

# THE GOVERNANCE OF FIRE SERVICES IN AUSTRALIA

Report 1

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Allen & Clarke Policy and Regulatory Specialists Limited  
PO Box 54 180, Mana  
Wellington  
New Zealand

Phone + 64 4 477 6974  
Facsimile: + 64 4 477 4425  
Email: [office@allenandclarke.co.nz](mailto:office@allenandclarke.co.nz)  
Website: <http://www.allenandclarke.co.nz>

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## EXECUTIVE SUMMARY

### Focus of this report

New Zealand's fire service legislation is in need of reform. The Department of Internal Affairs (DIA), in conjunction with key stakeholders, is leading a review of our legislation, which is likely to result in new fire service legislation to provide for the integrated management of both urban and rural fire services.

This paper will feed into DIA's policy work and considers two broad overlapping areas:

- Governance of fire services; and
- Integration of rural and urban fire services.

Specifically, the report details the governance arrangements in the eight Australian state and territory fire services; and considers some of the key issues they have grappled with during the integration of their urban and rural fire services.

### Structure of the report

**Section 1** provides an overview of the fire service arrangements in the eight Australian jurisdictions. A supplementary report, *Report 2: Fire Service Arrangements in the Australian States and Territories*, provides more detailed descriptions of the fire service arrangements in each of the eight jurisdictions, including summaries of their legislation.

**Sections 2-4** examine the essential features of the each jurisdiction's governance model. **Section 2** considers the core statutory functions of their fire services, along with the range of specific fire and non-fire activities undertaken in each jurisdiction. **Section 3** examines a core set of governance provisions used across the jurisdictions' legislation. **Section 4** provides a brief look at some of the key non-legislative governance mechanisms used.

**Section 5** then overviews the level of rural/urban integration in the states and Territories, and highlights some of the main issues and difficulties the jurisdictions have encountered regarding the integration of urban and rural fire services.

**Section 6** examines some of the implications of New Zealand public sector management reform, which is currently underway.

Finally, **Section 7** provides a checklist of the key governance-related issues (from **sections 2-6**), which will need to be considered when designing a governance framework for new fire service legislation in New Zealand.

## **High level commonalities**

The eight states and territories have some key high-level similarities with their fire service arrangements.

While all three levels of government are involved to some extent (Commonwealth, state and territory, and local government) in all jurisdictions fire services, responsibility for emergency response, and instituting appropriate regulatory arrangements to protect life, property and the environment, rests primarily with the state and territory governments.

All jurisdictions have urban (structural) and rural (bush fire) fire services – although how these services are organised differs between jurisdictions. Some have separate urban and rural services (e.g. NSW and Victoria), while others have a more integrated fire service (e.g. Tasmania). Additionally, the structural models differ between jurisdictions; from fire services being an operational arm of another government department, to being departments in their own right, or other entities such as statutory authorities.

There is a broad consistency in the general statutory functions undertaken by each jurisdiction. The specific work activities undertaken (whether fire-related or other emergencies) is also consistent across the jurisdictions.

All states' and territories' fire services are established and regulated by fire legislation – although each jurisdiction has its own unique legislative model. For example, some have separate urban and rural fire legislation, others have a single fire Act, while others have legislation which covers other emergency services as well.

All jurisdictions have undertaken multiple reviews of their fire services (and often other emergency services) over the last twenty years. Such reviews have focused on the full range of issues, including governance and management, structural and integration reform, financial efficiencies, operational issues, volunteer versus career staff issues, etc. The outcome of such reviews has varied depending on their purpose.

Some jurisdictions are currently in various stages of the reform process. For instance, South Australia and ACT are implementing their reviews, ACT has a Bill before its Parliament to reform their systems, and South Australia is currently drafting a Bill to reform their fire service legislation. Western Australia is about to embark on follow-up review work to their significant reforms of the last 1990s, and Queensland recently announced it was looking to review some of the rural fire provision of its legislation.

## **Governance models**

All jurisdictions have a set of key legislative governance provisions along with non-legislative governance mechanisms. Any given jurisdiction's fire legislation will cover:

- The establishment and legal status of the service;

- The type of entity (e.g. government department or a statutory authority);
- The functions of the fire service(s);
- The governing body of the service and its functions, responsibilities, powers, and procedures;
- Officers and staff and their roles, responsibilities, and powers;
- The command structure;
- Committees and advisory bodies;
- Accountability mechanisms;
- Regulation-making & standard-setting provisions relating to governance issues;
- The organisation of service (e.g. into regional districts and areas);
- Brigades and Fire Units.

Each of these areas is discussed in **Section 3**. For each heading, a comparison across jurisdictions is made, which is followed by a discussion of some of the key points. Each of these headings will need consideration when developing the governance sections of New Zealand's new fire legislation.

It is at this more specific level where comparisons between all eight jurisdictions becomes difficult, because each state's or territory's fire service model has evolved over long periods of time and according to their own environmental factors. So, for example, comparing the types of officers in one jurisdiction's fire service to the seven others may be of limited value, without understanding the wider legislation and structural model of the jurisdictions concerned. This is compounded when a number of jurisdictions have separate urban and rural fire legislation, each with their own officer hierarchy.

This report attempts to draw out key themes, whether they are similarities, differences between jurisdictions, or issues unique to a jurisdiction, rather than comparing each jurisdiction with the other seven. **Report 2** provides a more detailed look at each jurisdiction's specific fire service arrangements and the reader can get an overview of how any of the governance issues fit into the overall governance model used in a given jurisdiction.

Some of the key non-legislative governance mechanisms used across the states and territories are briefly outlined in **section 4**. However, because the terms of reference primarily focused on legislative governance provisions used in Australian fire legislation, **section 4** is provided more for completeness than as a detailed description and analysis. Many of the non-legislative mechanisms highlighted will need further consideration as DIA progresses its policy work and a draft New Zealand Bill is developed. The design of best practice governance mechanisms to underpin those enshrined in legislation will also depend on the outcomes of the current public sector management work being led by the State Services Commission and Treasury.

## **Integration of rural and urban services**

Integration of rural and urban services has been a hot topic in all of the states and territories, and each one has developed their own system. Broadly, there has been a clear trend towards integration of fire services across all of the jurisdictions. However, such a statement must be qualified because the term integration can have different meanings. For example:

- Integrating at the legislative level (e.g. passing a single Act to cover urban and rural services)
- Integrating at the structural level (e.g. establishing a single agency to undertake urban and rural fire service, and perhaps other emergency services)
- Having separate rural and urban services, but working to develop better collaboration and co-operation between them (e.g. having joint board meetings of the boards of the urban and rural services)
- Using a combination of the above.

Some jurisdictions have a fully integrated service (e.g. Tasmania has a single fire service operating under a single Act); others have partially integrated under one or more of the above levels; others are undertaking a staged process of integration, which may continue to evolve (e.g. Queensland; Western Australia; and South Australia); while some jurisdictions are continuing with separate services, but have other mechanisms to encourage co-operation and collaboration at various levels of the fire service (e.g. NSW and Victoria).

**Section 5** then outlines some of the key issues and difficulties experienced by the jurisdictions where integration reform has occurred or has been considered.

