

**2009 Victorian Bushfires Royal Commission**

Letters Patent issued 16 February 2009

**ORGANISATIONAL STRUCTURE  
SUBMISSIONS OF COUNSEL ASSISTING**

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# 1 SCOPE OF ISSUES UNDER CONSIDERATION

## Terms of reference

- 1.1 It will be recalled that the preamble to the Terms of Reference which established this Royal Commission provides in part as follows:
- B The State of Victoria is recognised as a region subject to a very high fire risk and has previously experienced extensive bushfires, most notably in 1939, 1944, 1969, 1977, 1983, 2003, 2005 and 2006.*
- C A range of inquiries conducted after those bushfires has led to the development of a coordinated State-wide approach to planning for, and responding to, bushfires and an extensive network of career and volunteer emergency services personnel.*
- 1.2 Evidence over the course of the hearings of the Royal Commission provokes the question whether the statement that previous enquiries have ‘..led to the development of a coordinated State-wide approach to planning for, and responding to bushfires’, which impact on the State with a daunting regularity, can be accepted?
- 1.3 The existence of the ‘extensive network of career and volunteer’ personnel to which the preamble refers also raises questions about the best way in which to organise that network in order to deliver the best outcome.
- 1.4 Counsel Assisting in the opening statement to the Royal Commission noted that this State’s response to bushfire is dependent largely on a proud volunteer force. The evidence over 12 months has revealed that statement to be entirely justified for many reasons, none greater than the volunteer response to the fires of 7 February 2009.
- 1.5 These submissions are drafted with that understanding and a recognition of the importance of the preservation of the volunteer base of the CFA.
- 1.6 The recognition of the volunteer contribution to bushfire suppression in this State should not mean that the CFA is immune to change. Change may be required and necessary to ensure the response to CFA fire responsibilities is properly managed, is efficient and that that response is as far as possible the best available fire agency response. Those who advocate change in the structure of Victoria’s firefighting agencies must be able to demonstrate that such change will advance these goals. Alternatively if the change can be demonstrated as likely to achieve such goals it should not, reasonably, be resisted.
- 1.7 Paragraphs 2, 3 and 11 of the Terms of Reference also raise the issue of resources for bushfire and their overall coordination and deployment. Again, this leads to questions about the best arrangements for the provision of firefighting services in Victoria.

## Questions arising

- 1.8 The examination of the evidence in this part of the hearings has thrown up some related, but different questions. Each admits of different answers.
- a) Should the overall structure of the fire services in Victoria be altered by means of amalgamation between two or more of the fire services?
  - b) If any amalgamation is to occur, should it be between firefighting services responsible for private and public land? Between those responsible for suppression of fire on urban and rural land? Or all of them?
  - c) Should the governance structure within any single fire service be altered? Should the role and responsibilities of the Chief Fire Officers or the composition and power of the Boards of the fire services be changed?
  - d) Should a single governance structure or Board be imposed in order to supervise or regulate two or more of the fire services?
  - e) With or without any fundamental structural change taking place, are changes required to the command and control arrangements for bushfire?
  - f) What is the best arrangement for the exercise of command structure within each fire service: centralised or decentralised responsibility and power?
- 1.9 In answering the above questions, it is submitted that it is important to also have in mind that any solutions proposed ought be addressed at answering the following additional questions:
- a) Are the bushfire prone areas of Victoria likely to be better served by any alteration to the status quo?
  - b) Are Victoria's expanding urban fringe and growing regional towns being adequately served by existing arrangements?
- 1.10 Certain themes emerged in the evidence. The question of whether there should be a division between the fire services responsible for fires in urban and rural settings loomed large. In this context, it became necessary to examine the different considerations (including the Standards of Fire Cover offered by the fire services) which apply in relation to fighting structure fires and bushfires.
- 1.11 Any consideration of the role of DSE also raises the question whether there should continue to be a division between the fire services responsible for fire suppression on private and public land, and where the responsibility for fire prevention activities on public land ought to lie.
- 1.12 A separate but related question is as follows: if there continue to be two fire services in Victoria responsible for urban and rural land, then where should the boundary

between the service areas of the two agencies lie, and how and when should it be altered?

### Overarching principle

- 1.13 One matter Counsel Assisting submit ought be put beyond doubt – no matter what organisational structure prevails, no matter which governance structure imposed and no matter how the ‘jurisdictions’ of the various fire services are divided, Victorians are entitled to the best possible standard of fire cover available with respect to both the response to bushfire and suppression of structure fires.
- 1.14 Counsel Assisting submit that this overriding criterion of the primacy of life and protection of asset ought govern the consideration of all the questions raised in this part of the hearings.

## 2 THE FIRE SERVICES: CHARACTER AND SERVICE PROVIDED

### The CFA

- 2.1 In considering the future role and responsibilities of CFA it is important to understand that the CFA now has obligations well beyond country Victoria and much of its resources are devoted to urban firefighting.
- 2.2 CFA is established and regulated by the *Country Fire Authority Act 1958* (Vic). The CFA is responsible for the ‘...control of the prevention and suppression of fires in the country area of Victoria.’<sup>1</sup> The country area of Victoria is defined in the Act as meaning ‘...that part of Victoria which lies outside the metropolitan fire district, but does not include any forest, national park or protected public land.’<sup>2</sup>
- 2.3 The Metropolitan Fire District (MFD) is established by the *Metropolitan Fire Brigades Act 1958* and is that area for which the Metropolitan Fire and Emergency Services Board (MFB) is responsible.

### CFA’s Operations

- 2.4 The CFA comprises 1228 fire brigades located in rural, urban and metropolitan areas. Brigades from neighbouring areas form groups. There are 143 such groups in Victoria.<sup>3</sup>

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<sup>1</sup> Country Fire Authority Act 1958 (Vic), section 14

<sup>2</sup> Country Fire Authority Act 1958 (Vic), section 3

<sup>3</sup> Exhibit 3 – Statement of Rees (WIT.004.001.0001) [25]; Note that Mr de Man indicated there were 1223 CFA brigades, see Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [41]



- 2.5 Brigades are the 'cornerstone' of the CFA model.<sup>4</sup> In volunteer brigades, CFA Officers (captain and first to fourth lieutenant) are elected biennially by brigade members. However, in integrated brigades the most senior operational rank for a volunteer is first lieutenant. The officer in charge of an integrated brigade is always a career firefighter with the rank of Operations Officers.<sup>5</sup>
- 2.6 Group Officer is the highest rank obtainable by a CFA volunteer.<sup>6</sup> Each group is comprised of approximately 10 brigades, the level of group activity depends upon risk profile and the needs of brigades but generally the group supports IMT's during an incident and is particularly responsible for the formation and dispatch of strike teams for fires.<sup>7</sup>
- 2.7 CFA operates through a structure of 20 regions supported by nine area headquarters.<sup>8</sup>
- 2.8 Significantly, having regard to the responsibility of CFA under its Act, CFA services not only all of Victoria's country and provincial areas but also 60% of Victoria's metropolitan area. Thus, CFA bears responsibility for 2.6 million people and more than 1 million dwellings.<sup>9</sup> CFA in fact operates 200 urban brigades and as of May 2009 24 of those brigades had career firefighters appointed – thus described as 'integrated brigades'.<sup>10</sup>
- 2.9 As at 28 January 2010, CFA comprised 1953 employees. 1461 of these employees were full time, 150 part time and 342 comprised casual staff. Of the full time staff, 797 are current serving CFA volunteers.<sup>11</sup>
- 2.10 As at 31 March 2010 there were 47,836 male volunteers and 11,836 female volunteers in the CFA.<sup>12</sup> 37,039 of this number were operational volunteers.<sup>13</sup>
- 2.11 It is unclear just how many operational career firefighters are engaged by CFA. Mr Bourke thought the figure was 'around 520'.<sup>14</sup> Ms Armytage indicated that there were

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<sup>4</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [72]

<sup>5</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [74], [82]

<sup>6</sup> De Man T19169:10–T19169:16

<sup>7</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [76]

<sup>8</sup> Exhibit 3 – Statement of Rees (WIT.004.001.0001) [26]

<sup>9</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [25]

<sup>10</sup> Exhibit 3 – Statement of Rees (WIT.004.001.0001) [52], [72]

<sup>11</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [58]

<sup>12</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [62]

<sup>13</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [57]

<sup>14</sup> Bourke T19357:22–T19357:28

495 career firefighters.<sup>15</sup> This is consistent with figures in the CFA's 2009 Annual Report.<sup>16</sup>

- 2.12 An integrated brigade structure was described by Mr de Man. He provided the example of the Craigieburn brigade to demonstrate the function of career firefighters. The brigade with the growth of Melbourne has developed from a rural brigade to an urban brigade. '[I]t needed an enhanced level of knowledge and training ... the brigade volunteers came under a lot of pressure with regards to ensuring they could maintain that service delivery. Then we brought on board career firefighters at Craigieburn to support the volunteers... The brigade at Craigieburn is a very successful integrated brigade... with a strong volunteer base supported by a tremendous team of career staff'.<sup>17</sup> Mr de Man rejected the proposition that volunteer and career firefighters could not work together.<sup>18</sup> There are 31 integrated brigades.<sup>19</sup> They are discussed in detail in Chapter Four.

### Volunteers and CFA

- 2.13 The Victorian Government with CFA and Volunteer Fire Brigades Victoria reaffirmed a "Volunteer Charter" in 2008. The charter recognises the role and commitment of volunteers to the suppression of fire and that volunteers remain the core strength of CFA. The document records the commitment of the State Government and CFA to support volunteers. Further the document commits to the consideration of volunteer views, opinion and concerns before changes are introduced into CFA which may impact on the volunteers.<sup>20</sup>
- 2.14 Evidence demonstrated the passion of volunteers to the CFA but also the volunteer ethic and the importance of both in the community served by CFA. That evidence was apparent from the commencement of proceeding as the Commission gained an understanding of the work and effort of CFA firefighters in the major fires of 7 February. It was reinforced by a number of witnesses who spoke of the importance of the volunteer culture.
- 2.15 Mr Holland a Group Officer with 40 years experience with CFA referred to the importance of contribution and engagement with local communities as a key characteristic of CFA personal. He said a driver of the characteristic was independence, that the volunteer culture within CFA was not so much one of directive

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<sup>15</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [71]

<sup>16</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0105

<sup>17</sup> De Man T19151:27–T19152:17

<sup>18</sup> De Man T19153:11–T19153:13

<sup>19</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [72]: note Mr Rees stated in May 2009 there were 24 integrated brigades, see Exhibit 3 – Statement of Rees (WIT.004.001.0001) [25]

<sup>20</sup> Exhibit 909 – Statement of de Man, Annexure 2 (WIT.3004.046.0306)

and command but was based on a need to understand volunteers before you could direct volunteers.<sup>21</sup>

- 2.16 Other CFA volunteers addressed concerns as to the importance of their brigades remaining totally volunteer; there was real pride in the fact that their brigades are comprised wholly of volunteers and a feeling that pride and commitment would be deleteriously impacted with the introduction of career staff or with amalgamation of fire agencies.<sup>22</sup>
- 2.17 It was pointed out, the sense of commitment to CFA engenders a sense of family 'of community, of all working together for the same goal' giving a sense of belonging.<sup>23</sup>
- 2.18 The CFA role in the community is demonstrated by examples of that engagement in smaller county towns.. At Mitre, west of Horsham, CFA is the only community function left in the district with 60% of the community of 100–120 belonging to CFA. At Dunkeld, 22% of the population of 444 belongs to the CFA.<sup>24</sup>

### Volunteer demographics

- 2.19 Whilst volunteer numbers have slightly increased in recent years, a concern is the ageing of the volunteer firefighting force. 56% of volunteers are aged over 45 and 34% of this number are 55 years or older.<sup>25</sup>
- 2.20 These figures were said in the CFA 'Community Connectedness Report' to represent a distribution similar to the general community.<sup>26</sup> Even if this be so, Mr Bourke recognised that these figures, painted a picture 'of the need to continue to grow volunteerism at other levels'.<sup>27</sup> He pointed to a strong growth in women members and an attempt to focus on youth recruitment by both CFA and VFBV.<sup>28</sup>
- 2.21 Research commissioned by BRC and undertaken by LaTrobe University found that changing demographic and economic circumstances may represent a threat to volunteer numbers. The report particularly pointed to difficulties in raising numbers in remote areas and new housing developments on the urban/rural fringe.<sup>29</sup>
- 2.22 Mr de Man rejected the idea that recruitment in the urban/rural fringes was weak. He challenged that position 'very strongly' and gave an example of a very small rural

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<sup>21</sup> Holland T19254:21–T19255:5

<sup>22</sup> Ackland T19261:17–T19261:29

<sup>23</sup> Exhibit 923 – Statement of Hawkey (WIT.7554.001.0001\_R) [13]

<sup>24</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) at 0250

<sup>25</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [63]

<sup>26</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [69]

<sup>27</sup> Bourke T19356:29–T19357:6

<sup>28</sup> Bourke T19357:6–T19357:12

<sup>29</sup> Exhibit 909 – Statement of de Man, Annexure 8 (WIT.3004.047.0109) at 0111

brigade on the fringe of Melbourne that went from a community of around 1,600 people to 25,000 where the brigade itself has actually grown significantly in strength and numbers.<sup>30</sup> Nevertheless Mr de Man saw it as a 'constant requirement' for CFA to ensure volunteer brigades recruit those in new locations.<sup>31</sup> This is obvious. It is particularly obvious with the recognition that numbers in those regions (urban interface) are a fraction of the total population.

## Surge Capacity

2.23 As described by Mr Rees, surge capacity is a 'real strength for CFA':<sup>32</sup>

*In a wholly career based fire service the available staff are limited by rostering and other arrangements, even when using the option of recall. In a volunteer based service, even after initial response there is significant capacity remaining, both to service the area should new fires start or to respond to a developing event.*

2.24 The reliance on surge capacity was demonstrated by the events of 7 February. In Region 8 (Western Port) 986 firefighters responded to 172 fire events. In addition, 492 firefighters from Region 8 responded to 5 major fires outside the region. 1468 region 8 firefighters performed an operational role on 7 February 2009, 1356 were volunteers and 112 (of 144) were career firefighters.<sup>33</sup>

2.25 Mr de Man referred to the critical importance of the surge capacity on significant fire days. He stated that the large number of volunteers in outer Melbourne were fundamental to the ability of CFA to meet its state-wide operational requirements.<sup>34</sup>

2.26 Mr Ford indicated that amalgamation of the fire agencies would undermine volunteerism in the metropolitan setting.<sup>35</sup> Mr Bourke referred to state volunteer numbers in the outer metropolitan area of Melbourne as being vital to the capacity of CFA to fight bushfires in Victoria.<sup>36</sup>

2.27 Ms Armytage referred to the threat to surge capacity if the MFD were to takeover CFA stations in the metropolitan area.<sup>37</sup> Ms Armytage provided a cost indication in relation to a comparison between MFB stations and integrated CFA stations. The CFA estimated costs of servicing 1 of its 9 integrated brigades on the MFD fringe at

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<sup>30</sup> De Man T19174:1–T19174:16

<sup>31</sup> De Man T19174:16–T19174:27

<sup>32</sup> Exhibit 3 – Statement of Rees (WIT.004.001.0001) [43]

<sup>33</sup> Exhibit 3 – Statement of Rees (WIT.004.001.0001) [45]

<sup>34</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [44]

<sup>35</sup> Ford T19220:22–T19221:3

<sup>36</sup> Bourke T19351:1–T19351:13

<sup>37</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [133]

around \$1.5 million. This compared with the average cost of a MFB station at \$2.4 million.<sup>38</sup>

- 2.28 Mr Bibby also understood the importance of a volunteer contribution to surge capacity. However he offered the opinion that the concept of integrated stations in metropolitan Melbourne was unlikely to see a reduction of volunteer involvement in such stations on the basis that career staff are there to support volunteers.<sup>39</sup> Mr Bibby supported an amalgamated firefighting organisation in Victoria. At the same time he said it was very important to maintain volunteers in integrated stations on the outskirts of metropolitan Melbourne.
- 2.29 Overall the evidence strongly indicates the importance of the metropolitan, urban fringe CFA stations and the contribution of volunteer members of such stations to the surge capacity of CFA. The evidence indicates that a unilateral extension of the MFD and the replacement of CFA fire brigades with MFB would not only be very costly but would also impact markedly by a reduction in CFA surge capacity..
- 2.30 On the other hand, there is no suggestion that integrated brigades impact on the number of volunteer members or that integrated brigades affect surge capacity. It is notable that Mr de Man was at pains to indicate the levels cooperation between volunteers and career firefighters in integrated stations. This cooperation can be ensured by proper management and leadership.

### Brigade Risk Profiles

- 2.31 There are obviously different demands placed upon brigades in different regions so much so that it is difficult, apparently, to define an 'active volunteer'.<sup>40</sup> Some brigades may not turn out at all in a calendar year.<sup>41</sup> Other brigades are called on a lot more frequently. Over the calendar year in 2008, 62% (22,069) operational volunteers turned out at least once and in 2009, 72.5% (26,690) operational volunteers turned out at least once.<sup>42</sup>
- 2.32 To become operational, a firefighter in the CFA is required to have completed what is known as the minimum skills course. The nature of the skills taught will depend on brigade risk profile. There are various classifications: wildfire, wildfire low structure, wildfire structural and structural wildfire.<sup>43</sup> Each region has brigades falling into each

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<sup>38</sup> Exhibit 931 – Statement of Armytage, Schedule 1 (WIT.3003.002.0001) at 0045; Amendments to Statement of Armytage (TEN.293.001.0001)

<sup>39</sup> Bibby T19477:21–T19478:4

<sup>40</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [49]

<sup>41</sup> De Man T19161:29–T19162:3

<sup>42</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [51]

<sup>43</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [48.1]

category depending on the actual location of the brigade and the nature of the firefighting risk.<sup>44</sup>

## **The MFB**

### **Metropolitan Fire District**

- 2.33 Mr Anthony Murphy (Director of Operations and Chief Fire Officer), Metropolitan Fire and Emergency Services Board (**MFESB**) gave evidence.<sup>45</sup> The primary function of the MFB is to respond to fires in the Metropolitan Fire District (MFD), and to respond in that urban environment to emergencies including structural, house and spot fires, chemical spills and leaks and responses to motor vehicle accidents.<sup>46</sup>
- 2.34 The MFD covers an area of approximately 1,200 square kilometres with a domicile population of over 2 million, which increases to over 3 million during business hours.<sup>47</sup> There are 47 stations within the MFD 'strategically located to enable the MFB to provide responses'.<sup>48</sup> The MFD is divided into four zones: Central, Northern, Southern and Western, with an Assistant Chief Fire Officer in charge of each.<sup>49</sup>
- 2.35 The level of response by the MFB to alarm a fire is determined according to what is known as the 'greater alarm response matrix'.<sup>50</sup> This matrix provides a sliding scale of response in relation to the type of alarm and the number of appliances to attend to each type of alarm.
- 2.36 Mr Murphy noted that:<sup>51</sup>

*The Metropolitan Fire Brigade is a very highly urbanised brigade working in a very big metropolis that sees itself growing and growing. Aspects of working in this environment present a very, very diverse range of challenges, so the MFB has its 47 delivery points and has made sure that everyone has a handle on being able to respond to the core business, which is about structure fires, but we have also got an ability to co-respond with the ambulance service.*

### **MFB employees**

- 2.37 The MFB employs 1,713 operational MFB members, 254 corporate employees, 60 temporary employees and 13 trainees and apprentices.<sup>52</sup> About 1500 of the

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<sup>44</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [67]

<sup>45</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001); Supplementary Statement of A Murphy (WIT.3006.001.0263)

<sup>46</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [27]

<sup>47</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [12]; A Murphy T12568:20–T12568:30

<sup>48</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [34]

<sup>49</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [11] and See Annexure 1, Map of MFD (WIT.3006.001.0041); A Murphy T12565:17–T12565:24

<sup>50</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [35]; Annexure 2 – Greater Alarm Response Matrix (WIT.3006.001.0045)

<sup>51</sup> A Murphy T12577:26–T12578:3

operational employees are career firefighters available for deployment (as the others, though operationally capable are performing training, safety, operations support and like roles).<sup>53</sup>

- 2.38 The terms and conditions of employment, including wages, leave and rostering and crewing arrangements for the MFB's operational staff are governed by a federal certified agreement<sup>54</sup>. For the purposes of rostering arrangements, operational staff are divided into four platoons: A, B, C and D platoon. Each platoon is rostered on a 10/14 roster, pursuant to which they work two day shifts of 10 hours, followed by two consecutive night shifts of 14 hours each, followed by four rostered days off.<sup>55</sup> Mr Murphy explained in evidence that there is a notional fifth platoon or 'E platoon' which is comprised of all operational staff who are on scheduled leave of one form or another at any given time. Thus there are approximately 310 crew in each of the five platoons.<sup>56</sup>
- 2.39 It is of note that all MFB staff undertake training in relation to wildfire suppression and behaviour.<sup>57</sup> Mr Murphy said this was done in order to enable the MFB to 'operate and support the CFA'.<sup>58</sup>

### **MFB appliances**

- 2.40 MFB appliances are designed to service the MFB's needs. The primary appliances used by the MFB (the Pumper, the Water Tanker, and the Pumper Tanker) are principally designed to deliver high volumes of water from a stationary position.<sup>59</sup>
- 2.41 MFB appliances (being 2WD vehicles) are designed for travel on sealed, gravel or graded road services<sup>60</sup> and for the most part rely on a source of reticulated water. They are not considered suitable for firefighting in some rural environments.<sup>61</sup> Tankers can carry 3,000 litres and Pumpers can carry 1360 litres.<sup>62</sup> These appliances are best used when stationary. In contrast, the CFA's 4WD appliances can move along a fire line and attack its head and flanks.<sup>63</sup>

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<sup>52</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [10]–[20]

<sup>53</sup> A Murphy T12572:30–T12573:3

<sup>54</sup> Exhibit 966 – Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2005 (TEN.288.001.0002)

<sup>55</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [22], [24]; A Murphy T12573:18–T12573:28; See also the terms of Exhibit 966 – Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2005 (TEN.288.001.0002)

<sup>56</sup> A Murphy T12573:7–T12573:17

<sup>57</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [84]–[86]; A Murphy T12578:21–T12579:10

<sup>58</sup> A Murphy T12579:11–T12579:20

<sup>59</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [44], [46]

<sup>60</sup> A Murphy T12579:21–T12579:31

<sup>61</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [46]

<sup>62</sup> A Murphy T12580:1–T12580:2

<sup>63</sup> A Murphy T12580:3–T12580:12

- 2.42 Mr Murphy indicated that if MFB appliances attended a grass or scrub fire, they could 'get 10 minutes without having to replenish the water supply'. Thereafter, there would be need to refill the tank supply via either a reticulated water supply or a static supply (such as a pool, river or dam).<sup>64</sup>
- 2.43 Water Tankers and Pumper Tankers are stationed around the fringes of the MFD and may be used for fighting scrub fires and grass fires where appropriate. However, as Mr Murphy noted, the vegetation in those areas is less dense and the terrain less undulating than in many of the rural areas serviced by the CFA. For this reason, MFB appliances are less likely to be useful in some parts of rural Victoria and may be incapable of being deployed in others.<sup>65</sup>
- 2.44 The example of Marysville was put to Mr Murphy. He was asked whether, if MFB crew had attended the town, they would have been in a position to assist. He said that they would have attended and attempted to draw on the water supply, but it was possible that the MFB's appliances would 'collapse' that system (it will be recalled from other evidence before the Commission that the gravity fed water supply to Marysville failed in parts of the town during the evening of 7 February). In this eventuality, said Mr Murphy, MFB crew could have attempted to use a tertiary supply such as a river or creek.<sup>66</sup>
- 2.45 As to the question whether MFB crew could have attended Marysville in the first place, Mr Murphy's candid assessment was thus:<sup>67</sup>

*I travelled up there one week after the event and I couldn't believe what had happened. There is no doubt in my mind that the MFB or any taskforce or strike team that would have gone up would not have made it whatsoever. We went up .. and it was very, very dangerous and there was still a lot of trees down on the road and we had to get support and assistance to get around them and we actually couldn't get back down the mountain.*

### **Co-operation and Mutual Aid between the CFA and MFB**

- 2.46 Any consideration of the structure of Victoria's fire agencies and the coverage offered by them must take into account the co-operation and mutual aid already in place between the CFA and MFB, as this is a crucial component of the provision of service to the community.

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<sup>64</sup> A Murphy T12580:9–T12580:24; T12600:8–T12600:20

<sup>65</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [44]–[46]

<sup>66</sup> A Murphy T12581:17–T12581:31

<sup>67</sup> A Murphy T12582:13–T12582:27



2.47 Mr Murphy described a number of aspects of the cooperation and coverage supplied by the fire agencies to each other outside the confines of the strict jurisdiction with respect to each of the MFD and the country area of Victoria.

2.48 The MFB and the CFA have entered into a Memorandum of Understanding and joint operating procedures in relation to mutual aid arrangements.<sup>68</sup> The Memorandum of Understanding confirms an agreement between the fire services pursuant to which the CFA may attend fires within the MFD as requested, and are then subject to the direction and control of the MFB at any such fire. Equally, MFB employees may attend fires in the country area of Victoria and in the absence of a CFA member may exercise the powers of the CFA Chief Officer.<sup>69</sup> Mr Murphy said the following:

*It is a cornerstone principle of the MOU that the CFA and MFB work together and provide the most appropriate response to every incident whilst at all times maintaining their own individual requirements to respond to fire and emergency situations. To put this simply, each of the MFB and the CFA must first consider their respective responsibilities to, in the case of the MFB, the MFD, and in the case of the CFA, to country Victoria.<sup>70</sup>*

2.49 In addition, at the border of the MFD with the country area, there is a Mutual Aid Area in which the MFB and the CFA support each other. If an incident occurs near the boundary of the MFD, both services draw on agreed deployment tables which provide for units from both services to be despatched jointly and attend an incident. Mr Murphy suggested that the Mutual Aid Area was approximately a kilometre wide, or nominally 'one Melway grid reference either side of MFD boundary'.<sup>71</sup> The aim, said Mr Murphy, is to ensure that the service provided is 'seamless' and provided in as timely a manner as possible.<sup>72</sup> Mr Murphy said that over time the scope of the Mutual Aid Area had over time become increasingly fluid as the two agencies now work together to provide 'a seamless service'.<sup>73</sup> He said it was part of day to day business for the MFB to support the CFA, 'when there is a demand'.<sup>74</sup>

2.50 Mr Bourke (CEO of the CFA) agreed, saying that 'likewise we cross border with the MFB and back up and support them as they cross border, back up and support us. So it is not as if the boundary impedes service delivery'.<sup>75</sup>

2.51 Mr Murphy provided the following statistics:

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<sup>68</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [70]; Annexure 8 – Joint Operational Activities Memorandum of Understanding (WIT.3006.001.0164)

<sup>69</sup> Exhibit 571 – Statement of A Murphy, Annexure 8 – Joint Operational Activities Memorandum of Understanding (WIT.3006.001.0164) at 0166 and 0169–0170

<sup>70</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [71]

<sup>71</sup> A Murphy T12567:4–T12567:29

<sup>72</sup> A Murphy T12567:7–T12567:10

<sup>73</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [57]

<sup>74</sup> A Murphy T12567:26–T12567:29

<sup>75</sup> Bourke T19349:23–T19349:30

- a) in the three years provided to 30 June 2009, 2969 calls were attended by the MFB in the CFA area,
  - b) 2803 calls were attended by CFA appliances in the MFD.<sup>76</sup>
- 2.52 It appears then that the mutual aid provided by the MFB to the CFA and vice versa is evenly balanced.
- 2.53 The MFB also provides a response outside of the MFD in an arc within an hour's travel time.<sup>77</sup>
- 2.54 There are additional arrangements between the two fire services. For example, on days of total fire ban in the Central fire ban district and when Code Red trigger points are met, the MFB plans the provision of two strike teams to be available on one hour's notice. The activation for a strike team may occur on request by the CFA regional duty office to the MFB senior duty officer.<sup>78</sup>
- 2.55 In responding to requests from the CFA, the MFB also assists by 'moving up' staff in order to release CFA resources as required. By these means, the MFB provides an essential backfilling service to CFA stations.<sup>79</sup>
- 2.56 There is close association between the MFB and the CFA Regions 13, 14 and 8 which border the MFD. MFB crews which border those CFA regions consistently visit the CFA fire stations to familiarise themselves with the procedures and resources there. There are MFB and CFA local station familiarisation activities throughout the year.<sup>80</sup>
- 2.57 The MFB takes its responsibility with respect to planning for bushfire so seriously that Mr Murphy is focussing in his role for a number of months on issues arising out of the recommendations made by this Royal Commission. In this context, Mr Murphy said that one of the projects over which he was presiding was ensuring that MFB crew right across the state were familiarising themselves with the new Township Protection Plans being developed across Victoria, in anticipation of strike teams being asked to travel to 'any of the townships that are seen as under severe threat'.<sup>81</sup> The MFB has also determined to target rural – urban interface areas in the MFD which are regarded as bushfire prone, including around Plenty River, the Kew precincts (around the Yarra

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<sup>76</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [58]

<sup>77</sup> This includes locations along the major transport routes such as the Princes Highway, Little River, Western Highway – Myrmong, Calder Highway – Woodend, Lancefield Road – Lancefield, Hume Highway – Wallan, Melba Highway – Glenburn, Maroondah Highway – Healesville, Warburton Highway – Warburton, Princes Freeway – Pakenham, South Gippsland Highway – Tooradin, and Nepean Highway – Mornington. Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [74(g)]

<sup>78</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [74]; A Murphy T12586:9–T12586:25

<sup>79</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [91]

<sup>80</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [99]–[100]; A Murphy T12583:2–T12583:18

<sup>81</sup> A Murphy T12563:2–T12563:7

River), Blackburn Lake and Dandenong Creek.<sup>82</sup> Personnel are being trained in the new Command and Control arrangements which emanated from the Overland Project. In addition, strong links with CFA Regions 8, 13 and 14 were continuing to be forged.<sup>83</sup>

- 2.58 The MFB has provided a Standard Operating Procedure to ESTA which determines the way in which 000 calls should be managed to fit within MFB operations.<sup>84</sup> The use of this Standard Operating Procedure in addition with the CAD system automatically guides ESTA operators as to which appliance should be despatched to a particular incident. Information is passed electronically from the CAD system to the MFB station turnout system which advises crew and appliances to turn out.<sup>85</sup> Mr Murphy also said that the joint responses by the two fire services in or near the Mutual Aid Area, are despatched using these deployment tables or assignment rules which define which brigade or appliance should attend. These tables are embedded in the CAD system.<sup>86</sup> Mr Murphy said that although the Victorian system for determining boundaries as between the MFD and the country area of Victoria does not evince the same approach as applies in New South Wales, the way in which mutual aid has been embraced means that the goal of having the 'right fire service responds to the right fires' is still being achieved.<sup>87</sup>
- 2.59 In the subsequent evidence of Mr Barry Thomas, some doubt was cast on the terms of the procedures supplied by the CFA and MFB to ESTA to guide the dispatch of appliances.<sup>88</sup> As is noted below, the circumstances in which this issue was raised and the lateness of the evidence in relation to it has left the Commission in an unsatisfactory position where it is unable to fully explore these matters.
- 2.60 One assumes that the approach pursuant to which fire appliances are dispatched by ESTA is designed to afford the best possible standard of fire cover on both sides of the MFD border and regardless of the CFA Region in which any incident occurs. One also assumes that the system for despatch is designed to take account of distance, travel time, suitability of appliances and the skills profile of the available personnel and roster 'coverage' supplied by particular stations.

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<sup>82</sup> A Murphy T12563:23–T12563:31

<sup>83</sup> A Murphy T12564:9–T12564:22

<sup>84</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [51], see also Annexure 6 – MFB Communications Centre Communication Standard Operating Procedure, released 14 April 2009 (WIT.3006.001.0077); A Murphy T12568:7–T12568:19

<sup>85</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [52]–[53]

<sup>86</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [58]

<sup>87</sup> A Murphy T12572:9–T12572:12

<sup>88</sup> Thomas T19865:4–T19867:12

- 2.61 If this is not the case now, then it ought to be. Changes to ensure the protocols employed by ESTA achieve the aim of implementing a system best designed to save lives and reduce damage to property is something which can and must be achieved – regardless of whether any change is affected to the structure of the fire services.
- 2.62 As can be seen from the above, there are already a number of arrangements and practices in place pursuant to which the two fire services assist one another and supplement the standard of fire cover provided to Victorians on both sides of the MFD. This reality cuts both ways in our submission. The logical end point of such coordination and cooperation might be amalgamation. On the other hand, the fact that such results can be achieved by two separate fire services may favour the maintenance of the status quo.

### **MFB support on 7 February**

- 2.63 The response of the MFB provided in support of the CFA (and in its own right in the MFD) on 7 February is set out in detail in Mr Murphy's statement. The MFB responded to 292 calls on the day (the average is usually 112 per day),<sup>89</sup> including four separate major incidents of its own: a grass fire at Summerhill Road, Reservoir; a grass and scrub fire at Bluff Road, Black Rock; a house fire in Deer Park and a house fire in Albert Park.<sup>90</sup> There were other significant fires to which the MFB attended in Yallambie, Airport West, Preston and Williamstown.<sup>91</sup>
- 2.64 MFB prepared by advising staff that it would be a critical day, and ensuring 40 extra crew were available to work from Burnley – that location selected because of the capacity it offers for crew to access the various freeways of Melbourne.<sup>92</sup>
- 2.65 The MFB provided crew to backfill CFA fire stations in Region 8 at Frankston, Springvale, Patterson River, Dandenong and Hallam. This support was crucial, as it freed up those CFA fighters to be redeployed elsewhere. The MFB then replaced its own crew with Burnley Training College Appliances.<sup>93</sup> Some of the moved up crew responded to the Narre Warren fire. Mr Murphy confirmed that the crew who responded to this fire are 'very proud of that contribution'.<sup>94</sup>
- 2.66 In particular, the MFB responded to a CFA request (at 1.15pm) to send a strike team to the Kilmore East fire comprising five appliances. These crew engaged in asset

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<sup>89</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [107]; A Murphy T12591:21–T12591:23

<sup>90</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [119]; A Murphy T12591:26–T12591:31

<sup>91</sup> A Murphy T12592:10–T12592:19

<sup>92</sup> A Murphy T12587:7–T12587:25

<sup>93</sup> A Murphy T12587:26–T12588:17

<sup>94</sup> A Murphy T12588:25–T12589:5; T12596:18–T12596:28

protection in Wandong, Broadford and other locations.<sup>95</sup> It also sent a strike team to Drouin, again comprising five appliances. That team was deployed to asset protection of the Drouin sawmill, and a residential estate in Robin Hood. The team was later deployed to Traralgon in order to work the coal fire in the Loy Yang hopper.<sup>96</sup> Late in the evening, the MFB deployed two pumpers to the Kangaroo Ground ICC. The crew arrived at 1.30am and assisted convoy travelling to the Kinglake West Fire station under difficult and dangerous circumstances. The MFB crew assisted CFA vehicles off the mountain, conveying displaced residents and others to the Whittlesea council offices.<sup>97</sup>

- 2.67 The MFB response in support of the CFA continued throughout February and into early March providing strike teams and stepping up crew in support of the CFA.<sup>98</sup> It is of note that during 7 February, nine MFB personnel took pressing necessity leave when the fires threatened their own homes and / or families. Some of those personnel were then engaged in defending their own homes and those of neighbours.<sup>99</sup> This underscores the breadth of impact of these fires on so many in Victoria.
- 2.68 Mr Murphy conceded under cross examination from the union that there had been reports received from MFB personnel in the period after February 2009 to the effect that delays had been encountered in deployment of MFB personnel from CFA staging areas, and reflecting concerns about under-utilisation of the MFB, perhaps by reason of the fact that CFA personnel may not have been fully appraised of MFB's capability.<sup>100</sup> Mr Murphy said a process was underway to ensure that the MFB's capabilities, particularly in relation to providing support during bushfire, were well documented and communicated to the CFA. For example, a comprehensive presentation had been provided to Region 8 CFA crew.<sup>101</sup> The information, he said, was now to be distributed in a manner which would ensure CFA members were well aware of the MFB's capabilities.<sup>102</sup>
- 2.69 That these steps have been taken suggests that there was indeed a lack of appreciation previously, and supports the contention that MFB crew did experience 'under utilisation' following the 7 February fires. It is commendable that steps have been taken to remedy this.

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<sup>95</sup> A Murphy T12589:13–T12590:22

<sup>96</sup> A Murphy T12590:23–T12591:10

<sup>97</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [124]–[126]; A Murphy T12594:9–T12594:22

<sup>98</sup> Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [127]–[134]; A Murphy T12594:23–T12595:7

<sup>99</sup> A Murphy T12602:12–T12602:27

<sup>100</sup> A Murphy T12605:17–T12607:26; T12611:1–T12611:4

<sup>101</sup> A Murphy T12608:10–T12608:23

<sup>102</sup> A Murphy T12608:24–T12609:3; T12609:16–T12609:22

- 2.70 Mr Murphy insisted, however, that while some individuals may have become 'precious', in the end 'we get on with it. We get the job done'. He denied there was a parochial culture between the two services.<sup>103</sup>

### **3 URBAN GROWTH AND REGIONAL GROWTH: THE FACTS**

- 3.1 Urban growth has occurred rapidly outside the boundary of the MFD. The evidence reveals that as such growth has taken place in Victoria, the risk profiles of some communities have changed. There has been a consequential impact on the work of the CFA and the character of the fires to which it is required to respond.
- 3.2 Consideration of these matters has given rise to the following questions:
- a) What proportion of the CFA's work is now referable to response to structure fires, rather than bushfire?
  - b) What portion of the "country area" for which the CFA is responsible now has an urban character, more consistent with a need to regularly respond to structure fires rather than bushfire?
  - c) Is the CFA adequately resourced to respond to the increased call on its brigades with respect to structure fires?
  - d) Are more career firefighters required to respond to the either the increased work load or the change in the mix of work?
  - e) Have the training needs of the CFA altered as a result of the increased demand to respond to structure fires?
  - f) Is there a stage at which the injection of additional career firefighters into CFA stations or brigades alters the fundamental character or culture of the CFA as a rural firefighting service predominantly relying on volunteers?

#### ***Urban growth***

- 3.3 Evidence concerning the expansion of urban growth in Victoria is relevant in a number of ways to consideration both of the question whether the CFA and MFB ought amalgamate, and to a consideration of the quite separate question whether the CFA needs additional resources to meet its increased work load. Further, if there are

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<sup>103</sup> A Murphy T12607:12–T12607:26

to remain two separate fire services, then these matters are relevant to the alignment of the boundary between the two.

- 3.4 The report *Victoria in Future 2008 Victorian State Government Population and Household Projections 2006 – 2036*<sup>104</sup> predicts that metropolitan Melbourne is projected to grow by 1.8 million between 2006 and 2036.<sup>105</sup> The growth in Victoria has been and will continue to be uneven. The growth of metropolitan Melbourne will be focussed on the six growth areas: Wyndham, Melton, Hume, Whittlesea, Cardinia and Casey City.<sup>106</sup>
- 3.5 Regional Victoria is projected to grow by 477,000 people in the next 30 years.<sup>107</sup> Much of the growth in regional Victoria, it is predicted, will result from net migration from Melbourne.<sup>108</sup> This growth is also uneven. Between 2001 and 2006 in regional Victoria, almost half the growth was in three local government areas: City of Greater Geelong, City of Ballarat and the City of Greater Bendigo. During the same period, there were decreases in the dry land farming parts of Western Victoria.<sup>109</sup>
- 3.6 Professor Haywood's report contains a graphic depiction of the way in which population growth in Melbourne has spread beyond the MFD border (see Figure 1).

