes, cigars or matches. A general offence could be included in the new legislation that could apply to dropping or throwing a burning object or material from a vehicle in circumstances where it may cause a fire. The effectiveness of such a provision as a deterrent would be dependent on the level of community awareness of the provision and the enforcement of the offence. The majority of interstate jurisdictions have these provisions in their legislation.

Other offences that could be included are:

- Stealing of water stored for fire-fighting
- Failure to maintain unoccupied buildings
- Failure to adequately supervise a fire that was intentionally lit, a camp fire for example


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|  | 34 | Are there other offences that should be considered for inclusion in new legislation? |
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PROTECTION FROM LIABILITY

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

Clause 121 in its current form does not deal with any specific activities and there has been some doubts raised as to whether this clause applies to non-fire-fighting operations that TFS now engages in, for example Road Crash Rescue etc. Furthermore, it is not particularly clear whether risk mitigation activities are covered as mitigation is not a function specified in the Act.

Furthermore, it is not totally clear whether employees or STT or PWS, when assisting TFS at a fire event would be considered to be an “agent of the Commission” as so attract protection.⁴³

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|  | 35 | Are the current protection from liability provisions appropriate? |
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⁴³ The endorsed Policy for the grant of indemnities and legal assistance to Public Officers of the State of Tasmania is that: (i) Public Officers are eligible for an indemnity and/or legal assistance in respect of civil proceedings, arising out of their acts or omissions done in good faith in the course of their public office unless one or more exclusions apply. *Employment Direction 16*.

Appendices

APPENDIX A TERMS OF REFERENCE FOR THE REVIEW

Approved by Cabinet 24 April 2017

Purpose:

The Steering Committee is appointed to provide independent advice to the Minister for Police, Fire and Emergency Management (the Minister) about how the Government can achieve:

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

Context:

There is an expectation that modern twenty-first century fire services operates effectively, efficiently, and seamlessly with the roles performed by other emergency service providers. Cabinet has approved a review of the *Fire Service Act 1979* (the Act) to ensure the fire service works effectively and efficiently and continues to provide value for money in the future.

Tasmania remains the sole jurisdiction in Australia to have a fully integrated fire service, career and volunteer, urban and rural and is governed by the Act. The Act establishes the State Fire Commission (the Commission) as a Crown entity and the Tasmania Fire Service (TFS), for which the Commission is responsible.

The House of Assembly Standing Committee on Community Development's Inquiry into the State Fire Commission recommended that, on the evidence presented, a review of the Act is necessary. The Committee recommended that the Act must be reformed or replaced to allow for:

- (1) A centralised funding model for the State Emergency Services (SES);
- (2) Streamlined approach to fire fighting between Tasmania Fire Service, Tasmania Parks and Wildlife Service, Forestry Tasmania and other relevant agencies;
- (3) Resources to be allocated according to the risk and not according to local government municipal boundaries;
- (3) The continuation of Tasmania having a singular fire service;
- (4) Clear reporting lines;
- (5) Improved governance structure; and
- (6) Include the fire permit system and inter- agency protocols.

The Problem:

The Act was proclaimed in 1979 following the amalgamation of the Rural and Urban Fire Services into the Tasmania Fire Service. The Act has never been comprehensively

reviewed since proclamation. A Minor Review of the Act was undertaken in 1999 in order to comply with the Competition Principles Agreement which required the State Government to review and, where appropriate, reform all legislation which restricted competition. The Minor Review of the Act was compliant with the Principles as outlined in the Legislation Review Program.

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

A comprehensive review of the Act, and all subordinate legislation is now considered timely. This is particularly the case with the SES now reporting through to the Chief Officer, TFS and the resultant opportunities for further alignment of TFS and SES to be reflected in legislation.

Functions of State Fire Commission:

The Commission is a statutory authority created under the Act. The TFS is the operational arm of the Commission, delivering services to the community through career and volunteer brigades and Community Fire Safety. The Commission currently consists of:

- (a) the Chief Officer;
- (b) a person nominated by the United Firefighters Union of Australia (Tasmania Branch);
- (c) a person nominated by the Retained Firefighters Association;
- (d) a person nominated by the Tasmanian Volunteer Fire Brigades Association;
- (e) a person nominated by the Secretary of the responsible Department in relation to the *Public Account Act 1986*; and
- (f) two persons nominated by the Local Government Association of Tasmania.

Legislation has recently passed both Houses of Parliament to enable the appointment of an independent Chair of the Commission by the Governor on the recommendation of the Minister. Mr Rod Sweetnam has been appointed as the independent Chair of the Commission. The Chief Officer will remain Chief Executive Officer of TFS and in accordance with section 7(3)(a) of the *Fire Service Act 1979*, the Chief Officer would remain a member of the Commission.

The functions and powers of the Commission are to:

- (a) formulate the policy in respect of the administration and operation of the Fire Service;
- (b) co-ordinate and direct the development of all fire services throughout the State;
- (c) develop effective fire prevention and protection measures throughout the State;
- (d) develop and promulgate a State fire protection plan;
- (e) standardize, as far as is practicable, fire brigade equipment throughout

- the State;
- (f) establish and maintain training facilities for brigades;
- (g) conduct such investigations into fires as it considers necessary, and to prepare reports and recommendations to the Minister arising from those investigations;
- (h) conduct such investigations into the use of fire as it considers necessary, to instruct the public in the wise use of fire, and to disseminate information regarding fire protection measures and other related matters; advise the Minister on such matters relating to the administration of this Act as may be referred to it by the Minister, and on matters that, in the opinion of the Commission, should be brought to the attention of the Minister; and
- (i) exercise such other functions vested in or imposed on it by this Act or such other functions relating to the preventing or extinguishing of fires as may be imposed on it by the Minister from time to time.

