



United Firefighters Union Of Australia

Submission regarding the Draft
Tasmania Fire and Emergency Service
Bill 2023

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Introduction

A number of reviews have been undertaken with regard to the modernisation of the *Fire Service Act 1979*. A number of submissions have been made by the United Firefighters Union of Australia (UFUA) as well as other organisational and community stakeholders.

There is a great deal of recognition that reform is needed and there is some agreement on what legislative deficiencies or opportunities for improvement currently exist, but it appears that there are widely divergent views on how this should be improved upon.

These submissions will seek to outline areas of agreement and divergence and examine the impacts of changes and what they might mean for front line emergency service workers and their ability to deliver an effective community response.

Government Commitments

State Fire Commission

The previous Minister and the previous Premier committed to retain the statutory authority of the State Fire Commission. The draft legislation is not in line with this commitment.

A Fair and Sustainable Funding Model

The Minister committed to delivering a fair and sustainable funding model. Whilst fairness is highly subjective, it is difficult to conclude that the proposed funding model is much fairer than the current funding model. Analysis of the residential property rates in Appendix A demonstrates that it does not appear that the revenues raised will be enough to sustain the integrated organisations. The amount raised from year to year would also depend entirely on the whims of the Treasurer from year to year as the property levy rates are altered, which undermines the core goal of providing a more certain and sustainable funding stream.

Ring Fenced Funding

The ring fencing of funding has many holes in the fence, with funding only limited to functions imposed on the TFES by the proposed Bill or any other legislation or Regulation. Treasury documents clearly indicate an intention for TFES funds to be used for activities such as whale strandings and other matters that are considered to be an emergency by virtue of urgency rather than being a traditional function of TFS or SES. A Clear Chain of Command
The Minister committed to delivering a clear chain of command in this legislation. Not only is there no prescribed chain of command, it allows for people outside of the organisation to be

formally integrated into the chain of command without reference to their skills or qualifications in fire and civil emergency response.

Powers of the Commissioner

The Minister stated that the Commissioner of TFES will report directly to the Minister and will be empowered to oversee the workforce and the budget for TFES. This is not reflected in the proposed Bill, with the Department Secretary granted significant control over the workforce, administration and budgetary processes.

TFES Commissioner as Department Secretary

The Minister committed that in the absence of employment powers, the TFES Commissioner would rotate with the Commissioner of Police to fill the position of DPFEM Secretary. This is not reflected in the proposed Bill. Whilst it is possible that this could occur, it has previously been possible, but has never happened so far. Whilst this is another commitment that is not reflected in the proposed Bill, we do not believe that it is any more appropriate for the TFES Commissioner to have control over Police than it is for the Commissioner of Police to have control over TFES, we therefore are of the firm view having a better understanding of governments position, that the bill be amended to reflect TFES as a stand alone agency that can elect enter into shared arrangements with agencies if the TFES commission deems appropriate.

Volunteer Protections

The Minister provided a commitment that emergency service volunteers would be provided with greater protections under the new legislation. The proposed Bill requires that a volunteer charter is drafted, but there is no mechanism that requires that additional protections will be provided should these protections not be volunteered.

Organisations to Continue

The Minister committed that volunteers will still be able to attend their local SES unit or TFS Brigade and wear their respective uniforms with pride. This is not required in the legislation, which empowers the Commissioner to make decisions about operations, the chain of command and resourcing without prescribing these matters. The Commissioner has the scope to effectively dissolve the operational arms of the organisation.

Intention of Fire Service Act Review

The Minister has stated that the draft Act will:

1. Bring together the Tasmania Fire Service and the State Emergency Service into a single organisation
2. Establish a clear operational chain of command
3. Establish a fair and sustainable funding model
4. Ensure that funding is ring fenced
5. Empower TFES to deliver services

Integration of SES

The UFUA submits that the draft legislation would establish the Tasmania Fire and Emergency Service, with the Tasmania Fire Service (TFS) and State Emergency Service (SES) as operational arms of this entity.

There are obvious synergies between the functions and roles performed by TFS and SES. Both organisations currently provide road crash rescue response.

The UFUA submits that the SES is in greater need of structural reform than TFS and that this is best highlighted by the funding models of the respective organisations. SES is funded on an ad-hoc basis by state and local government, with little ability to allocate resources based on statewide risk. The SES would significantly benefit from having access to a sustainable funding model based on statutory levies, similar to that of TFS.

It is overwhelmingly in the community interest that the SES funding model is reformed to be more like the TFS funding model and provided that the total funding is adequate, integrating SES into the TFS funding model is not an unreasonable way to address this.

Aside from the community benefit, it is in the interests of TFS personnel that when they respond alongside SES personnel, there are enough SES volunteers who are properly provisioned with relevant training and equipment to perform their functions to the highest standard.

A Clear Chain of Command

The draft Act does not establish a chain of command, but empowers the Commissioner to determine a chain of command. Following the establishment of a chain of command, this hierarchy has statutory relevance in determining who is an authorised TFES member, which is defined as the most senior TFES member at an emergency incident.

