

# Submission to the Fire Service Act Review



Tasmania Fire Service

DATE: 11 October 2018



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# 1 Introduction

The *Fire Service Act 1979* Review (“FSA Review”) is a once-in-a-lifetime opportunity to set up a safer Tasmania for the next 30-50 years, by delivering sustainable fire and emergency services that are focussed on delivering uncompromised public safety outcomes for the people of Tasmania.

## 1.1 Where are we now and how did we get here?

The *Fire Service Act* (“*FS Act*”) was enacted in 1979 to complete key reforms that arose from the catastrophic bushfires in 1967, in particular:

- to amalgamate the State’s fire services into a single Tasmania Fire Service (TFS) that deals with both urban structure fires and bushfire; and
- to consolidate and amend the law relating to preventing and extinguishing fires and the protection of life and property from fire.

The *FS Act* has achieved those aims and gone beyond them, as outlined in 1.1.1 below.

The *FS Act* also established an important mechanism to ensure the ongoing safety of the people of Tasmania, namely, legislated revenue streams that are quarantined for the purpose of providing fire services. In the TFS’ view, this funding model has been and remains fundamental to the ongoing successful provision of adequate fire services in Tasmania.

### 1.1.1 Achievements and strengths

In 2018, the Tasmania Fire Service:

- is a state-wide unified rural and urban fire service;
- has approximately 300 career and 5,000 volunteer fire-fighters state-wide;
- responds not only to urban structural fires and bushfires but also provides a range of other emergency response capabilities including chemical hazards, road crash rescue, airport / aviation accidents, and technical rescue;
- has longstanding relationships with other fire agencies, in particular, the Parks and Wildlife Service and Sustainable Timber Tasmania, which are formalised through an Interagency Protocol. These relationships have been praised by independent inquiries as being close and effective relationships which contribute to achieving the best outcomes for Tasmanian communities when major fires occur;
- participates in the whole-of-government framework established under the *Emergency Management Act 2006* (“*EM Act*”) to plan for and respond to disaster-scale “state of emergency” events;
- undertakes a wide range of activities to prevent and prepare communities for fire, including community education and engagement, hazard mitigation, planning, bushfire research and data analysis, and providing executive support for the State Fire Management Council and Fire Management Area Committees;
- in collaboration with other fire agencies, has developed a nation-leading approach to strategic risk-based fuel reduction, which is being implemented across multiple tenures through the Bushfire Risk Unit (formerly known as the Fuel Reduction Unit);
- administers key regulatory frameworks including the Fire Permit System, bushfire hazard practitioner accreditation scheme and fire protection equipment permits, and participates in other planning and regulatory processes;

- has expertise in investigating and determining fire cause and fire behaviour for criminal, civil and coronial proceedings;
- has and maintains an extensive asset base comprising buildings, fleet, equipment and emerging technology, and provides necessary training to its personnel to make best use of these;
- has a state-of-the-art centralised radio dispatch and communications centre;
- has recently integrated with the State Emergency Service (SES); and
- supplies and shares co-located premises with Ambulance Tasmania.

The State Fire Commission and TFS have now been integrated into the Department of Police Fire & Emergency Management (DPFEM), producing some significant benefits to the TFS including greater alignment of programs and funding for welfare services, centralised dispatch (ESCAD) and a state-of-the-art emergency services radio network (TasGRN).

### 1.1.2 Future challenges

The FSA Review provides a once-in-a-generation opportunity to consolidate and build on these achievements, to more formally integrate with other emergency services, and to make changes to ensure that the TFS can continue to meet the needs of the Tasmanian community now and into the future.

Tasmanian society and its communities have changed significantly since 1979, and are continuing to do so. It is important that new legislation reflects and enables adaptation to ongoing major change. Key contextual factors are:

- **changing demographics**, with a continuing shift away from rural communities to urbanisation, affecting both land use and the volunteer base, and an ageing population;
- **climate change**, with realised and further projected increases in both the frequency and severity of fires, floods and other weather-related emergencies/ events;
- **a resource-constrained environment** in which both the government and the Tasmanian community expects efficiency and non-duplication in the provision of emergency services; and
- an ongoing need for a **large, capable volunteer workforce**.

## 2 Concepts for future enhancements

The TFS has come a long way since its establishment in 1979, and is well-placed to build on its successes in collaborating and cooperating with its current partners in the State Emergency Service, Parks and Wildlife Service, Sustainable Timber Tasmania and Tasmania Police.

Additionally, through ongoing community education and engagement, the TFS continues to build resilient communities that actively participate in and share responsibility for prevention, preparation and response.

Management of disasters, emergencies and major incidents increasingly requires the effective coordination, planning and consistent response from all of our emergency services.

In particular, under a changing climate, there will be an increasing frequency of multi-hazard incidents, such as the concurrent Tasmanian Wilderness World Heritage Area fires and north-west flood emergency that occurred in 2016. These multi-hazard, cascading events will require structures and systems that enable effective and coordinated prevention, preparedness, response and transition to recovery for multiple emergency types.

