

# Fire Service Act Review

Consultation Outcomes Report on the Blake Review and  
Treasury Options Paper

Michael Stevens



## The Author

Mr Michael Stevens is an experienced policy professional who undertook the role of Bushfire Recovery Coordinator for the devastating Bushfires in 2013 and 2019.

Mr Stevens has formerly held the roles of Deputy Secretary with the Department of Premier and Cabinet and Department of Justice amongst many other positions held across a distinguished career in the Tasmanian Public Service.

Mr Stevens has undertaken targeted consultation on the Blake Review and Treasury Options Paper in order to produce this report. The report has been produced for the Department of Police, Fire and Emergency Management and subsequent consideration by Government.

In producing the report, some editing and style writing has been provided by the Department.

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## Background

The current *Fire Service Act* (FSA) was proclaimed in 1979. It has not been reviewed since its proclamation. The Government committed to review the Act as outlined in its commitment made in the recent State election within the first 100 days of government should it be elected.

Matters to be addressed in the review include:

- Current governance structure including the State Emergency Service (SES), the role of the State Fire Commission (SFC) and the existing governance arrangements for the Tasmania Fire Service (TFS) and SES within the Department of Police, Fire and Emergency Services (DPFEM).
- The funding arrangements of the TFS
- Bushfire Mitigation measures.
- Other matters to ensure that the Act is contemporary, principle based and reflective of current best practice legislation.

Significant work has already been undertaken on the substance of the matters to be reviewed. The major ones being the Blake Review of the *Fire Service Act 1979* (The Review) which was completed in October 2020, the House of Assembly Standing Committee Inquiry into SFC and the draft Bushfire Mitigation Measures (BMM) Bill that was released in late 2020.


The Government has also committed to not abolish the State Fire Commission (SFC).

The Blake Review and recommendations was released for public consultation with a closing date of November 15, 2021.

The Department of Treasury and Finance produced a paper on funding options for the TFS which was released for public and targeted consultations.

Consultation on the BMM Bill resulted in an undertaking that this Bill would not be proceeded with as a separate piece of legislation but would form part of the review of the FSA. This followed a period of consultation whereby most of the public submissions requested that legislative provisions required to enact bushfire mitigation measures should be contained within the FSA and dealt with as part of the Fire Service Act review.

The objective of this report is to propose policy positions following consultations for the Government's consideration. The major areas under consideration in this report include a new governance structure for the TFS and SES within the DPFEM, a new levy system to fund the TFS and SES, finalising bushfire mitigation measures and a review of the roles and functions of the SFC. It will also examine changes required to update and modernize the existing FSA.



## Consultation

The Review of the *Fire Service Act 1979* – report by Mike Blake was released publicly in October 2020. The consultation period was originally proposed to close on 22 November 2021. The Treasury paper – Options Paper Fire Service Funding Arrangements was released publicly in November 2021 with the consultation period ending 6 December 2021. The Minister for Police Fire and Emergency Services extended the period of consultation on the Blake report to coincide with the Treasury paper closing date of 6 December 2021.

A significant number of requests were made by parties wishing to make a submission on one or both papers to extend the period for comments. This was agreed to with the final date for submissions being 20 December 2021. All parties lodged their submissions by that date.

A total of 20 submissions were received from:

- Martin Campbell – private citizen
- Robert Muller – President SES Volunteers Association
- Peter Minucci - Access Business Insurance Consultants
- Robert Rex – (REX) Tasmania (Family Trust)
- Paul Stacey - Insurance Council of Australia
- David Wellfare - Insurance Australia Group
- Henry Ellis – Small Aviation Company
- David Bowman - Professor of Pyrogeography and Fire Science, University of Tasmania
- Andrew Ricketts – private citizen
- Ian Goninon - Chairman of Capital Innovations Insurance Group.
- Robert Atkins – President Tasmanian Volunteer Fire Brigades Association
- Suncorp Insurance
- Property Council of Australia
- National Insurance Brokers Australia
- Warratah Wynyard Council
- Tasmanian Forest Product Association
- Tony Dudley – President Northeast Bioregional Network
- State Fire Management Commission (SFMC)
- Local Government Association of Tasmania (LGAT)
- CPSU

In addition, face to face meetings were held with the Chair of the SFC, the Chair of SFMC, the Director of SES, the Department of Treasury and Finance, the CEO of Sustainable Timbers Tasmania (STT), Director of Parks and Wildlife and LGAT. A consultation committee was set up with LGAT.

The points made in all the responses differ and a number of submissions deal with specific recommendations that are of interest to that organisations or individuals' points of view.

The specifics of the individual submissions will be referenced in the sections dealing with the individual recommendations from the Blake Review.

This Report groups stakeholder feedback and commentary in accordance with the key themes of the Blake Review namely:

- Theme 1 – Functions and Operating Platform recommendations
- Theme 2 – Governance recommendations
- Theme 3 – Financial Management recommendations
- Theme 4 – Volunteers recommendations
- Theme 5 – Operational and Other Matters recommendations

In addition, stakeholder commentary and consultation outcomes in respect to the *Bushfire Mitigation Measures Bill* proposals which, although not part of the Blake Review, are also included in this Report and recommended for consideration within a new Act.

## Stakeholder Feedback

### Functions and Operating Platform Blake Recommendations 1-7

Recommendation 1 was not opposed by any party including the State Emergency Service (SES) Volunteer Association. The areas of concern were the continuing existence of the SES brand and livery and the overall budget currently estimated to be approximately \$5m short of requirements (100% increase on current budget).

Recommendations 2, 3, and 4 are non-controversial and not opposed by any party and go to the creation of a Tasmania Fire and Emergency Service (TFES) to replace the current separate entities of the Tasmania Fire Service (TFS) and SES as well as prescribing the roles and functions of the new entity and maintaining the functions currently exercised by the Director of SES under the Emergency Management Act.

The roles and functions of the new entity mirror their current functions.

Recommendation 5 - Do not combine the firefighting capabilities of Parks and Wildlife and Sustainable Timber Australia with TFES.

This recommendation was supported by a number of submissions and not opposed by any submission. Further consultation with Parks and Wildlife and Sustainable Timbers Australia confirms their view that current arrangements should remain. This should be supported.

Recommendation 6 – Include all relevant emergency management entities in negotiations for an inter-agency fire management protocol to be approved by the State Controller.

There was no opposition to this recommendation from any submission.

The recommendation improves the current situation regarding the agreed protocols between TFS, PWS and STT being expanded to include other entities such as SFC, DPAC, DPFEM, SFMC and SES as appropriate and should be supported.

Recommendation 7 – Ensure role in recovery of DPAC remain unchanged and acknowledge the support role of TFES in recovery.

This is not contested in submission or by any other party and should be supported

## Governance Blake Review Recommendations 8 and 9

Recommendation 8 of the Blake report is to develop a governance model for the TFES.

The governance model for TFS has been the subject of much discussion and debate over many years. There are mixed views on the retention of the State Authority model or the adoption of a fully integrated Departmental model into the DPFEM. After consideration of all the submissions to the Blake review the final recommendation is for

- A governance model for TFES that transitions it to a division within DPFEM subject to the ringfencing of levies raised and appropriate reporting arrangements between the Minister and the head of TFES
- Abolishing the SFC
- Broadening the role of the SMFC and revisiting the membership including relevant membership transitioned from the SFC.

The Government has made it clear that the SFC will be retained although no detail or expectations have been provided on the SFC's role and responsibilities.

Submissions made to the Blake report contain little on the governance proposals except for the CPSU submission that strongly supported an independent Statutory Authority model that takes responsibility for all TFS matters including an employment power. The Tasmanian Volunteer Fire Brigades Association also supported the Statutory Authority model.

The SFMC submission is considered in examining potential roles for the SFC.

It is useful to consider Fire Service governance models in other States and Territories:

- ACT – A single Agency (Emergency Services Agency) which consists of Fire and Rescue, Ambulance, Rural Fire and SES. The Agency is contained within a division of the Department of Justice and Community Safety Directorate.
- NT – A single Agency - Police, Fire, Rescue and Emergency Services.