## **New Zealand public sector management reform**

**Section 6** highlights some of the key features of the proposed new crown entities law, including the five different categories of crown entity proposed. A brief discussion flags the primary considerations for deciding the particular class to use.

## **Designing a governance framework for updated New Zealand law**

**Section 7** is effectively a checklist of key issues, which will need to be considered, when developing the governance sections of new fire legislation in this country.

## INTRODUCTION

The New Zealand Department of Internal Affairs (DIA) is progressing work to review and update New Zealand's fire service legislation (the Fire Service Act 1975 and Forest & Rural Fires Act 1977). It is proposed that a single Act will provide for the integrated management of both urban and rural fire services.

DIA is currently undertaking background work to contribute to a discussion paper which will be released later this year. One section of the paper will look at possible governance models for the fire service in New Zealand.

As part of this work, DIA asked *Allen & Clarke Ltd* to produce a paper which considers the different governance models in the Australian states and territories, including any recent review work undertaken. Our terms of reference were to:

- **Summarise relevant governance-related components of the state and territory legislation reviewed**
- **Compare the essential features of the various state and territory fire services**
- **Detail the roles and functions of the different state and territory fire services**
- **Assess difficulties in integrating urban and rural fire services**
- **Summarise relevant provisions from the Crown Entities Bill and report on what will be required for any new system.**

### Method

*Allen & Clarke* and DIA agreed upon the following methodology for this work:

- A brief literature search was undertaken by the NZ Fire Service library, along with an internet search, by the authors. These searches focused on governance arrangements and material on the integration of fire services in Australia.
- Australian legislation was reviewed in all eight jurisdictions.
- *Allen & Clarke* produced background papers on all of the eight states' and territories' fire service arrangements and legislation.
- Based on the background papers and a questionnaire, *Allen & Clarke* conducted telephone interviews with selected officials from five jurisdictions. Introductions to Chief Executives of the state and territories interviewed were kindly facilitated by Mike Hall, Chief Executive of the New Zealand Fire Service.
- Those interviewed were chosen to provide information on a range of Australian models, with different levels of rural/urban integration of their fire services (Tasmania, Queensland, Victoria, Western Australia, and South Australia).

- Feedback was incorporated into the discussion sections of this report and the more detailed description of each of the 8 jurisdictions contained in **Report 2**.

## Limitations

Although input was sought from selected officials in five of the eight jurisdictions, it was beyond the scope of this work to undertake comprehensive interviews with all key stakeholders in each jurisdiction – especially if information could be obtained from stakeholder’s web sites or from the review of their legislation. Jurisdictions were selected to provide a snapshot of different models, but the main focus was on jurisdictions, which had integrated, or are in the process of integrating. Where information has been obtained from interviews this is specified in the discussion sections of this report.

The terms of reference focused on governance and integration issues. While there have been numerous reviews of fire services across the states and territories in the last twenty years, some of these were of limited relevance to this report as they are either outdated or focused on issues outside the scope of this report, e.g., funding of emergency services, or detailed implementation issues.

Also, because some jurisdictions are currently implementing reform, or about to embark on the next stage of their reform, some of the information in this report will change over the next year. Where possible, imminent reform is highlighted.

## Definitions

In this context **governance** means the processes and structures by which a fire service is directed, controlled and held to account. This encompasses:

- How it sets, works to achieve, and evaluates its strategic targets;
- The roles and responsibilities of its key players (internal or external);
- The means by which stakeholders have their say in the governance of the fire service;
- The rules under which the fire service operates (including the broad legal parameters governing the performance of activities);
- The systems and processes, which hold key players to account.

The term **urban fire service** is a general term used to cover the part of a jurisdiction’s fire service, which generally responds to building or structural fires in cities and major urban areas. The term **rural fire service** covers the service (or part of the fire service) which responds to bush and vegetation fires in rural areas, or fires in areas not designated as urban areas. Inevitably, there is overlap and both services provide fire and non-fire emergency services in both urban and rural areas. These terms are used as common general descriptors that can be applied to all eight jurisdictions – especially as each jurisdiction has its own unique urban/rural fire service split.

In this report the term **fire service** is used in the general sense to encompass both urban and rural services within a jurisdiction, regardless if these are separate organisations, or part of the same organisation.

# SECTION 1: OVERVIEW OF THE AUSTRALIAN CONTEXT

This section provides an overview of the Australian context, within which each state or territory fire service operates. It then provides a summary of the eight jurisdictions unique fire service legislation and structural arrangements for the delivery of their fire services.

## 1.1 Levels of government

In Australia, emergency management, including fire services, requires co-operation among the Commonwealth, State/Territory, and Local Government. The roles of each level of government can be broadly summarised in **Table 1** below:<sup>1</sup>

**Table 1: Summary of the roles of the different levels of government**

Level	Role
<b>Australian Government</b>	<p>To support and develop national emergency management capability, including, through various Government agencies such as Emergency Management Australia (EMA):</p> <ul style="list-style-type: none"> <li>• Co-ordinating material and technical assistance to states and territories during large scale emergencies.</li> <li>• Providing some financial assistance for flood prevention and mitigation, and natural disasters.</li> <li>• Providing information, best practice materials and training programs.</li> <li>• Funding some risk assessment and management work.</li> <li>• Supporting community awareness activities.</li> <li>• Undertaking specific emergency management responsibilities (e.g., firefighting services at defence installations and some airports).</li> </ul> <p>EMA is part of the Commonwealth Attorney-General's Department.</p>
<b>State/ Territory Government</b>	<p>Under Australia's Constitution, responsibility for emergency response rests with the states and territories. This includes preparedness for and mitigation of potential emergencies, as well as response and recovery action.</p> <p>State and territorial Governments have to institute appropriate regulatory arrangements to protect life, property, and the environment and have primary responsibility for delivering emergency services (including fire services) direct to the community. They are also responsible for developing building fire safety codes, undertaking fire-related research, formulating policies and providing advice on fire safety.</p>
<b>Local Government</b>	<p>Local Government is involved in emergency management in most states and territories to varying degrees, including:</p> <ul style="list-style-type: none"> <li>incorporating safety and risk management considerations in regional and urban planning</li> <li>Developing local emergency and disaster plans</li> <li>Issuing hazard reduction notices to land owners and clearing vegetation in high fire risk areas</li> <li>Levy collection</li> <li>Resource allocation for response and recovery work</li> <li>Providing financial and operational assistance to rural fire brigades.</li> </ul>

<sup>1</sup> Adapted from the Steering Committee Report, Report of Government Services 2004. Available at: [www.pc.gov.au/gsp/reports/rogs/2004/index.html](http://www.pc.gov.au/gsp/reports/rogs/2004/index.html)

## 1.2 Fire Services

Most of the eight Australian jurisdictions have undertaken fire service review work in the last decade, either as part of a wider review of emergency services or a specific review of part or all of their fire services. Some jurisdictions have had more than one review.

The role of each jurisdiction's fire service along with their respective structural, management, and administrative arrangements also differs across states and territories.

Separate urban and rural services deliver fire services in most jurisdictions, either as operational arms of a larger agency structure or as more separate independent organisations, with their own legislation and reporting lines to the Minister. Each of the eight jurisdictions' fire services are either:

- Part of a government department (e.g. a Department of Emergency services);
- A department in their own right; or
- A statutory authority (in general terms a similar type of organisation to a New Zealand crown entity).

