

## REVIEW OF THE FIRE SERVICE ACT 1979 – ISSUES PAPER

### STATE EMERGENCY SERVICE COMMENTS

Question Number	Questions	SES Position
1	<i>Should the purpose of the legislation more accurately reflect the range of activities undertaken?</i>	<p>Yes, however, it should not be overly prescriptive. The purpose of the new legislation should reflect that it provides for the protection of life, property and the environment in the event of an emergency, including operations necessary to prevent, mitigate, respond to, resist, adapt to, overcome and recover from an emergency. It should not only focus on ‘fire’ hazard, particularly if the new legislation makes provision for the State Emergency Service (SES) – see comments on question 4. If this is the case, and the purpose of the legislation includes specific hazard types, it should also include hazard descriptors for SES like flood and storm.</p> <p>Additionally, the title would need to change to “Fire and Emergency Services Act” or just “Emergency Services Act” if the new legislation also supports the SES. Any provisions should not conflict with, or duplicate provisions within the <i>Emergency Management Act 2006</i>, which should still make provisions and arrangements for broader emergency management arrangements across municipal, regional and State levels. In this regard, it should also be noted that, in accordance with section 5 of the <i>Emergency Management Act 2006</i>, the provisions of the <i>Emergency Management Act</i> prevail if any emergency management-related provisions from any other Act are inconsistent with the <i>Emergency Management Act</i>.</p>
2	<i>How should legislation validate the delivery of the current range of non-fire services that communities and government expect TFS to deliver?</i>	<p>Clarity on all ‘non-fire’ roles and responsibilities of the Tasmania Fire Service (TFS) is contained in the Tasmanian Emergency Management Plan and various other plans established and maintained under the <i>Emergency Management Act 2006</i>. These roles and responsibilities cover prevention/mitigation, preparedness and/or response functions for a range of non-fire hazards, such as Hazardous Materials (HAZMAT) and building collapse. TFS is also listed as the primary support agency for the provision of advice on radiological and nuclear hazards, for decontamination after Chemical, Biological, Radiological and Nuclear (CBRN) events, and technical rescue for a range of emergency situations (eg, confined space, industrial accidents, aircraft crash outside Hobart and Launceston airports, etc).</p> <p>The legislation should only include high-level functions and avoid being overly prescriptive with regards to the very broad range of functions performed by the TFS (or SES). Such functions are best described in</p>

		emergency plans established under the new legislation or the <i>Emergency Management Act 2006</i> . As is the case with the <i>Emergency Management Act 2006</i> , provisions relating to plans can also ensure they (the plans) are reviewed and updated periodically and have appropriate authority under legislation.
3	<i>Do TFS firefighters have a role in Emergency Medical Response and, if so, should that role be reflected in legislation?</i>	If the new legislation is broadened, it would be useful for it to clarify the high-level expectations of each Emergency Service responder (i.e. TFS and SES). All statutory roles identified in the legislation will need to be adequately resourced and funded.
4	<i>Should the State Emergency Service be included in the new legislation and removed from the Emergency Management Act?</i>	<p>SES supports an alignment with TFS with regards to the operations and resources necessary to prevent, mitigate, respond to, building community resilience against and to recover from emergencies. It is therefore logical to enhance and incorporate these aspects of SES into the new legislation. However, as agreed in the 2014 Budget Announcement for SES to align with TFS, it is critical that the discrete identities, brands, cultures and roles of both TFS and SES are retained. Accordingly, the core operational roles of both TFS and SES should be clearly identified and differentiated in the new legislation with respect to hazard responsibility (i.e. flood and storm response for the SES). Including common roles or functions, where appropriate should also be considered (eg, mutual operational support, sharing of resources, impact assessments, etc).</p> <p>The governing body for SES should be a Fire and Emergency Services authority, not just a TFS authority, as implied in parts of the Issues Paper. SES should have sufficient representation within the governing body to ensure SES issues are properly and impartially considered and don't always come second to other competing TFS priorities.</p> <p>Division 4 of Part 2 of the <i>Emergency Management Act 2006</i> establishes the SES and provides its functions and powers. Much of this could be transferred into the new legislation, however some of these functions relate to broader emergency management activities, which are best placed in the <i>Emergency Management Act 2006</i>. Accordingly, some review work will be necessary on how to carve up SES emergency services functions from its broader emergency management functions. The <i>Emergency Management Act 2006</i> should continue to focus on the provision of emergency management functions for all State and municipal agencies.</p> <p>The Issues Paper (relating to question 4) made no mention of Division 5 of Part 3 of the <i>Emergency Management Act 2006</i>, which makes provision for local government (council) support for the establishment</p>

