



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

ENDORSED SUBMISSION

Relating to the

Draft Tasmania Fire and Emergency Services Bill 2023



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

INTRODUCTION

The following submission is endorsed by the State Executive of the Tasmanian Retained Volunteer Firefighters Association (TRVFA).

Overall, the TRVFA is supportive of the review, and indicated intent, of the Draft Legislation.

The draft legislation, in general terms, appears to canvas most areas of the current Fire Service Act 1979.

It has been commented that many Sections of the Draft Legislation appear to be very general in nature – most likely deliberately so.

The overriding expectation is that the required detail will be contained in the future Regulations.

Such clarifications, and organisational specific references, will be essential to properly fulfill the Legislative intent of the Draft Legislation.

Additionally, properly consulted and considered Regulations will be required for the proper governance and functioning of the proposed Tasmania Fire and Emergency Services (TFES).

The TRVFA have concerns however that the Regulations can be changed on a whim, as opposed to the “Act” that has significantly more stringent rigour prior to amendments being enacted, hence a genuine concern about the lack of specificity, notwithstanding the intent of the draft.

EMERGENCY MANAGEMENT/OPERATIONS DEFINITION

The definition of ‘emergency management operations’ is broader than ever before.

This is necessary to cover the enhanced capabilities that will result from the formal coming together of the Tasmania Fire Service and the State Emergency Service.

Additionally, it reflects the wide range of services that the TFES will be able to provide to the Tasmanian community.

Obviously, the provision of such services is closely linked, and in fact reliant on, the future funding of the TFES.

Subsection (c) extends the definition to ‘such other operations, or actions, as are prescribed;’

For several months now, serious concerns have been flagged as to how effectively TFES funds will be ‘ringfenced’ and properly dedicated to TFES functions and activities.

The lack of clarity in this definition does nothing to allay those concerns.



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

This is also clearly evidenced in public cabinet papers, which reference an example of “whale strandings” let alone the anecdotal commentary regarding the capacity to support Surf Life Saving and the reference to ongoing maintenance of Tas Alert.

It is of concern to the TRVFA that this is not clear, and probably won't be until definitions are broadened with specific regard to this subject, as well as clarity around the ring-fencing model.

TFES FUNDING MODEL

The TRVFA acknowledges that the current funding model, (and overall Tasmania Fire Service and State Emergency Service budgets) is inadequate and not sustainable in moving forward to integration into TFES.

The TRVFA supports a future funding model that will suitably and adequately sustain the TFES. Any such funding model needs to ensure that the TFES is properly resourced and becomes an effective and efficient organisation into the future.

It is essential that the TFES is a highly regarded contemporary emergency organisation that delivers a high level of service, and recognised outcomes to the Tasmanian community. Let alone appropriately resource its other key stakeholders, 6000 volunteers and career staff.

Proper dedicated funding is a key requirement in achieving this goal.

Included in that funding are considerations for equipment, buildings, fleet, and training - this is inclusive of wellbeing and environmentally sustainable considerations for TFES members.

Contemporary Structures are not aligned with the current model, let alone duly considered in a new model. Full time equivalent positions (FTE's) are well under what is required to meet the intent of a contemporary model into the future.

How has the model included considerations that align with approximately 6000 volunteers supported by 450 Career staff?

Needed urgently are Organisational Structural considerations such as:

- Additional Deputy Commissioner – Fire Volunteers (in addition to Deputy Commissioner SES and Volunteers)
- Specialised dedicated roles for:
 - Aviation
 - Hazmat
 - Marine
 - USAR
- It is suggested these roles would be at a District Officer Level as a minimum (or whatever the titles may be in the future).



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

Note – this already exists in DPFEM / Health, so again the model must be contemporised, and be a significant consideration within the new funding model, not a scramble once the new model is developed without such considerations.

There are further TRVFA endorsed funding submissions are outlined in the Tasmania Fire, Rescue and State Emergency Responders Alliance joint submission paper.

STATE FIRE and EMERGENCY SERVICES COMMITTEE

The TRVFA holds serious concerns about this section. The minister determining the Terms of reference is problematic in the view of the TRVFA.

Whilst there may well be some “not negotiables” it would be the expectation that the TOR’s are developed by the “committee” obviously with oversight and endorsement by the Minister.

GENERAL COMMENTS ON SECTIONS OF THE ACT

Section 20

This Section deals with Powers of entry.