- SA – Three Agencies comprise the SA Fire and Emergency Commission. SA Metropolitan Fire Service, SA SES and SA Country Fire Service. There is the same Minister for all Agencies, and all of the Agencies use SAFECOM to provide corporate services, policy direction, business support, HR, IT, Volunteers and OHS.
- WA – A single Agency - Department of Fire and Emergency Services.
- Qld – A single Agency - Department of Fire and Emergency Services which is delivered through three divisions. Fire and Rescue Services, Rural Fire Service and SES. Corporate Services and support are provided to the Department by the Public Safety Business Agency which had its own Board. In 2020 the Qld Government announced it would disband this Agency and transfer all functions and staff to the Departments it serves. This was planned to be finalised by July 2021.
- Victoria – Two agencies - Fire Rescue Victoria which covers Metropolitan Brigades and Country Fire Victoria which is responsible for all volunteer brigades. Fire Rescue Victoria is a state government agency and Country Fire Victoria is responsible to its Board, but all uniformed personnel are seconded from Fire Rescue Victoria.
- NSW – Two agencies - Fire and Rescue NSW and NSW Rural Fire Service. Fire and Rescue NSW is a Government Agency. NSW Rural Fire Service is a Government Agency, and all its paid employees are employed by the State.

Only Country Fire Victoria and SA have Boards with employment powers although the positions are limited to administrative and corporate support.

There are a variety of governance structures across the country with ACT, NT and WA all having single agencies.

The Blake report discusses alternative governance structures including a standalone departmental model and an amended statutory authority model. The Blake report uses three principles for assessing governance models: clarity regarding TFES functions; simplicity with clear communication lines allowing a flexible and efficient coordination of business as usual and a unified command structure in times of emergency; and a unified command structure that is coordinated and effective and accountable.

Using these principles as well as known costs and funding sources the Blake review recommends the fully integrated departmental model within DPFEM.

It is not contested that Government has the right and accountability to determine its departmental structure to best deliver public services in an effective and efficient manner. It does make sense that the way it does this is the responsibility of the Government. Clearly any governance structure only works when the relationships and working arrangements are agreed by key personnel.



It is suggested by the author of this paper that a facilitated workshop be run involving the key players, being the Secretary of DPFEM and the Chief Fire Officer and whatever staff they would wish to bring. It would be useful to have representation from the Ministers office. The objective would be to have an agreed governance structure with clear lines of accountability and responsibilities within a departmental model.

In considering the future role of the SFC it is noted that the Blake report recommendation 8 includes abolishing the SFC and broadening the role of the SFMC as well as revisiting the membership, including transitioning relevant membership from the SFC.

The Government has committed to the continuation of the SFC superseding the abolition of the SFC.

This raises the issue of the ongoing role of the SFC. Currently the SFC is a representative based structure. The Blake report in its text on the SFC and SFMC states that the structure should change to a skill-based model. This is consistent with modern governance structures across all Boards that advise government or departments.

This change should be enacted as part of the transition of the SFC.

The current functions of the SFC and SFMC are in Appendix 2.

In relation to the SFMC it is clear that it undertakes a vital role in providing advice to the Minister about the management of vegetation fire across Tasmania especially in the areas of prevention and mitigation of fires. It is responsible for the development of the State Vegetation Wildfire Management Policy that is used as the basis for all fire management planning.

Its other strength is that it has well developed links with the community and other agencies that are involved in land management and is able to coordinate approaches, strategies, advocacy, research and community development.

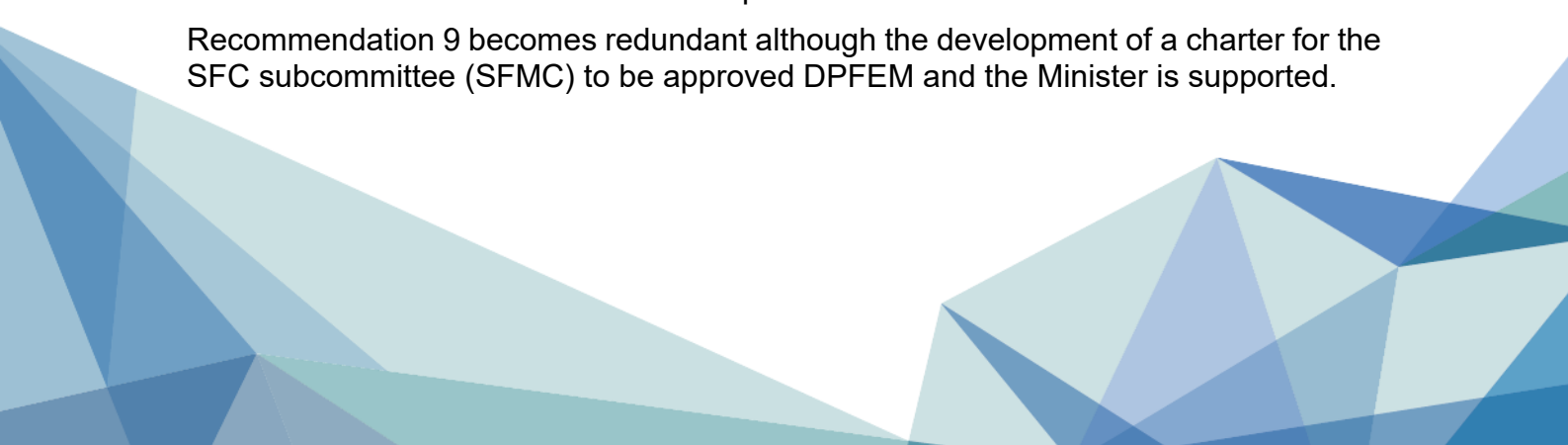
The Blake Report makes it clear that these functions and its role should be continued albeit with a review of its membership.

It does not seem to be effective or efficient to maintain two statutory bodies so it would make sense to place these roles within a reformed SFC. Given the number of members of the SFMC it would not be useful to put all current members of the SFMC on the SFC. The SFC should be given the legislative ability to create subcommittees of which the SFMC would be one and contained in the legislation. This would ensure that the community representation existing in the SFMC is maintained.

The Chair of the SFMC should be a member of the SFC and the current legislated role and functions of the SFMC plus any broadening of its current role expansion would be incorporated into the new SFC role and function.

The size and membership of the new TFC would be determined by the Minister with the roles and functions to be drafted as part of the new FSA.

Recommendation 9 becomes redundant although the development of a charter for the SFC subcommittee (SFMC) to be approved DPFEM and the Minister is supported.



In summary the recommendations are:

- The SFC be retained.
- The size and membership of the new SFC would be determined by the Minister with the roles and functions to be drafted as part of the new FSA.
- The Chair of the SFMC should be a member of the SFC and the current legislated role and functions of the SFMC plus any broadening of its current role expansion would be incorporated into the new SFC role and function.
- The SFC should be given the legislative ability to create subcommittees of which the SFMC would be one and contained in the legislation.
- The development of a charter for the SFC subcommittee (SFMC) to be approved by DPFEM and the Minister.

## Financial Management Blake Review Recommendations 10-25

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The Department of Treasury and Finance released a paper titled *Options Paper: Fire Service Funding Arrangements*. The paper was subject to the same consultative arrangements as the Blake report with submissions closing on 20 December 2021.

There was no comment in submissions on Recommendation 10. The recommendation resolves the issue whereby although non-brigade costs for volunteer brigades such as administration or training are paid for out of the current levies, they are not included in the actual definition of brigade costs. This recommendation is non-controversial and reflects current practice and should be supported

Recommendations 11 (SES) and 18 (TFES) are the key recommendations as they introduce the concept of a single property-based levy.

Recommendation 12 recommends the replacement of the Insurance levy with a property-based levy once suitable transition arrangements are identified and implemented.

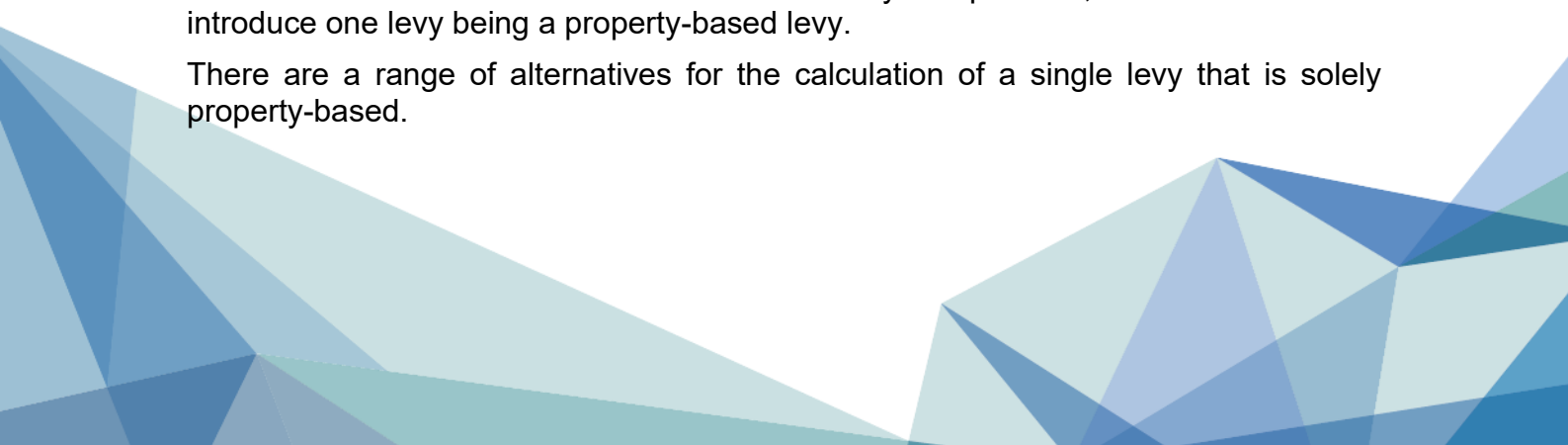
Recommendation 13 recommends the continuation of the motor vehicle levy and to base any expansion to other types of vehicles on a cost benefit analysis.