		<p>and maintenance of SES volunteer units and resources. As part of the review of a sustainable funding model, the SES recommends a move towards a centralised funding model, with appropriate provisions and arrangements in the new legislation. If this occurs, and alternative arrangements are in place, this Division of the <i>Emergency Management Act</i> could be repealed. Consultation with local government, particularly on the development of an agreed asset transition plan, would be necessary before the legislation is changed (see also comments on questions 20 and 21).</p> <p>If the new legislation incorporates and establishes both TFS and SES, consideration should be given to reviewing the parity of key TFS and SES salaried positions and their levels of responsibility to ensure consistency across State and Regional/District levels.</p>
5	<p><i>Should a statement of commitment to volunteers be included in the new legislation and, if so, who and what should it cover?</i></p>	<p>Generally, legislation would not seem to be the place to include a “statement of commitment to volunteers”, however, the legislation needs to acknowledge the existence of volunteers within TFS and SES workforces and make provisions that specifically supports them on an equal footing as employees. The volunteers should be properly consulted on this.</p> <p>If a statement of commitment is required, it should be done outside of the legislation, such as the development of a written Charter similar to that developed for Victoria SES volunteers around 2006 where the Chief of VIC SES, an SES volunteer representative and the Minister of the day agreed to a certain level of commitment to support the volunteers.</p> <p>The comments within the Issues Paper leading up to this question 5 make no mention of SES volunteers. If the new legislation incorporates SES provisions (as discussed above), any provisions relating to volunteer support should also relate to SES volunteers.</p> <p>Any legislation relating to the support of TFS and SES volunteers should be focused on the provision of suitable resources, facilities, protective equipment/clothing, training, appropriate vaccinations, CISM support and protections, such as equal workers compensation entitlements as salaried members, protections from liability, protections of employment rights (when leaving their normal place of work to respond to an emergency), protections from insurance/damages claims, same protections when deployed outside Tasmania, etc. Consideration could also be given to provide for the reimbursement of reasonable out of pocket expenses associated with authorised volunteer work.</p>

		Per section 56 of the <i>Emergency Management Act 2006</i> , volunteer members may need to be defined to ensure they are included with salaried members with certain protections.
6	<i>Should the legislation provide PWS and forest officers with appropriate legislative authority to undertake fire control work and reflect contemporary Tasmanian practice in relation to Inter-Agency Incident Management?</i>	Yes, in a similar way as section 157 of the <i>Firearms Act 1996</i> allows PWS personnel to be authorised persons for the performance or exercise of functions and powers of a Police Officer under that Act. Using a provision like this, PWS or Forest Officers could be appointed Auxiliary Brigade Chiefs.
7	<i>Should the State Fire Commission remain as a Statutory Authority?</i>	<p>No, unless the State Fire Commission (SFC) has full authority to act on all aspects of TFS and SES business. As stated in the Issues Paper, the SFC is currently not recognised as a statutory authority under the <i>State Service Act 2000</i>, so State Service matters are the responsibility of the Head of Agency (DPFEM). Many of the SFC's powers and functions have been delegated to the Chief Officer or are governed independently of the Commission through delegations to the Head of Agency under the <i>State Service Act</i>, which makes many of the functions of the SFC seem redundant. Section 3 of the <i>Emergency Management Act 2006</i> recognises the TFS and SES as Statutory Services, but makes no mention of the SFC, which puts its authority over SES emergency management business in doubt.</p> <p>If a new governing authority is established for both TFS and SES, its name will need to reflect a broader responsibility other than just "Fire", eg, 'Fire and Emergency Services...' or 'Emergency Services...'. It's membership will need to be impartial and non-biased towards TFS, if SES priority issues are to stand a chance of competing with TFS priorities. This can best be achieved with SES representation.</p>
8	<i>Should the State Fire Commission have the role of a governing Board?</i>	This might be interpreted as just a name change, without changing the fact that the body will still not have full independence in the way the TFS (and SES?) is governed. There will need to be a governing body of some sort, however, it need not be included in the legislation unless it requires specific powers or critical functions outside the general governance of the TFS (and SES) business functions.

