

14th September 2018

Tasmania Fire Service
Fire Service Act Review
Attention: The Steering Committee,
GPO Box 1526
HOBART TAS 7001

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

Fire Service Act Review

Thank you for the opportunity to make comment over this part of the review and also for granting an extension of time to make our submission.

Please note the Departmental Chart in Appendix D of the June 2018 Issues Paper is entirely un-readable.

Context of The Review and Concerns

The context of the review is described on the Tasmanian Fire service website at <http://www.fire.tas.gov.au/Show?pageId=colFireServiceActReview>

The website states the opinion:

“Over the years, the current legislative framework (Sic) has become fragmented, overly complex and process driven. A comprehensive review of the Act and all subordinate legislation is now considered timely.”

However, we have been asked to comment on the Issues Paper, Review of the Fire Service Act 1979, June 2018 that also includes the above statement. and

The issues paper reiterates the above website opinion and also states:

“The aim is to simplify and modernise the legislation to be more reflective of how TFS and the State Fire Commission serve the community today.”

This suggests that a decision has already been made over the outcome of the review. That is not the only solution to any disjunct between the legislation and the day-to-day function of the TFS.

We reject this approach out of hand and consider it an abuse of the community to undertake a public review of something over which decisions have already been made.

It would be our preference of that the Tasmanian Fire Service (TFS) was less involved in the control and administration of this Review. A range of benefits would ensue from a genuine arm's length approach.

The process of Review is being overseen by a steering committee, which is comprised:

- Mr Michael Harris, (Chair)
- Chief Officer, Tasmania Fire Service
- Deputy Chief Officer, Tasmania Fire Service
- Chair, State Fire Commission
- Director, State Emergency Service
- Deputy Secretary, Business and Executive Services, DPFEM
- A Representative of the Department of Premier and Cabinet
- A Representative of the Department of Treasury and Finance
- A Representative of the Department of Primary Industries, Parks, Water and Environment
- A Representative of the Department of State Growth.

It appears there is not a single representative on the Review's steering committee from the Tasmanian community, nor is there a single representative on the Review's steering committee from a local government or the LGAT.

In essence, this Review's steering committee even represents an avoidance of the membership of the State Fire Management Council, which is enshrined under Section 14 of the Act. The TFS may consider this to be managing stakeholder involvement but should consider that it potentially leaves the public with a bitter, untrusting view of the TFS - a most unfortunate situation.

At this stage, however we will refrain from making a prediction over what could be described as virtually a 'business as usual' outcome.

We would describe the Fire Service Act 1979 as an antiquity. Modern legislation is obviously required and the government should have taken steps to reform after the Dunalley Fire of 2013. Under that legislation a range of reforms and improvements, which safeguard the community and the environment of Tasmania, should be implemented.

New Legislation Required and Recommended

It is our view that a whole new piece of legislation should be drafted. That is, it should not be considered that a simple, quick modernisation should be expediently attempted.

New legislation needs to start with the design of an overall system to meet the needs, aspirations and expectations of a more informed, educated and discerning Tasmanian community.

New legislation also needs to start with recognition of the increasing importance of the world's changing climate.

The purpose of the Fire Service Act 1979 as briefly mentioned appears to be:

“An Act to amalgamate fire services in the State, to consolidate and amend the law relating to preventing and extinguishing fires and the protection of life and property from fire, to make provision with respect to incidental matters, and to amend and repeal certain enactments.”

Clearly the purpose of any Fire Service Act should be expressed in a far more comprehensive and transparent manner than was achieved in 1979.

Summarisation of Review Submissions Not Supported

We make the comment that the proposition to summarise submissions is unhelpful to the general public and to the process. We accept that should someone wish this submission to be private they should have that right. The issues paper talks about the summarisation of submissions and the publishing of those summaries. Not only is that a substantial amount of work but it also detracts from the evidential nature of any submission, which might be made to the review. Because such a summary involves a person from the Tasmanian Fire service summarising independent submissions, making judgement calls over what to include, what to admit and what to emphasise, the whole idea of the independent submission is absolutely compromised.

We strongly prefer that our submission not be summarised or indeed interpreted in any way. Indeed, we prefer that our submission is simply reproduced on the website in whole.

Anything less than this approach must be regarded as manipulation and leaves the public open to perceive a potential reconstruction of submissions may have occurred. Perhaps it will have!

We would prefer to be able to read the whole of other submissions as well. It is the only transparent way.