These challenges require a fully integrated approach to emergency management that is contemporary and connected with the community. There are opportunities for greater efficiency and effectiveness through further integration of the fire and emergency services. There are also opportunities to consider new ways to enable other organisations to contribute to effective multi-agency approaches to fire and emergency planning and response.

With these considerations in mind, the TFS proposes the following concept for consideration by the FSA Review Steering Committee.

The new legislation could create an integrated fire and emergency service, the purpose of which would be:

1. to preserve human life;
2. to build resilient communities that actively participate in prevention, preparedness and response to fire and other emergencies; and
3. to limit the economic, environmental, social and physical impact of fire and other emergencies on the Tasmanian community.

The legislation could confer functions on the new fire and emergency service in relation to the prevention, preparedness, response and transition to recovery in relation to fire and other prescribed hazards.

The new legislation should:

- be principles-based and provide the appropriate heads of power and delegation to enable the formation of regulations and policies to govern implementation;
- continue to provide for a legislated revenue stream or streams to generate a sustainable and sufficient level of funding that is quarantined for the purpose of providing fire and emergency services;
- enable operational flexibility, expansion and inclusion;
- enhance and remove barriers to interoperability and community participation;
- be appropriate to the Tasmanian context and environment; and
- ensure the responsible use of public funds for the provision of fire and emergency services.

The proposal for formal (legislative) integration of the TFS and SES is consistent with the TFS' strategic directions framework, *Framing the Future*, which aims to deliver the following objectives:

- Supporting community resilience;
- Providing trusted emergency response, including by adopting a seamless and all-hazards approach to the delivery of emergency services;
- A collaborative organisation;
- Valued and capable people; and
- An efficient and effective organisation.

There are many similarities between the TFS and SES in terms of the nature of the services they provide, their command structures, the need to maintain and use specialist equipment, and a strong culture of volunteerism in both organisations. Formal integration of the TFS and SES would facilitate further efficiencies, releasing resources for more complete coverage of prevention, preparedness, response and transition to recovery (“PPR(R)”) from fire and other emergencies.

The proposal for a fully integrated fire and emergency service is also consistent with the State government's strategic approach to emergency management, which seeks to ensure interoperability, flexibility and a coordinated “all hazards” approach.

The FSA Review Steering Committee may wish to examine recent examples of fire and emergency services integration in other jurisdictions such as Queensland, Western Australia and particularly New Zealand.

If the FSA Review Steering Committee determines that it is not appropriate at this stage to establish a single TFES, the FES Act should at least provide the necessary heads of power for PPR(R) and remove barriers to the development of progressive, integrated fire and emergency services.

Whilst the TFS proposes the formal integration of the fire and emergency services, the value of identity in the TFS and SES is recognised. Each Service has a proud history and identity that would be maintained by frontline personnel as the new fire and emergency service evolves its own culture and characteristics. Consultation would be needed across all levels of the TFS and SES to determine appropriate arrangements for ongoing integration of the two services.

The TFS submission addresses each of the Outcomes and Questions identified in the Fire Service Act Review (FSA Review) Issues Paper with this concept in mind.

In this submission:

- the proposed integrated service is referred to as the Tasmania Fire & Emergency Service (TFES);
- the head of that service is referred to as the TFES Commissioner; and
- the new legislation is referred to as the Fire and Emergency Service Act (FES Act).

## 3 Outcomes and Questions in the Issues Paper

### 3.1 Functions and alignment with related services (Outcome 1)

#### Outcome 1: TFS functions and alignment with related services

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

The *FS Act* is almost 40 years old. In that time, the roles of the TFS have expanded beyond fire, to include other hazard types and to encompass prevention (including regulatory and hazard management roles) and preparedness in addition to response.

The enactment of new legislation presents an opportunity to provide for a holistic approach to prevention, preparedness, response and transition to recovery (“PPR(R)”) from all “hazards” for which the TFES is responsible.

#### 3.1.1 Clear mandate and operating platform

The FES Act should provide a clear mandate and operating platform for all functions. It is suggested that this could be achieved by the following measures:

- establishing the necessary heads of power in broad terms. This would ensure that the legislation is sufficiently high-level and flexible to enable the TFES to adapt and evolve in response to changing circumstances;
- providing for a broad regulation-making power, including power to enact regulations that create offences and impose penalties. This would enhance flexibility by enabling detailed provision under the legislated heads of power to be made and amended from time to time in the regulations (or other statutory instruments); and
- clarifying the relationship between the FES Act and the *Emergency Management Act 2006* (“*EM Act*”) as outlined below.

To ensure that existing TFS and SES functions are preserved and enhanced, it is suggested that the FES Act should:

- confer heads of power in relation to PPR(R);
- retain (in substance) and potentially expand the powers and functions of TFS and SES personnel that are currently conferred under the *FS Act* and *EM Act*;
- continue to provide for the TFES to perform certain regulatory functions (discussed below);
- retain and expand current indemnity provisions for TFS and SES personnel, and provide for these to be extended to individuals or organisations that are participating in fire and emergency response or other activities under the direction of the TFES Commissioner under the FES Act (see also Issues Paper Question 35);
- enable conferral of powers, functions and indemnities on persons or groups outside the TFES;
- provide powers, authority and structures to enable collaboration and administration of hazards across multiple tenures; and
- be explicit about the relationship between and the respective roles and responsibilities of the TFES and (i) local government and (ii) utilities, whether privately or publicly owned.