9	<p><i>Should members of the Commission be appointed as representatives of their organisation or on the basis of skills/knowledge that they possess?</i></p>	<p>No comment (see above)</p>
10	<p><i>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.</i></p>	<p>Refer to comments on questions 4 and 7. In accordance with the 2014 Budget decision on the alignment of SES with TFS, with the Director SES reporting to the Head of Agency through the Chief Officer, oversight of SES administration should rest with the Chief, or the Head of Agency. With these roles formalised in the new legislation, the Chief's title should reflect the added oversight of SES and be amended to something like, Chief Officer, or Commissioner, Fire and Emergency Services.</p> <p>The Director SES position should remain and, per section 28 of the <i>Emergency Management Act 2006</i>, continue to be responsible for the management of the SES as a discrete emergency services organisation, or statutory service, in its own right.</p> <p>Any future governing body for SES should not be unreasonably biased towards TFS. Despite SES's smaller size, the future governing arrangements need to equally consider SES's resourcing and funding needs/issues based on their merits, along with TFS needs/issues. High level SES representation on the governing body would be appropriate to ensure SES issues and proposals are properly and impartially considered.</p> <p>SES broader emergency management functions/structures and their relationship with the new legislation needs further consideration in consultation with key State and Regional stakeholders. There have been a number of views expressed within SES on how emergency management should be structured in the future. All agencies have emergency management responsibilities with resources allocated accordingly. For the SES, the Director and Regional Managers share operational and business management functions with broader emergency management responsibilities, primarily in support of the State and Regional Emergency Management Committees and their Chairpersons, to whom they report directly (on emergency management committee matters).</p>

		<p>At State-level, the SES's Emergency Management Unit (EMU), headed by the Assistant Director Emergency Management, supports a broad range of emergency management functions according to the priorities of the State Emergency Management Committee (SEMC). Regional Managers do the same at regional level.</p> <p>The SES has a strong history and culture of supporting these broader emergency management functions at State and Regional levels and, like all other agencies, associated resources should be retained and supported within SES, preferably with additional emergency management resources, as proposed following the 2014-15 Independent Review of Emergency Management Arrangements by the Department of Justice and the Blake Review into the 2016 Floods (see comments on questions 14, 20 and 21). However, at State-level there may be an opportunity to restructure the EMU so its establishment is made under the <i>Emergency Management Act 2006</i>, with lines of reporting that are completely outside the new TFS/SES legislation, possibly with a new Director of Emergency Management.</p> <p>At State-level, the governing authority for whole-of-government, multi-agency emergency management should remain with the SEMC, chaired by the Head of Agency (State Emergency Management Controller). The governing body responsible for TFS and SES should still support emergency management, but only as it applies to TFS and SES operational/response, planning/preparedness, education/awareness, risk management and recovery functions associated with applicable TFS and SES hazard responsibilities, eg, fire, flood, storm, etc. It's for this reason that any consideration of restructuring the EMU out of the SES should be very carefully considered, as the SES will still need emergency management resources as they apply to flood and storm hazard.</p> <p>Similarly, at regional level, the governing authority for emergency management should remain the Regional Emergency Management Committees, chaired by District Commander of Tasmania Police. However, the SES Regional Managers who support these emergency management functions are needed within SES to also provide very significant SES operational and management functions. For this reason, SES regional emergency management support functions should remain structured within the SES.</p> <p>Regardless of the governance responsibilities of the future, SES needs a more sustainable, centralised and more dependable funding support model that can meet all SES priority asset needs and reform requirements. For example, if SES is to truly align with TFS, its capacity to deliver similar community development and protection planning services for flood and storm hazard should be similar to TFS capacity</p>
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11	<p><i>What structural arrangements would best allow the Commission and TFS to achieve their objectives while operating in a departmental environment?</i></p>	<p>Per the comments on question 7, consideration should be given to restructuring without the SFC as a statutory authority, providing a sustainable funding model and adequate funding allocations to TFS and SES can be assured. This will bring TFS closer into alignment with the rest of the Department.</p> <p>If SES is fully aligned with TFS, consideration should be given to renaming the overarching TFS/SES organisation as a Fire and Emergency Service organisation, or something similar, with an appropriately named Chief Officer or Commissioner in overall command. SES and TFS would be statutory services in their own right, led by Directors (nomenclature TBD), with their own regional and state-level chains of command. These SES and TFS 'Directors' will report directly to the Chief Officer, along with other key business areas, such as Community Fire Safety (which could become 'Community Safety' to reflect the alignment of SES hazards). TFS, SES and Police organisations should all rely on the same DPFEM corporate business executive services and support. This should include legal services, education and training, employment services, people support services, etc.</p> <p>Emergency management should be a core business of SES, TFS and Police. The Tasmania Security and Emergency Management Group (TSEMG), which incorporates SES (Emergency Management Unit), Police (Special Response and Counter Terrorism) and DPAC (Office of Security and Emergency Management - OSEM), should be reviewed and consideration given to a new joint TSEMG or Emergency Management Group, headed by a single Director who reports to the Head of Agency (State Emergency Management Controller). The Group should comprise of staff from SES, Police, OSEM and TFS and their focus should be on State-level, whole-of-government, multi-hazard emergency management, with links to municipal emergency management authorities through the Regions.</p> <p>State and Regional Emergency Management Control or Coordination Centres need to be readily available for the coordination of multiple, whole-of-government, multi-agency consequences to emergencies under the <i>Emergency Management Act 2006</i>.</p>