The Purposes and Objectives of The Act

In the Issues Paper, it is stated that the following statement was derived from section 8 of the act:

“The State Fire Commission’s primary purpose is to minimise the social, economic and environmental impact of fire on the Tasmanian community.”

We consider that the economic impact as merely a part of the social impact. After all, would the economy exist in the absence of society?

However, Section 8 of the act states:

“8. Functions and powers of Commission

(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.

Surely, it is possible for an Issues Paper to be written which does not perform a reinterpretation of the existing legislation. In any case, we expect such a standard.

Clearly the Tasmania Fire Service performs a wide range of activities, indeed some are almost certainly beyond its legislative remit. We are not saying the organisation should not be undertaking all the tasks currently performed but simply that the legislation does not reflect current circumstances.

We recommend that in new Legislation a clear and succinct set of Objects as well as a clear set of purposes for each part of Tasmania's Fire Service activities be established with extensive public consultation.

The absence of a clear, transparent, articulate and relevant set of Objectives within the Act is a major omission, which should be rectified.

The State Fire Commission

It has been stated:

"The State Fire Commission is a representative board and that can put the chief officer as chair in a compromising position, in my view, from time to time where the views of the representatives of the board may differ from that of the Government."

We are of the opinion that the public interest is not always served by the opinions of the government.

We have no confidence that the State Fire Commission is compelled to follow the Minister's direction.

Within this review, the structures of the State Fire Commission and the Tasmanian Fire Service should be actively reviewed. Also, the State Fire Management Council should be subjected to rigorous scrutiny.

The State Fire Management Council

The State Fire Management Council is a coalition of certain burning partners, if you like:

- Forest Industry Association of Tasmania;
- Forestry Tasmania;
- Local Government Association of Tasmania;
- Parks and Wildlife Service;
- Tasmania Fire Service, and
- Tasmanian Farmers and Graziers Association.

No one can explain why some stakeholders are involved and others not but that is the sorry state of affairs.

It has been stated that:

“The State Fire Management Council (SFMC) is established under Section 14 of the Fire Service Act 1979 (Tasmania). A principal function of the Council is to develop a State vegetation fire management policy (Fire Service Act 1979 S. 15 (a)).”

However, the Act S15 (1) (a) states:

“(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;”

We note that this Policy under The Act is ostensibly to be used as the basis for all fire management planning. Really? No one would consider that this is wise and reasonable legislation or that the Policy is sufficiently fit for purpose.

We wish to state, we have concluded after reviewing the performance of the State Fire Management Council (SFMC) and its members over several years that we are opposed to the whole of Section 15 of The Act.

For some arcane reason the Fire Service Act 1979 also entrusts the SFMC to appoint Fire Permit Officers. Now, the SFMC has never managed to develop any criteria to assist with its appointment of Fire Permit Officers and the system around the SFMC appears to be a loose coalition of those who favour burning.

Our recommendation is that a Fire Permit Officer should have delegated responsibility from the chief officer and not the SFMC.

The Terms of Reference of the SFMC suggest one of its functions is to *“To develop a state vegetation fire management policy”*.

Indeed the SFMC website states: *“The primary function of the SFMC is to develop a State Vegetation Fire Management Policy that is used as the basis for all fire management planning.”* We were unable to find such a Policy on the SFMC website until we resorted to Google which somehow found it. This is not helpful or professional.

Another example: ‘Committees’ is shown on the web site but when one clicks one finds no specific information about Fire Management Area Committees. How would a member of the public contact such a Committee? It is not real. It is a clandestine arrangement with an inadequate amount of transparency. This leaves us with no confidence.

At the time of the Dunalley, fire the whole of the SFMC was a non-entity. It remains a useless artefact and should be replaced with something that genuinely serves the public interest and the Tasmanian community.

Regarding the State Vegetation Fire Management Policy, we managed to find the 2017 version. It says: *“This policy supersedes the State Vegetation Fire Management Policy 2012 V4.2”*

The State Fire Management Council appears to be something akin to a legislated lobby group. It belatedly reviews its 2012 Policy in 2017. It is a coalition of burning partners, which could be better achieved through more defined and regulated means. This is an old fashioned arrangement with limits.

The SFMC suggests it acknowledges the original custodians – the Tasmanian Aboriginal people - in its State Vegetation Fire Management Policy yet today’s practice replaces what may have been a low impact management of the environment with vast aerial drops of Napalm and intensive burning regimes.