### 3.1.2 Regulatory functions

The TFS currently has regulatory functions in relation to:

- bushfire hazard practitioner accreditation;
- building fire safety systems and maintenance;
- managing fire in the landscape (Fire Permit System); and
- development controls, in particular but not limited to the ability to put limits and controls on the scale, nature and type of development that is permitted in identified natural hazard zones.

Some of these functions intersect with other legislative frameworks including the *Building Act 2016*, *Land Use Planning and Approvals Act 1993*, *Occupational Licensing Act 2005* and the *Work Health & Safety Act 2012*. The FSA Review provides an opportunity to review the regulatory functions of the TFS (or TFES) having regard to the most effective use of its expertise and resources, and to review related legislative frameworks to ensure consistency and appropriate alignment of regulatory functions across relevant agencies.

### 3.1.3 Relationship with other emergency services providers

Outcome 1 relates not only to the internal organisation of the proposed fire and emergency service but also to its relationship with other organisations and whole-of-government emergency management frameworks.

With regard to the relationship between the TFES and other emergency services providers, the goal should be to have the *EM Act*, *FES Act* and the *Police Service Act 2003* working seamlessly together as complementary pieces of legislation.

The *EM Act* currently prescribes which authority has the lead combat role for specific hazard types. It is suggested that this should continue however the current allocation of response functions as between the TFS/SES (TFES) and Tasmania Police should be reviewed to ensure the most efficient and effective alignment of responsibilities.

The *EM Act* also provides special powers to government and emergency services in times of disaster scale “state of emergency” events. The State Controller directs the disaster response, supported by other emergency service agencies, including the TFS/SES (TFES). The TFS does not propose any changes to these arrangements.

It is important to be clear about the different arrangements that currently exist under the *EM Act* and *FS Act* frameworks. Essentially, the *EM Act* is designed to provide for whole-of-government planning and coordination and is activated for response to disaster-scale “state of emergency” events. In contrast, the *FS Act* operates for the vast majority of fires (and other emergencies) that can be dealt with adequately by the TFS using its own powers, resources and arrangements.

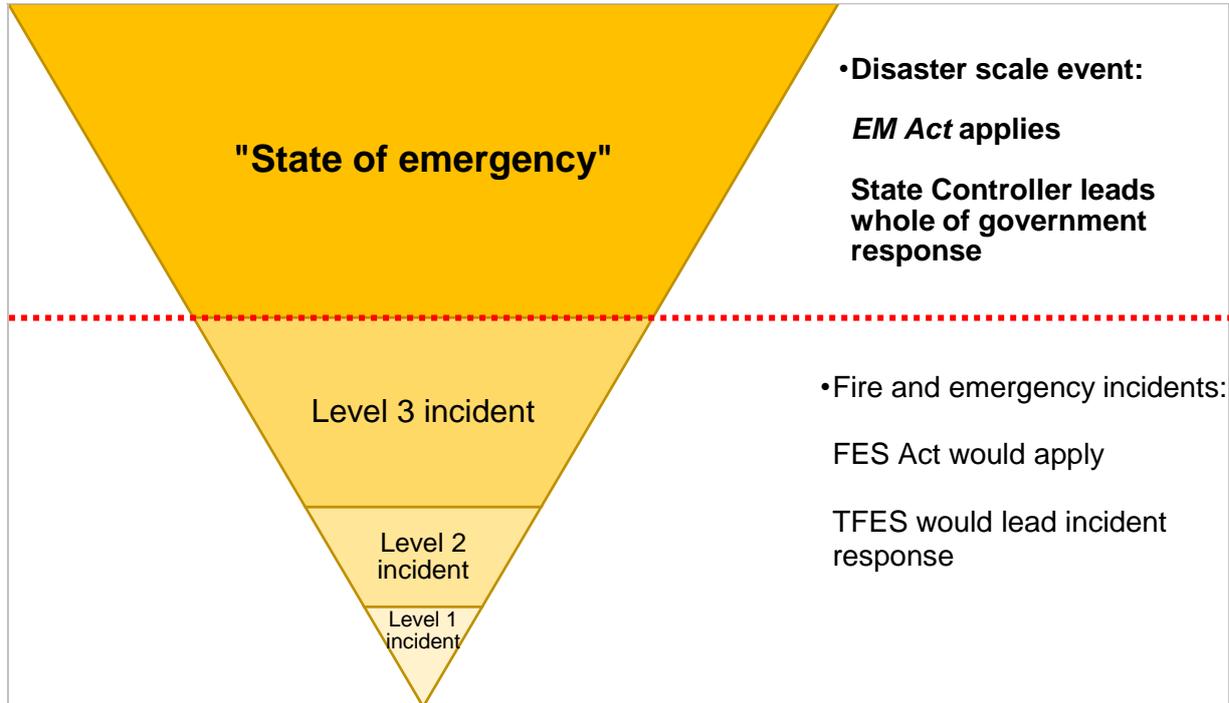
It is suggested that this broad distinction, between routine incidents and “state of emergency” events should be maintained, so that the *EM Act* would continue to govern disaster-scale response, with the *FES Act* providing for routine incidents. The response arrangements under the two pieces of legislation should enable seamless escalation from routine incident through to disaster-scale response (illustrated in Figure 1 below).