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<sup>104</sup> Exhibit 931 – Statement of Armytage, Annexure 3 – Victoria in Future 2008: Victorian State Government Population and Household Projections 2006–2036 (Victoria in Future 2008) (WIT.3003.002.0076)

<sup>105</sup> Exhibit 931 – Statement of Armytage, Annexure 3 – Victoria in Future 2008 (WIT.3003.002.0076) at 0079

<sup>106</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [31]

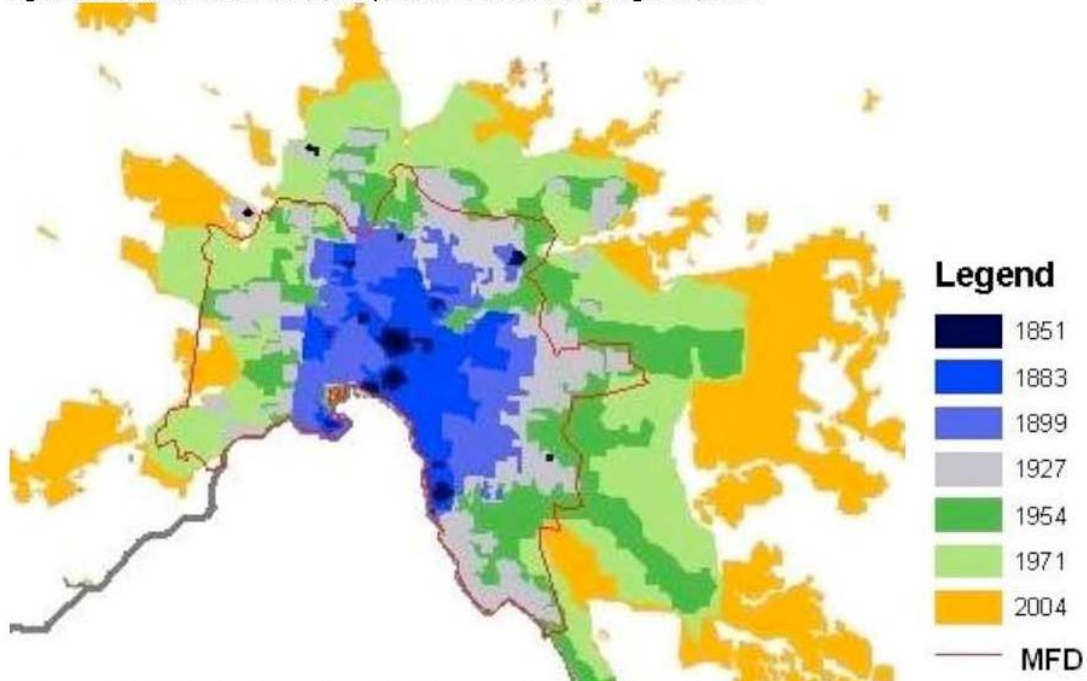
<sup>107</sup> Exhibit 931 – Statement of Armytage, Annexure 3 – Victoria in Future 2008 (WIT.3003.002.0076) at 0079

<sup>108</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [32.2]

<sup>109</sup> Exhibit 931 – Statement of Armytage, Annexure 3 – Victoria in Future 2008 (WIT.3003.002.0076) at 0078

**Figure 1 – Melbourne Fire District, compared to Melbourne’s urban growth, detail<sup>110</sup>**

Figure 3.10 Melbourne Fire District, compared to Melbourne’s urban growth, detail



Source: RMIT 2010, based on Melbourne Atlas (2006) data

3.7 The pattern of urban development has expanded dramatically beyond the static MFD boundary. The material in Professor Haywood’s statement demonstrates that:

- a) There has been considerable expansion in Melbourne’s urban growth. The trend is “set to continue for the next twenty to thirty years”.<sup>111</sup>
- b) The predicted growth is not evenly distributed. While the population of Melbourne will increase overall by 34% by 2026, the population of the “growth areas” (said to be the municipalities of Casey, Cardinia, Hume, Melton, Whittlesea and Wyndham) will undergo particularly high levels of population growth – experiencing a 96% increase in the same period (from 761,000 people to almost 1.5 million people).<sup>112</sup>

3.8 Professor Haywood supplied the following population projections:

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<sup>110</sup> Exhibit 917 – The Case for a Single Firefighting Service in Victoria (Haywood Report) (UFU.002.002.0786) at 0795

<sup>111</sup> Exhibit 917 – Haywood Report (UFU.002.002.0786) at 0791

<sup>112</sup> Exhibit 917 – Haywood Report (UFU.002.002.0786) at 0791–0792



**Figure 2 – Population Projections, Urban Fringe and Melbourne, 2006-26<sup>113</sup>**

Table 3-1 Population Projections, Urban Fringe and Melbourne, 2006-26

| LGA                | Population |           |           |           |           | % Increase |
|--------------------|------------|-----------|-----------|-----------|-----------|------------|
|                    | 2006       | 2011      | 2016      | 2021      | 2026      | 2006 - 26  |
| Cardinia           | 58,559     | 79,241    | 100,071   | 118,146   | 147,984   | 153%       |
| Casey              | 222,236    | 270,699   | 311,624   | 350,342   | 370,249   | 67%        |
| Hume               | 153,729    | 181,215   | 203,642   | 225,348   | 251,079   | 63%        |
| Melton             | 80,911     | 113,537   | 143,772   | 171,965   | 198,293   | 145%       |
| Whittlesea         | 129,525    | 162,152   | 195,929   | 226,462   | 248,042   | 92%        |
| Wyndham            | 116,001    | 161,499   | 202,778   | 241,941   | 277,660   | 139%       |
| Urban Fringe Total | 760,961    | 968,343   | 1,157,816 | 1,334,204 | 1,493,307 | 96%        |
| Melbourne SD       | 3,744,373  | 4,082,871 | 4,396,916 | 4,704,719 | 5,000,048 | 34%        |

Source: RMIT 2010, based on Victoria in Future (2008) data.

3.9 Despite the large predicted population growth in these municipalities, some parts of the high growth areas are likely to retain a rural flavour. For example, Whittlesea has established urban areas in its south, while the north remains rural in character. The Shire of Cardinia also has significant rural and horticultural land.<sup>114</sup>

3.10 The patterns of urban growth are clear, and it can be assumed that the “risk profile” of many suburbs is now predominantly related to risk of structure fires, rather than bushfire.<sup>115</sup>

### Regional growth

3.11 As is noted above, Victoria’s major regional centres, principally Geelong, Ballarat and Bendigo (presently covered by the CFA) are predicted to undergo huge population growth. The population of the three regional centres is predicted to increase by 34% between 2006 and 2026 (see Figure 3).

**Figure 3 – Population Projections, Major Regional Centres and Melbourne 2006-26<sup>116</sup>**

Table 3-2 Population Projections, Major Regional Centres and Melbourne, 2006-26

| LGA                    | Population |           |           |           |           | % Increase |
|------------------------|------------|-----------|-----------|-----------|-----------|------------|
|                        | 2006       | 2011      | 2016      | 2021      | 2026      |            |
| Ballarat               | 88,437     | 95,922    | 103,474   | 111,270   | 118,752   | 34%        |
| Greater Bendigo        | 96,741     | 106,346   | 116,006   | 125,897   | 135,435   | 40%        |
| Greater Geelong        | 205,929    | 221,633   | 237,297   | 253,487   | 269,653   | 31%        |
| Regional Centres Total | 391,107    | 423,901   | 456,777   | 490,654   | 523,840   | 34%        |
| Melbourne SD           | 3,744,373  | 4,082,871 | 4,396,916 | 4,704,719 | 5,000,048 | 34%        |

Source: RMIT 2010, based on Victoria in Future (2008) data

<sup>113</sup> Exhibit 917 – Haywood Report (UFU.002.002.0786) at 0792

<sup>114</sup> Exhibit 917 – Haywood Report (UFU.002.002.0786) at 0793

<sup>115</sup> Haywood T19573:23–T19574:13

<sup>116</sup> Exhibit 917 – Haywood Report (UFU.002.002.0786) at 0796

- 3.12 Different considerations may arise when attempting to design the right model for fire coverage of a large regional city. While each of Geelong, Ballarat and Bendigo is a large city with commercial and industrial areas, they remain surrounded by rural areas, which may tend to suggest an ongoing need for volunteer support in order to enable bushfire risk in the surrounding areas to be met. Each of those towns is also supported by the presence of an integrated CFA station, which means they are presently serviced by career CFA staff (see discussion below in Chapter 4 in relation to integrated stations).

## **Conclusion**

- 3.13 As is discussed in more detail below, the CFA has for some time, been planning for the reality of the new demands placed on it by reason of urban growth.
- 3.14 A 2008 Information Paper on Metropolitan Growth prepared for the CFA's Board concluded that urban growth will result in changes in brigade risk profiles, and predicted an impact on volunteer availability, capacity and skill sets.<sup>117</sup>
- 3.15 This raises the question whether the CFA is adequately resourced to cope with urban expansion. The fact that there has been and will continue to be great growth outside the MFD does not necessarily dictate that the MFB ought be responsible for fire suppression in some or all of the high growth areas. It may, for example, suggest that the CFA needs to provide additional coverage or focus on further multi-skilling of its own personnel. To date, the main way in which the CFA has responded to the increased demands brought about by urban growth has been to establish and staff integrated fire stations. The question whether this will continue to be adequate in light of the great changes predicted for Melbourne between now and 2036 is discussed in more detail below.

## **4 NEW RISK PROFILE FOR THE CFA**

### ***More structure fires: changing risks***

- 4.1 The expansion of urban growth outside the MFD in Victoria has had an impact on the risk profile of the communities for which the CFA is responsible and on the nature of the work performed by CFA crew in the growth areas of Melbourne.
- 4.2 The CFA Annual report for 2009 provides some limited data in relation to the proportion of the CFA's work which relates to structure fire. The report notes that the total number of incidents in 2008 – 2009 to which the CFA responded was 39,987 (as

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<sup>117</sup> Exhibit 927 – CFA Board Information Paper “Metropolitan Growth” dated 31 March 2008 (CFA.600.004.0334) at 0336

the primary responder; it also turned out in a support role to 35,807 incidents). Of this, 16,103 were a response in relation to fire or explosion.<sup>118</sup> The statistics given in that part of the report do not break down the types of fire responded to into bushfire and structure fire.

- 4.3 However, elsewhere in the report, it is recorded that the number of structure fires attended by the CFA in 2008 – 2009 was 3,262 (the overwhelming majority of which were in the Westernport Area, where the CFA attended 894 structure fires).<sup>119</sup> This appears to suggest that response to structure fire represented 20% of the fires responded to by the CFA – though this link is not made explicit in the report.
- 4.4 The CFA is clearly alive to the need to respond to the changing face of outer metropolitan Melbourne. An Information Paper on Metropolitan Growth was prepared by the Director of Strategic Planning and Area Coordination for the CFA Board in March 2008.<sup>120</sup> The paper indicates that in the year 2006/ 2007, the three CFA metropolitan areas (Outer Metro Northwest, Yarra and Westernport) accounted for 53% of all incidents, to which the CFA responded with 14% of the CFA's volunteer capacity, and 49% of its career staff capacity. The paper notes the expansion of urban areas, and pointed out that data on incidents across the CFA metropolitan area 'indicates a direct correlation between population, number of households and CFA activity level.'<sup>121</sup> The paper says:<sup>122</sup>

*CFA now faces the challenge of continuing to provide the same level of service delivery to a rapidly growing urban risk...*

### ***CFA: planning for urban growth***

- 4.5 Mr Bourke said that the CFA takes a risk based approach to resourcing decisions made in relation to both structure fires and bushfire. He indicated that population growth was a feature to be considered in that setting, including in outer metropolitan areas and in provincial settings.<sup>123</sup>
- 4.6 The 2008 Information Paper on Metropolitan Growth noted that the CFA had been planning for metropolitan growth for a number of years, by means including

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<sup>118</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0021

<sup>119</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0030. It is of note that the further breakdown of these figures indicates that large numbers of structure fires were not necessarily concentrated in the metropolitan areas (Outer Metro Northwest –346 and Yarra – 323). The number of structure fires in rural areas were also high (Barwon Corangamite: 319; Gippsland: 304; Midlands – Wimmera: 297; North East: 347; North West: 319; South West 113)

<sup>120</sup> Exhibit 927 – CFA Board Information Paper 'Metropolitan Growth' dated 31 March 2008 (CFA.600.004.0334)

<sup>121</sup> Exhibit 927 – CFA Board Information Paper 'Metropolitan Growth' dated 31 March 2008 (CFA.600.004.0334) at 0335

<sup>122</sup> Exhibit 927 – CFA Board Information Paper 'Metropolitan Growth' dated 31 March 2008 (CFA.600.004.0334) at 0335

<sup>123</sup> Bourke T19347:11–T19347:24

establishing nine additional integrated stations since 2001.<sup>124</sup> The paper estimated that there would be a need for seven new integrated stations by 2020 at a cost of \$34million for land and buildings and a further \$14.3 million for additional staff.

- 4.7 The 2008 Information Paper on Metropolitan Growth also noted matters including the following:<sup>125</sup>

*Financial – the CFA does not have the current financial capacity to fund the resource requirements that will result from rapid urban growth.*

...

*Volunteer – Changes in brigade risk profiles will occur as a result of urban growth. This will impact on volunteer availability, capacity and skill sets. Volunteer brigades will require support as their communities change. Increased urban risk will also create a ripple effect in supporting brigades with an increase in support call activity.*

### **CFA integrated stations**

- 4.8 The matter of integrated stations was touched on above. There are 31 such stations in the CFA. A chart supplied by Mr de Man contains the following statistics as to their location and composition.

- 4.9 Numbers of career and volunteer members at all integrated fire stations<sup>126</sup>

| <b>Fire Stations</b> | <b>Career</b> | <b>Volunteer</b> |
|----------------------|---------------|------------------|
| Ballarat City        | 33            | 22               |
| Belmont              | 14            | 53               |
| Bendigo              | 33            | 69               |
| Boronia              | 20            | 76               |
| Caroline Springs     | 14            | 45               |
| Corio                | 23            | 55               |
| Craigieburn          | 13            | 67               |
| Cranbourne           | 15            | 86               |

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<sup>124</sup> Exhibit 927 – CFA Board Information Paper ‘Metropolitan Growth’ dated 31 March 2008 (CFA.600.004.0334) at 0334

<sup>125</sup> Exhibit 927 – CFA Board Information Paper ‘Metropolitan Growth’ dated 31 March 2008 (CFA.600.004.0334) at 0336

<sup>126</sup> Exhibit 909 – Statement of de Man, Annexure 11A (WIT.3004.047.0229\_02)

Submissions of Counsel Assisting

|                  |    |     |
|------------------|----|-----|
| Dandenong        | 43 | 31  |
| Eltham           | 14 | 39  |
| Frankston        | 22 | 49  |
| Geelong City     | 35 | 18  |
| Greenvale        | 16 | 19  |
| Hallam           | 18 | 59  |
| Hoppers Crossing | 15 | 79  |
| Melton           | 12 | 115 |
| Mildura          | 15 | 74  |
| Mornington       | 8  | 65  |
| Morwell          | 13 | 79  |
| Patterson River  | 10 | 56  |
| Point Cook       | 9  | 42  |
| Portland         | 1  | 43  |
| Rosebud          | 9  | 26  |
| Scoresby         | 1  | 71  |
| Shepparton       | 15 | 98  |
| Springvale       | 15 | 32  |
| Sunbury          | 6  | 94  |
| Traralgon        | 13 | 64  |
| Wangaratta       | 13 | 89  |
| Warrnambool      | 13 | 84  |
| Wodonga          | 14 | 47  |

4.10 It is interesting to note from the above table that a high proportion of the CFA's integrated stations are located just outside the MFD in the municipalities identified as

“growth areas”. For example, in the City of Greater Dandenong, integrated CFA stations are to be found in Springvale and Dandenong, reasonably close to the boundary with the MFD. In the City of Casey, there is an integrated station at Hallam. In the City of Knox, there is an integrated station in Boronia, which again is not far from the MFD border. In the City of Nillumbik there is a CFA integrated station at Eltham. In the City of Hume integrated stations are to be found in Greenvale and Craigieburn, which are very close to the border with the MFD. In the City of Melton the integrated station at Caroline Springs is also very close to both the border with the City of Brimbank and the MFD boundary. In the city of Wyndham there is an integrated station in Hoppers Crossing.<sup>127</sup>

- 4.11 The concentration of integrated stations in the urban fringe suggests that the need for the CFA to engage career staff increases as the demands on it to service urban communities increase. In most of the urban integrated stations, the volunteers dwarf the career staff. For example, at Boronia there are 76 volunteers attached to the station, and only 20 career staff. At Hoppers Crossing there are 79 volunteers and 15 career staff. At Melton, there are 115 volunteers and 12 career staff. At Sunbury there are 94 volunteers and only 6 career staff.<sup>128</sup>
- 4.12 In Dandenong, the “split” is more even. There are 43 careers staff and 31 volunteers. The City of Greater Dandenong (which is the subject of closer examination below) is a growing suburb, of which it estimated it is comprised approximately 40% urban, 20% industrial and 40% rural and grasslands.<sup>129</sup>
- 4.13 But it must also be noted that a number of the integrated centres are in Victoria’s large regional towns such as Ballarat, Bendigo, Geelong, Shepparton, Traralgon, Wangaratta and Warrnambool. In Ballarat there are more career staff (33) than volunteers (22). In Geelong there are 35 career staff and only 18 volunteers.
- 4.14 Mr Bourke was asked about the position of the integrated station at Geelong (namely 35 career staff and only 18 volunteers). Mr Bourke denied that there was any imbalance in this arrangement. He said that the model was still one of an ‘integrated station’ and that there was a community desire to retain volunteers. Further, he noted that if the Geelong brigade is called out, it receives ‘back up’ from the volunteer brigades at Belmont and Corio.<sup>130</sup> He described the way in which CFA brigades support one another in the following terms:<sup>131</sup>

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<sup>127</sup> Exhibit 909 – Statement of de Man, Annexure 11A (WIT.3004.047.0229\_02)

<sup>128</sup> Exhibit 909 – Statement of de Man, Annexure 11A (WIT.3004.047.0229\_02)

<sup>129</sup> Exhibit 909 – Statement of de Man, Annexure 11A (WIT.3004.047.0229\_02); Rosevear T19311:6–T19311:17

<sup>130</sup> Bourke T19349:11–T19349:30

<sup>131</sup> Bourke T19365:6–T19365:10

*There seems to be a lot of depth in that [ie in mutual support supplied] volunteer to volunteer, volunteer to integrated, integrated to volunteer. You can almost see it roll layer on layer so one layer moves in, another one comes up behind.*

- 4.15 Similarly, Mr de Man was taken to the example of Ballarat. When it was put to him that it may be better for the CFA to concentrate on the 'rural side', rather than be concerned with structural fires in the City of Ballarat, he said that there was surge capacity in the surrounding regions supplied by volunteer brigades. He said that neighbouring brigades of Wendouree and Sebastopol also provided volunteer support.<sup>132</sup>
- 4.16 The operation of integrated stations tends to demonstrate that career staff and volunteers are capable of working well together in the CFA. This working relationship gives better context to some of the hyperbole in the evidence concerning the alleged difficulty volunteers might face in dealing with an amalgamation. Volunteers already work side by side with career staff in many places. As Mr Bibby said:<sup>133</sup>

*[I]ntegrated stations are working well currently across Victoria and that on both sides, the volunteer side and the career side, there are people who have extreme views and can cause problems. 90 per cent of the people that are there work well together and integrate well together.*

- 4.17 Of course, Mr Bibby was speaking in the context of his proposed model, which calls for the amalgamation of the fire services. However, the integrated station model in the CFA tends equally to provide support for the suggestion that the CFA is capable of responding to the changing needs of the community it serves through this existing model. In other words, the CFA has already demonstrated its capacity to alter the mix of career and volunteer staff in particular areas in order to meet changing risk profiles.
- 4.18 Mr de Man accepted that the CFA is presently a fire service with a paid career force, successfully melded with volunteers, working together in an integrated fashion. He accepted that the CFA aims to have multi-skilled firefighters.<sup>134</sup>
- 4.19 In this context, Mr de Man advanced another reason for retaining the integrated model. He said that removing Geelong and Ballarat from the CFA's responsibility would be the wrong way to go:<sup>135</sup>

*[B]ecause many of our career fire fighters are the future operations officers and operations managers in regions of the future under the current model. Our career fire fighters do a role of not only structural firefighting but also wildfire fighting in support*

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<sup>132</sup> De Man T19175:12–T19176:7

<sup>133</sup> Bibby T19476:11–T19476:17

<sup>134</sup> De Man T19178:1–T19178:26

<sup>135</sup> De Man T19176:17–T19176:31

*of our volunteers. Again I come back to the integrated model. My concern would be that if we just had one part of the CFA workforce just doing structural and we say we don't need the volunteers to do structural in Ballarat . Then we would see the diminishment of the integrated model commencing.*

- 4.20 Mr de Man explicitly rejected any model pursuant to which CFA career firefighters are focused on structure fires and the volunteers concentrate on response to bushfires. He rightly pointed out that the risks which present in some communities cannot, in any event, be neatly divided in this proposed manner. He said:<sup>136</sup>

*They are right across the gamut. If we are to ensure that we skill our career fire fighters to ensure that they can progress through their careers into management, into the operational support arrangements with our volunteers, they need to have the ability to have that level of skill, knowledge and attributes across the raft of risks, not just structural.*

- 4.21 But the irony about the adoption of this position by Mr de Man is that the further one goes down this path, the more difficult it becomes to understand the resistance to a model such as that proposed by the UFUA, or Mr Bibby, or that of Mr Foster. That is to say, the CFA's integrated model as currently conceived already operates on the basis that:
- a) There are large number of integrated stations with career staff and volunteers working side by side;
  - b) Plans are in place for increased numbers of career firefighters (see discussion below in particular in relation to the decisions of the Board of Reference);
  - c) There is already a focus on multi-skilling of CFA personnel and a requirement (or perhaps at least an 'expectation' see further below at paragraphs 4.76-4.77) that depending on risk profile, brigades have sufficient numbers of volunteers trained in both wildfire and structure fire (see the evidence of Mr de Man discussed above).

- 4.22 These very same factors surely tend to suggest that it might make sense for one fire service to deliver the above, via a single multi-skilled, flexible workforce comprised of career staff and volunteers.

- 4.23 Mr de Man refused to accept this. He reiterated that he does not see any 'weakness' in the current arrangements. In this context, however, he appeared to recognise that the real issue was one of 'culture'.<sup>137</sup> It is submitted that the 'culture' argument (discussed in detail below) is a separate issue, and although it perhaps ought not be the case, culture may in the end be a powerful force against change.

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<sup>136</sup> De Man T19177:5-T19177:18

<sup>137</sup> De Man T19178:16-T19179:2



### ***More career firefighters: Decision of the Board of Reference***

- 4.24 Decisions of a Board of Reference made in 2009 were tendered in the hearings. A statement supplied by Mr Thomas (long time CFA employee and union member) was directed in part at providing context and additional material in relation to the Decisions of the Board.<sup>138</sup>
- 4.25 The Board of Reference is apparently a creature of a Common Law Deed, negotiated in conjunction with the Certified Agreement.<sup>139</sup> Mr Thomas suggested that an independent Board of Reference was established prior to 2002, to 'resolve any impasse by hearing submissions and considering evidentiary material, then making recommendations which would be binding upon the parties'.<sup>140</sup>
- 4.26 The composition of the Board of Reference in 2009 was as follows: Mr Merriman (Independent Chair and former Industrial Relations Commissioner), Steve Warrington (Deputy Chief Fire Officer CFA) and Mr Ken Brown (the UFUA's representative, and MFB Operational Commander).<sup>141</sup>
- 4.27 The Board made three decisions pertaining to the appropriate staffing arrangements, including rosters, for more than 20 CFA stations. In relation to the criteria taken into account by the Board in reaching its determinations, Mr Thomas said that the UFUA and the CFA made submissions to the Board, and reviewed a number of brigades 'to determine whether there was a risk to the community and / or firefighters, due to the required standards not being met. Such standards included responding within the CFA standard of fire cover of 8 minutes to urban fire and / or whether there was enough personnel to respond to such fire to perform their duties without endangering themselves or the community. This was also viewed in the context not just of attacking and suppressing a fire, but also being able to effect in a timely manner the rescue of a trapped member of the community'.<sup>142</sup>
- 4.28 He said that an additional criterion taken into account was, 'whether there was an appropriate skill – set of the firefighters who attended such fires / incidents'<sup>143</sup> and whether there are sufficient numbers of firefighters on the fire ground.<sup>144</sup>
- 4.29 Mr Thomas was unable to shed light on whether there are any other criteria which the Board must or may take into account.<sup>145</sup> However, he did supply a detailed body of

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<sup>138</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001)

<sup>139</sup> Thomas T19846:10–T19846:17

<sup>140</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [16]; Thomas T19846:18–T19846:29

<sup>141</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [20]

<sup>142</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [21]

<sup>143</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [22]

<sup>144</sup> Thomas T19848:1–T19848:3

<sup>145</sup> Thomas T19847:19–T19848:4

statistical material which was placed before the Board. That statistical data was generated by the CFA and was part of the material reviewed by the Board.<sup>146</sup>

- 4.30 Mr Thomas said that the data in question concerned the question whether safe crewing levels were available to attend structure fires within a 'realistic time frame'.<sup>147</sup> He said that the data also demonstrated how individual brigades performed, including with the support of other fire services, in meeting service delivery standards. He said the data was used in order to consider whether a brigade required more staff and at what times.<sup>148</sup> He said the data also enabled an analysis to be made of whether the skill profile of the brigade in question was capable of responding by putting four people 'on the fire ground'.<sup>149</sup>
- 4.31 Mr Thomas was asked whether the data placed before the Board demonstrates a need for more firefighters with structural qualifications per se, or whether it demonstrates a need for more career firefighters. He said 'it is a bit of both'. He said the Board decision reflects a decision to deal with the problems identified in a range of ways, including provision of additional career staff, enhancing responses from other brigades and even drawing on the support of the MFB.<sup>150</sup>
- 4.32 The Decisions of the Board on each of 7 and 23 April 2009 contained determinations as to what should occur at 25 CFA stations. Each of these 'decisions' is set out in the table below. In addition, although this material was not supplied by the UFUA, the table below indicates which of the stations affected by the decisions are already integrated stations. This assists one to understand the cases in which the impact of the Board's decision is effectively to require the establishment of an integrated station. The stations which are presently integrated<sup>151</sup> are highlighted in red. It is to be assumed that for the stations which are not already integrated the implementation of the Board's decision is extremely likely to require a move to the integrated model. It can also be seen that for some stations, the recommended 'fix' does not involve engaging or rostering additional career staff:

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<sup>146</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [23]–[24]; see also Annexure 1 (WIT.7557.001.0016) – Annexure 25 (WIT.7557.001.0315)

<sup>147</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [27]–[32]

<sup>148</sup> Exhibit 932 – Statement of Thomas, Annexure 1 (WIT.7557.001.0016) – Annexure 25 (WIT.7557.001.0315); Thomas T19848:10–T19849:19

<sup>149</sup> Thomas T19850:12–T19851:24

<sup>150</sup> Thomas T19851:25–T19852:9

<sup>151</sup> Exhibit 909 – Statement of de Man, Annexure 11A (WIT.3004.047.0229\_02)

| <b>Fire station</b> | <b>Decision of the Board of Reference</b>   |
|---------------------|---|
| Ballarat            | Ballarat City should be increased by 2 firefighters per shift however this should be further reviewed should an additional integrated station be constructed in support of Ballarat City <sup>152</sup>   |
| Diamond Creek       | Increase staff in Eltham [which is an integrated station] to 1 + 1 + 2 and that CFA develop a Strategic Service Delivery Plan to ensure optimal service delivery into Diamond Creek. This should include consideration of the service that could be provided by MFB. <sup>153</sup> |
| Echuca              | No change determined, but 'performance should continue to be reviewed and the parties should consider this station as an appropriate area for a Volunteer Development Program'. <sup>154</sup>  |
| Epping              | To be supported by MFB; a letter of request seeking support to go to MFB <sup>155</sup>   |
| Geelong West        | Increase by 2 firefighters per shift; this will permit 4 competent structural firefighters to respond to all Geelong West calls and provide for 4 to remain in the Geelong CBD area <sup>156</sup>  |
| Hastings            | A day roster with the performance being monitored and if the targets are not met a progression to 24/7 1+1+2 <sup>157</sup>   |
| Lara                | Day going to 24/7 <sup>158</sup>  |
| Lorne               | Seasonal 24/7 roster and the parties are to confer to develop an acceptable 24/7 seasonal roster 1+1+2 <sup>159</sup>   |
| Melton              | Station should be increased by 1 firefighter per shift and over time following the measurement of the performance by a further 1 firefighter per shift <sup>160</sup>   |

<sup>152</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0320

<sup>153</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0320

<sup>154</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0319

<sup>155</sup> For final decision as to Epping see Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 23 April 2009) (WIT.7557.001.0323). Note that decision in relation to Epping was initially reserved – see Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0318

<sup>156</sup> There is already an integrated station at Geelong City. Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0318

<sup>157</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0318

<sup>158</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>159</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0319

|                |   |
|----------------|---|
| Mildura        | 1 additional firefighter per shift <sup>161</sup>   |
| Mooroopna      | Day going to 24/7 <sup>162</sup>  |
| Mornington     | Increase to 1 + 1 + 2 over a period of time as staff become available.  |
| Narre Warren   | The new Casey East station should be maned 1+1 with a transition over time to 1 +1+2 to support volunteerism and that the performance should be closely monitored to determine the timing of this change. <sup>163</sup>          |
| Noble Park     | Increase of 1 firefighter per shift at Springvale and Dandenong to enable these brigades to respond with 4 on the pumper <sup>164</sup>   |
| Ocean Grove    | Day going to 24/7 <sup>165</sup>  |
| Pakenham       | 24/7 <sup>166</sup>   |
| Phillip Island | Seasonal roster 1+1 The CFA and the UFU to work on an acceptable day roster and if necessary with recourse back to Board. The Board considers that this is an appropriate area for a Volunteer Development Program <sup>167</sup> |
| Portland       | 24/7 <sup>168</sup>   |
| Rowville       | 24/7 <sup>169</sup>   |
| South Morang   | Immediately go to 24/7 <sup>170</sup>   |

<sup>160</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0319

<sup>161</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>162</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>163</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0318

<sup>164</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0318

<sup>165</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>166</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>167</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317 and 0319

<sup>168</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>169</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>170</sup> Initial decision at Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317; Revised decision at Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 23 April 2009) (WIT.7557.001.0323) at 0323

|            |  |
|------------|--|
| Sale       | Day roster of 1 + 1 with the parties to review after 3 months as to performance with a view to introducing 24/7 including progression to 1+1+2 if targets are not reached <sup>171</sup> |
| Sunbury    | To increase to 1+1+2 over a period of time as staff become available. <sup>172</sup>   |
| Warragul   | Day roster of 1 + 1 with the parties to review after 3 months as to performance with a view to introducing 24/7 including progression to 1+1+2 if targets are not reached <sup>173</sup> |
| Warrandyte | Day going to 24/7 <sup>174</sup>   |
| Werribee   | Increase Hoppers Crossing to a crew level 1+1+2 and request CFA to develop a Strategic Service Delivery Plan to address fire service delivery into the Werribee Area. <sup>175</sup>     |

4.33 Further reasons for decision of the Board dated 18 August 2009 confirmed that discussions had taken place between the parties and that the Board had been informed of the CFA Regional and Provincial Growth Strategy and that this strategy included 'the outcome from the Board's [9 and 23 April] decisions but also other deliberations and the strategy proposed an increase of 684 operational career staff'.<sup>176</sup>

4.34 The matters above are set out in some detail because they demonstrate that:

- a) The Board is a forum where detailed consideration is given to the mix of career and volunteer personnel and the coverage which ought be provided by CFA stations.
- b) At least part of the Board's deliberations concern performance by the CFA in responding to incidents in the CFA Regions serviced by the stations and brigades in question. To this degree, the Board's considerations are at least in part focussed on the risk profile of the community. The Board in some

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<sup>171</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0319

<sup>172</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0320

<sup>173</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0319

<sup>174</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0317

<sup>175</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 7 April 2009) (WIT.7557.001.0316) at 0320

<sup>176</sup> Exhibit 932 – Statement of Thomas, Annexure 26 (Decision of Board of Reference 18 August 2009) (WIT.7557.001.0325)

instances recommended ongoing review of performance – which underscores the fact that one of the principal criteria is standard of fire cover.

- c) The Board appears to have also had regard to the capacity of volunteers to fill any 'gaps', noting on occasions the merits of instituting a Volunteer Development Program and / or the need to 'support volunteerism' by moving to a new roster over time. It is clear then that the Board has considered the option of supplementing resources via increased volunteer involvement.
- d) In some instances, the Board has also had regard to the question whether the MFB might be able to provide additional service (eg in relation to Diamond Creek).
- e) The places in which increased crew levels are recommended are varied in character; some are in urban areas (eg Narre Warren), others regional (eg Geelong West, Ballarat).
- f) The Board's conclusion (if it is to be implemented) necessitates a dramatic overall increase in the number of career firefighters in Victoria – apparently 684 additional career staff.
- g) It appears that by August 2009, the CFA had confirmed that its plans included increasing the numbers of operational staff by 684 – which on any view, is a dramatic increase. It will bring the overall number to approximately 1179 career staff.
- h) As a further comparative table in Mr Thomas' statement evidences, there is also some correlation between a number of the fire stations found by the Board to require additional staffing or different roster arrangements, and the 52 'hot spot' towns recognised by the State as requiring priority in the development of Township Protection Plans (for example, Lorne, Melton, Ballarat, Pakenham).<sup>177</sup> This indicates that some of the areas requiring additional coverage are more likely to be affecting by bushfire risk, than have a risk profile predominantly related to structure fire.

4.35 The point to be derived from all this is that there appears to be a sound basis for finding that the CFA, in order to meet the needs of the communities it services, requires additional resources which are likely to be comprised of at least the following approaches:

- a) Increases in the numbers of paid firefighters in some areas;

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<sup>177</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [37]–[40]

- b) Increased provision for integrated fire stations;
  - c) Increased volunteer recruitment and perhaps also an increase in the active involvement of volunteers in some brigades;
  - d) Provision of additional support from the MFB in some areas.
- 4.36 One must ask whether proof of the above matters leads inexorably towards embracing the UFUA's model of one amalgamated fire service with Urban and Rural Divisions? Does it drive one towards a conclusion that the MFD should be extended? Not necessarily.
- 4.37 What also emerges from the above is the real prospect that the CFA is capable of addressing the challenges posed by urban growth by altering its staffing profile and by expanding volunteer involvement, while continuing to draw on mutual aid arrangements with the MFB.
- 4.38 However, once one accepts that in order to respond to the needs of the community, the CFA will need to substantially increase its numbers of career firefighters, then the question is raised: Is there a point at which the engagement of large numbers of paid firefighters alters the essential character or culture of the CFA? It also raises the spectre of whether it might be more rational to bring the fire services together to form a single, flexible multi skilled work force – perhaps with urban and rural divisions, just as is proposed by the UFUA.
- 4.39 The Board's decision, as one might expect is silent on the question of whether the requisite additional career firefighters should be supplied by the CFA, the MFB or by a new single fire service with Urban and Rural Divisions. This is understandable. The Board's decision proceeds on the basis that the question for it is restricted to a consideration of the staffing needs of the CFA. This is the limit of its jurisdiction as conferred by the Deed which created it.
- 4.40 Mr Bourke said the CFA has been both a rural and an urban firefighting service since inception, and would continue to move that way into the future.<sup>178</sup> Mr Bourke also said the CFA would continue to respond 'where the growth is'. He said:<sup>179</sup>
- We will grow volunteers there, we will grow career firefighters there, we will grow facilities there, we will meet the demands as those communities grow.*
- 4.41 A decision to increase the numbers of career firefighters by 684 is part of the 'growth strategy' referred to by Mr Bourke. When asked about the results which flowed from the decision of the Board of Reference, he confirmed that the CFA had made a

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<sup>178</sup> Bourke T19347:27–T19347:31

<sup>179</sup> Bourke T19348:16–T19348:19

submission to government seeking funding for a substantial increase in career firefighters. He understood that discussions were still 'with government' at the time at which he gave evidence.<sup>180</sup> When asked why funding had been sought for such a dramatic increase in the number of career firefighters, Mr Bourke confirmed:<sup>181</sup>

*[G]rowth is one of the big drivers for the business. That growth is in those areas we have talked about earlier, the outer fringe of metropolitan Melbourne, major urban centres.*

- 4.42 Mr Bourke also confirmed that he and the Chief Fire Officer agree that the CFA requires a 'substantial increase in its career firefighter staff'.<sup>182</sup> Correspondence was produced which indicated that Mr Bourke had written to the UFUA to confirm that the Board had endorsed a funding submission to government 'based on the Chief Officer's submission to the Dispute Panel' and that he was hopeful the matter of additional funding would be addressed by the government soon.<sup>183</sup>
- 4.43 It is puzzling that the fact the CFA's CEO and Chief Fire Officer hold the view the CFA requires a 'substantial increase' in career staff was revealed in this indirect manner. The fact that the CFA is seeking to so dramatically increase its paid workforce did not form any part of the material in Mr de Man's statement. It is not adverted to in the statement of Ms Armytage. Yet this is obviously relevant to any consideration of organisational change.
- 4.44 The State was coy about the status of the CFA's funding application. Ms Armytage said she had not raised the matter in her statement, because 'there is no conclusion to those matters', as the discussions between the CEO of the CFA and the Department are ongoing.<sup>184</sup> She said there has been no 'firm conclusion' as to what the State should do in response to the application.<sup>185</sup> Later, she said that the latest advice she had was that the final deliberations in relation to those matters would be delayed until after the State budget and after the final deliberations of the Royal Commission.<sup>186</sup>
- 4.45 It is remarkable that the State should vociferously reject all amalgamation proposals while effectively 'sitting on' the fact that the CFA has sought to so dramatically increase its career firefighters. In this context, when it was put to Ms Armytage that the funding application had clear relevance, Ms Armytage asserted that she regarded

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<sup>180</sup> Bourke T19358:21–T19359:15

<sup>181</sup> Bourke T19359:16–T19359:21

<sup>182</sup> Bourke T19360:16–T19360:21

<sup>183</sup> Exhibit 940 – Letter dated 27 April 2010 from Mr Bourke to the UFU (EXH.940.0002)

<sup>184</sup> Armytage T19453:3–T19453:12

<sup>185</sup> Armytage T19453:13–T19453:21

<sup>186</sup> Armytage T19458:27–T19459:6



the matters relating to the Board of Reference as just part of the 'industrial environment' and the 'normal business of the agency'. She had become aware of the issue in her role as Secretary to the Department, but did not regard them as having 'a bearing in terms of the advice we were giving to the government at the time in relation to the response to the bushfires'.<sup>187</sup>

- 4.46 This is an extraordinary suggestion. True it is, as Ms Armytage pointed out, the Board's decision goes to both urban and rural areas, many of which were not bushfire affected.<sup>188</sup> This much is accepted. But it is relevant to a consideration of the February 2009 fires and all proposals for change advocated since, that the CFA has requested such a dramatic increase in numbers of career staff.
- 4.47 If 684 career firefighters are to join the CFA's ranks, then it also raises the question whether such a change will alter the 'mix' at the CFA in a manner which is capable of threatening the volunteer culture which witnesses such as Mr de Man and Mr Ford are so keen to preserve?
- 4.48 It is of note that Ms Armytage said that her researches had revealed that when a fire service becomes dominated by career firefighters, there is a trend towards decline in volunteer contributions.<sup>189</sup> She was asked why this trend was not reflected in the CFA's 31 integrated brigades. She said:<sup>190</sup>

*The CFA is principally a volunteer organisation with career paid firefighters supporting the volunteers in terms of their collective firefighting effort. So in relation to the 31 integrated brigades that we have across the state of Victoria, there is a very good accommodation of the interests of the paid professional career fire fighters and the volunteer professional firefighters that we have through the CFA and so some of the difficulties that have been evidenced in other jurisdictions are not reflected in that CFA culture.*

- 4.49 She was asked whether there is a 'tipping point' at which the numbers of career staff in the service promotes a trend of volunteers leaving. She said that keeping numbers of career staff in the CFA relatively low was not the explanation for the success of the integrated model. Rather, she said it was about the overall 'ethos' of the organisation, its 'core mission' and how it sees itself delivering effective fire services. She suggested that maintaining the ethos of a predominantly volunteer organisation with support from career staff was the 'appropriate balance and organisational ethos' which allows maintenance of the integrated model.<sup>191</sup>

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<sup>187</sup> Armytage T19454:13–T19454:24

<sup>188</sup> Armytage T19454:25–T19455:4

<sup>189</sup> Armytage T19405:1–T19405:17

<sup>190</sup> Armytage T19405:24–T19406:2

<sup>191</sup> Armytage T19406:3–T19406:16

- 4.50 It is submitted that it is not so obvious that increasing the numbers of paid firefighters from approximately 495 to 1179 staff will maintain the ethos and careful balance of which Ms Armytage spoke. Neither the CFA nor the State supplied any evidence which might demonstrate the same.
- 4.51 The VBFV appears to doubt that the ethos of the CFA is safe. A circular prepared by the CEO of the VFBV dated 21 April 2009 indicated in very strong terms the concerns of the VFBV as to the decision by the Board of Reference. In the circular, Mr Ford expressed the view that the CFA had 'surrendered operational control' to an external industrial relations panel. The circular expressed concerns about the process adopted by the Board, the cost of the implementation of the decision and the fear that funding might, as a result, be directed away from supporting, training and equipping volunteers.<sup>192</sup>

### ***Standard of fire cover and service delivery standards***

- 4.52 A central plank of the arguments advanced by the UFUA in its submissions and by Professor Haywood in his report is that the MFB provides a superior standard of fire cover in its response to structure fires, compared with the CFA.
- 4.53 The evidentiary foundation for this claim was weak in some respects. However, it also emerged in evidence that the CFA's reporting of compliance with standards is not entirely transparent, which is a matter of concern for a number of reasons.
- 4.54 It appears to be common ground that the MFB has a target response time to structure fires of first fire truck on scene within 7.7 minutes (to the 90<sup>th</sup> percentile) and a second truck on scene within 10 minutes. In fact, in recent years the MFB has been achieving 8.4 minutes to the 90<sup>th</sup> percentile.<sup>193</sup>
- 4.55 The MFB Annual Report for 2008 – 2009 indicates that:
- a) During the period, the MFB attended to 35,706 calls;<sup>194</sup>
  - b) Its response time (to the 90<sup>th</sup> percentile) was 8.4 minutes (up from previous years for reasons including work practices and increased traffic congestion);<sup>195</sup>
  - c) False alarms account for more than 40% of the incidents attended by the MFB;<sup>196</sup>

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<sup>192</sup> Exhibit 932 – VFBV Circular to Members re Board of Reference Decision, dated 21 April 2009 (TEN.301.001.0001); letter put to Mr Thomas in evidence at Thomas T19857:1–T19857:27

<sup>193</sup> Exhibit 917 – Haywood Report (UFU.002.002.0786) at 0789; Exhibit 856 – MFB Annual Report 2009 (TEN.206.001.0001) at 0013

<sup>194</sup> Exhibit 856 – MFB Annual Report 2009 (TEN.206.001.0001) at 0012

<sup>195</sup> Exhibit 856 – MFB Annual Report 2009 (TEN.206.001.0001) at 0013

<sup>196</sup> Exhibit 856 – MFB Annual Report 2009 (TEN.206.001.0001) at 0014

- d) Fires and explosions account for approximately 30% of the incidents attended by the MFB;<sup>197</sup>
- e) The MFB achieves 'containment to room of origin' 90.9% of the time.<sup>198</sup>

4.56 The CFA Annual report for 2009 records that:

- a) During the period, the CFA turned out to 39,987 incidents as the primary response, of which 25,525 were classified as emergency incidents 'for measurement of SDS purposes';<sup>199</sup>
- b) Support turn outs by the CFA numbered 35,807;<sup>200</sup>
- c) There was a total of 75,794 turn outs;<sup>201</sup>
- d) Monthly compliance with the Service Delivery Standards by the CFA ranged between 88.5% and 90.6% over the year June 2008 to June 2009. Over the entire year, the compliance rate was 89.45%.<sup>202</sup>

4.57 As is noted above, a key measure against which the MFB reports its performance is its success in confining fires to the room of origin. Containment to the room of origin is a good measure of success in limiting damage and cost caused by structure fires.<sup>203</sup> Professor Haywood asserted in his report that the CFA does not report against this 'containment to room of origin' standard.<sup>204</sup> In fact it does so report, but its rate of success is far lower, being 61% across the CFA Areas, and ranging from 49% in the North East to 70% in Westernport.<sup>205</sup>

4.58 In some respects the application of and compliance with the CFA's reporting standards was difficult to unpick. It appears that despite the fact that power rests with the OESC to determine standards for the CFA, it has not done so.<sup>206</sup> Rather, the CFA has developed its own internal Service Delivery Standards against which it reports in its Annual Report. Those Service Delivery Standards were produced to the

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<sup>197</sup> Exhibit 856 – MFB Annual Report 2009 (TEN.206.001.0001) at 0014

<sup>198</sup> Exhibit 856 – MFB Annual Report 2009 (TEN.206.001.0001) at 0015

<sup>199</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0024

<sup>200</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0021

<sup>201</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0021

<sup>202</sup> Exhibit 855 – CFA Annual Report 2009 (TEN.205.001.0001) at 0023–0024; The figures for the period 01.07.09 to 31/03/2010 were also supplied and demonstrated a statewide compliance rate of 88.88% – see Exhibit 926 – SDS Statewide Summary (DOC.CFA.015.0001) at 0002

<sup>203</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0790; Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [45]–[50]

<sup>204</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0790

<sup>205</sup> Exhibit 855 – CFA Annual Report (TEN.205.001.0001) at 0031

<sup>206</sup> See sections 6B and 6C Country Fire Authority Act 1958; Bourke T19343:3–T19343:24

Commission, but do not appear to be available to the public and are not reproduced in the Annual Report.<sup>207</sup>

- 4.59 The Service Delivery Standards are not entirely self explanatory. The Standards contain a number of Response Time Definitions and standards.<sup>208</sup> 'Response Time' is defined as the 'interval between the notification of the first brigade and the arrival of the first fire truck on scene'. In other words 'response time' is the sum of turnout time and travel time.
- 4.60 Turn out times are devised on a sliding scale depending on the type and resource level of the brigade.<sup>209</sup> The Classes of Hazards referred to in the Service Delivery Standards are: High Urban, Medium Urban, Low Urban, Rural, Remote Rural, Urban Road Accident Rescue, Rural Road Accident Rescue and Hazmat incident. The Vehicle response time for Medium Urban hazard class<sup>210</sup> is 8 minutes. It can be seen that this target compares favourably with the MFB target of 7.7 minutes (and its reported result of 8.4 minutes).
- 4.61 For Low Urban hazard class,<sup>211</sup> the vehicle response time prescribed is 10 minutes. It should be noted that no vehicle response time is provided for the High Urban hazard class (described as a structure or series of structures which present a serious life hazard from fire).<sup>212</sup> The explanation given for the failure to specify a response time for the High Urban hazard class is that an 'integrated package' has been developed for this hazard class which 'does not rely exclusively on response times'. A note to the standards records that in 1998, the Chief Fire Officer directed that the use of Hazard Class 1 as a category for the purpose of response time reporting be discontinued.<sup>213</sup>
- 4.62 It can be seen from the above that there are difficulties associated with attempting to compare the standard of fire cover offered by the CFA compared with that offered by the MFB. Response times are defined differently; classes of hazard appear to be characterised in a different manner.