Finances of the State Fire Commission:

The major sources of revenue to the Commission are contributions from landowners (fire service contribution), insurance policy holders (insurance fire levy), motor vehicle owners (motor vehicle fire levy) and the State Government. In addition, the Commission raises revenue through the sale and maintenance of fire equipment, the provision of training services to both the public and private sector, alarm monitoring fees, plan approval fees, avoidable false alarm charges and fire investigation reports.

As part of the 2014 state budget announcements, the Minister announced that there would be a change for TFS and SES in that the SES Director would report to the TFS Chief Officer (who in turn reports to the Secretary DPEM).

Annual resourcing for the SES is now incorporated into the State Fire Commission budget. The current funding model for SES relies on a number of revenue streams across local, state and federal government levels and also the Motor Accident Insurance Board. Work is currently being undertaken on the development of a sustainable funding model for the SES and this will have ramifications for the SFC and will need to be considered in the context of the Review of the Fire Service Act.

Governance Arrangements for the Review:

The Review of the Act will be overseen by a Steering Committee consisting of:

- An independent Chair;
- Chief Officer, Tasmania Fire Service;
- Chair, State Fire Commission;
- Deputy Chief Officer, Tasmania Fire Service;
- Deputy Secretary, Business and Executive Services, DPFEM;
- Director, State Emergency Service;
- A representative of the Department of Premier and Cabinet;
- A representative of the Department of Primary Industries, Parks, Water and Environment;
- A representative of the Department of State Growth; and
- A representative of the Department of Treasury and Finance.

Administrative support will be provided by a Project Team from TFS and with the support of the Legislation Development and Review Unit of DPFEM.

Scope of work:

Cabinet has approved the Steering Committee to provide advice on how the following outcomes might be achieved:

Outcome 1: that TFS has a clear mandate and operating platform for the functions it performs, and that it is clear how those align with functions performed by other emergency

services providers, in particular, the SES. This will include analysis of any gaps or overlays in the delivery of any TFS / SES services and identify future role and functions for TFS / SES.

Outcome 2: that the Commission and TFS are organised and operating as effectively and efficiently as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation and will provide value for money in the future.

Outcome 3: that there is sustainable, stable and equitable funding for TFS and SES, with the sources of that funding aligning with the functions that they need to perform.

Outcome 4: that governance, accountability and financial management arrangements for the Commission are renewed to facilitate the most effective management of the Commission's resources and the meeting of community and government expectations.

Outcome 1: TFS functions and Operating Platform

The Steering Committee will:

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

Outcome 2: Effective and Efficiently Organised Tasmania Fire Service.

The Steering Committee will:

- Consider and analyse options for governance and structure that would enable TFS to operate as efficiently and effectively as possible to provide the best outcomes to the community in terms of prevention, preparedness, response and community stabilisation while taking into account:
 - the economic value that government and communities receive from volunteers in our fire services, and measures to enable and encourage volunteers' service;
 - the Commission's capital investments including the building types and

location of fire stations, and the types of fire appliances, communications systems and other investments; and

- the appropriate mechanism for asset management (including depreciation) and renewal, including the level of reserve funds recognising the cyclic nature of income streams.
- Provide recommendations on how the Commission's business operating model could be improved, as well as when and how any such changes could be improved and when, and how, any changes could be implemented. This may include changes to accelerate the integration of TFS/SES.

Outcome 3: State Fire Commission Funding

The Steering Committee will:

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

Outcome 4: Governance, Accountability and Financial Management Arrangements

The Steering Committee will:

- ensure that governance, accountability and financial management arrangements for the Commission are renewed to facilitate the most effective management of the Commission's resources and the meeting of community and government expectations.

In addition to the above, the Steering Committee may also provide advice on any other

issues it determines are relevant.

Outside Scope:

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

Scope Clarification:

Where the SC and Department of Police, Fire and Emergency Management (the Department) are unable to determine whether an issue is within scope, or become aware that an interested party has a different view than the Steering Committee and the Department on whether an issue is within scope, the Steering Committee Chair and Department may jointly seek a determination from the Minister as to whether he considers the issue to be within scope.

Deliverables:

The Steering Committee will develop a project plan to meet four stages of work:

- Problems identified and substantiated by evidence;
- Range of potential options identified;
- Key options identified; and
- Options fully developed and assessed, and recommendations drafted.

Issues Paper

The Steering Committee will provide the Minister with an Issues Paper within six months of the appointment of an independent Chair, outlining the analysis undertaken to date under the stages of work outlined above.

Draft report

The Steering Committee will provide a draft report to the Department within six months of the closing date for public submissions on the Issues paper.

Final report

The Steering Committee will provide advice to the Minister no later than six months of the closing date for public submissions on the Draft report, in the form of a final report with recommendations.

The Steering Committee is to ensure thorough engagement with all interested stakeholders. Following the release of the Issues Paper there is to be full public consultation and the Steering Committee is to receive written submissions from all interested parties. In accordance with Government Policy, these submissions are to be published on the TFS internet site.

The Steering Committee should subsequently publish a draft report and hold further public consultations, before providing a final report to the Government.