It is important that TFES personnel are empowered to undertake key actions so they have the confidence to make split second decisions in the heat of the moment and statutory ambiguity is a significant concern.

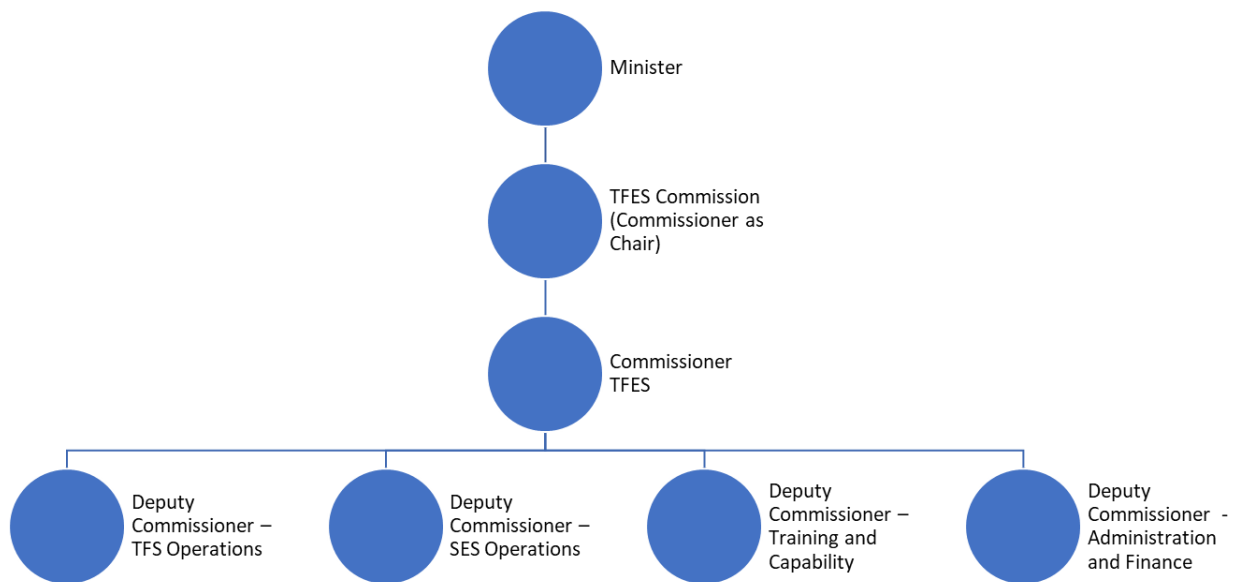
There is no requirement that the Commissioner must effectively rank every TFES member into a single hierarchy, and it is more likely that the Commissioner would seek to establish a rank based hierarchy.

This could lead to a situation where multiple people of the same rank are in attendance, but only one would be able to exercise the statutory powers associated with being the authorised TFES member.

This increases the risk that TFES personnel could undertake an action in good faith, with the belief that they were acting within the statute, whilst acting outside of the statute. Conversely, awareness of this may cause further consideration and delay of timely actions required for the protection of life, property and the environment.

The new Act must call up the requirements for the appointment of TFES Commissioner and at least two Deputy Commissioner positions (Deputy Commissioner Fire and Deputy Commissioner SES), preferably four Deputy Commissioners or equivalent to ensure operational integrity. It is important that there are two Deputy Commissioners who are able to act in the Commissioners absence. A new Act must ensure that this is required. The TFES Commissioner and Deputy Commissioners should be recommended by the Premier, with the Governor ensuring that the candidates have the appropriate administrative and operational experience and Emergency Management skills.

We submit that the most effective structure would be as follows:



A Fair and Sustainable Funding Model

As the Minister has noted, the Blake review described the TFS funding model as being extremely complex and highly prescriptive. It is an unfortunate reality that fairness and sustainability often require a level of complexity.

We agree with the Minister's comments that it is unfair that a resident in Fern Tree and Lenah Valley receive a similar level of service, whilst they each pay a fire service levy of \$55 and \$500 respectively.

Equally, a single set rate across Tasmania where residents would pay the same rate of fire and emergency levy whilst a resident in Norwood would receive a higher level of service than a resident in Burnie or Queenstown.

Given the rural zoning of Fern Tree, a two tiered rate would fail to meaningfully resolve the issue of fairness where a significantly lower rate is paid for the same service.

When the current funding model was established, the response boundaries of Fire Brigades was clearly established and strictly adhered to. At the time, the funding model achieved a level of fairness by ensuring that the rate of fire service levy was loosely based on the response capability available within that area.

With the modernisation of fire service operations, providing the most effective community response has rightly been prioritised, which means the current statutory levies no longer equate to the response capability within an area.

To further the modernisation of Tasmania's fire and emergency service provision in the direction of fairness and effective response, the government should not seek to limit discussion to a single or two tiered property levy. With modern emergency response data and unprecedented ability to map and quantify both response capability and community risk factors.