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<sup>207</sup> Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

<sup>208</sup> Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

<sup>209</sup> Turn out times are further defined by reference to the resources available to the brigade; for example, a turn out time of 1.5 minutes is assigned to a brigade with more than one career officer on duty; in contrast a turn out time of 4.0 minutes is assigned to a fully volunteer brigade or one with only one career officer on duty with an Emergency Reporting System, siren, full complement of pages and incorporating any hazard class 2 locations in their response area: see Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

<sup>210</sup> Described as Significant Urban Areas, primarily residential areas involving commercial centres, clusters of industrial and / or institutional hazards: see Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

<sup>211</sup> Described as encompassing all structural hazards in urban areas not falling into the other two urban classes and includes predominantly residential occupancies and small industries: see Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

<sup>212</sup> Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

<sup>213</sup> Exhibit 926 – CFA's Service Delivery Standards (DOC.CFA.015.0003)

- 4.63 The public reporting of compliance by the CFA is not undertaken in a manner which makes it possible (on the face of the Annual report) to ascertain the actual response times of CFA brigades.
- 4.64 It is submitted that the MFB and the CFA ought, so far as is possible, report against the same measures – at least in relation to the portion of the work of each of them which involves response to structure fires. This ought to be done also to enable the public and those charged with the responsibility of determining the best means of delivering service to the community to “compare apples with apples”.
- 4.65 Whenever any question arises as to whether a particular urban community should be serviced predominantly by the CFA or the MFB, and / or by an integrated fire station, one of the factors to be considered must surely be the performance and capacity of each fire service to respond to structure fires in that area. It is important that these capacities can be gauged and compared.
- 4.66 Mr Bourke agreed that the compliance by the CFA with its own internally set ‘Service Delivery Standards’ sits at between 88 and 90 percent.<sup>214</sup> He described the standards as ‘internally derived service standards’.<sup>215</sup> Mr Bourke suggested there was some work being done in ‘underpinning these standards’ and he understood them to be ‘not totally comparable but near comparable with that of the MFB’.<sup>216</sup>
- 4.67 Although the CFA provides information to the OESC in relation to its compliance with standards, those standards are not set by the OESC.<sup>217</sup>
- 4.68 Ms Armytage accepted that the community is entitled to be assured that the standards required to be adhered to by the fire services evidence the following:
- a) That they are readily ascertainable and publicly available.<sup>218</sup> It appears the CFA’s Service Delivery Standards have not routinely been set out in its Annual Reports.
  - b) That they are consistent, so far as is relevant, across all fire services in Victoria.<sup>219</sup> In other words, if two fire services have responsibility for responding to structure fires, then they ought be adjudged according to the same standards in relation to that response.

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<sup>214</sup> Bourke T19361:3–T19361:12

<sup>215</sup> Bourke T19352:8–T19352:17

<sup>216</sup> Bourke T19353:8–T19353:12

<sup>217</sup> Bourke T19353:13–T19353:29

<sup>218</sup> Armytage T19417:15–T19417:22

<sup>219</sup> Armytage T19417:23–T19417:27

- c) That there is accountability for adherence with those standards.<sup>220</sup>
- 4.69 The determination of standards for fire services (for structure fires and bushfires) and the auditing of compliance with those standards should not be an in house affair. It ought to be independently monitored. The question of which entity ought to set the standards and which entity ought to monitor compliance, is discussed in more detail below.
- 4.70 Mr Thomas' witness statement advanced an example of what was said to be proof that the CFA's performance is inferior to that of the MFB in the form of analysis of a fire in March 2008 at the Apollo Parkways Primary School. Mr Thomas attached to his statement a letter from a concerned parent which made a number of assertions about the response time to that fire. It appears that a fire at this school in March 2008 caused serious damage.<sup>221</sup> It is indeed lucky, as the parent observed, that this major fire occurred during school holidays.
- 4.71 The school is just outside the MFD. Mr Thomas' statement asserted that the CFA brigades first paged to attend the fire did not turn out within the standard for appliance turn out set by the CFA.<sup>222</sup> He appeared to be asserting that the MFB ought to have been the first appliance despatched.<sup>223</sup> It emerged in evidence, however, that a number of the concerns outlined in the parent's letter were not borne out by CAD data.<sup>224</sup>
- 4.72 The proposition which appeared to be being advanced by the UFUA was that as Greensborough MFB was technically the closest fire station to the school, it should have been the first despatched, however it appeared that Plenty and Diamond Creek volunteer stations were paged first, followed by the Eltham integrated station (which is in a different CFA region from the school), and finally Greensborough MFB were paged. It appeared to be being suggested by Mr Thomas that Plenty and Diamond Creek volunteer stations were paged prior to Eltham Integrated station purely because the latter is in a different CFA region.<sup>225</sup>
- 4.73 The State advanced the view that Plenty was the appropriate station to page (being only 3.3km from the school). It noted further that Diamond Creek is 5.5km away, while Eltham is 8km. In contrast, Greensborough MFB station is 2.9km away, a mere

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<sup>220</sup> Armytage T19417:27–T19417:29

<sup>221</sup> Exhibit 932 – Statement of Thomas, Attachment 29 – Letter to Coroner (WIT.7557.001.0327)

<sup>222</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [52(b)]

<sup>223</sup> Exhibit 932 – Statement of Thomas (WIT.7557.001.0001) [52(a)]

<sup>224</sup> Exhibit 932 – Statement of Thomas, Attachment 29 – CAD data (WIT.7557.001.0329)

<sup>225</sup> Thomas T19865:14–T19865:22

400m closer than Plenty station. The MFB were in fact despatched, but the fire had taken hold within two minutes in any event.<sup>226</sup>

4.74 Mr Dean SC for the UFUA submitted that the example of Apollo Parkways school was put forward merely as 'an illustration' of the problem in relation to the CFA and the MFB both being responsible for events in metropolitan Melbourne.<sup>227</sup> The question of whether one isolated example offers value as an 'illustration' is one thing. But in any event, it is not possible on the face of the scant materials available to ascertain the facts pertaining to the fire at Apollo Parkways school. The suggestion by Mr Thomas that CFA's regional boundaries might override the provision of the best possible service was made late in proceedings and in circumstances where relevant materials, including those concerning despatch protocols which might be required to be explained by ESTA, were not able to be examined. Counsel Assisting agree with the observations made by Commissioner Pascoe that one could not accept a situation in which CFA would not dispatch the closest appliance for reasons based on a regional boundary that it created itself.<sup>228</sup>

4.75 The material produced by Mr Thomas which was also put before the Board of Reference supplies a better guide to the CFA's capacity to deliver in accordance with its Service Delivery Standards. The materials supplied related to thousands of incidents across the 25 brigades under examination.<sup>229</sup> The data was clearly influential in the findings by the Board that the CFA has insufficient resources to respond to structure fires in many of the areas examined.

### ***Mixed skill profiles***

4.76 It is clear from the evidence now before the Commission that volunteers will increasingly be called upon to respond to structure fires in Melbourne's urban growth regions and large regional towns.

4.77 In relation to the skills profile of volunteers, Mr de Man's evidence was somewhat equivocal. He indicated that for volunteers to attend structure fires, they need to have undertaken the requisite training in order for it to be safe for them to do so. On the other hand, he also said that a volunteer with minimum wildfire skills 'can attend' a structure fire and 'do levels of firefighting to that level of competency; ie holding the hose externally to the building. They are not qualified to go internally to do an internal

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<sup>226</sup> See exchange between Clelland SC and Thomas at T19876:16–T19879:27

<sup>227</sup> See Dean for the UFU at T19868:4–T19868:17; see also Thomas T19858:7–T19862:21; T19865:4–T19867:12

<sup>228</sup> Commissioner Pascoe T19866:25–T19867:5

<sup>229</sup> Thomas T19868:18–T19872:3

aggressive attack'.<sup>230</sup> This is an odd suggestion. It does not appear likely that on attending a fire, a CFA volunteer would 'hold back' outside by reason of the fact that they had not completed a certain training unit. It is very likely they would do all they could to assist the public and their colleagues, including by entering the building if they felt it necessary. This is the sort of selfless thing volunteers do and have done regularly. It is a brave thing to do. However, if volunteers are not properly trained to fight structure fires, they risk injury to themselves, their colleagues and the public.

- 4.78 Mr de Man went on, using the Rye brigade as an example, to suggest that the brigade would have a number of volunteers trained in structural fires so that the brigade could attend to structure fires. But he described this as an 'expectation' and not a 'requirement'. In the next breath, he said that it is a requirement that the brigade has sufficient numbers trained to 'fulfil its role in the community'.<sup>231</sup> When asked directly whether it is a requirement that the truck that turns out for the fire contains the personnel with the proper qualifications, the following exchange took place:<sup>232</sup>

*DE MAN: The best I could say in answer to that .is it would be – you would expect that with the brigade profile there would be people on the appliance that would have that training level.*

*RUSH QC: so the answer really is no*

*DE MAN: If you put it that way, correct.*

- 4.79 These circular answers are troubling. It is submitted that it must be 'expected' that the CFA personnel (whether volunteer or professional) who attend structure fires are adequately trained and qualified for that role. Any distinction between expectations and requirements is semantics.
- 4.80 CFA personnel who attend structure fires must be properly qualified: in order to provide adequate fire cover and in order to ensure the safety of the firefighters themselves. If there is some deficit in this regard, this is a serious matter. If the CFA does not have sufficient numbers of personnel trained to fight structure fires in areas where this is a significant part of the work, it must remedy this. There are at least four means available:
- a) Make the case for provision of more career staff;
  - b) Recruit more volunteers or seek more active involvement from volunteers already on the books;

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<sup>230</sup> De Man T19167:28–T19168:5

<sup>231</sup> De Man T19168:18–T19168:27

<sup>232</sup> De Man T19168:28–T19169:4



- c) Train more volunteers in structural firefighting;
  - d) Inform the MFB that the load is not able to be met and seek provision of mutual aid in the area.
- 4.81 This is not a matter which can be ignored. Sending personnel who are not adequately trained to fight structure fires imperils the lives of the community, the untrained personnel and others working with them.

## 5 RISKS ASSOCIATED WITH CHANGE

### *Don't throw out the baby with the bathwater*

5.1 The Commission heard from three experts in management of organisational change and the structure of emergency services: Professor Leonard, Professor 't Hart and Major General Molan.

5.2 Professor 't Hart emphasised the risks associated with 'overstretching the lessons from Black Saturday'.<sup>233</sup> He said:<sup>234</sup>

*Redesigning emergency management systems or organisations often happens as a result of the sheer momentum for change created by the occurrence of a recent high-impact tragedy. Unfortunately, there is plenty of research to suggest that such crisis – induced reforms may create as many vulnerabilities as they seek to eliminate – particularly when they are too narrowly focussed on 'winning the most recent war'*

5.3 Professor 't Hart says that 'one cannot infer from the mere occurrence of a high casualty tragedy such as Black Saturday that existing emergency management systems therefore must have failed and that there is a need for far reaching structural reforms.'<sup>235</sup> He counselled against 'putting too strong a microscope on one event' or relying on one dramatic event as the sole guide for the re-design of policies.<sup>236</sup> He said one ought not rely on one dramatic event as the sole guide for the redesign of policies, or on 'crisis-induced reforms' which potentially create more vulnerabilities than they seem to eliminate.<sup>237</sup> Professor 't Hart's report specifically eschews any consideration of the 'amalgamation question.' He says:<sup>238</sup>

*Clearly one of the big questions on the public mind following the Black Saturday bushfires is whether Victoria has one (or even two) fire brigades too many. In this submission, I have not studied this question specifically. Still, the general lesson that emerges from international emergency management research is pretty clear; it is not*

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<sup>233</sup> Exhibit 905 – Organising for Effective Emergency Management – Submission to the Victorian Bushfires Royal Commission by Professor Paul 't Hart ('t Hart Report) (EXP.3031.001.0001) at 0013

<sup>234</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0013

<sup>235</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0014

<sup>236</sup> 't Hart T19063:26–T19064:2

<sup>237</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0013

<sup>238</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0014

*the formal structures but the quality of communication, coordination and collaboration within, across and beyond fire services that matter most in shaping the quality of emergency responses. Yes, troublesome information sharing and poor coordination of decisions and operations lie at the heart of many emergency response pathologies. But it is wrong to conclude these go away when organisations are chopped and changed, for instance by forcibly merging them into 'superagencies'. Such 'solutions' impose huge transaction costs. They entail protracted uncertainty that may depress rather than enhance the system's overall response capacity during the transition period. And in the case of the CFA they end up compromising if not destroying the unique community-building social capital and dense network of 'eyes and ears' that 58,000 locally embedded volunteer fire-fighters constitute. (The evidence from research into the effects of corporate mergers and takeovers is also clear: more than half of them fail in terms of value creation, and many end up exacerbating rather than erasing the tribal identities).*

- 5.4 Ms Armytage, Secretary of the Department of Justice, embraced these observations of Professor 't Hart, suggesting that there was a risk that 'amalgamation might produce an entity that, while nominally unified, actually consists of separate silos along existing organisational lines'.<sup>239</sup>
- 5.5 Professor 't Hart expanded on the above, noting that while in the corporate world, a drive to achieve efficiency may promote amalgamation, in the context of emergency organisations, efficiency ought not be the sole criterion, as often 'redundancies, backups, multiple people looking at the same thing are precisely what makes the response operations effective'.<sup>240</sup>
- 5.6 Professor Leonard also warned of the tendency after major fire events to imagine that centralised omniscient control and command structure would provide better response.<sup>241</sup> He pointed to the inevitability of some degree of chaos in the management of an extreme event<sup>242</sup> and commented on the 'fantasy' of the belief that the only level for effective management is the centralisation of command.<sup>243</sup>
- 5.7 Evidence of Professors Leonard and 't Hart emphasised a requirement to move with great care before one embarked on the road of merger or amalgamation. The 'virtue of mergers are very overstated ... this is particularly true when the different kinds of the organisations that you are merging are actually quite different from each other'.<sup>244</sup>
- 5.8 The acceptance of these general principles does not mean there should never be change after catastrophe. An analysis of the facts, an evaluation of the organisations

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<sup>239</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [123]–[124]

<sup>240</sup> 't Hart T19065:17–T19065:24

<sup>241</sup> Exhibit 904 – Organizing Response to Extreme Emergencies, by Herman B Leonard (Leonard Report) (EXP.3031.001.0018) at 0021

<sup>242</sup> Leonard T18976:4–T18976:7

<sup>243</sup> Leonard T18975:20–T18975:24

<sup>244</sup> Leonard T18993:22–T18993:29: see also Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0014

against purpose and judgements as to how they can best perform into the future must also be taken into account.<sup>245</sup>

### Professor 't Hart: key principles

- 5.9 Rather than positing major structural reform, Professor 't Hart recommended identifying a set of administrative principles which serve policy makers well in organising and managing a crisis response network.<sup>246</sup> The set of principles he identifies are now analysed in some detail.
- 5.10 Professor 't Hart recommended that emergency organisations focus on the basic functions required to be undertaken by emergency organisations: warning, mobilisation, registration, evacuation, sheltering, emergency medical care and after care, search and rescue, protection of property and information dissemination. These functions should be planned for and ready to use through periodic training.<sup>247</sup> Professor 't Hart said these are the things that 'need to be done in order to produce the best possible type of emergency response'.<sup>248</sup>
- 5.11 Professor 't Hart stated that high level policy makers should be trained to deal with emergencies – including by very practical means, including development of checklists, and scenario based training.
- 5.12 Professor 't Hart supported frequent and rigorous crisis exercise and simulation as the best means of ensuring better emergency management 'when it counts'. In this regard he cited the regular crisis management exercises held in New York before September 11.<sup>249</sup> He referred to the importance of training under full-blown disaster conditions.<sup>250</sup>
- 5.13 Professor 't Hart emphasised that organisations need to be engaged in ongoing risk management, top to bottom continuous training and education of personnel, testing and learning through rigorous table top and field exercises, and the building of productive working relationships and mutual trust between the organisations which may become involved in emergency management.<sup>251</sup> He advocated continual monitoring, updating and adjusting in light of experiences from operations (and training exercises).<sup>252</sup> Exercises are 'an integral part of planning'.<sup>253</sup>

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<sup>245</sup> 't Hart T19084:22–T19084:28

<sup>246</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0014

<sup>247</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0015

<sup>248</sup> 't Hart T19043:3–T19043:15

<sup>249</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0015

<sup>250</sup> 't Hart T19047:16–T19047:22

<sup>251</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0007

<sup>252</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0007; and see 't Hart T19048:6–T19049:11

<sup>253</sup> 't Hart T19046:18–T19046:25

- 5.14 Major General Molan also commented that it would be ‘folly to consider the tragedy of the events of [7 February 2009] as existing at the extremes of our ability to manage’.<sup>254</sup> This comment was made in the sense of highlighting the necessity of preparation, including the requirement for ‘planning, training, rehearsal, briefing’.<sup>255</sup>
- 5.15 He said that it is of the utmost importance that those that are called upon to manage a crisis ‘exercise’ emergency response to gain experience, so that concepts of command and control are tested. To keep the experience gained, it is important that command teams within organisations such as Incident Management Teams are kept as stable as possible.<sup>256</sup>
- 5.16 Professor Leonard also emphasised the need to train and practice for emergencies. He pointed out that the greater the decentralisation, the greater the need for that training.<sup>257</sup>
- 5.17 A Chief Fire Officer must ensure that the practice and rehearsals are such that Incident Management Teams and those exercising command and control are as trained and as ready for the crisis as it is possible to be.
- 5.18 Professor ‘t Hart urged that organisations adopt a new planning approach: rather than compiling detailed procedures, create brief documents which capture the key principles of effective emergency management.<sup>258</sup> Professor ‘t Hart emphasised the importance of creating useful disaster plans, rather than “fantasy documents” which underrate the damage and chaos some disasters entail.<sup>259</sup> He pointed out that many such plans (with their focus on “recording procedures, routines, actors and venues) may work well for ‘predictable, routine disturbances’ but fail in the context of major emergencies.<sup>260</sup> He said that examples of good practice in emergency planning are available, for example the City of London and Rotterdam have created superior plans for emergency events.<sup>261</sup> In this regard, Professor ‘t Hart accepted that planning for fire in Victoria may be in a different category from planning for extreme, shocking emergencies of which there is no warning (for example 9/11 terrorist attack, plane crash or an unforeseen tsunami). He accepted that given our relative familiarity with fire, and the capacity to predict the weather conditions conducive to it, it is therefore

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<sup>254</sup> Exhibit 897 – Molan Report (EXP.030.001.0001) at 0003

<sup>255</sup> Exhibit 897 – Molan Report (EXP.030.001.0001) at 0004

<sup>256</sup> Exhibit 897 – Molan Report (EXP.030.001.0001) at 0007

<sup>257</sup> Exhibit 904 – Leonard Report (EXP.3031.001.0018) at 0031

<sup>258</sup> Exhibit 905 – ‘t Hart Report (EXP.3031.001.0001) at 0015

<sup>259</sup> Exhibit 905 – ‘t Hart Report (EXP.3031.001.0001) at 0005

<sup>260</sup> Exhibit 905 – ‘t Hart Report (EXP.3031.001.0001) at 0005

<sup>261</sup> Exhibit 905 – ‘t Hart Report (EXP.3031.001.0001) at 0007; see also at ‘t Hart T19043:16–T19044:13

possible to go into more detail when planning for fire, than other for other extreme, unknown contingencies.<sup>262</sup> As was noted by Commissioner McLeod in this context:<sup>263</sup>

*...we are dealing here with, a variety of agencies who are essentially focussed on managing fire? The narrower the field, surely the less scope there is for surprise in comparison with, for example, the police, who have to deal with a whole variety of emergencies and disasters that may occur in a community, many of which could be completely unexpected and unusual and unique*

- 5.19 Professor 't Hart maintained organisations should prepare more intensively for the post emergency phase.<sup>264</sup> He commented that many policymakers underestimate the scale of the crisis which will prevail after the emergency and the realities of the need to engage in 'the politics of post-emergency management'.<sup>265</sup>
- 5.20 Professor 't Hart recommended that emergency management systems be regularly audited by independent experts.<sup>266</sup> He referred in this context to the Dutch phrase 'vreemde ogen dwingen' or 'foreign eyes compel'. There ought be regular peer review of the plans and procedures and/or a quasi regulatory body to consider such matters.<sup>267</sup>
- 5.21 It can be seen that each of the above principles identified by Professor 't Hart might equally be achieved by multiple or single fire agencies. There is nothing about any of the above features of a successful emergency response organisation which compel either maintenance of the status quo, or a move to streamline our fire agencies.
- 5.22 However, the final feature referred to by Professor 't Hart was communication. Professor 't Hart identified 'breakdown in communications' as one of the key failures which often occurs in the emergency response. In this context, Professor 't Hart observes that while some such breakdowns are the result of technology failures, many are the result of cultural barriers between organisations, brought about by lack of pre-existing communications channels, 'lack of trust between organisations, predominance of narrow, monopolistic disciplinary or localised definitions of what is going on and what it is important to know and divulge to others'.<sup>268</sup>
- 5.23 Professor 't Hart advocated a focus on preparing for emergencies effectively by forging relationships among response agencies and others. 'Strategic policy makers should do everything to foster the growth of such networks. They should not tolerate

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<sup>262</sup> 't Hart T19034:18–T19037:1; T19039:20–T19040:17

<sup>263</sup> Commissioner McLeod T19040:18–T19040:28

<sup>264</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0015

<sup>265</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0006–0007

<sup>266</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0016

<sup>267</sup> 't Hart T19067:30–T19068:22

<sup>268</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0005–0006

the persistence of non-contact, silo mentalities and bureaucratic turf wars in interorganisational relations within the emergency management domain'.<sup>269</sup>

- 5.24 Despite the above analysis, Professor 't Hart appeared to advocate strengthening the links between emergency organisations, rather than forcing their merger. He emphasised that successful emergency response will to a considerable degree be determined by the 'breadth and depth of interorganisational relations' between the agencies in its emergency management system. He says:<sup>270</sup>

*Just having high-performing components within that system is not good enough; it is the linkages between components that make or break systemic resilience.*

- 5.25 Professor 't Hart asserted that there is no evidence to suggest that trust and communication are superior as between separate units within a single organisation and multiple organisations. He noted that there can be rivalry within a single organisation, and that 'what really matters is the process that these people have been taken through in preparing them to work together under extreme circumstances'.<sup>271</sup>
- 5.26 Professor 't Hart recommended a focus on achieving 'effective and sustained interorganisational collaboration in emergency management'.<sup>272</sup> In order to achieve this, he opines that the best approach is to articulate a set of common purposes, engage in inclusive membership, agree upon an authoritative decision making and conflict resolution structure at the top level of the network and allocate resources in a manner which provides incentives to organisations to 'take collaboration seriously'. Finally he recommended creation of a 'self sustaining culture of collaboration'<sup>273</sup> by promoting opportunities for dialogue, socialisation and training.<sup>274</sup>

## **Risks to volunteers**

- 5.27 The major risk to this State's firefighting capacity upon organisational restructure is the risk of the loss of volunteers to the CFA.
- 5.28 As is referred to earlier in these submissions, a key concern of individual volunteers and the VFBV is amalgamation of the CFA, with the career firefighting agency MFB; this is seen as inevitably bringing about a clash of cultures and a loss of identify and independence of CFA volunteers.

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<sup>269</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0015

<sup>270</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0011

<sup>271</sup> 't Hart T19047:2–T19047:22

<sup>272</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0012

<sup>273</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0012–0013

<sup>274</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0013

- 5.29 The term amalgamation carries with it in relation to this topic of organisational restructure different meanings for different people.
- 5.30 On the urban fringe of Melbourne an amalgamation of sorts has taken place – the integration in CFA brigades of career firefighters who work with volunteer firefighters. The evidence is that in general this situation of integrated brigades works well and indeed is absolutely necessary to ensure proper standards of firefighting response for the community. It is noted that the command structure in such brigades means that a career officer is the senior officer in the brigade and the highest rank that can be reached by a volunteer is first lieutenant.
- 5.31 The sense of ownership of CFA by volunteers who commit so much of their time to the organisation is readily understandable; yet if change is shown to be necessary and desirable, can be explained in practical terms and practical outcomes then it should not impact on the enthusiasm or commitment of volunteer firefighters.
- 5.32 It is to be noted that CFA, when not bound by the single government representation of the Royal Commission, made a significant submission to the Esplin Inquiry into the 2002-2003 bushfires. This submission called for an amalgamation of CFA with DSE (see the discussion in Chapter 8 below). That model was apparently acceptable across CFA – yet there is evidence to suggest that the cultures of the two organisations are very different. The volunteer ethos is of great importance but the assertions of loss of volunteers upon change needs to be put in context. Certain types of amalgamation appear acceptable to the volunteers. The assertions of volunteer loss have tended to be overstated in evidence.
- 5.33 That said, any change to organisational structure of firefighting agencies needs to be in sympathy with the volunteer base of the CFA to ensure the core firefighting capacity of that organisation is maintained. The evidence suggests that for volunteers there would be justified confusion and despondency and potential loss of experience if, in any restructure, the CFA lost its identity and volunteer ‘independence’ within the organisation was compromised. The importance of volunteers organising and directing volunteers is fundamental to this independence and to the morale of volunteers.
- 5.34 All this needs to be kept in mind with any proposed changes to the organisation.

### ***Tasmania’s experience of the integrated fire service model***

- 5.35 The decision to amalgamate Tasmania’s rural and urban fire services was driven by concerns about inconsistency between the previously separate fire services,

particularly in the areas of training, operational response, equipment and communications, and by a desire to achieve administrative and purchasing efficiencies.<sup>275</sup>

- 5.36 Speaking thirty years after the amalgamation came into effect, Mr Brown acknowledged that there were difficulties involved in merging separate systems and cultures but ultimately described the process as a success:<sup>276</sup>

*[The amalgamation] happened and people were all put in under the same badge and in the same uniform, but I think it is fair to say it took a significant amount of time for a lot of the other things to take place. Standard training regimes did occur and I guess it took about the first 10 years for that to happen... There was standardisation in equipment and a statewide radio system was established... I think some of the things that took longer were more the cultural differences. There were cultural barriers between career and volunteer and urban and rural fire services... there is perhaps some elements of that that still exist, but in a very minor way compared to how it was even 20 years ago or even 10 years ago. So, it has taken a long time to get those cultural matters worked through... But I think the proof is in the pudding now and it does work well together and we do have our career people working in with volunteer people very successfully and vice versa...it is probably only now that we are really reaping the benefit of that amalgamation.*

- 5.37 The creation of an integrated rural/urban, career/volunteer fire service appears to have been a successful, albeit lengthy, process in Tasmania. It must, however, be acknowledged that there are a number of significant differences between the Tasmanian and Victorian contexts. For example, parks and reserves and state forests comprise over 40 percent of land in Tasmania and these areas come under the primary jurisdiction of land management agencies rather than the integrated fire service.<sup>277</sup> Further, the number of both career and volunteer staff in the fire service is much lower in Tasmania than in Victoria - 230 career firefighters and 5000 volunteers in Tasmania, compared with over 400 CFA career firefighters and 59,000 volunteers and 1,713 MFB operational staff in Victoria.<sup>278</sup> These distinct features necessarily mean that the task of amalgamating the rural and urban fire services would be a vastly different task in Victoria.

## 6 CULTURE

- 6.1 The Royal Commission now has evidence about two important 'cultures'
- a) That referred to as 'volunteerism'; and

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<sup>275</sup> M Brown T10360:27–T10361:23

<sup>276</sup> M Brown T10362:6–T10362:30

<sup>277</sup> M Brown T10363:18–T10363:25

<sup>278</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [65]; Exhibit 3 – Statement of Rees (WIT.004.001.0001) [21]; Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [19]



- b) That euphemistically described by Ms Armytage as ‘the industrial climate’, including that demonstrated by the tension between the UFUA and volunteers.
- 6.2 In these submissions, the culture of volunteers and volunteerism has been examined and set out. Other organisations that have strongly held positions that have been the subject of evidence and submissions to the Commission are the UFUA and the AWU.
- 6.3 Ms Armytage observed the history, cultures and interests advanced by the unions and the VFBV are very different.<sup>279</sup> The quite distinct positions taken by these organisations in relation to any proposal to amalgamation of the fire agencies and the rights of their members in any merged entity, are identified and characterised by their submissions to the Royal Commission on the topic.
- 6.4 Major General Molan indicated that culture can be a source of strength in an organisation but that incompatible cultures in one organisation can be detrimental to performance. As he said ‘it is a critical judgement whether to do away with or modify certain cultures’.<sup>280</sup> Mr Bibby agreed, suggesting that (depending on the circumstances) culture may be a ‘powerful driver’ or conversely, ‘an inhibitor’.<sup>281</sup>
- 6.5 The preferable method, adopted in a military setting, is to structure the organisation to allow elements of the cultures to continue to exist, while placing an authoritative coordinating body over the top to ensure different cultures work together at least to a minimum standard.<sup>282</sup>
- 6.6 Major General Molan pointed to the need to understand the impact of the consequences of radical change particularly if implemented against the will of the organisation.<sup>283</sup> Those consequences could be severe and implementation damaging and lengthy. It would appear the consequences are likely to be magnified in circumstances of enforced change to a volunteer organisation.
- 6.7 The specialisation and culture of DSE personnel should not be overlooked. Mr Hodgson (amongst others) provided evidence of the particular skills that DSE forest firefighters possess and bring to the forefront in forest fire management. Mr Hodgson maintained that people skilled to work in the forest 365 days a year bring a particular and relevant experience to firefighting. He strongly maintained that the responsibility for these important skills should not be taken away from DSE and given, in his view, inappropriately to CFA. He indicated that such a move would be folly and likely prove

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<sup>279</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [126]

<sup>280</sup> Exhibit 897 – Thoughts on Organisational Structure Appropriate to Emergency-like Situations, by Major General AJ Molan (Molan Report) (EXP.030.001.0001) at 0004

<sup>281</sup> Bibby T19486:31–T19487:14

<sup>282</sup> Exhibit 897 – Molan Report (EXP.030.001.0001) at 0004

<sup>283</sup> Exhibit 897 – Molan Report (EXP.030.001.0001) at 0005

costly.<sup>284</sup> His views likely represent those of DSE personnel who face a prospect of amalgamation.

- 6.8 Mr Murphy was asked to respond to a suggestion by Mr Monti (of the VFBV) that MFB personnel were reluctant to work alongside CFA volunteers. He rejected this, stating that while prior to the Linton Inquest there had been concerns raised in relation to the competencies of CFA volunteers, the situation since then had altered, by reason of the adoption by the CFA of national competencies. He said that since this 'turn around' the situation had altered.<sup>285</sup>

## 7 INTERSTATE ARRANGEMENTS

- 7.1 A number of different models from around Australia were considered in the hearings. This evidence has provided a useful foundation for the exploration of the various models available.

### *New South Wales*

- 7.2 Evidence was given by Mr Robin Rogers, Assistant Commissioner (Operational Services) of the NSW Rural Fire Service (**NSW RFS**).<sup>286</sup> The NSW RFS and the NSW Fire Brigades (**NSW FB**) are the two agencies primarily responsible for providing firefighting services to residents in NSW, however significant firefighting capacity is also maintained by two government land management agencies - the National Parks and Wildlife Service (**NPWS**) and the Forestry Commission of NSW (**Forests NSW**).<sup>287</sup>

### **NSW Rural Fire Service**

- 7.3 The primary role of the NSW RFS is to provide fire prevention, mitigation and suppression services in the 'rural fire districts' of New South Wales. These districts are established by the *Rural Fires Act 1997* (NSW) and consist of the land within local government areas, other than land that is covered by a NSW FB fire district (see below).<sup>288</sup> Rural fire districts cover approximately 95% of the geographic area of NSW.<sup>289</sup>
- 7.4 The focus of the NSW RFS is on bushfires, although the organisation also maintains considerable structural and general firefighting capability to service the approximately

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<sup>284</sup> Hodgson T15055:6–T15055:15

<sup>285</sup> A Murphy T12601:23–T12602:11

<sup>286</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001); R Rogers T10535:31

<sup>287</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [15]

<sup>288</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [65]. See also *Rural Fires Act 1997* (NSW), Section 6 and Dictionary.

<sup>289</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [21]; R Rogers T10541:24–T10541:27

1,200 towns and villages within the rural fire districts.<sup>290</sup> Its services are delivered through 700 career staff and 70,000 volunteers, formed into 1,982 firefighting brigades, 26 catering brigades and 43 communications brigades (responsible for providing fire information and intelligence to incident management teams).<sup>291</sup> Of the 70,000 volunteers, approximately 45,000 are firefighters and the remaining 25,000 comprise community educators, communications, catering and logistics specialists, and non-operational brigade members such as administrative personnel or fundraisers.<sup>292</sup> Volunteers with the NSW RFS do not receive payment for their services.<sup>293</sup>

- 7.5 NSW RFS is headed by a Commissioner who has statutory responsibility for the control and management of the RFS, its activities and its staff.<sup>294</sup> The Commissioner may delegate his or her functions to any member of the RFS and, in the case of certain functions such as bushfire hazard reductions, may delegate to the Commissioner of the NSW FB.<sup>295</sup>

### NSW Fire Brigade

- 7.6 The NSW FB is established and governed by the *Fire Brigades Act 1989 (NSW)*. Headed by the Commissioner of the NSW FB, the organisation has fire prevention and suppression responsibility for the urban areas of NSW. It also maintains 338 permanent or retained stations in urban and peri-urban areas, large provincial centres, town and villages (including major centres such as Newcastle and Wollongong) and smaller cities and towns down to population levels of around 1,500 people.<sup>296</sup> The NSW FB is also the primary provider in both urban and rural areas of emergency services in relation to hazardous materials incidents and rescues, and responds to motor vehicle accidents, building collapses and terrorism incidents.<sup>297</sup> The NSW FB's jurisdiction encompasses provision of fire response to 90 per cent of the State's population.<sup>298</sup>
- 7.7 The jurisdictional area of the NSW FB is established by declaration of the Governor. Recommendations as to changes that should be made to the boundary between the rural and urban fire services are made by the Fire Services Joint Standing Committee

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<sup>290</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [21], [66]; R Rogers T10538:9–T10538:18

<sup>291</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [21]; R Rogers T10541:28–T10542:30

<sup>292</sup> R Rogers T10541:31–T10542:11

<sup>293</sup> R Rogers T10543:5–T10543:6

<sup>294</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [85]; Rural Fires Act 1997 (NSW), section 10 and 12

<sup>295</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [86] – [87]

<sup>296</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [23] and 0039–0040; R Rogers T10537:27–T10537:31

<sup>297</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [134]; R Rogers T10538:1–T10538:4. See also Fire Brigades Act 1989 (NSW), section 6

<sup>298</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0039

(**FSJSC**).<sup>299</sup> The powers and functions of the FSJC are discussed in more detail below.

- 7.8 The NSW FB maintains 338 fire stations, with a total of 6,675 firefighters. Of these, approximately half are permanent employees and the other half are 'retained' firefighters who undertake regular training and then respond to incidents as required. Retained firefighters are paid an annual stipend plus an hourly rate for attending training, incidents and other NSW FB activities.<sup>300</sup> In addition to its career firefighters, the NSW FB employs 380 administrative staff and 13 Senior Executive Officers.<sup>301</sup>

### Community Fire Units

- 7.9 A unique feature of the NSW system is the operation of the Community Fire Unit program in the rural / urban interface. The NSW FB has 5,800 community volunteers who operate through its Community Fire Unit (**CFU**) program.<sup>302</sup> This program, established after the 1994 Sydney bushfires, empowers and equips communities in urban areas close to bushland to prepare and protect their homes from ember attack and spot fires, and to assist with post-bushfire recovery activities.<sup>303</sup>
- 7.10 As Mr Whybro, Assistant Commissioner, Director Specialised Operations of the NSWFB, explained in evidence, members of the CFU are not considered to be firefighters; the main purpose of the program is to train local communities to prepare and defend their own homes from bushfire threat and ember attack, and to free up NSW FB and RFS firefighters to respond to moving fire fronts.<sup>304</sup>
- 7.11 CFUs are established by the Commissioner of the NSW FB, in accordance with the *Fire Brigades Act* and at the request of local communities. In order for an application to be approved, the proposed unit must have at least 6 operational members (but no more than 15) and each member must undertake a two day training course. The NSW FB provides units with basic firefighting equipment and personal protective gear.<sup>305</sup>

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<sup>299</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [128]; see also Fire Brigades Act 1989 (NSW), Section 5

<sup>300</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0007-0008

<sup>301</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0007-0008

<sup>302</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [13]

<sup>303</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [14]; Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0040

<sup>304</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [16]

<sup>305</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [10], [26], [27]; Whybro T10593:9–T10594:9

- 7.12 The two day training course for CFU members includes training on fire behaviour, weather, safety and first aid, operation of basic firefighting equipment, and hazard reduction. Members are also expected to participate in ongoing training programs.<sup>306</sup>
- 7.13 Each CFU is allocated a small geographic area in which it can operate, commonly consisting of the street or group of streets in which the members are resident.<sup>307</sup> Generally, a CFU may only operate within its own geographic area. CFUs may volunteer to assist neighbouring CFUs but may only provide such assistance if prior approval is obtained from a NSW FB officer of Inspector rank or higher.<sup>308</sup> When an incident occurs, the team coordinator of each CFU within one kilometre of the incident will be notified by an SMS paging system. The team coordinator then makes contact with the other unit members and a decision must be made whether or not to activate. A CFU is not permitted to activate unless it has four or more operational members available, and may also determine for other reasons that it is not appropriate to activate during a particular incident.<sup>309</sup>
- 7.14 Once activated, a CFU must advise the NSW FB Communications Centre. The Communications Centre will alert the relevant Incident Controller that a CFU has activated in the vicinity of the incident and, usually, will task a NSW FB officer to attend and supervise the activities of the CFU.<sup>310</sup> Once the fire services arrive on the scene, the CFU must follow directions from the Incident Controller and from NSW FB and NSW RFS firefighters.<sup>311</sup>
- 7.15 Until 2008, the creation of CFUs was driven primarily by communities themselves and required interested residents to approach the NSW FB.<sup>312</sup> In 2007, however, the NSW Government allocated funding for the creation of a further 400 CFUs over the following four years. This enabled the NSW FB to undertake a more active push marketing campaign, targeting high risk areas, to generate interest amongst local residents in forming a CFU.<sup>313</sup> As of October 2009, approximately 120 new CFUs had been established with the additional funding.<sup>314</sup>

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<sup>306</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [60], [64]

<sup>307</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [22]; Whybro T10594:15–T10594:26; T10597:6–T10597:18

<sup>308</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [23]–[24]

<sup>309</sup> Whybro T10599:14–T10600:15

<sup>310</sup> Whybro T10601:6–T10601:15

<sup>311</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [55]

<sup>312</sup> Whybro T10593:23–T10593:29

<sup>313</sup> Exhibit 487 – Statement of Whybro (WIT.7524.001.0001) [37]–[38]; Whybro T10595:9–T10595:28

<sup>314</sup> Whybro T10605:24–T10605:27

- 7.16 Mr de Man asserted that CFU's are 'not viable' for the CFA.<sup>315</sup> He said that from his understanding of the CFU model in NSW, they 'encourage residents of high fire risk areas to prepare their property and defend their property, and neighbouring properties, from bushfire'.<sup>316</sup> He appeared to regard the model as not viable for Victoria, because in NSW there is 'an expectation that a NSWFB truck will assist the CFU'.<sup>317</sup> This is correct, and indeed if a CFU model is to work in Victoria, it would presumably operate in the MFD, or at least operate on the basis of support being provided by the MFB (or perhaps even an integrated CFA station)?
- 7.17 Mr de Man's other objections to the implementation of the model assumed that the homes in Victoria are 'isolated from each other' and without a reticulated water supply.<sup>318</sup> With respect, Mr de Man has assumed the model is sought to be implemented in rural areas, whereas the intention would be to introduce CFUs in areas on our expanding urban fringe like Narre Warren, Caroline Springs and Dandenong. Homes in those areas are not 'isolated' and are clearly serviced by reticulated water. Indeed, part of the evidence before the Commission is that residents of Narre Warren, when threatened by fire on 7 February, assisted each other on an impromptu basis, using buckets, hoses and swimming pools.<sup>319</sup> Further, it is possible that the MFD may one day be expanded to include such areas which would invite consideration of MFB, not CFA, involvement in a CFU scheme.
- 7.18 Mr de Man noted that a review in 2004 (conducted with input from CFA's Community Fire Guard program) concluded that there was little interest in adopting the NSW model.<sup>320</sup>
- 7.19 There has not been sufficient opportunity in the hearings to explore whether the CFU model is transferable to or suitable for Victorian conditions, or whether the MFB might be better placed to support such a model than the CFA. Counsel Assisting note that it appears to be a successful model in NSW. It is submitted that it would be appropriate for there to be more formal consideration of whether aspects of the CFU model implemented in NSW would be appropriate in Victoria. A proposed mechanism for this to occur is set out in Chapter 15.