		Future structures need to also accommodate operational needs of SES, TFS and emergency management at State and regional levels. If facilities, such as Regional or State Operations Centres, are to be shared by TFS and SES, they must be capable of controlling both TFS and SES incidents at the same time.
12	<i>How should the Chief Officer be appointed and to whom is he responsible?</i>	Retain existing appointment process per State Service officer arrangements. No need for any SFC legal involvement in such an appointment.
13	<i>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?</i>	<p>Other emergency services organisations like the SES across most jurisdictions have recruited Chief Officers who have not had a career path in the SES. They have come from Defence backgrounds, senior corporate management positions, or from other emergency services like Fire and Police. Despite not having prior experience in the SES, many have excelled because of their strategic management and leadership skills.</p> <p>While it may be desirable from a motivational sense to have career path opportunities for promotion within the one organisation from firefighter through to Chief, the legislation should not limit opportunities to externally recruit based on merit for quality candidates with exceptional skills in strategic management and leadership.</p>
14	<i>How should potential tensions between the roles and accountabilities of the Chief Officer TFS, the Director SES and the State Emergency Management Controller be best resolved?</i>	<p>Based on the brief comments leading up to this question in the Issues Paper, clarity is required in relation to the Director SES having to report to two authorities: To the Head of Agency (State Emergency Management Controller) for emergency management activities associated with the State Emergency Management Committee and the <i>Emergency Management Act 2006</i>; and to the Chief Officer TFS for other business activities (operations, training, resources, administration, etc). The Issues Paper makes little mention of the fact that the same issues occur at regional level between SES Regional Managers, Regional Emergency Management Controllers and Director SES. From the SES perspective, these particular issues are manageable.</p> <p>More clarity is also required regarding whether SES should approach TFS/SFC or DPFEM for certain funding issues, or what parts of the SES business gets reported in the SFC or DPFEM annual reports. These issues are always resolved, but are often unclear when they arise. The new legislation should help provide clarity on lines of reporting.</p>