APPENDIX B OTHER RELEVANT LEGISLATION

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| <i>Aboriginal Relics Act 1975</i> | The Act to make provision for the protection and management of aboriginal relics. |
| <i>Building Act 2016</i> | An Act to ensure building work meets the national construction standards and that health and safety standards are maintained. |
| <i>Climate Change (State Action) Act 2008</i> | An Act for certain measures to help the State address the challenges of climate change and contribute to the broader national and international response to those challenges and for related purposes. |
| <i>Crown Lands Act 1976</i> | An Act to make fresh provisions with respect to the management, sale, and disposal of the lands of the Crown. |
| <i>Electricity Supply Industry Act 1995</i> | An Act to promote efficiency and competition in the electricity supply industry, to provide for a safe and efficient system of electricity generation, transmission, distribution and supply, to provide for the safety of electrical installations, equipment and appliances, to enforce proper standards in the performance of electrical work, to protect the interests of consumers of electricity and for related purposes. This Act enables the Tasmanian Electricity Code. |
| <i>Emergency Management Act 2006</i> | The Act to provide for the protection of life, property and environment in the event of an emergency, to establish emergency management arrangements and to provide for certain rescue and retrieval operations. |
| <i>Environmental Management and Pollution Control Act 1994</i> | An Act to provide for the management of the environment and the control of pollution in the State. It enables the development of environmental protection policies to further the objectives of the Act. |
| <i>Forest Management Act 2013</i> | An Act to provide for the management of permanent timber production zone land to repeal the <i>Forestry Act 1920</i> and for related purposes. |
| <i>Forest Practices Act 1985</i> | An Act to ensure that all forest practices are conducted in accordance with the Forest Practices Code and to provide for the issue of that Code. The Forest Practices Code provides operational standards applicable to vegetation fire management. |
| <i>Land Use Planning and Approvals Act 1993</i> | An Act to make provision for land use planning and approvals. |
| <i>Local Government Act 1993</i> | An Act to provide for local government and establish councils to plan for, develop and manage municipal areas in the interests of their communities. |

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| Local Government (Building and Miscellaneous Provisions) Act 1993 | An Act providing for various provisions regarding planning. |
| Nature Conservation Act 2002 | An Act to make provision with respect to the conservation and protection of the fauna, flora and geological diversity of the State, to provide for the declaration of national parks and other reserved land and for related purposes. |
| National Parks and Reserves Management Act 2002 | An Act to provide for the management of national parks and other reserved land. |
| State Policies and Projects Act 1993 | <p>An Act to provide for Tasmanian Sustainable Development Policies, to provide for the integrated assessment of projects of State significance, to provide for State of the Environment Reporting and for related purposes. Policies prepared under this act bind local government and the Crown and currently include:</p> <ul style="list-style-type: none"> • State Policy on the Protection of Agricultural land 2009 • State Coastal Policy 1996 • State Policy on Water Quality Management 1997. |
| Threatened Species Protection Act 1995 | The Act to provide for the protection and management of threatened native flora and fauna to enable and promote the conservation of native flora and fauna. |
| Water Management Act 1999 | The Act to provide for the management of water resources. |
| Wellington Park Act 1993 | An Act to establish Wellington Park, to provide for its protection, use and management and for the assessment of major projects affecting it and to make provision for incidental and consequential matters. |

APPENDIX C FIRE AND EMERGENCY SERVICE STRUCTURES IN OTHER JURISDICTIONS

Western Australia

Department of Fire and Emergency Services is a government department headed by a Fire and Emergency Services Commissioner who is responsible for the organisation's strategic direction, operations and functions. The Commissioner reports to the Minister for Emergency Services and is appointed under the Public Sector Management Act 1994. There are four commands that coordinate and deliver DFES' key services to the community.

The *Emergency Management Act 2005* is administered by the State Emergency Management Committee.

DFES is progressing a review of the Acts to create a single comprehensive Emergency Services Act which will improve community safety and better support emergency service workers into the future.

New South Wales

Fire & Rescue NSW (FRNSW) is the state government department responsible for the provision of fire, rescue and hazmat services in New South Wales. It is headed up by a Commissioner, employed under the provisions of the Public Sector Employment and Management Act 2002 and is part of the Department of Attorney General and Justice. The Commissioner reports to the Minister for Police and Emergency Services.

NSW Rural Fire Service is also lead by a Commissioner appointed under the Public Sector Employment and Management. The Commissioner is subject to the control and direction of the Minister.

Victoria

Metropolitan Fire Brigade is a statutory authority that is responsible for the Melbourne metropolitan area. It is overseen by a Board of Management. There is also a Fire Service Commissioner appointed by the Governor. The majority of funding for the MFB comes from the Property Levy supplemented by the government through the consolidated fund.

Country Fire Authority is a statutory authority overseen by a Board and is accountable to the Minister.

Emergency Management Victoria (EMV) was established in July 2014 and plays a key role in implementing the Victorian Government's emergency management reform agenda.

EMV supports the Emergency Management Commissioner, who has overall responsibility for coordination before, during and after major emergencies including management of consequences of an emergency.

South Australia

The sector operates under the guidance of the South Australia Fire and Emergency Services (SAFECOM) Board whose members include the Chief Officers of the Country Fire Service (CFS), the Metropolitan Fire Service (MFS) and State Emergency Service (SES) and the Chief Executive, SAFECOM and the agencies report to the Minister for Emergency Services. The Chief Executive is appointed by the Minister on terms and conditions determined by the Minister.