Recommendation 23 recommends that the TFES not be funded by appropriation as it disincentivizes property owners from properly insuring their properties or being appropriately prepared.

Recommendation 24 recommends Treasury be responsible in consultation with TFES determine the amount to be collected from the property-based levy annually.

The Treasury option paper assumes that the monies to be raised by the levies is the current figure of \$100 million. The paper outlines options for future levies based on the fact that instead of the three levies currently in operation, an alternative is to introduce one levy being a property-based levy.

There are a range of alternatives for the calculation of a single levy that is solely property-based.



Treasury has developed two single property-based levy options based on a property's AAV. The options include:

- *Option 2A*: a single fixed charge and a single variable rate applied to all properties; and
- *Option 2B*: a differential fixed charge and a differential variable rate applied on the basis of a property's classification.
- Option 3 proposes that the existing Motor Vehicle Levy is retained in conjunction with a property-based levy.

The approach explored in Option 3 is consistent with the options under Option 2. However, the variable rates and the fixed charges applied are lower to reflect the lower amount of revenue to be collected through the property-based levy. This is because the property-based levy in Option 3 will be supplemented by the motor vehicle levy. Option 2 relies solely on a property-based levy.

The two alternatives are:

- *Option 3A*: a single fixed charge and a single variable rate applied to all properties, plus the existing motor vehicle levy; and
- *Option 3B*: a differential fixed charge and a differential variable rate applied based on a property's classification, plus the existing motor vehicle levy.

The Bushfire Prone Area charge applied under options 2A and 2B would similarly apply to options 3A and 3B, to reflect the inherent risk in properties located in bushfire prone areas.

Under option 3A Treasury estimates the average residential property owner would pay an annual property-based levy of \$249. This would increase to \$311 for properties subject to a BPA charge.


The average commercial property owner would pay a property-based levy of \$403; or \$538 for those subject to a BPA charge.

Treasury does not have the data on existing property-based fire levies so it is not possible to calculate the increase options 3A and 3B would mean for property owners.

Submissions were made by a number of parties on both the Blake Reports financial recommendations and the Treasury options paper.

In the LGAT submission there was general support for the concept of a single property-based levy and for the retention of the motor vehicle levy (Option 3A).

Further discussions with LGAT highlights the following points:

- A single levy should not serve as the sole mechanism for funding an integrated fire and emergency service function.
  - A fire and emergency service organization has roles that are broader than planning for, and responding to, an emergency such as government policy and intergovernmental relations.
  - These roles should be funded by the State Government, not through a levy.
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It is worth noting that the \$100 million assumption is 82% of the current TFS budget so the broader roles are not funded by the levies and that the functions highlighted by LGAT are currently provided by DPFEM.

The current differential approach to the levy between urban and rural services was of concern to many councils hence their support of option 3A.

It is reasonable to assume that Option 3A is the favoured option and is the one that should be further investigated by Treasury to determine the actual amounts and likely increases above the current levies contained in the rates notices to property holders.

This is a critical matter for Government in that there will be increases in a model that replaces three levies with two. The actual aggregate increase for individuals and commercial property owners will probably be in the few hundreds of dollars p.a but the actual percentage increase will be significant.

This issue is exacerbated by the fact that both the TFS and the SES assert they are underfunded to the order of \$10m p.a (TFS) and \$5m p.a (SES). Any budget correction that is funded by an increase in a property-based levy and the motor vehicle levy will be difficult in the current environment.

Advice from Treasury regarding the full costing of option 3A is that given the amount of resource required to complete the costing at a time when significant resources are involved in dealing with other taxation issues means they would require from the Minister and or Treasurer a decision that recommendation 11 and 18 are adopted and will proceed to the legislative drafting stage.

Submissions on recommendation 12, the cessation of the insurance levy was the subject of 10 submissions, three from private businesses and seven from either insurance agents or peak insurance groups. All supported this recommendation strongly. The LGAT submission did not express any opinion on this recommendation.

Recommendation 13 - retain the motor vehicle levy, recommendation 23 – don't fund TFES through appropriation, and recommendation 24 - involvement of Treasury in determining the amount to be collected by the levy through local government are appropriate given the previous comments on recommendations 11 and 18.

Recommendations 14 and 16, to continue contributions from the Australian Government and the State Government respectively but don't include them as a source of base- level funding are appropriate and not opposed in any submission.

Recommendation 15 – funding from the marketing and fire prevention functions of TFES not be part of base-level funding should be supported and received no comments in submissions received. The second part of this recommendation is that revenue streams from the MAIB be discontinued. This is based on the fact that the monies are immaterial with an unnecessary administrative burden, and they are not predictable. This recommendation received no comments from submissions and should be supported.

Recommendation 22 – discontinue local government funding of SES, transition associated resources from local government to TFES and Recommendation 17- include \$5m p.a (levy or appropriation) to TFES to pay for functions and services transitioned from local government to TFES.

The transfer of functions, services, and assets from local government to SES is supported by LGAT subject to:

- Agreed arrangements for transfer of plant and equipment prior to it being written into legislation (i.e., plant and equipment needs to be book value, future lease arrangements need to be agreed, arrangements for resource sharing established).
- Concerns about the identity of SES volunteer units with their communities and the need to maintain the local community service aspect.
- Establishment of clear mechanisms to embed links between SES volunteer units and the various Municipal Emergency Management Committees (MEMC).

The submission from the SES Volunteers Association also supports the recommendations and no submissions opposed it.

The concerns over identity and local community involvement are reasonable easy to address and resolve. The funding matters are more difficult. It is difficult to justify state expenditure on purchasing SES assets from local government and could be reasonably expensive with no net gain to the services asset base.

The implementation of recommendation 22 will require negotiation with local councils and should be balanced against the continuation of the fee paid to local government for collection of the levy.

It is suggested that recommendations 22 and 17 should be supported subject to an agreed negotiated settlement with local government.

Recommendation 19 – quantify and fund current concessions as Community Service Obligations and remove current exemptions for the levy apart from crown land, sustainable timbers land and land and buildings owned by Councils or Government.

There was no opposition to this recommendation from any submission and should be supported.

Recommendation 20 – ring fencing for monies raised for TFES. This was strongly supported by a number of submissions including LGAT and the various volunteer organizations. It should be supported.

Recommendation 21 – transition arrangements for increase in property-based levy and engage with the Insurance Council of Australia and property owners to quantify insurance levy savings and how these could be shared with the community.

It is difficult to know whether transitional arrangements are needed until the increase in the levy is known and this should form part of the implementation phase of this project.

Recommendation 25 – continue local government collection of the levy with a renegotiated fee and have the Head of TFES and the Minister state annually how the levy is constructed, reason for increases and the fact it is collected by local government for a fee.

The LGAT submission strongly supports the current arrangements for collection including the current fee of 4%.

The continuation of local government collecting the fee is reasonable as the only other alternative is to have the State Revenue Office undertake the role. The set up and running costs of this are likely to be significant and will be opposed by LGAT. As stated

in the text on recommendations 22 and 17 the current 4% should be part of the negotiation on the transfer of SES assets to the TFES.

In relation to the public statements about the levy including any proposed increases the LGAT submission states the following

The transparency around levy increases is limited and increases have exceeded CPI over a number of years for many council areas. The current annual levy determination lacks transparency and levy increases are not in line with community expectations. Any changes to the levy must be transparent and consider the cost-of-living pressures.