		<p>The emergency management culture within the SES is particularly strong and is based on the coordination of emergency management functions since 1939. Emergency management is seen by many within and outside SES as an important part of the SES profile. Through this profile, important networks and mutual support arrangements have been established with local government authorities, utilities and other emergency services. People involved in these networks would not probably agree that there are any tensions (as suggested by the question), except during situations where SES operational response responsibilities can compete with broader emergency management responsibilities.</p> <p>While the <i>Emergency Management Act 2006</i> makes no provision for a sustainable funding source for SES, section 28 of that Act clearly makes the Director SES accountable for the management of the SES. Section 27 requires SES resources to be appointed in accordance with the <i>State Service Act 2000</i>, and in the absence of any other related provisions, this makes the Director SES accountable to the Head of Agency. The TFS or the SFC have no legislative authority over SES as things currently stand.</p> <p>The SES suggests that the SFC should not be responsible for the provision of the SES budget and the budget was, instead, provided by DPFEM. The dilemma is that the review of a sustainable funding model for SES presupposes that funding streams for the SFC, such as the Fire Service Levy, are a potential funding source to meet SES's future sustainable funding needs. This may not suit a Departmental governance model.</p> <p>For all these issues, greater clarity is required on lines of reporting and accountability. Where appropriate, lines of reporting should be simplified. Conceptually, at State-level, a new 'Director of Emergency Management' and a new 'Chief Officer Fire and Emergency Services' should report directly to the Head of Agency. The TFS and SES would be structured under the 'Chief Officer Fire and Emergency Services', each retaining their unique identities, cultures and roles, but aligning and collaborating on areas of common ground. At the regional level, SES Regional Managers should continue to report to the Director SES (currently through an Assistant Director) on both SES operational and emergency management matters.</p> <p>While SES performs emergency management functions in support of the State and Regional Emergency Management Committees and their State and Regional Emergency Management Controllers (under the <i>Emergency Management Act 2006</i>), SES would need to continue to report directly to State and Regional Emergency Management Controllers on related emergency management business. SES does not support any changes to these functions, however, a proposed amendment to the <i>Emergency Management Act 2006</i></p>
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		<p>will provide the option for anyone to be appointed as Executive Officers of the State and Regional Emergency Management Committees instead of the role automatically going to SES personnel.</p> <p>For SES response operations and business activities, the Director SES would report to the Head of Agency through the Chief Officer (not the SFC) per the 2014 Budget decision. All SES business units, such as the SES Regional Headquarters, would continue to report to the Head of Agency through the Director SES and then the Chief Officer.</p> <p>From an SES perspective, these lines of reporting are not a major concern as the different lines of accountability are considered reasonably clear and workable apart from funding issues. SES should remain a discrete statutory service in its own right and the Director SES should continue to be accountable for the management of SES, with the support and oversight of the Chief Officer, Head of Agency and DPFEM.</p>
15	<i>What is the appropriate role and function of the SFMC and what should the relationship be with the State Fire Commission/TFS?</i>	The TFS is the Responsible Hazard Manager and should represent the SFMC as part of its work.
16	<i>What is the appropriate membership of the SFMC and should the membership be prescribed in legislation?</i>	The prescribed membership seems appropriate.
17	<i>Should the State Fire Management Council have the power to appoint permit officers?</i>	No. As suggested in the Issues Paper, appointments of this type should not be made by a council or group. It would be more appropriate for these appointments to be made by the Chief Officer or his/her delegate.
18	<i>Are the Fire Management Areas and the composition of the Fire Management Area Committees still appropriate?</i>	Most of the current membership would also be members of Municipal Emergency Management Committees. Fire Management Area Committees could be aligned or linked with Municipal Emergency Management Committees (established under Part 2 Division 3 of the <i>Emergency Management Act 2006</i> ), whose emergency management responsibilities include multi-hazard prevention and mitigation. Consultation with municipal authorities would be necessary.

		Consideration should be given to aligning boundaries with those used by Police and SES. Operations are now more integrated with multi-faceted support from a range of organisations. Operations would be easier if we all used common boundaries.
19	<i>What opportunities exist to streamline Fire Management Area Committees with Emergency Management Committees?</i>	See comments on question 18
20	<i>Should fire and emergency services be funded through a single mechanism? If so, what is the appropriate model?</i>	<p>Yes, it makes good logical sense for TFS and SES to be fully funded through a single reliable mechanism, such as a levy, or part levy / part appropriation, or appropriation only. These funds should then be allocated appropriately by DPFEM into discrete 'District Accounts', including an SES account. The funding model needs to be sufficient and sustainable to meet the service delivery and reform requirements of the SES.</p> <p>SES agrees that the current reliance on multiple revenue streams (municipal, State, Commonwealth and donations) is overly complex and unsustainable, particularly where it relates to the establishment and maintenance of municipal volunteer SES units, and vehicle fleet ownership, which are currently the responsibility of the Councils (see comments on question 21).</p> <p>A single overarching levy, such as a new Fire and Emergency Services Levy that supports both TFS and SES and levers off current levy arrangements established under the <i>Fire Service Act 1979</i>, would seem appropriate, providing the control of the funds did not only rest with a governing body, such as the SFC, that had no legal authority over the SES or State Service resources. Additionally, the SES notes the national trend away from insurance-based levies and a move towards property-based levies, hence there may need to be some changes to current underlying levies, such as the Insurance Fire Levy.</p> <p>Regardless of the final funding model the quantum of funding needs to be adequate, at least to support a centralised funding base to properly and strategically manage all SES assets, including its vehicle fleet and municipal volunteer SES unit assets/facilities, which are currently the responsibility of the councils. As such, movement towards a centralised funding model for SES may need the development of an agreed asset transition plan in consultation with local government authorities.</p>