For those who are engaged in the culture and risky practice of lighting fires does this SFMC genuinely represent the range of stakeholders who manage their land? We consider not.

The problems and manifest shortcomings of the SFMC cannot be fixed easily but must be fixed as a high priority. It requires a complete redesign of the system in this part of the legislation.

The community needs to have confidence in every aspect of the Fire Service. We need to have trustworthy behaviour. Only by having legislated principles and criteria will any confidence be developed.

Legislating representative mechanisms is fraught as what is currently within The Act is not supported. It is an exclusive set up which leave the community out in the cold.

Legislating fair and reasonable mechanisms of cooperation would seem more logical and wise.

The System not Described or Designed

You may ask, what is The System? Well it is a good question. But in the Issues Paper, there is no adequate description of the function and overall relationships of the various components of The System. Should there be one? Yes.

More than one model should be developed and multiple options should be canvassed and described in an accessible way.

What needs to be asked is whether, in the 21st Century, the current system is fit for purpose. Does it embrace evidence-based decision-making. Are there reasons, which stand up?

A More Strategic and Scientific Approach to Managing Vegetation is Recommended

It is considered by various government agencies that the potential fire threat posed by native vegetation can only be managed by undertaking broad scale fuel reduction burns across the landscape in Tasmania.

TEA considers that there is a strictly limited amount of science available to support this proposition.

There appears to be good support scientifically for policy mechanisms such as the bushfire code within LUPAA, which target the reduction of vegetation in proximity to developed built assets.

The Issue of Fuel Reduction and the Liquidation of Carbon Reality

Fuel reduction is not defined in the Fire Service Act. Section 3 of the Act states: *“Fire management means a strategic defined program to manage bushfire fuels;”*.

There is no definition in the Act of bushfire fuels.

This is an Act, which was created before the imperative of Climate Change became a central theme of sustainable development.

Fuel Reduction should be defined in the Act.

A definition of Fuel Reduction means the (currently unquantified) liquidation of Carbon and its conversion into Heat.

We prefer the term ‘carbon liquidation’, which is more modern and less ambiguous than fuel reduction, which could mean almost anything. The fact that fuel reduction is not defined even the 1979 Fire Service Act, indicates the marginal and colloquial nature of the term. Perhaps it would be kindest to describe it as a contentious artefact of a country vernacular.

When one burns vegetation, regarded as fuel a by-product is generated, a greenhouse gas, carbon dioxide, which persists a very long time in the atmosphere.

In terms of the burning system, the whole comes out of Luke and McArthur (Bushfires in Australia) about half a century ago.

Registration of Burns and TFS Powers and Responsibilities of the Lighters of Fires

The heart of the Tasmanian Fire Service’s Permit System, is the mandated requirement to obtain a permit during the permit period, yet this period is variable and only covers a portion of the year. Along with this regulatory aspect, there is encouragement to Register Burns during cooler months where it is perceived there is less risk.

It is our belief that it would be wise for the Tasmanian Fire Service to move to a position where the authority to burn should always be restricted to a Permit. It is a more simple system and may require a somewhat different fee structure and the employment of professional Fire Permit Officers or their equivalent.

The approval system around this Permit may be achieved more easily in winter months but the solution to have a year-round permit system has great administrative

attractiveness and better certainty for all concerned, on the proviso that it is offset by an efficient registration and approval system.

For that new permit and registration system to work effectively, we believe that professional Fire Permit Officers should be employed. Some of them may be the same people who are already fulfilling that role but as paid employees, their position would be clearly defined and their work valued.

TEA considers that there is no scope for the self-regulation of this industry.

The Permit System and Registration of Burns

This is a critical part of the regulatory system for managing Fire in the Tasmanian landscape. The regulatory Permit system should be enhanced and strengthened rather than streamlined or diminished.

This system however is urgently in need of a thorough overhaul with the aim to increase the compliance and reliability of any burns, which are undertaken.

To be absolutely clear: There is a lack of adequate efficient regulation to protect people, property and the environment.

Currently there is a period of the year, which is set by the Tasmanian Fire Service, termed the Permit Period. Outside of that period, which is open to a discretionary judgement call from the TFS, there is no permit required.

We consider that the avoidance of a permit outside of what is termed the permit period is not adequate to acquit a duty of care.

We consider that the registration process, including outside of the permit period, must be mandatory. Specifically it should be legislated that any burning of vegetation requires that a burn plan B prepared and reviewed by a person with the relevant competence and be registered with the Tasmanian fires service.

There is also the process of registration of a burn.