To achieve fairness and sustainability, the government should seek to include reference to risk and capability in determining the levy payable. The inclusion of these factors would introduce a higher level of complexity, but ultimately would resolve the underlying fairness issue that stems from levy payments not being reflective of local risk or response capability.

Ring Fenced Funding

Ring fenced funding is where money can only be spent by the organisation and for the purpose for which it was raised. We consider that the draft legislation does not fulfil this criteria as whilst the levy funds can only be spent with the approval of the Commissioner on functions prescribed by the Fire Service and Emergency Management Acts, it does not require that the funds be spent within the operational arms of TFES.

An example provided by the Minister during Budget Estimates on XXX 2023 was that funds raised through the levy could be distributed to surf life saving to enhance the swift water rescue capability. This is a perfect example of a capability currently funded from the state budget, which is effectively being transferred to TFES.

This effectively unravels the ring fencing of levy based funding, which under the proposed legislation can be used to offset non-TFES expenses that would normally be funded through government appropriations.

It would seem that the drafter/s of the Bill have used the NSW State Emergency Management Committee Model as the basis for this draft of the Bill.

The NSW State Emergency Management Committee (SEMC) is established under the State Emergency and Rescue Management Act 1989 (NSW). The SEMC has a strategic, policy and coordinating role in relation to the following response agencies: Ambulance Service of NSW, Fire and Rescue NSW, NSW Police Force, NSW Rural Fire Service, State Emergency Service, Surf Life Saving NSW, NSW Volunteer Rescue Association Inc, and Volunteer Marine Rescue

This model is not suited to Tasmania or ring fenced funding as a foundation principle in an Act, it is open to political interference and expenditure from hypothecated funds rather than consolidated revenue for activities that should fall in the function and responsibilities of other Agencies.

Empowering TFES

The proposed Act does not appear to empower TFES. Whilst statutory powers are shifted from the State Fire Commission and concentrated into the Commissioner and the few Cabinet Ministers, TFES is locked into the Department of Police Fire and Emergency Management.

It is not controversial to say that the integration of TFS with DPFEM has not gone well. Again, the main point of difference would appear to be the reason for this and therefore, how to resolve this.

Currently, TFS operates as an independent statutory authority. In 2014, the government unilaterally required that TFS integrate back of house operations with DPFEM and back of house operations have not functioned properly since this time.

The position of an independent statutory authority that through government direction has lost a portion of its independence is a precarious one. The TFS has become unable to provide direction to its administrative arm, which in turn fails to deliver administrative services in a way that align with the operational needs of the organisation.

The reason TFS is unable to provide direction to its administrative arm is because the organisation no longer has bargaining power. Prior to 2014, TFS negotiated administrative

arrangements with different agencies and operated effectively on that basis. After 2014, TFS was not able to negotiate in the interests of the organisation as there was no longer the option to negotiate an alternative.

This is akin to buying a car and having the government tell both you and the car salesperson that you are now legally required to purchase that specific car. The price will not be low and they won't throw in the free seat covers, and without consumer protection laws, the seats are removed before you get the car.

Further integrating TFS into DPFEM will not resolve the current problems. Genuinely empowering TFES as an independent statutory authority, which may negotiate and choose to work with any agency is the only way to create an effective fire and emergency service.

Impacts of the Proposed Draft Bill

The proposed Act introduces uncertainty and vagaries as there is a lack of detail on how things are to operate as a result of apparent deregulation. Effectively, the proposed wording will significantly reduce the ability for operational and community stakeholders to have a statutory voice, and will shrink the knowledge base of the organisation. The funding model does not appear to be any fairer, and does not appear to raise enough revenue to sustain current operations. There are numerous opportunities to improve the effectiveness, efficiency and fairness of funding and service delivery, however these opportunities have not been capitalised on in this draft.

Recognition of Rescue Capability

The word "Rescue" should be included in the name of the integrated organisation to recognise the capability and contribution of personnel from both TFS and SES in this area in line with other services in Australia. For operational firefighting personnel, it is a matter of pride that the TFS personnel do not only respond to fire incidents and that for some personnel, rescue operations are an equally substantial part of their role when compared to fire operations.

The legislation should also be amended to better recognise and reflect the rescue functions carried out by both TFS and SES.

The core functions and capabilities should be outlined within the functions of the organisation, including activities in relation to mitigation, preparation or response regarding:

- Vegetation fire and evacuation
- Structure fire and rescue
- Marine fire and rescue
- Aviation fire and rescue (outside of AARFS)
- Flood and storm damage and rescue
- Swiftwater rescue

- Urban search and rescue
- Road crash fire and rescue
- Vertical and trench rescue
- Industrial and technical rescue
- Hazardous material containment and rescue
- General search and rescue
- Civil defence

Deregulation of structure and powers

The overall structure of the Draft Act removes prescriptive requirements, which provided a level of accountability that balanced the substantial powers granted in the Act. This is evident in almost every area of the Draft Act, which undermines long standing democratic conventions around separation and decentralisation of power.