		There have been a number of internal and external SES funding reviews conducted since 2009-10, which should be considered when developing a sustainable funding model for SES.
21	<i>Should SES centrally manage and fund its volunteer unit facilities, its fleet and its operational expenses?</i>	<p>Yes. Apart from its base funding allocation to SES, the current decentralised funding model relies on additional revenue and support from all councils, Motor Accident Insurance Board, purpose-specific Commonwealth grants, and State election commitments. Part 3 Division 5 of the <i>Emergency Management Act 2006</i>, makes the councils responsible for the establishment and maintenance of municipal volunteer SES units and to provide for the operations of those units. In practice, this means that municipal SES volunteer unit facilities are owned or financially supported by the councils. They also take ownership of SES unit vehicles and provide for operational and maintenance costs and support certain unit consumables and running costs.</p> <p>Numerous internal and external reviews have found the current SES funding arrangements with the councils as unsustainable, unnecessarily complex and onerous. SES lacks direct control over the procurement and management of its assets and, to a large extent, relies on the good will of councils.</p> <p>Centralisation of SES funding and asset management will require an amendment to Part 3 Division 5 of the <i>Emergency Management Act 2006</i>, which currently makes the councils responsible for the establishment and maintenance of municipal volunteer SES units (among other things).</p> <p>While some councils have supported municipal volunteer SES unit facilities and resources quite well, many have not been well supported without significant effort by SES regional staff (primarily operational staff) to negotiate terms for vehicle replacements or improvements to facilities.</p> <p>A move towards a centralised funding model for SES fleet and facilities will need to be supported by an asset transition plan agreed by applicable councils and DPFEM. Considerable consultation with the councils will be necessary to achieve agreement with this plan.</p>
22	<i>Should any new legislation bind the Crown?</i>	The new legislation binding the Crown would be consistent with current 'Fire Service' legislation, the <i>Emergency Management Act 2006</i> and most other State legislation. Without legal advice, it would seem unusual if such legislation did not bind the Crown.

23	<i>How should response, command and control arrangements be handled in new legislation?</i>	Command responsibilities should be included in the legislation (e.g. Director SES's command functions and powers towards the management of the SES), however, incident control responsibilities are best described in doctrine or relevant plans and policies.
24	<i>Should the Chain of Command be included in legislation with accountabilities included?</i>	<p>In line with the <i>Emergency Management Act 2006</i>, the new legislation's description of the chain of command for TFS (and SES) should be limited to the authority with overall command and, if necessary, the Deputy, however the legislation should have flexible powers of delegation to ensure the chain of command at the highest levels cannot be broken through unplanned absences.</p> <p>While the legislation may describe the functions and powers of lower authorities, such as Regional Chiefs (SES Regional Managers) or Brigade Chiefs (SES Unit Managers), etc, dictating their place within the chain of command, is best left to doctrine or policy/plans (e.g. Business Continuity Plan).</p>
25	<i>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 should Incident Controllers be endorsed through policy?</i>	<p>Not yet. National efforts to professionalise and, therefore register or certify roles such as Incident Controllers, will make it easier to determine whether staff / volunteers (including from interstate) have the required qualifications to perform incident controller or management roles for emergency events.</p> <p>The comments within the Issues Paper also seem to confuse Command with Control. The terms 'command' and 'control' have two very different meanings. For example, per section 42 of the Act, the Chain of Command for TFS is indeed "restricted to members of the Fire Service and members of Brigades", however, this does not mean that 'control' of TFS assets also needs to be limited to "members of the Fire Service and Members of Brigades". In essence, the Chief Officer will be in command of TFS resources during a major emergency, however, any qualified Incident Controller should be able to keep a shift in the State Operations Centre, if considered necessary. While that Controller may task TFS (and other) resources, command responsibility for those TFS resources stays with the Chief Officer, or his/her delegate.</p> <p>Consideration also needs to be given to the relationship between Incident Controllers coordinating the response to a particular hazard, like bushfire or flood; and other Incident Controllers like Regional Emergency Management Controllers, or the State Emergency Management Controller (under the <i>Emergency Management Act 2006</i>) who are coordinating other broader emergency management consequences of that hazard across multiple agencies (e.g. public health, environmental, economic impact, recovery, etc).</p>