The TFES could be regarded as a monopoly provider of emergency services, so transparency regarding dedicated funding and the levy is crucial.

Calculating contributions over a five-year timeframe may be an option and would be similar to the current requirements of Tas Networks or Tas Water to submit investment, operating and pricing plans to their respective economic regulators.

For the TFES this could be undertaken by the Tasmanian Economic Regulator (TER). By implementing this requirement, such an option would allow for increased certainty over the period and would enable stakeholders to make submissions to any review before a determination is made by the TER. With regular review and assessment dedicated funding would need to meet required service levels and deliver financial sustainability for the service.


This suggestion is worth pursuing and would assist with transparency and the confidence in the community that any increase in the levy is appropriate and justified.

In summary support recommendations 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25 subject to the comments within this section.

## Volunteers Blake Review Recommendation 26

Recommendation 26 – recognize and enshrine in legislation the contribution of volunteers and develop a volunteer charter to be endorsed by the volunteer associations and the Minister. Provide good faith legislation from liability for TFES volunteers and ensure there are no barriers to volunteer's role for both response and non-response roles.

There was support for these propositions from a number of submissions with no contrary views expressed. Given the importance of volunteers in both the TFS and SES it is important that the new FSA reflects their importance. An agreed charter will also assist in demonstrating Government's commitment to volunteers. Similarly good faith legislation to indemnify volunteers is a strong demonstration from government about the importance of volunteers and volunteering. There is no practical difference between response and non-response roles for volunteers in terms of delivery or effect so should be supported.





## Operational and Other Matters Blake Review Recommendations 27- 45

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### Bushfire Mitigations Measures

As part of the Government's commitment to enhance Tasmania's bushfire preparedness, the Tasmanian Government proposed in 2020 to introduce a new legislative framework to support bushfire mitigation in Tasmania. This was in the form of a Bushfire Mitigation Measures Bill.

The aim of the Bill was to :-

Reinforce the duty of public and private land owners and occupiers to proactively manage bushfire risks on land they own or control – because all Tasmanians have a role to play in protecting lives, properties and Tasmania's natural and cultural heritage from bushfire.

Provide for the establishment of a Bushfire Mitigation Measures (BMM) Panel - with representation from the Tasmanian Government, the Environment Protection Authority, the Local Government Association of Tasmania, and an independent expert member, to ensure a range of perspectives and expertise are utilized when considering applications for the approval of Bushfire Mitigation Plans.

Streamline the Bushfire Mitigation Plan (BMP) approval process - by creating a 'one stop' approval process through which landowners and occupiers can submit approval for a BMP to the newly established BMM Panel. The BMM Panel's approval of a BMP will remove the need for separate approval processes that may apply under other Tasmanian legislation.

Consolidate the framework for bushfire hazard reduction notices - to empower the Tasmania Fire Service to issue a bushfire hazard reduction notice to an occupier of land requiring reduction of bushfire dangers and removal of bushfire hazards or the mitigation of bushfire risks.

There was a public submission period that closed in October 2020.

The vast majority of stakeholder submissions opposed the Bill with many arguing for bushfire mitigation measures to be included in the then review of the Fire Service Act (Blake Review). This was agreed to by the Government and the proposed Bill lapsed with no publication of any of the submissions.

No progress has occurred since that time. It is assumed that the FSA review process will continue this process.

It is not clear which, if any, of the proposals are live at present.

The SFMC in its submission and subsequently in face-to-face consultations argued that a number of solutions proposed in previous Bill were overkill and difficult to regulate and oversee.

The SFMC proposed that the expertise on what needed to be done including indemnities, balance of competing priorities and duties reside within SFMC and the TFS.



They proposed a workshop with SFMC, Senior TFS Officers, Parks and Wildlife, STT and Local Government to determine what needs to be done and what needs to be legislated within the FSA. This view was also endorsed by the TFS, Parks and Wildlife and STT.

It is recommended that this workshop be conducted as a first step to determine the way forward.

In the submissions made to the Blake report the Northeast Bioregional Network outlined a number of concerns specifically dealing with the bushfire mitigation proposals. They were strongly opposed to the measures suggested and put forward the contrary view that fire reduction burns were excessive and were damaging to the biodiversity of the Australian bush. They believe that mitigation burns conducted in the northeast were damaging the native bush and tracks built to facilitate the burns was damaging to the environment. They also expressed concern over the lack of representation on both the SFMC and the various Fire Management Area Committees (FMAC). They had applied to be a member of these committees but were refused.

It is a fair point that there is no representation on these committees to ensure that conservation values are assessed and maintained. This should form part of the suggested workshop on Bushfire mitigation measures with representation on the various committees to be a discussion point.


There was a submission from Professor David Bowman Professor of Pyrogeography and Fire Science Director of the Fire Centre Research Hub - University of Tasmania. He expressed concern over the lack of fuel and management and coordination of strategies. He believes that the expertise residing at the University and Government Departments should be utilized within a hub and spoke model. He also argues for a standalone fuel management entity with its own legislation. The idea for a dedicated fuel reduction unit was also put forward by a collective of Bothwell farmers after the Bothwell fire in 2016. The proposal was for a dedicated unit of four people with a budget to undertake selective fuel reduction burns and to provide advice and guidance for private land owners proposing to conduct fuel reduction burns. These ideas should be considered by TFES when developing their strategies for fuel reduction burns.

Other submissions expressed concern over the ability of private landowners to be involved with the development and execution of fire reduction strategies.

Recommendation 30 – leave decision making and nomination processes to appoint fire permit officers to the senior management of the relevant responsible agency.

This is supported in the submission from SFMC.

Currently SFMC has the power to appoint permit officers, the recommendation is to replace this with appointments as permit officers to be exercised by the relevant agency (TFES, Parks and Wildlife, STT). This means appointments will be made in a timely and appropriate manner. This recommendation should be supported.





Recommendation 31 – establish Fire and Emergency Risk Area Committees (FERAC) including determining the number and geographical placement of these committees. Enhance community representation on the FERACs without increasing numbers and remove the requirement to Gazette geographical boundaries. Identify synergies between FERACs and Municipal Emergency Management Committees. All of these recommendations be promulgated under a Head of Power and contained in the Tasmanian Emergency Management Arrangements (TEMA).

This recommendation should be supported and in the first instance referred to the workshop suggested in this section for consideration and implementation advice. The overall responsibility for FERACs will reside with the SFC.

## Other Operational Matters

### *Fire Permits*

Recommendation 34 – include recommendations from the review of the fire permit system in the legislation including total fire ban arrangements. Ensure legislation has flexibility to allow changes if required. Ensure that no fire permits are issued when total fire bans in place apart from exemptions granted by the Chief Officer.

The submission from SFMC supported these recommendations and given they were subject to a public consultation process, and they adopt current best practice this should be supported.

In the first instance this recommendation should be referred to the workshop for discussion and for advice to be provided to the Minister on adopting this recommendation.

It is important to note that there have been no public statements on the cessation of the separate Bushfire Mitigation Bill and its content being dealt with in the review of the FSA. There is no information on the website and no public submissions have been published. Concern over the lack of publication of submissions was mentioned in several submissions to the final Blake Review.

It is recommended that a public consultation process be developed and undertaken once the outcomes of the workshop have been finalized and agreed. If this recommendation is adopted then the Bushfire Mitigation Bill website should be updated to reflect this.

In summary a workshop with SFMC, Senior TFS Officers, Parks and Wildlife, STT and Local Government be undertaken to determine what bushfire mitigation measures need to be developed and adopted and what needs to be legislated within the FSA.

It is further recommended that a public consultation process be developed and undertaken once the outcomes of the workshop have been finalized and agreed. If this recommendation is adopted, then the Bushfire Mitigation Bill website should be updated to reflect this.

In summary the author supports recommendations 30,31 and 34.



### *Medical response*

Recommendation 27 – medical emergency responses by TFES should be a matter of policy not legislation. Ensure legislation allows for additional functions that TFES personnel may perform, subject to training and credentialling. Ensuring while Ambulance Tasmania is the primary agency for medical responses, legislation does not prohibit it from entering arrangements with TFES for training and credentialling.

No submissions dealt with this recommendation. Ambulance Tasmania supports TFES continuing to provide first responder assistance in certain circumstance such as being first on the scene at a car crash. This recommendation ensures there will be no barriers to the development of MOUs, protocols, and agreements between Ambulance Tasmania and TFES that cover roles, responsibilities, training and credentialling for TFES staff including volunteers. This development of TFES staff in an emergency medical response capacity is a good use of resources for the community and should be supported.