Land management departments also provide some rural fire services in most jurisdictions.

A broad continuum of integration of rural and urban fire services (and other emergency services) can also be seen across jurisdictions and is discussed in **section 5**. Tasmania has the most integrated rural/urban model, while NSW and Victoria have more separate models. The other jurisdictions are somewhere in between, but a number are in the process of legislative reform.

Jurisdictions with more than one fire authority may separate their fire services in different ways. For instance, NSW separates its fire services by function and geographical area, whereas Victoria uses geographical areas only.<sup>2</sup>

**Tables 2a & 2b** below summarise the general structure, relevant legislation, and responsible Ministers for the various fire services. **Table 2a** contains the jurisdictions with more separate urban and rural services. NSW, Victoria, and South Australia currently have distinct metropolitan and rural fire services, which are statutory authorities in their own right, each established and regulated under their own legislation. The Minister for Emergency Services is the responsible Minister for these jurisdictions.

**Table 2b** summarises the models used in those jurisdictions where urban and rural services form part of a single agency structure. A range of models are used. Most common is for the fire service to be an operational arm of a bigger Emergency Services statutory authority (e.g. Western Australia) or

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<sup>2</sup> Steering Committee Report, Report of Government Services 2004, Part D, page 8.4. Available at: [www.pc.gov.au/gsp/reports/rogs/2004/index.html](http://www.pc.gov.au/gsp/reports/rogs/2004/index.html)

government department (e.g. Queensland, Tasmania, or Northern Territory). In ACT the fire service is part of an Emergency Services Bureau, which in turn is part of the Department of Justice (although this model will soon change). These five jurisdictions have either one over-arching Act, or more than one fire Act, and all report to the Minister for Emergency Services, except the Tasmania fire service, which is part of the Department of Health and reports to the Minister for Health and Human services.

**Report 2** provides a more detailed description of the eight jurisdictions fire service arrangements and the key governance-related legislative provisions. Recent reform work for each jurisdiction is also outlined.

**Table 2a: Jurisdictions with more separate urban and rural services<sup>3</sup>**

State/ Territory	Urban	Rural	Other bodies
New South Wales	<p><b>NSW Fire Brigades</b> is a government department which reports to the Minister directly. It provides services in the greater Sydney area and regional centres.</p> <p><b>Legislation:</b> Fire Brigades Act 1989.</p> <p><b>Responsible Minister:</b> Minister for Emergency Services.</p>	<p><b>NSW Rural Fire Service</b> is a government department which reports to the Minister directly. Its legislative area covers over 90% of NSW. It is responsible for the co-ordination of all agencies in a major bush fire.</p> <p><b>Legislation:</b> Rural Fires Act 1997.</p> <p><b>Responsible Minister:</b> Minister for Emergency Services.</p>	<p><b>The Fire Service Joint Standing Committee</b> provides strategic oversight of coordination of fire brigades and rural fire services; reviews fire district boundaries; and implements strategies to maximise cooperation between services.</p> <p><b>Legislation:</b> Fire Service Joint Standing Committee Act 1998.</p> <p><b>Responsible Minister:</b> Minister for Emergency Services.</p>
Victoria	<p><b>The Metropolitan Fire and Emergency Services Board (MFESB)</b> is a statutory authority which reports directly to the Minister and the Emergency Services Commissioner. It provides urban fire services in the Melbourne CBD to the middle and outer suburbs.</p> <p><b>Legislation:</b> Metropolitan Fire Brigades Act 1958.</p> <p><b>Responsible Minister:</b> Minister for Police and Emergency Services.</p>	<p><b>The Country Fire Authority (CFA)</b> is responsible for suppressing bushfires in country Victoria (which includes outer metropolitan Melbourne and regional centres). It provides rural and urban fire services for all other parts of Victoria except the Melbourne Metropolitan Fire District and public lands.</p> <p><b>The Department of Sustainability and Environment</b> is responsible for public lands (state forests, national parks, etc).</p> <p><b>Legislation:</b> Country Fire Authority Act 1958; Forests Act 1958.</p> <p><b>Responsible Minister:</b> Minister for Emergency Services.</p>	<p><b>The Office of the Emergency Services Commissioner</b> has a broad role in emergency planning and prevention.</p> <p>It provides independent advice on the emergency services to the Minister; encourages cooperation and efficient use of resources between services, and sets and monitors performance standards for the MFESB and CFA.</p>
South Australia	<p><b>The Metropolitan Fire Service</b> is a statutory authority which reports directly to the Minister.</p> <p><b>Legislation:</b> South Australia Metropolitan Fire Service 1936.</p> <p><b>Responsible Minister:</b> Minister for Emergency Services.</p>	<p><b>The Country Fire Service</b> is a board which reports directly to the Minister.</p> <p><b>Legislation:</b> Country Fires Act 1989</p> <p><b>Responsible Minister:</b> Minister for Emergency Services.</p>	<p>SA is currently implementing reform to its fire service arrangements. A Fire &amp; Emergency Services Commission is being established. This will be an over-arching body under which the exiting urban and rural fire services and the State Emergency Service will continue to operate as separate organisations.<sup>4</sup></p>

<sup>3</sup> Tables 2a and 2b expand upon Box 8.1 of the Steering Committee Report, Report of Government Services 2004, Part D, page 8.5. Available at: [www.pc.gov.au/gsp/reports/rogs/2004/index.html](http://www.pc.gov.au/gsp/reports/rogs/2004/index.html)

<sup>4</sup> South Australia's reform work is covered in **Report 2**.