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<sup>315</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [168]

<sup>316</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [169]

<sup>317</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [169]

<sup>318</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [170]

<sup>319</sup> See Submissions of Counsel Assisting – Narre Warren, Cranbourne and Upper Ferntree Gully Fires (SUBM.202.003.0001) [4.6]–[4.13]

<sup>320</sup> Exhibit 909 – Statement of de Man (WIT.3004.046.0240) [172]–[173]; Annexure 24 – A Review of Community Fireguard (WIT.3004.048.0006)

## Land management agencies

- 7.20 NPWS is a division of the NSW Department of Environment, Climate Change and Water (**DECCW**). Until late 2009 (and at the time Mr Rogers gave evidence in these proceedings), NPWS was referred to in the *Rural Fires Act 1997* and other fire management legislation as a firefighting authority.
- 7.21 Subsequent to Mr Rogers' appearance, and upon the commencement of the *Rural Fires Amendment Act 2009* in November 2009, references to NPWS were replaced with DECCW, making the Department itself the statutory firefighting authority.<sup>321</sup> It appears that NPWS will continue to carry out the actual fire management functions.
- 7.22 NPWS manages 6.7 million hectares of National Parks and other conservation reserves, comprising over 8.4 per cent of land in NSW. Although the statutory functions of NPWS are primarily directed at conservation and protection of the environment, the service is also required to take fire management into account in preparing plans for the management of lands under its control.<sup>322</sup> As a public authority, NPWS has a statutory responsibility under the *Rural Fires Act* to prevent the occurrence of bushfires on, and to minimise the danger of the spread of bushfires from, land under its management.<sup>323</sup> NPWS also has power to enter land within 8 kilometres of NPWS land and do such things as are necessary to suppress or prevent the spread of bushfires onto NPWS land.<sup>324</sup>
- 7.23 NPWS employs approximately 900 trained firefighters (who generally also hold substantive positions such as park ranger or field officer) and a further 400 NPWS employees are trained to fill IMT positions.<sup>325</sup> Where required, further IMT personnel may be sourced from DECCW more broadly.<sup>326</sup> In addition to fire suppression activities, NPWS also carries out annual fuel reduction burning.<sup>327</sup>
- 7.24 Forests NSW is a statutory corporation responsible for the control and management of 2.4 million hectares of state forests and timber reserves, and is empowered to take such measures on its land as are necessary to protect timber and timber products

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<sup>321</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0042. See also *Rural Fires Amendment Act 2009* (NSW).

<sup>322</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [27] and 0042. See also *National Parks and Wildlife Act 1974* (NSW), sections 12 and 72AA.

<sup>323</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0043. See also *National Parks and Wildlife Act 1974* (NSW).

<sup>324</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0043. See also *Rural Fires Act 1997* (NSW), section 133. Note that legislation assigns this authority to DECCW but that NPWS, as a division of DECCW, may exercise it.

<sup>325</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0044

<sup>326</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0042 and 0044

<sup>327</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0043

from fire.<sup>328</sup> As with NPWS, Forests NSW is required by the *Rural Fires Act 1997* to prevent the occurrence and spread of bushfires on and from its land and is authorised to enter lands within 8 kilometres of its own to suppress and prevent the spread of bushfires onto its land.<sup>329</sup>

- 7.25 Forests NSW undertakes hazard reduction burning, maintains fire crew access trails to assist in protecting residents whose properties border forest lands, and maintains a network of fire observation towers to assist in early fire detection.<sup>330</sup> Of the 800 employees of Forests NSW, over half are qualified firefighters. These are supplemented as required by seasonal firefighters.<sup>331</sup>

### Emergency management

- 7.26 Emergency management arrangements in NSW, including for bushfires, are governed by the *State Emergency and Rescue Management Act 1989 (SERM Act)*, the State Disaster Plan (**NSW Displan**) and the NSW State Bush Fire Plan.<sup>332</sup>
- 7.27 The SERM Act also requires that a senior member of the NSW Police be appointed as the State Emergency Operations Controller (**SEOC**), with responsibility for monitoring emergencies, providing support to combat agencies and controlling the response to emergencies in certain circumstances. In relation to bushfires, SEOC has never been required to take over the control of response activities as the *Rural Fires Act* provides a sufficient mechanism for the control of bushfire emergencies (for example, Section 44 declarations as described below).<sup>333</sup>

### Command and control cooperative bush firefighting arrangements

- 7.28 Under NSW Displan, the NSW RFS is the lead or 'combat' agency in relation to bushfires.<sup>334</sup> Although responsibility for first response to bushfires is shared by a number of agencies, the *Rural Fires Act* provides a mechanism for a clear line of control to be established during major bushfires by empowering the Commissioner of the NSW RFS to assume control regardless of the jurisdiction in which the fire commenced or is presently burning. Under section 44 of the *Rural Fires Act*, the Commissioner must take charge of bush firefighting operations in any part of the State if satisfied that certain conditions exist, including where the fire is not being

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<sup>328</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0045–0046

<sup>329</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0045

<sup>330</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0046

<sup>331</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0046

<sup>332</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [33]–[35]; Annexure 2 – NSW Displan (WIT.7525.001.0069); Annexure 3 – NSW State Bush Fire Plan (WIT.7525.001.0162)

<sup>333</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0047 and 0051; see also State Emergency and Rescue Management Act 1989 (NSW).

<sup>334</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) at 0047



effectively controlled by the local fire authority or is of such proportions as to be incapable of control by the local fire authority.<sup>335</sup> A move to take control under Section 44 may take place on the Commissioner's own initiative or upon a request from the local level.<sup>336</sup> A fire in relation to which a Section 44 appointment has been made is considered equivalent to a Level 3 incident in Victoria.<sup>337</sup>

- 7.29 The Commissioner will appoint a delegate to exercise his powers of overall control of the bushfire response, known as a 'Section 44 Incident Controller'.<sup>338</sup> This appointment will be by way of written instrument setting out what the Commissioner requires of the Section 44 Incident Controller and the appointment must be published in the Government Gazette.<sup>339</sup> The Section 44 Incident Controller may be from any of the fire agencies and, at present, there are around 120 people who satisfy the training and experience requirements for a Section 44 Incident Controller. Of these, approximately 45 come from agencies other than the NSW RFS. 8 of the 120 potential Section 44 Incident Controllers are volunteers.<sup>340</sup>
- 7.30 An assumption of control under Section 44 may be effected in advance of an actual fire occurring. For example, a pre-emptive appointment may be made prior to a high fire danger day so that the IMT will be in place ready to operate at the outbreak of fire with an Incident Controller already in situ.<sup>341</sup> An appointment under Section 44 specifies a particular geographic area in which the Incident Controller has authority to command the bushfire response. As the boundaries of a fire extend, the scope of the appointment will be extended; in other words, 'the appointment follows the fire'.<sup>342</sup>

## South Australia

- 7.31 The Chief Officer of the South Australian Country Fire Service (**SACFS**), Mr Euan Ferguson, gave evidence in relation to firefighting arrangements in South Australia. There are 3 emergency services organisations in South Australia – SACFS, the South Australian Metropolitan Fire Service (**SAMFS**) and the State Emergency Service (**SES**)<sup>343</sup> – however as the SES has a limited role in relation to bushfires it is not discussed in detail in these submissions.

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<sup>335</sup> Section 44 Rural Fires Act 1997 (NSW); see also R Rogers T10565:14–T10565:26

<sup>336</sup> R Rogers T10565:18–T10565:26

<sup>337</sup> R Rogers T10555:16–T10555:18

<sup>338</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [162]

<sup>339</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [164]–[166]

<sup>340</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [162]; Exhibit 846 – Second further Statement of R Rogers (WIT.7525.002.0001) [8]–[9]

<sup>341</sup> R Rogers T10565:29–T10566:10

<sup>342</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [168]

<sup>343</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [24]

## SACFS

- 7.32 SACFS is a fire and emergency services organisation with responsibility for rural and semi-urban areas, outside those urban districts that fall under the jurisdiction of SAMFS.<sup>344</sup> The Chief Officer is has ultimate responsibility for all operations of SACFS and is also the Chief Executive Officer of the organisation.<sup>345</sup>
- 7.33 Each year SACFS responds to around 8,000 incidents, including bushfires, structure fires, motor vehicle accidents and hazardous materials incidents.<sup>346</sup> These services are provided by a predominantly volunteer workforce. The organisation has 113 employed staff (both ongoing and seasonal) and around 15,000 volunteers (comprising 10,809 firefighters, 3,290 support members and 958 cadets). Volunteers do not receive any form of payment or retainer.<sup>347</sup>
- 7.34 In responding to fires, SACFS may also draw on firefighters from the Department of Environment and Heritage (DEH) and ForestrySA, two of the State's major land management authorities.<sup>348</sup> DEH is responsible for management of 331 nature and conservation reserves, covering 21.7 percent of the geographic area of South Australia. DEH's work includes a fire management component and DEH therefore maintains a staff of trained firefighters (who may also perform non-fire functions). DEH firefighters undertake prescribed burning programs within DEH parks and reserves, but when responding to unplanned fire incidents DEH brigades so do under the control of SACFS.<sup>349</sup> ForestrySA is a statutory corporation with responsibility for managing State-owned forestry plantations. Like DEH, ForestrySA firefighters undertake fire prevention and management work on Forestry SA lands, including prescribed burning, but when ForestrySA firefighters respond to a fire they do so under the operational control of SACFS.<sup>350</sup>
- 7.35 As is noted above, in case of a bushfire in the area for which the SACFS is responsible,<sup>351</sup> the DEH and Forestry SA resources fall under the command and control of the Chief Fire Officer of the SACFS and are subordinate to the chain of command within the SACFS.<sup>352</sup>

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<sup>344</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [197]; see also Country Fires Act 1976 (SA)

<sup>345</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [17], [23]

<sup>346</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [268]

<sup>347</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [338], [341]

<sup>348</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [29]–[30]

<sup>349</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [389]–[396]

<sup>350</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [397]–[406]

<sup>351</sup> Section 20 of the Emergency Management Act 2004 (SA) provides that the State Emergency Response Plan may assign a control agency for particular incidents. Annexure A to the SERP identifies SACFS as the control agency for 'rural fires'.

<sup>352</sup> Ferguson T10444:13–T10444:25

- 7.36 SACFS maintains four pre-formed Level 3 Incident Management Teams for the purposes of responding to major bushfires. Each team consists of 11 people assigned to some of the key roles with the AIIMS structure. Personnel are drawn from SACFS, DEH, ForestrySA, SAFECOM and SES, and teams include both volunteers and paid staff. SAMFS declined an invitation to contribute personnel to the pre-formed IMTs, although SAMFS staff may occasionally fill a Level 3 IMT position if there is an unexpected vacancy.<sup>353</sup>
- 7.37 A pre-formed IMT will be activated when an incident is escalated to Level 3 and will integrate with the existing Level 2 IMT.<sup>354</sup> Although team members may be located all around the State, helicopters and fixed-wing aircraft can be used to ensure that the teams can be rapidly deployed.<sup>355</sup>

## SAMFS

- 7.38 SAMFS is a career firefighting service that responds to fires and emergencies in 'gazetted fire districts', which are established and may be varied by the SAFECOM Board.<sup>356</sup> These districts are associated with population centres: metropolitan Adelaide and 16 provincial cities and towns including Port Lincoln, Mount Gambier and Renmark.<sup>357</sup> Across these districts, SAMFS maintains 36 fire stations with a total of 1,137 staff: 802 full-time firefighters, 260 retained firefighters and 48 management and support staff. Retained firefighters are paid a retainer for their membership plus a service fee for attendance at fires and significant training events.<sup>358</sup>
- 7.39 SAMFS is the primary structural firefighting agency in SA and also responds within its fire districts to chemical incidents, road accidents and urban search and rescue.<sup>359</sup> It is also responsible for 16 gazetted regional areas – some of which are very remote from Adelaide.<sup>360</sup> This issue is addressed in more detail below in the context of a consideration of the border between Victoria's MFD and country area.
- 7.40 SAMFS responds to bushfires that occur in or impinge upon its districts, although for significant fires SACFS resources may be called in, either to backfill SAMFS stations or to work on the fireground.<sup>361</sup> Likewise, SAMFS may provide support to SACFS for

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<sup>353</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [99]–[103]; Ferguson T10453:17–T10453:20

<sup>354</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [98]

<sup>355</sup> Ferguson T10453:10–T10453:15

<sup>356</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [172], see also section 4, Fire and Emergency Services Act 2005 (SA)

<sup>357</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [172]; Ferguson T10441:4–T10441:8

<sup>358</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [187]–[188]; Ferguson T10441:14–T10441:16

<sup>359</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [183], [185]

<sup>360</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [27], [172]; Ferguson T10466:18–T10466:29

<sup>361</sup> Ferguson T10466:25–T10466:28; T10467:25–T10467:29

bushfires occurring in rural districts.<sup>362</sup> In circumstances where a bushfire moves across the boundary between the jurisdictions of the SACFS and SAMFS, the control agency will be the agency in whose area the fire commenced, although the Chief Officers of each agency would work very closely together in the event of a fire burning in both areas or near the interface.<sup>363</sup>

- 7.41 Mr Ferguson's evidence was that the movement of a bushfire from one jurisdiction to another is a rare occurrence, as in fact many of the urban interface areas at high risk of bushfires are within the SACFS area.<sup>364</sup> In recognition of the bushfire risk in the urban interface, new legislation was introduced in 2009 providing for 'designated urban bushfire risk areas'. These areas are established through consultation between the Chief Officers of SACFS and SAMFS, any interested Minister and the Local Government Association. Once a risk area is designated, emphasis will be placed on bushfire preparedness and prevention in that area.<sup>365</sup>

## SAFECOM

- 7.42 In 2005, the three emergency services in South Australia were brought under a single governance structure. The SACFS and SAMFS organisations remain separate legal entities, but each reports to the South Australian Fire and Emergency Services Commission (**SAFECOM**). Mr Ferguson described the change as having 'introduced a major philosophical shift in terms of governance of the ESOs but, at the same time, ensured retention of their operational autonomy'.<sup>366</sup> The structure pursuant to which the fire services report to the SAFECOM is set out at Figure 4 in chart form:

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<sup>362</sup> Exhibit 478 – Statement of Ferguson, Attachment 19 – Bushfire Hazard Plan (WIT.7522.002.0501) at 0505

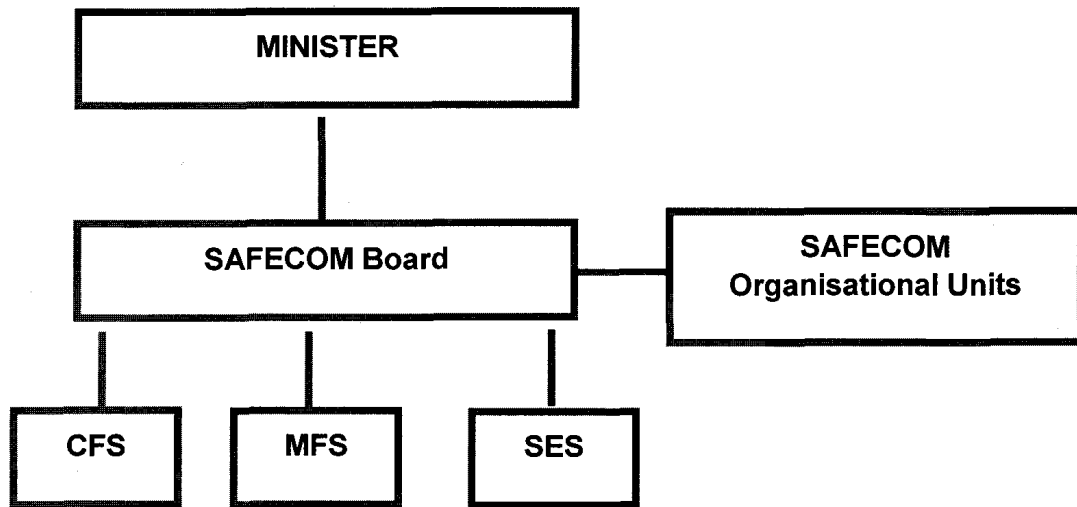
<sup>363</sup> Ferguson T10467:25–T10468:10

<sup>364</sup> Ferguson T10468:16–T10468:23

<sup>365</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [423], [428]–[429]

<sup>366</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [31]

Figure 4 – South Australian SAFECOM reporting structure<sup>367</sup>



7.43 SAFECOM is administered by the SAFECOM Board, whose members are the Chief Officers of each of the SACFS, SAMFS and the SES and five other members, being nominees of each of the United Firefighters Union, the Country Fire Service Volunteers Association, the SES volunteers' association and two nominees of the Minister. The latter are required to be persons qualified for appointment to the Board by reason of their 'knowledge of, or experience in, one or more of the fields of commerce, economics, finance, accounting, law or public administration and each being a person who has suitable volunteer experience as determined under the regulations'.<sup>368</sup> At least one member of the SAFECOM Board must be female and at least one member must be male.<sup>369</sup>

7.44 The SAFECOM is a 'hybrid' Board, blending the notions of a skills based board and a representative board. There is much to recommend this approach. It ensures that the fire services have a direct voice; it gives the relevant unions and associations a voice, but also ensures there are members with skills and experience in the relevant areas.

7.45 The SAFECOM Board functions which are set out in section 8 of the *Fire and Emergency Services Act 2005 (SA)*:

**Section 8**

(1) *The Commission has the following functions:*

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<sup>367</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) at 0005

<sup>368</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [161]; see section 11(1) Fire and Emergency Services Act 2005 (SA)

<sup>369</sup> See section 11(2) Fire and Emergency Services Act 2005 (SA)

- (a) *to develop and maintain a strategic and policy framework across the emergency services sector;*
- (b) *to develop and implement a framework of sound corporate governance across the emergency services sector;*
- (c) *to ensure that appropriate strategic, administrative and other support services are provided to the emergency services organisations;*
- (d) *to ensure that appropriate strategic and business plans are developed, maintained and implemented across the emergency services sector;*
- (e) *to provide for the effective allocation of resources within the emergency services sector;*
- (f) *to ensure that the emergency services organisations have appropriate systems and practices in place –*
  - (i) *To provide for effective management and planning; and*
  - (ii) *To monitor management performance against plans and targets and to take corrective action as necessary;*
- (g) *to ensure that the emergency services organisations maintain appropriate risk-management systems and practices;*
- (h) *to ensure that the emergency services organisations regularly review, and revise as necessary, their plans, structures, systems, targets and practices to address changing circumstances and to improve the provision of emergency services and business practices;*
- (i) *to ensure that emergency services organisations meet their statutory responsibilities and comply with the provisions of this or any other relevant Act;*
- (j) *to ensure the observance of high ethical standards within the emergency services sector;*
- (k) *to foster and support career development opportunities for officers and staff within the emergency services sector;*
- (l) *to support and encourage voluntary participation in SACFS and SASES, and to foster and support personal development opportunities for members of the emergency services organisations;*
- (m) *to recognise outstanding achievements of persons who are involved in the provision of fire and emergency services, or who take action or assist at the scene of any fire or emergency or who otherwise support the objectives or activities of the emergency services sector (or any part of that sector), within any part of the State;*
- (n) *to ensure that there is effective consultation with the community in relation to the operation of this Act;*
- (o) *to disseminate knowledge in the field of fire and emergency services in order to advance community safety;*
- (p) *to undertake a leadership role from a strategic perspective with respect to emergency management within the State and to maintain an appropriate level of*

*liaison with other bodies responsible for the management of emergencies in the State;*

- (q) to provide regular reports to the Minister on the activities and performance of the emergency services sector;*
- (r) to provide to the Minister reports or advice in relation to the operation of this Act or the provision of emergency services under this Act;*
- (s) to perform any other function assigned to the Commission by or under this or any other Act.*
- (2) The Commission may, for the purpose of performing its functions, exercise any powers that are necessary or expedient for, or incidental to, the performance of its functions.*
- (3) The Commission must prepare a charter relating to its functions and operations.*
- (4) The Commission must provide a copy of the charter to the Minister and ensure that it is publicly available.*

7.46 As can be seen from the above, the SAFECOM Board is responsible for strategic policy planning, governance and resource allocation for the overall fire and emergency services sector and develops State-wide policies and strategies to be delivered by each emergency services organisation.<sup>370</sup>

7.47 The functions of SAFECOM are set out in detail above because they provide, it is submitted, a good example of the way in which a supervisory board might effectively set strategy and monitor standards for more than one fire service.

7.48 SAFECOM may in performing the functions set out above, give directions to the SAMFS, SACFS or the SES.<sup>371</sup> SAFECOM is subject to the direction and control of the Minister.<sup>372</sup>

7.49 SAFECOM has no operational responsibilities and may not give directions in relation to the response to an emergency.<sup>373</sup>

7.50 In operational matters, each of the fire services and the SES report directly to the Minister for Emergency Services or to the State Emergency Management Council – a Cabinet Committee chaired by the Premier and comprising the Ministers for Police,

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<sup>370</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [33]-[35]

<sup>371</sup> Section 9(1) Fire and Emergency Services Act 2005 (SA)

<sup>372</sup> Section 7 Fire and Emergency Services Act 2005 (SA)

<sup>373</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [160]; see also section 9(2) Fire and Emergency Services Act 2005 (SA)

Emergency Services, Health, Transport and State/Local Government Relations and the Attorney-General.<sup>374</sup>

- 7.51 Mr Ferguson explained in evidence that the Office of the SAFECOM has three primary functions: it provides shared services and organisational support for a number of the functions of the fire services such as payroll and human resources; it also provides the higher level 'strategic framework' under which the individual emergency services operate, and it provides the emergency management resource within the State.<sup>375</sup>
- 7.52 The income for SAFECOM is derived from the Community Emergency Services Fund<sup>376</sup> (92%, including the Emergency Services Levy); Commonwealth revenues (3%); Fees and Charges (2%) and other income (3%).<sup>377</sup>

### Emergency management arrangements

- 7.53 The *Emergency Management Act 2004* (SA) appoints the South Australian Police as the coordinating agency for all emergencies and the Commissioner of Police as the State Coordinator.<sup>378</sup> During most emergencies, the Police's coordinating role involves managing support functions such as logistics, media and medical services and does not involve any assumption of command or control functions.<sup>379</sup> However, where certain types of emergencies are declared under the *Emergency Management Act*, the State Coordinator has power to give directions to the relevant control agency for the emergency in question. Mr Ferguson was not aware of such directions ever having been issued by the State Coordinator.<sup>380</sup> In any event, the circumstances in which the power will be enlivened in relation to bushfires are rare: only two fire emergencies in recent history have enlivened the emergency declaration provisions, being the Wangary and Mt Osmond fires, both occurring on 11 January 2005.<sup>381</sup>
- 7.54 During a bushfire in which SACFS is the control agency, central command and control functions are exercised from the State Coordination Centre (**SCC**) at SACFS headquarters while coordination functions (if required) will be run out of the Police's State Emergency Centre (**SEC**). During a non-major bushfire, the Chief Fire Officer of SACFS will operate from the SCC but when the incident escalates, he relocates to

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<sup>374</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [33], [274]

<sup>375</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [35]; Ferguson T10459:3–T10459:19

<sup>376</sup> The Community Emergency Services Fund is established by the Emergency Services Funding Act 1998 (SA) and also provides funding directly to SAMFS and SACFS

<sup>377</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [169]–[170]

<sup>378</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [288]–[291]

<sup>379</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [289], [290]

<sup>380</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [294], [295]; Ferguson T10461:16–T10461:19

<sup>381</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [307]; Ferguson T10439:19–T10439:25



the SEC in order to coordinate more closely with other involved agencies involved in responding to or supporting the incident.<sup>382</sup>

## **Tasmania**

- 7.55 The Commission heard from Mr Michael Brown, Chief Officer of the Tasmanian Fire Service (**TFS**), in relation to Tasmania's organisational arrangements. The TFS is an integrated urban and rural fire service covering all private and some public land in Tasmania and staffed by both career and volunteer firefighters.<sup>383</sup> In 1979, the TFS was established to replace the previously divided fire services provided by the Rural Fires Board and 22 separate urban fire brigades boards.<sup>384</sup>
- 7.56 TFS is under the control of the State Fire Commission (**SFC**), whose membership includes the Chief Officer of TFS, representatives from each of the unions representing career, retained and volunteer firefighters and a representative from the Local Government Association.<sup>385</sup> The Chief Officer of TFS is the Chair of the SFC as well as fulfilling the functions of Chief Executive Officer for the TFS.<sup>386</sup>
- 7.57 TFS operates with 5,230 firefighters in 230 brigades. This total comprises 230 career firefighters (forming 4 brigades – one in each of Hobart, Launceston, Burnie and Devonport) and 5,000 are volunteer members. TFS also employs 130 administrative and support staff and 55 community fire safety personnel.<sup>387</sup> Approximately 12 of the volunteer brigades contain 'retained' volunteers who receive payment for attending some training and for turning out to incidents. Chiefs of these brigades also receive an annual stipend. Not all members of retained brigades will be entitled to payment, as there is a fixed maximum number of retained volunteers for each of brigade.<sup>388</sup> The rationale for retained brigades is to recognise the greater demand placed on these brigades. They will generally be servicing larger rural communities and be called upon frequently to attend fires.<sup>389</sup>
- 7.58 Non-retained volunteers are also entitled to payments in certain circumstances, for example where they are deployed for long periods or to remote areas outside their own operational area. Where TFS volunteers attend as first responders to a remote fire that is wholly on the tenure of another fire agency and have not been relieved

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<sup>382</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [119], [124]–[125], [133], [135]–[140]; Ferguson T10456:1–T10457:13

<sup>383</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [21]

<sup>384</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [22]

<sup>385</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [24], [26]; see also Fire Service Act 1979 (Tas)

<sup>386</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [7]

<sup>387</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [30], [45], [65]

<sup>388</sup> M Brown T10374:27–T10376:5

<sup>389</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [76]

within 4 hours, the volunteers may be eligible for payment. TFS may obtain reimbursement of those payments from the other agency.<sup>390</sup>

- 7.59 The amalgamation between Tasmania's rural and urban fire services overcame 'cultural barriers' between career and volunteer and urban and rural fire services. The process was lengthy, and some features took ten or twenty years to introduce.<sup>391</sup> This is discussed in more detail at paragraphs 5.35-5.37 above.

### Parks and Wildlife Service

- 7.60 The Tasmanian Parks and Wildlife Service (**Tas PWS**) manages Tasmania's parks, reserves and historic sites, amounting to around 40 percent of the state.<sup>392</sup> Tas PWS is responsible for managing and extinguishing fire on the lands under its control, although structural fires on those lands remain a TFS responsibility.<sup>393</sup> Tas PWS is also empowered to use fire as a tool for land management, for example in prescribed burning.<sup>394</sup>
- 7.61 In the 2008/2009 fire season, Tas PWS had 164 permanent employees qualified to fight fires. Many of these work out of regional field centres and also fill non-fire related positions, however Tas PWS also maintains a specialist fire crew of 11 firefighters who can be called in to assist field crews when they require assistance. A small number of seasonal firefighters are engaged to supplement the specialist fire crew during the peak fire season.<sup>395</sup>

### Forestry Tasmania

- 7.62 Forestry Tasmania is a Government Business Enterprise responsible for managing 1.6 million hectares of public forest estate. Of its 570 employees, approximately 280 are trained in fire suppression.<sup>396</sup> Forestry Tasmania's role involves managing fire so as to minimise damage to the forests and preventing the spread of fire to neighbouring lands.<sup>397</sup>

### Bushfire Coordination

- 7.63 Under the *Emergency Management Act 2006 (Tas)*, TFS, Tas PWS and Forestry Tasmania are all identified as a Management Authority, each in relation to fires

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<sup>390</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [78]–[79]; Annexure 11 – Interagency Protocol (WIT.7521.001.0119) at 0127

<sup>391</sup> Brown T10362:6–T10362:30

<sup>392</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [16]

<sup>393</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [93], [94]

<sup>394</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [94], [101]

<sup>395</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [100]–[103], [112]

<sup>396</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [120]

<sup>397</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [122]

occurring within their own jurisdiction.<sup>398</sup> The 3 agencies have entered into an agreement (the *Interagency Fire Management Protocol (Protocol)*) regarding the management and coordination of response to large, complex and/or multi-tenure fire incidents.

- 7.64 The guiding principle of the Protocol is that the 'most able fire fighting crew of any agency will respond immediately to a reported fire as a priority, regardless of the land tenure involved'.<sup>399</sup> It is the general practice of the agencies to all work together on bushfire operations, in recognition of the potential for bushfires to spread from one tenure to another.<sup>400</sup>
- 7.65 The Protocol also provides for the formation of a Multi-Agency Coordinating Group (**MAC Group**). The MAC Group consists of a senior representative from each of the 3 agencies. The MAC Group comes together in the event of a Level 3 fire occurring, when a Level 1 or 2 Incident is seen as having the potential to escalate, and in advance of extreme fire weather days even where no fire has yet ignited.<sup>401</sup>
- 7.66 Where an incident escalates to Level 3 and involves resources from more than one agency, the MAC Group is required to appoint an IMT to manage the fire and to appoint an Incident Controller to take charge of the response. The MAC Group may also step in to appoint an IMT if it appears likely that the fire will burn across multiple land tenures.<sup>402</sup> On days of high fire danger, the MAC Group will also nominate an IMT in advance of any fire incidents actually occurring.<sup>403</sup> Any IMT appointed by the MAC Group will normally contain representatives from each of the TFS, Tas PWS and Forestry Tasmania. The team may also include members from the Tasmanian Police and Ambulance services.<sup>404</sup>
- 7.67 In addition to appointing the IMT and Incident Controller, the MAC Group maintains oversight of the management of large or multiple incidents and will be responsible for determining the priorities for allocation of resources between incidents. Where disputes arise between the agencies the Chief Officer of TFS is authorised to arbitrate, however in practice this does not happen often.<sup>405</sup> The MAC Group is also subject to the ultimate direction of the Chief Officer of TFS.<sup>406</sup>

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<sup>398</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [201]; see also Emergency Management Act 2006 (Tas)

<sup>399</sup> Exhibit 476 – Statement of M Brown, Annexure 11 – Interagency Protocol (WIT.7521.001.0119) at 0124

<sup>400</sup> M Brown T10380:13–T10380:17

<sup>401</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [146], [161], [163]; Brown T10382:17–T10383:2

<sup>402</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [147]; Brown T10382:4–T10382:10

<sup>403</sup> M Brown T10382:17–T10382:28

<sup>404</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [162]

<sup>405</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [143], [137]

<sup>406</sup> Exhibit 476 – Statement of M Brown, Annexure 11 – Interagency Protocol (WIT.7521.001.0119) at 0125

7.68 The Tasmanian *Emergency Management Act* appoints the Commissioner of Police as State Controller of Emergency Management. During a prolonged or significant emergency, the State Controller has the power to assume overall control of the emergency response. Mr Brown's evidence, however, is that this power has not been invoked in recent history.<sup>407</sup>

## Western Australia

7.69 Mr Craig Hynes, Chief Operations Officer of the Western Australia Fire and Emergency Services Authority (**FESA**) gave evidence regarding organisational arrangements for firefighting in that state.

7.70 FESA is a governance body having both administrative functions in relation to various pieces of fire and emergency management legislation as well as operational responsibility for elements of the State's fire response.<sup>408</sup> Bushfire fighting responsibility in WA is shared between FESA's operational units, local governments and the Department of Environment and Conservation (**DEC**).<sup>409</sup> The Commission also heard during the Fuel Management hearings from Mr Sneeuwjagt, which assisted in shedding additional light on the land management responsibilities of DEC in Western Australia.<sup>410</sup>

## FESA

7.71 FESA was created in 1999 and brought together in a single governance structure the former State Emergency Service, the Bush Fires Board and the WA Fire Brigades Board.<sup>411</sup> FESA is responsible for prevention, control and extinguishment of fires in the 'gazetted areas' of WA, but its operational units also have a primary state-wide role in hazardous materials response and specialist rescue incidents.<sup>412</sup> The gazetted fire districts generally align with metropolitan or town boundaries, including major rural towns.<sup>413</sup>

7.72 FESA has a number of operational firefighting arms:

- a) the career Fire and Rescue Service (**FRS**), servicing the Perth metropolitan area and 5 major regional centres (Mandurah, Bunbury, Kalgoorlie, Albany and Geraldton);<sup>414</sup>

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<sup>407</sup> Exhibit 476 – Statement of M Brown (WIT.7521.001.0001) [210]; M Brown T10388:14–T10388:23

<sup>408</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [10]–[11]

<sup>409</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [13]

<sup>410</sup> Exhibit 725 – Statement of Sneeuwjagt (WIT.135.001.0001); Sneeuwjagt commencing at T14965:21

<sup>411</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [22], [26]

<sup>412</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [29], [95]

<sup>413</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [96]; Hynes T10408:30–T10409:5

<sup>414</sup> Hynes T10408:30–T10409:2

- b) the Volunteer Fire and Rescue Service (**VFRS**), servicing major rural and semi-rural towns,<sup>415</sup> and
- c) the Volunteer Fire Service Brigades (**VFSB**), which undertake a mixture of the firefighting activities traditionally undertaken by the VFRS and Bush Fire Brigades (see below).<sup>416</sup>

7.73 FESA is also responsible for the State Emergency Service and the Volunteer Marine Rescue Service.<sup>417</sup> A number of multi-functional units called Volunteer Emergency Service Units (**VESU**) have been formed from a combination of SES personnel, Bush Fire Brigades and VFRS brigades. These VESU brigades operate in more remote areas to provide general hazard and rescue services, including some bush and structure firefighting.<sup>418</sup>

7.74 FESA maintains 27 career firefighting stations (22 in Perth and one in each of the five other major population centres), 90 VFRS stations and 18 VESUs. Manning these are 1,029 career firefighters and approximately 2,500 volunteers. They are supported by FESA's 200 non-operational staff.<sup>419</sup> Volunteer firefighters do not generally receive payments, although in some circumstances payments may be made to VESU brigades for achieving particular outcomes.<sup>420</sup>

### Local Government Bush Fire Brigades

7.75 Local governments in WA are responsible for suppressing bushfires within their municipal districts, other than where land either falls within a gazetted fire district under FESA's control or is land under the management of DEC.<sup>421</sup> Local governments in rural areas operate Bush Fire Brigades (**BFBs**) for this purpose, although in some areas the BFB operates in conjunction with FESA volunteer firefighters as part of a VFSB.<sup>422</sup>

7.76 113 local governments across WA have established a total of 677 BFBs, comprising 24,693 volunteer firefighters and 648 non-operational support volunteers.<sup>423</sup> BFBs are supported by FESA, including through the provision of appliances, equipment and personal protective gear.<sup>424</sup>

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<sup>415</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [97]; Hynes T10409:2–T10409:5

<sup>416</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [90]

<sup>417</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [30]

<sup>418</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [90]; Hynes T10409:5–T10409:9

<sup>419</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [100]; Hynes T10415:9–T10415:11

<sup>420</sup> Hynes T10421:29–T10422:4

<sup>421</sup> Hynes T10417:7–T10417:14

<sup>422</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [110]; Hynes T10417:14–T10417:17

<sup>423</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [114]

<sup>424</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [111]; Hynes T10416:23–T10416:28

7.77 Local governments must also appoint a Chief Bushfire Control Officer (**CBCO**) who is responsible for managing local bushfire operations and all BFBs within the municipal district. Whilst BFBs are a volunteer service, a CBCO may be an employee of the local government or, in high risk areas where the local government has entered into a partnership with FESA to assist in delivery of fire services, an employee of FESA.<sup>425</sup>

### Department of Environment and Conservation

7.78 DEC is responsible for managing 27 million hectares of national, marine and conservation parks, State forests, and timber, nature and marine reserves. As part of its land management function, DEC is responsible for responding to and suppressing fires on these lands in the South-west, Midwest and South Coast regions of WA. In other areas of the state, DEC has limited fire management resources and, while DEC will provide operational support, primary fire suppression responsibility remains with local government and the BFBs.<sup>426</sup> DEC is also responsible for fire preparedness on 89 million hectares of unreserved Crown land and unmanaged reserves, but fire suppression responsibility in those areas rests with local government.<sup>427</sup>

7.79 DEC has around 300 employees who are qualified for deployment as part of fire suppression crews, plus a further 500 staff who are trained to fill positions in Incident Management Teams.<sup>428</sup>

### Coordinated bushfire fighting

7.80 Mr Hynes gave evidence that the WA model, until recently, gave rise to some operational difficulties in relation to bushfires that burnt across multiple jurisdictions. None of the various firefighting agencies was appointed as the lead agency in relation to bushfires and, although issues of control in relation to major bushfires were normally settled by discussion and consensus, there were times when the lack of a clear control agency led to 'debate and confusion'.<sup>429</sup> Under changes to legislation in November 2009, where a bushfire is burning on DEC or local government land FESA may appoint a 'bushfire liaison officer' to take control of all operations in relation to the fire. This power may be exercised at the request of the agency on whose land the fire is burning or upon FESA's own initiative if, due to the nature or extent of the fire, FESA considers it is appropriate to do so.<sup>430</sup> The bushfire liaison officer will have

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<sup>425</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [65], [119], [127]; Hynes T10416:28–T10417:3

<sup>426</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [143], [149]

<sup>427</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [144], [150]

<sup>428</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [153]

<sup>429</sup> Hynes T10429:12–T10430:2

<sup>430</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [199]–[200]; see also Bush Fires Amendment Act 2009 (WA), which received assent on 17 November 2009. At the time of Hynes' evidence before the Commission the Act

control and direction over all DEC firefighters and BFB members present at the incident.<sup>431</sup>

7.81 Mr Hynes gave evidence that enabling FESA to take control of major fire incidents is crucial because FESA has resources at its disposal that are not available to DEC units or BFBs, including: sophisticated fire mapping facilities; regional and state operations centres; ability to coordinate national and other state's resources such as aircraft; and a number of community warning facilities.<sup>432</sup> It was Mr Hynes' view that the legislative amendment would 'significantly increase the ability for fire services to respond to the major fire incident in a coordinated way'.<sup>433</sup>

7.82 Even in the absence of an assumption of control by FESA, Mr Hynes' evidence was that, when a fire develops and appears likely to threaten neighbouring jurisdictions, the agency who initially responded will notify the other fire service(s) and make arrangements to fight the fire in a coordinated way. This often includes the appointment of a multi-agency incident management team.<sup>434</sup>

### Assessment of the FESA governance model

7.83 The establishment of FESA involved the bringing together of career and volunteer personnel and rural and urban brigades under a single authority.<sup>435</sup> The purpose of the amalgamation was to address a lack of cohesiveness between the services and to achieve a coordinated approach to planning and management across agencies.<sup>436</sup> Mr Hynes expressed his view that the desired outcomes had been achieved. Although there were cultural issues that had to be addressed and some instances of 'patch wars', he was generally 'surprised at the ease' with which the amalgamation occurred.<sup>437</sup>

### Conclusion

7.84 Exploration of the experience in different Australian jurisdictions has revealed that there is great diversity in the models, including on the fundamental questions of the divisions between private and public land and urban and rural landscapes.

7.85 Counsel Assisting propose adoption of some elements of the South Australian model:

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had not been passed, but he explained the substance of the amendments and the legislation subsequently came into force.

<sup>431</sup> See section 13(4) Bush Fires Act 1954 (WA) (as amended)

<sup>432</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [207]

<sup>433</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [201]

<sup>434</sup> Hynes T10422:10–T10422:23

<sup>435</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [22], [26]

<sup>436</sup> Exhibit 477 – Statement of Hynes (WIT.7523.001.0001) [22]; Hynes T10410:24–T10411:8

<sup>437</sup> Hynes T10411:13–T10411:28

- a) The governance functions of the SAFECOM Board ensure that it provides consistent strategic direction and supervision to the three fire services in that State;
- b) The composition of the SAFECOM Board , as a hybrid between a skills based board and a representative Board provides significant benefits.

## 8 ALTERNATIVE MODELS PROPOSED IN THE HEARINGS

### *Well trodden path*

- 8.1 The question of whether there should be a fundamental change to the structure of Victoria's fire services is not new. Successive inquiries have considered the matter.

#### **1982 – 1983 PSBV review**

- 8.2 In 1982, the Public Service Board of Victoria (PSBV) produced an options paper titled *A Study of Alternative Organisation And Funding Arrangements for An Integrated Fire Service in Victoria October 1982*,<sup>438</sup> which examined proposals for changes to the MFB and the CFA. The paper considered the following options:<sup>439</sup>

- a) Integration of fire services under a single board;
- b) Integration of fire services under a single board with separate service structures;
- c) Integration of fire services under a single board with retention of MFB / CFA structures;
- d) Interlinking the membership of the existing MFB / CFA boards.

- 8.3 The PSBV analysed in detail the benefits and risks associated with each of the above models. It noted that four considerations were likely to determine the operational viability of each of the models: (a) industrial relations effects; (b) financial and budgetary effects; (c) maintenance of the country volunteer system; and (d) achievement of an effective management structure for the fire services.<sup>440</sup> The importance of these four criteria has not diminished, as is evidenced by the recent hearings in this Commission.