In the past it has been reported, such as by Edith Bevin, on 8 Oct 2015: “

Tasmania's Chief Fire Officer rejects call for overhaul of fuel-reduction permits after early season bushfires”

Digital Registration

We support a digital system on the proviso the system allows the public to access the information.

Better Access to Redress for Neighbours and other Affected Parties

Basically, what we have in Tasmania, under the tutelage of the SFMC, is an open slather system of burning, which provides no protection for neighbours, the community and various protected values.

One could assert that the current elevation of permit compliance, approved by a permit officer, who is chosen and established by the same SFMC, which writes the vegetation burning policy, is simply a crude means of absolving responsibility in a situation where the burning activity itself is so unreliable as to be not achievable in a responsibility and duty of care sense.

Hence, in the Tasmanian Vegetation Fire Management Policy 2017, it emphasises that the burning activity is done such as “*Act in good faith*”. We dispute that this is the case and are willing to prove our assertion.

This is simply a part of a complex web that leaves neighbours left out in the cold in terms of redress, other than via the Supreme Court. Such absence of achievable redress over the impacts or a risky activity (and it is shown to be risky and unreliable via the statistics in the various Plans) is reprehensible and grossly unfair.

How can one tell whether the lighter of the fire has complied with the conditions on the Permit? How is the Permit accessed? What are the rights of access for the public and neighbours? A proper redress, would see the Permit available to all via a website including any additional conditions imposed by the Permit Officer. But we must remember, currently all that only applies during a Permit Period. That obviously is not logical and indeed simply has to change so that all fires proposed come across the desk of the Fire Permit Officer. It is a simple but fundamental change, which needs to be enshrined in a new Act. There must be the ability for redress to be dealt with under the Fire Service Act, rather than an expensive visit to the Supreme Court. A reliance on the Supreme Court is simply a way of putting redress beyond the reach of most Tasmanians.

The lack of redress under the Fire Services Act demonstrates that the department has limited confidence in its regulatory system. The Act must address this issue. It is completely unacceptable that members of the public have so few rights to protection under this important legislation over an action with far-reaching consequences.

If you want the community to have confidence in the Fire Service Act then the Government must also demonstrate its own confidence in The Act by ensuring the new legislative provisions are fair, transparent and act in the public interest.

More Transparent Categorisation and Decisions that create Fire Permit Periods

TEA does not support a reduction or relaxation of clear and meaningful terms, which are embodied in the Act. Indeed the clarity of terms and their interpretation in the Act could be significantly improved. It should be an aim of the TFS to embrace both verbal and written communication to avoid ambiguity.

Criteria and Employment for Fire Permit Officers

As previously mentioned we consider that the Fire Permit Officer position should be formalised with proper employment. We cannot foresee the reasonable prospect of accreditation for a voluntary position.

This is not intended to be a criticism of volunteers, for indeed we are volunteers but rather recognition that the Fire Permit Officer is a key aspect of the TFS permit system.

Existing Fire Permit Officers should be assessed on their performance, before being moved into a new 21st-century fire permit system.

It should be a clear aim of the review and the new legislation to increase the skills, independence, probity and competence of employed Fire Permit Officers.

Precautionary Approach Enshrined in Law for the TFS

It can be easily shown that hazard reduction burning is a risky activity, performed by people who have varying levels of intellect and experience. Some who are employed in industries, which have come to depend on burning, may be considered to have a pathological behaviour regarding fire.

We recommend that within the new Fire Service Act the objectives and provisions, which both enshrine and mandate a more precautionary approach in everything in which the TFS is involved, to be essential and of high priority

Better Regard for The Environment and especially Fauna and Catchments

TEA is primarily concerned with the management of vegetation-based fire across all land tenures in Tasmania. We consider and can show examples of mismanagement and negligence. The simple fact is if the TFS and its buddies want less fire in Tasmania then it will institute changes to the laws which allows fires to be lit and will create laws which more carefully and diligently regulate the lighting of fires.

Escaped 'controlled burns' unfortunately represented a significant percentage of fires.

In the writer's area almost all 'controlled burns' escape and almost no one gets any significant penalty - a pathetic situation which fails any modern duty of care test.

We wish to make a specific comment over the use by public land management agencies, including the Parks and Wildlife Service, regarding the aerial application of Napalm to the natural environment.

Broad acre Napalming of secure public reserves which are established for the conservation of biodiversity and as a part of the National Reserve System of Australia, is unacceptable and will damage Tasmania's reputation.