### *Indemnities*

Recommendation 28 – develop legislation that empowers TFES with functions, powers and indemnities that reflect its role in emergency management and response. The legislation should cover levels of indemnity, the power to confer powers and indemnities on individuals and organizations outside the TFES including interstate and international personnel. To provide authority and indemnity for quick responses to address fire outbreaks on private land for STT and PWS staff and other potential first responders. Provide clarity on MOU arrangements with private forests where authority to act is automatic such as FireComm.

Generally, submissions supported legislative clarity on indemnities and responses by non TFES personnel to fire outbreaks in a timely manner to maximize the opportunity to reduce fire damage on both public and private land. Concerns raised were potential for disproportionate responses to fire resulting in significant damage to the environment and gaming the system by private landowners to use the pretext of initial fire suppression to undertake activities that are not environmentally appropriate.

These recommendations recognize the fact that the initial suppression of a fire at source is a public benefit regardless of where the source is. There are many circumstances whereby it is not possible for TFES personnel to exercise that function. It is imperative that there is clarity regarding indemnities, conferral of powers to act and protection for individuals acting in “good faith”. Concerns about the balance struck in legislation cannot be assessed until the provisions are drafted. It is not contested that clarity is required so this recommendation should be supported in total. There will need to be further consultation once the drafting has occurred and should be conducted as part of the normal legislative drafting process.



Recommendation 29 – address conflicting, duplication, and gaps in the roles of TFES, PWS STT and private entities involved in dealing with fires. Allow non-TFES officers in charge of fire suppression to have access, and to deal with, a fire as soon as possible. Include a Head of Power to allow protocols for management of the relationship between TFES and other land management and emergency services agencies. Provide firefighters, SES, and other delegated agencies/individuals involved in firefighting indemnity from liability with other delegated agencies/individuals defined broadly to include non-firefighters/non-emergency workers/not public servants. Authorize TFES, PWS, STT officers to close roads and to regulate traffic.

Submissions generally supported the recommendations intent of resolving long standing problems with the current FSAs differing powers for forestry and parks officers. There is agreement that indemnities should cover all persons who are involved in firefighting regardless of their role or employment status. There was broad support for the recommendations on protocols between agencies and for the ability of TFES to close or control roads.

As in recommendation 28 the objectives of these recommendations are appropriate and sensible, but their actual effect cannot be assessed until the provisions of the legislation are drafted. Again, the process for the development of draft legislation will involve consultation so that all parties will have the opportunity to comment on the final product.

#### *TFES Head of Power*

Recommendation 33 – provide a head of power to TFES to determine a range of matters involving brigades.

There were no specific submissions on this point but a general support for the codifying of the range of brigade's matters including establishment, abolishment, membership, structure, functions, powers, responsibilities, register/de-register brigade members, appoint unit managers and brigade chiefs, appoint industry brigades.

This recommendation should be supported allowing TFES full control of a major strategy to deal with fighting rural fires.

Recommendation 36 – legislate for TFES responsibility to issue permits regarding fire protection equipment subject to a review of current regulatory and conflict of interest arrangements

There is support for this recommendation which essentially is the current situation. Some concern was expressed over TFS both managing fire industry regulation and permits meaning that in some areas it is both a provider and regulator of these services.

There was no support for these responsibilities either being outsourced or covered by arrangements with Consumer, Building and Occupational Health Services within the Department of Justice.

This recommendation which continues the status quo should be supported.



### *Emergency Management response*

Recommendation 39 – legislate by regulation or statutory instrument to establish a chain of command for response, make clear all emergency responders are subject to the Incident Controller's direction, ensure an endorsement or accreditation process is in place for incident management staff and update the roles and responsibilities for emergency management to be consistent with provisions of the Emergency Management Act.

There was no opposition to these recommendations in any submissions and support from the SES at subsequent discussions.

In essence this recommendation seeks to provide legal authority for Incidents Controllers to assume command, but the actual manner of selection and response protocols would be covered by policy thus ensuring legal certainty whilst maintaining flexibility. It should be supported.

### *Fire safety compliance*

Recommendation 41- review contemporary and suitable legislation from other fire jurisdictions to determine a more proactive and pragmatic approach to fire safety compliance in the built environment.

No submissions dealt with this point.

This recommendation arises from concerns from the TFS in relation to their ability to issue fire orders and the use of Councils to issue building orders and evacuation orders which relies on Council priorities to prepare the orders. Other States have better tools at their disposal, so the recommendation deals with determining these and using them in the Tasmanian system.

This recommendation should be supported.

### *Principles based legalisation*

Recommendation 42 – new legislation to be contemporary, forward looking, and flexible delivering an authorizing and enabling environment facilitating a broad range of fire and non-fire prescribed activities

Recommendation 43 - legislate for provision of a secondary process to change or add functions without the need to amend legislation. The core legislation however cannot be changed without full review by Parliament and public input

Recommendation 45 – draft new legislation to be short, forward-looking and principles based with detail addressed in regulations.

Recommendations 42,43,45 have been grouped together as they deal with the same points namely that the legislation should be principles based and forward looking with the ability of a lot of the detail to be specified in regulations. This enables flexibility and certainty for dealing with the range of issues that may arise in fire and other emergency situations.

There was no opposition to any of these recommendations in the submissions. LGAT did express concern that greater focus on principles-based legislation brings with it concerns that prescription will be introduced through related regulatory instruments without the same level of engagement or consultation with councils. LGAT is of the view that inclusion of a provision such as currently exists at Section 28AA of the Local Government Act would go some way to addressing this concern. Further, pushing much of the detail into separate instruments would be at odds with an accessible, easy to read legislative approach. A balance is required.

These recommendations should be supported. In relation to the balance of appropriate public scrutiny on changes to regulations, it will be necessary to ensure that Councils are consulted prior to any proposed change in regulations covering these areas.

Summary:

Support Recommendations 27,28,29,33,36,39,41,42,43,45

### *SES Secretariat*

Recommendation 32 – transferring the current SES secretariat function to either DPFEM or DPAC who are agencies with primary responsibility for statewide emergency management as well as the SES Emergency Management Unit functions associated with statewide risk assessments, emergency planning, and emergency management policy.

The SES and the SES Volunteers Association do not support this recommendation based on the potential fragmentation of expertise within SES and the use of current SES officers to undertake these functions on an ad hoc basis as these duties happen infrequently. There does not seem to be much advantage in this proposal in terms of efficiencies or effectiveness.

Given the SES opposition it would be beneficial to reconsider this recommendation once the TFES is established and bedded down within the proposed departmental model. It then becomes a decision that would be made by the DPEM in consultation with DPAC on how best to service the functions of providing a secretariat service, risk assessments, emergency planning and emergency management policy.

### *Community Education*

Recommendation 35 – Expect but don't legislate for TFES to provide education on preparation for fire and relevant emergency risks.

No submissions addressed this recommendation.

Given the expertise that exists in TFES in this area it is logical for TFES to be involved in education on preparation for fire and relevant emergency risks.



### *Worksafe Tasmania involvement*

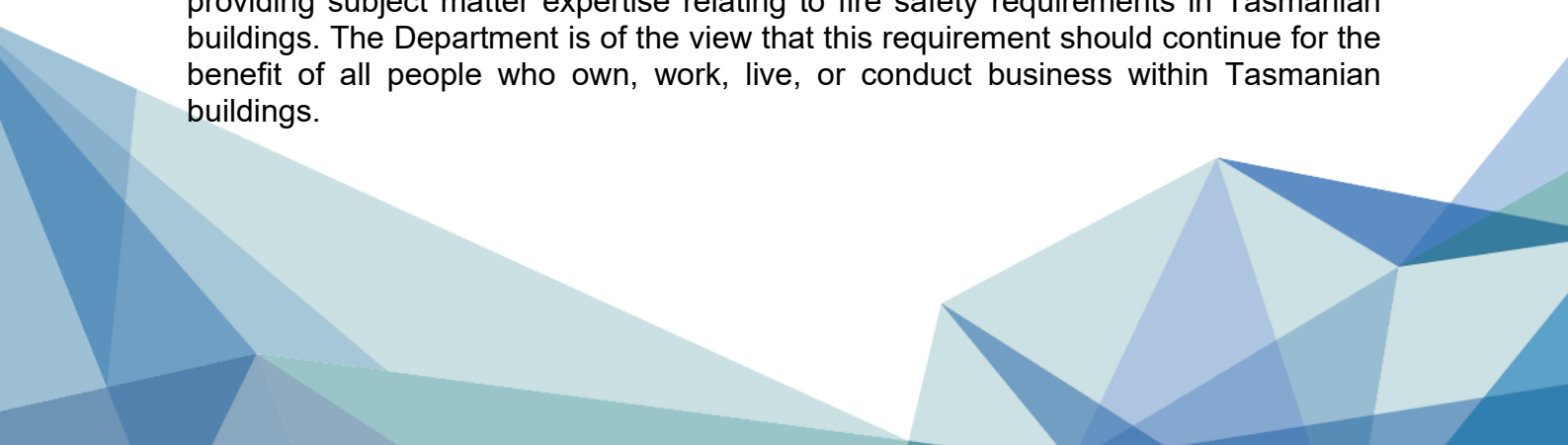
Recommendation 37 – establish in law or regulation that high-risk facilities have their emergency response procedures reviewed and approved by WorkSafe Tasmania with advice provided by TFES.