**Table 2b: Jurisdictions where urban and rural services are part of a single agency structure**

Jurisdiction	Organisation of fire services
<p><b>Tasmania</b></p>	<p><b>Tasmania Fire Service (TFS)</b> encompasses urban and rural fire services. The TFS is the operational arm of the <b>State Fire Commission (SFC)</b>. Although technically part of the Health Department, the Chief Executive of the TFS usually reports directly with the Minister.</p> <p><b>Legislation:</b> Fire Services Act 1979.  <b>Responsible Minister:</b> Minister for Health &amp; Human Services.</p>
<p><b>Western Australia</b></p>	<p>The <b>Fire and Emergency Services Authority (FESA)</b> is an umbrella statutory authority which covers urban and rural fire services and other emergency services. It incorporates the Bush Fire Service, the Fire and Rescue Service, and the State Emergency Service, each of which are regulated under the FESA Act and their own Acts, although many of the provisions were repealed by the FESA Act.<sup>5</sup></p> <p><b>Legislation:</b> Fire and Emergency Services Authority of Western Australia Act 1998; the Fire Brigades Act 1942; the Bush Fires Act 1954.  <b>Responsible Minister:</b> Minister for Police &amp; Emergency Services.</p>
<p><b>Queensland</b></p>	<p><b>Queensland Fire and Rescue Service (QFRS)</b> is a division of the State's <b>Department of Emergency Services (DES)</b>. The Rural Fire Service is a division within the QFRS. The Commissioner of QFRS reports to the Director General of the DES.</p> <p><b>Legislation:</b> Queensland Fire and Rescue Service Act 1990.  <b>Responsible Minister:</b> Minister for Emergency Services.</p>
<p><b>ACT</b></p>	<p><b>ACT Fire Brigade</b> and <b>ACT Bush Fire Service</b> are part of the <b>State Emergency Services Bureau (ESB)</b>. ESB reports to the <b>Department of Justice and Community Safety</b>. An Emergencies Bill was introduced in May 2004, which proposes to establish a new Emergency Services Authority.<sup>6</sup> The Authority will be responsible for the strategic direction and management of the ACT Fire Brigade and the Bush Fire Service. Day to day performance of the functions of these two services will remain under the management of their chief officers, who will be responsible to the Commissioner of the Authority.</p> <p><b>Current legislation:</b> ACT Fire Brigade Act 1957 and ACT Fire Brigade (Administration) Act 1974; Bush Fire Act 1936 (this law will be repealed, updated, and consolidated if the Emergencies Bill is passed).  <b>Responsible Minister:</b> Minister for Police and Emergency Services.</p>
<p><b>Northern Territory</b></p>	<p><b>Northern Territory Fire &amp; Rescue Service (NTFRS)</b> is a branch of the <b>Department of Police, Fire and Emergency Services</b>. NTFRS also provides rural fire services. The Chief Fire Officer reports to the Commissioner for Police.</p> <p><b>Legislation:</b> Fire and Emergency Services Act 2001.  <b>Responsible Minister:</b> Minister for Police, Fire and Emergency Services.</p> <p>The <b>Bush Fire Council</b> is a Board which is <u>primarily a land management organisation</u> and responds only to grass fires and bush fires which are outside the NTFRS response areas. It also has a planning and co-ordination role.</p> <p><b>Legislation:</b> Bush Fires Act 2001.  <b>Responsible Minister:</b> Minister for Infrastructure, Planning and Environment.</p>

<sup>5</sup> Western Australia is about to embark on a further reform of their fire services legislation. This is outlined in **Report 2**.

<sup>6</sup> ACT's reform work is outlined in **Report 2**.

## **Summary of key points**

- **While three levels of government have a role in the provision of fire services in Australia, the states and territories have primary responsibility for instituting appropriate regulatory regimes to protect life, property and the environment, and responding to fires (and some other emergencies).**
- **The Australian fire services can be broadly classified as either:**
  - **Part of a larger government department (e.g. a Department of Emergency Services); or**
  - **A department in their own right,**
  - **A statutory authority (in general terms a similar type of organisation to a New Zealand crown entity).**
- **NSW, Victoria, and South Australia currently have separate urban and rural services, each with their own legislation. The other five jurisdictions have, or are planning, a single umbrella agency structure – although each model is different.**
- **DIA should maintain watching briefs on a number of jurisdictions. South Australia recently issued drafting instructions to develop a new Fire & Emergency Services Act and ACT has a Bill before their Parliament, which will reform their existing fire service legislative frameworks. Western Australia is about to embark on further legislative reform and Queensland is also undertaking limited review work.**

## SECTION 2: FUNCTIONS OF THE AUSTRALIAN FIRE SERVICES

This section discusses the functions of each jurisdiction's fire service at two levels of specificity:

- The broad statutory functions of each jurisdiction's fire service(s); and
- A more detailed look at the specific work activities undertaken by each jurisdiction's fire service.

### 2.1 Broad statutory functions

**Tables 3a and 3b** summarises the broad functions of the fire services in each jurisdiction. The jurisdictions are again split into those with more separate urban and rural services (**Table 3a**) and those with a single agency structure (**Table 3b**).

The summaries are based on the function section of each jurisdiction's legislation exist or from their web site descriptions, and include both urban and rural legislation if relevant.

### 2.2 Specific activities

The range of specific activities that make up each fire service's core functions are outlined in **Table 4**. This Table uses the following general headings to cover the broad spectrum of work undertaken by a fire service:

- Fire Prevention;
- Fire Preparedness;
- Fire Response;
- Non Fire Response (other emergencies); and
- Fire Recovery.

**Table 3a: Functions of jurisdictions' fire services where there are separate urban and rural services**

State/ Territory	Urban	Rural
<b>New South Wales</b>	<p><b>The NSW Fire Brigades</b> functions include:</p> <ul style="list-style-type: none"> <li>• Fighting fires in designated districts;</li> <li>• Undertaking an educational and advisory role on fire prevention and preparedness;</li> <li>• Responding to hazchem incidents in fire districts; and</li> <li>• Building collapse and other emergency response involving high angle rescue, heavy equipment (i.e. jaws of life)</li> </ul>	<p><b>The NSW Rural Fire Service</b> functions include:</p> <ul style="list-style-type: none"> <li>• Fighting fires in rural fire districts;</li> <li>• Protecting of people and property;</li> <li>• Fire prevention, hazard reduction and education exercises;</li> <li>• Response planning; and</li> <li>• Assisting other emergency services</li> </ul>
<b>Victoria</b>	<p><b>The Melbourne Metropolitan Fire Brigades</b> functions include:</p> <ul style="list-style-type: none"> <li>• Fire suppression and fire prevention services in the metropolitan district;</li> <li>• Providing for emergency prevention and response services in the metropolitan district; and</li> <li>• Carrying out any other functions conferred on the Board by legislation.</li> </ul>	<p><b>The Country Fire Authority's</b> functions include:</p> <ul style="list-style-type: none"> <li>• Prevention and suppression of fires in the country area of Victoria; and</li> <li>• Provision of other emergency services.</li> </ul> <p>The CFA is a community-based fire service providing its services to rural and provincial communities, as well as urban Melbourne communities outside the Metropolitan Fire and Emergency Services Board legislative district.</p>
<b>South Australia</b>	<p><b>The SA Metropolitan Fire Service's</b> functions include:</p> <ul style="list-style-type: none"> <li>• Providing fire-fighting services;</li> <li>• Providing fire prevention services; and</li> <li>• Helping to deal with other emergencies in the fire districts.</li> </ul> <p>Drafting instructions for the new SA model redefine the MFS functions according to the prevention, preparedness, recovery &amp; response framework <u>within fire districts</u>. The function section will include non-fire emergencies.</p> <p>NB: Report 2 sets out the functions of the proposed new Fire &amp; Emergency Services Commission which will sit over MFS and CFS.</p>	<p><b>The Country Fire Service's</b> functions include:</p> <ul style="list-style-type: none"> <li>• Preventing, suppressing, controlling fires in the country;</li> <li>• Protecting life, property, environmental assets from fire in the country; and</li> <li>• Protecting life, property, environmental assets in emergencies in the country.</li> </ul> <p>Drafting instructions for the new SA model redefine the CFS functions according to the prevention, preparedness, recovery &amp; response framework <u>within the country</u>. The function section will include non-fire emergencies.</p> <p>NB: Report 2 sets out the functions of the proposed new Fire &amp; Emergency Services Commission which will sit over the CFS and MFS.</p>

**Table 3b: Function of jurisdictions' fire services where urban and rural services are part of a single agency structure**