The Chief Officers of the CFA, MFA and SES are appointed by the Minister in consultation with the Chief Executive of SAFECOM on terms and conditions as determined by the Minister in consultation with the Commissioner for Public Sector Employment.

SAFECOM Board may give directions to the CFS, MFS or SES except in relation to any matter concerning procedures that are relevant to responding to an emergency situation.

Queensland

Queensland Fire and Emergency Services (QFES) is the primary provider of fire and emergency services in Queensland. QFES is headed up by the Commissioner for Fire and Emergency Services. The Commissioner is appointed by the Governor on the recommendation of the Minister and is appointed under the Fire and Emergency Services Act 11990 not the Public Service Act 2008. QFES delivers its emergency management services through the Fire and Rescue Service, Rural Fire Service Queensland and the State Emergency Service

The Rural Fire Service (RFS) is the volunteer arm of the QFES operating in rural, semi-rural and urban fringe areas where there is no urban fire service coverage.

Australian Capital Territory

In 2006, the ACT Emergency Services Authority was renamed The ACT Emergency Services Agency, and responsibility was moved to the Department of Justice and Community Safety. The Director-General of the Department may appoint a public servant to be the Emergency Services Commissioner. The Director-General, in consultation with the Commissioner may appoint a public servant to be Chief Officer (Ambulance Service) and Chief Officer Fire and Rescue service and Chief Officer (Rural Fire Service) and Chief Officer (SES).

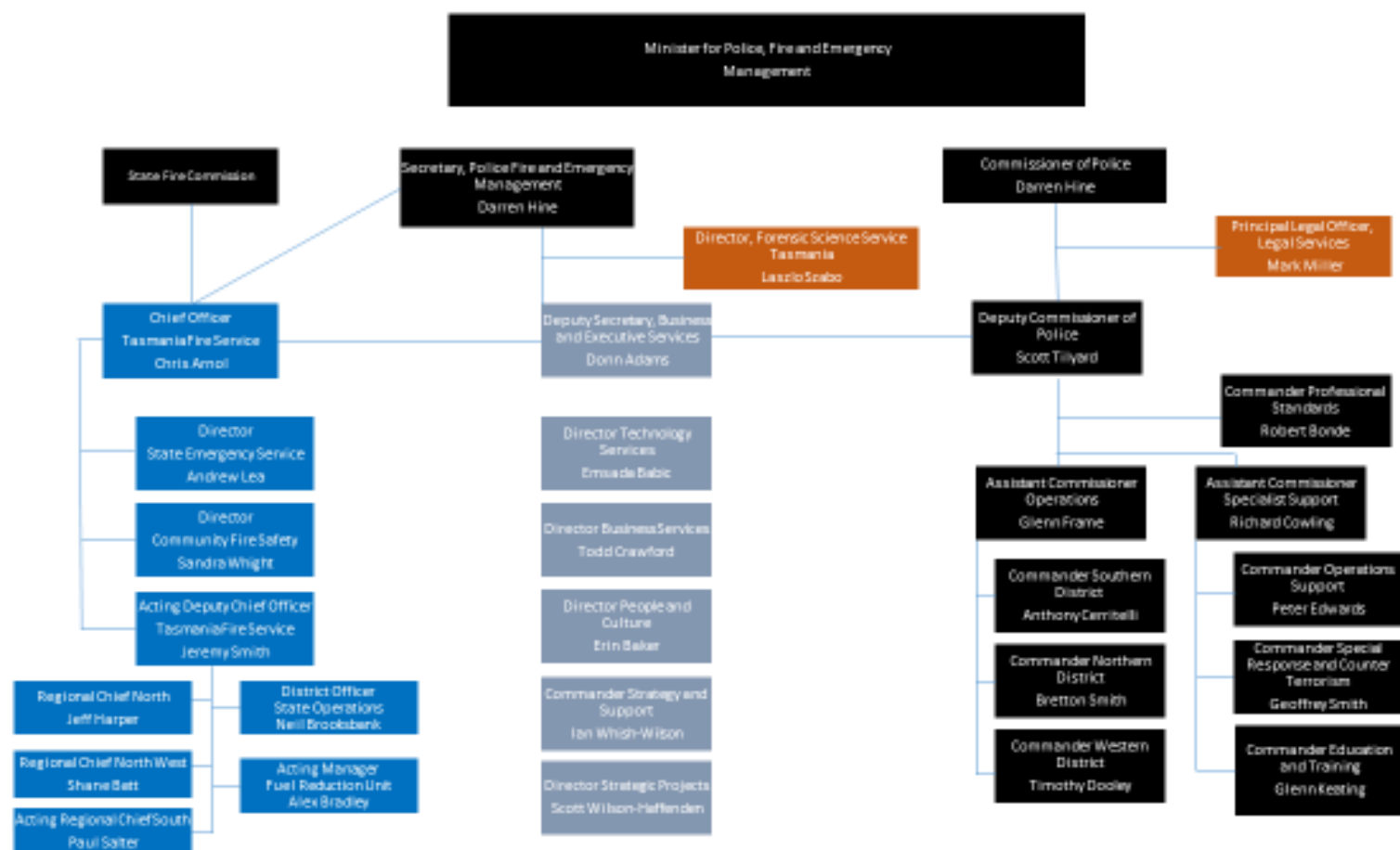
The ACT Rural Fire Service (ACTRFS) is one of four services that make up the ACT Emergency Service Agency (ESA). The others being ACT Ambulance Service, ACT Emergency Service and ACT Rural Fire Service. The Commissioner, ESA reports to Director-General of the Department of Justice & Community Safety, who is responsible to the Minister for Police and Emergency Services.