Broadly speaking, powers have been transferred from the existing Act to the new draft Act, but the limitations on these powers are no longer prescribed. This allows for major changes to be undertaken without the agreement of parliament.

One example is the ability to establish Ambulance Tasmania as a division of the TFES, funded by TFES levies as the Commissioner can create any division and medical assistance is a function of TFES as prescribed in the proposed Act. This should not be possible without parliament making the decision for this to happen.

It would also be unsuitable to restrict this through regulation. Even though parliament have the power to overturn regulation, the parliament would have to actively seek to overturn such regulation. While the proposed Act is being introduced, the overturning of regulation would also lead to a default position where this could happen.

Such a significant change in the governance and administration of essential services should be an active decision of parliament with the full consultative process associated with the passage of legislation.

The proposed Act was purported to be principles based, however, it scarcely contains principles with regard to how powers must or should be used. The provision of power without limitation goes against democratic principles and will ultimately leave residents, businesses, employees and the parliament vulnerable to the potential misuse of powers contained in the proposed Act.

It is particularly in the interests of Firefighters that their powers are very clear so as to avoid any doubt in an emergency context.

State Fire Commission - Statutory Authority and Powers

The State Fire Commission provides effective oversight and accountability for the Chief Officer in the exercise of their powers and duties. The current membership of the State Fire Commission is predominantly appointments from government and operational stakeholders, who are able to provide a strategic direction for the Chief Officer to implement.

Comments by the Minister that the State Fire Commission did not meet whilst there was a major fire burning demonstrates that he does not understand the current legislation, or the function of the State Fire Commission. The Chief Officer has operational control over incidents and it would generally be unhelpful if the State Fire Commission were to implement any significant change in organisational strategy during a major incident.

In general, the Department Secretary and the Minister are not equipped to set or review fire service strategy as there is no inherent connection to the operational fire and emergency knowledge needed to understand the operations of the organisation. Another deficiency would be the ability to obtain honest feedback about current or potential problems from the perspective of front line personnel.

Removing the statutory authority of the State Fire Commission would significantly undermine confidence in the integrated organisation.

We propose a new TFES Commission be made up of the following:

Representation

- TFES Commissioner of TFES (Chair)
- 1 Member nominated by the Tasmanian Retained Volunteer Firefighters Association
- 1 Member nominated by the Tasmanian Volunteer Fire Brigades Association
- 1 Member nominated by the Tasmanian SES Volunteer Association
- 1 Member nominated by the United Firefighters Union of Australia (Tasmania Branch)
- 2 Members nominated by the State Fire Management Council
- 1 Member nominated by the Property Council of Tasmania
- 2 Members nominated by the Minister (skills based)
- 1 Member nominated by Treasury (skills based)

State Fire and Emergency Services Committee - Membership

Under the proposed draft legislation, the Membership has been deregulated, with the Minister provided with the power of discretion with few limitations. The TFES Commissioner would be the chair and then the Minister would appoint between 8 and 12 additional people. Of those:

“at least one such person is nominated by the most relevant trade union, representing members of TFES, as determined by the Minister”

and:

“at least one such person is nominated by the most relevant trade union, representing members of TFES, as determined by the Minister”

This provides the Minister with the power to determine who the most relevant trade union or volunteer association is, but there is no criteria that directs how the Minister will determine the relevant trade union or volunteer association. Effectively, the removal of the current prescriptive process means the Minister would have absolute discretion over which organisation was deemed to be the most relevant trade union or volunteer organisation.

It has been suggested that the words ‘at least one’ would allow the Minister to appoint one person from each relevant organisation, however this does not appear to be accurate, as the Minister could appoint more than one person, but it would be required that the additional person must also be nominated by the most relevant trade union or volunteer association.

If the Minister appoints one person using those provisions and then outside of those provisions appoints additional nominees from other trade unions or volunteer associations, then the Minister would necessarily cause division, particularly among volunteer associations, by being required to nominate which volunteer association was most relevant when it is clear that each of the three volunteer association have a legitimate role in representing the interests of their respective members.

There is opportunity to enhance the current membership, but it should continue to be prescriptive in ensuring that the relevant organisations will continue to be included as intended.

We support the ability for the Minister to have some discretion in appointing members who contribute particular skills or relevant knowledge that will enhance the governance of strategic decision making abilities of the State Fire Commission.

Particularly, we would encourage that representatives from allied non-emergency organisations are included to provide expertise in mental health, community resilience and youth engagement to enhance the ability of the organisation to develop strategies relating to those areas, which have been identified as strategically important for the organisation.

The Bill creates a State Fire and Emergency Service Committee in clause 17. The Committee will advise the Minister, but will not provide advice to the TFES directly. It is possible that the Committee will have similar powers and responsibilities to the State Fire Management Council, though there is no way of knowing that, because the provisions relating to this Committee provide no information about its scope, except for the extremely broad discretion provided to the Minister.