Jurisdiction	Organisation of fire services
Tasmania	<p>The <b>Tasmania Fire Service</b> is under the control of the <b>State Fire Commission</b> and is the lead authority for all fires, hazardous materials, urban search and rescue, and high-angle and confined-space rescue. There is no specific function section in the Tasmanian legislation.</p>
Western Australia	<p>The <b>Fire and Emergency Services Authority</b> has a range of statutory functions:</p> <ul style="list-style-type: none"> <li>• Overall responsibility for providing and managing emergency services that are vested in it by or under the emergency services Acts (Bush Fires Act and Fire Brigades Act);</li> <li>• Advising the Minister on all aspects of policy in relation to emergency services;</li> <li>• Undertaking, co-ordinating, managing and providing practical and financial to activities and projects relating to emergency services;</li> <li>• FESA also has the fire-related operational functions set out in the Fire Brigades Act: <ul style="list-style-type: none"> <li>➢ Preventing and extinguishing fires and saving property from fire;</li> <li>➢ Protecting life and property from hazardous material incidents;</li> <li>➢ Promoting safety of life and property from fire, hazardous material incidents, accidents, explosions, and other incidents requiring rescue operations;</li> <li>➢ Controlling all fire brigades and fire brigade premises; and</li> <li>➢ Performing other duties as entrusted by the Ministers.</li> </ul> </li> </ul>
Queensland	<p>The <b>Queensland Fire &amp; Rescue Service (QFRS)</b> functions are to:</p> <ul style="list-style-type: none"> <li>• Protect persons, property and environment from fire hazardous materials emergencies;</li> <li>• Promote fire prevention, fire control and safety;</li> <li>• Perform functions given under legislation;</li> <li>• Identify and market products incidental to its functions;</li> <li>• Protect people trapped in vehicles and buildings or who are endangered;</li> <li>• Co-operate with other emergency services; and</li> <li>• Identify and market products incidental to its functions.</li> </ul> <p>The <b>Rural Fire Authority</b> is a division of the QFRS. It supports the volunteer network of rural fire brigades, and provided fire safety information for people in rural areas.</p>
ACT	<p>The functions of the <b>ACT Fire Brigade</b> include:</p> <ul style="list-style-type: none"> <li>• Suppressing and prevention of fires in built-up areas or buildings; and</li> <li>• Mitigating the affects of all fires and other emergencies.</li> </ul> <p>The <b>ACT Bushfire Service</b> is responsible for suppressing and preventing of fires, other than a fire that is in a built-up area or a building.</p> <p>Under the new Bill, the main function of the ACT Fire Brigade is to protect and preserve life, property and environment from fire <u>in built up areas</u>. Similarly, the main function of the RFS will be to protect and preserve life, property and the environment from fire <u>in rural areas</u>. <b>Report 2</b> provides information on the functions of the key players the new fire service regime set out in the Emergencies Bill recently introduced to the ACT Parliament.</p>
Northern Territory	<p>The <b>Northern Territory Fire and Rescue Service</b> is responsible for:</p> <ul style="list-style-type: none"> <li>• Responding to all incidents in an emergency response area;</li> <li>• Responding to all hazardous material incidents and road accident rescues in the NT; and</li> <li>• Responding to incidents outside an emergency response area when requested by the Police Force or appropriate organisations, if it has sufficient resources and response capability.</li> </ul> <p>The <b>Bush Fires Council</b> is primarily a ministerial advisory body. The Act requires it to exercise and discharge such powers, duties and functions that are conferred or imposed on it by legislation.</p>

**Table 4: Key activities undertaken by the jurisdictions<sup>7</sup>**

Operational activity	Jurisdictions undertaking the activity
<p><b>Fire prevention</b></p> <ul style="list-style-type: none"> <li>• Storm damage;</li> <li>• Rural land management advice;</li> <li>• Preparing risk assessment and emergency plans;</li> <li>• Inspecting property and buildings for fire hazards and for standard compliance;</li> <li>• Inspection of storage and handling;</li> <li>• Promotion of smoke alarms, fire extinguishers, safety switches, fire blankets;</li> <li>• General prevention and awareness for residential, business and government, rural/farming, industry; and</li> <li>• Targeted programmes for specific groups.</li> </ul>	<p>These activities are undertaken by all states' and territories' fire services, except:</p> <ul style="list-style-type: none"> <li>• Storm damage (TAS);</li> <li>• Inspection of storage and handling (ACT); and</li> <li>• Targeted prevention programmes for other cultural and language diversity groups (QLD, SA, TAS, ACT, NT), Aboriginal/Torres Strait (TAS, ACT, NT).</li> </ul>
<p><b>Fire preparedness</b></p> <ul style="list-style-type: none"> <li>• Preparing response plans;</li> <li>• Public training and intervention;</li> <li>• Promoting fire alerting systems;</li> <li>• Training fire personnel;</li> <li>• Sale &amp; maintenance of fire protection equipment; and</li> <li>• Certification of hazardous substances.</li> </ul>	<p>These activities are undertaken by all states' and territories' fire services, except:</p> <ul style="list-style-type: none"> <li>• Sale &amp; maintenance of fire protection equipment (WA, SA, ACT, NT); and</li> <li>• Certification of hazardous substances (TAS, ACT, NT).</li> </ul>
<p><b>Fire response</b></p> <ul style="list-style-type: none"> <li>• Structural fire suppression;</li> <li>• Wild fire suppression;</li> <li>• Responding to incidents involving hazardous substances;</li> <li>• Interagency response / incident management.</li> </ul>	<p>These activities are undertaken by all states' and territories' fire services.</p>
<p><b>Non fire response</b></p> <ul style="list-style-type: none"> <li>• Hazardous materials incidents;</li> <li>• Chemical, biological and radiological incidents;</li> <li>• Aircraft/airport incident response;</li> <li>• Medical emergencies;</li> <li>• Road rescue;</li> <li>• Industrial rescue;</li> <li>• Rescue;</li> <li>• Natural events;</li> <li>• Marine response;</li> <li>• Technological and hazardous materials incidents; and</li> <li>• Emergency relief and recovery.</li> </ul>	<p>These activities are undertaken by all states' and territories' fire services, except:</p> <ul style="list-style-type: none"> <li>• Medical emergencies (NSW, QLD, WA, SA); and</li> <li>• Marine response (QLD, TAS)</li> <li>• Emergency relief and recovery (ACT, NT).</li> </ul>
<p><b>Fire recovery</b></p> <ul style="list-style-type: none"> <li>• Critical incident stress debriefing;</li> <li>• Salvage and restoration of the emergency event to a safe state;</li> <li>• Community support; and</li> <li>• Post incident analysis of events.</li> </ul>	<p>These activities are undertaken by all states' and territories' fire services, except Community support (TAS, NT).</p>

<sup>7</sup> Table 4 is adapted from Table 8A.34 of the Steering Committee Report, Report of Government Services 2004. Available at: [www.pc.gov.au/gsp/reports/rogs/2004/index.html](http://www.pc.gov.au/gsp/reports/rogs/2004/index.html)

## 2.3 Discussion

There is a significant degree of consistency in both the broad statutory functions and the specific activities undertaken by each jurisdiction's fire service.