Sub section (1) states that the ‘TFES may enter premises’ – it is suggested that ‘TFES authorised member’ would be better suited rather than naming the organisation.

Section 22

Powers of responsible officers.

This section defines a responsible officer as including ‘a TFES officer’.

It is believed that this definition needs further clarification and whether ‘TFES Officer’ is the most appropriate role of for the purposes of this Section.

An assumption would be that the definition ‘a TFES officer’ would include all duly elected members, to all ranks of Officer, in all TFS Volunteer Brigades and SES Units.

If so, then maybe the intention of this Section is fulfilled.

However, in practical terms, there may be occasions where the powers, contained in Section 22, are required to be exercised but a ‘TFES officer’ is not present.



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

This being due to the fact that the selection of personnel to perform the roles of Incident Controller/Sector Commander/Crew Leader (i.e., those members who may be required to exercise such powers) is often a skills/qualification based appointment.

Being a TFES officer is not an essential requirement to undertake such operational roles, hence this needs clear and concise definition.

Section 23

This Section refers to 'prescribed actions' and 'prescribed process'. It was difficult to find any reference as to what these terms pertain to, so therefore the intent of this Section is unclear. (Maybe the terms will be clarified in the Regulations)

The main reason for commenting on Section 23 is that it refers to 'authorised member' so doesn't contain the perceived issues commented on re Section 22.

Section 26 (3)

The TRVFA welcomes the clarification/coverage for TFES members who may be engaged in such 'non-operational' events.

The involvement of Volunteer Brigade members and SES Unit members in activities such as community engagement, charity fundraising and other such social type events are a key component of a 'healthy' Brigade / Unit membership and flow on effects to the recruitment and retention of Volunteer members.

Section 53

This Section deals with authorised members of the TFES requesting assistance from other persons.

Other Tasmanian legislation contains such references to Authorised persons requesting assistance.

Some of this Legislation has the proviso that the person be asked for assistance must be, or appear to be, 18 years of age or older.

It is questioned if such an amendment to the language, in Section 53, would better assist with the intent of the Section and its practical application. What is the clear expectation of this section?



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

Section 59 (2)

Included here is a reference to 'authorised officer'.

This definition/designation doesn't appear to be used or defined anywhere else in the draft Act.

'Authorised member' is the prevailing terminology that is utilised and defined. What is the definition and application?

Section 79

This Section deals with TFES members not being criminally or civilly liable for any act or omission that is done in good faith.

Sub section (3) then goes on to imply that State Service Act sanctions will still be applicable to TFES members for those acts and/or omissions.

It is wondered how such State Service Act provisions can be applied to those members who are not State Service employees.

Or is there some intent to formally ensure that Volunteer members are in fact subject to such sanctions? This raises several questions, as well as how is it intended to be applied if that is the case?

Section 86

This Section of the Draft Bill deals with the development of potential Regulations.

Many sections of the Draft Act, as expected, seem to imply that further detail and clarification of many components of the Act will be contained in the Regulations.

For example,

Sect 12 (3) the regulations **may** prescribe –

- a) The process to apply for registration, and for registration itself, as a volunteer member;
and
- b) The process for suspending, or deregistering, a volunteer member.

Although optimistic of the overall intent of the draft legislation, such detail is subject to various external factors and the differing interpretation of the legislative author(s).



Tasmanian Retained Volunteer Firefighters Association

Retained Volunteers Proudly Protecting Tasmanian Communities

The consultation of essential stakeholders, and the input of various subject matter experts is vital to ensure that any proposed Regulations compliment the Draft Legislation and are fit for purpose.

It is difficult to completely endorse the Act without ensuring that the crucial definitions, various systems and processes etc are in fact captured in the proposed Regulations.

The TRVFA, as mentioned in the introduction, has serious concerns about the lack of specificity and this section is a good example of that, let alone then the coupling of Section 79, and State Service implications.

General Comment

Substantial amounts of the draft legislation place a reliance on the TFES Commissioner to approve, establish, authorise etc. different aspects of the Act.

In practical terms, it would appear that the TFES Commissioner is required to potentially have involvement in every minor aspect of the new organisation. This may create challenges when developing TFES systems, procedures, and processes in the future.

Would wording such as 'TFES Commissioner, or delegate', where appropriate, be more suitable in order to avoid any unintended consequences, and potential hinderances into the future.

State Executive

TRVFA