State Fire Management Council

The SFMC and local area committees provide an important role in assessing and responding to local community risk, developing plans and coordination with local government and stakeholders. This should remain a statutory body or at least have seats on the TFES Commission. SFMC has a clear and distinct role to [that of](#) the State Fire Commission, as a body with important community stakeholders.

The proposed Bill removes the status of the State Fire Management Council and associated local area committees as statutory bodies. This is a dangerous change that will reduce community consultation, the ability to effectively and efficiently identify risk and develop plans for the mitigation of this risk in partnership with community stakeholders.

Fire Brigades and SES Units

The proposed legislation would abolish the statutory nature of Brigades, which have traditionally provided clarity around the local chain of command, response areas, funding and resourcing. This terminology has also been used in industrial instruments and there is a need for this to continue or there may be unintended consequences with regard to conditions, remuneration or the ability to require a Firefighter to perform duties in certain circumstances.

We recognise the need to be inclusive of SES units, but rather than removing all references to brigades, the terminology should be updated to ensure that the government's commitment that brigades and units will continue to operate within distinct SES and TFS organisations is kept.

Chain of Command

The Act does not provide for a clear chain of command, rather it gives the Commissioner the power to establish a chain of command, with no apparent limitations or guiding principles.

The draft legislation provides additional powers to the most senior TFES member at an emergency incident. If seniority is established through a chain of command, it follows that each TFES member would not only be part of a rank structure, but also an organisation-wide personnel ranking system to determine who is senior within each rank.

Any uncertainty in determining who the senior TFES member may lead to the exercise of powers that have not been granted, or the failure of either party to exercise powers when necessary.

Personnel Charter

The State Service Act provides additional employment frameworks for state service employees, but this does not provide any relevant protections that front line emergency responders would benefit from over and above the needs of an office worker.

There is a clear need for volunteers to be provided with basic standards, however there is an opportunity to clarify additional protections for employees undertaking duties to fulfil the functions of this Act.

We submit that there should be a personnel charter of rights, with specific headings to provide rights and protections for volunteers, employees, personnel or people undertaking duties on behalf of TFES.

Limitation of Liability

The limitation of liability is very broad for TFES members who are undertaking actions in good faith. The lack of limitation requiring these actions to be within the powers and delegations afforded to the TFES member may have an unintended effect of broadening the powers of TFES members as long as they are acting in good faith.

The limitation of liability is covered to members of TFES, this may unintentionally exclude contactors or members of the public who are undertaking actions under the direction of TFES members in an emergency situation. Consideration should be provided to ensuring that those acting under the direction of TFES are also afforded limitation of liability.

Provision of Medical Assistance

The lack of clarity in this area effectively means Ambulance Tasmania (AT) could be incorporated into TFES as a division. TFES levies could also be used to fund AT as medical assistance is within the functions prescribed in the proposed Act.

We have no problem with TFES personnel providing medical assistance when they arrive at an incident before paramedics, however, TFES is not specialised to provide medical assistance and this should remain the role of a specialist organisation, being AT.

TFS and SES are not adequately resourced to sustainably continue the current functions of the existing organisations and the addition of medical response functions would further stretch resources and undermine the ability to effectively undertake existing functions.

The inclusion of 10 (1) (d) is not necessary, like anyone in our community, TFES personnel that have first aid qualifications will do what they can. It is the view of the UFU that TFES personnel will be covered under good Samaritans provisions from liability for rendering medical assistance such as first aid in good faith, We believe it is a legislative function of Ambulance in all other jurisdictions, it should not be a legislative function of TFES to provide medical assistance and be legally bound to respond to medical incidents.

As a specialist organisation, AT is best placed to deliver primary medical assistance functions and should be adequately resourced to do so. Clause 10 (1) (d) should be removed from the draft Bill.

Responsibility for Community Resilience

The proposed legislation refers to limited responsibility for community resilience and recovery, which has been the responsibility of DPAC and local government. These additional responsibilities will require additional resourcing if TFES is to undertake them in a more consistent manner, and in collaboration with local stakeholders.

The removal of the statutory status of the State Fire Management Council undermines the ability of TFES to effectively undertake these roles as the connection to local community stakeholders has been degraded.

Hazardous Goods Regulation

Whilst it is useful for the TFES to have powers to inspect high risk facilities and high risk goods for the purposes of risk mitigation, this should be the primary responsibility of WorkSafe Tasmania as the WHS Regulator in Tasmania. The duality of potential functions may mean that neither organisation allocates adequate resources to ensure that these functions are undertaken. It is also concerning that this may further undermine ring fencing of funding to allow the current work of WorkSafe Tasmania to be subsidised through fire service levies.