The only reason that the Parks and Wildlife Service is getting away with the use of Napalm presently, is because the public have not been made aware of this obnoxious and harmful practice.

Vegetation Fire Less Mismanaged

A reduction in the mismanagement of vegetation-based Fire will be achieved simply and effectively through the following strategies and mechanisms.

1. It must be recognised by the TFS and by other agencies as well as by the government that most fires in Tasmania - indeed the overwhelming majority, are actually lit by humans: They are not naturally occurring.
2. Less lighting of fires should be achieved as an urgent priority.
3. All human lit fires should be regulated.
4. All proposed human lit fires should have plans, which are reviewed by the TFS as a part of a formal permit system.
5. Improving the quality of the plans of proposed fires, which are subsequently approved and thus intended to be lit.
6. Improving the professional training of those who prepare and also those who approve the burn plans. Tasmania has no BTAD accreditation scheme.
7. Improving the professional training of the people known as Fire Permit Officers and moving this volunteer role into a professional position.
8. Increasing fines for Arson including the use of on the spot fines would be an extremely simple and reasonable step. Arson is responsible for a significant percentage of fires across Tasmania and this illegal activity should attract a very high degree of fine and indeed other penalties, such as incarceration. Given that 30% of fires are arson, it seems logical that 30% of the funding to TFS should be expended on arson awareness and education.
9. Improving the legislation to give greater ability and powers to the regulatory and enforcement body, which is charged with the control of illegal acts regarding fires.
10. Making unregistered burns illegal.
11. Removing the ability for people to light fires within suburban areas.
12. Ensuring that where public or private reserve land is identified to be burned that an independent risk assessment is done prior to the development of a finalised plan to burn. And that the final plan reflects and considers fully the risk assessment, which it is attached to the plan and which is legislated to be available to the general public.

13. To recognise in legislation that fighting fires is quite different to preventing fires. In our view the Tasmanian Fire service has a role in prevention as well as an emergency responder.
14. We respectfully request that the TFS buddy system for Fire Permit Officers be changed and that an increase in the arm's length relationship with permit officers be achieved in the new legislation. There is no independence when they are appointed by the SFMC.
15. Introduce a right of appeal over control and fuel reduction and indeed regeneration burn proposals in the early stages of the development of the proposal.

Enforcement

There is a role for education and training of people who consider that they need to light fires.

However, a reliance on education and training, as a means of avoiding more direct and immediate action of enforcement would be nothing more than a negligent pathological avoidance in our view and an act of bad faith. We reject the strategy proposal.

Just imagine if the police decided to not issue fines for speeding for example or drunk-driving. Just as the police have a clear fines and punishment system, so should the Tasmanian Fire System.

Clearly there should either be an Enforcement section within the Tasmanian Fire Service or the Environmental Protection Authority should manage the enforcement of fire compliance. Indeed given the absence of transparency, which can be experienced some greater independence would seem wise.

Education is a long-term strategy. It is immensely obvious that there is a need to improve the enforcement of regulations right now.

There is a perception in the community that in this industry the operation of the boys club is alive and well. TEA does not support such ill-defined largess and considers it to be tantamount to corruption.

Relationship between Climate Change and Bushfires

The rapidity with which greenhouse gas emissions are impacting and exacerbating Climate Change is a serious risk for the Tasmanian community that needs to be managed by the Fire Service.

The risk posed by a rapidly changing climate should be recognised in policy documents as high and those policy documents should be mandated in any new legislation. Additionally a comprehensive process of community engagement over policies regarding fire in the Tasmanian context should be enshrined in legislation.

It is not sufficient that the SFMC mentions Climate Change in its State Vegetation Fire Policy yet is involved in a burn, burn, burn, at all costs strategy which will contribute to and exacerbate the very change they purport concerns them.

Backyard Burning in Suburban Areas – Greater Constraint

In a more civilised place backyard burning would not be permitted. This is a risky activity and a noxious one. We consider that there should be no fires in built-up areas.

There should be no backyard incinerators allowed to be operated in built-up areas.

Exemption from EMPCA to be abolished

We would strongly prefer that the smoke exemption under the EMPCA be removed without delay. We can see no reason for placing susceptible members of the Tasmanian community at risk. The exemption is strongly redolent of a third world society.

Improvements to Regulation and TFS Powers to Control Fires Outside of both Permit Periods and Total Fire Bans

It is obvious that under the Fire Service Act 1979 there is a negligible amount of regulation over the lighting and control of fire in Tasmania outside of the permit periods and total fire ban periods. The lack of regulation leaves the community exposed unreasonably.