The TFS proposes that the TFES should be responsible for PPR(R) in respect of the hazards for which it has the lead combat role under the *EM Act*.

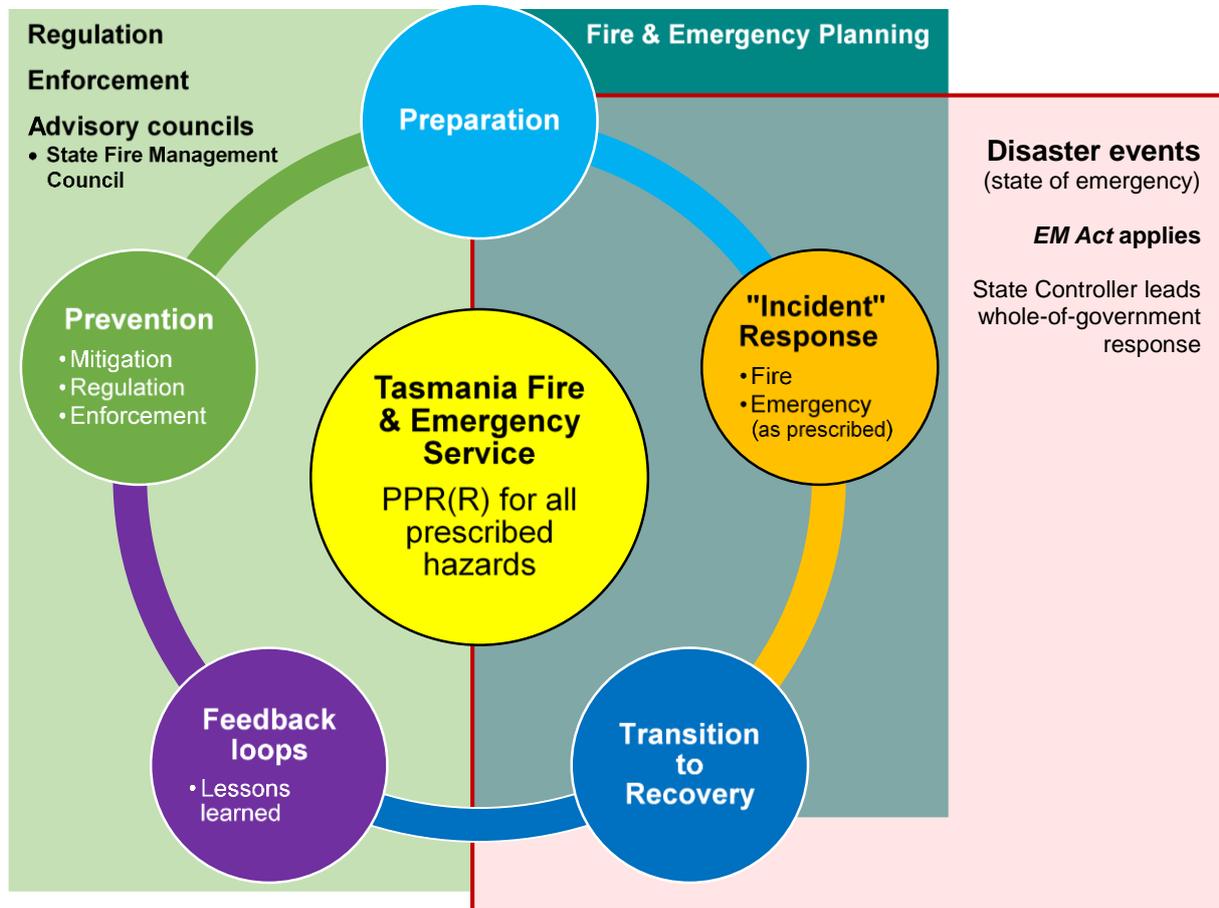
The head of the TFES should be accountable for and required to report to government on the effectiveness of preventative measures and on the level of preparedness for fire and other hazards for which the TFES is responsible.

The suggested functions of the TFES and the proposed relationship between the FES Act and the EM Act framework is illustrated in Figure 2 below.

**Figure 1.** Seamless escalation for response, from routine incident through to state of emergency



**Figure 2.** Suggested role of the TFES and its relationship with the EM Act framework



## 3.2 Efficient and effective organisation (Outcome 2)

### Outcome 2: Effective and Efficiently Organised Tasmania Fire Service

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

The *FS Act* established an operational structure for the TFS that was suitable for its time. However, as noted above, the functions of the TFS have changed considerably since 1979. The new legislation needs to provide for an organisational structure that is flexible and agile so that it can remain progressive and responsive. The legislation should not be an impediment to ongoing change.