- 8.4 In relation to the last criterion, the PSBV suggested that the two main options for a new management structure were either a representative board to be responsible for

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<sup>438</sup> Exhibit 916 – UFU Position Paper, Annexure 1 – 1982 Public Service Board “A Study Of Alternative Organisation And Funding Arrangements For An Integrated Fire Service In Victoria (1982 Public Service Board Paper) (UFU.002.001.0027)

<sup>439</sup> Exhibit 916 – UFU Position Paper, Annexure 1 – 1982 Public Service Board Paper (UFU.002.001.0027) at 0049

<sup>440</sup> Exhibit 916 – UFU Position Paper, Annexure 1 – 1982 Public Service Board Paper (UFU.002.001.0027) at 0058



day to day management of the organisation; or an expert board comprised of experienced managers (and to establish a fire services advisory council to provide a forum for the interest groups).<sup>441</sup>

- 8.5 The final report of the PSBV<sup>442</sup> found that there were a number of deficiencies and weaknesses in the State's fire and emergency services, including the absence of formal mechanisms to ensure effective co-ordination and cooperation of all fire services.<sup>443</sup> The PSBV found there was a need to rationalise existing services, develop a statewide policy for fire prevention, provide a central authority capable of resolving strategic questions affecting delivery of services, and overall coordination of planning, priority setting and resourcing.<sup>444</sup> Counsel Assisting submit that some of these considerations continue to apply today.
- 8.6 The report recommended the creation of a new Victorian Fire and Emergency Services Board to be directly responsible for country and metropolitan fire and emergency services. The Board's powers were to include planning, coordination and development of appropriate operational arrangements governing all fire suppression activities.<sup>445</sup> The Board was also to be expressly empowered to 'rationalise overlapping support activities and systems between the country and metropolitan fire services'.<sup>446</sup>
- 8.7 The final report which contained the above proposal met with a negative public reaction. The proposal was not implemented.<sup>447</sup>

### 1994 Public Bodies Review Committee

- 8.8 In 1994, the Public Bodies Review Committee examined the MFB and made a number of recommendations in relation to the delivery of fire services by the MFB and the CFA.<sup>448</sup> It did not recommend amalgamation. It emphasised that any amalgamation would be 'expected to produce major disadvantages given the different basis of day-to-day operations between the two organisations'.<sup>449</sup>

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<sup>441</sup> Exhibit 916 – UFU Position Paper, Annexure 1 – 1982 Public Service Board Paper (UFU.002.001.0027) at 0061

<sup>442</sup> Exhibit 916 – UFU Position Paper, Annexure 2 – 1983 Public Service Board "Proposed Organisation and Funding Arrangements for Fire and Emergency Services in Victoria" (1983 Public Service Board Paper) (UFU.002.001.0137)

<sup>443</sup> Exhibit 916 – UFU Position Paper, Annexure 2 – 1983 Public Service Board Paper (UFU.002.001.0137) at 0154

<sup>444</sup> Exhibit 916 – UFU Position Paper, Annexure 2 – 1983 Public Service Board Paper (UFU.002.001.0137) at 0157 - 0158

<sup>445</sup> Exhibit 916 – UFU Position Paper, Annexure 2 – 1983 Public Service Board Paper (UFU.002.001.0137) at 0162

<sup>446</sup> Exhibit 916 – UFU Position Paper, Annexure 2 – 1983 Public Service Board Paper (UFU.002.001.0137) at 0139

<sup>447</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [118]

<sup>448</sup> Exhibit 916 – UFU Position Paper, Annexure 3 – 1994 Report of the Public Bodies Review Committee into the Metropolitan Fire Brigades Board (1994 Public Bodies Review) (UFU.002.001.0268)

<sup>449</sup> Exhibit 916 – UFU Position Paper, Annexure 3 – 1994 Public Bodies Review (UFU.002.001.0268) at 0288

- 8.9 However, it is of note that the Committee made the following recommendations:<sup>450</sup>
- a) It is inappropriate for an emergency services provider to develop its own standards, core objectives and functions. The Committee recommends that these be the responsibility of the Minister for Police and Emergency Services.
  - b) The Committee recommends that one standard of fire cover be developed for Victoria as a matter of urgency.
  - c) The Committee recommends that performance monitoring standards be established, reviewed and maintained through a common reporting system by the Minister for Police and Emergency Services.
- 8.10 It is striking that the above recommendations (though made in relation to the MFB primarily) are yet to be fully implemented with respect to the CFA. Indeed, the Committee itself noted:<sup>451</sup>

*2.1.28 The Committee's focus has been on the Metropolitan Fire Brigades Board but the Committee remains concerned about the differing levels of response by each agency to the common risks of greater Melbourne. A common standard of fire cover for each level of risk must be developed as a matter of urgency.*

*2.1.29 One common standard of fire cover would be a catalyst for meeting many of the objectives set down in the Inquiry's terms of reference and establishing for all Victorians an equitable basis for service and for the cost of providing that service under a range of conditions in metropolitan Melbourne".*

- 8.11 Apparently the CFA and the MFB supported the above remarks in 1994.<sup>452</sup> Yet, as it noted below by Counsel Assisting, these matters have still not been fully addressed. The criticisms made by the Inquiry of the fact that there was variation as between the fire services in relation to the way in which data was collected and maintained, the fact that information was difficult to obtain, and reported in different forms made objective comparison impossible.<sup>453</sup> As is noted below, this remains the case in 2010.

### **CFA's proposal 2003**

- 8.12 The CFA made a comprehensive submission to the Esplin Inquiry into the 2003/2003 Victorian Bushfires entitled *From the Foothills to the Alpine Heights – Submission to Victoria's 2002–03 Bushfire Inquiry, June 2003*.<sup>454</sup> The CFA proposal was a bold one.

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<sup>450</sup> Exhibit 916 – UFU Position Paper, Annexure 3 – 1994 Public Bodies Review (UFU.002.001.0268) at 0276

<sup>451</sup> Exhibit 916 – UFU Position Paper, Annexure 3 – 1994 Public Bodies Review (UFU.002.001.0268) at 0308

<sup>452</sup> Exhibit 916 – UFU Position Paper, Annexure 3 – 1994 Public Bodies Review (UFU.002.001.0268) at 0309

<sup>453</sup> Exhibit 916 – UFU Position Paper, Annexure 3 – 1994 Public Bodies Review (UFU.002.001.0268) at 0336

<sup>454</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001)

It posited the existence of a single integrated fire service responsible for all suppression activities outside the MFD.<sup>455</sup> It called for 'radical change'.<sup>456</sup>

- 8.13 Under the proposal, DSE was to retain responsibility for fire planning and prevention on public land, but CFA would be responsible for overall control of fire suppression activity outside the MFD. The proposal envisaged DSE fire management staff becoming CFA employees.<sup>457</sup> The report was optimistic about the effects of the change, suggesting:<sup>458</sup>

*CFA also believes that, over time, many of the historical differences in culture and expertise would dissipate, leaving a more cohesive, effective and robust organisation that better serves the needs of the Victorian community.*

- 8.14 The CFA proposal also required the creation of Public Brigades (modelled on existing Forest Industry Brigades). These Public Brigades were to be created (at the instigation of the CFA) by land management organisations, such as DSE. These personnel were to remain employees of DSE, Parks Victoria and DPI, however would attend to fire suppression duties under the direction of the CFA as required.<sup>459</sup> Those Public Brigades, it was envisaged, would be under the command and control of the CFA and could also be required to fight fires on private land.<sup>460</sup> When not engaged in firefighting, those personnel would conduct their usual land management function under the existing reporting arrangements. This aspect of the CFA model has a number of similarities with the way in which the SACFS commands DEH brigades, as is discussed in detail above in the context the South Australian model. The CFA's model was depicted in its submission thus:

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<sup>455</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.3]

<sup>456</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.4]

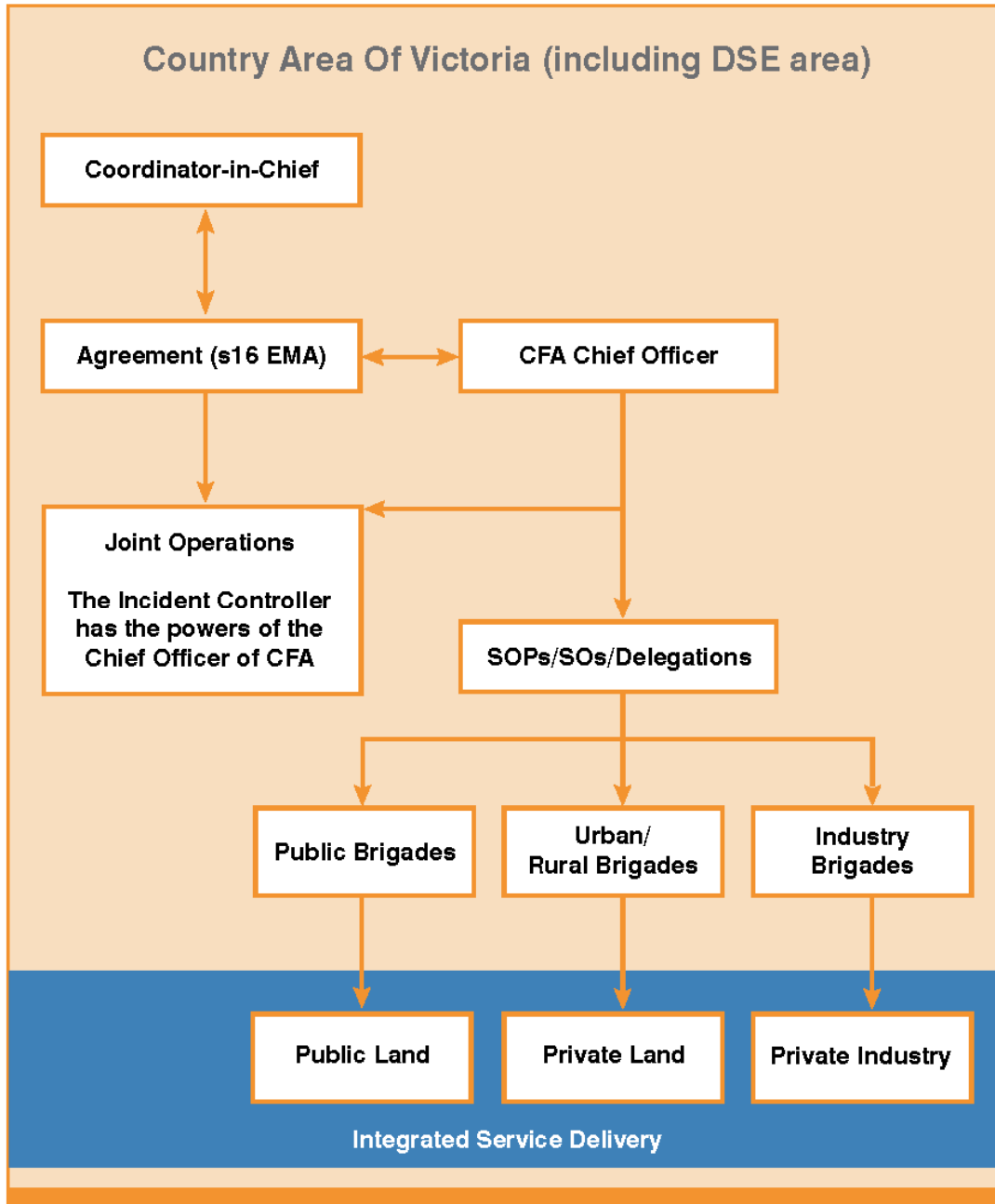
<sup>457</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.9]

<sup>458</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.5]

<sup>459</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.10]

<sup>460</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [1.4.13], [12.3.15]–[12.4.10]

**Figure 5 – Diagram depicting proposed organisational structure (Country Area of Victoria, including DSE area)<sup>461</sup>**



8.15 One of the rationales for the CFA proposal was the ‘many cracks in [the] seamless relationship over time’ between DSE and CFA.<sup>462</sup> The CFA’s submission frankly acknowledged that the fire services had not ‘worked as well together as they should –

<sup>461</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) at 021

<sup>462</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.2.3]

or as they themselves would have hoped'.<sup>463</sup> Further, it was said that 'significant time and effort required to maintain interagency agreements with DSE in order to attempt integrated command could be better spent'.<sup>464</sup> The submission catalogued shortcomings in attempts at integration and noted that these flowed from matters including 'dual accountability and perceived potential for a conflict of interest to arise between DSE's land management responsibility and those as a control agency responsible for fire management'.<sup>465</sup>

- 8.16 While the proposal envisaged the DSE, Parks Victoria and other public land managers continuing to manage all public land, it was proposed that by adopting a single agency for fire suppression activities 'any potential for a conflict of interest to arise between land management and fire control responsibilities would be removed'.<sup>466</sup>
- 8.17 The CFA submission argued that creation of a sole fire agency for suppression activities outside the MFD would give rise to more effective fire management 'with fully integrated fire suppression under one command structure with personnel working within one integrated fire management structures and one set of Standing Orders and Standard Operating Procedures'.<sup>467</sup> Further it would usher in efficient use of resources, elimination of duplication in operations, better sharing of information and clarity for the community.<sup>468</sup>
- 8.18 The report of the Esplin Inquiry neither endorsed the CFA's radical proposal nor recommended significant change. It specifically stated:<sup>469</sup>

*26.22 The Inquiry does not support the move of DSE Fire Management Branch to CFA, nor the establishment of Public Brigades as proposed by the CFA.*

*26.23 We believe there is a very real risk of degrading the crucial forest firefighting knowledge and experience within DSE's Fire Management Branch if it is transferred to the CFA – even if it is maintained as a separate entity within CFA. Over time, with staff attrition and altered recruitment patterns, it is difficult to see how the specialist expertise could be maintained. Such expertise relies on the personal development and experience gained by working on a day-to-day basis in public land management.*

*26.24 Furthermore, we believe that the obligation and responsibility of public land managers to prevent and respond to fires on the land under their stewardship is better protected if the appropriate resources remain within DSE.*

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<sup>463</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.2.3]

<sup>464</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [1.4.11]

<sup>465</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.2.11]

<sup>466</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [1.4.13]

<sup>467</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.14]

<sup>468</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) [4.4.14]

<sup>469</sup> Exhibit 11 – Statement of Esplin, Attachment 11 (Report of the Inquiry in the 2002-2003 Victorian Bushfires) (WIT.005.001.0951) at 1299-1300

*26.25 That is not to say that further improvements to the existing fire management operational arrangements are not both possible and necessary. The current arrangements lead to duplication of resources and infrastructure, can sometimes be confusing for the community (who may not understand which organisation is the controlling agency for a fire), and are still occasionally affected by inter-agency tension and conflict. In a number of cases, the application of the Incident Control System appeared to provide collocation more than co-ordination of the fire fighting effort.*

26.26 ...

26.27 ...

*26.28 The Inquiry favours a partnership or network approach to responsibility for fire prevention and suppression on public and private land. We believe that the issues identified by CFA can be resolved through other means. This will maintain the specialist firefighting skills of the public land management agencies while providing a more seamless approach to co-ordinated fire suppression. [Emphasis in original]*

8.19 However, the Esplin Inquiry accepted that changes were needed to the system for command and control. In this regard its report noted:<sup>470</sup>

*26.43 The Inquiry believes that the current fire management system can also be improved. We believe the existing system can, in some circumstances, be unclear and ambiguous. In some cases, bushfires are managed through dual lines of control. The system would be strengthened if modifications were made to ensure that a single line of command and control operates from State to local level. This would integrate more effectively with the co-ordination arrangements in the Emergency Management Act 1986, and Emergency Management Manual Victoria.*

*26.44 This also requires that arrangements be developed, and legislation amended, to provide that one person or agency is responsible for overall control of fire suppression activities in country Victoria. Whether this is a standing arrangement applying to all fires, or determined for each fire, will have to be decided. The key issue is the establishment of one line of command and control with one individual or agency having overall responsibility for the fire(s).*

8.20 The Inquiry ultimately recommended:<sup>471</sup>

*26.53 That this unified system include recommendations for the appointment of one person or agency to be responsible for overall control of fire suppression activity in country Victoria, including for any legislative reform considered necessary.*

8.21 As is noted above, the CFA's 2003 proposal is no longer consistent with the position advanced by the State and was not advanced by the CFA in the Royal Commission. However Counsel Assisting submit that there continues to be merit in the comments made above by the Esplin Inquiry in relation to the stewardship by DSE of public land and in relation to the need for a clearer, unified system of command and control.

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<sup>470</sup> Exhibit 11 – Statement of Esplin, Attachment 11 (Report of the Inquiry in the 2002-2003 Victorian Bushfires) (WIT.005.001.0951) at 1301

<sup>471</sup> Exhibit 11 – Statement of Esplin, Attachment 11 (Report of the Inquiry in the 2002-2003 Victorian Bushfires) (WIT.005.001.0951) at 1303

## ***Models proposed in the hearings***

- 8.22 In the hearings, a number of proposals were advanced by the parties. These ranged from proposals for fundamental change including amalgamation of fire services or bringing a number of fire services under the one governance structure, to more modest proposals for alteration of structure or revision of the command and control regime.
- 8.23 Each of the significant models is discussed in turn below. Consideration of the parties' proposals exposed strongly held views and deep opposition to many of the models from government, the fire services themselves and from unions and representative associations.
- 8.24 It will also be seen that some of the models are not new. The model proposed by Mr Foster, for example, draws heavily on the proposals put forward by the CFA in its 2003 submission to the Esplin inquiry.

## **9 AMALGAMATION MODELS**

- 9.1 Some of the models proposed involve the amalgamation of one or more fire services. These are obviously the boldest models in terms of change and the attendant difficulties in implementing the change.

### ***Mr Foster's model: bringing CFA and DSE together***

- 9.2 Mr Len Foster has extensive experience in the fire services. He has performed the roles of Chairman and Chief Executive of the CFA, Director-General of the Department of Conservation, Forests and Lands (a predecessor of DSE), Chief Executive Officer of the Australasian Fire and Emergency Services Council and Chair of the Bushfire Cooperative Research Centre.<sup>472</sup>
- 9.3 Mr Foster recommended that the Commission endorse a model for organisational restructure that involves merging DSE'S fire management division into the CFA to create a single agency with responsibility for the suppression of bushfires. Mr Foster described his model as 'a new, single fire response model based on an expanded role of the CFA for the management of bushfires in Victoria'.<sup>473</sup>
- 9.4 The model propounded by Mr Foster is based on the proposal put forward by the CFA to the Inquiry into the 2002-2003 Victorian Bushfires (**Esplin Inquiry**).<sup>474</sup>

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<sup>472</sup> L Foster T19102:18–T19103:8

<sup>473</sup> Exhibit 907 – Overview – Possible State Bushfire Response Model, Leonard Foster (Foster Response Model) (TEN.277.001.0001) at 0004

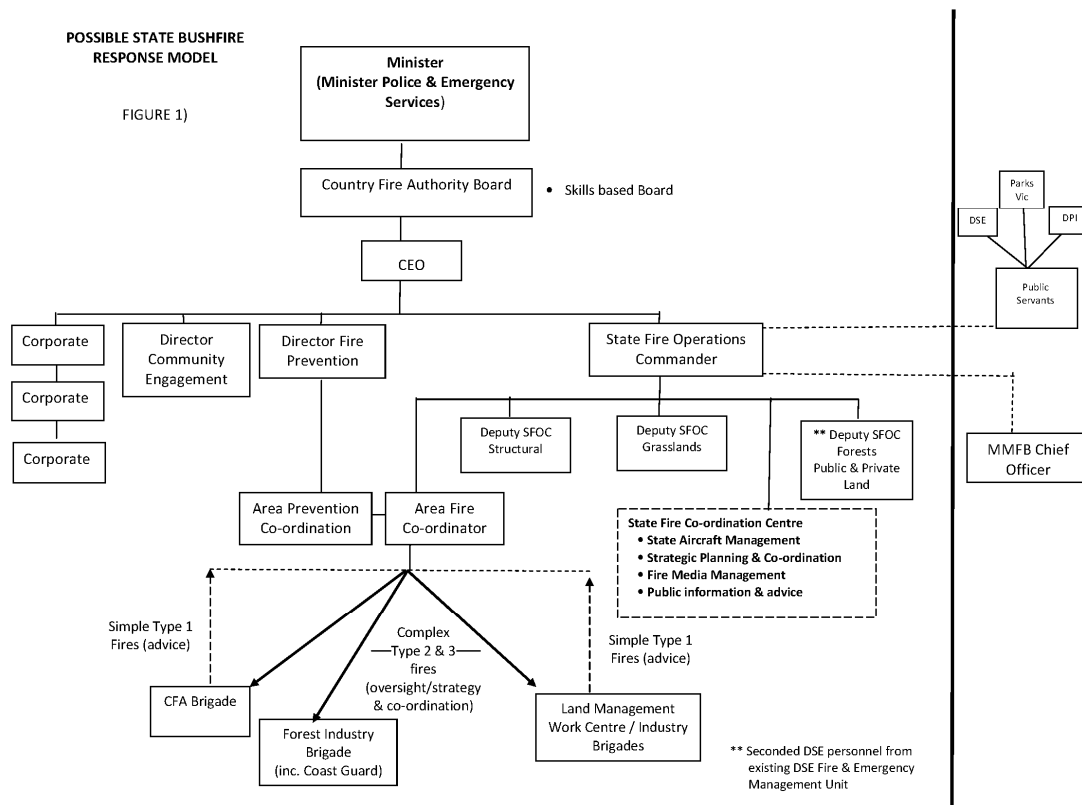
<sup>474</sup> L Foster T19111:10–T19111:14; Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001)

**Foster’s vision**

9.5 Mr Foster said his model is aimed at ensuring ‘a more sensible arrangement that would result from a more efficient relationship between the CFA and DSE’.<sup>475</sup> He indicated that arrangements in recent years directed towards improving inter-agency cooperation through streamlined command and control arrangements have not worked and that structural reform is therefore necessary.<sup>476</sup>

9.6 Mr Foster provided the Commission with a diagrammatic representation of his proposed model (see Figure 6).

**Figure 6 - Possible State Bushfire Response Model (Len Foster)<sup>477</sup>**



9.7 Mr Foster’s model has a single Minister with responsibility for all fires in Victoria. He proposes this as an improvement on the current situation pursuant to which one Minister is responsible for those fire agencies falling within the emergency services sector and a second Minister responsible for the fires that fall with the jurisdiction of

<sup>475</sup> L Foster T19110:26–T19110:29

<sup>476</sup> L Foster T19126:9–T19126:15

<sup>477</sup> Exhibit 907 – Foster Response Model, Diagram (TEN.277.001.0006)



the land management agencies.<sup>478</sup> Reporting to the Minister under Mr Foster's model is what he called a 'skills-based Board' with responsibility for the expanded CFA.

- 9.8 This Board would replace the current representative Board of the CFA, and is intended to comprise persons with skills in areas of fire and emergency management, police, land management, community liaison, research, governance and volunteer issues.<sup>479</sup>
- 9.9 While the model proposed by the CFA to the Esplin Inquiry in 2003 did not include provision for a skills-based Board, Mr Foster said he regards provision for such a Board as essential to ensuring that the organisation has sufficient expertise to make decisions on a range of matters, including making recommendations as to appropriate levels of prescribed burning.
- 9.10 Under Mr Foster's model, the Board is responsible for policy development and strategic management for the organisation as well as providing policy advice to the Minister.<sup>480</sup> Although the Board could reasonably be expected to have performance monitoring obligations, Mr Foster also proposed that the Office of the Emergency Services Commissioner be charged with providing independent performance auditing and standard-setting functions.<sup>481</sup>
- 9.11 In Mr Foster's model, sitting below the Board, with responsibility for the administration of the amalgamated agency, is a Chief Executive Officer. The key position in terms of fire response, however, is the State Fire Operations Commander (**SFOC**).
- 9.12 Although Mr Foster's preference would be for the CEO to be above SFOC in the organisational hierarchy, he appeared to accept that the roles could potentially exist as equals within the agency in a similar way to the Secretary of the Department of Defence and the Chief of the Defence Force.<sup>482</sup>
- 9.13 The SFOC would be responsible for all operations, policies and standards in relation to fire suppression (other than fires within the jurisdiction of the MFB).<sup>483</sup> Unlike the Chief Officer in the current CFA, the SFOC would not be responsible for fire prevention. Mr Foster suggested that in order to avoid overloading the SFOC,

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<sup>478</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19106:19–T19107:6

<sup>479</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19107:7–T19108:10

<sup>480</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0001, 0004; L Foster T19107:26–T19108:10; T19111:19–T19111:26

<sup>481</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004

<sup>482</sup> L Foster T19108:30–T19109:2; T19121:29–T19123:9

<sup>483</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19108:31–T19109:2; T19109:18–T19109:20

prevention functions would rest with a Director of Fire Prevention reporting directly to the CEO.<sup>484</sup>

- 9.14 Mr Foster suggested that the SFOC would be appointed by the Board and could come from either a land management or fire background. Mr Foster noted the importance of ensuring that the SFOC appointed during the implementation phase of this model is a person of 'outstanding leadership quality and experience', in order to be able to draw together personnel from the different agencies.<sup>485</sup>
- 9.15 Under the command and control of the SFOC sit three Deputy State Fire Operations Commanders, heading the Structural, Urban and Forest firefighting divisions. Also reporting directly to the SFOC would be the state-wide aircraft, planning, media and public information units.<sup>486</sup>
- 9.16 The central premise of Mr Foster's model (and the CFA's submission to the Esplin Inquiry) is that the Forest division of the new entity would consist of personnel who currently staff the DSE fire management unit. These DSE employees would become 'embedded' in the CFA agency and would be answerable on a day-to-day basis to the SFOC.<sup>487</sup> Although this proposal contemplates the transfer of DSE's fire management division to the CFA, another central feature of the model is that the day-to-day land management responsibilities of the DSE and other land management agencies (including prescribed burning) should remain unchanged.<sup>488</sup>
- 9.17 Mr Foster appears to envisage a situation whereby the CFA Board would have a role in recommending appropriate levels of prescribed burning but the implementation of those target levels would remain the responsibility of DSE.<sup>489</sup>
- 9.18 In addition to the transfer of fire managers from DSE to the new entity, all DSE and Parks Victoria work centres would become 'industry brigades' sitting within the structure of the CFA. Along with existing CFA brigades and private Forestry Industry brigades, these DSE industry brigades would turn out in response to fire under the control of the SFOC. Unlike the VFBV command and control model, however, the DSE brigades would permanently form part of the CFA structure.<sup>490</sup> In relation

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<sup>484</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19117:30–T19118:7

<sup>485</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19109:3–T19109:17

<sup>486</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19111:28–T19112:21; T19113:19–T19113:24

<sup>487</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0001, 0004; L Foster T19114:14–T19114:29; T19127:10–T19127:29; T19133:18–T19133:24

<sup>488</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0005; L Foster T19113:12–T19113:13

<sup>489</sup> L Foster T19111:21–T19111:26; T19134:6–T19134:15

<sup>490</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004; L Foster T19118:15–T19118:21; T19127:21–T19127:24

particularly to the more complex Level 2 and 3 incidents, the intention is to provide an 'integrated fire fighting force under a single chain of command'.<sup>491</sup>

9.19 Mr Foster's model does not contemplate, at least initially, the integration of the MFB with the other fire agencies. Mr Foster explained his view that the 'main game' in terms of improving response to wildfire in Victoria involves the relationship between the CFA and DSE, not the relationship between CFA and MFB. Whilst leaving open the possibility that the MFB could be brought within the agency at a later stage, Mr Foster considered that attempting to effect such a change now would 'complicate the position by adding that extra layer and burden of management responsibility both in an administrative sense and a firefighting sense'.<sup>492</sup> Mr Foster acknowledged that his model does not deal with situations in which the MFB and CFA might be jointly responding to a bushfire in an urban/rural interface area.<sup>493</sup>

9.20 Mr Foster regards the cultural and industrial relations differences between the CFA and MFB to be a complicating factor likely to stymie a merger of the two. He said:<sup>494</sup>

*[I]n my whole employment life in government I have never seen two organisations that are so culturally different, not the least issue being an industrial relations climate.*

9.21 Mr Foster said that one of the advantages of his proposed model is that it would maintain the status of volunteer firefighters and the surge capacity that they are capable of providing.<sup>495</sup> He asserted that any model for organisational restructure of the fire agencies must provide for a 'significant and on-going commitment of well-trained and motivated volunteers in rural [and interface] areas'.<sup>496</sup>

9.22 Mr Foster acknowledged that there may be some problems arising out of the transfer of DSE career firefighters to the CFA, describing such tensions as 'inevitable' where a volunteer force works alongside paid staff. He did not appear to have any doubts, however, about the continuing ability of volunteer and career staff to integrate well when actually responding to fires.<sup>497</sup>

### **Blast from the past: the CFA has said it before**

9.23 As noted above, the model put forward by Mr Foster is an adaptation of the model proposed in the CFA's submission to the Esplin Inquiry. That submission, endorsed by the then management and Board of the CFA in 2003, noted the long history of

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<sup>491</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0004

<sup>492</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0005; L Foster T19109:18–T19110:4

<sup>493</sup> L Foster T19128:18–T19128:28

<sup>494</sup> L Foster T19110:11–T19110:20

<sup>495</sup> L Foster T19121:5–T19121:27

<sup>496</sup> Exhibit 907 – Foster Response Model (TEN.277.001.0001) at 0003; L Foster T19124:19–T19124:28

<sup>497</sup> L Foster T19120:18–T19120:30

'cracks' in the operational relationship between CFA and DSE, with problems in CFA-DSE liaison, fireground conflicts and radio communication difficulties having 'plague[d] inter-agency operations in the 20 years since Ash Wednesday'.<sup>498</sup>

- 9.24 As with Mr Foster's proposal to this Commission, the CFA advocated in 2003 that DSE fire management staff be transferred to the CFA and that CFA should have overall control of all fire suppression activities outside the Metropolitan Fire District.<sup>499</sup>
- 9.25 The CFA's submission was not accepted by the Esplin Inquiry. The Report of the Inquiry stated that the model posed 'a very real risk of degrading crucial forest firefighting knowledge and experience' by transferring the fire management unit out of DSE. The Inquiry also considered that public land managers should have an obligation to both 'prevent and respond' to fires and that these dual responsibilities would be best fulfilled if the appropriately skilled personnel remained part of the land management agency.<sup>500</sup>

### Why the change of heart?

- 9.26 The CFA's 2003 proposal to the Esplin Inquiry appears to have been formally abandoned.
- 9.27 The evidence of the present Chief Executive Officer of the CFA, Mr Michael Bourke, is that the CFA Board no longer supports an amalgamation of the CFA and DSE. While it appears that the Board has not specifically disavowed the 2003 submission to the Esplin Inquiry, or explicitly identified reasons why an alternative model should be preferred, the Board's present position is that the organisational structure of emergency services is a matter for the State government.<sup>501</sup>
- 9.28 Ms Armytage (Secretary to the Department of Justice) was authorised to provide the State's position in relation to proposals for organisational restructure. Ms Armytage said of the CFA's 2003 proposal to the Esplin Inquiry that the, 'arguments that were put in that report, which concluded that they thought [the CFA proposal] would ultimately lead to a diminution in the skills and expertise and capacity of the public land manager over time, we have been persuaded that those arguments still apply

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<sup>498</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) at 053; L Foster T19111:10–T19111:14

<sup>499</sup> Exhibit 925 – From the Foothills to the Alpine Heights (SUMM.022.019.0013\_001) at 057–058

<sup>500</sup> Exhibit 11 – Statement of Esplin, Attachment 11 (Report of the Inquiry into the 2002–2003 Victorian Bushfires) (WIT.005.001.0951) at 1299

<sup>501</sup> Bourke T19328:16–T19329:5

today'.<sup>502</sup> She said the State is strongly in favour of fire management on public land remaining the purview of the land manager.<sup>503</sup>

9.29 Ms Armytage was pressed on whether, in her consultation with the fire services prior to formulation of the State's position for presentation to the Royal Commission, the CFA indicated their present view about their own previous submission. She said that the CFA's present view was 'supporting the government's position'.<sup>504</sup> She was asked whether the CFA had provided any reason as to why they had 'dropped' their own proposal from 2003. She said.<sup>505</sup>

*No, I think it's really been more an evolution. I think what we have found in relation to all of the fire agencies since February 7<sup>th</sup>, that they have looked at the practices and looked at why at they think should be the best arrangements for the future.*

9.30 Ms Armytage added that while individual agencies may have had 'different nuances' in relation to their preferred position, ultimately the State endorsed 'whole-of-government' position was that which she advanced<sup>506</sup>. She said all the fire services 'accepted' that the State's position is to advocate maintenance of the status quo.<sup>507</sup> It is not entirely clear why the CFA has "dropped" the view it stated so strongly in 2003.

9.31 Mr Rees, Chief Officer at the time of the CFA's submission to the Esplin Inquiry, appears to have resiled from the position expressed in that document.<sup>508</sup> As with the State, Mr Rees now endorses the comments in the Report of the Esplin Inquiry to the effect that responsibility for suppression of fire on public land should not be divorced from responsibility for land management. Mr Rees also expressed concern in evidence that reducing the DSE's responsibility in relation to fire on public land would lead to a 'progressive degradation' of the first response capabilities currently provided by DSE employees and would lead to an increase in demands on volunteers.<sup>509</sup>

9.32 Mr Neil Bibby, CEO at the time when the CFA endorsed the 2003 submission, has moved in the opposite direction from Mr Rees. He now advocates a single fire agency comprising the current CFA, DSE and the MFB. Mr Bibby's proposal for a complete amalgamation of the fire agencies is discussed below. He noted, however, that the model proposed in 2003 would be better than the present arrangements and could be

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<sup>502</sup> Armytage T19433:9–T19433:27

<sup>503</sup> Armytage T19431:29–T19432:11

<sup>504</sup> Armytage T19388:29–T19389:6

<sup>505</sup> Armytage T19389:7–T19389:13

<sup>506</sup> Armytage T19389:21–T19389:28

<sup>507</sup> Armytage T19389:14–T19389:20

<sup>508</sup> Rees T19539:27–T19359:29

<sup>509</sup> Rees T19540:6–T19541:3

used as an interim or 'evolutionary' step towards achieving a fully integrated fire service.<sup>510</sup>

### ***Mr Bibby's model: a single fire agency for Victoria***

9.33 Mr Neil Bibby was Chief Executive Officer of the CFA from September 2002 to September 2009.<sup>511</sup> He joined the MFB as a recruit firefighter in 1973, and progressed to the rank of Director of Fire and Hazard Safety. He then commenced at the CFA in a preventative role, prior to being elevated to CEO. He has experience in Fiji, New Guinea and Samoa.<sup>512</sup>

9.34 Mr Bibby proposes a single fire agency model for Victoria. The single agency would comprise the current CFA, MFB and DSE, and also potentially the SES.<sup>513</sup>

9.35 The model proposed by Mr Bibby has the following elements.<sup>514</sup>

- a) all fire services falling within the portfolio of a single Minister;
- b) a Fire Services Board, directly answerable to the Minister, with a composition similar to that of the SES (where members of the Board are appointed having regard to relevant expertise and experience as well as their understanding of volunteer issues),<sup>515</sup>
- c) under the Board, a Chief Executive Officer;
- d) underneath the CEO, a chief of operations to be known as the State Fire Commissioner;
- e) below the State Fire Commissioner, a single fire agency with 3 divisions – Urban, Provincial and Bush, each under the direction of a Deputy Commissioner; and
- f) all 3 divisions to be serviced by common administration functions, including finance and human resources.

9.36 This model is depicted below in Figure 7. It should be noted that the diagram has been generated on the basis of Mr Bibby's evidence, but was not provided by him.

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<sup>510</sup> Bibby T19472:22–T19471:27

<sup>511</sup> Bibby T19467:12–T19467:15

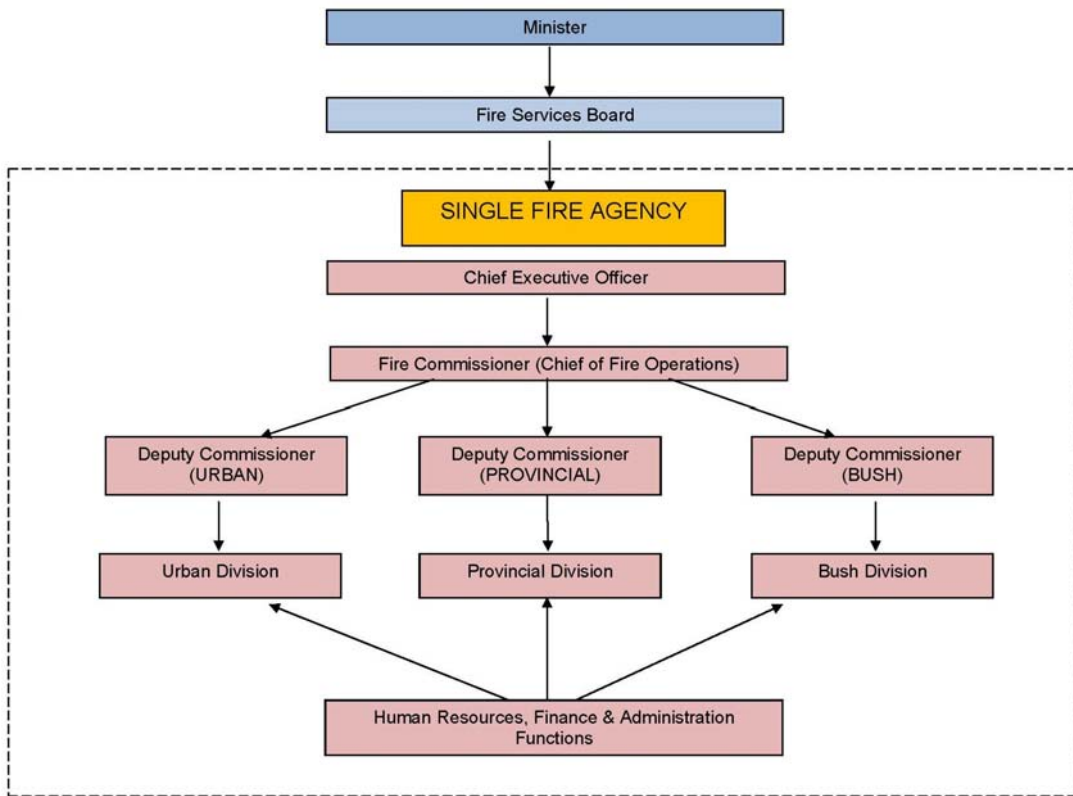
<sup>512</sup> Bibby T19489:23–T19490:5

<sup>513</sup> Bibby T19468:18–T19468:31

<sup>514</sup> Bibby T19472:4–T19473:22

<sup>515</sup> See also section 10 Victorian State Emergency Service Act 2005 (Vic)

**Figure 7 – Proposed Single Fire Agency Model (Neil Bibby)<sup>516</sup>**



9.37 Mr Bibby regards the ideal relationship between the Chief Executive Officer and the Chief (fire) Officer of the CFA, as one where the CEO of the joint fire agency is responsible for the business side of the organisation, including asset management, training facilities and communications systems. This leaves the State Fire Commissioner free to concentrate on operational matters relating to the prevention and suppression of fire.<sup>517</sup>

9.38 In relation to the career versus volunteer profile of the three divisions, Mr Bibby envisages integrated career and volunteer stations throughout metropolitan Melbourne and some regional areas, with the vast majority of fire brigades in rural Victoria remaining as purely volunteer brigades. These volunteer brigades may benefit from additional support from a greater number of career officers within the overall organisation but on a day-to-day basis would not be significantly impacted.<sup>518</sup> Mr Bibby appeared to be suggesting that there may be some wholly career stations, presumably in central Melbourne, but that volunteers may play a larger role in coming

<sup>516</sup> For general description of the Bibby model, see Bibby T19472:4–T19473:22

<sup>517</sup> Bibby T19479:10–T19479:31

<sup>518</sup> Bibby T19474:29–T19475:20; T19477:17–T19478:4; T19481:27–T19482:4

into the central metropolitan area to assist at major incidents.<sup>519</sup> He advocated the abolition of the concept of a 'metropolitan fire district' with entirely career brigades on one side of the line and a mix of volunteer and integrated stations on the other side.<sup>520</sup>

9.39 The State, through Ms Armytage, rejected the model proposed by Mr Bibby on a number of grounds. Firstly, she called in aid the mantra of volunteerism. She said the integration of CFA with the MFB would lead to a diminution of the role of volunteers and the State did not wish to lose the 'significant benefit' that the State presently derives from the CFA's integrated career/volunteer model.<sup>521</sup>

9.40 Secondly, Ms Armytage expressed the view that a restructure along the lines proposed by Mr Bibby is not justified on the basis that:

- a) there is no evidence that the career MFB model provides better service than the CFA is capable of providing; and
- b) the current mutual aid arrangements between the MFB and CFA, and the cooperative bushfire fighting arrangements between DSE and CFA 'work well'.<sup>522</sup>

9.41 Ms Armytage also rejected the amalgamation model on the grounds that fire management is a tool that forms part of DSE's as part of its land management functions and should include fire suppression as well as prevention.<sup>523</sup>

### It's time?

9.42 The principal driver behind Mr Bibby's proposal is the need to ensure greater coordination across the services. He noted that numerous reviews and reports since the Ash Wednesday fires had expressed the conclusion that greater coordination between fire agencies was required.<sup>524</sup> Mr Bibby's model is represents perhaps the logical conclusion of the attempt to achieve that coordination.

9.43 Following a number of major fires during the period between 1983 and 2009, proposals for amalgamating some or all of the fire agencies were put forward but never implemented.<sup>525</sup> Mr Bibby suggested that with climate change and

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<sup>519</sup> Bibby T19474:24–T19474:29; T19475:8–T19475:20; T19482:5–T19482:17

<sup>520</sup> Bibby T19475:29–T19476:3

<sup>521</sup> Armytage T19431:25–T19431:29; T19433:1–T19433:8

<sup>522</sup> Armytage T19431:17–T19431:25; T19432:6–T19432:11; T19433:1–T19433:8; It is of note that the Chief Fire Officer of the MFB, Mr A Murphy, echoed similar sentiments concerning the success of the Mutual Aid Arrangements between MFB and CFA, see Exhibit 576 – Statement of A Murphy (WIT.3006.001.0001) [67]; A Murphy T12568:14–T12568:19

<sup>523</sup> Armytage T19431:30–T19432:6; T19433:1–T19433:8

<sup>524</sup> Bibby T19468:23–T19470:20

<sup>525</sup> Bibby T19468:23–T19470:20



demographic shifts beginning to impact on Victoria, now is the time to make a change in the structure of the fire services.<sup>526</sup>

- 9.44 On its face, Mr Bibby's model appears to offer great advancements in efficiency, integration and consistency. It promises the establishment of a single fire service dedicated to providing the same level of fire service to all Victorians – regardless of where they live.
- 9.45 Mr Bibby accepted that his model requires changes to legislation and industrial instruments. He accepted that in particular rewriting industrial agreements might be a 'big undertaking. ' Mr Bibby did not accept, however, that this should be a reason for not introducing change.<sup>527</sup>
- 9.46 Mr Bibby's crash through or crash approach to achieving change has some appeal. The model he proposes has many potential benefits and presents a bold vision for Victoria.
- 9.47 Mr Bibby did acknowledge that his model could not and should not be implemented quickly. He advocated an 'evolutionary' approach, whereby incremental steps would be taken to move towards a clear 'end game' of amalgamation, and suggested that 10 years might be a realistic timeframe.<sup>528</sup>

### Culture clash?

- 9.48 Mr Bibby rejected suggestions that merging the agencies in the manner called for under his model would destroy the ethos of volunteerism on which Victoria's emergency services so heavily relies. He argued that the integrated career-volunteer brigade structure works well in many places across Victoria at present and that his proposed model may in fact lead to a strengthening of the position of volunteers. He said that the 'us and them' mentality between volunteers and some elements of the career work force could be broken down, volunteers would receive more support from career staff where required, and the potential for volunteer involvement in central metropolitan Melbourne would be expanded.<sup>529</sup>
- 9.49 When pressed as to whether the culture of each agency would be destroyed in his proposed merger, Mr Bibby expressed his view that amalgamation does not have to mean the homogenising of all units within the agency and that a single agency can accommodate cultural differences between sections.