Most jurisdictions have a specific function section in their legislation, which outlines the general functions of the fire service. Jurisdictions with separate urban and rural fire service legislation usually have a function section in both Acts, even if both fire services are part of a larger agency, such as the Western Australian model. Only Queensland has their fire service's statutory functions in a single Act, although this is likely to change with the imminent reform in South Australia, which is moving to a single Act covering the existing urban and rural fire services. During 2004/05 Western Australia is proposing to amend their Fire and Emergency Services Authority Act 1998, and consolidate their outdated Fire Brigades Act and Bush Fires Act into a single Fire Act.

When looking at each fire services' broad functions and specific operational activities, it is apparent that all jurisdictions have a mandate to undertake:

- Fire-related work in both rural and urban settings (although separate rural and urban services exist in most jurisdictions); and
- Non-fire emergency work such as rescue work (e.g. jaws of life or hazardous material incidents).

While some jurisdictions' fire services (or components their fire service), are identified in the **Table 4** as not undertaking some of the specific activities, this does not mean that such activities are not undertaken in that state or territory. Rather, another part of that jurisdiction's emergency services may have primary responsibility for such work. Many fire services are essentially operational units of a government department or another umbrella organisation (e.g., in Queensland, Northern Territory, Tasmania) and another arm or external organisation may undertake these activities.

All jurisdictions' fire services undertake a wide range of fire-related work under the prevention, preparedness, response, and recovery spectrum. This internationally accepted framework for emergency management is also explicitly stated in the most recent legislation, for example South Australian drafting instructions for their proposed new Act. Generally, all jurisdictions' fire services (including rural and urban components) conduct all of the fire-related activities listed in the **Table 4**, with only a few exceptions.

For example only half the states and territories are involved in the sale and maintenance of fire protection equipment. Additionally a number of jurisdictions, while having general fire prevention and awareness programmes do not have targeted programmes for different cultural and language groups (Queensland, South Australia, Tasmania, ACT, and Northern Territory) and Aboriginal and Torres Strait Islander communities (Tasmania, ACT, and Northern Territory).

All jurisdictions' fire services have a mandate to a certain extent for non-fire emergency work such as attending traffic accidents and incidents involving hazardous substances. Again, while the differences between each jurisdiction are more apparent as you move away from core fire-related work there is still a large degree of similarity. Tasmania, ACT, and Northern Territory's fire services do not certify hazardous chemical and materials; and NSW, Queensland Western Australia, and South Australia do not respond to medical emergencies. Queensland and Tasmania do not respond to marine emergencies.

### **Summary of key points**

- **Although some jurisdictions have separate urban and rural fire legislation, there is a general consistency in the broad functions undertaken by each jurisdiction's fire service(s).**
- **Most legislation now recognises the non-fire related emergency work undertaken by fire services.**
- **Similarly, there is a consistency across jurisdictions when looking at the specific fire and non-fire work activities they undertake across the prevention, preparedness, recovery, and response spectrum.**
- **It is important to agree on the broad functions and specific activities that will be undertaken by the New Zealand Fire Service, so this can be taken into account when designing a new governance framework.**

## SECTION 3: KEY LEGISLATIVE GOVERNANCE PROVISIONS

**Section 3** identifies the key governance-related provisions used in the states and territories fire service legislation.

While there are similarities and differences between each jurisdiction's specific fire service governance arrangements, there are some common governance provisions across all of the legislation reviewed. Many of these provisions are also apparent in other international jurisdictions, and are of course not just used to govern fire services, but all public sector organisations.

They are effectively the building blocks of public sector organisations governance arrangements, along with other public sector management law in each jurisdiction. As such, they provide key sub-headings of this section.

### 3.1 Common governance-related legislative provisions

The following general set of governance-related provisions are used in each state or territory's legislation:

- Establishment and legal status of the fire service;
- Functions and activities to be undertaken (see section 2);
- Type of public sector organisation;
- Type of governing body, (and its associated role, powers, duties, *etc*);
- Officers and staff (and their associated roles, powers, duties, *etc*);
- Committees and advisory bodies;
- Accountability provisions;
- Regulation-making and standard setting;
- Organisation of services; and
- Brigades and Fire Units.

### 3.2 Establishment and legal status

Each jurisdiction has a standard statutory provision that establishes the fire service and accords it a particular legal status. The nature of the provision depends on the structural model adopted in that jurisdiction (see **Tables 2a and 2b**, above, and **Report 2**). For example, in Tasmania there is a provision specifically establishing the Tasmania Fire Service, while in Western Australian there is a provision establishing the Fire & Emergency Service as a body corporate, of which the Fire Service is a division. Jurisdictions with separate urban and rural fire service legislation, for example Victoria, NSW, South Australia have such provisions in each Act.

### 3.3 Type of public sector organisation

As indicated in **section 1**, when looking across the eight Australian jurisdictions fire service(s) can generally be classed as being:

- Part of a government department (e.g. a Department of Emergency services); or
- A department in their own right; or
- A statutory authority, in general terms a similar type of organisation to a New Zealand crown entity.

**Table 5** provides an overview of the type of public sector organisation each jurisdiction's fire service can be classed as.

**Table 5: Type of organisations**

Jurisdiction	Types of public sector organisation
Tasmania	The <b>Tasmania Fire Service</b> is the operational arm of the <b>State Fire Commission</b> . The Commission is established as a corporation under the Tasmania Fire Service Act.
Western Australia	<b>Fire and Emergency services Authority</b> is a statutory authority.
Queensland	<b>The Queensland fire &amp; Rescue Service</b> is part of the Department of Emergency Services.
ACT	<b>ACT Fire Brigade</b> and <b>ACT Bush Fire Service</b> are part of the <b>Emergency Services Bureau</b> . The Bureau is part of the <b>Department of Justice and Community Safety</b> .  The Emergencies Bill 2004 proposes to replace the ESB with the <b>Emergency Services Authority</b> . The <b>ACT Fire Brigade</b> and the <b>Rural Fire Service</b> will be part of the Authority.
Northern Territory	<b>The Northern Territory Fire and Rescue Service</b> is part of a government Tri-Service" the <b>Northern Territory Police, Fire and Emergency Services</b> .
New South Wales	<b>NSW Fire Brigades</b> is a government department. <b>NSW Rural Fire Service</b> is a government department.
South Australia	<b>SA Metropolitan Fire Service Brigade</b> is a statutory authority. <b>Country Fire Service</b> is a statutory authority. The new <b>SA Fire and Emergency Commission</b> will be established under an Act of Parliament.
Victoria	<b>Melbourne Metropolitan Fire and Emergency Services Board</b> is a statutory authority. <b>Country Fire Authority</b> is a statutory authority.

### 3.4 Governing body

The type of governing body of any given jurisdiction's fire service, and its roles and responsibilities, powers and duties will depend upon the nature of the organisation – i.e. whether it is part of a departmental structure, or whether it is a statutory authority (see **3.3** above).

**Tables 6a & 6b** summarise the governing body in each jurisdiction. Further specifics of each jurisdictions' legislation is contained in **Report 2**.