Accordingly, as indicated in section 3.1, the TFS proposes that the new legislation should provide the necessary heads of power so that detailed organisational arrangements can be made either by regulation, statutory instrument or internal administrative arrangements which can be readily amended whenever circumstances require.

#### 3.2.1 Response, command and control and organisational arrangements

The TFS proposes that the FES Act should address the following key organisational elements:

- specify who is the head of the chain of command for incident response.  
It is suggested that, in line with the integration of the TFS and SES, the roles of Chief Officer of the TFS and Director of the SES should be replaced with a single position, referred to in this submission as the “TFES Commissioner”. The TFES Commissioner would head the chain of command for incident response and would therefore be responsible and accountable for fire and emergency “incident” preparedness and response.  
During a “state of emergency”, the TFES Commissioner would report to and operate under the direction of the State Controller (as the Chief Officer and Director SES each do now);
- provide the necessary heads of power for the TFES Commissioner to establish a chain of command for incident response and to establish and approve response command and control arrangements (doctrine);
- provide for the Commissioner to establish and abolish operational groupings (see below), and to determine their structure, functions, membership and responsibilities;
- require the TFES Commissioner to ensure that operational plans and directives are in place;
- enable the TFES Commissioner to engage the assistance of and lead other fire and emergency incident response organisations and local government resources during incident response;
- provide for the Commissioner to authorise / designate a person or persons to act as the Commissioner in the Commissioner’s absence (without the need for an acting appointment to be made on each occasion by the relevant Minister) and to have all the powers, functions and authorities of the Commissioner under the FES Act at such times; and
- specify that the TFES Commissioner also has the role of a chief executive officer to lead the TFES internal corporate structure.

It is anticipated that, initially, TFS brigades and SES units would continue to exist and function. In the longer term, the FES Act should not create barriers that would prevent the evolution and establishment of multi-functional fire and emergency teams. The roles and functions of brigades / units / teams (collectively, “operational groupings”) and their members need to be defined broadly to include response and non-response roles, community engagement and education functions, and mitigation activities.

### **3.2.2 Volunteers and community organisations**

A well-equipped, skilled and sustainable volunteer workforce is critical for long-term cost-effective delivery of emergency services. It is suggested that the FES Act could provide support for and commitment to volunteerism by:

- defining the functions of the TFES to include supporting and equipping volunteers to deliver front line, operational management and support services;
- creating any necessary head of power to enable the establishment of a volunteer Code of Conduct and/or service standards;
- continuing to provide good faith protections for volunteers; and
- ensuring that there are no legislative barriers that would preclude the expansion of volunteer roles to include both response and non-response roles.

It is also suggested that FES Act could provide for arrangements that enable the TFES to engage the assistance of other volunteer organisations (outside the TFS/SES) with appropriate skills for particular emergencies. A recent example is the assistance provided by Surf Life-Saving Tasmania in the 2016 north-west flood event. A possible mechanism to engage community organisations is discussed below.

### **3.2.3 Organisational capability**

The process of integration into a single TFES will need to include an organisational capability assessment having regard to the functions conferred on the TFES by the FES Act, and a financial impact assessment to ensure those functions can be delivered.

### **3.2.4 Interoperability protocols**

In the context of bushfire response, the TFS currently has longstanding, effective arrangements with the Parks & Wildlife Service and Sustainable Timber Tasmania which are formalised through the Interagency Protocol.

To retain and build upon these arrangements, the new FES Act could expressly provide for the TFES to establish protocols for interoperability of relevant agencies and organisations in relation to specific hazard types and/or geographical areas.

Interoperability protocols established under the Act could have legal status such that they:

- define responsibilities (eg along the lines of Section 1 of the current Interagency Protocol between the fire agencies);
- confer powers and functions;
- establish command and control arrangements led by the TFES;
- confer protections from liability on participating organisations and their personnel; and/or
- create obligations to take action (including fire and emergency response) in accordance with the Protocol.

Provision for interoperability protocols or some other suitable mechanism would enable the TFES to engage the assistance of a wider range of organisations, potentially including forestry industry fire brigades, industry emergency response teams, and volunteer organisations with appropriate skills for particular emergencies.

### 3.3 Sustainable, stable and equitable funding (Outcome 3)

#### Outcome 3: Funding for TFS and SES

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

The legislated funding model for the TFS has been successful in supporting the establishment of the unified TFS and its expansion into the wide range of important community safety functions it now performs. The funding base is no longer aligned to levels of service provision and does not reflect the TFS' expanded functions, particularly its roles in prevention and preparedness. Nevertheless, the provision in the *FS Act* for legislated revenue streams that are quarantined for the purpose of providing fire services has been and remains fundamental to the ongoing successful provision of adequate fire services in Tasmania.