Punitive Approach to Fire Permits

The proposed Bill makes the use of fire lawful by exception, effectively reversing the onus on the public from needing to ensure that they are not illegally using fire to having to ensure that they are using fire legally. This means it is likely that members of the public will utilise fire in a reasonable way that was perhaps not intended to be restricted by the proposed Bill, but could be in breach of the relevant provisions.

This may cause unnecessary tension between personnel who are responsible for granting fire permits or enforcing these provisions and members of the public who are pursued for undertaking reasonable actions using fire that may unintentionally be in breach of the proposed Bill.

Funding, Functions and Authority

It appears that the functions of the TFES are intended to become a catch all emergency service that has responsibility for all emergency or urgent functions of government, including whale strandings. These functions mean that TFES funding can be used for those purposes, and the recently released Treasury documents show that this is the intention of the proposed Bill.

Provided that TFES would effectively take on responsibility for almost any function that could be considered to be urgent or emergency response, it is odd that TFES is not granted with overarching authority and power to manage these situations in the Emergency Management Act, or even their own employment arrangements.

It is the view of the UFU that should this occur, amendments will need to be made to the Emergency Management Act that designates the TFES Commissioner as the State Controller. Employment powers should also be provided to the TFES Commissioner, either within this Act, or by amending the State Service Act in Schedule 5 to include the TFES Commissioner as a Head of Agency for employment purposes.

Provided the proposed significant expansion in the scope of the functions of the TFES, it would be more appropriate for this organisation to operate as a standalone government agency.

Implementation of the Proposed Draft Bill

The proposed draft Bill repeals the current Fire Service Act 1979 and corresponding Regulations, but the replacement regulations that are required to support the new Act have not been drafted and there has been little discussion regarding the proposed structures or mechanisms that are to be contained within the new Regulations. As the proposed Bill is much less prescriptive, there will be a much greater reliance on corresponding Regulations and it is difficult to consider the proposed Bill without having an insight into the proposed Regulations that are to accompany the Act.

The introduction of this Bill without the accompanying Regulations would have significant consequences on operational integrity through a lack of clarity for personnel attempting to undertake their duties in a regulatory vacuum.

The draft bill needs to include an Object clause to guide drafting of provisions not set out in the Act that will need to be picked up in regulations. An object clause will further enhance and provide clarity of TFES objectives that are placed throughout the new Act.

There is additional uncertainty regarding this point as the proposed Bill provides the Emergency Management Act with prevalence over the proposed Bill in the case of any inconsistency. Whilst the Minister has indicated that there will be amendments to the Emergency Management Act, there has been no information provided with regard to what the alterations to the Emergency Management Act would be. This means the expected operation of the proposed Bill may be substantially altered by way of amending the Emergency Management Act.

By way of suggested amendments to the Emergency Management Act, amend Emergency controller and Deputy Controller. To enable Premier to appoint an Emergency Controller where satisfied that the emergency directly relates to the functions of a particular service, unlike most other jurisdictions, the Controller should not automatically be a police officer/commissioner.

Supplementary explanatory documents should be added to the next iteration of the bill where the EM Act is required, or required to be amended, and identify what provision will be required in Regulations, Codes and Standards. This will assist with clarity and confidence of the bill.

Funding Model

Power to Set or Reduce Budget

In the proposed legislation, the power to increase or decrease the total amount of funding available to the Commissioner would be deregulated and transferred to the Treasurer.

Under the current model, the State Fire Commission cannot be forced to cut their projected budget below that of the previous year, which means the only way to reduce the resources of the State Fire Commission without agreement is by restricting funding increases to an amount less than the rate of inflation. The Minister has the power to limit the rate at which the total budget of the State Fire Commission increases.

The proposed legislation opens the possibility of budget cuts, with political pressure being the only remaining protection should that be the decision of the Treasurer of the day.

Natural disasters have no reference to economic or budget cycles and it is important the emergency service funding reflects community risk and the capability of the service to respond to that risk.

This would shift the power of organisational budget setting from the State Fire Commission and the Minister to the Treasurer at their discretion.

Insurance Levy Component

The removal of the insurance levy creates a funding gap of \$30m that needs to be offset, with the inclusion of the SES requiring an additional \$30m in revenue. With the proposed funding model, the vehicle based contributions would increase 27% from approximately \$9m to \$12m, which leaves \$57m to be offset by increases to the property levy, which would need to be increased in excess of 100% on average to maintain current levels of resourcing.

The insurance levy component of funding ties funding to risk, which is the primary factor in determining both insurance premiums and determining the response capability resources required to offset risk.

The inequity raised by the government that the insurance levy is up to 28% of some premiums points to the need to reform the way insurance levies are calculated. The percentage for each class of the insurance levy can currently be adjusted through regulation and the government should seek to review and update the current levy rates before removing the ability of the State Fire Commission to raise funds through the operation of an insurance levy.

The UFUA believes that insurance levies are an important risk based component of fire service funding, but that the variable component of this funding should allow the fire service to respond to changes in community risk rather than being part of the base funding of the organisation.

