

RECOMMENDATIONS

Page 11

Recommendation 1

- The *Fire and Emergency Services Authority of Western Australia Act 1998*, the *Bush Fires Act 1954* and the *Fire Brigades Act 1942* are to be repealed.

Page 11

Recommendation 2

- One comprehensive emergency services Act is to be developed.

Page 11

Recommendation 3

- The consultation process, drafting process and resulting legislation is to recognise and provide for the unique and individual requirements of each emergency service.

Page 20

Recommendation 4

- The emergency services Act is to bind the Crown.

Page 20

Recommendation 5

- The emergency services legislation must provide for flexibility in terms of using fire prevention and response tools appropriate to the specific land tenures.

Page 27

Recommendation 6

- As provided for under the current emergency services legislation, building developers are to be required to submit building plans and specifications to FESA for assessment, as part of the building approval process.

Page 27

Recommendation 7

- Congruent with the current emergency services legislation, FESA is to assess the plans in terms of FESA's operational fire safety requirements.

Page 27

Recommendation 8

- If FESA considers that the building plans and specifications meet FESA's operational fire safety requirements, FESA is to issue the developer with a certificate of approval. The local government may then issue the developer with a building licence (assuming local government is satisfied that the building requirements outside of the fire safety requirements have also been met).

Page 27

Recommendation 9

- If FESA considers that the building plans and specifications do not meet FESA's operational fire safety requirements, FESA is not to issue the developer with a certificate of approval. Accordingly, the local government is not to issue the developer with a building licence.

Page 28

Recommendation 10

- If a building licence is not issued on the grounds that FESA considers the building plans and specifications do not meet FESA's operational fire safety requirements, the developer is to be empowered to appeal to the State Administrative Tribunal.

Page 28

Recommendation 11

- FESA to be empowered to conduct inspections with regard to Certificates of Occupancy.

Page 28

Recommendation 12

- Inspections are to be limited to those conditions prescribed in the relevant building licence.

Page 28

Recommendation 13

- Where inspections by FESA are a condition of licence, FESA must provide the developer with certification that a compliance inspection has been conducted which confirms that licence conditions have been met.

Page 28

Recommendation 14

- FESA will not impose new licence conditions once the building licence has been issued provided the developer complies with the original plan approved by FESA.

Page 28

Recommendation 15

- The local government is not to issue a Certificate of Occupancy until a certificate of compliance has been issued.

Page 29

Recommendation 16

- FESA's involvement in the issuance of Certificates of Occupancy to be limited to buildings that pose 'high risk to life' and or have 'complex/complicated fire and emergency safety systems'.

Page 29

Recommendation 17

- FESA may conduct inspections of buildings prescribed at Recommendation 17 through the construction process and at completion.

Page 29

Recommendation 18

- These provisions are to apply to buildings in Class 1B to Class 9, as defined in the Building Code of Australia.

Page 33

Recommendation 19

- FESA is to be empowered to:
 - enter and inspect buildings to ensure that fire and other emergency safety systems are operating to specification and meet the operational needs of firefighters;
 - direct the owner of a building to remedy any fire and emergency safety systems breaches considered to be a risk to life or property;
 - apply to a stipendiary magistrate for an order to restrict the building's use and/or close the building until those systems breaches are rectified;
 - remove persons from a building if it is considered that there is risk to life.

Page 33

Recommendation 20

- The above powers are to apply to Class 1B to Class 9 buildings, as defined by the Building Code of Australia.

Page 33

Recommendation 21

- The above powers are not intended to require FESA to inspect every building in Class 1B to Class 9 in Western Australia. To do so would cost the State significantly in terms of both human and physical resources.

Page 34

Recommendation 22

- A mechanism should be provided, within the *Building Regulations 1989*, enabling State and local government organisations, participating in building safety processes, to refer building safety concerns to an “expert authority” for appropriate action.

Page 36

Recommendation 23

- That FESA retain its power to direct the provision and installation of fire detection and suppression equipment as it is currently provided for under Section 25A of the *Fire Brigades Act 1942*.

Page 36

Recommendation 24

- That the provision apply to Class 1B to Class 9 buildings as defined under the Building Code of Australia.

Page 43

Recommendation 25

- The power to cancel Bushfire Brigades should remain with local government.

Page 43

Recommendation 26

- The power to cancel Bushfire Brigades may be transferred from local government to FESA, but only at the local government's request.

Page 43

Recommendation 27

- The power to approve the establishment of Bushfire Brigades should be transferred from local government to FESA.