Northern Territory

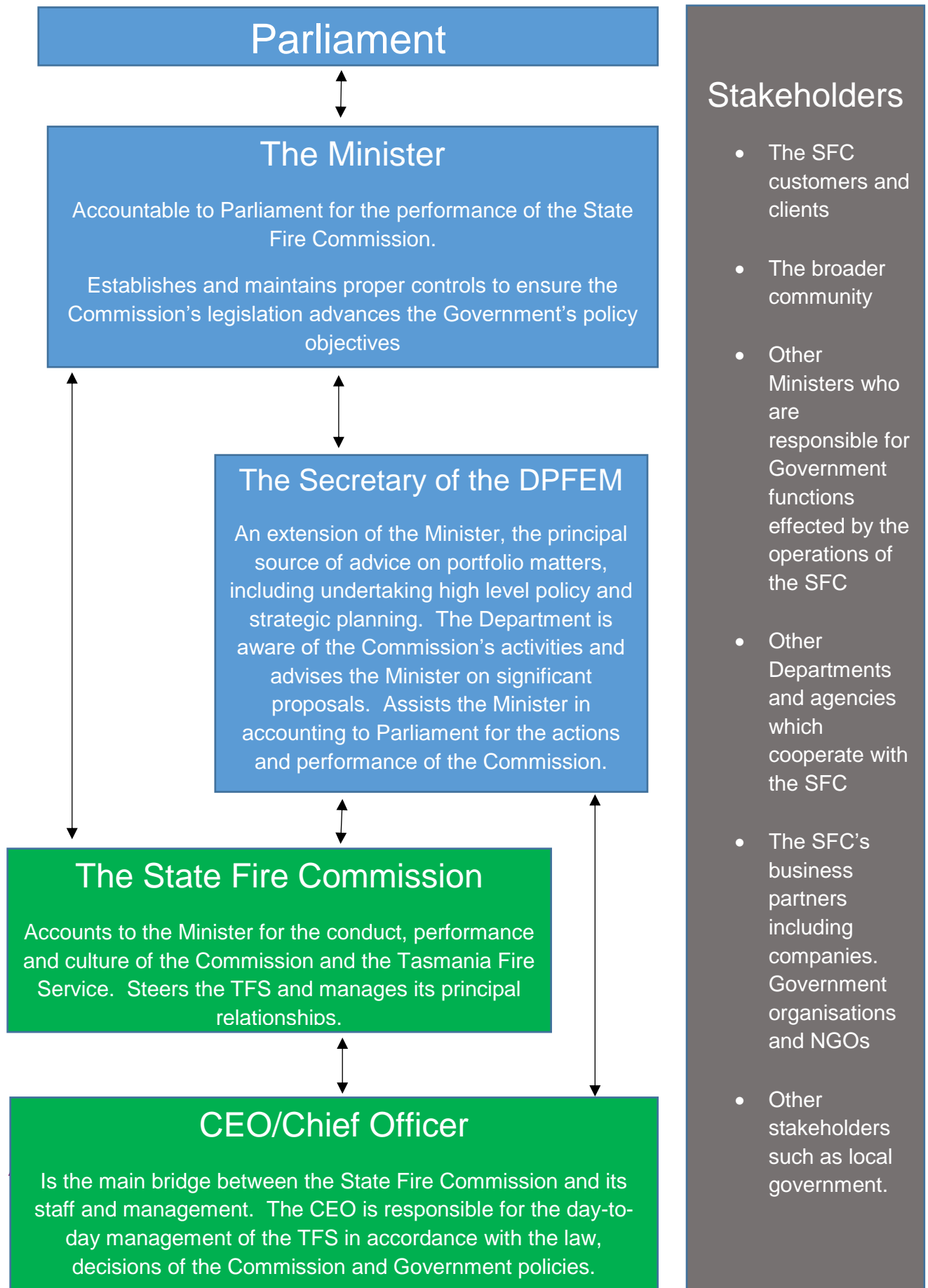
The Northern Territory Emergency Service (NTES), Fire and Rescue and Police are divisions of the Northern Territory Police, Fire and Emergency Services (NTPFES). Under

legislation the Commissioner of Police is the CEO of Fire and Rescue Services. Northern Territory Fire and Rescue Service is a government agency.

APPENDIX D DEPARTMENTAL STRUCTURE



APPENDIX E STATE-LEVEL GOVERNANCE STRUCTURE



APPENDIX F EMERGENCY SERVICES STRUCTURES IN OTHER STATES

Australian States and Territories have a variety of structures and funding mechanisms for their emergency services sectors. NSW SES is a government entity attached to the Department of Justice. In Victoria, SES is a statutory authority governed by a board and responsible to the Minister. Queensland Fire and Emergency Services is a government department and includes Fire and Rescue Service, Rural Fire Service and the SES. The Western Australian Department of Fire and Emergency Services comprises SES, Career and Volunteer Fire and Rescue Services, Volunteer Marine Rescue Service and Volunteer Fire and Emergency Service. In South Australia, SES is a government department. A separate organisation, SA Fire and Emergency Services Commission provides strategic, administrative and support services to the emergency services sector. The Northern Territory Emergency Service is a Division of the Northern Territory Police, Fire and Emergency Services. The ACT Emergency Services Agency is a part of the ACT Justice and Community Safety Directorate which incorporates SES, Fire and Rescue, Rural Fire Service, Ambulance and support services.