A continuance with this appalling situation would be delinquent and cannot be justified in the context of 21st-century legislation.

We realise that Tasmania is a conservative place but that doesn't mean that it has to be backward.

The Wise Lord and Ferguson Report of 2018 into the permit system, pursuant to the 2013 Tasmanian Bushfires Inquiry, expressed that workshop participants had a limited appetite for enforcement. That unfortunate situation is an indictment on the ability of the participants to act the public interests and the interests of the Tasmania community. After all, if you have a system where enforcement is shunned then the only system you actually have, is open slather.

Indeed currently our Association is the opinion that there is so little regulation and so little enforcement in the vegetation based fire system that any other characterisation than open slather, would be misleading and incorrect.

Parks and Wildlife Managed Conservation Reserves

The Parks and Wildlife Service manage some 800 or more secure conservation reserves across the state of Tasmania. This extensive reserve system covers a little more than 50% of the island.

Of the 810 or so reserves over 600 of these have no management plan whatsoever including no statutory management plan.

When Parks and Wildlife Service want to burn one of these reserves with little reference to anything they complete a form known as a Reserve Activity Assessment.

Under the Regional Forest Agreement there is a commitment to have proper statutory management plans for all the reserves, which were created as a part of the Comprehensive Regional Assessment under the Regional Forest Agreement. It can be seen that this obligation has been avoided and not met.

In that context, Reserve Activity Assessments are occurring without reference to a management plan and therefore in the absence of any public input or scrutiny.

TEA is highly critical of the process of the bulk approval of the burning of extensive swathes of reserved forest by the expedient mechanism of Reserve Activity Assessments. These assessments provide almost no oversight, no significant risk assessment either for the community or the natural environment and are manifestly inadequate.

Whilst this may be a review of the Fire Service Act, it is an appropriate place nonetheless to raise such germane issues and to highlight the negligent management (in fire terms) of such a vast area of Tasmania, where no management plan applies even though virtually all of the reserves, managed by PWS have been in existence since 1997, at least.

It is our view that in terms of fire the review of the Fire Service Act should introduce controls and legislative oversight in the circumstance where there is no statutory management plan over a particular conservation reserve. Otherwise the Parks and Wildlife Service land is just another open slather firebreak to be used in preference to some other land because after all, the impacts probably only affect the other species seeking to exist on this planet.

Private Reserves under the Nature Conservation Act

There is a significant number of reserves, mostly established by way of conservation covenant under the Nature Conservation Act. Indeed there are about 850 of these reserves. To the best of our knowledge all of these reserves have management plans. The management plans were usually created at the same time as the conservation covenant and specifically include management provisions to protect nature, including threatened fauna from the impacts of deliberately lit fire.

Currently regulations and the legislation restricts such owners from undertaking any fuel reduction burn during a permit period. Yet, the private reserve owner already has a management plan, which details a range of restrictions regarding fire for management purposes.

Clearly, the 1979 Fire Service Act does not adequately consider the provisions relating to private land in the Nature Conservation Act. This aspect should be remedied.

It is our view that private reserves owners who wish to use fire for management purposes should both review their Management (termed Operations or Nature Conservation) Plan and should develop a more detailed plan for the long-term management of fire within the private reserve.

Mandating Property Based and Personal Emergency Fire Plans

Currently there is no requirement for a rural property owner, a rural residential property owner, or another owner of private land in proximity to a potential bushfire Hazard to ensure that the people resident on the property are aware of a bushfire emergency plan pertinent to the property.

Such property emergency management plans have a strong potential to improve the survival of individuals confronted with a bushfire emergency.

Camp Fires and Secure Conservation Reserves

We advocate and recommend an expanded campfire free zone for all secure conservation reserves.

We advocate that there should be no outdoor campfires at all during permit periods.

We advocate is that where there is threatened or endangered vegetation that a campfire free zone be established, without delay. This last point suggests there should be a closer link between the Nature Conservation Act and the new Fire service act.

Bushfire Hazzard Land Use Policy and Code

We support the identification of areas of the Tasmanian landscape subject to bushfire Hazard. We cannot see any point in excluding built-up areas, which may be subject to bushfire Hazard.

We query as to whether the policy enshrined in the Code (under LUPAA) around this issue should be written by the Tasmanian Fire Service. Indeed we think someone else should write it with the input from the fire service.