Page 43

Recommendation 28

- Local government is required to approach FESA should it deem the establishment of a Bushfire Brigade necessary, for approval to establish that Bushfire Brigade.

Page 43

Recommendation 29

- FESA is to consult with local government where it deems the establishment of a Bushfire Brigade to be necessary. FESA should consider the local government position in detail, placing a high priority on local knowledge, expertise and experience. Where FESA disagrees with a local government's position with regard to the establishment of a Bushfire Brigade, FESA should provide detailed reasoning, in writing, to the local government.

Page 44

Recommendation 30

- If a local government disagrees with a decision made by FESA, in relation to approving the establishment of a Bushfire Brigade, provision is to be made to enable the local government to appeal to the State Administrative Tribunal, in an attempt to have the decision reversed.

Page 55

Recommendation 31

- The obligation for local government to complete and submit ESL Grant Scheme applications, on behalf of SES Units, is to be removed.

Page 55

Recommendation 32

- FESA, in consultation with the SES Units, is to determine the capital and recurrent costs required for the effective operations of the SES Units and to fund these requirements via ESL funding.

Page 56

Recommendation 33

- FESA is to prioritise replacement of SES accommodation under the Emergency Services Levy.

Page 56

Recommendation 34

- FESA is to ensure that local government is kept apprised, via a formal consultative mechanism, of matters associated with local State Emergency Service Units.

Page 56

Recommendation 35

- FESA is to ensure adequate training for management personnel pertinent to the emergency services units they are managing.

Page 87

Recommendation 36

- A Committee structure should be established or an existing Committee structure utilised for the purpose of determining, assessing, approving and monitoring (with the assistance of FESA) fire management plans.
- The constitution of the Committee should include stakeholders with expertise in fire, and land management.

Page 87

Recommendation 37

- The Pastoralists and Graziers Association is to be consulted with respect to determining the minimum size of pastoral or grazier land to be subject to fire management plans, prior to the drafting of the legislation.

Page 88

Recommendation 38

- The local level Committee should be empowered to request a fire management plan from a land owner or land manager in respect to prescribed areas or categories of land or land usage or land ownership/occupancy or management in circumstances where the Committee deems it necessary because:
 - *it is financially or practically inappropriate to install a fire-break on the land and a fire management plan will assist in mitigating the impact of a fire; or*
 - *the land in question is of a high risk and a fire management plan will assist in mitigating the impact of a fire.*
- The local level Committee should be empowered to request the submission of a new or amended fire management plan in the event that the land-use or tenure changes.
- The local level Committee should be empowered to determine the appropriate period for review of the submitted fire management plan.
- The prescribed areas or categories of land or land usage or land ownership/occupancy or management are defined as Crown Land, land used for pastoral or grazier purposes and plantation land, unless otherwise determined by the Minister for Emergency Services.

Page 88

Recommendation 39

- Where practicable, FESA is to assist land owners/land managers in the development of fire management plans and is required to monitor the implementation of those plans.

Page 88

Recommendation 40

- FESA, in consultation with relevant stakeholders with expertise in fire and land management, are to develop guidelines for the determination, formulation, assessment, approval and monitoring of fire management plans.

Page 89

Recommendation 41

- An audit process should be established at State level to conduct sample audits of performance under, and integration of, fire management plans as and when determined.

Page 89

Recommendation 42

- CALM fire management plans should be submitted to appropriately designated Committees for comment and to enable integration of planning on a district, regional (and possibly State) level.

Page 89

Recommendation 43

- The Conservation Commission of Western Australia is to develop and audit fire management plans pertaining to CALM-managed land.

Page 89

Recommendation 44

- All approved fire management plans (including those prepared by the Conservation Commission of Western Australia) are to be lodged with the respective local government.
- Local government should ensure that the agreed review period for fire management plans (apart from those prepared by the Conservation Commission of Western Australia) is observed and that new plans are lodged in the event of a change of land use or tenure.

Page 90

Recommendation 45

- Local government should retain its ability to issue fire-break and hazard reduction notices, and exercise enforcement powers under the legislation (Section 33 *Bush Fires Act 1954*), but only where there is no procedure under any other Act or Regulation that is more appropriate in the circumstances to address that fire threat.
- An exception should be made under the emergency services legislation for local government to issue and enforce such notices in accordance with an approved fire management plan, excluding those developed by CALM for lands under the *Conservation and Land Management Act 1984*.

Page 90

Recommendation 46

- Government should upload fire management plans to the Shared Land Information Platform thereby enabling access by key emergency services organisations.