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<sup>526</sup> Bibby T19470:30–T19471:15

<sup>527</sup> Bibby T19478:15–T19478:22; T19481:9–T19481:20

<sup>528</sup> Bibby T19473:28–T19473:30; T19486:10–T19486:25

<sup>529</sup> Bibby T19474:6–T19474:29; T19476:13–T19476:18; T19477:8–T19478:4; T19482:1–T19482:4

- 9.50 Mr Bibby also remarked that in some cases, where cultural differences lead to a barrier between groups (such as the perceived barrier between MFB career staff and CFA volunteers), the breaking down of such cultural barriers is not necessarily a negative.<sup>530</sup>

### ***UFUA's model: Single fire service for private land***

- 9.51 The United Firefighters Union of Australia (**UFUA**) propose a model in which the MFB and the CFA are amalgamated. The union summarised the proposal in the following terms:<sup>531</sup>

*[A]malgamation of the CFA and the MFB into a single fire service to be known as the Victorian Fire Board. The Victorian Fire Board would have an urban and rural division. The DSE would retain control over land care and fire suppression over public land, but in the event of a fire of level 2 or above all command and control in relation to fire suppression and response would vest in the Victorian Fire Board.*

- 9.52 The UFUA submission asserts that the existence of multiple fire agencies results in inefficiencies (such as duplication of costs, inconsistent training arrangements and incompatible equipment and communications systems) which 'have resulted in systemic failures leading to the loss of life and property'.<sup>532</sup>
- 9.53 In support of its proposal, the UFUA commissioned a report from Professor David Hayward of the RMIT University School of Global Studies, Social Science and Planning. The Hayward Report asserted that there would be 'clear benefits of moving to a single fire service for Victoria, including cost savings, operational efficiencies, and a single command and control system'.<sup>533</sup>
- 9.54 The structure proposed by the UFUA is depicted at Figure 8. Counsel Assisting note that these submissions are reliant for the most part on Professor Hayward's description of the proposed model. Although the UFUA was invited (following service of the Union's position paper) to provide a witness from within its organisation to speak directly to the proposal, this offer was not taken up. Consequently, the only witness to be examined directly in relation to the structure of the UFUA's model was Professor Hayward.<sup>534</sup>

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<sup>530</sup> Bibby T19488:9–T19488:26

<sup>531</sup> Exhibit 916 – Position Paper on behalf of the UFU in respect of the amalgamation of the fire services in Victoria (UFU Position Paper) (UFU.002.001.0001) [4]

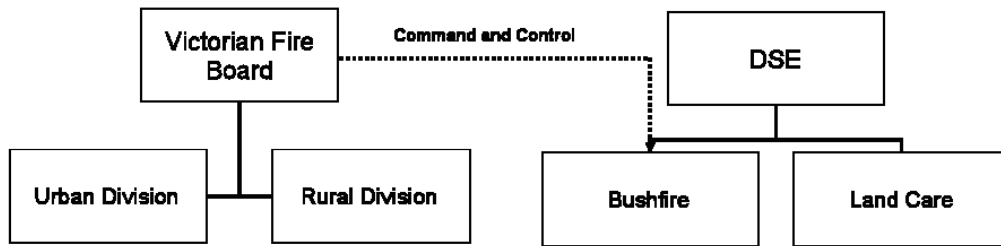
<sup>532</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [8]–[9]

<sup>533</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [19]; Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0079-0800

<sup>534</sup> Doyle SC T19886:12–T19886:15. Counsel Assisting note further that a statement of Mr Barry Thomas was served very late in proceedings, apparently in order to advance certain propositions in relation to the assertions made in the position paper (and in Professor Hayward's report) in relation to the standard of fire cover provided by the CFA and MFB respectively and assertions made about the impact of the same on life and property (for those assertions see Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0789-0790 and Exhibit 916 – UFU Position

**Figure 8 – UFU Proposed Single Fire Service Model<sup>535</sup>**

Figure 5.1 Proposed Single Fire Service Model



Source: RMIT 2010.

- 9.55 Although the UFUA and Professor Hayward refer repeatedly to a ‘single fire service’, the model in fact contemplates a merger of the CFA and MFB, with the DSE to remain a separate entity, retaining responsibility for fire suppression on public land. The model envisages, however, that the DSE is to be brought within a unified command and control structure, under the direction of the Victorian Fire Board, for incidents classified at Level 2 or above.<sup>536</sup>
- 9.56 It can be seen from the figure above that a Board is intended to sit about the two divisions of the single fire service for private land. The UFUA Submission recommends that the Board of the amalgamated agency comprise persons with operational experiences across a broad range of firefighting disciplines.<sup>537</sup> Professor Hayward, however, suggested that the composition of the Board was to be left ‘open’, although he mused that it might be predominantly composed of persons with qualifications in management, finance or human resources, along with ‘one or two’ representatives with operational firefighting experience.<sup>538</sup>
- 9.57 Below the Board, the agency would be divided into an Urban division and a Rural division. The Urban division would be responsible for not only the entire urban area of Melbourne (including areas presently falling outside the MFB’s jurisdiction) but also major regional centres such as Geelong, Ballarat, Bendigo, the La Trobe Valley and associated major infrastructure, Wodonga and Mildura.<sup>539</sup> The model envisages that the jurisdiction of the Urban division would be amended over time to reflect population

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Paper(UFU.002.001.0001) [20]-[23], [24(b)]. Mr Thomas’ evidence, however, did not touch directly on the mechanics of the UFU’s proposed model.

<sup>535</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0800

<sup>536</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [58]; Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0800–0801

<sup>537</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [60]

<sup>538</sup> Hayward T19286:16–T19286:25

<sup>539</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [62]; Hayward T19273:2–T19273:29

growth. Such amendments would be determined by the Board.<sup>540</sup> The question of boundary determination is discussed in more detail below.

- 9.58 The Rural division would be responsible for fire suppression in small towns and private land in rural areas. The division would be staffed by a mix of career and volunteer firefighters.<sup>541</sup> In continuing the involvement of volunteers in the Rural division, the UFUA recognised the contribution of volunteers in fire suppression and incident management. The UFUA submitted that in some circumstances volunteers should receive payment or some type of allowance for their services.<sup>542</sup> This idea has been strenuously opposed by Volunteer Fire Brigades Victoria, who argue that even partial payments made to volunteers will ‘destroy volunteerism’.<sup>543</sup>
- 9.59 The staffing profile of the Urban Division appeared to be an issue of some contention. Although the UFUA’s submission and Professor Hayward’s report both clearly state that the Urban Division would be staffed by full time career firefighters,<sup>544</sup> Professor Hayward retreated somewhat from this position when giving evidence. Initially Professor Hayward stated that the Urban Division would ‘predominantly’ consist of career staff, the exact proportion of career to volunteer firefighters to be determined by the Board. He said that while the model envisaged that the ‘reliance on volunteers should be lowered’, volunteers would continue to be used in servicing urban areas.<sup>545</sup>
- 9.60 In oral evidence Professor Hayward indicated that ‘pragmatism’ should be the guiding factor in relation to the staffing profile for outer metropolitan areas that are currently serviced by volunteers – such as the municipalities of Greater Dandenong, Knox and Yarra Ranges. He suggested that it would not be ‘wise or necessary’ to get rid of all volunteers in those areas.<sup>546</sup> His prevarication is odd in light of the explicit statements in the position paper that the Urban Division is intended to comprise a career firefighting force.
- 9.61 In any event, even Professor Hayward’s model clearly contemplates a reduction in the number of volunteer firefighters in both outer metropolitan Melbourne and in regional cities. Professor Hayward acknowledged that he had not considered the impact this may have on the ability of the fire agency to provide a ‘surge capacity’ able to be activated during extreme events. Nor did he have regard, when

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<sup>540</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0800

<sup>541</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [63]; Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0800

<sup>542</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [64]–[66]

<sup>543</sup> Exhibit 700 – Letter from VFBV regarding payments to volunteers (CORR.0912.0082)

<sup>544</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [62]; Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0800

<sup>545</sup> Hayward T19270:28–T19271:19

<sup>546</sup> Hayward T19290:9–T19290:24

developing the single fire agency model, to the evidence regarding the value of volunteers and their contributions to the community generally.<sup>547</sup>

### **DSE: Single line of command and control**

- 9.62 As noted above, the UFUA's model does not contemplate that DSE firefighters would be part of the organisational structure of the amalgamated fire agency. They would remain employees of DSE, which would retain all present responsibilities for land management and fire suppression on public land. In relation to incidents on public land that are classified as Level 2 or higher, however, DSE crews would respond under the command and control of the Victorian Fire Board.<sup>548</sup>
- 9.63 Professor Hayward suggested that the Board would be responsible for determining when the trigger point for DSE crew to turn out under the command and control of the new Victorian Fire Board is reached.<sup>549</sup> There are obvious difficulties in this suggestion, as it is unlikely the Board would be active and capable of making such determinations during a fast moving fire.

### **Rationale for UFUA model**

- 9.64 The UFUA argued that their model for organisational restructure would deliver a range of benefits, including 'substantial cost savings', 'standardised fire cover...particularly in urban and large regional centres', and standardised equipment, training, command and control, safety and risk management, funding, administration and governance.
- 9.65 Apart from the bold assertion that the removal of duplication of aspects of the fires services would lead to cost savings, the UFUA provided no detail in relation to where savings would be made, or any costing of the implementation of its model. Most significantly, the UFUA did not provide any costings relevant to the need to replace volunteers throughout the Urban Division with paid firefighters.
- 9.66 Some of the identified costs savings were efficiencies said to be derived from sharing headquarters and administration and from the 'economies of scale' in purchasing similar equipment. These savings could not be quantified, however, as no analysis had been done of the reduction in management/administration positions that could be achieved and Professor Hayward did not appear to have factored in the different

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<sup>547</sup> Hayward T19582:23–T19584:6

<sup>548</sup> Exhibit 916 – UFU Position Paper (UFU.002.001.0001) [58]; Hayward T19274:1–T19274:9

<sup>549</sup> Hayward T19274:27–T19275:1

appliances and equipment that would still be required to fight structural as opposed to wild fires.<sup>550</sup>

- 9.67 A second saving identified was that said to be derived from lower levels of damage caused when the fire services arrive early at a structure fire and can contain it within the early stages. This analysis depends on an assumption that career firefighters will always respond more quickly and have a greater level of success in confining a structure fire to its room of origin.<sup>551</sup> There is insufficient evidence before the Commission to make the bold finding that the CFA (or its volunteers) is less successful in extinguishing structure fires or in minimising property damage.
- 9.68 During his first appearance before the Commission, Professor Hayward admitted that he had not calculated the cost of replacing volunteer firefighters with career staff in the 'Urban division' of the proposed new entity.<sup>552</sup> He had also not quantified the savings he claimed would derive from a greater response time being achieved across urban areas.
- 9.69 During a later appearance, Professor Hayward produced a brief analysis referable to a matter he said would assist to 'cost' the model. He asserted that the cost of paying 400 career staff to replace volunteers in urban areas would be \$26.4 million per year and that the savings arising from improved 'efficiency' (assessed in improved response times to fires) would be between \$13 million and \$46 million.<sup>553</sup> The assumptions underlying the model are questionable and the results to be treated with caution. Professor Hayward acknowledged that the analysis had been drawn together hastily, in the two days between appearances, that there were 'limitations' in the data and that he had been required to make numerous 'assumptions', including the assumption that the CFA responds more slowly to fire events resulting in higher levels of property damage.<sup>554</sup>
- 9.70 As a further rationale for the union's model, Professor Hayward asserted that the existence of multiple fire services leads to 'multiple levels of service which affects resident safety and property'.<sup>555</sup> This necessarily implies that the CFA's slightly slower target turnout times for responses to structure fires (again, discussed in detail below) endangers lives and lead to greater levels of property damage.

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<sup>550</sup> Hayward T19285:10–T19286:16

<sup>551</sup> Hayward T19290:4–T19290:8; Exhibit 917 – Hayward preliminary note regarding cost savings (TEN.295.001.0001)

<sup>552</sup> Hayward T19289:22–T19289:26

<sup>553</sup> Exhibit 917 – Hayward preliminary note regarding cost savings (TEN.295.001.0001)

<sup>554</sup> Hayward T19587:2–T19589:12

<sup>555</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0790

9.71 However, Professor Hayward conceded that he could not point to any examples of CFA providing a lesser standard of response to a fire than the MFB would have done if they were responded to the same fire.<sup>556</sup> Further, Professor Hayward could not point to any evidence that for those fires occurring on 7 February 2009 that would have fallen within the jurisdiction of the UFUA's proposed 'Urban division' (including Narre Warren, Upper Ferntree Gully and Bendigo) the MFB would have done a better job than the CFA.<sup>557</sup> It is worth noting that Professor 't Hart regarded the UFUA's proposal as devoid of a strong evidentiary base. He described it as 'a solution looking for a problem'.<sup>558</sup>

## ***Responses to amalgamation models***

### **AWU**

9.72 The AWU are vocal opponents of this aspect of the UFUA's proposal. The AWU opposes any organisational model which would merge current DSE firefighters into a larger agency with responsibility for public and private land. Nor does it support models in which DSE crews would turn out to fires under the command and control of another entity.<sup>559</sup>

9.73 The AWU submits that in relation to fire prevention and suppression 'the demarcation between private and public is vital' and that by taking responsibility away from DSE, accountability will also be lost.<sup>560</sup> The AWU does not, however, oppose the CFA and MFB being brought together within a single agency.<sup>561</sup>

9.74 Despite the clear views expressed in the AWU's written submission regarding the importance of keeping public and private fire management separate, Mr Melhem appeared to indicate at the very end of his oral evidence that the AWU's opposition to a single fire agency was based more on pragmatism than principle. He stated that a single agency is 'a bit too ambitious' and questioned whether there was 'the political will to do it at this point of time'. He suggested that the Land and Fire Commission model, bringing together DSE and other land management agencies, was achievable in the medium term but that the idea of a single agency could be revisited in 'five years time or 10 years time'.<sup>562</sup>

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<sup>556</sup> Hayward T19282:25–T19282:31

<sup>557</sup> Hayward T19283:31–T19284:19

<sup>558</sup> 't Hart T19066:14–T19066:16

<sup>559</sup> Exhibit 933 – Statement of Evidence of Melhem (WIT.7556.001.0001) [13(e)], Annexure 3 – April 2010 Submission (AWU.001.001.0001) generally; Melhem T19499:25–T19501:1

<sup>560</sup> Exhibit 933 – Statement of Evidence of Melhem, Annexure 3 – April 2010 Submission (AWU.001.001.0001) at 0003; Melhem T19500:28–T19501:1

<sup>561</sup> Melhem T19499:20–T19499:24

<sup>562</sup> Melhem T19501:12–T19501:22

## VFBV

- 9.75 In relation to proposals that would merge the CFA and DSE, the VFBV considers that it would be 'potentially complicated' to remove the fire management unit from DSE and referred to the various inquiries that have concluded that such a merger would risk eroding the 'expertise, experience and knowledge' of each agency.<sup>563</sup> Mr Ford believes that transferring DSE's fire responsibilities to CFA would be 'just creating another problem'.<sup>564</sup>
- 9.76 In relation to any structure that combined the CFA and MFB, the VFBV argues that such a structure would simply be unworkable. The submission contends that workforce composition and industrial relations issues are 'inextricably linked' to organisational structure and that '[t]he MFB industrial relations arrangements do not contemplate either a volunteer based model or a model comprising an integrated workforce where both paid and volunteer staff work together'.<sup>565</sup>
- 9.77 The VFBV's primary concern regarding amalgamation is that it would erode the current volunteer capacity of Victoria's firefighting service.<sup>566</sup> Mr Ford saw a number of ways in which this might happen. He suggested that if the focus moved away from volunteers having a 'front-line involvement' in the firefighting agency (which the VFBV consider inevitable in an organisation that merged CFA with MFB), volunteers would feel disenfranchised and move away from the organisation.<sup>567</sup> Another possibility would be that the amalgamated organisation could become 'so big and preoccupied with managing the bureaucracy and some of those industrial and cultural challenges' that there would be reduced focus on 'maintaining and building volunteer capacity'. Mr Ford saw a real risk of volunteerism being undermined by neglect.<sup>568</sup>
- 9.78 Creating an organisational structure that resulted, whether intentionally or not, in a significant reduction in the volunteer capacity of the organisation would, says the VFBV, destroy the surge capacity of the CFA – a capacity which was 'critical' to the firefighting efforts on 7 February 2009 and during many other bushfire campaigns in Victoria.<sup>569</sup> The VFBV also noted the financial impost that could result from a reduction in volunteerism. VFBV estimated the value that CFA volunteers contribute the community at around \$840 million. It was submitted that there is 'no practicable

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<sup>563</sup> VFBV refer to the Report on the 1983 Ash Wednesday fires, the Inquiry in the 2003 Canberra fires and the Esplin Inquiry in the 2002–03 Victorian Bushfires. See Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [26]–[28]

<sup>564</sup> Ford T19231:9–T19231:13

<sup>565</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [36]–[37]

<sup>566</sup> Ford T19220:26–T19220:29; see also Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) generally

<sup>567</sup> Ford T19221:22–T19222:1, T19239:23–T19239:28

<sup>568</sup> Ford T19239:28–T19240:27

<sup>569</sup> Ford T19241:21–T19241:25, T19220:26–T19220:29; see also Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [9], [49]



or affordable alternative' to a firefighting service that is primarily composed of volunteers.<sup>570</sup>

- 9.79 The contention that volunteers would leave the organisation if CFA merged with MFB was reiterated in the evidence of a number of volunteer firefighters who gave evidence before the Commission. Mr Rod Holland suggested that to do anything to change volunteers' sense of ownership, belonging and independence would be 'very dangerous', while Mr David Ackland was more blunt in saying that 'I would probably leave the CFA if an amalgamation led to the devaluing of volunteers' and that 'amalgamation is the start of the end of volunteerism'.<sup>571</sup> Similar sentiments were expressed by Mr Philip Hawkey, Mr Neil Beer and Mr Nevyn Jones.<sup>572</sup>

## 10 COMMAND AND CONTROL MODELS

### VFBV

- 10.1 Volunteer Fire Brigades Victoria (VFBV) opposes all proposals for amalgamation of the fire agencies. In reaching that position, VFBV consulted with its members across Victoria to determine the views of volunteer firefighters.<sup>573</sup> VFBV rejects proposals for amalgamation for two key reasons: that amalgamation could not be effectively implemented and that amalgamation 'poses a real risk of destabilising the fire fighting framework and seriously undermining Victoria's fire fighting capacity'.<sup>574</sup>
- 10.2 Mr Andrew Ford, CEO of VFBV, appeared before the Royal Commission to speak to the VFBV's position. He indicated that the organisation did not start from an assumption that amalgamation is either good or bad, but was rather concerned to ensure that any changes implemented would be directed towards achieving 'a more unified control, better coordination, clearer accountability and better service delivery'. He suggested that amalgamation would not achieve these things.<sup>575</sup> The views of the VFBV in relation to amalgamation proposals are set out in more detail where those models are explored.
- 10.3 While rejecting proposals that call for amalgamation, VFBV does call for changes in the current firefighting framework to ensure 'greater cooperation and interoperability

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<sup>570</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [9], [12]

<sup>571</sup> Holland T19253:15–T19253:21, T19254:23–T19255:5; Exhibit 912 – Statement of Ackland (WIT.7550.001.0001\_R) [24]; Ackland T19261:17–T19261:29

<sup>572</sup> See for example Hawkey T19321:29–T19321:30; Exhibit 913 – Statement of N Jones (WIT.7552.001.0001\_R) [26]; Exhibit 914 – Statement of Beer (WIT.7551.001.0001\_R) [22]

<sup>573</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [3], [5]; Ford T19224:17–T19224:21

<sup>574</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [5]

<sup>575</sup> Ford T19228:3–T19228:21

between the agencies'.<sup>576</sup> The VFBV submission identifies key areas in which improvements are required, including: greater accountability in bushfire planning, preparation and response; ensuring a 'seamless' command and control structure; increasing compatibility, coordination and sharing of resources between agencies; and facilitating the timely and accurate flow of information.<sup>577</sup> VFBV contends both that these required improvements can be achieved by means other than amalgamation and that amalgamation, while appearing to overhaul the system, will in fact not address these issues.<sup>578</sup>

- 10.4 The VFBV's proposed model focuses on strengthening lines of responsibility, both for control of the response during an actual bushfire event and for planning, prevention and preparedness.
- 10.5 VFBV submits that CFA should be the single agency responsible for fire prevention planning and that DSE, while remaining responsible and accountable for fire prevention and mitigation on public land, must undertake these functions in accordance with directions issued by the CFA in its capacity as the lead fire prevention agency.<sup>579</sup> In short, the VFBV model would extend the new command and control arrangements now in place for Level 3 fires to all responses to bushfire.<sup>580</sup>
- 10.6 VFBV further proposes that the CFA, through its Chief Officer, be empowered to prescribe arrangements in relation to the bushfire preparedness of other agencies. This power, and the power to issue directions in relation to prevention and planning, must be exercised after consultation with the agency or agencies concerned.<sup>581</sup>
- 10.7 In relation to response, the VFBV model centres on the proposal that the CFA and the CFA's Chief Officer be 'assigned the overall responsibility to manage any bushfire in the State of Victoria'. The proposed single line of control should also be considered in the context of the CFA Chief Officer's statutory responsibility for issuing warnings and providing information to the community.<sup>582</sup> With responsibility for warnings and control both vested in the CFA's Chief Officer this model will, submits the VFBV, lay the 'foundation for clear and unambiguous accountability in Victoria

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<sup>576</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [7.1], [17], [42]

<sup>577</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [42]

<sup>578</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [44]; Ford T19230:20–T19230:29

<sup>579</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [63]–[64]

<sup>580</sup> Current arrangements for Level 3 fires are set out in Exhibit 547 – State Command and Control Arrangements for Bushfires in Victoria (CFA.001.032.0300)

<sup>581</sup> Exhibit 474 – Proposal for a Single Control Agency and Line of Control for Bushfire Management in Victoria (VFBV Command Model) (SUBM.002.051.0275) [39]; Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [4], [64]

<sup>582</sup> Exhibit 474 – VFBV Command Model (SUBM.002.051.0275) [35]–[38]; Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [56], [59]; Ford T19236:9–T19236:14; see also section 50B Country Fire Authority Act 1958 (Vic) (as amended 1 December 2009)

and a unified response in which the fire fighting effort is balanced with intelligence acquisition and information dissemination to the community with the overall focus on saving lives'.<sup>583</sup>

- 10.8 The model also proposes that a single Minister be responsible for overseeing emergency preparation, planning and response in Victoria, presumably the Minister to whom the CFA reports.<sup>584</sup> The VFBV recommends that the responsibilities of the CFA for control, preparedness and planning be enshrined in legislation.<sup>585</sup>
- 10.9 The VFBV model has been criticised on the basis that it is essentially the 'status quo' and that this demonstrably failed on Black Saturday and in previous bushfire events.<sup>586</sup> Mr Ford rejected the suggestion that the VFBV does not contemplate change. He clearly sees the model as strengthening arrangements for the control of bushfires, and indicated that by appointing a single agency with overarching responsibility for control and planning, with power to issue directives to other agencies, there will be a body capable of driving the move towards greater coordination and therefore, presumably, towards greater effectiveness of response.<sup>587</sup>

## AWU

- 10.10 The AWU also proposed an alternative command model for extreme fires. While arguing that generally 'reliance on DSE to coordinate bushfire suppression and response on public land should remain', the AWU acknowledged that in extreme circumstances and for 'mega fires' it may become appropriate to implement structures for the coordination of firefighting resources and better management of public safety risks.<sup>588</sup> The AWU proposes a Joint Command structure akin to the defence force model (and also similar to the Unified Command used in California during major wildfires).<sup>589</sup>
- 10.11 The Joint Command model entails all involved agencies (including DSE, CFA, MFB, Police, Ambulance, SES and the Office of the Emergency Services Commissioner) reporting to a 'Joint Command of State Response to Mega Fires', which in turn reports to the Emergency Services Minister. Each agency would retain its core accountabilities and the Joint Command would focus on ensuring improved

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<sup>583</sup> Exhibit 474 – VFBV Command Model (SUBM.002.051.0275) [38]

<sup>584</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [56.1]

<sup>585</sup> Exhibit 910 – Submission of VFBV (VFBV.002.001.0001) [61]

<sup>586</sup> L Foster T19126:12–T19126:15

<sup>587</sup> Ford T19231:13–T19231:27

<sup>588</sup> Exhibit 933 – Statement of Evidence of Melhem, Annexure 3 – AWU submission dated April 2010 (AWU.001.001.0001) at 0009-0010

<sup>589</sup> Exhibit 933 – Statement of Evidence of Melhem, Annexure 3 – AWU submission dated April 2010 (AWU.001.001.0001) at 0009-0010; see also Exhibit 896 – Statement of Streblov (WIT.158.001.0001) [62]–[64]

coordination.<sup>590</sup> It is not clear from the AWU's submission whether the Joint Command would be a board or panel comprising a number of people (and if so, from which agencies they would be drawn and how they would be selected/appointed) or whether the Joint Command would be an individual. The fact that the model is drawn from the defence force's command structure suggests the latter, where the Joint Command would be a similar position to the Chief of the Defence Force.<sup>591</sup>

## 11 AWU MODEL: BRINGING LAND MANAGERS TOGETHER

- 11.1 The Australian Workers Union (AWU), whose membership includes DSE field staff engaged in firefighting duties and seasonal project firefighters employed by DSE,<sup>592</sup> proposed a model for organisational restructure focussed on responsibility for suppression of fires on public land .
- 11.2 The AWU proposal involves the bringing together of land and fire management personnel from DSE, Department of Primary Industries, Parks Victoria and perhaps VicForests in a single body called the Land and Fire Commission.<sup>593</sup> The Land and Fire Commission would have responsibility for overall management of Crown land outside metropolitan areas. All fire personnel within the Commission would report operationally to a single Chief Fire Officer.<sup>594</sup> The AWU describes its Land and Fire Commission as 'conceptually similar to the previous Forests Commission' but with the key focus being on land management and fire prevention rather than forestry.<sup>595</sup>
- 11.3 The AWU identifies a number of advantages that would flow from its model. Firstly, by bringing together in a single organisation all firefighters specialising in public land, this resource will be better 'harnessed' and the single authority will be better equipped to deal with 'new challenges in land management'.<sup>596</sup> Mr Melhem expressed it in plain terms: bringing these land managers (and firefighters) together 'makes sense because they do the same work'.<sup>597</sup>
- 11.4 Another advantage of the single public land management structure, argues the AWU, would be to reduce duplication in administration, technical support personnel and other 'white collar' positions. Getting rid of such duplication will lead to cost savings –

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<sup>590</sup> Exhibit 933 – Statement of Evidence of Melhem, Annexure 3 – AWU submission dated April 2010 (AWU.001.001.0001) at 0009–0010

<sup>591</sup> See for example the diagram at Exhibit 933 – Statement of Evidence of Melhem, Annexure 3 – AWU submission dated April 2010 (AWU.001.001.0001) at 0011

<sup>592</sup> Exhibit 933 – Statement of Evidence of Melhem (WIT.7556.001.0001) [5]–[8]

<sup>593</sup> Exhibit 933 – Statement of Evidence of Melhem (WIT.7556.001.0001) [13]; Melhem T19493:31–T19494:10

<sup>594</sup> Exhibit 933 – Statement of Evidence of Melhem (WIT.7556.001.0001) [13]; Melhem T19495:28–T19496:8

<sup>595</sup> Exhibit 933 – Statement of Evidence of Melhem, Attachment 2 – AWU Submission dated March 2010 (SUBM.002.057.0384) at 0401

<sup>596</sup> Exhibit 933 – Statement of Evidence of Melhem, Attachment 2 – AWU Submission dated March 2010 (SUBM.002.057.0384) at 0403–0404

<sup>597</sup> Melhem T19494:23–T19494:24

although Mr Melhem was quick to clarify that the AWU does not envisage a program of redundancies as part of its model. Any savings therefore would only be realised in the medium to long term as a result of 'natural attrition' of staff.<sup>598</sup>

- 11.5 The costs saved through reduced administration and duplication could be directed towards employing more full-time firefighters.<sup>599</sup> A central theme of the AWU's evidence and submissions in this Royal Commission has been what they argue is a need for a significant increase in the number of full-time firefighters dedicated to fire management and suppression on public land.<sup>600</sup> The AWU's proposed model of a Land and Fire Commission would see an increase in the number of firefighters employed on a full-time basis, with such an increase to be funded not only through cost savings derived from rationalising administration and support arrangements, but also through a new funding model that is central to their restructure proposal.
- 11.6 The AWU submits that the current funding model of DSE, which is reliant on the discretionary budget processes of government, does not allow DSE to properly plan for its future firefighting needs and is too 'reactive' to circumstances.<sup>601</sup> It is proposed that the Land and Fire Commission be 'given a clear funding model where they won't have to go and beg every year with Treasury to be able to carry out their duties'.<sup>602</sup> This certainty of funding would be provided by a statutory contribution scheme similar to that which funds the CFA and the MFB. Under both the MFB and CFA Acts, the organisations provide the Minister each year with an estimate of projected expenditure and the Minister makes a final determination as to the total amount of contributions that will be required.<sup>603</sup> The AWU proposes that the Land and Fire Commission be financed in a similar fashion, but with the State Government being the principal contributor.<sup>604</sup> It is not clear from whom or on what basis the remaining contributions would be collected, but Mr Melhem suggested that insurance companies or levies on land could supplement the Government's contribution.<sup>605</sup>
- 11.7 As is noted above, the AWU does not support organisational models that would merge current DSE firefighters into a larger agency with responsibility for public and

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<sup>598</sup> Melhem T19494:16–T19494:25

<sup>599</sup> Melhem T19494:30–T19495:10

<sup>600</sup> See for example oral evidence of Melhem at T15025:3–T15040:16 and Exhibit 933 – Statement of Evidence of Melhem, Attachment 1 – AWU Submission dated May 2009 (SUBM.002.016.0417), Attachment 2 – AWU Submission dated March 2010 (SUBM.002.057.0384)

<sup>601</sup> Melhem T15032:16–T15032:20; T19498:20–T19498:30; T19499:5–T19499:8; see also Exhibit 933 – Statement of Evidence of Melhem, Attachment 2 – AWU Submission dated March 2010 (SUBM.002.057.0384) at 0386

<sup>602</sup> Melhem T19498:27–T19498:30

<sup>603</sup> Exhibit 933 – Statement of Evidence of Melhem, Attachment 2 – AWU Submission dated March 2010 (SUBM.002.057.0384) at 0404; See also section 36–37 MFB Act and sections 75–76 CFA Act

<sup>604</sup> Exhibit 933 – Statement of Evidence of Melhem, Attachment 2 – AWU Submission dated March 2010 (SUBM.002.057.0384) at 0404

<sup>605</sup> Melhem T19499:2–T19499:4

private land, nor does it support models in which DSE crews would turn out to fires under the command and control of another entity.<sup>606</sup>

- 11.8 Ms Armytage rejected the AWU's model on the basis that the current NEO arrangements work well.<sup>607</sup>

## 12 ROLE AND RESPONSIBILITY OF THE CHIEF FIRE OFFICERS

### CFA

- 12.1 The *Country Fire Authority Act 1958* sets out a confusing chain of command and responsibility for the suppression of fire in Victoria. The CFA is charged with the responsibility for control of the prevention and suppression of fires in the country area of Victoria.<sup>608</sup>
- 12.2 The duty of 'taking superintending and enforcing all necessary steps for the prevention and suppression of fires and for the protection of life and property...and the general control of all stations and of all brigades and of all groups of brigades...' is also vested in the CFA.<sup>609</sup>
- 12.3 The Chief Executive Officer of CFA is responsible to the authority for carrying out the authority's functions.<sup>610</sup>
- 12.4 As set out above, the functions of the CFA for which the CEO is responsible thus include:
- a) The prevention and suppression of fires;
  - b) Taking all necessary steps for the suppression of fires and the protection of life and property;
  - c) The general control of all stations and of all brigades and of all groups of brigades.
- 12.5 The Act places the CEO in a position of potential conflict with the Chief Officer of CFA. Section 27 of the *Country Fire Authority Act 1958* places the Chief Officer in control of every brigade or group of brigades and all officers and members of brigades or group of brigades 'subject to the general powers and directions of the Authority' which powers are vested in the CEO.

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<sup>606</sup> Exhibit 933 – Statement of Evidence of Melhem (WIT.7556.001.0001) [13(e)], see generally Annexure 3 – AWU Submission dated April 2010 (AWU.001.001.0001); Melhem T19499:25–T19501:1

<sup>607</sup> Armytage T19432:17–T19432:31

<sup>608</sup> Section 14 *Country Fire Authority Act 1958*

<sup>609</sup> Section 20 *Country Fire Authority Act 1958*

<sup>610</sup> Section 16A(3) *Country Fire Authority Act 1958*

- 12.6 The Authority has responsibility for declaration of total fire ban days.<sup>611</sup> The tenor of the legislation is maintained as a consequence of a further provision which provides that the Chief Executive Officer of the Authority may authorise the Chief Officer to exercise the power of the Authority in relation to the broadcast of a declaration of total fire ban.<sup>612</sup>
- 12.7 Mr Bourke described the Act as an interesting piece of work.<sup>613</sup> Mr Bourke indicated his opinion that the Chief Officer should be 'very prime' in the organisation and that he could 'see the point' when the potential conflict that exists under the Act was put to him.<sup>614</sup>
- 12.8 Mr Bourke accepted that within the structure of CFA the position of Chief Officer was 'not as well represented in the corporate structure as it could be' and that the Chief Officer should be placed in a more senior and more direct line to the Chief Executive and the Board.<sup>615</sup>
- 12.9 As the situation presently stands, Mr Bourke agreed that the Chief Officer is in an invidious position in that strategy, policy and resourcing decisions are made two levels above where the Chief Officer is in the organisation.<sup>616</sup> This farcical position was exemplified when Mr Bourke was asked who has responsibility for a failure to suppress fire between the CEO and the Chief Officer. Mr Bourke stated:<sup>617</sup>
- It lies with the CFA. There would be an ability to consider that that responsibility is shared in maybe differing portions between the chief officer and the CEO. I say in differing portions because it will go to the issues of whether the needs of the chief officer in aiming to fulfil that role in suppression were able to be resourced and provided for to the level of the chief officer's need, or whether in fact there were decisions or outcomes that had to be different to that.*
- 12.10 There is an additional element of confusion as a consequence of the powers vested in the Chief Officer pursuant to section 16 of the *Emergency Management Act 1986*. The Chief Officer under this Act is possessed of more direct authority in relation to the suppression of fire than under the CFA Act. Mr Bourke appreciated the confusion and agreed there was a lack of clarity in the legislation that needed to be made 'crystal clear'.<sup>618</sup>

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<sup>611</sup> Section 40(1) Country Fire Authority Act (1958)

<sup>612</sup> Section 40(3) Country Fire Authority Act (1958)

<sup>613</sup> Bourke T19332:28

<sup>614</sup> Bourke T19334:29–T19335:6

<sup>615</sup> Bourke T19335:23–T19335:28

<sup>616</sup> Bourke T19340:11–T19340:26

<sup>617</sup> Bourke T19340:27–T19341:8

<sup>618</sup> See discussion between Commissioner McLeod and Bourke at T19342:2–T19342:31

- 12.11 There can be no doubt that the current legislative regime is anomalous and in need of urgent amendment to ensure the role and responsibilities of the CFA's Chief Officer are clear in relation to operational matters. The amendment should adopt the guiding principle that the Chief Officer should be responsible to the Board for operational matters concerning the CFA's involvement in the prevention and suppression of fires. These operational matters should not be the concern of the CEO.

## **DSE**

- 12.12 The Secretary of DSE carries a statutory obligation 'to carry out proper and sufficient work for the prevention and suppression of fire' on public land.<sup>619</sup> There is no formal delegation of the Secretary's responsibility to the Chief Fire Officer DSE.<sup>620</sup>
- 12.13 Whilst there is some recognition of the Chief Officer of DSE in the *Emergency Management Act*<sup>621</sup> it is not to the point. There is a need for the position of Chief Officer DSE to be elevated to a status commensurate with the responsibility of the office and to set out in concise terms the roles and responsibilities in terms of operational firefighting.<sup>622</sup> Ms Armytage indicated this would be undertaken by amendment to relevant legislation.<sup>623</sup>
- 12.14 It is worthy of note that a former Chief Officer, Mr Hodgson, gave evidence that when he held the position between 1984 and 1987 he 'stood between the Minister and the fire'. He offered the opinion that at the level the Chief Officer sits within the hierarchy at DSE it would not enable him to properly fulfil the requirements and responsibilities of the office.<sup>624</sup>
- 12.15 The current Secretary of DSE, Mr Greg Wilson, agreed with the suggestion put to him during the course of his examination that the position of Chief Officer within the DSE structure 'warrants looking at'.<sup>625</sup>

## **Decentralised model of leadership**

- 12.16 In Counsel Assistings' Submissions on "Leadership, Emergency Management, Coordination, Command and Control" the question of leadership in a decentralised emergency organisation structure was discussed. In Chapter 4 of those submissions,

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<sup>619</sup> Section 62(2) Forests Act 1958 (Vic)

<sup>620</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [79]

<sup>621</sup> Section 16 Emergency Management Act (1986)

<sup>622</sup> Armytage T19419:20–T19419:26

<sup>623</sup> Armytage T19419:22–T19419:28

<sup>624</sup> Hodgson T15044:20–T15045:9

<sup>625</sup> Wilson T15136:11–T15136:27



the relationship between Chief Fire Officers and Incident Controllers was specifically addressed.<sup>626</sup>

12.17 In extreme fire events, in the emergency context, encouragement and oversight was put forward as the mark of good leadership. Personal interaction between central and local commanders was noted as being important to enable the Chief Officer to know, as far as possible, that key requirements in the operation of the Incident Control Centre were being met.<sup>627</sup>

12.18 It needs to be understood that the methodology outlined above is in no way an interference with the AIIMS structure, nor can it be seen as a centralisation of command and control; that remains with the Incident Management Team and the Incident Controller. What is set out above, demonstrably, is the exercise of good leadership.

12.19 Professor 't Hart referred to effective leadership response in an emergency in the following terms:<sup>628</sup>

*Effective responses in such circumstances are necessarily improvised, flexible and networked... driven by the initiative of operational leaders and the strength of the pre-existing ties between the teams and organisations they represent. Any attempt on the part of strategic decision makers to plan and command each and every aspect of the emergency response impedes flexibility and local initiative and constitutes an avoidable failure.*

12.20 Importantly, what Professor 't Hart was referring to was the decentralisation of authority, power and discretion; he was not suggesting that the central commander could divest themselves of the final responsibility.<sup>629</sup>

12.21 Professor 't Hart was clear as to the responsibility of the central commander when an Incident Controller 'is not pulling his or her weight' or where 'there are persistent signals that this person just doesn't hack it' or 'persistent signals that things are not working well at the boundaries' of local cooperation – these are all scenarios that have 'grave implications for the people who put that person and kept that person in that role'. In the view of Professor 't Hart there is a role for intervention by the central commander in these circumstances.<sup>630</sup>

12.22 The evidence strongly supports the decentralised concept of command and control, but as Professor 't Hart emphasised that does not excuse or make secondary the role

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<sup>626</sup> Submissions of Counsel Assisting – Leadership, Emergency Management, Coordination, Command and Control (SUBM.1000.001.0001) [1.1]–[1.26], [4.10]–[4.43]

<sup>627</sup> See in particular Submissions of Counsel Assisting – Leadership, Emergency Management, Coordination, Command and Control (SUBM.1000.001.0001) [1.4]

<sup>628</sup> Exhibit 905 – 't Hart Report (EXP.3031.001.0001) at 0006

<sup>629</sup> 't Hart T19056:29–T19057:7

<sup>630</sup> 't Hart T19057:8–T19058:7

of the central leader. When a key objective of the Incident Controller is not being met, particularly where there might be serious consequences including loss of life, this is precisely the occasion the Chief Fire Officer should act.<sup>631</sup>

12.23 The decentralised model requires a decisive, strong, able, respected leader at the helm of emergency management.

## 13 THE STATE: EVOLUTION, NOT REVOLUTION

### *Whole of government approach*

13.1 Ms Penelope Armytage, Secretary of the Department of Justice since March 2003 gave evidence in the proceedings. She was authorised to advance the State's position in relation to organisational structure.<sup>632</sup>

13.2 Ms Armytage said that the three fire services had, in consultation, 'acknowledged' the State's position, and while there were 'different nuances' in 'relation to their preferences' ultimately she was putting forward the 'State endorsed view from a whole-of government perspective'.<sup>633</sup> It will be recalled that the CFA apparently no longer presses its 2003 submission to the Esplin Inquiry.

13.3 She indicated that in order to prepare her statement she had 'consulted extensively' with the relevant Victorian Government departments and emergency services agencies.<sup>634</sup> As a precursor to the preparation of her statement, she had also met with fire agencies in each of New South Wales, the ACT and Queensland and undertaken study tours of the United States and Canada.<sup>635</sup> Despite these extensive researches, consultation and study tours very little material was provided in her statement in relation to any comparisons that might be drawn with those jurisdictions.