It can be seen from the State Fire Management Council's State Vegetation Fire Management Policy, that circumstances such as the bushfire code has no underpinning policy. Nor is there a policy within or under the State Projects and Policies Act.

Hazzard and Fuel Reduction Burning

For some inexplicable reason, perhaps due to perverse financial incentives, there is a strong proclivity to large-scale indiscriminate Hazzard and Fuel Reduction Burning programs.

There is no doubt that for some sections of the fire burning community their ability to learn from the mistakes they make in lighting fires is perhaps the only way they can learn. We call this ‘burn to learn’.

‘Burn to learn’ is not a satisfactory approach. We acknowledge that the area committees who create the Fire Protection Plan include people beyond the employ of the Tasmanian Fire service. However, in a re-drafting of the Fire Service Act reference to the reality of such committees urgently needs to be explored.

It is important that the membership of such committees includes criteria and specific competence and awareness and respect for the consequences of their actions, which will engender trust from the public.

We have serious concerns regarding the way in which Fire Management Area Committees are formed. We consider there are inadequate and unacceptable representative mechanisms, which are enshrined in the Fire Management Area Committees.

Merely thinking that fuel reduction and hazard reduction burning would be advantageous ostensibly in protecting a given area from wildfire, is simply not sufficient.

Questions from the Review Steering Committee Answered

We debate whether the questions below necessarily represent the best questions to have asked. Because of course, if you ask the wrong questions you get the wrong answers.

Q No	Question posed in the Issues Paper	TEA Response
1	Should the purpose of the legislation more accurately reflect the range of activities undertaken?	<p>One could suggest that because the activities do not reflect the legislation that a Royal Commission would be the more appropriate sort of Inquiry.</p> <p>The Purpose of the new Legislation should only reflect the activities after a decision has been made around which activities the TFS would undertake. We question whether the TFS should be handling Fire Management Policy matters.</p>

Q No	Question posed in the Issues Paper	TEA Response
		<p>The current background issues paper is inadequate to achieve that end in a genuinely useful manner.</p> <p>The provisions of the legislation should entirely accurately reflect the activities and structure of the Tasmanian Fire Service.</p>
2	How should legislation validate the delivery of the current range of non-fire services that communities and government expect TFS to deliver?	By redrafting including seeking comprehensive public comment supported by a competent background report and the provision of relevant data.
3	Do TFS firefighters have a role in Emergency Medical Response and, if so, should that role be reflected in legislation?	<p>Are they qualified to perform this emergency medical role?</p> <p>If so, then yes, this must be in the legislation.</p>
4	Should the State Emergency Service be included in the new legislation and removed from the Emergency Management Act?	<p>Maybe, undecided but why not?</p> <p>Why is the Emergency Management Act worthy of support? Why not review both Acts?</p> <p>Re the second part of the question. Unsure at this stage.</p>
5	Should a statement of commitment to volunteers be included in the new legislation and, if so, who and what should it cover?	Yes. Depending on the implications and the gamut of the statement.
6	Should the legislation provide PWS and forest officers with appropriate legislative authority to undertake fire control work <u>and</u> reflect contemporary Tasmanian practice in relation to Inter-Agency Incident Management?	<p>No.</p> <p>But you have linked two subjects.</p> <p>Fire Permit Officers should remain under the control of TFS.</p>
7	Should the State Fire Commission remain as a Statutory Authority?	Yes.
8	Should the State Fire Commission have the role of a governing Board?	The design of the Commission (a sort of Board) deserves special consideration. We think

Q No	Question posed in the Issues Paper	TEA Response
		improvement in this area may be worthwhile.
9	Should members of the Commission be appointed as representatives of their organisation or on the basis of skills/knowledge that they possess?	Both. The Commission should have a larger membership.
10	What should be the State Fire Commission's role and function and should it include the strategic policy setting and administrative oversight of the State Emergency Service?	Multiple questions here. To the second part – not in its current form.
11	What structural arrangements would best allow the Commission and TFS to achieve their objectives while operating in a departmental environment?	The Commission and the TFS has no objectives as far as we can see so it's not possible to answer this question. Set out the objectives and ask again.
12	How should the Chief Officer be appointed and to whom is he responsible?	Carefully. For a set Period.
13	Should it still be specified that the Chief Officer is to have expertise and experience in fire service administration and in the management of fire-fighting operations?	Yes. More sophisticated criteria should be developed than mentioned here.
14	How should potential tensions between the roles and accountabilities of the Chief Officer TFS, the Director SES and the State Controller be best resolved?	We were not aware of any tensions. Transparency is needed before this question can be answered.
15	What is the appropriate role and function of the SFMC and what should the relationship be with the State Fire Commission/TFS?	Do you mean: What should be the role and function of the SFMC?
16	What is the appropriate membership of the SFMC and	Currently it represents a bias and discrimination.