Page 90

Recommendation 47

- A land owner or land manager (for the prescribed categories of land to which fire management plans apply), dissatisfied with a decision in relation to a fire management plan, should have a right of appeal to the State Administrative Tribunal.

Page 118

Recommendation 48

- The current fire control arrangements are to be retained, with the following exceptions:
 - FESA is to be empowered to take control of a fire from local government or CALM in specific circumstances, as defined in legislation.
 - CALM is to be in control of a fire when it is burning on CALM-managed land. The provision enabling CALM to be in control of a fire when it is “near” CALM-managed land is to be removed.
- The power for FESA to take control of a fire from local government or CALM is to be restricted to when the fire:
 - Is a multi-agency incident and State-level control is required; and/or
 - Has escalated to a pre-determined, critical level; and/or
 - Has moved from CALM-managed land and into FESA’s legislative jurisdiction; and/or
 - Is threatening life and property.

Page 118

Recommendation 49

- The decision for FESA to assume control is to be made by the Chief Executive Officer of FESA or through delegation from the Chief Executive Officer to an appropriate member of the Executive Team.

Page 138

Recommendation 50

- A regulatory unit should be established within FESA tasked more broadly with monitoring and review of performance and compliance in emergency services and emergency management by FESA and local government.

Page 139

Recommendation 51

- Appropriate reporting mechanisms for the regulatory unit are to be established.

Page 139

Recommendation 52

- The Conservation Commission of Western Australia is to regulate CALM's performance under fire management plans.

Page 139

Recommendation 53

- FESA and CALM should ensure appropriate information sharing in relation to their respective regulatory roles.

Page 139

Recommendation 54

- The Office of the Auditor General is to consider conducting a performance review of the impact of changes under the proposed new emergency services Act.

Page 149

Recommendation 55

- The emergency services legislation is to provide for FESA and local government to enter into an agreement for the purpose of local government transferring the following responsibilities to FESA on a permanent basis:
 - emergency incident control;
 - Bushfire Brigade operations and administration; and
 - the determination and administration of the ESL, in relation to the capital and recurring costs associated with the Bushfire Brigades.

Page 149

Recommendation 56

- Such an agreement is only to be entered into if both FESA and the local government agree to terms and conditions.

Page 149

Recommendation 57

- Local government is to retain emergency prevention functions as prescribed under the existing legislation.

Page 149

Recommendation 58

- Any additional costs of transfer of Bushfire Brigades from local government to FESA, apart from those normally funded under the Emergency Services Levy, are to be borne by the State.

Page 150

Recommendation 59

- A Bushfire Brigade member or local government aggrieved with a decision of FESA in regard to the management of a Bushfire Brigade of which they are a member or which falls within their jurisdiction, should be entitled, in the first instance, to:
 - request the Chief Executive Officer of FESA to review that decision;
 - appeal to the State Administrative Tribunal if dissatisfied with the decision of the Chief Executive Officer, FESA.
- The review by the Chief Executive Officer of FESA is to occur within a timely manner.

Page 173

Recommendation 60

- That the Minister for Police and Emergency Services or the Minister for Public Sector Management consider whether a review is warranted regarding FESA remaining as a statutory authority or re-structuring as a department.

Page 173

Recommendation 61

- That an alternative organisational name for FESA be devised that equitably and appropriately reflects the amalgam of emergency services.

Page 173

Recommendation 62

- That despite recommendation 60, FESA should ensure the individuality of emergency services entities (including badging reflective of their unit and locality) in its business practices.

Page 173

Recommendation 63

- That notwithstanding the outcome of a review into FESA's status, that the current representative FESA Board of Management be abolished and an advisory board established in its place.

Page 192

Recommendation 64

- That the Emergency Services Levy be used to fund the capital and recurrent costs associated with administering and operating:
 - Bushfire Brigades;
 - Emergency Service Units;
 - Fire and Rescue Services Brigades;
 - Fire Service Brigades;
 - State Emergency Service Units; and
 - Volunteer Fire and Rescue Services Brigades.

Page 192

Recommendation 65

- That additional funding sources (e.g. Commonwealth, State Government and private funding) for these brigades and units are not to be affected or altered by the previous recommendation.

Page 192

Recommendation 66

- That FESA devise an engineering solution to ensure that slip-on units meet occupational health and safety requirements, satisfy the standards for insurance and in the instance of a registered brigade, are eligible for ESL funding.

Page 193

Recommendation 67

- That the Auditor General consider reviewing the effectiveness of the Emergency Services Levy, including the impact of:
 - Capital and Operating Grants;
 - Resource-to-risk processes; and
 - Associated administrative requirements.