| STATE AND TERRITORY EMERGENCY SERVICE RESPONSIBILITIES, BY STATE (2012) ⁴⁴ | | | | | | | | |
|---|---------|-----|---------|----|----|-----|----|-----|
| Responsibilities of State and Territory Emergency Services | NS W | VIC | QL D | SA | WA | TAS | NT | ACT |
| Storm Damage | Y | Y | Y | Y | Y | Y | Y | Y |
| Flood Response | Y | Y | Y | Y | Y | Y | Y | Y |
| Road Rescue | Y | Y | Y | Y | Y | Y | Y | N |
| Earthquakes | Y | Y | Y | Y | Y | Y | Y | Y |
| Civil Defence | Y | Y | Y | Y | Y | Y | Y | Y |
| Land search & rescue | Y | Y | Y | Y | Y | Y | Y | Y |
| Inland marine search & rescue | Y | Y | Y | Y | Y | N | Y | Y |
| Offshore marine search & rescue | N | Y | N | Y | N | N | N | Y |
| Support to emergency service organisations | Y | Y | Y | Y | Y | Y | Y | Y |
| Support to non-emergency service organisations | Y | Y | N | Y | Y | Y | Y | Y |
| Assistance for municipal planning | Y | Y | N | Y | Y | Y | Y | Y |
| Conduct of emergency management courses | N | Y | Y | Y | Y | Y | Y | Y |
| Air observer | Y | Y | Y | Y | Y | Y | Y | Y |
| Vertical rescue | Y | Y | Y | Y | Y | Y | Y | N |
| Public safety awareness and education | Y | Y | Y | Y | Y | Y | Y | Y |
| Tropical cyclone response | Y | N | Y | N | Y | N | Y | N |
| Tsunami response | Y | Y | Y | N | Y | N | Y | Y |

⁴⁴ Australian Council of State Emergency Services, *State and Territory Emergency Services National Performance Indicators*, November 2012

Funding Structures in Other States

New South Wales

The cost of the fire and emergency services agencies is fully funded from the NSW Budget. The government recovers 73.7 per cent of the net cost from levies on insurers 11.7 per cent from local government contributions. The balance is provided by way of other general state government revenues. The implementation of a fire and emergency service levy has been delayed pending further review.

Victoria

In Victoria, prior to 2013-14, funding for fire services was provided through a fire services levy on insurance premiums. The levy funded 75% of the net cost of Melbourne Fire and Emergency Services Board (MFESB) and 77.5% of the net cost of Country Fire Authority.

Metropolitan councils contributed 12.5% of the requirements of the MFESB with the State government funding the remainder.

From July 2013, Victorian councils began collecting the fire services levy through property rates rather than taxing insurance policies.

A Fire Services Property Levy applies to all leviable properties to support the Metropolitan Fire Brigade (MFB) and the Country Fire Authority (CFA).

A fixed charge and variable component applies based on the property's capital improved value. The levy varies depending on property use and location. For properties located within a CFA district, a higher variable rate applies reflecting the higher costs of that service.

The levy is collected by councils on behalf of the State Government and funds 87.5% of the net cost of the MFB and 77.5% of the net cost of the CFA with the remainder sourced from other state government revenues.⁴⁵

Other emergency services are provided by Emergency Management Victoria.

The Victorian Treasury noted that the model was premised upon equity and removed flawed and unfair mechanisms. The Insurance Council of Australia endorsed the move claiming it to be "the biggest tax reform since the introduction of the GST"⁴⁶.

Queensland

Prior to 1984, fire and rescue services were funded by contributions from insurers, local government and the State government.

⁴⁵ New South Wales Department of Treasury – Summary of Funding Arrangements of fire and Emergency Service in Australian Jurisdictions

⁴⁶ Insurance Council of Australia, Media Statement, 18 June 2013

Between 1984 and 2014, a property-based Urban Fire Levy applied in urban areas. The levy varied depending on property use and location.

Today, an Emergency Management Levy applies to all properties to support Queensland Fire and Emergency Services. A fixed levy varies applies depending on property use and location.⁴⁷

The levy funds 6/7 of the net cost of Queensland's fire and whole-of-state emergency services. The State provides funding for the remaining 1/7.

The levy is collected by local government on behalf of the State government.

Local councils can raise a self-determined rural fire levy to fund the operational costs of rural fire brigades. The State Government funds certain costs of the rural fire brigades costs.

Western Australia

Prior to 2003-04, career fire and rescue services were funded by contributions from insurers, local government and the State government. Volunteer fire and rescue services were funded entirely by the State while other emergency services were funded through various sources including State and local government grants and local community fund raising.

Today, an Emergency Services Levy applies to all properties and certain Mining Tenements to support fire and emergency services. The Levy is currently being reviewed.⁴⁸

In urbanised areas, a variable charge applies depending on the property's location, type and Gross Rental Value and is subject to minimum and maximum charge thresholds. A fixed charge applies in rural/remote areas and to assessable Mining Tenements.

The levy will fund approximately 90 per cent of the net cost of fire and emergency services in 2017-18 with the State Government funding the remainder.

The levy is collected by the local government authorities on behalf of the State.