Q No	Question posed in the Issues Paper	TEA Response
	should the membership be prescribed in legislation?	Delete the SFMC.
17	Should the State Fire Management Council have the power to appoint permit officers?	No.
18	Are the Fire Management Areas and the composition of the Fire Management Area Committees still appropriate?	<p>No.</p> <p>We are critical of Fire Management Area Committees and consider that they do not necessarily act in the public interest.</p> <p>This is an area, which requires considerable reform.</p>
19	What opportunities exist to streamline Fire Management Area Committees with Emergency Management Committees?	Depends on how receptive and open-minded the SFMC is.
20	Should fire and emergency services be funded through a single mechanism? If so, what is the appropriate model?	This proposition has advantages and disadvantages and we are not in a position to comment.
21	Should SES centrally manage and fund its volunteer unit facilities, its fleet and its operational expenses?	
22	Should any new legislation bind the Crown?	Yes.
23	How should response, command and control arrangements be handled in new legislation?	Clearly and without ambiguity.
24	Should the Chain of Command be included in legislation with accountabilities included?	This is preferable.
25	Should endorsement of Incident Controllers be legislated? Making it clear that all emergency responders present at an incident are in all respects subject to the Incident Controller's direction or	Incident Controllers should be a statutory position.

Q No	Question posed in the Issues Paper	TEA Response
	should Incident Controllers be endorsed through policy?	
26	Are the provisions relating to the establishment and composition of brigades still appropriate?	Unable to comment
27	Should Industry Brigades be recognised in legislation and have the ability to assist in emergency response outside the industry boundaries?	
28	Should the Act be amended to specify these activities are exempt from the provisions of the LUPAA?	No.
29	Are the provisions relating to the declaration of Total Fire Bans still appropriate?	These could be strengthened. An additional permit/legislated category between permit period and total fire ban is required.
30	Should Community Education be an explicit function of SFC/TFS and should it include the SES?	Yes.
31	Is it still appropriate that TFS issues permits to install, maintain or repair fire protection equipment?	Yes.
32	Should there be a whole of government Emergency Evacuation System that deals with all threats, not just fire risks, in the built environment? Should prescribed buildings be categorised by risk potential?	Depends on the other administrative structures. Only if it is well designed. It would be a larger task and one that has not been advertised as such.
33	Are the current levels and structure of penalties appropriate?	No. Penalties and enforcement needs to be reviewed and strengthened substantially. This pertains not only to crimes such as arson but also to a range of other violations of the law.

Q No	Question posed in the Issues Paper	TEA Response
34	Are there other offences that should be considered for inclusion in new legislation?	YES. Several.
35	Are the current protection from liability provisions appropriate?	The current protection from liability is overly generous and does not offer sufficient protection to neighbours and others who may be impacted by the ineptitude and negligence of the lighter of the fire.

Conclusion

We have been critical of certain arrangements and systems and divisions, which come under the Fire Service Act.

We consider it useful to make comment on some issues even though they may fall outside of the Act because they relate to the one subject – fire.

We wish to reiterate our complete opposition to weak and poor legislation and optional or voluntary arrangements over which no enforcement is possible.

The primary role of the review is to create a functional system, which keeps both Tasmanians and the Tasmanian environment safe.

Principle Author

Andrew Ricketts
Convenor

The Environment Association (TEA) Inc. is a not for profit, volunteer based, regional environment community association and a stakeholder in this process. TEA has a long-term interest in environmental and social outcomes in our region, Northern Tasmania, particularly in environment, land use planning, biosecurity, biodiversity and scenic management and heritage conservation issues. The Environment Association has worked in the public interest since its inception in 1990 and is a stakeholder in the development of any new legislation over fire protection and emergency response. We regularly comment on state legislation over a range of subjects which impact on the environment including land use planning, heritage and forestry.

We have been involved in RMPS processes including through the RPDC, the RMPAT, and more recently the TPC and have had involvement in local government planning and forestry issues for many years.

The Environment Association (TEA) Inc. is not represented by any other organisation. We have no political affiliations.