WorkSafe Tasmania oppose this recommendation on the basis that

Regulation 43 of the *Work Health and Safety Regulations 2012* ('WHS Regulations') imposes a duty on the Person Conducting a Business or Undertaking ('PCBU') to prepare, maintain and implement an emergency plan. Whilst WorkSafe Tasmania (the work health and safety regulator ('WHS regulator')) may investigate compliance with this regulation, it does not review and approve emergency plans. Furthermore:

- The work health and safety laws are risk-based. They place the responsibility for identifying hazards and managing risks on the PCBU. The duty to prepare, maintain and implement emergency plans lies with the PCBU as it needs to assess the risk and determine appropriate controls suitable for that particular workplace.
- It is appropriate for Worksafe Tasmania to review and approve emergency response procedures. The responsibility for ensuring emergency plans are appropriate for the risk rests with the PCBU and the accountability for approving emergency plans should not be transferred to the WHS regulator. In fact, as the WHS regulator monitors for compliance with the *Work Health and Safety Act 2012* and the WHS Regulations, a conflict of interest arises from the proposed approach. It could result in an outcome where the regulator approves an emergency plan, and then investigates to determine whether or not that plan it approved met the legislative requirements in the event of a fatality, serious injury, or dangerous incident. It is likely this would undermine the ability of the WHS regulator to prosecute for an offence under the Act in this circumstance;
- If WorkSafe Tasmania were required to review and approve emergency plans, further resourcing would be required. The WHS regulator does not currently have persons with the building design, fire safety or emergency management expertise to competently undertake this function. Furthermore, within the current staffing there is no additional capacity available for this work to be undertaken; and
- The proposition that the approval of the emergency plan rest with WorkSafe Tasmania, with expert advice being sought from TFES is inefficient and is likely to result in practice with the decision to approve or not approve is, in effect, being made by TFES as their advice would be solely relied on as the source of building fire safety and emergency management expertise.

The Department of Justice acknowledges the importance of the Tasmania Fire Service providing subject matter expertise relating to fire safety requirements in Tasmanian buildings. The Department is of the view that this requirement should continue for the benefit of all people who own, work, live, or conduct business within Tasmanian buildings.





### *Offences*

Recommendation 38 – review current offence and penalty provisions to ensure they reflect the role of TFES as well as reviewing relevant provisions in the Police Offences Act 1935.

There was support for this recommendation in submissions from the various volunteer associations and the SMFC. This recommendation should be supported.

### *Climate Change Risk*

Recommendation 40 – expect TFES to have capability to advise and participate in development of strategies for identifying risks associated with climate change and mitigation.

No submissions dealt with this point specifically but with climate change likely to result in more frequent and more severe wildfire events, coordination of research by TFES and the University of Tasmania and DPACs Climate Change Office is logical and should be supported. As to whether climate change research capabilities should be based in TFES would be a matter for DPFEM and DPAC to determine.

### *Objectives of TFES*

Recommendation 44 deals with prescribing the principal objectives of TFES and is not contested by any submission received as part of the consultation process.

### *Summary:*

Support recommendations 5,6,7,35,38,40 and 44.

Do not support recommendations 32,37.



## Appendix 1

### Blake Report Recommendations

#### Summary of Recommendations

This summary lists the recommendations arising from this Review and includes cross-references to further detail provided in this Report.

Recommendation		See Report	
		Section	Page
1	<ul style="list-style-type: none"><li>Legislate to integrate the organisation, functions and activities of TFS and SES.</li><li>Make consequential amendments to the <i>Emergency Management Act 2006</i>, having regard to Recommendation 26 that the new integrated service preserve and recognise the role of volunteers/units in order to ensure future capability at a community level.</li></ul>	3	34
2	<ul style="list-style-type: none"><li>Ensure that the functions carried out by the Director SES continue to be performed as outlined in the <i>Emergency Management Act 2006</i>, in particular sections 25-28 inclusive of that Act.</li></ul>	3	34
3	<ul style="list-style-type: none"><li>Prescribe in the regulations to the new legislation – or equivalent mechanism – the following as functions of the proposed new Tasmania Fire and Emergency Services (TFES) entity (subject to appropriate resource allocation and training):<ul style="list-style-type: none"><li>activities currently undertaken by SES (flood, storm/tempest, earthquake, tsunami, space debris re-entry, and search and rescue)</li><li>provision of support at events like road crash rescue, response to heatwaves, and counter-terrorism.</li></ul></li></ul>	3	38
4	<ul style="list-style-type: none"><li>Legislate to confirm:<ul style="list-style-type: none"><li>the functions for Tasmania Fire and Emergency Services (TFES) as outlined in Section 3 of this Report</li><li>(subject to finalisation of governance recommendations outlined in Section 4 of this Report), the functions and roles of the Chief Officer (or equivalent) as outlined in Section 3.5.3 of this Report, but having regard to the alternative view offered in Section 3.5.4.</li></ul></li></ul>	3	39
5	<ul style="list-style-type: none"><li>Do not combine the firefighting capabilities of Parks and Wildlife Service (PWS) and Sustainable Timber Australia (STT) with those of Tasmania Fire and Emergency Services (TFES).</li></ul>	3	42



Recommendation		See Report	
		Section	Page
6	<ul style="list-style-type: none"> <li>Include all relevant emergency management entities in negotiations toward the Inter-Agency Fire Management Protocol, with approval and/or oversight by the State Controller.</li> </ul>	3	43
7	<ul style="list-style-type: none"> <li>Ensure the role in recovery of the Department of Premier and Cabinet(DPAC) remains unchanged.</li> <li>Acknowledge the support role in recovery to be taken by Tasmania Fire and Emergency Services (TFES), as outlined in Section 3.6.5 of this Report.</li> </ul>	3	45
8	<ul style="list-style-type: none"> <li>Develop a governance model for Tasmania Fire and Emergency Services (TFES) that transitions it to a division within the Department of Police, Fire and Emergency Management (DPFEM) that includes: <ul style="list-style-type: none"> <li>suitable ring-fencing arrangements for levies raised to fund TFES</li> <li>appropriate reporting arrangements between the head of TFES and the Minister</li> <li>broadening the role, and revisiting the membership, of the State Fire Management Council (SFMC). Revisiting membership should include relevant membership transitioned from the State Fire Commission (SFC)</li> <li>abolishing the SFC.</li> </ul> </li> </ul>	4	56
9	<ul style="list-style-type: none"> <li>Confirm in legislation the continued existence of the State Fire Management Council (SFMC) under a charter to be approved by the Secretary Department of Police, Fire and Emergency Management (DPFEM) and the Minister.</li> </ul>	4	59
10	<ul style="list-style-type: none"> <li>Broaden the definition in the Fire Service Act of 'brigade costs' to include non-brigade costs.</li> </ul>	5	62
11	<ul style="list-style-type: none"> <li>Replace all current sources of State Emergency Service (SES) funding with a single, property-based levy.</li> <li>Explore Appropriation-based funding for SES as an alternative if a single, property-based levy is not supported or sustainable.</li> </ul>	5	66
12	<ul style="list-style-type: none"> <li>Replace the Insurance Levy with a property-based levy or another funding source providing similar, and consistent (predictable), levels of funding.</li> <li>Ensure that the Insurance Levy continues to be charged and collected until suitable transition arrangements are identified and implemented.</li> </ul>	5	69