In contrast, the SES currently receives a combination of funding and in-kind support under separate memoranda of understanding with 29 local councils, plus operational funding from the State Fire Commission and the State Government. It is widely recognised that the SES funding model is unsustainable, does not and has not funded depreciation of SES assets and, due to its unpredictability, does not adequately support strategic management of the SES. Additionally, the decentralised ownership and management of SES appliances and equipment leads to inefficiencies and lack of interoperability.

It is imperative that the new legislation should continue to provide for a legislated revenue stream that is adequate and sustainable and that is quarantined for the purpose of providing fire and emergency services. This is necessary to ensure that the TFES can consistently:

- Maintain its professional workforce, comprising specialised response personnel and experts in fire and other hazard management;
- Provide training, equipment and appropriate support to its substantial volunteer workforce;
- Maintain capital programs to support its substantial asset base, including fleet and equipment which must be updated on a rolling basis to remain contemporary, and enable timely adoption of emerging technologies;
- Develop capability and expand its community programs to address a wider range of hazards, including flood/storm;
- Ensure that the TFES is well-placed to be agile and responsive to emerging threats associated with climate change; and
- Enable the TFES to provide robust reporting to government on the effectiveness of preventative measures and on the level of preparedness for fire and other hazards for which the TFES is responsible.

The revenue stream must be set at a level that generates a sufficient level of funding to ensure the sustainable provision of adequate fire and emergency services.

The revenue stream should be equitable in that it is commensurate with the level of service provided. The true cost of a sustainable fire and emergency service will need to be established.

It is anticipated that, by integrating the fire and emergency services, efficiencies could be achieved through further alignment of capabilities and service provision, for example:

- Co-location of premises for TFS brigades and SES units;
- Utilisation of shared command centres, training and administration facilities;
- Development of multi-hazard response vehicles and other appliances, for example, trucks equipped with fire response, road crash and other rescue capabilities; and

- Centralised management of SES assets.

Funds saved from these efficiencies could be re-invested in the TFES, particularly in building its capability and capacity in prevention and preparedness, not only for fire but for other key natural hazards such as flood/storm.

The new legislation should continue to enable appropriate cost recovery.

Finally, it is noted that the whole-of-government Statewide Strategic Fuel Reduction Program is hosted by the TFS in its capacity as lead agency for bushfire response. The Strategic Fuel Reduction Program is funded by a standing appropriation that is administered by DPFEM and shared between the Tasmania Fire Service, Parks & Wildlife Service and Sustainable Timber Tasmania. The program has been very successful and should be retained and enhanced.

## 3.4 Governance, accountability and financial management (Outcome 4)

### Outcome 4: Governance, Accountability and Financial Management Arrangements

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

Consultation within the TFS about the governance arrangements revealed a range of options. These are outlined below.

The appropriate governance arrangement is a matter for government to decide. The TFS considers that, whatever governance model is selected for the TFES, it is imperative that there should continue to be a legislated revenue stream that is quarantined for the purpose of providing fire and emergency services.

The options identified in consultation were:

- Maintain the status quo – State Fire Commission as a representative governing board of an independent authority;
- Replace the State Fire Commission with a skills-based governing board and clarify responsibilities; or
- Administer TFES within the Department of Police Fire & Emergency Management.

These options should be further explored to determine which model will best enable the TFES to effectively and efficiently provide fire and emergency services to the Tasmanian community.

#### 3.4.1 Option 1: Status quo

The first option is to maintain the status quo.

The State Fire Commission was established in 1979 as a representative body to facilitate the integration of Tasmania's (then) multiple fire services. As outlined in section 1.1 above, this model has enabled the TFS to go above and well beyond the objectives of the *FS Act*.

As contemporary approaches to emergency management have evolved, however, there has been an increasing emphasis on integration and coordination of fire and other emergency services, and on holistic prevention and preparedness as well as response. Resource constraints have led to greater community expectations of financial efficiency and accountability.

These factors have led to a shift in emphasis for the State Fire Commission, with a greater focus on its corporate governance and strategic leadership role. This affects the mixture of skills and professional backgrounds that may be relevant and which the current structure may not be best placed to deliver.

#### 3.4.2 Option 2: Skills-based board

The second option involves governance by a holistic, skills-based Board comprising members who, collectively, possess the knowledge and skills necessary to ensure that the functions of the TFES are performed competently. It is suggested that the Board members, collectively, would need to possess knowledge and skills in:

- the needs of the Tasmanian community in relation to prevention, preparedness, response and transition to recovery from fire, flood and other emergencies, and the requirements for meeting those needs;
- business skills, corporate governance skills and financial management skills;
- strategic planning; and
- the provision of fire and emergency services.

A fundamental aspect of governance of a public service organisation is that there is good stewardship of public money. The Board would be accountable for:

- Setting strategic direction and monitoring / ensuring its implementation;
- Managing the TFES' financial position and ensuring solvency; and
- Strategically managing the TFES' physical and ICT assets.