26	<i>Are the provisions relating to the establishment and composition of brigades still appropriate?</i>	<p>The Issues Paper makes no mention of similar provisions for SES Units. The <i>Emergency Management Act 2006</i> makes provision for the Director SES to establish and maintain Regional SES Volunteer Units and his/her appointment of associated Unit Managers. This Act also makes provision for the councils to establish and maintain Municipal Volunteer SES Units and for the Director SES to appoint associated Unit Managers. Unit functions are simply to comply with standards, use resources or act subject to the directions of the Director SES. SES Units or Unit Managers are not allocated any specific powers. These non-prescriptive SES Unit-level functions have worked well for the SES.</p> <p>If the SES provisions are to be included in the new legislation, they should be retained as is, however, consideration should be given to extending some of the same powers afforded to Brigade Chiefs to also be available to SES Unit Managers. In particular, “taking any action considered necessary ... to protect life and property”. Pending any legal advice, this should allow Units to enter and prevent further damage to a wind damaged property (say, loose roofing iron) if unoccupied, the owner cannot be found and flying roofing and other debris pose a risk to members of the public.</p>
27	<i>Should Industry Brigades be recognised in legislation and have the ability to assist in emergency response outside the industry boundaries?</i>	The SES has no comment.
28	<i>Should the Act be amended to specify these activities are exempt from the provisions of the LUPAA?</i>	<p>Legal advice is needed to understand whether the urgent removal of fire danger by the TFS is still bound by the permit requirements of LUPAA. If it's deemed to be so, there should be exemptions from the provisions of LUPAA for urgent emergency situations requiring the removal of fire danger or other related hazards.</p> <p>Similar circumstances may exist following structural fires or floods, where the burnt or flooded remains may contain secondary hazards such as asbestos, loose roofing iron, chemicals, etc, and should be immediately removed. In the case of floods, damaged property, dams or debris may direct flooding into new areas. There should be exemptions that allow the removal of such hazards without the need to go through the lengthy LUPAA permit process, if significant hazards remain and the matter is urgent because of the threat of another related emergency.</p>

29	<i>Are the provisions relating to the declaration of Total Fire Bans still appropriate?</i>	Provisions for declarations of Total Fire Bans are appropriate. They should be flexible and not too prescriptive to account for fast-moving changes to fire risk, availability of resources and need to account for critical economic, heritage or environmental priorities.
30	<i>Should Community Education be an explicit function of SFC/TFS and should it include the SES?</i>	SES should be included in a legislative function to provide community education and this will require appropriate resourcing.
31	<i>Is it still appropriate that TFS issues permits to install, maintain or repair fire protection equipment?</i>	The SES has no comment.
32	<i>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?</i>	<p>The SES notes that the Emergency Evacuation Framework was recently completed, which should inform any consideration of emergency evacuation systems.</p> <p>Categorising prescribed buildings by risk potential would seem appropriate in principle, however, there is a risk that the list may be too lengthy and prescriptive for legislation. It will also be very difficult to maintain currency. Other options should be considered, such as Regulations.</p>
33	<i>Are the current levels and structure of penalties appropriate?</i>	No specific comments apart from suggesting the scale of penalties in the legislation are aligned with those provided in the <i>Emergency Management Act 2006</i> .
34	<i>Are there other offences that should be considered for inclusion in new legislation?</i>	As above, suggest checking alignment with penalties contained in the <i>Emergency Management Act 2006</i>
35	<i>Are the current protection from liability provisions appropriate?</i>	SES is yet to be tested against liability protections contained in the <i>Emergency Management Act 2006</i> , which seem very similar to those in the <i>Fire Service Act 1979</i> . Perhaps a case study with legal advice into claims of liability following the Myer fire may identify areas where the legislation can be improved. The same protections should apply to both TFS and SES employees/volunteers.