Alternate Proposal

The UFU will provide further information through the Minister's recently announced working group.

Conclusion

There is a significant amount of work that needs to be undertaken before we would be willing to support legislation based on the legislation proposed. We believe that the legislation, if passed in its current form, would lead to a substantial degradation in overall TFES capability and would fail to resolve the issues raised with regard to the current legislation.

There is a need for reform, and this is a once in a generation opportunity to deliver positive reform. We view the proposed changes as a degradation compared to the current legislation.

Appendix 1 - Analysis of Residential Property Levies

With the proposed removal of the insurance levy and the need for additional funding for SES, approximately \$60m needs to be raised to ensure that TFS and SES do not have their funding cut as a result of the Fire Service Act Review. The proposed vehicle levy is expected to raise approximately \$3m more than the current vehicle levy through a 27% increase to the rate charged, and the inclusion of motor bikes. This means that the property levy will need to increase to cover the remaining \$57m, which equates to an increase of 120%.

Whilst on average property levies will increase by 120%, the impacts will be felt differently depending on the location and zoning of a property.

Average Statewide Increases

Provided the limited variability in sales and services and limited sources of revenue, the proportion of funding from each source can be deduced as follows:

State Fire Commission Income 2021 to 2022 (Excluding Grants)

Source	Amount (\$'000)	Percentage of Variable Income	Government Proposal
Fire Service Levy	50,793	50.60%	Altered
Insurance Levy	33,375	33.30%	Removed
Vehicle Levy	9,945	9.90%	Expanded
Sales and services	6,176	6.20%	No change
Total	100,289	100%	

Impact of Proposed TFES Act with \$20m included for SES, \$20m for community mitigation projects and 10% to account for 2 years of inflation.

Source	Amount (\$'000)	Percentage of Variable Income	Impact
Fire and Emergency Service Levy	135,542	87.80%	160% increase
Vehicle Levy	12,600	8.20%	27% increase
Sales and services	6,176	4.00%	
Total	154,318	100%	

LGA Property Levy Examples

Whilst it is important to understand how changes will impact on the total budget of TFES, the fairness of the funding model is a known criteria and the impacts on different communities must be examined.

Latrobe Council

Current Property Levy – 2023-24

AAV: \$74,200

Country Levy Rate 0.002944 (0.2944%)

Levy Payable: \$218.44

Option 1 (Single Rate)

AAV: \$74,200

Residential Rate 0.01 (1.0%)

Levy Payable: \$742

Percentage Increase: 239.7%

Option 2 (Two Tiered Rate)

AAV: \$74,200

Rural Residential Levy Rate 0.006 (0.6%)

Levy Payable: \$445.20

Percentage Increase: 103.8%

Observations

Option 1 would see the fire service levy rate triple in this example, which is well in excess of the average statewide increase of 120%. Option 2 would see the fire service levy double, and would remain below the 120% average statewide increase. Necessarily, where the increase for this property is above or below the statewide average, the levy for another property will offset this.

Glenorchy Council

Current Property Levy - 2021-22

AAV: \$19,200

Urban Levy Rate 0.01348 (1.348%)

Levy Payable: \$258.81

Option 1 (Single Rate)

AAV: \$19,200

Residential Rate 0.01 (1.0%)

Levy Payable: \$192

Percentage Decrease: 25.8%

Option 2 (Two Tiered Rate)

AAV: \$19,200

Residential Rate 0.012 (1.2%)

Levy Payable: \$230

Percentage Decrease: 11.1%

Observations

Option 1 would see the fire service levy drop by a quarter, which is well below the average statewide increase of 120%. Option 2 would still see the fire service levy decrease by a tenth, and would remain well below the 120% average statewide increase. Necessarily, where the increase for this property is above or below the statewide average, the levy for another property will offset this.

It is a matter of interest that Option 2 would still see a modest decrease in an urban area. If this example were to be representative of urban areas, it would require a substantial increase in the levy for rural properties in order to maintain the average statewide increase of 120%.

Brighton Council 1 (Urban)

Current – 2023-24

Urban Fire Rate: 0.01145831 (1.145831%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)

Percentage Decrease: 12.7%

Option 2 (Two Tiered Rate)

Residential Rate 0.012 (1.2%)

Percentage Increase: 4.7%

Observations

The current Brighton Urban Fire Levy sits between the two proposed options for urban levies, with a modest increase or decrease in either case.

Brighton Council 2 (Rural 1)

Current – 2023-24

Brighton Rural Fire Rate: 0.00309065 (0.309065%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)

Percentage Increase: 235.6%

Option 2 (Two Tiered Rate)

Rural Residential Levy Rate 0.006 (0.6%)

Percentage Increase: 94.1%

Observations

The current Brighton Rural Fire Levy would approximately triple under option 1, and approximately double under option 2. Option 2 would be below the average statewide increase of 120%, so would need to be offset by another class of property.