**Table 6a: Governing body of fire services in a single agency structure**

Jurisdiction	Governing body
Tasmania	<p><b>State Fire Commission</b></p> <ul style="list-style-type: none"> <li>• Responsible for and controls the administration of the Tasmanian Fire Service.</li> <li>• Advises Minister on the administration of the Fire Service Act.</li> <li>• A Ministerial Charter outlines Ministers broad policy expectations.</li> <li>• The Act sets out a range of responsibilities (strategic and operational), many of which are undertaken by the Fire Service (see Tasmania section of <b>Report 2</b>).</li> <li>• The TFS also has a management team.</li> </ul>
Western Australia	<p><b>FESA Board of Management</b></p> <ul style="list-style-type: none"> <li>• Responsible for performing FESA's statutory functions (see <b>Table 3b</b> for the functions). The CEO or others can be delegated these functions.</li> <li>• Members appointed by the Minister.</li> </ul>
Queensland	<p><b>Department of Emergency Services</b></p> <ul style="list-style-type: none"> <li>• Departmental structure with an Executive Team headed by the Director-General.</li> <li>• Commissioner of the Fire and Rescue Service comes under this structure.</li> </ul>
ACT	<p><b>Emergency Services Bureau</b></p> <ul style="list-style-type: none"> <li>• The ESB is managed by an Executive Director, who reports to the Chief Executive of the Department of Justice and Community Safety. Each service has a designated head who is responsible for operations.</li> <li>• The Emergencies Bill 2004 proposes to replace the ESB with the Emergency Services Authority. The Authority will be responsible for the strategic direction and management of the ACT Fire Brigade and the Bush Fire Service. The Authority will not have a board as its governing body, but a Commissioner which will report directly to the Minister.</li> </ul>
Northern Territory	<p><b>Northern Territory Police, Fire and Emergency Services</b></p> <ul style="list-style-type: none"> <li>• Departmental structure. Commissioner of Police is the CEO and exercises general control and management of the Fire and Emergency Services.</li> </ul>

**Table 6b: Governing bodies with separate urban rural structures**

<b>State/ Territory</b>	<b>Urban</b>	<b>Rural</b>
<b>New South Wales</b>	<p><b>NSW Fire Brigades Department</b></p> <ul style="list-style-type: none"> <li>• Departmental structure;</li> <li>• Administered by a Commissioner who reports to Minister; and</li> <li>• Delegation to other officers</li> </ul>	<p><b>NSW Rural Fire Service</b></p> <ul style="list-style-type: none"> <li>• Administered by a Commissioner who reports to Minister; and</li> <li>• Delegation of responsibilities to other officers</li> </ul>
<b>Victoria</b>	<p><b>Melbourne Metropolitan Fire and Emergency Services Board</b></p> <ul style="list-style-type: none"> <li>• The Board manages its operational arm the Metropolitan Fire Brigade;</li> <li>• Responsible for performing statutory functions (see <b>Table 3a</b> for the functions);</li> <li>• Board can delegate its powers and functions to CEO, employees;</li> <li>• Members appointed by the Governor in Council.</li> </ul>	<p><b>Country Fire Authority</b></p> <ul style="list-style-type: none"> <li>• Responsible for performing statutory functions (see <b>Table 3b</b> for the functions);</li> <li>• Authority can delegate its powers and functions to CEO, employees; and</li> <li>• Members appointed by the Governor in Council.</li> </ul>
<b>South Australia</b>	<p><b>SA Metropolitan Fire Service Brigade</b></p> <ul style="list-style-type: none"> <li>• The SAMFB is a corporation, which is defined in the Act as the Minister for Emergency Services;</li> <li>• Responsibilities include establishing and maintaining brigades;</li> <li>• Corporation can delegate its powers / functions to the chief officer or other officer; and</li> <li>• The new Act will establish the SA Fire and Emergency Services Commission as the main over-arching body for the MFS and CFS. Each service will be a body corporate and have a chief officer.</li> </ul>	<p><b>Country Fire Service Board</b></p> <ul style="list-style-type: none"> <li>• Responsibilities include ensuring CFS undertakes its responsibilities effectively and efficiently; managing resources, Promoting volunteers; Training; preparing emergency plans, Ministerial advice, etc;</li> <li>• Can delegate its powers to boards CEO or others; and</li> <li>• The new Act will establish the SA Fire and Emergency Services Commission as the main over-arching body for the MFS and CFS. Each service will be a body corporate and have a chief officer.</li> </ul>

### **3.4.1 Discussion**

#### Type of governing body

The type of governing body in each fire service depends on whether their fire service is either a:

- Government department in its own right (e.g. NSW), or
- Part of a government department (e.g. Queensland, Northern Territory, Tasmania), or
- Separate organisation, such as a statutory authority.

Fire services that are part of a government department are generally governed by an over-arching departmental senior executive team, which may not be mentioned in the fire service legislation. There is generally a senior officer such as a commissioner or chief operational officer(s) responsible for

managing the fire service's operations and performing its statutory operational functions.

The latter can be a statutory position reporting to the departmental chief executive and often has counterparts in other emergency services that sit along side the fire service.

Some jurisdictions have a formal reporting line through a departmental CEO, while in others, such as Tasmania, the CEO of the fire service has very little to do with the Director-General of Health, despite being technically required to report to the Director-General.

For jurisdictions with a statutory authority model, the governing body was generally a Commission (e.g. Tasmania and the proposed new South Australian model), or a board (Victoria, existing South Australian model), or a single officer such as a commissioner as proposed for the new ACT model.

### Legislative provisions relating to the governing body

Regardless of the nature of a governing body, it is common for all legislation to include provisions covering some or all of the following issues:

- The function or roles of the governing body;
- The powers and duties of the governing body;
- Powers of delegation of their functions and responsibilities to other officers (e.g. the CEO of the fire service) and staff;
- Provisions relating to the appointment and membership of the governing body; and
- Procedural detail (e.g. constitution and proceedings of boards, remuneration, conflict of interest management, *etc*).

**Report 2** provides more detail on such provisions for each of the eight jurisdictions. However, the two most recent legislative models, ACT and South Australia, can be used as examples to illustrate how the legislative provisions concerning the governing body follow a similar logical structure, regardless of the structural model they use.

South Australia's new law will spell out the functions of the new Fire and Emergency Services Commission including implementing a sound corporate governance framework across the emergency services sector; developing a strategic and policy framework across the sector; ensuring organisations have the appropriate management structures and systems for monitoring management performance against plans and targets; plus a number of others, which are summarised in **Report 2**. The new Act will set out the powers the Commission will have to help it carry out these functions; how it can delegate its functions to officers (who in turn will have specified roles, powers and duties, etc); how it can be directed by the Minister; and how it is accountable.

The governing body of the new ACT's Emergency Services Authority will essentially be the Commissioner rather than a board. The new Act will set out set out the functions and powers of the ESA; how responsibility for these is

vested in the Commissioner; powers of delegation; the ability to appoint staff; and accountability mechanisms.

### Separation of strategic and operational roles

One of the key points noted by jurisdictions interviewed, regardless of their model, was the need to ensure the clear delineation of roles between the governing body and those in charge of operational matters, including prevention, preparedness, response and recovery work, and day to day management of the fire service.