Robust governance by, and accountability of, the Board could be achieved by providing for:

- members of the Board to have clearly defined responsibilities, powers and duties, including to govern the TFES in accordance with contemporary best practice (such as the development and implementation of a strategic asset management plan);
- a requirement to establish an audit and risk committee chaired by an appropriately qualified member of the Board; and
- a requirement that the Board be subject to (or implement policies for financial management and accountability that are consistent with) the Treasurer's Instructions under the *Financial Management and Audit Act 1990*.

Appropriate arrangements would need to be made for consultation and representation of relevant stakeholders including those currently represented on the State Fire Commission.

### **3.4.3 Option 3: Departmental model**

The third option is for the TFES to be administered within the Department of Police Fire & Emergency Management. This could be achieved through a similar model to Ambulance Tasmania, which exists as a division within the Department of Health & Human Services.

Under this model:

- The TFES would continue to be part of the DPFEM; and
- The DPFEM Secretary would continue as the employer of TFES employees pursuant to the current legislative arrangements where all members of TFS are State Service employees appointed or employed (or deemed to have been appointed or employed) under the *State Service Act 2000*. Their employer is the Minister administering the *State Service Act 2000* – see s. 14 thereof. All are members of the Department of Police, Fire and Emergency Management. The *Tasmanian State Service (Restructuring) Order 2006* amalgamated the Tasmania Fire Service with the Department of Police and Emergency Management.

As noted above, it is imperative that there should continue to be a legislated revenue stream that is quarantined for the purpose of providing fire and emergency services.

Again, appropriate arrangements would need to be made for consultation and representation of relevant stakeholders including those currently represented on the State Fire Commission. Consideration would also need to be given to ways to preserve service identities.

### 3.5 Issues Paper Questions

1. See section 2 above.
2. See section 3.1.1 above.
3. Does not require specific legislative provision.
4. See section 2 above.
5. See section 3.2.2 above.
6. See section 3.2.4 above.
7. See section 3.4 above.
8. See section 3.4 above.
9. See section 3.4 above.
10. In relation to the State Fire Commission's role and function, see section 3.4 above.  
In relation to the SES, under the TFS' proposal, it will be integrated into the TFES. Accordingly, whatever governance arrangements are implemented for the TFES, the governing body or officer will be responsible and accountable for strategic policy and administrative oversight in respect of the SES as part of its responsibilities for the TFES as a whole.
11. See section 3.4 above.
12. No change proposed.
13. The Commissioner will be the chief executive officer of the TFES and will be the head of the chain of command for response. Therefore, the Commissioner will be required to possess both:
  - high level public sector governance and business management skills in accordance with the State Service requirements for senior executive officers; and
  - qualifications and experience in fire and/or emergency services, including strategic command experience and industry-specific knowledge.
14. In relation to the Chief Officer and the Director SES, see section 3.2.1 – it is proposed that these should be replaced with a single position, referred to in this submission as the “TFES Commissioner”. This would eliminate any tension that currently exists.  
In relation to the State Controller, see section 3.1.3. The roles and accountabilities of the State Controller would not change.  
The TFES Commissioner would be under the direction of the State Controller in any “state of emergency” (as the Chief Officer and Director SES are currently).  
The TFES Commissioner would be responsible and accountable for fire and emergency “incident” response, and for reporting to government on the effectiveness of preventative measures and on the level of preparedness for the hazards for which the TFES is responsible.
15. The hazard of urban interface fire and bushfire is currently handled well under the TFS, through the combination of the State Fire Management Council, Fire Management Area Committees, Bushfire Risk Unit (formerly known as the Fuel Reduction Unit), and TFS Community Fire Safety and Fire Operations divisions.  
The State Fire Management Council model could be mirrored with the same level of clarity in the new FES Act.  
The FES Act could also provide for the establishment of similar advisory bodies to manage other hazards such as flood/storm risk and climate change threats.

**16.** The membership of the State Fire Management Council currently encompasses all stakeholders that own and have responsibility for land, including private forests, land management agencies, local government and farming community representatives. The Council performs extremely well as a strategic body. This should continue.

**17.** No. This matter was considered in detail by the recent Fire Permit System Review (“FPS Review”), the recommendations of which have recently been endorsed by the Minister for Police Fire & Emergency Management.

The TFS endorses and adopts these recommendations (listed in Appendix G of the *Fire Service Act Review Issues Paper*) as part of its submission. Many of these recommendations will need to be the subject of provisions in the FES Act.

**18.** The Fire Management Area Committees (FMACs) and Emergency Management Committees (EMCs) each perform different functions.

- FMACs have a specific focus on managing vegetation fire risk (the most significant natural hazard in Tasmania). They are a forum for collaboration, particularly in relation to mitigation.
- The EMCs have functions relating to disaster planning, response and recovery in relation to a wider range of hazards. They also serve an important role during the recovery phase by facilitating the coordination of public and private resources within the relevant community.

The membership of the two types of committees reflects their respective functions. Membership of FMACs is centred on those who are actively engaged in and/or responsible for land management. Membership of EMCs is broader and includes Tasmania Police, utilities, local government, emergency responders, and recovery providers.