Page 196

Recommendation 68

- Fire districts and Emergency Services Levy category areas are to be abolished.

Page 196

Recommendation 69

- Emergency Services Areas are to be established.

Page 197

Recommendation 70

- Emergency Services Areas are to be used to define:
 - Emergency Services Levy boundaries;
 - Emergency services delivery boundaries; and
 - any other boundary that needs to be defined for the purpose of the Authority performing its functions under the Act.

Page 197

Recommendation 71

- Responsibility for fire hydrants (servicing and marking of hydrants only) will need to be reassigned on the basis of Emergency Service Areas as per Recommendation 73 of Section 7.4.

Page 214

Recommendation 72

- The responsibility for the installation, removal, maintenance (and all associated costs therein) of fire hydrants should rest with the water supply authority responsible for servicing the areas in which the hydrants reside.

Page 214

Recommendation 73

- FESA and local government should retain their responsibilities in relation to the marking and servicing of fire hydrants in their respective areas.

Page 215

Recommendation 74

- Local government should retain responsibilities and associated costs in relation to reinstatement of paving.

Page 215

Recommendation 75

- That Government (in consultation with the Department of Treasury and Finance) give consideration to appropriate financial recompense to the relevant water supply authority on transfer of ownership and responsibility of fire hydrants.
- That such financial recompense take into account revenue received as a consequence of third party hire of hydrant infrastructure.

Page 215

Recommendation 76

- Coverage deficiencies (and any missing or faulty fire hydrants) in existing infrastructure in fire districts should be rectified by FESA, prior to transfer of ownership to the respective water supply authority.

Page 215

Recommendation 77

- The matter of funding for upgrade or replacement of existing or installation of new hydrant infrastructure in non fire districts (where local government are currently responsible for fire hydrant ownership and maintenance costs) should be re-considered by Government once an audit has been conducted and the financial implications ascertained.

Page 216

Recommendation 78

- That the Joint FESA/Water Corporation Agency Project Team continue in its present capacity or expand to incorporate other affected parties (such as Busselton Water Board and Aqwest) for the purpose of implementing the transfer of hydrant responsibilities and ensuring ongoing interagency communication with regard to matters such as standards and hydrant design.

Page 216

Recommendation 79

- The Committee recommends repeal of S.55, *Fire Brigades Act 1942* - Use of Pillar-Hydrants Instead of Fire Plugs.

Page 216

Recommendation 80

- The Committee recommends replacement of S.56, *Fire Brigades Act 1942* with the following:

56. Water Supply Authority to attend fires

When so requested by the Authority the water supply authority will offer advice and attend fires or hazardous materials incident occurring within its area of operation to assist by all means in its power, the ensuring of a copious supply and service of water.

Page 216

Recommendation 81

- That during drafting of the emergency services legislation due regard be given to whether Regulation 39C(1) of the *Bush Fires Regulations 1954* reflects current practices under Australian Standard 1674 “Safety in Welding and Allied Processes”.

Page 225

Recommendation 82

- FESA should examine the model developed by the Wyndham Emergency Service Unit in regard to its replication in other localities.

Page 225

Recommendation 83

- Government should both assess, and ensure, the commitment of appropriate levels of resourcing and funding to ensure effective implementation of the *National Emergency Management Strategy for Remote Indigenous Communities*.

Page 236

Recommendation 84

- That Government consider appointing FESA as lead agency to facilitate a collaborative review by relevant Government agencies, industry representatives and other parties of heavy industry emergency response arrangements. This is with a view to proposing amendments to existing legislation or developing other measures for the protection of the community, significant resources and assets in this State.
- A central premise of this project should be ensuring uniformity of prevention, preparedness, response and recovery across heavy industry, including training competencies.

Page 236

Recommendation 85

- That the review should give priority to the emergency response arrangements of the State's Ports.

Page 237

Recommendation 86

- That the legislation empowers FESA and privately owned industry to enter into an agreement to establish an Emergency Services Unit.
- That where an agreement is entered into, FESA be empowered to approve and cancel the approval of the Emergency Services Unit.
- That the relevant industry and FESA be empowered to negotiate the terms and conditions related to the establishment and operations of the Emergency Service Unit.
- That if the industry and FESA do not agree to the terms and conditions, an Emergency Services Unit is not to be established.

Page 237

Recommendation 87

- FESA is to consider prosecution or penalties in instances where consultation with industry to ensure the removal of hazardous substances is unsuccessful.

Recommendation 88

- Government should conduct a detailed investigation of the adequacy of the Ambulance Service, principally in regional and rural Western Australia.