Brighton Council 3 (Rural 2)

Current – 2023-24

Rural Fire Rate: 0.00295384 (0.295384%)

Option 1 (Single Rate)

Residential Rate 0.01 (1.0%)
Percentage Increase: 238.5%

Option 2 (Two Tiered Rate)

Rural Residential Levy Rate 0.006 (0.6%)
Percentage Increase: 103.1%

Observations

The current Rural Fire Levy would approximately triple under option 1, and approximately double under option 2. Option 2 would be below the average statewide increase of 120%, so would need to be offset by another class of property.

Devonport Council

Current – 2021-22

Urban Fire Rate: 0.014423 (1.4423%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)
Percentage Decrease: 30.7%

Option 2 (Two Tiered Rate)

Urban Residential Rate 0.012 (1.2%)
Percentage Decrease: 16.8%

Observations

Option 1 would see a significant decrease in levy rates of approximately 30% for Devonport, whilst option 2 would see a more moderate decrease of approximately 15%.

Burnie Council

Current – 2021-22

Urban Fire Rate: 0.014889 (1.4889%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)

Percentage Decrease: 32.8%

Option 2 (Two Tiered Rate)

Urban Residential Rate 0.012 (1.2%)

Percentage Decrease: 19.4%

Observations

Option 1 would see a significant decrease in levy rates of approximately 30% for Devonport, whilst option 2 would see a more moderate decrease of approximately 20%.

Kentish Council

Current – 2021-22

Rural Fire Rate: 0.003191 (0.3191%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)

Percentage Increase: 213.4%

Option 2 (Two Tiered Rate)

Rural Residential Rate 0.006 (0.6%)

Percentage Increase: 88%

Observations

Option 1 would see levy rates triple, whilst option 2 would see a more increase of lower than the average statewide increase of 120%

Central Coast Council

Current – 2021-22

Rural Fire Rate: 0.00426 (0.426%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)

Percentage Increase: 134.7%

Option 2 (Two Tiered Rate)

Rural Residential Rate 0.006 (0.6%)

Percentage Increase: 40.8%

Observations

Option 1 would see levy rates increase slightly over the average statewide increase of 120%, whilst option two would see levy rates increase at one third of that rate.

Warratah-Wynnyard Council

Current – 2021-22

Rural Fire Rate: 0.003191 (0.395%)

Option 1 (Single Rate)

Residential Rate: 0.01 (1.0%)

Percentage Increase: 153.2%

Option 2 (Two Tiered Rate)

Rural Residential Rate 0.006 (0.6%)

Percentage Increase: 51.9%

Observations

Option 1 would see levy rates triple, whilst option 2 would see a more increase of lower than the average statewide increase of 120%

Analysis of Examples

There is a significant gap in the apparent increases applicable in the instances examined where the average increase falls well below the average 120% required to maintain the current TFES budget, which strongly indicates budget cuts are hidden within the Fire Service Act reforms.

Appendix 2 - UFUA Funding Model Principles

We disagree with the conclusion published in the Blake Review in Section 5 as the proposed changes would not materially achieve what is stated in the report.

Points for Consideration

1. The insurance levy should be updated to better reflect the risk and capability profile of industry and TFES, but should be retained to offset some need to increase property levies and to maintain the connection between risk and funding.
2. There should be an ability to charge an additional levy to high risk facilities to offset some of the burden placed on property owners, however this should be introduced after the proposed funding model has been implemented. It may be reassuring for property owners to understand that this will partially offset future increases that would otherwise be payable.
3. The variability of insurance levy payments should be accounted for by only factoring half of the levy from the previous year when calculating the property levy and forecasting revenues. This means the State Fire Commission will be able to set aside a portion of this revenue to cover insurance levy shortfalls in future years.
4. The factoring of insurance levy payments when calculating the property levy would also mean there is an opportunity to partially subsidise the property levy.
5. A principles based property levy should to minimise arbitrary charges and divisions and should continue to be calculated on the basis of offsetting all TFES costs that are not covered by other statutory levies. These principles should be as follow:
 - a. Every property owner (unless exempt) will contribute
 - b. The levy will be higher where there is a higher level of risk
 - c. The levy will be higher where there is a higher level of response capability
6. A Land Classification Multiplier should be implemented to provide the Treasurer with the ability to mitigate the macroeconomic impacts of the levy without the ability to alter the total revenue raised by the property levy.
7. We do not believe that there is a need for every detail of the property levy calculation to be easily explainable, rather it should be principles based to allow for a simple explanation to be provided. Based on the principles outlined in point 5, these can be explained plainly by advising that every property owner pays a levy and those with a higher level of service or risk pay a higher rate than those in low risk areas or with lower service capability.

8. There should be a staged transition over two years, which should address community affordability concerns and ensure that any temporary funding shortfall is covered through appropriations during the transition. Appropriations funding should also account for potential arrangements for local government to transfer properties and assets used for SES functions to TFES.
9. After the funding model has operated for three years, the model should be reviewed to determine if there is further scope for improvement.