At this stage, the TFS does not propose any change to either the existing FMAC or EMC structures however these structures may need to be reviewed once the TFES is established to capitalise on identified efficiencies and synergies. The FSA Review Steering Committee may wish to consider how formal channels can be established to ensure effective flow of information between the EMCs, FMACs and other relevant structures.

To ensure flexibility to adapt and mature over time, the FES Act should not prescribe the number and/or geographical boundaries of the FMACs.

The FMACs and EMCs must be resourced to meet their obligations.

**19.** See question 18 above.

**20.** See section 3.3 above.

**21.** See section 3.3 above.

**22.** The *FS Act* binds the Crown. The TFS sees no reason to depart from that arrangement.

**23.** See section 3.2.1 above.

**24.** See section 3.2.1 above.

**25.** See section 3.2.1 above.

**26.** See section 3.2.1 above.

**27.** See section 3.2.4.

- 28.** Yes. Questions are raised from time to time as to whether the *LUPA Act* applies to fuel reduction burning and other fire hazard mitigation activities.

The Tasmania Fire Service is of the view, that the provisions of the *LUPA Act* currently:

- do not apply to planned burning;
- do not apply to actions taken to remove a fire risk (*FS Act* s. 49) or to create fire breaks (*FS Act* s. 56) during an emergency; but
- do apply to the exercise of those powers (*FS Act* ss. 49 and 56) in non-emergency situations.

Whilst the TFS is of the view that the *LUPA Act* does not apply to fuel reduction burning, to the extent that there is ambiguity about these questions, the TFS supports amendments to remove that ambiguity.

Additionally, the FES Act should continue to provide for exemptions from the *Environmental Management and Pollution Control Act 1994* in respect of planned burning activities (see *FS Act* s. 66(12)).

- 29.** This matter was considered in detail by the recent Fire Permit System Review (“FPS Review”), the recommendations of which have recently been endorsed by the Minister for Police Fire & Emergency Management.

The TFS endorses and adopts these recommendations (listed in Appendix G of the *Fire Service Act Review Issues Paper*) as part of its submission. Many of these recommendations will need to be the subject of provisions in the FES Act.

- 30.** Yes. Prevention programs have been enormously effective in reducing the incidence and impact of fires in Tasmania. The TFS and SES have substantial subject matter expertise and are thus well-placed to lead the delivery of these programs.

A legislative impact study is required to determine the full cost of these activities, which will need to be adequately resourced.

- 31.** The *General Fire Regulations 2010* allow for the Chief Officer to issue a permit for the installation, maintenance or repair of fire protection equipment. There is a very wide range of equipment and systems in this broad category.

TFS currently administers a system for permit issue. It is noted that the *Occupational Licencing Act 2005* may provide an alternative mechanism for administering these permits.

- 32.** New legislation provides an opportunity for a broader approach to the provision of emergency management plans. This would go towards ensuring a robust and best practice approach to safety in workplaces and the built environment. It is noted that at present the *Work Health and Safety Regulations 2012* do not require compliance with appropriate Australian Standards, and the application of these Regulations is punitive rather than preventive. The auditing of emergency plans for existing workplaces is not routinely undertaken for workplaces. Fire Evacuation Plans are audited by TFS for Specified Buildings prior to occupancy, but a workplace can be occupied without demonstrating the existence of an Emergency Management Plan.

There is overlap between the provisions of the *General Fire Regulations 2010*, the *Building Act 2016* and the *Work Health and Safety Regulations 2012*. This overlap occurs predominantly for Specified Buildings.

The *General Fire Regulations 2010* contain a list of 16 descriptors for Specified Buildings which appear to be based more on function than risk profile. There is scope to review and modernise the approach to defining Specified Buildings based on risk profile. It is noted that, whilst building fire safety in many building types and features is captured through the *General Fire Regulations 2010*, bushfire risk is not. There are many instances of vulnerable sites located in Bushfire-Prone Areas without appropriate (or any) bushfire planning.

- 33.** The range of offences needs to be reviewed and improved to ensure they are appropriate and effective to address relevant risks.

- 34.** Penalties should be reviewed and strengthened to ensure that they are enforceable, scalable, aligned to the level of risk associated with the offence, and create a sufficient deterrent. In particular, penalties need to be set at a level that is greater than the reasonable costs of compliance (to remove financial incentives for non-compliance).

Legislation in other Australian jurisdictions should be reviewed to inform the offences and penalty provisions.

The review should also examine existing powers to enforce compliance (such as powers to direct the extinguishment of fires or the removal of hazards) to ensure that they are appropriate, adequate and effective.

- 35.** Yes. The new legislation should retain and contemporise the protections in s. 121 of the *FS Act* and Part 4 of the *EM Act* for TFES personnel exercising functions under the *FES Act* (not limited to incident response).

The review should examine:

- whether it is necessary or desirable to provide for indemnity from liability under environmental laws for unforeseen damage that occurs during incident response;
- whether the *FES Act* should require the TFES to maintain appropriate professional indemnity insurance; and
- the extent to which similar protections could or should be conferred on other organisations or individuals exercising functions under the *FES Act* and/or acting under the direction of the TFES Commissioner.