South Australia

South Australia was the first state to embrace a property based model in 1999. Prior to 1999, a levy on insurance raised approximately 70 per cent of the net cost of fire services. The remainder (nearly 30 per cent) was funded from local government and state government contributions with a small amount coming from fund raising.

Today, an Emergency Services Levy applies to all fixed property (including government property), motor vehicles and vessels and funds the net cost of emergency services including fire, search and rescue services.

⁴⁷ NSW Department of Treasury, op. cit.

⁴⁸ Western Australia Economic Regulation Authority, *Issues Paper for the Review of the Emergency Service Levy*, 2017.

The levy on fixed property comprises a fixed charge and ad valorem charge based on the property's location, type and capital value.

The fixed property levy is collected by Revenue SA and the mobile property levy is collected by the Department of Planning, Transport and Infrastructure.

Australian Capital Territory

The Fire and Emergency Services Levy is imposed to cover costs associated with all fire and emergency services for the ACT, the levy is charged on all rateable properties in the ACT.

The amount payable for the Fire and Emergency Levy commencing 1 July 2017 for properties in the ACT are detailed in the Rates Assessment Notice, Rural and Residential properties pay a fixed charge of \$294.

Northern Territory

There is no fire or emergency service levy in the Northern Territory. Fire and Emergency Services are funded directly from the Consolidated Fund.

APPENDIX G PERMIT SYSTEM REVIEW RECOMMENDATIONS

The Steering Committee has formulated 18 recommendations based on:

- the options that received the highest level of support at the Workshop;
- the Steering Committee's views; and
- the findings and recommendations of WLF's independent Governance and Systems review.

Recommendations

Purpose and Governance of the System

- R1. Retain a System to enable, monitor and regulate fires in the landscape in order to manage or mitigate the risk of uncontrolled fires and to encourage responsible burning practices.
- R2. Develop a governance structure for state-wide coordination and management of the System.
The governance structure should address: (a) Mechanisms for communication between fire agencies; (b) Fire Permit Officer recruitment, selection, appointment and training; (c) Quality assurance processes and continuous improvement; and (d) Stakeholder management.
- R3. Create a tiered system for decisions about authority to burn, based on the differences in risk arising from differences in: (a) User sophistication and resources; (b) Scale and attributes of activity; and (c) Level of approval required. The tiered system should be developed with input from experienced Fire Permit Officers and scientific expertise across the three fire agencies.

Elements of the System

- R4. The System should continue to include the following elements:
- a. Fire Permit Officers (personnel with authority to grant or refuse permission to conduct a burn);
 - b. Fire Permit Periods (declared periods during which authority to burn is restricted); and
 - c. Total Fire Bans (declared periods during which burning and Activities that May Cause Fire are not permitted).
- R5. The System should include year-round mandatory registration of all burns (relevant types of “burn” to be defined).
- R6. The System should include risk-based self-regulation mechanisms (similar to current Machinery Operations Guidelines) that are subject to overarching controls such as bans.
- R7. Create a pre-approval system for registered users (eligibility and responsibilities to be defined).
- R8. The System should include a process for continuous development and review, with stakeholder input. The process should be appropriate to the stage of maturity of the System, with iterative evaluation during implementation, transitioning to periodic review once the System is established.
- R9. Change high level terminology so that the elements of the System are named in ways that are less authoritarian and better reflect the purpose of the System.

Embrace Technology

- R10. Create an online system for: (a) burn registration; (b) applying for, granting and recording permits and burn plans; (c) multiple access, including sharing of data between fire agencies and other stakeholders and access via tablet, smartphone and other devices; (d) weather data; (e) reporting; and (f) data analysis. The online system should be designed to facilitate alignment with fire response, strategic fuel reduction, research and other strategic priorities and programs.

Consistent, Risk-Based Decision-Making

- R11. Review and improve policy and process for making decisions about declaring Fire Permit Periods, Total Fire Bans and other restrictions, in relation to matters such as: (a) specifying responsibility for the decision; (b) use of actual vs forecast weather; (c) risk-based framework; (d) factors considered; (e) local variation in conditions; (f) duration and location of restrictions; and (g) consultation with other partner agencies.
- R12. Review decision-making process for Fire Permits, including in relation to: (a) burn plan requirements; (b) windspeed limits; (c) site inspection; (d) scope for self-regulation; and (e) how decisions are documented.

Fire Permit Officer Appointment and Training

- R13. Develop a skills matrix for Fire Permit Officers that identifies the training and assessment of skills and knowledge that must be achieved and maintained in order to be appointed and continue to perform the functions of a Fire Permit Officer. Arrangements should be made to recognise the skills and experience of existing Fire Permit Officers through Recognition of Prior Learning or other appropriate means.
- R14. Change the process for Fire Permit Officer appointment so that: (a) it is more efficient; (b) responsibility for appointment decisions is vested in an appropriate office-holder or body; (c) Fire Permit Officers are appointed for a defined period of time; (d) the appointment clearly identifies the geographical area(s) within which each Fire Permit Officer has jurisdiction; and (e) appointment and renewal of appointment is subject to the Fire Permit Officer demonstrating competency in accordance with the skills matrix.

Compliance and Enforcement

- R15. Improve education and training for System users and implementers, including about how the System enables fuel management by means of responsible burning.
- R16. Develop policies, processes and procedures to support compliance with and enforcement of the System.
- R17. Change offence, enforcement and authority provisions in the Act to ensure they are effective.