### *Context*

13.4 Ms Armytage's statement describes at length the context, historical and otherwise, of bushfires in Victoria.<sup>636</sup> She characterised bushfire as 'a dominant feature of Victoria's risk environment'.<sup>637</sup> However she underscored the fact that Victoria's approach to emergency management generally has for many years been and ought continue to be an 'all hazards framework'.<sup>638</sup> In oral evidence, Ms Armytage accepted that the

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<sup>631</sup> t Hart T19060:20–T19060:31

<sup>632</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [19]

<sup>633</sup> Armytage T19389:14–T19389:28

<sup>634</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [20]

<sup>635</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [20]

<sup>636</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [22]–[50]

<sup>637</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [43]

<sup>638</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [48]–[50]

prevalence of bushfire in Victoria justifies some focus on it, despite the preference for an overarching 'all hazards' framework.<sup>639</sup>

- 13.5 Ms Armytage counselled against introducing structural change prior to considering the 'strategic objective' sought to be achieved.<sup>640</sup> Ms Armytage developed in detail what she described as the context in which Victoria's emergency management system operates.
- 13.6 That context was said to include environment and climate change,<sup>641</sup> geography,<sup>642</sup> demography,<sup>643</sup> socio-political and economic factors,<sup>644</sup> dependence on volunteers,<sup>645</sup> the risk environment<sup>646</sup> and the need for an all hazards framework.<sup>647</sup>
- 13.7 According to Ms Armytage, relevant socio political and economic factors in Victoria include the fact that the 'industrial relations environment' in Victoria is characterised by the involvement three unions (the UFU, the CPSU and the AWU), the 'history, cultures and interests' of which are very different.<sup>648</sup> In particular, said Ms Armytage, the UFU's relationship with the management of both the MFB and the CFA 'could be characterised at times as being quite hostile and acrimonious.'<sup>649</sup>
- 13.8 Ms Armytage also noted that the State's financial and human resources are not unlimited. In this context she indicated that spending by Victoria's fire services exceeds the national average and is above every other State and territory.<sup>650</sup> Counsel Assisting submit this is a good reason to focus on what efficiencies might be derived from organisational restructure.
- 13.9 Ms Armytage emphasised Victoria's dependence on volunteers noting that the workforce capacity and geographical reach made possible by volunteers could not be matched by a paid workforce. She said it would not be economically feasible for the work presently done by volunteers to be undertaken by salaried employees and that, even more importantly, it would not be desirable as a matter of policy for the work done by volunteers to be taken up by employees.<sup>651</sup>

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<sup>639</sup> Armytage T19396:7–T19396:11

<sup>640</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [ 21]

<sup>641</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [23]–[25]

<sup>642</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [26]–[28]

<sup>643</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [29]–[32]

<sup>644</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [33]–[37]

<sup>645</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [38]–[42]

<sup>646</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [43]–[47]

<sup>647</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [48]–[50]

<sup>648</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [34]

<sup>649</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [35]

<sup>650</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [36]–[37]

<sup>651</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [38], [41]

## **State's Guiding principles**

13.10 Following an analysis of the historical development of Victoria's emergency management arrangements and the context as described above, Ms Armytage set out what she asserted were guiding principles which ought guide the assessment and future development of bushfire management systems in Victoria.<sup>652</sup> The guiding principles were said to be:

- a) **An all hazards/all agency state-wide risk management:** Ms Armytage suggested that localised risk identification and planning should be integrated into a single State-wide planning and risk management framework for all incidents. Counsel Assisting do not dispute this.
- b) **Scalable emergency management arrangements:** Ms Armytage described as this as meaning arrangements pursuant to which emergency services organisations come together and scale up quickly in a coordinated way. In oral evidence she accepted that a single multi-skilled fire service could be capable of providing a scalable and coordinated response, but pointed out that a risk of amalgamation may be that the impact on volunteers would reduce their availability and surge capacity.<sup>653</sup> This is obvious.
- c) **A 'consequence-focused response':** According to Ms Armytage, this refers to decision making by response agencies based on awareness of possible consequences and supported by seamless coordination of resources. In evidence Ms Armytage agreed that this is a neutral factor, in the sense that it does not say anything one way or the other about whether the best means of achieving this is via amalgamation.<sup>654</sup>
- d) **Community centred:** Ms Armytage described this as requiring community involvement at all stages of the bushfire management life cycle, which apparently leads to formation of 'resilient communities'. Again, Ms Armytage accepted that this matter says nothing about the merits or otherwise of amalgamation.<sup>655</sup>
- e) **Public value outcomes:** This phrase is unclear on its face, but was described by Ms Armytage to mean 'strategic capability development leading to reduced duplication and more resources for service delivery.'<sup>656</sup> Ms Armytage accepted that reducing duplication may come about as a result of amalgamation, but

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<sup>652</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [106]

<sup>653</sup> Armytage T19396:12–T19396:31

<sup>654</sup> Armytage T19397:1–T19397:12

<sup>655</sup> Armytage T19397:13–T19397:18

<sup>656</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [106.5]

equally might also be achieved by considering the most cost-effective means of delivering services.<sup>657</sup>

13.11 A number of the guiding principles identified by Ms Armytage are trite. It is accepted that the emergency management systems in Victoria and across Australia utilise an all hazards approach. It is obvious that emergency management arrangements will be best implemented via a system pursuant to which emergency services organisations scale up quickly in a coordinated way. One assumes that our emergency services are already focused on ‘consequences’ and are supported by the coordination of resources. Further, one hopes that there is community involvement at all stages of management of the bushfire threat. The Commission has heard considerable evidence of the same.

13.12 Finally, as to so-called ‘public value outcomes’, Counsel Assisting note that the need to reduce duplication and free up more resources for service delivery is one of the matters which has inspired this part of the Commission’s hearings. Yet the State has not identified any concrete example of a reduction in duplication which it hopes to achieve by reason of its proposal (outlined in more detail below).

13.13 After identifying the guiding principles, Ms Armytage indicated that in accordance with these principles the State’s view is that the attributes for an effective bushfire management system for Victoria are as follows.<sup>658</sup>

- a) *Well informed, resilient communities that are responsible, risk aware and ready to respond;*
- b) *Emergency service organisations that can combine and scale efficiently in relation to emergency events;*
- c) *Emergency management arrangements that are capable of drawing on a range of different agencies to manage all risks across the State in a proactive and planned manner;*
- d) *A workforce that is flexible , scalable and agile and can respond effectively to future demand requirements;*
- e) *Tools, technologies and systems that meet the current and future needs of the emergency service organisations;*
- f) *Clear roles and associated training standards for all participants in emergency management, including government, private sector and community sector organisations;*
- g) *Transparency in relation to, and accountability for, performance;*

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<sup>657</sup> Armytage T19397:19–T19397:28

<sup>658</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [107]

h) *Relevant legislation, operational policy, regulation and governance arrangements that support the future arrangements; and*

i) *An emergency services sector that continues to be responsible to change, as a result of both internal and external review, and strongly embraces continuous improvement.*

13.14 In examination, Ms Armytage accepted that every one of the above factors is neutral, in the sense that it could not be argued that pursuit or achievement of any of the above matters can only be achieved either via amalgamation or by the maintenance of three separate fire services.<sup>659</sup>

13.15 In light of this concession, it is not clear why these matters receive so much attention in Ms Armytage's statement; she has accepted that each of them are desirable objectives regardless of the way in which fire services are structured. In particular, with respect to criterion (d) proposed by Ms Armytage (namely a 'workforce that is flexible, scalable and agile and can respond effectively to future demand requirements'), it is of note that such a workforce could be achieved by amalgamating two or more of the fire services.

13.16 Ms Armytage said the State accepts that the events of 7 February and the evidence before the Commission had highlighted shortcomings in two main areas:<sup>660</sup>

*The planning and work done to mitigate the risk of bushfire and to prepare communities for that risk; and*

*The way the agencies prepared themselves for the risk of bushfire and the way the fires were managed on the day.*

13.17 These admitted shortcomings almost cover the field in terms of what might be described as the preparation for and response to bushfire in Victoria. That is, in the light of the fact that each of:

- a) the planning done and work undertaken to mitigate the risk of bushfire;
- b) the preparation of the community for the reality of bushfire risk;
- c) the preparation by fire agencies for the risk of bushfire; and
- d) the management of the fires themselves,

have been found wanting, then one might think there is much work to be done and considerable scope for change.

13.18 Ms Armytage expanded upon the shortcomings identified above. She said they pointed to the need for more integrated bushfire management planning.<sup>661</sup> This is

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<sup>659</sup> Armytage T19397:29–T19399:7

<sup>660</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [108]

accepted, and its success no doubt depends upon the speed at which they much anticipated Integrated Fire Management Planning Framework is to be implemented.<sup>662</sup>

13.19 In the context of preparation and response, Ms Armytage acknowledged shortcomings including the staffing and pre-positioning of Incident Management Teams, the lack of oversight provided to ICCs by the iECC, the assessment by senior managers of information and the imperfect integration between CFA and DSE at the State level.<sup>663</sup> These matters have all been addressed in detail in previous submissions of Counsel Assisting.<sup>664</sup>

13.20 Crucially, the State apparently does not accept that any of these shortcomings give rise to a need for any change to the structure of our fire services. In particular the State opposes the amalgamation of any of the fire services. It also opposes any suggestion that the MFD be expanded.<sup>665</sup>

### ***The State's position: it ain't broke, so we ain't going to fix it***

13.21 The State is implacably opposed to any significant organisational change or amalgamation. The alternative proposed by the State is to strengthen the existing system, with a focus on continuous improvement and increased interagency cooperation.<sup>666</sup> The State's position in relation to models for organisational restructure put forward by other Parties and witnesses before the Commission can be summarised as follows:

- a) The State opposes the Foster model on the basis that the same benefits are capable of being achieved by establishing a strengthened VEMC and having standards set by the OESC,<sup>667</sup>
- b) It opposes the UFUA's model for the reason that each of the fire services are expert agencies in their own right and the arrangements presently in place (including for the provision of mutual aid) are fundamentally sound,<sup>668</sup>

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<sup>661</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [110]–[111]

<sup>662</sup> Submissions of Counsel Assisting – A New Bushfire Safety Policy – Replacing the Stay or Go Policy (SUBM.1100.001.0001) Chapter 10; see also Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [172]–[179] in relation to Integrated Planning

<sup>663</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [112]

<sup>664</sup> Submissions of Counsel Assisting – Training of Incident Control Centres, Resourcing of Incident Management Teams and Incident Control Centres and Preparedness (SUBM.500.001.0001); Submissions of Counsel Assisting – Information Sharing (SUBM.506.001.0001); Submissions of Counsel Assisting – Leadership, Emergency Management, Coordination, Command and Control (SUBM.1000.001.0001)

<sup>665</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [114]–[133], generally and Schedule 1 (WIT.3003.002.0001) at 0045–0046

<sup>666</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [136]–[141] and [149]–[153]

<sup>667</sup> Armytage T19430:9–T19431:5

<sup>668</sup> Armytage T19431:6–T19432:11

- c) The State opposes the Bibby model on similar grounds as it opposes the UFUA proposal;<sup>669</sup>
- d) The State does not support the submission made by the CFA in 2003 to the Esplin Inquiry on the basis that such an approach would ultimately lead to a diminution in the skills and expertise of the public land manager,<sup>670</sup> and
- e) The State rejects the AWU's model on the basis that the current NEO arrangements are working well.<sup>671</sup>

13.22 Ms Armytage said that while it was accepted that there are refinements and improvements that could be made to 'maximise the capacity' of the existing structures:<sup>672</sup>

*[W]e basically think this should be a process of evolution of improvement, not revolution*

13.23 It was put to Ms Armytage that if one accepts that there is a need to more fully integrate the DSE and CFA, if one accepts that there are benefits to be derived from co-location at the State Control Centre, and if one is investigating improved means of communication and cooperation between the two fire services (as her statement accepts), then if we take all these matters to their logical end point they would drive one towards amalgamation. She rejected this suggestion saying:<sup>673</sup>

*We come back to the view that we believe that each of our fire services have a special place to play and have specialist expertise and functions that they perform, but there are matters that are in common across those three agencies and we should maximise how we streamline the arrangements where the functions are common and the way in which we can employ, say, shared resources to give effect to that, but we don't believe that you need to integrate the agencies to do that.*

13.24 Invited to clarify the above, Ms Armytage confirmed that by 'integrate', she meant to say 'amalgamate'. In light of the position it adopts, the State has not undertaken 'full costings' of any of the amalgamation models proposed by any of the parties.<sup>674</sup>

### ***Risks associated with major change***

13.25 Ms Armytage said that 'beneficial and enduring changes in large organisational systems generally tend to be the product of incremental rather than radical change'. She drew on the report of Professor 't Hart in this regard.<sup>675</sup>

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<sup>669</sup> Armytage T19433:1–T19433:8

<sup>670</sup> Armytage T19433:9–T19433:27

<sup>671</sup> Armytage T19432:17–T19432:31

<sup>672</sup> Armytage T19434:3–T19434:18

<sup>673</sup> Armytage T19438:23–T19439:9

<sup>674</sup> Armytage T19439:12–T19439:13



- 13.26 Further she said there are risks associated with amalgamation that the State considers outweigh any perceived benefits.<sup>676</sup> The risks associated with amalgamation were said by Ms Armytage to include the following:
- a) The risk that the history, cultures, composition and size of Victoria's fire agencies would, even following an amalgamation, only produce an entity that 'actually consists of separate silos along existing organisational lines'.<sup>677</sup>
  - b) The risk that even if the process of amalgamation were successfully managed so as to produce genuine operational integration in the long term, the implementation of the structural change would itself be likely to lead to a reduction in operational effectiveness and disruption during the 'protracted transition period'.<sup>678</sup>
  - c) The risk that amalgamation of the fire services would bring about a loss of confidence, confusion as to roles, cynicism, despondency, loss of loyalty and possible attrition – thereby causing loss of experience, loss of knowledge, destruction of relationships, conflict between positions and values and a 'lengthy period of introversion where the primary focus of the new entity is inward looking rather than service focused for the communities benefit'.<sup>679</sup>
- 13.27 Item (a) above simply assumes a failed amalgamation, and reasons backwards from that. Items (b) and (c) are not matters which strike at the heart of the possible rationales for amalgamation, but rather risks which might be associated with the implementation of an amalgamation. These issues are to be afforded some weight however they do not provide an answer to the prior question: would it be better for the provision of fire services in Victoria to have one or two fire services rather than three? One has to answer this question, surely, before it is necessary to weigh the anticipated benefits of amalgamation against possible downsides?
- 13.28 The other reason advanced by Ms Armytage for opposing amalgamation is the 'industrial fallout' likely to accompany any such move by reason of the different positions adopted by the UFU, the AWU and the CPSU.<sup>680</sup>
- 13.29 Though the industrial climate is an important part of the context to this issue, and any industrial unrest following amalgamation would be a valid matter to factor in when

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<sup>675</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [123]. Armytage refers to Exhibit 905 – Organizing for Effective Emergency Management by Professor 't Hart (EXP.3031.001.0001) at [5.4]

<sup>676</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [122]

<sup>677</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [124]

<sup>678</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [125]

<sup>679</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [125.1]–[125.5]

<sup>680</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [126]

weighing benefits of amalgamation against possible downsides, it is submitted that if a real need for change is identified in order to best deliver fire services to Victoria, then the positions adopted by the unions should not be a governing factor or a reason to veto any proposal.

- 13.30 The only matters advanced by Ms Armytage which appeared to grapple with what has been identified above as ‘the prior question’ (namely whether two or more of the fire services should amalgamate) were the following:
- a) The strengths of the current system in relation to the fact that each fire agency has its own expertise and specialist skills.<sup>681</sup> Ms Armytage emphasised the fact that the CFA’s specialist capability in relation to bushfire in rural areas draws in part on ‘the existence of deep linkages with local communities and intimate knowledge of the local landscape and available resources’.<sup>682</sup> She pointed also to the expertise of the DSE in relation to its forest firefighting.<sup>683</sup>
  - b) The fact that the agencies have already demonstrated a commitment to inter-agency cooperation, referring to a number of discrete initiatives, including the mutual aid agreements between the MFB and the CFA and the local mutual aid plans between CFA and DSE.<sup>684</sup>
  - c) The surge capacity available to the CFA is a matter Ms Armytage highlighted in particular on a number of occasions.<sup>685</sup> It is accepted that this is an undisputed benefit of the present system, but the question to be addressed is whether amalgamation necessarily forces the desertion of volunteers to a degree and in parts of Victoria where the need for their services cannot otherwise be met. This question is addressed in more detail elsewhere in these submissions.
- 13.31 In relation to the surge capacity of the CFA, Ms Armytage expanded in oral evidence saying that one of the observations she made on her study tour was that in other jurisdictions a trend has been evidenced of a decline in volunteer commitment ‘as they have become more dominated by career, professional full-time firefighters’.<sup>686</sup>
- 13.32 She was asked then why this has not “played out’ in the CFA’s integrated brigades; she responded that this was due to the fact that the CFA remains principally a volunteer organisation, and one which provides ‘very good accommodation’ of the

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<sup>681</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [142]

<sup>682</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [143]–[144]; [157]

<sup>683</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [145]–[147]

<sup>684</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [149]–[153]

<sup>685</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [154]–[156]; see also Armytage T19462:15–T19465:17

<sup>686</sup> Armytage T19405:1–T19405:17

interests of paid and volunteer firefighters.<sup>687</sup> She pointed to the ‘ethos’ and ‘core mission’ of the organisation as being features which provide the appropriate balance between career and volunteer firefighters and allows the organisation to maintain integration.<sup>688</sup>

- 13.33 Ms Armytage was asked whether, if the CFA proceeded to add a further 684 career firefighters to its books – as would be the case if it obtained funding to implement the 2009 decision of the Board of Reference – this would be capable of diluting the volunteer focus to the level at which she saw difficulties emerging. She said she could not speculate on this matter as the discussions with the CFA in relation to any increase in the number of career staff were not concluded.<sup>689</sup> With respect this is not an answer. If protecting the place of volunteers and the ethos of the CFA is so vital to its continued functioning, then one must ask whether to more than double the number of career firefighters will damage the position of the volunteers in particular brigades. This is the logic of the arguments advanced by each of the CFA, the State and the VFVB and it should be carefully analysed.
- 13.34 Ms Armytage candidly accepted that if a single fire service were created it is not correct to say that maintaining the necessary ethos for the maintenance of a volunteer firefighting force would be impossible, rather that it would be ‘quite complex to do it’.<sup>690</sup> It is submitted that this suggestion, like a number of those made by the VFBV, is not self evident. If the integrated brigade model is successful, and volunteers and career firefighters are able to work together side by side, then why is it suggested that a full integration of the MFB and the CFA will undermine volunteerism to the point of being unworkable?

## ***State’s proposal***

### **The SC & MC Bushfires Sub-Committee**

- 13.35 The only structural change proposed by the State is to enhance the work of two committees: the State Coordination and Management Council Bushfires Sub-Committee (apparently conveniently known as the SC & MC Bushfires Sub-Committee – although ‘SC & MC’ was previously described by Chief Commissioner Overland as SCAM<sup>691</sup>) and the Victorian Emergency Management Council.

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<sup>687</sup> Armytage T19405:22–T19405:30

<sup>688</sup> Armytage T19406:7–T19406:16

<sup>689</sup> Armytage T19409:9–T19409:21

<sup>690</sup> Armytage T19406:17–T19406:23

<sup>691</sup> Overland T10022:8–T10022:15

- 13.36 The government formed the SC & MC Bushfires Sub-Committee as a response to the bushfires to manage the policy development program to improve the State's preparations for and capacity to respond to bushfires; advise Ministers on policy initiatives and manage the State's appearance before the Royal Commission; and drive the implementation of these measures.<sup>692</sup> Ms Armytage said the State is keen to 'capitalise on the momentum generated by the SC & MC Bushfires Sub-Committee' in order to implement further measures to improve strategic leadership and inter-agency governance.<sup>693</sup>
- 13.37 Ms Armytage confirmed that the SC & MC Bushfires Sub-Committee reports to Cabinet and that most of its deliberations and advice are therefore Cabinet-in-Confidence.<sup>694</sup> Despite Ms Armytage's protestations that the meetings have been attended by Mr Comrie (the Bushfires Royal Commission Implementation Monitor) and a representative from MAV, and that the Sub-Committee is able to access input from operational personnel including a staff member from the OESC who is a CFA brigade captain,<sup>695</sup> it is submitted that the following dilemma remains: if the SC & MC Bushfires Sub-Committee is to be the State's 'answer' to the events of 7 February and to any proposals for fundamental structural change, then there are difficulties adjudging its success. Its deliberations and advice are unable to be scrutinised. Further, it is neither a skills-based board nor a truly representative committee. Its composition appears to be a matter for cabinet or perhaps the Department of Justice. This is not satisfactory.
- 13.38 Further, and most significantly, as presently conceived, the CEOs of the fire agencies are entitled to representation on the SC & MC Bushfires Sub-Committee, but their organisations are not bound to follow any of its directions. The Chief Fire Officers are not members of the Sub-Committee.<sup>696</sup> This deprives the Committee of critical operational perspectives.

### **A revitalised VEMC**

- 13.39 The State's other proposal is that there be a revitalised VEMC. The work of the VEMC is discussed in detail in Counsel Assistings' Submissions on Leadership, Emergency Management, Coordination, Command and Control.<sup>697</sup>

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<sup>692</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [165]

<sup>693</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [166]

<sup>694</sup> Armytage T19441:25–T19441:31

<sup>695</sup> Armytage T19442:9–T19444:15

<sup>696</sup> Armytage T19448:6–T19448:27

<sup>697</sup> Submissions of Counsel Assisting – Leadership, Emergency Management, Coordination, Command and Control (SUBM.1000.001.0001) [9.3]–[9.6]

13.40 Ms Armytage proposed the VEMC could be restructured to be a 'more effective advisory body to the Minister', that it might become responsible for the implementation of sector-wide strategy and planning, and that it might be accountable collectively for the delivery of strategy and planning 'through holding its member agencies to account for delivering constituent elements of strategies or plans'.<sup>698</sup>

13.41 Counsel Assisting see benefit in elements of what is proposed but submit that the VEMC is not the right vehicle to achieve these aims. Below, Counsel Assisting discuss in detail a model for a new board (drawing on some elements of South Australia's SAFECOM) which it is submitted would provide a superior governance structure than the proposed revitalisation of the VEMC.

13.42 Ms Armytage proposed that 'revitalising' the VEMC might take place in a number of ways including:

- a) Reconfiguring the VEMC, as its present membership has become too large. There are sometimes 60 attendees.<sup>699</sup> She proposed that the 'leaner' VEMC would include the Chief Commissioner of Police, the CEOs of the MFB, CFA, VICSES, ESTA and Ambulance Victoria, the Emergency Services Commissioner and the Secretaries of the DSE and the Departments of Health and Human Services;
- b) Appointing herself, the Secretary of the Department of Justice, as Chair;
- c) Rationalising the Committees which support the VEMC; and
- d) Establishing a dedicated Secretariat within the Department of Justice to support the VEMC.<sup>700</sup>

13.43 It is submitted that while any or all of the above initiatives might improve the functioning of the VEMC, none of them address governance problems of the fire services which have been identified elsewhere in these submissions. The need for a new governance structure to ensure the fire services are accountable for delivering consistent, transparent and objectively measured fire services in Victoria cannot be achieved by tinkering with the composition of the VEMC or providing it with a new

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<sup>698</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [166]

<sup>699</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [166.1]; Armytage T19424:25–T19424:28

<sup>700</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [166.1]

secretariat. The fire services are not entitled to a voice on VEMC, and nor are they presently bound to adhere to any advice or directions it might issue.<sup>701</sup>

- 13.44 Ms Armytage did contemplate the prospect of changes to the roles of the Chief Fire Officers in each of the three fire services, especially as the CFOs relate to their Boards and their CEOs or Departmental Secretaries. She said:

*In the main, this would involve elevating their [the CFOs'] status so they are unambiguously the Commander in Chief in the lead-up to, and during, major fires and the CEOs/ Secretaries ensuring that the resources are readily available to the CFOs to undertake their role and holding them to account for their performance.*<sup>702</sup>

- 13.45 Counsel Assisting see some merit in this proposal and, as is discussed above in Chapter 12, submit that legislative amendment is required to give greater clarity regarding the roles and responsibilities of the Chief Fire Officers and Chief Executive Officers (and in the case of DSE, the Secretary of the Department) of the fire services.

### **Objective standards**

- 13.46 Ms Armytage accepted each of the following propositions:

- a) The standards devised for fire services should be readily ascertainable and publicly available;
- b) These standards should be consistent; and
- c) The entity required to adhere to those standards should be accountable.<sup>703</sup>

- 13.47 Having accepted the above, Ms Armytage acknowledged that improvements can be made to the setting and monitoring of performance standards for our fire services. However, she maintained that the OESC (which already has the power to set standards for the CFA, MFB, VICSES and ESTA) is the appropriate body to set and monitor standards, and ought perform an expanded role (by also developing standards for other agencies, including the DSE and Victoria Police), develop standards in consultation with the VEMC and monitor performance against those standards.<sup>704</sup>

- 13.48 As is noted above, the OESC has not developed any external standards for the CFA pursuant to Part 4A of the *Emergency Management Act 1986* (with which the CFA

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<sup>701</sup> Counsel Assisting note that the CEOs of the fire agencies presently have representation but there is nothing in legislation that guarantees this. As discussed elsewhere, the Chief Fire Officers do not have membership of the Sub-Committee.

<sup>702</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [170.1]

<sup>703</sup> Armytage T19417:15–T19417:29

<sup>704</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [182]; Armytage T19418:5–T19418:9

would be bound to comply under section 6A of the *Country Fire Authority Act*). The CFA reports against its own Service Delivery Standards developed in house.

- 13.49 Ms Armytage proposed that a greater 'spur' to performance would be achieved by public reporting on performance (which obligation falls on the OESC by reason of section 211 of *Emergency Management Act 1986*) and the introduction of a power to require the development of 'cure plans' where shortcomings are detected.<sup>705</sup>
- 13.50 Counsel Assisting endorse such an approach in relation to the auditing and reporting of compliance. Where we part ways with the State is that we propose a new Board ought be responsible for setting the standards for service delivery of the three fire services, with the OESC responsible for auditing compliance therewith.

## 14 BORDERS – KEEPING THE COMMUNITY SAFE

### Defining the issues

- 14.1 Quite apart from the issue of how Victoria's fire services should be structured, is the question of the 'jurisdiction' or area of coverage for each of the fire services, in particular the division between the Metropolitan Fire District (**MFD**) and the country area of Victoria.
- 14.2 The matters discussed in Chapter 3 demonstrate that Victoria is changing and will continue to do so for many years. The predicted urban expansion and the growth in regional cities creates a need, it is submitted, for a new means of addressing the boundary between the MFD and the country area of Victoria.
- 14.3 The division between the MFB and the country area of Victoria is historical and may no longer match the reality of the needs of Victoria. Some councils are serviced by both the MFB and the CFA. Some councils with areas of a highly urban character are serviced entirely by the CFA, a result which at least superficially appears counter-intuitive.
- 14.4 One issue which arises in this context is whether the CFA is adequately equipped in its regions which share borders with the MFD to respond to what might be regarded as the competing demands of suppression of grass and bushfires and to respond to structure fires. In other words, can the CFA a predominately volunteer rural firefighting force meet the demands now placed on it by Melbourne's rapidly growing urban fringe.
- 14.5 The primary questions, though, must be whether the communities on either side of the boundary of the MFD are adequately served by the present arrangements or

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<sup>705</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [184]

whether the boundary should be altered in order to provide a different level of service?

- 14.6 It is submitted that the overarching approach to each of the issues raised during this phase of the hearings should be the same: the central issue is always and must always be the safety of the community.
- 14.7 All Victorians are entitled to a standard of fire cover and a level of service provided by fire agencies determined by reference to the risk profile of their community – regardless of where they live. All Victorians are entitled to be assured that the coverage offered by the two fire agencies is determined by reference to the objective of saving lives and reducing risk of property damage and not by any criteria driven by historically anachronistic boundaries, old turf wars or inconsistent approaches to standards of service delivery.
- 14.8 It is submitted that the issue whether the CFA is being unduly ‘stretched’ by the demands on it in urban settings will need to be considered and monitored as Melbourne continues to grow, and as Victoria’s regional cities continue to expand.
- 14.9 The answer may simply lie in the need to ensure sufficient numbers of CFA career staff are engaged in particular regions. In the alternative, however, if circumstances arise in which it becomes clear that the CFA is not able to provide the appropriate level of fire cover in a particular urban setting, then this matter ought be considered when settling on the best mix of fire service delivery to the relevant communities.

### ***Current border alignment in Victoria***

- 14.10 The jurisdiction of the MFB and CFA is determined according to whether an area falls within the MFD (within the meaning of the MFB Act) or the “country area of Victoria” (within the meaning of the CFA Act. Section 3 of the CFA Act defines the ‘country area of Victoria’ to mean that part of Victoria which lies outside the MFD (excluding any forests, national park or protected public land).
- 14.11 The MFD is defined in s4 of the MFB Act. Technically, the MFD district is comprised of all the municipal districts or parts thereof set out in a schedule to the MFB Act. However, for convenience the MFD is depicted in the “grey area” in the maps tendered in this Commission.<sup>706</sup>
- 14.12 It appears that there has been little or no movement in the boundary between the MFD and the country area of Victoria since the border was established in the

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<sup>706</sup> Exhibit 920 – Maps designating the country fire area and Metropolitan Fire District of Victoria by reference to Victoria’s municipal boundaries and the recently instituted fairer Victoria boundaries Maps (DOC.CFA.002.0001\_M), (DOC.CFA.002.0001\_M1)



1940s.<sup>707</sup> There have been very minor changes made over the last fifteen years, but only by way of response to the creation of new roads.<sup>708</sup>

14.13 It will be recalled that the MFD shares its border with the CFA Regions 14, 13 and 8. The Councils which share a border with the MFD or straddle the MFD and the country area of Victoria are as follows: Banyule, Hume, Knox, Kingston, Manningham, Maroondah, Nillumbik, Whittlesea, Wyndham and Yarra Ranges. A map of the MFD depicting its interaction with CFA regions and Municipal boundaries is at Appendix 1 to these submissions.

14.14 There are a number of oddities concerning the delineation of the MFD in Victoria. For example, there are some municipalities which are substantially serviced by one fire service, but which have very small portions of their jurisdiction covered by the other fire service in circumstances where there appears to be little difference in terms of the character of the areas on either side of the boundary. Examples of such idiosyncrasies include:

- a) The City of Greater Dandenong has a very small corner (estimated by Mr Rosevear to occupy a few blocks) which falls within the MFD. The remainder of Greater Dandenong is part of CFA Region 8.
- b) Maroondah falls almost entirely within the MFD, although two oddly shaped segments of it fall within CFA Region 13.
- c) Banyule is overwhelmingly within the MFD, although has two pockets which are covered one the one hand by CFA Region 13 and on the other hand by CFA Region 14.
- d) The City of Wyndham has a significant 'corner' which falls within the MFD, although the remainder of it is serviced by CFA Region 14.
- e) Two thirds of the City of Manningham is covered by CFA Region 13 and the remainder, including parts of Templestowe Lower and Doncaster fall within the MFD.

14.15 Other Councils straddle the country area of Victoria and the MFD, with significant portions of covered by each fire service. In this category are:

- a) Hume;
- b) Whittlesea (note that Epping sits in the country area);

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<sup>707</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0794; Bourke T19348:28–T19348:31

<sup>708</sup> A Murphy T12568:31–T12569:14

- c) Manningham (for example, Templestowe is within the MFD, and Warrandyte falls outside);
  - d) Kingston.
- 14.16 Each of Melton, Nillumbik, Yarra Ranges, Knox, Casey and Cardinia sit wholly within the country area of Victoria. As a result, some suburbs within those municipalities which might be regarded as quite urban in character are serviced by the CFA, for example:
- a) Narre Warren North, within Casey;
  - b) Mooroolbark and surrounding areas in the Yarra Ranges;
  - c) Eltham and Research in Nillumbik;
  - d) Caroline Springs in Melton.
- 14.17 While on its face, this situation appears to involve a number of idiosyncrasies, inefficiencies and to raise the potential for confusion, the fact that the borders of the MFD do not entirely align with municipal boundaries is not of course proof even of itself that there is a problem with the structure. Indeed, the mixed character of these municipalities might suggest that the provision of fire coverage by two fire services within some council boundaries may in fact be an appropriate reflection of the variable risk profile across that municipality. For this reason, one would not move to a proposal which required particular Councils to be wholly subsumed within the MFD just in order to achieve boundary alignment. Rather, the question of whether part or all of a particular municipality should fall within the MFD must always, it is submitted, be governed by the overarching consideration of what will provide the best outcome in terms of public safety.
- 14.18 Any alteration to the boundary as between the MFD and the country area of Victoria is governed by s4(3) of the MFB Act which provides as follows:
- On receiving the request of a Council whose municipal district or any part of it is outside the metropolitan fire district and the certificate of the Board that it is necessary or desirable so to do, the Governor in Council may by proclamation published in the Government Gazette declare that municipal district or a specified part of that municipal district is to be added to the metropolitan fire district.*
- 14.19 As can be seen from the above, the prerequisites for the addition of any area to the MFD are:
- a) that the Council affected has made a request; and
  - b) the Metropolitan Fire and Emergency Services Board has certified that it is necessary or desirable to make the change.

- 14.20 In the alternative, the Board (apparently of its own motion) can issue a certificate that the excision of any part of the MFD may take place.<sup>709</sup> There have not been any significant alterations to the MFD for many years. The reasons for this are discussed in more detail below in the context of an analysis of evidence adduced by the Councils.
- 14.21 There does not appear to have been any occasion on which a Council has made a request under section 4(3) of the MFB Act.<sup>710</sup> It is not known how amenable the MFB Board is or would be to issuing the relevant certificate under the Act to increase the reach of the MFD. It is equally unclear what criteria the Board would or might apply in making such a decision, as none are specified in the Act.
- 14.22 The reluctance of Councils to seek a change in the MFD is driven by a powerful financial disincentive. Section 38 of the MFB Act provides that annual contributions are payable by Councils whose districts are within or partly within the MFD. This is commonly referred to as ‘the 12.5%’, which Councils must contribute to the funding for the MFB.<sup>711</sup> Councils were frank in their acknowledgement that this impost has been a key factor in a decision by many of them to refrain from seeking to realign the border of the MFD.

### ***UFUA’s position on borders***

- 14.23 The UFUA’s principal submission is that the CFA and MFB should amalgamate. It also advocates a vast expansion of the MFD to include the growth areas of Victoria (defined by Professor Haywood as City of Greater Dandenong, Knox, Yarra Ranges, Manningham, Nillumbik, Hume, Melton and Wyndham) and Victoria’s largest regional cities.<sup>712</sup>
- 14.24 In support of this proposal, Professor Haywood advanced the following propositions:<sup>713</sup>
- a) That there has been significant population growth in the Councils which border the MFD, and in the regional cities of Geelong, Ballarat and Bendigo. This growth is predicted to continue unabated.
  - b) The differences in “fire cover” offered by the CFA and the MFB gives rise to a risk to life and property.

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<sup>709</sup> Section 4(5) of the MFB Act

<sup>710</sup> A Murphy T12569:24–T12570:5

<sup>711</sup> A Murphy T12570:9–T12570:15

<sup>712</sup> See generally Exhibit 917 – Hayward Report (UFU.002.002.0786); Hayward T19273:8–T19273:11

<sup>713</sup> See generally Exhibit 917 – Hayward Report (UFU.002.002.0786)

- 14.25 The first proposition is demonstrably true. The second proved to be far more controversial, and was advanced by Professor Haywood in circumstances where he was unable to point to a single matter which could justify that assertion.<sup>714</sup> The evidence which was ultimately adduced in relation to this matter (principally through the union's witness Mr Barry Thomas) is addressed above.
- 14.26 In light of the evidence concerning projected urban growth and growth in the regional centres of Geelong, Ballarat and Bendigo, Professor Haywood's report proposed that:<sup>715</sup>
- [T]here is a case for expanding professional, career-based fire fighting services to cover the whole of the Melbourne urban area and other major regional centres.*
- 14.27 The link between population expansion and the need for a 'career-based full time fire fighting service' was not made out in Professor Haywood's evidence.
- 14.28 Certainly, it is possible that the densely settled urban areas and the regional cities of Geelong, Ballarat and Bendigo would be better served by the sort of coverage and hours of service which comes with the provision of more career staff. But what Mr Haywood's report does not grapple with is whether this ought to be achieved by supplementing the numbers of CFA career staff, assisted by the volunteers who already service the area, or whether the MFB (with extended jurisdiction) or a new single fire service would be better placed to service the needs of those communities.
- 14.29 More usefully, Professor Haywood's report identifies the fact that the present "opt in" model in relation to the determination of the MFD boundary is unsatisfactory, particularly in circumstances where the funding regime acts as a power disincentive to councils.<sup>716</sup> He proposed that the criteria for altering the boundary ought be based on objective measures, including planning policies. He also proposed that the overall fire service funding model ought be changed to remove the present 'inequality'.<sup>717</sup>

### **Councils' views**

- 14.30 The Councils which share a border with the MFD or which straddle the MFD and the country area of Victoria were invited to provide their views in relation to this matter. As is noted above, the "border councils" are Banyule, Hume, Knox, Kingston, Manningham, Maroondah, Nillumbik, Whittlesea, Wyndham, Yarra Ranges and Greater Dandenong.

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<sup>714</sup> Haywood T19282:25–T19282:31

<sup>715</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0787

<sup>716</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0801

<sup>717</sup> Exhibit 917 – Hayward Report (UFU.002.002.0786) at 0801; in relation to the funding model see also Submissions of Counsel Assisting – Insurance and the Fire Services Levy (SUBM.900.001.0001)

14.31 The Councils represented by the MAV in the proceedings (ie, all of the border Councils save for the City of Greater Dandenong) provided a summary table setting out their views in relation to the question of realignment of the MFD border.<sup>718</sup> Those views are summarised below.

### Financial disincentive

14.32 Concerns about the cost of moving to or increasing the area of the MFD were raised explicitly by Hume City Council, Kingston City Council, City of Whittlesea and the Shire of Yarra Ranges.