Recommendation		See Report	
		Section	Page
13	<ul style="list-style-type: none"> <li>Continue the Motor Vehicle Levy.</li> <li>Base any expansion of the Motor Vehicle Levy to other types of vehicles on a cost-benefit analysis.</li> </ul>	5	71
14	<ul style="list-style-type: none"> <li>Continue contributions from the Australian Government but do not regard this as a source of base-level funding for Tasmania Fire and Emergency Services (TFES).</li> </ul>	5	71
15	<ul style="list-style-type: none"> <li>Continue to source funding from the marketing and fire prevention functions of Tasmania Fire and Emergency Services (TFES) and miscellaneous revenue, with these being self-funding and not part of base-level funding.</li> <li>Discontinue revenue streams from the Motor Accident Insurance Board (MAIB) for both TFS and SES.</li> </ul>	5	72
16	<ul style="list-style-type: none"> <li>Continue contributions from the State Government but do not regard this as a source of base-level funding for Tasmania Fire and Emergency Services (TFES).</li> </ul>	5	73
17	<ul style="list-style-type: none"> <li>Include up to \$5 million per annum in levy or Appropriation sources of revenue for Tasmania Fire and Emergency Services (TFES) to pay for those State Emergency Service (SES) related functions and services transitioned from local government to TFES.</li> </ul>	5	73
18	<ul style="list-style-type: none"> <li>Continue a property-based levy to provide the bulk of funding for Tasmania Fire and Emergency Services (TFES), basing it on a property's Average Annual Value (AAV) as determined by the Valuer-General from time to time, with movements in the levy determined by Treasury annually.</li> <li>Determine the make-up of the levy, including consideration of fixed and variable components.</li> </ul>	5	79
19	<ul style="list-style-type: none"> <li>Quantify and fund current concessions as a Community Service Obligation.</li> <li>Quantify and remove current exemptions for payment of the Fire Service Contribution (FSC) levy, except for Crown Land, land managed by Sustainable Timber Tasmania (STT) and land and buildings owned by Councils and by Government entities funded predominantly by Appropriation.</li> </ul>	5	80
20	<ul style="list-style-type: none"> <li>Ensure that funds raised for Tasmania Fire and Emergency Services (TFES) are paid into the Consolidated Fund and then ring-fenced for use by TFES.</li> </ul>	5	80

Recommendation		See Report	
		Section	Page
21	<ul style="list-style-type: none"> <li>Develop transition arrangements that mitigate the impacts on property owners of an increase in a property-based levy.</li> <li>Engage with the Insurance Council of Australia and property owners to quantify benefits from lower insurance premiums and consider how these might be shared with the broader community.</li> </ul>	5	81
22	<ul style="list-style-type: none"> <li>Discontinue local government funding of SES and their support for local units.</li> <li>Transition all Councils' associated resources to Tasmania Fire and Emergency Services (TFES).</li> <li>Develop a transition plan with Councils.</li> </ul>	5	83
23	<ul style="list-style-type: none"> <li>Do not fund Tasmania Fire and Emergency Services (TFES) by Appropriation – because doing so may disincentivise property owners from properly insuring their properties or being appropriately prepared.</li> </ul>	5	84
24	<ul style="list-style-type: none"> <li>Have Treasury be responsible for calculating, but not on its own determining – determination will require input from Tasmania Fire and Emergency Services (TFES) – the amount to be collected by local government from the property-based levy annually.</li> </ul>	5	85
25	<ul style="list-style-type: none"> <li>Continue to have local government collect the proposed Tasmania Fire and Emergency Services (TFES) property-based levy and be paid a renegotiated collection fee for doing so.</li> </ul>	5	87
	<ul style="list-style-type: none"> <li>Have the Head of Tasmania Fire and Emergency Services (TFES) and the Minister make clear annually, in a public manner, how the levy is constructed, reasons for increases, and the fact that it is collected by local government for a fee.</li> <li>Pay levies collected by local government into the Consolidated Fund but ring-fence them for use by TFES.</li> </ul>		
26	<ul style="list-style-type: none"> <li>Recognise and enshrine in legislation the contribution of volunteers and volunteering (including SES units) and include a requirement for a Volunteer Charter to be developed by Tasmania Fire and Emergency Services (TFES) and endorsed by the Volunteer Associations and the Minister.</li> <li>Legislate to provide good faith protection from liability for TFES volunteers/units, authorised volunteers and permanent staff.</li> <li>Ensure there are no legislative barriers that would preclude the expansion of volunteer/unit roles to include both response and non-response roles.</li> </ul>	6	94

Recommendation		See Report	
		Section	Page
27	<ul style="list-style-type: none"> <li>Do not include a legislated provision for emergency medical response in the mandate of Tasmania Fire and Emergency Services (TFES); this should be entirely a matter of policy.</li> <li>Ensure legislation allows for additional functions that fire and emergency services personnel may perform, subject to appropriate training and credentialing, with an overarching responsibility for public safety, property and the environment.</li> <li>Ensure that, while Ambulance Tasmania remains the primary agency for emergency medical response, legislation does not prohibit it from entering into arrangements with TFES for training and credentialing relevant emergency response activities.</li> </ul>	7	97
28	<ul style="list-style-type: none"> <li>Develop legislation that empowers Tasmania Fire and Emergency Services (TFES) with functions, powers and indemnities that reflect its broader role in emergency management and response, and which:               <ul style="list-style-type: none"> <li>maintains current levels of indemnity</li> <li>broadens TFES' mandate to include the power to confer specified functions, powers and indemnities on individuals and organisations inside and outside TFES, including interstate and international personnel</li> <li>provides authority and indemnity that allows for quick response to fires in the landscape without waiting for formal instruction from TFES, and approval to enter private land to address fire response. This should apply not just for Sustainable Timber Tasmania (STT) and Parks and Wildlife Service (PWS), but also the private forest industry and any other potential first responders, e.g. appropriately resourced private land managers</li> <li>provides clarity regarding authority to act and indemnity, including linkages with existing Memorandum of Understanding (MoU) arrangements with private forests and in circumstances where authority to act may be automatic, such as fires reported through FireComm.</li> </ul> </li> </ul>	7	100

Recommendation		See Report	
		Section	Page
29	<ul style="list-style-type: none"> <li>Legislate to:               <ul style="list-style-type: none"> <li>address conflicting, duplicated or gaps in the roles of the proposed Tasmania Fire and Emergency Services (TFES), Parks and Wildlife (PWS), Sustainable Timber Tasmania (STT) and private entities involved in dealing with fires</li> <li>allow non-TFES officers in charge of fire suppression to have access to, and to deal with, a fire as soon as possible</li> <li>include in the mandate of TFES the power to confer specified functions and powers on individuals and organisations, including interstate or international personnel, inside or outside of the entity</li> <li>include a Head of Power, exercisable at the discretion of TFES, allowing protocols to be developed to manage the relationship between the entity and other land management agencies and emergency services agencies, including Tasmania Police</li> <li>provide firefighters, SES workers and other delegated agencies/people with protection from liability (as occurs currently through section 51 of the Emergency Management Act). Other delegated agencies/people to be 'loosely' defined so as to provide protection for the range of persons involved in the provision of fire and emergency services but who may be non-firefighters/non-emergency workers/not public servants</li> <li>authorise TFES, PWS and STT to close roads to protect public safety during a fire, flood or storm hazard and to have a power to regulate traffic, not just close a road.</li> </ul> </li> </ul>	7	103
30	<ul style="list-style-type: none"> <li>Leave the decision-making and nomination process to appoint fire permit officers to the senior management of the relevant responsible agencies, depending on their specific responsibilities in regards, for example, to the land tenure with which it is concerned.</li> </ul>	7	104

Recommendation		See Report	
		Section	Page
31	<ul style="list-style-type: none"> <li>• Include, in the Terms of Reference for the State Fire Emergency Management Sub-Committee, provision for the establishment of Fire and Emergency Risk Area Committees (FERAC), including the number and geographical boundaries of these committees.</li> <li>• Enhance community engagement through community representation on FERACs, without increasing numbers on these committees.</li> <li>• Remove the requirement to Gazette geographical boundaries.</li> <li>• Continue to identify synergies between FERACs and Regional and Municipal Emergency Management Committees.</li> <li>• Note that these arrangements do not require legislative support and could instead be promulgated under a Head of Power and detailed, where necessary, in doctrine/Tasmanian Emergency Management Arrangements (TEMA).</li> </ul>	7	107
32	<ul style="list-style-type: none"> <li>• Consider, as an alternative to, or in addition to, Recommendation 31:               <ul style="list-style-type: none"> <li>○ having the secretariat function currently fulfilled by SES performed instead by relevant administrative personnel within an agency with primary responsibility for statewide emergency management, such as the Department of Premier and Cabinet (DPAC) or the Department of Police, Fire and Emergency Management (DPFEM)</li> <li>○ transferring SES's Emergency Management Unit (EMU) functions associated with statewide risk assessments, emergency planning, and emergency management policy to either DPAC or DPFEM.</li> </ul> </li> </ul>	7	109