Quality Assurance and Continuous Improvement

- R18. Create a system for quality assurance which incorporates: (a) routine collection and analysis of outcome data across the fire agencies; (b) mechanisms for oversight of decision-making to ensure consistency; and (c) focus on using data, scientific expertise and information from other jurisdictions to identify opportunities for continuous improvement.

APPENDIX H LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|----------|---|
| ABS | Australian Bureau of Statistics |
| AFAC | Australasian Fire and Emergency Service Authorities Council |
| AIIMS | Australasian Inter-service Incident Management System |
| AIRS | Australian Incident Reporting System |
| DPFEM | Department of Police, Fire and Emergency Management |
| FireComm | State Operations Call Receipt, Dispatch and Communications Centre |
| FMAC | Fire Management Area Committee |
| Hazmat | Hazardous Materials |
| ICS | Incident Control System |
| IMT | Incident Management Team |
| LGAT | Local Government Association of Tasmania |
| MAC | Multi Agency Coordination Group |
| MEMC | Municipal Emergency Management Committee |
| MoU | Memorandum of Understanding |
| MVA | Motor Vehicle Accident |
| NAFC | National Aerial Firefighting Centre |
| NDR | National Disaster Resilience |
| NPA | National Partnership Agreement |
| PWS | Parks and Wildlife Service |
| RAT | Remote Area Team |
| REMC | Regional Emergency Management Committee |
| SEMC | State Emergency Management Committee |
| RCR | Road Crash Rescue |

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|----------------|-------------------------------|
| SES | State Emergency Service |
| SFMC | State Fire Management Council |
| STT | Sustainable Timber Tasmania |
| TasPol | Tasmania Police |
| TFB | Total Fire Ban |
| TFE | TasFire Equipment |
| TFS | Tasmania Fire Service |
| TFT | TasFire Training |
| The Commission | State Fire Commission |
| USAR | Urban Search and Rescue |

APPENDIX I SUMMARY OF QUESTIONS

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| 1 | Should the purpose of the legislation more accurately reflect the range of activities undertaken? |
| 2 | How should legislation validate the delivery of the current range of non-fire services that communities and government expect TFS to deliver? |
| 3 | Do TFS firefighters have a role in Emergency Medical Response and, if so, should that role be reflected in legislation? |
| 4 | Should the State Emergency Service be included in the new legislation and removed from the Emergency Management Act? |
| 5 | Should a statement of commitment to volunteers be included in the new legislation and, if so, who and what should it cover? |
| 6 | Should the legislation provide PWS and forest officers with appropriate legislative authority to undertake fire control work and reflect contemporary Tasmanian practice in relation to Inter-Agency Incident Management? |
| 7 | Should the State Fire Commission remain as a Statutory Authority? |
| 8 | Should the State Fire Commission have the role of a governing Board? |
| 9 | Should members of the Commission be appointed as representatives of their organisation or on the basis of skills/knowledge that they possess? |
| 10 | What should be the State Fire Commission's role and function and should it include the strategic policy setting and administrative oversight of the State Emergency Service? |
| 11 | What structural arrangements would best allow the Commission and TFS to achieve their objectives while operating in a departmental environment? |
| 12 | How should the Chief Officer be appointed and to whom is he responsible? |
| 13 | Should it still be specified that the Chief Officer is to have expertise and experience in fire service administration and in the management of fire-fighting operations? |
| 14 | How should potential tensions between the roles and accountabilities of the Chief Officer TFS, the Director SES and the State Controller be best resolved? |
| 15 | What is the appropriate role and function of the SFMC and what should the relationship be with the State Fire Commission/TFS? |
| 16 | What is the appropriate membership of the SFMC and should the membership be prescribed in legislation? |

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| 17 | Should the State Fire Management Council have the power to appoint permit officers? |
| 18 | Are the Fire Management Areas and the composition of the Fire Management Area Committees still appropriate? |
| 19 | What opportunities exist to streamline Fire Management Area Committees with Emergency Management Committees? |

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| 20 | Should fire and emergency services be funded through a single mechanism? If so, what is the appropriate model? |
| 21 | Should SES centrally manage and fund its volunteer unit facilities, its fleet and its operational expenses? |
| 22 | Should any new legislation bind the Crown? |
| 23 | How should response, command and control arrangements be handled in new legislation? |
| 24 | Should the Chain of Command be included in legislation with accountabilities included? |
| 25 | Should endorsement of Incident Controllers be legislated? Making it clear that all emergency responders present at an incident are in all respects subject to the Incident Controller's direction or should Incident Controllers be endorsed through policy? |
| 26 | Are the provisions relating to the establishment and composition of brigades still appropriate? |
| 27 | Should Industry Brigades be recognised in legislation and have the ability to assist in emergency response outside the industry boundaries? |
| 28 | Should the Act be amended to specify these activities are exempt from the provisions of the LUPAA? |
| 29 | Are the provisions relating to the declaration of Total Fire Bans still appropriate? |
| 30 | Should Community Education be an explicit function of SFC/TFS and should it include the SES? |
| 31 | Is it still appropriate that TFS issues permits to install, maintain or repair fire protection equipment? |
| 32 | Should there be a whole of government Emergency Evacuation System that deals with all threats, not just fire risks, in the built environment? Should prescribed buildings be categorised by risk potential? |

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| 33 | Are the current levels and structure of penalties appropriate? |
| 34 | Are there other offences that should be considered for inclusion in new legislation? |
| 35 | Are the current protection from liability provisions appropriate? |

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