14.33 Hume straddles the MFD and the country area.<sup>719</sup> While the MFD represents only a small part of the municipality, the Council is required to pay \$610,000 as its contribution to the funding of the MFB. Hume indicated that the “service offered” would have to ‘dramatically increase’ before Hume would consider expansion of the MFD.<sup>720</sup>

14.34 Kingston City Council indicated it had not considered making a request for a change to the boundary in recent years. It indicated that relevant considerations for the shire include the cost of moving to coverage by the MFB.<sup>721</sup>

### Questions of service delivery to the community

14.35 Banyule City Council (which it will be recalled falls almost entirely in the MFD with only two small pockets falling in the country area of Victoria<sup>722</sup>) indicated it has not considered making a request under s4(3) of the MFB Act. It indicated that the key factor which it had taken into consideration or would consider in making such a request is whether it is appropriate to have two fire authorities covering a single municipality. The Council noted that the MFD boundaries should be reviewed on the basis of logic. The council suggested that it makes little sense that one side of the boundary is supported by a volunteer service and the other covered by the MFB. Banyule falls into the category of Councils one might refer to as the ‘anomalies’.<sup>723</sup>

14.36 Hume City Council indicated it has not considered applying to move the boundaries. It regards key factors as relating to the efficiency and quality of the service provided to their constituents.<sup>724</sup>

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<sup>718</sup> Exhibit 921 – Table summarising Council responses in relation to MFB/CFA Boundary and the MFD (Council Responses) (CORR.1003.0193)

<sup>719</sup> Exhibit 920 – CFA/MFB Areas (DOC.CFA.002.0001\_M1)

<sup>720</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0194

<sup>721</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0195–0196

<sup>722</sup> Exhibit 920 – CFA/MFB Areas (DOC.CFA.002.0001\_M1)

<sup>723</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0193

<sup>724</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0194

14.37 Issues concerning the logical development of boundaries and questions posed by urban growth were raised by each of Banyule City Council, Hume City Council, Nillumbik Shire Council, and Wyndham City Council.<sup>725</sup> Manningham City Council said expressly that the key factors they would consider is:<sup>726</sup>

*...community safety and whether equitable outcomes for all of its citizens can be achieved. If service standards had an adverse effect on safety in either jurisdiction, then Council would need to examine the matter in collaboration with the relevant agency in order to enhance service delivery.*

14.38 Maroondah City Council echoed a similar concern with the community's interest in response times.<sup>727</sup>

14.39 Nillumbik Shire Council said it was unlikely to make a decision to request any change without advice from both fire services as to what would produce the 'better outcome for the community'. In this context, Nillumbik Shire Council suggested that a preferable approach would be the identification of 'clear triggers for change' known and agreed between the two fire services so that an ongoing program of boundary change could be managed.<sup>728</sup>

14.40 Wyndham City Council also underscored its interest in consideration of public safety, the range of emergencies likely to be confronted (structural fires, industrial fires, grass fires) and the capacity of each fire authority to respond as best to those emergencies given the resources and equipment available to each.<sup>729</sup>

### Concerns about volunteers

14.41 Hume indicated that it regarded the CFA as responding well to the growth in the area, including by means of the provision of new fire stations and permanent career stations. It will be recalled that the City of Hume is serviced in part by integrated stations at each of Greenvale and Craigieburn.<sup>730</sup>

14.42 Kingston expressed a concern that 'long-standing volunteer CFA groups would potentially fee they had been abandoned by the communities they had voluntarily served for many years'.<sup>731</sup>

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<sup>725</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0193–0194,0200, 0202–0203

<sup>726</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0198

<sup>727</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0199

<sup>728</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0200

<sup>729</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0202

<sup>730</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0194; see also Exhibit 909 – Statement of de Man, Annexure 11A (WIT.3004.047.0229\_02) and Exhibit 920 – CFA/MFB Areas map showing Council boundaries and CFA Regions (DOC.CFA.002.0001\_M1)

<sup>731</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0995–0996

- 14.43 Many Councils indicated they regarded themselves as wells served by the volunteer CFA brigades: see the comments made by Kingston City Council, Knox City Council, Nillumbik Shire Council, and City of Whittlesea.<sup>732</sup>

### ***Case study: City of Greater Dandenong***

- 14.44 Mr Barry Rosevear is Risk Management Coordinator for the City of Greater Dandenong City Council.<sup>733</sup> He gave evidence concerning that Council's approach to the question of the border it shares with the MFD and shed light on the broader context in which the Council's concerns arise.
- 14.45 The present population of the City of Greater Dandenong is approximately 138,000. The projected growth for the year 2020 is 154,000 residents. Mr Rosevear estimated that land use in Greater Dandenong (which occupies 165 hectares in total), is approximately 40% urban, 20% industrial and 40% rural and grasslands.<sup>734</sup>
- 14.46 The small section of the City of Greater Dandenong which falls within the MFD is predominantly industrial and retail in nature; part of it is presently under development, and there will be a large retail premises constructed there.<sup>735</sup>
- 14.47 Mr Rosevear confirmed that the main reason the City of Greater Dandenong has not sought any change to the status quo is the financial impost on the community.<sup>736</sup> Despite the fact that only a tiny triangle of the City of Greater Dandenong falls within the MFD, at present the Council is required to provide \$11,000 in funding to the MFB, referable to the rateable value of land in that area.<sup>737</sup> Of course as the value of planned development in the "grey triangle" increases, so will the rateable value of the land and therefore the contribution required from the Council.<sup>738</sup>
- 14.48 The position ultimately put by the City of Greater Dandenong was that the small section within the shire which is covered by the MFD should in fact be transferred to the CFA.<sup>739</sup>
- 14.49 Mr Rosevear said the Shire has a long history of involvement with volunteer fire brigades, one having served the municipality since 1894.<sup>740</sup> He said there was a strong community connection with the CFA, despite the relatively urban nature of the

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<sup>732</sup> Exhibit 921 – Council Responses (CORR.1003.0193) at 0195-0197, 0200-0201

<sup>733</sup> Exhibit 922 – Letter from City of Greater Dandenong (CORR.1003.0044\_R); Supplementary information supplied by Rosevear (TEN.290.001.0001)

<sup>734</sup> Exhibit 922 – Letter from City of Greater Dandenong (CORR.1003.0044\_R); Supplementary information supplied by Rosevear (TEN.290.001.0001) at 0002; Rosevear T19311:6–T19311:17

<sup>735</sup> Rosevear T19312:6–T19312:14

<sup>736</sup> Rosevear T19314:14–T19314:18

<sup>737</sup> Rosevear T19312:19–T19312:24

<sup>738</sup> Rosevear T19312:20–T19312:24

<sup>739</sup> Rosevear T19315:8–T19315:15

<sup>740</sup> Rosevear T19313:2–T19313:8

City of Greater Dandenong, as the CFA supports the community by attending local functions and providing community education programs.<sup>741</sup>

- 14.50 Mr Rosevear pointed also to the existence of the two integrated stations at Dandenong and Springvale as being part of a support offered by the CFA.<sup>742</sup> He said the Council has had no concerns about the capacity of the CFA to service its residents.<sup>743</sup>
- 14.51 Mr Rosevear also suggested that there were concerns about incompatibility between the equipment and infrastructure used by the two fire services, such as hose couplings, fire hydrants and the like.<sup>744</sup> In similar vein, it is of note that Mr Murphy confirmed that any border realignment needs to take account of the restrictions in relation to MFB appliances. He accepted that there are some areas “we can’t go to” because there is no static supply or the reticulated supply cannot support their appliances. He accepted there is no point extending the MFB into areas which are not compatible with the MFB’s operations.<sup>745</sup>
- 14.52 Mr Rosevear emphasised that the community and the volunteer brigades in the City of Greater Dandenong wanted the status quo to remain.<sup>746</sup>

### ***State’s position: no change to borders***

- 14.53 While accepting that the phenomenon of population growth requires us to “satisfy ourselves that we have the appropriate arrangements in place that will meet the future need”, the State nevertheless opposes the expansion of the MFD.<sup>747</sup>
- 14.54 Ms Armytage asserted that expansion of the MFD will remove CFA stations and brigades from the outer suburban areas of Melbourne. She therefore contended that the expansion of the MFD is likely to have a detrimental impact on the CFA’s critical surge capacity.<sup>748</sup> She suggested it would be difficult to maintain the same level of interest by volunteers in the urban fringe areas, as they would no longer be required to serve their own communities but rather to work for CFA brigades further away.<sup>749</sup>

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<sup>741</sup> Rosevear T19313:9–T19313:21

<sup>742</sup> Rosevear T19313:22–T19313:31

<sup>743</sup> Rosevear T19314:19–T19314:25

<sup>744</sup> Rosevear T19314:26–T19315:7

<sup>745</sup> A Murphy T12599:29–T12600:27

<sup>746</sup> Rosevear T19316:29–T19317:2

<sup>747</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [132]–[133], Schedule 1 (WIT.3003.002.0001) at 0045–0046; Armytage T19400:22–T19400:25

<sup>748</sup> Exhibit 931 – Statement of Armytage (WIT.3003.002.0001) [133]; Armytage T19440:4–T19440:9

<sup>749</sup> Exhibit 931 – Statement of Armytage, Schedule 1 (WIT.3003.002.0001) at 0046



- 14.55 She suggested that a guide to the cost which might be involved in replacing the CFA stations which abut the MFD could be gleaned by comparing the average operating cost of CFA stations with the average operating cost of an MFB station.
- 14.56 The figures provided by Ms Armytage were not supported by any details analysis or costings. Her statement says only that the CFA estimates the average annual operating cost of the nine CFA stations which abut the MFD is approximately \$1.5 million per station. In contrast, she asserted the average annual operating cost of an MFB station is approximately \$2.4 million per station. No basis for these figures was supplied. Ms Armytage accepted that 'more rigorous analysis is required' but suggested the figures provide some indication of the 'cost differential'.<sup>750</sup> She was able to confirm that these figures include wages.<sup>751</sup> The figures do not, of course, provide any comparative analysis of the costs (or savings) which might be involved in expanding the service area of one fire agency, or relieving one agency of the burden. It is submitted the scant figures supplied do not provide an adequate basis to undertake an analysis of the costs (or savings) associated with altering the boundary of the MFD. This is a relevant criterion, but examination of it must proceed on a proper basis, with sufficient evidence.
- 14.57 It was suggested to Ms Armytage that the operation of the present boundary alignment system appears to be driven by the Councils' concerns about cost. She was asked whether there is a better way of addressing the ultimate goal, namely the safety of Victorians. Ms Armytage said she was "not persuaded" that there does need to be a better way. She said she was not convinced it was just a matter of "who foots the bill", but acknowledged that deliberations in relation to the current Green Paper on the fire services levy may ultimately resolve some of these matters.<sup>752</sup>

### **NSW model**

- 14.58 The *Fire Services Joint Standing Committee Act 1998* (NSW) governs the situation in New South Wales.<sup>753</sup> Unlike Victoria, there have been many changes to the boundaries between the area of jurisdiction of the NSW RFS and the NSW FB. Further, the NSW FB has permanent stations in major regional centres such as Newcastle and Wollongong and other country towns with populations as small as 1500.<sup>754</sup>

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<sup>750</sup> Exhibit 931 – Statement of Armytage, Schedule 1 (WIT.3003.002.0001) at 0045; Amendments to Statement (TEN.293.001.0001)

<sup>751</sup> Armytage T19439:23–T19439:29

<sup>752</sup> Armytage T19401:18–T19402:4

<sup>753</sup> Exhibit 919 – *Fire Services Joint Standing Committee Act 1998* (NSW) (TEN.286.001.0001)

<sup>754</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [23] and 0039–0040; Rogers T10537:27–T10537:31

- 14.59 The *Fire Services Joint Standing Committee Act 1998* (NSW) establishes a committee known as the Fire Services Joint Standing Committee (**FSJSC**) which consists of six members: the Commissioner of New South Wales Fire Brigades and a member of staff of New South Wales Fire Brigades nominated by the Commissioner, the Commissioner of the New South Wales Rural Fire Service, and a member of the New South Wales Rural Service nominated from time to time by the Commissioner, a person appointed by the Minister on the recommendation of the New South Wales Fire Brigade Employee's Union and a person appointed by the Minister on the recommendation of the New South Wales Rural Fire Service Association.<sup>755</sup>
- 14.60 The FSJSC was established in 1998 to facilitate discussions and adjudicate on issues arising between the NSW FB and the NSW RFS, primarily the question of the appropriate jurisdictional boundary between the two services.<sup>756</sup> There was a perception at that time that the boundary between the rural and urban fire services had 'stagnated' and that the NSW FB was restricted in 'being able to move into those areas where it was seen they should be serving'.<sup>757</sup> The FSJSC is mandated to periodically review the boundaries between rural and urban fire districts and to make recommendations to the Minister in relation to those boundaries.<sup>758</sup>
- 14.61 The FSJSC will normally consider the question of boundaries following a review conducted at the local level by officers of the NSW FB and NSW RFS, with the overall goal of boundary reviews being to ensure that communities get the highest level of fire protection possible provided by the closest and most appropriate resource.<sup>759</sup> Mr Rogers was of the view that the FSJSC has been successful in ensuring that the rural/urban fire service boundary keeps pace with shifts in population. Nearly a hundred boundary variations have occurred since the FSJSC's inception – mostly expanding urban fire districts to keep pace with urban expansion but also, in a few cases, moving areas back into rural fire districts where it was judged that the NSW FB was not the most appropriate agency to be servicing the area.<sup>760</sup>
- 14.62 The functions of the FSJSC are to:
- a) Develop and submit to the Minister strategic plans for the delivery of comprehensive, balanced and coordinated urban and rural fire services at the interface of fire district boundaries and rural fire district boundaries

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<sup>755</sup> Exhibit 919 – Fire Services Joint Standing Committee Act 1998 (NSW) (TEN.286.001.0001) at 0001 (see section 4)

<sup>756</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [128]; R Rogers T10580:15–T10580:22. See also Exhibit 919 – Fire Services Joint Standing Committee Act 1998 (NSW) (TEN.286.001.0001)

<sup>757</sup> R Rogers T10580:16–T10580:22

<sup>758</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [128]

<sup>759</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [129]; R Rogers T10580:31–T10581:20

<sup>760</sup> R Rogers T10581:21–T10582:1

- b) To review periodically the boundaries of fire districts and rural fire districts and, if it considers it appropriate, to make recommendations to the Minister concerning those boundaries
- c) To develop and submit to the Minister implementation strategies to minimise duplication and maximise compatibility between the services of New South Wales fire brigades and services of the New South Wales Rural Fire Service with particular reference to the following areas:
  - Infrastructure planning
  - Training activities
  - Community education programs
  - Equipment design
- d) To report to the Minister on any matter referred to the FSJSC by the Minister and, if it considers it appropriate, to make recommendations to the Minister concerning that matter.

14.63 There is also a Memorandum of Understanding between the NSW FB and NSW RFS which provides a mechanism for jointly providing services in certain areas.<sup>761</sup> Representatives of each service at the local level are required to review where a joint or mutual response would be appropriate and to enter into a suitable Mutual Aid Agreement.<sup>762</sup> Mutual aid areas are flagged in the automatic dispatch system and when a Triple Zero call is received, brigades from either or both service may be dispatched, depending on the terms of the relevant Mutual Aid Agreement.<sup>763</sup>

14.64 It can be seen from the above that the FSJSC has a broad remit. It also develops plans for the delivery of a comprehensive, balanced and coordinated urban and rural fire service at the interface between the districts covered by each. Mr Rogers said:<sup>764</sup>

*[T]he FSJSC reviews and determines issues that may arise between New South Wales Rural Fire Service and New south Wales Fire Brigade, so where there is a matter such as boundary / jurisdictional issues, the community gets the best level of fire protection it can based on the closest and most appropriate resource. In many areas New South Wales Fire Brigade and New South Wales Rural Fire Service jointly respond to different fire types (bushfires or structural fires) and the depending on the fire intensity and characteristics of the response arrangements will scale up (or down) accordingly.*

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<sup>761</sup> Exhibit 486 – Statement of R Rogers, Attachment 10 (WIT.7525.001.0352) at 0356

<sup>762</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [139]; R Rogers T10553:26–T10553:29

<sup>763</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [139]–[140]; R Rogers T10553:29–T10554:4

<sup>764</sup> Exhibit 486 – Statement of R Rogers (WIT.7525.001.0001) [129]

14.65 Mr Rogers confirmed that the FSJSC's decisions may lead to a realignment of boundaries, but may also lead to the entry into a mutual aid agreement between the fire services with a view to ensuring that both services cover a particular area. He said:<sup>765</sup>

*It's about working out jurisdiction. What are the best jurisdictional arrangements? And then what are the best support arrangements to ensure that the community gets the best possible services which is in a lot of cases a combination of the two services.*

14.66 Mr Rogers described the FSJSC as having been a success in 'ensuring the right fire services in the right spot to protect the community.'<sup>766</sup> It is submitted that the New South Wales model has much to recommend it. The approach provides a means of ensuring that question of boundary alignment are considered in an objective manner, based on the needs of the community. More importantly, the question of "borders" is not divorced from the other steps which might be taken (including through mutual aid arrangements) to achieve the same goals without taking the step of moving the boundary.

### ***South Australian and Western Australian Models: regional coverage***

14.67 The South Australian Metropolitan Fire Service covers urban areas, but also has responsibility for a further 16 gazetted regional areas such as Mount Gambier, Port Augusta and other smaller country towns like Peterborough, which are covered by retained SAMFS employees.<sup>767</sup>

14.68 Mr Ferguson indicated that this historical arrangement remains very effective. He said the evolution of gazetted SAMFS areas "has largely been attributed to increasing risk and increasing complexity of service delivery and increasing specialisation of equipment." In addition, he said, there were well established support arrangements between the two fire services which also assisted the provision of fire coverage.<sup>768</sup>

14.69 In Western Australia, FESA career brigades cover Perth and five major regional centres (Mandurah, Bunbury, Kalgoorlie, Albany and Geraldton).<sup>769</sup>

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<sup>765</sup> R Rogers T10552:4–T10552:29

<sup>766</sup> R Rogers T10581:21–T10582:1

<sup>767</sup> Exhibit 478 – Statement of Ferguson (WIT.7522.001.0001) [27]; [172]

<sup>768</sup> Ferguson T10466:18–T10466:29

<sup>769</sup> Hynes T10408:30–T10409:5

### ***Conclusion: new system for boundaries required***

- 14.70 Counsel Assisting submit that the resolution of geographical boundaries and the coverage of our fire services should not be reliant on councils determining to “opt in” to a system where such an election attracts a financial impost.
- 14.71 Rather, the system ought be based on objective criteria, designed to provide the best possible safety outcome for the community. It is submitted that some of the criteria for the determination of these issues ought be objective. In addition, the views of affected communities and volunteers ought be given weight. Some of those criteria in the NSW regime are called in aid here, others are suggested in light of the matters which emerged in the hearings.
- 14.72 Below, Counsel Assisting propose a model pursuant to which a newly conceived Board will have responsibility for the determination of this issue based on objective criteria, but also taking into account the capacity and views of the two fire services – and the views of the relevant unions, the Council and the affected community.
- 14.73 We emphasise that the determination of boundaries must not be done in isolation. It is but one in a suite of measures which ought to be adopted (determinations in relation to some of which ought be reposed in the Board) for resolving matters about our fire services, including where CFA integrated stations or to be established to provide additional coverage and areas within which mutual aid arrangements should be enhanced or extended.

## **15 A NEW MODEL: COUNSEL ASSISTING PROPOSAL**

### ***What problem are we trying to fix?***

- 15.1 Evidence adduced in earlier hearings has demonstrated the following major shortcomings in the response to the major fires which burned on 7 February:
- a) Preparedness, in particular, the fact that Incident Management Teams for the major fires were not in place with level 3 Incident Controllers on the morning of 7 February 2009;
  - b) Inadequate use of predictive, material including predictive maps;
  - c) Failure to issue timely warnings to the community.
- 15.2 The problems referred to above occurred at the IMT level and in the iECC, partly as a result of systemic failures in relation to training, planning and preparation.<sup>770</sup>

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<sup>770</sup> Submissions of Counsel Assisting – Training of Incident Controllers, Resourcing of Incident Management Teams and Incident Control Centres and Preparedness (SUBM.500.001.0001); Submissions of Counsel Assisting – Kilmore

Counsel Assisting have submitted elsewhere that ultimate responsibility for these failures rests with the Chief Fire Officers of CFA and DSE and with other senior personnel located at the iECC.<sup>771</sup>

- 15.3 Counsel Assisting agree with a comment by Ms Armytage that there is no evidence that the deficits in preparedness levels of IMTs on 7 February was the result of the numbers of the CFA's career firefighters per se. Rather, it was referable, at least in part, to the numbers of CFA personnel who had been trained to the requisite level, and a failure to appropriately deploy those staff who were so trained.<sup>772</sup>
- 15.4 Remedying the problems set out above must be the priority. These shortcomings are attributable to failures in leadership and command and control. To some extent, they may also be referable to imperfect coordination and communication between the DSE and CFA.<sup>773</sup> These failings must be addressed regardless of whether or not any major organisational restructure is ultimately undertaken of the fire services. Equally, these matters must be addressed even if the status quo continues in relation to the structure of the fire services. Further, any implementation of organisational change will be of limited benefit unless the above identified shortcomings are addressed as well.

### ***Survey of the proposals for change***

- 15.5 Counsel Assisting submit that there are attractive elements in each of the proposals advanced by the UFUA, and Mr Bibby and Mr Foster. Those benefits include reduced duplication, greater prospects of integration between firefighting on urban and rural, private and public land and the capacity to create a multi-skilled fire service able to respond to urban / structure and bushfire risk.
- 15.6 However, the hearings in the Commission have exposed deep resistance to radical change. The resistance is so strong, it is likely to prevent the introduction of change. The evidence has also revealed that:
- a) The mutual aid arrangements and other forms of cooperation already in place between the fire services provides a response to the changing risk profile of Melbourne. It may be capable of addressing the community's changing needs into the future if supplemented by some other measures;

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East Fire (SUBM.202.004.0001); Submissions of Counsel Assisting – Churchill Fire (SUBM.202.008.0001); Submissions of Counsel Assisting – Murrindindi Fire (SUBM.202.009.0001)

<sup>771</sup> Submissions of Counsel Assisting – Leadership, Emergency Management, Coordination, Command and Control (SUBM.1000.001.0001) at 0192–0201

<sup>772</sup> Armytage T19466:15–T19467:5

<sup>773</sup> See comments of Mr Bibby to the effect that some aspects of preparedness and use of predictive maps would have been improved if CFA and DSE “had been one agency” - Bibby T19485:7–T19485:27

- b) The CFA appears to be capable of responding to the changing risk profile of the regions for which it is responsible by means presently available to it, including expansion of its network of integrated fire stations, employing more paid staff and expanding the training of personnel for response to structure fires;
  - c) Some of the shortcomings in the present model are likely to be addressed by imposing a new governance structure capable of implementing consistency of approaches to planning, standards and training;
  - d) A number of the problems with the current model might be addressed by introduction of a superior process for adjustments to the boundary of the MFD, designed to cope with projected population growth on the urban fringe and in our regional towns;
  - e) There are good reasons for maintaining the distinction between the DSE and other fire services and for preserving its unique role as the public land manager.
- 15.7 As a result of the above considerations, Counsel Assisting do not submit that any of the models proposed by the parties which advocate radical change ought to be pursued at this stage. However, Counsel Assisting do submit that significant changes need to be made to both the governance structure which sits above the fire services, and to the command and control model for bushfires.
- 15.8 These proposed changes are aimed at ensuring the implementation of rigorous, objective and consistent standards. It is submitted that the provision of fire services in all parts of Victoria ought be driven by risk analyses focussed on the protection of life and property. All fire services should be subject to the same standards and level of scrutiny of compliance with the same.
- 15.9 Counsel Assisting propose the creation of a single Board to which the three fire services are answerable, with the power to impose and monitor compliance with consistent standards.

### ***A new governance structure: supervisory board***

- 15.10 Counsel Assisting propose the creation of a new Victorian Fire Services Board. The three agencies with responsibility for fire will remain operationally intact. But the DSE, CFA and MFB will be responsible to the Victorian Fire Services Board.
- 15.11 It is proposed that, like the SAFECOM Board, the composition of the Victorian Fire Services Board be a hybrid model – with both skills based / expert membership and representative membership. It is proposed it ought be comprised of:
- a) Each of the Chief Fire Officers of the DSE, CFA and MFB;

- b) A nominee of each of the VFBV, UFUA and the AWU;
- c) Three “skills based” representatives, and drawing on the South Australian model, it is suggested that these be individuals with experience in fields such as management, finance, accounting, law or public administration.<sup>774</sup>

15.12 Further, we borrow from the South Australian model and propose that each of these Board members be persons with “suitable volunteer experience” which might, for example, be defined to include experience as a volunteer in the emergency or health services, or be broad enough to encompass volunteer service in charitable and other fields.<sup>775</sup> Further, we propose (again drawing on South Australia) that it be a requirement that at least one member of the Board be female and at least one member of the Board be male. It is proposed that the Chair of the Board be the Chief Fire Officer of the CFA, but this is not essential to the proposed model.

15.13 In addition (and here we depart from the South Australian model), Counsel Assisting propose that there be a representative on the Board nominated by the Municipal Association of Victoria. The reasons for this are twofold:

- a) As it is proposed that the Victorian Fire Services Board will have responsibility for matters including the determination of and adjustments to the MFD (see further below), it is appropriate that there be a voice for Councils and their constituents on the Board; and
- b) It is important that integrated fire management planning, municipal emergency management planning and the role of councils in all aspects of emergency management and bushfire prevention and response continue to be advanced and integrated with the approach of the fire services. For this reason, it is vital that councils be represented on the Board.

15.14 It is proposed that this new Victorian Fire Services Board have functions including some similar to those conferred on the SAFECOM in South Australia. However, it is proposed to confer additional functions. These are discussed below.

### ***Boundary alignment: planning for growth***

15.15 Counsel Assisting propose that the provisions of the MFB Act which currently deal with boundary alignment between the MFD and the country area of Victoria be repealed. The current “opt in” model has a number of limitations and disincentives. It does not admit of consideration of relevant, objective criteria. Further, the current model is unlikely to provide a suitable framework for dealing with the changing needs

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<sup>774</sup> See section 11, Fire and Emergency Services Act 2005 (SA)

<sup>775</sup> See section 11, Fire and Emergency Services Act 2005 (SA)



of Victoria's expanding population. There is a real need to implement a system now which will be capable of coping with Victoria's changing urban profile and predicted growth in its major regional centres. Counsel Assisting propose that the Victorian Fire Services Board ought also have the power to determine boundary adjustments, subject to the obligation to take into account a number of important criteria (which are spelled out below).

- 15.16 The matters discussed above in Chapter 14 serve to highlight the need for a new system of determining which fire service will be the predominant provider of fire coverage in which parts of Victoria. Urban growth outside the MFD in combination with expansion of our three largest regional towns has rendered this vital. However the issue for resolution is not just the simple issue of where to draw the boundary of the MFD. Consideration also needs to be given to whether, rather than a change to the boundary, issues can be dealt with by strengthening mutual aid arrangements, or altering the ratio of career to volunteer staff in CFA integrated stations. We submit resolution of these matters will be best achieved by having the same Board responsible for all such issues.
- 15.17 It is submitted that the criteria for the determination of issues pertaining to the realignment of the MFD ought be objective, but also permit the views of those affected (including the community and the volunteer brigades) to be taken into account. Some of the criteria which appear in the equivalent NSW regime are called in aid below, while additional criteria are also proposed to deal with Victoria's unique position.
- 15.18 It is further proposed that the power to alter the boundary of the MFD ought (just as is the case in New South Wales and South Australia) also extend to a power to declare areas which are not contiguous with the MFD ( such as large regional towns and centres, where appropriate) to be part of the MFD.

### ***Powers and functions of the new Victorian Fire Services Board***

- 15.19 It is submitted that the new Victorian Fire Services Board ought to have the following functions and powers:

### **Governance**

- a) To develop and maintain a policy framework for each of the fire services<sup>776</sup>, such framework being developed with the needs of all Victorians in mind;
- b) To develop and implement a framework of sound corporate governance for the fire services;
- c) To ensure that appropriate administrative and other support services are provided to the fire services;
- d) To ensure that appropriate corporate plans are developed, maintained and implemented for the fire services;
- e) To monitor management performance by the fire services against plans and targets and to take corrective action as necessary;
- f) To ensure that the fire services maintain appropriate risk-management systems and practices;
- g) To ensure that the fire services regularly review, and revise as necessary, their plans, structures, systems, targets and practices to address changing circumstances and to improve the provision of fire services;
- h) To ensure that the fire services meet their statutory responsibilities;
- i) To provide regular reports to the Minister on the activities and performance of the fire services;
- j) To provide to the Minister reports or advice in relation to the operation of the legislation which regulates the operations and functions of the fire services;
- k) To undertake a leadership role with respect to emergency management within the State and to maintain an appropriate level of liaison with other bodies responsible for the management of emergencies in the State;

### **Standards**

- l) To develop and publish objective standards (which are consistent so far as is relevant for each of the fire services) in relation to service delivery, including standard of fire cover, by each of the fire services;<sup>777</sup>

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<sup>776</sup> Note in this list of proposed functions and powers, the reference to “fire services” means CFA, MFB and the DSE (namely the DSE’s permanent and project fire fighters, including those employed by Parks Victoria and DPI)

<sup>777</sup> It is proposed elsewhere in these submissions that compliance with those standards will be monitored by the OESC

- m) To develop and publish objective standards (which are consistent so far as is relevant to the operations and personnel of the fire services) in relation to the training and accreditation of personnel of the fire services;

**Comprehensive Planning**

- n) To provide for the effective allocation of resources within and between the fire services;
- o) To develop plans for the delivery of comprehensive, balanced and coordinated urban and rural fire services, including at the interface of the MFD and the country area of Victoria;
- p) To develop plans for the delivery of comprehensive, balanced and coordinated public and private land fire services, including at the interface of public and private land in Victoria;
- q) To develop plans designed to minimise duplication and to maximise compatibility between the fire services, with particular reference to the following areas:
  - Planning in relation to bushfires;
  - Infrastructure planning;
  - Resources;
  - Training activities;
  - Community education programs; and
  - Equipment design,
- r) To develop plans to introduce and enhance the provision of mutual aid and cooperation between each of the fire services, such plans to be devised by reference to the principle of ensuring the provision of the best possible standard of fire cover to the community and with the aim of protection of life and property;
- s) To review periodically the boundaries of the MFD and the country area of Victoria and, if it considers it appropriate, to make a recommendation to the Minister concerning the adjustment or re-alignment of the boundary between the MFD and the country area of Victoria, including designating areas which are not contiguous with the MFD (eg satellite suburbs and large regional towns) as falling within the MFD, such recommendations must be based on the examination of the following criteria:
  - (i) The protection of human life and property;

- (ii) The risk profile of the relevant community or communities and the areas in question, including whether any part of it is prone to bushfire or structure fires;
- (iii) The standard of fire cover presently offered by the fire service with responsibility for the area, adjudged by reference to the performance of that fire service as against objective standards;
- (iv) If a need for an improved or different standard of fire cover is identified, a consideration of how this ought to be achieved should include:
  - Whether the fire service presently responsible for the area can provide a better standard of fire cover by increasing the resources it devotes to the area; and
  - Whether a fire service which does not presently have responsibility for the area can provide a better standard of fire cover,
- (v) The present population and projected population of the area (and in relation to this matter regard is to be had to material including census and other data in relation to projected population growth and the opinions of town planners);
- (vi) Whether any adjustment to the boundary of the MFD will reduce or increase the cost of the provision of fire services to the area and whether it will promote overall efficiency;
- (vii) The views of the Council/s for the area, including capacity to fund the outcome of any adjustment to the MFD boundary;
- (viii) The views of the community affected by any alteration to the MFD boundary;
- (ix) The views of the CFA and the MFB;
- (x) The views of any volunteer brigades which service the area.
- t) Make recommendations to the fire services in relation to the composition or mix of their firefighting personnel, including (in relation to the CFA) the establishment of integrated stations and the ratio of career to volunteer personnel in integrated fire stations and (in relation to the DSE) with respect to the ratio of permanent and project firefighters;
- u) To develop processes for the identification of urban interface areas at high risk of bushfires (“designated urban bushfire risk areas”) being areas wholly within the MFD, wholly within the country area of Victoria or areas encompassing both, and to prepare plans for bushfire preparedness and prevention in those designated urban bushfire risk areas;

- v) To investigate the feasibility of establishing Community Fire Units for and in designated urban bushfire risk areas, and whether such Units ought be managed and/or funded by the CFA, MFB or both;

**Development and community liaison**

- w) To foster and support career development opportunities for officers and staff within the fires services;
- x) To support and encourage voluntary participation in the CFA and to foster and support training and personal development opportunities for volunteers in the CFA;
- y) To ensure that there is effective consultation with the community in relation to the operation of the fire services;
- z) To disseminate knowledge in the field of fire and emergency services in order to advance community safety.

15.20 As a consequence of the above proposal, legislative amendments will need to be made in order to make it explicit that the Victorian Fire Services Board:

- a) Is subject to the direction and control of the Minister;
- b) May in the performance of its functions (set out above) give directions to each of the fire services.

15.21 A further legislative amendment is required in order to provide that the Victorian Fire Services Board may not give directions in relation to the operational response to an emergency situation or dealing with any matter that may arise at the scene of an emergency.<sup>778</sup>

15.22 Further, it there should be explicit provision in legislation that at least in so far as the standards set by the Board in relation to standard of fire cover and service delivery standards are concerned, the OESC is to be external independent auditor with respect to compliance by all of the fire services with the same.

***A new approach to Command and Control***

15.23 In addition to the governance structure recommended above and the creation of the new Victorian Fire Services Board, Counsel Assisting submit that the command and control regime in Victoria requires clarification.

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<sup>778</sup> This reflects section 9(2) of the Fire and Emergency Services Act 2005 (SA)

- 15.24 Building on the work done by Mr Overland, and the implementation of a new command and control model by the CFA and DSE (which is 'triggered' by events including severe, Extreme and Code Red Days and one or more level 3 fires)<sup>779</sup> it is proposed that there be a single line of command and control in which there is a single State Controller to whom all fire services are answerable. It is envisaged that the relatively new Area of Operations Controller model can still operate within this system.
- 15.25 The single State Controller takes charge in the following circumstances:
- a) For all level three bushfires in the country area of Victoria – ie regardless of whether on public or private land;
  - b) In any other circumstances at the election of the Chief Fire Officer of the CFA.
- 15.26 The 'other circumstances' referred to in (b) above is a reflection of the New South Wales model. It will be recalled that pursuant to s44 of the *Rural Fires Act 1997* (NSW), the Chief Commissioner of the NSW RFS must take charge of 'bush fire fighting operations and bush fire prevention measures and take such measures as the Commissioner considers necessary to control or suppress any bush fire in any part of the State', if, in the opinion of the Commissioner certain conditions exist. Those conditions include:
- (a) a bush fire has assumed or is likely to assume such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning, or*
- (b) the prevailing conditions are conducive to the outbreak of a bush fire likely to assume such proportions, or*
- (c) a bush fire is not being effectively controlled or suppressed by the fire fighting authority or authorities in whose area or locality it is burning, or*
- (d) a bush fire is burning in a place that is not the responsibility of any fire fighting authority.*
- 15.27 Counsel Assisting propose that in addition to the above, in Victoria the capacity of the State Controller / Chief Fire Officer of the CFA to take charge ought also include: That the response to the bushfire is necessary to be coordinated with the response to other fires burning at the same time in Victoria. This will allow for the situation in which a relatively small fire is burning on public land at a time when other significant fires are threatening the State. In such a circumstance, the Chief Fire Officer of the

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<sup>779</sup> See Exhibit 443 – Statement of Simon Overland (WIT.3010.009.0229) and Exhibit 547 – State Command and Control Arrangements for Bushfire in Victoria (CFA.001.032.0300)

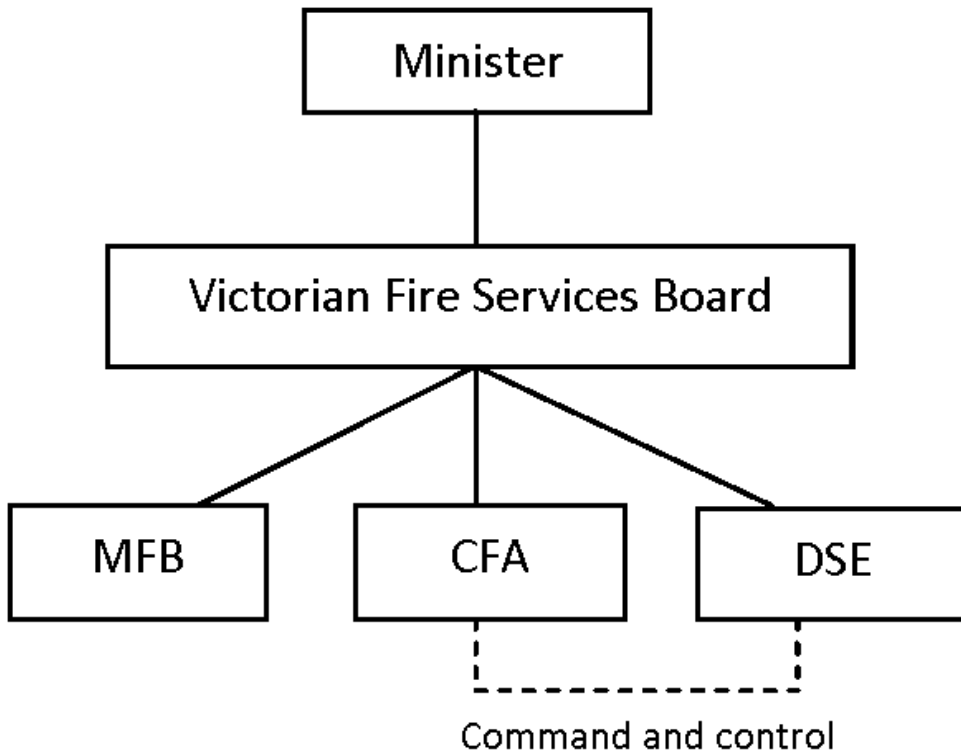
CFA ought be able to coordinate an effective State-wide response to the suppression of all the fires.

15.28 Pursuant to this model, CFA brigades and DSE firefighters will all be responsible to a Single State Controller, who is to be the Chief Fire Officer of the CFA, in default of other arrangement or agreement. Further, we propose that the State Controller be required to appoint a Deputy State Controller, who may be drawn from any of the fire services (namely CFA, DSE or NEO partner, or the MFB).

15.29 It is of note that this proposal is similar to that recommended by the Esplin Inquiry in 2003 (see discussion in Chapter 8 of the passages from that Report).<sup>780</sup>

### **The new model**

15.30 The proposed new model is depicted below in a chart:



## **16 RECOMMENDATIONS**

16.1 As is developed in detail above in Chapter 15, Counsel Assisting propose the introduction of a new governance model for the fire services<sup>781</sup> and a significant

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<sup>780</sup> See Exhibit 11 – Statement of Esplin, Attachment 2 (Report of the Inquiry into the 2002–2003 Victorian Bushfires) (WIT.005.001.0951) at 1301, 1303

extension to the State Controller model already in place following the Overland review.

16.2 The following recommendations are proposed.

1. There be created a new Victorian Fire Services Board. The CFA, DSE and MFB will remain operationally intact, but will be responsible to the Victorian Fire Services Board.
2. The composition of the Victorian Fire Services Board be a hybrid model, with both skills based / expert membership and representative membership. It is proposed it be comprised of:
  - (a) Each of the Chief Fire Officers of the DSE, CFA and MFB;
  - (b) A nominee of each of the VFBV, UFUA and the AWU;
  - (c) Three “skills based” representatives, each with experience in fields such as management, finance, accounting, law or public administration;
  - (d) A nominee of the Municipal Association of Victoria.
3. The three “skills based” representatives to the Victorian Fire Services Board are to be persons with suitable volunteer experience.
4. It is a requirement that at least one member of the Board be female and at least one member of the Board be male.
5. The Victorian Fire Services Board have the following functions and powers:

**Governance**

- a) To develop and maintain a policy framework for each of the fire services, such framework being developed with the needs of all Victorians in mind;
- b) To develop and implement a framework of sound corporate governance for the fire services;
- c) To ensure that appropriate administrative and other support services are provided to the fire services;
- d) To ensure that appropriate corporate plans are developed, maintained and implemented for the fire services;

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<sup>781</sup> In these proposed Recommendations, the reference to “fire services” means CFA, MFB and the DSE (namely the DSE’s permanent and project fire fighters, including those employed by Parks Victoria and DPI)



## Submissions of Counsel Assisting

- e) To monitor management performance by the fire services against plans and targets and to take corrective action as necessary;
- f) To ensure that the fire services maintain appropriate risk-management systems and practices;
- g) To ensure that the fire services regularly review, and revise as necessary, their plans, structures, systems, targets and practices to address changing circumstances and to improve the provision of fire services;
- h) To ensure that the fire services meet their statutory responsibilities;
- i) To provide regular reports to the Minister on the activities and performance of the fire services;
- j) To provide to the Minister reports or advice in relation to the operation of the legislation which regulates the operations and functions of the fire services;
- k) To undertake a leadership role with respect to emergency management within the State and to maintain an appropriate level of liaison with other bodies responsible for the management of emergencies in the State;

### **Standards**

- l) To develop and publish objective standards (which are consistent so far as is relevant for each of the fire services) in relation to service delivery, including standard of fire cover, by each of the fire services;
- m) To develop and publish objective standards (which are consistent so far as is relevant to the operations and personnel of the fire services) in relation to the training and accreditation of personnel of the fire services;

### **Comprehensive Planning**

- n) To provide for the effective allocation of resources within and between the fire services;
- o) To develop plans for the delivery of comprehensive, balanced and coordinated urban and rural fire services, including at the interface of the MFD and the country area of Victoria;

- p) To develop plans for the delivery of comprehensive, balanced and coordinated public and private land fire services, including at the interface of public and private land in Victoria;
- q) To develop plans designed to minimise duplication and to maximise compatibility between the fire services, with particular reference to the following areas:
- Planning in relation to bushfires;
  - Infrastructure planning;
  - Resources;
  - Training activities;
  - Community education programs; and
  - Equipment design,
- r) To develop plans to introduce and enhance the provision of mutual aid and cooperation between each of the fire services, such plans to be devised by reference to the principle of ensuring the provision of the best possible standard of fire cover to the community and with the aim of protection of life and property;
- s) To review periodically the boundaries of the MFD and the country area of Victoria and, if it considers it appropriate, to make a recommendation to the Minister concerning the adjustment or re-alignment of the boundary between the MFD and the country area of Victoria, including designating areas which are not contiguous with the MFD (eg satellite suburbs and large regional towns) as falling within the MFD, such recommendations must be based on the examination of the following criteria:
- (i) The protection of human life and property;
  - (ii) The risk profile of the relevant community or communities and the areas in question, including whether any part of it is prone to bushfire or structure fires;
  - (iii) The standard of fire cover presently offered by the fire service with responsibility for the area, adjudged by reference to the performance of that fire service as against objective standards;

- (iv) If a need for an improved or different standard of fire cover is identified, a consideration of how this ought to be achieved should include:
    - Whether the fire service presently responsible for the area can provide a better standard of fire cover by increasing the resources it devotes to the area; and
    - Whether a fire service which does not presently have responsibility for the area can provide a better standard of fire cover,
  - (v) The present population and projected population of the area (and in relation to this matter regard is to be had to material including census and other data in relation to projected population growth and the opinions of town planners);
  - (vi) Whether any adjustment to the boundary of the MFD will reduce or increase the cost of the provision of fire services to the area and whether it will promote overall efficiency;
  - (vii) The views of the Council/s for the area, including capacity to fund the outcome of any adjustment to the MFD boundary;
  - (viii) The views of the community affected by any adjustment to the MFD boundary;
  - (ix) The views of the CFA and the MFB;
  - (x) The views of any volunteer brigades which service the area.
- t) Make recommendations to the fire services in relation to the composition or mix of their firefighting personnel, including (in relation to the CFA) the establishment of integrated stations and the ratio of career to volunteer personnel in integrated fire stations and (in relation to the DSE) with respect to the ratio of permanent and project firefighters;
- u) To develop processes for the identification of urban interface areas at high risk of bushfires (“designated urban bushfire risk areas”) being areas wholly within the MFD, wholly within the country area of Victoria or areas encompassing both, and to prepare plans for bushfire preparedness and prevention in those designated urban bushfire risk areas;

- v) To investigate the feasibility of establishing Community Fire Units for and in designated urban bushfire risk areas, and whether such Units ought be managed and / or funded by the CFA, MFB or both;

**Development and community liaison**

- w) To foster and support career development opportunities for officers and staff within the fire services;
  - x) To support and encourage voluntary participation in the CFA and to foster and support training and personal development opportunities for volunteers in the CFA;
  - y) To ensure that there is effective consultation with the community in relation to the operation of the fire services;
  - z) To disseminate knowledge in the field of fire and emergency services in order to advance community safety.
6. Legislative amendments to make it explicit that the Victorian Fire Services Board:
- (a) Is subject to the direction and control of the Minister;
  - (b) May in the performance of its functions (set out above) give directions to each of the fire services.
7. Legislative amendment to provide that the Victorian Fire Services Board may not give directions in relation to the operational response to an emergency situation or dealing with any matter that may arise at the scene of an emergency.
8. Legislative amendment to provide that in so far as the standards set by the Victorian Fire Services Board in relation to standard of fire cover and service delivery standards are concerned, the Office of the Emergency Services Commissioner is to be external independent auditor with respect to compliance by all of the fire services with the same.
9. Implementation of a new command and control model for bushfires in the country area of Victoria, pursuant to which there will be a single line of command and control and a single State Controller (who is to be the Chief Fire Officer of the CFA in default of other arrangement or agreement) to whom all fire services are answerable.
10. The State Controller be required to appoint a Deputy State Controller, who may be drawn from any of the fire services (namely CFA, DSE or NEO partner, or the MFB).

11. The State Controller to be authorised to take charge of all bushfire fighting operations and bushfire prevention measures and to take such measures as the State Controller considers necessary to control or suppress any bush fire in any part of the State, if in the opinion of the State Controller any of the following conditions exist:
  - (a) There is a level three bushfires in the country area of Victoria, regardless of whether on public or private land;
  - (b) A bushfire has assumed, or is likely to assume, such proportions as to be incapable of control or suppression by the fire fighting authority or authorities in whose area or locality it is burning, or
  - (c) The prevailing conditions are conducive to the outbreak of a bush fire likely to assume such proportions, or
  - (d) A bushfire is not being effectively controlled or suppressed by the fire fighting authority or authorities in whose area or locality it is burning, or
  - (e) The response to any bushfire which is burning is necessary to be coordinated with the response to other fires burning at the same time in Victoria.
12. Legislative amendment to the CFA Act and the Forests Act to make clear the role and responsibilities of the CFOs of CFA and DSE.

Dated: 17 May 2010

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2009 Victorian Bushfires Royal Commission