Recommendation		See Report	
		Section	Page
33	<ul style="list-style-type: none"> <li>Legislate to provide a Head of Power for Tasmania Fire and Emergency Services (TFES) to:               <ul style="list-style-type: none"> <li>establish and abolish brigades/units</li> <li>determine the membership of brigades/units</li> <li>recommend locations of brigades/units</li> <li>define the structure, functions, powers and responsibilities of brigades/units</li> <li>exercise such other powers and functions as may be necessary for the effective management of, and response to, fire and other prescribed emergencies.</li> </ul> </li> <li>Legislate to provide TFES with the power to:               <ul style="list-style-type: none"> <li>register/de-register volunteer/unit members</li> <li>appoint unit managers, brigade chiefs, and establish standards, for things like equipment, training, facilities, etc.</li> <li>establish protocols for cooperation</li> <li>appoint industry brigades, making clear that they be under the control of TFES.</li> </ul> </li> </ul>	7	113
34	<ul style="list-style-type: none"> <li>Include the recommendations of the review of the fire permit system into new legislation as appropriate, including arrangements for total fire bans.</li> <li>Ensure that new legislation includes scope to modify or change these arrangements if once implemented it is determined adjustments to processes are required.</li> <li>Ensure that, subject to exemptions granted by the Chief Officer, no fire permits are issued when total fire bans are in place.</li> </ul>	7	116
35	<ul style="list-style-type: none"> <li>Expect, but do not legislate for, Tasmania Fire and Emergency Services (TFES) to provide education to the community on how best to prepare for fire and relevant emergency risks.</li> </ul>	7	117
36	<ul style="list-style-type: none"> <li>Legislate for Tasmania Fire and Emergency Services (TFES) responsibility for issuing permits to install, maintain or repair fire protection equipment, subject to a review of:               <ul style="list-style-type: none"> <li>the current regulatory arrangements</li> <li>conflict-of-interest arrangements.</li> </ul> </li> </ul>	7	120



Recommendation		See Report	
		Section	Page
37	<ul style="list-style-type: none"> <li>Do not provide for building fire evacuation systems in any new legislation; instead, establish in law or regulation that high-risk facilities should have their emergency response procedures reviewed and approved by WorkSafe Tasmania and that, in view of its contemporary knowledge and experience in emergency response, advice be sought where needed from Tasmania Fire and Emergency Services (TFES).</li> </ul>	7	124
38	<ul style="list-style-type: none"> <li>Review current offence and penalty provisions to determine if they remain appropriate, enforceable and contemporary and reflect the expanded roles of TFS and SES and, therefore, Tasmania Fire and Emergency Services (TFES). In doing so, consider provisions in the <i>Police Offences Act 1935</i>.</li> </ul>	7	127
39	<ul style="list-style-type: none"> <li>Legislate to: <ul style="list-style-type: none"> <li>provide for Tasmania Fire and Emergency Services (TFES) to establish a chain of command for response (including appointment of Incident Controllers) by means of regulations or a statutory instrument, which can, when necessary, be amended</li> <li>make clear that all emergency responders who are present at an incident are, in all respects, subject to the Incident Controller's direction</li> <li>give power to, or require, TFES to ensure that an endorsement or accreditation process is in place for incident management staff that provides authority, accountability, indemnity, consistency and efficiency of process</li> <li>update the roles and responsibilities for emergency management to be consistent with those prescribed in the <i>Emergency Management Act 2006</i> (because command and control arrangements will apply to SES as well as TFS, and therefore to TFES).</li> </ul> </li> </ul>	7	128
40	<ul style="list-style-type: none"> <li>Expect Tasmania Fire and Emergency Services (TFES) to have capability, or access to capability, to advise on, or participate in the development of, strategies aimed at identifying risks associated with changes in our climate and proposed mitigations.</li> </ul>	7	129
41	<ul style="list-style-type: none"> <li>Undertake a review of contemporary and suitable legislation from other fire jurisdictions across Australia to consider, within the Tasmanian context, how best to allow a more proactive and pragmatic approach to fire safety compliance in the built environment.</li> </ul>	7	131




Recommendation		See Report	
		Section	Page
42	<ul style="list-style-type: none"> <li>• Draft new legislation to replace the <i>Fire Service Act 1979</i>, keeping in mind that:             <ul style="list-style-type: none"> <li>◦ in order for any proposed legislation to be contemporary, flexible and sufficiently forward-looking, it needs to be principles-based, providing a Head of Power to Tasmania Fire and Emergency Services (TFES)</li> <li>◦ the functions and mandate of the new entity should deliver an authorising and enabling environment facilitating a broad range of fire and prescribed non-fire related emergency services activities, including multi-hazard, that are aligned with and support the <i>Emergency Management Act 2006</i> in legislation.</li> </ul> </li> </ul>	8	135
43	<ul style="list-style-type: none"> <li>• Legislate to make provision for a secondary process to change or add mandated functions in the future without the need to amend legislation, but on the proviso that the core legislation cannot be undone without full review by the Parliament, and with public input.</li> </ul>	8	139
44	<ul style="list-style-type: none"> <li>• Develop new legislation to establish an integrated fire and prescribed emergency services entity, the principal objectives of which are:             <ul style="list-style-type: none"> <li>◦ to preserve human life</li> <li>◦ to build resilient communities that actively participate in prevention, preparedness and response to fire and other relevant emergencies</li> <li>◦ to limit the economic, environmental (including climate change), social and physical impacts of fire and other emergencies on the Tasmanian community</li> <li>◦ to recognise that our environment has inherent value for the Tasmanian community</li> <li>◦ to ensure/facilitate effective inter-agency interoperability both inter and intra State.</li> </ul> </li> <li>• Clarify, in the new legislation, that the proposed entity is <b>not</b> the lead agency responsible for recovery.</li> </ul>	8	139
45	<ul style="list-style-type: none"> <li>• Draft new legislation to be short, forward-looking and principles-based, with detail addressed in regulations.</li> </ul>	8	140

## Appendix 2

### Existing SFC Role and Function

(1) Subject to any directions given to it by the Minister pursuant to [section 11](#) , the functions of the Commission are –

- (a) to formulate the policy in respect of the administration and operation of the Fire Service;
  - (b) to co-ordinate and direct the development of all fire services throughout the State;
  - (c) to develop effective fire prevention and protection measures throughout the State;
  - (d) to develop and promulgate a State fire protection plan;
  - (e) to standardize, as far as is practicable, fire brigade equipment throughout the State;
  - (f) to establish and maintain training facilities for brigades;
  - (g) to conduct such investigations into fires as it considers necessary, and to prepare reports and recommendations to the Minister arising from those investigations;
  - (h) to 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;
  - (i) to 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
  - (j) to 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.
- (5) Any land proposed to be acquired by the Commission under the authority of [section 7 \(2\)](#) may, with the consent of the Governor, be taken in accordance with the provisions of the [Land Acquisition Act 1993](#) and the purpose for which the land is so taken shall be deemed to be an authorized purpose within the meaning of that Act.
- (6) The Commission is to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which Wellington Park is set aside under the [Wellington Park Act 1993](#) and with any management plan in force in respect of Wellington Park.
- (7) The Commission is to perform its functions in respect of any reserved land, as defined in the [Nature Conservation Act 2002](#) , in a manner that is consistent with the purposes for which the reserved land is set aside under the [National Parks and Reserves Management Act 2002](#) and with any management plan in force in respect of the reserved land.
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## Existing SFMC Role and function

(1) The Council has the following functions:

(a) to develop a State vegetation fire management policy to be used as the basis for all fire management planning;

(b) to advise and report regularly to the Minister on such matters relating to the administration of this Act, as it applies to vegetation fire management, as are referred to it by the Minister and on such matters concerning vegetation fire management as, in the opinion of the Council, should be brought to the attention of the Minister;

(c) to advise the Commission on such matters relating to the prevention and mitigation of vegetation fires as are referred to it by the Commission or land managers and on such other matters as, in the opinion of the Council, should be brought to the attention of the Commission;

(d) to perform such other functions relating to the prevention or mitigation of vegetation fires as the Minister may direct;

(e) to provide an annual report to the Minister on its activities, for inclusion in the annual report of the Commission prepared under [section 107G](#) ;

(f) to provide an annual report to the Commission on the activities of the Fire Management Area Committees, for inclusion in the annual report of the Commission prepared under [section 107G](#) .