A number of jurisdictions interviewed commented on the importance of this separation, including Tasmania; Western Australia, South Australia. The proposed South Australia Fire and Emergency Services Act is likely to have specific provisions relating to the strategic/operational split. The new South Australian Fire and Emergency Services Commission will have power of control and direction over the urban and rural fire services to the extent necessary to carry out its functions, provided it will not be able to direct the services on matters of operational procedure<sup>8</sup>

Similarly, the Emergencies Bill tabled in the ACT Parliament in May 2004 clarifies the strategic/operational split. The new Emergency Services Authority will be responsible for the overall strategic direction and management of the four services which are part of it: the urban and rural fire services along with the Ambulance Service and the State Emergency Service. However, the day to day performance of the statutory functions of these operational services will be under the direct management of the chief officers of the four services, who will report to the Commissioner of the Authority.

Some jurisdictions have also delegated non-operational responsibilities to officers of the fire service. For instance in Tasmania, the fire service's Executive Management Team undertakes most of the corporate planning and reporting, including setting and evaluating strategic targets, outputs and outcomes, and has oversight of day-to-day work.

### Composition of boards

Where the strategic governance role is performed by a board, two main models are used:

- a representative board, comprising representation from key stakeholders; and
- an expert board, generally containing specific expertise such as legal, corporate governance, financial, and planning, *etc*).

While recognising that boards inevitably have both types of members, all jurisdictions interviewed discussed the pros and cons of each and the importance of striking the right balance between the two. For example, a representative board can assist stakeholder buy-in and have political

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<sup>8</sup> NB: The South Australian Fire & Emergency Services Commission kindly provided their drafting instructions to us.

advantages, for example, if members are nominated by unions/associations as is the case in Tasmania. Possible disadvantages include membership being limited to those nominated from representative stakeholders, or members being overly focused on operational or implementation issues relevant to them (e.g., rural or urban specific issues) rather than taking a more strategic approach. Conversely, an expert Board, while having the right skill mix to oversee an organisation, may comprise people who do not fully appreciate the impacts of their decisions at the service delivery level.

Notably, ACT will not include a board in its new model, but instead have a commissioner of their new Emergency Service Authority, who will report to the Minister. Chief Officers of the four emergency service, including the rural and urban fire services will report to the Commissioner. ACT considers that a board model would complicate lines of responsibility and accountability in an operational environment that requires clarity in such matters.<sup>9</sup>

In Tasmania, the chief executive of the Fire Service is also chair of the Commission that controls the service. Tasmania advises that this works well even though it is a rare model for their state. In comparative organisations the chief executive is not a board member, let alone Chair. South Australia is proposing that the chief officers of the rural and urban fire services, and the Emergency Services, will also be members of a six person commission.

#### Other umbrella organisations

Some jurisdictions have other organisations, independent from their fire service(s), with an over-arching role over emergency services to ensure effective co-operation and co-ordination between emergency services; promote consistency of service delivery; and the most efficient and effective use of resources.

Victoria has the Office of the Emergency Services Commissioner, established under the Emergency Management Act 1986, which is responsible for establishing and monitoring performance standards for the emergency services (including Victoria's urban and rural fire services); overseeing effective utilisation of common resources; and providing leadership functions.

South Australia's planned new Fire and Emergency Services Commission will also have oversight and strategic responsibilities over the state's urban and rural fire services and State Emergency Service. The Commission will be established under a new act that will repeal existing urban and rural fire service legislation. Its functions will include developing a strategic and policy framework across the emergency services sector, and implementing a framework of corporate governance across the emergency sector (see **Report 2** for more detail).

The NSW Fire Service Joint Standing Committee, established under the Fire Service Joint Standing Committee Act 1998, provides strategic oversight of coordination of the state's separate urban and rural fire services, reviews fire

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<sup>9</sup> Refer to the explanatory statement for the Emergencies Bill 2004, available at: [www.esb.act.gov.au/index.html](http://www.esb.act.gov.au/index.html)

district boundaries, and implements strategies to maximise cooperation between services.

### **Summary of key points**

- **The type of governing body in each jurisdiction's model depends on the type of public sector organisation their fire service is (or is part of). There are a number of models, including executive management teams, boards, commissions, or a single officer.**
- **Regardless of the structural model used, it is common for the legislation to have a layered set of provisions relating to the functions, powers, and responsibilities of the governing body, along with the rules regarding its composition and proceedings. A key power is the ability to delegate functions to other officers or bodies.**
- **This tiered approach is used in most legislation to define what the governing body is to do, and how it will do it. Such an approach is also used for some senior officers and other bodies established by the legislation.**
- **It is important to clearly delineate between the strategic oversight responsibilities of the governing body, and the operational and day-to-day management of the fire service.**
- **Getting the right balance between expert and representative board members has been an issue for some jurisdictions.**
- **Some jurisdictions have external bodies with general oversight roles of the fire service, or other specific mandates, e.g. to ensure collaboration and cooperation between rural and urban fire services.**

### 3.5 Officers

All jurisdictions' fire service legislation includes provisions for officers at different levels in the organisation. **Table 7** outlines a general officer hierarchy that is apparent when looking across the jurisdictions as a whole. The Table identifies different general meanings of a title in the jurisdictions that use it (although some of these are not statutory positions).

**Table 7: General hierarchy of statutory officers used in jurisdictions service legislation**

<b>Officer</b>	<b>Broad meaning(s) of the term</b>	<b>Examples</b>
<b>Chief Executive Officer (or equivalent, e.g. Director-General)</b>	<ul style="list-style-type: none"> <li>• Departmental CEO, of which the fire service is an operational arm.</li> <li>• CEO of the fire service which is more independent (e.g. a statutory authority). In some jurisdictions the term Chief Officer is also used.</li> </ul>	<ul style="list-style-type: none"> <li>• NT, QLD, WA</li> <li>• TAS, VIC, SA</li> </ul>
<b>Commissioner</b>	<ul style="list-style-type: none"> <li>• Akin to CEO of a stand alone fire service agency.</li> <li>• Head of the fire service (which is part of a government department). Responsible for managing the services operations and statutory functions.</li> <li>• Akin to a CEO of an umbrella authority, of which the fire service is an operational arm.</li> </ul>	<ul style="list-style-type: none"> <li>• NSW</li> <li>• QLD</li> <li>• ACT (proposed new model)</li> </ul>
<b>Director</b>	<ul style="list-style-type: none"> <li>• General control and management of the fire service.</li> <li>• Responsible for a section in the fire service or a department within which a fire service sits.</li> <li>• Executive Director of operations.</li> </ul>	<ul style="list-style-type: none"> <li>• NT</li> <li>• TAS, VIC</li> <li>• WA</li> </ul>
<b>Chief Officer</b>	<ul style="list-style-type: none"> <li>• Control and management of resources, training officers and firefighters, inspection functions.</li> <li>• Operational and day to day management responsibility of the fire service.</li> <li>• In some jurisdictions the CEO (or commissioner) is the CO of the fire service.</li> </ul>	<ul style="list-style-type: none"> <li>• TAS</li> <li>• NT, VIC, ACT (new model)</li> <li>• TAS, VIC (urban), SA</li> </ul>
<b>Deputies or Acting Officers</b>	<ul style="list-style-type: none"> <li>• Stand-in or deputies are recognised in some Acts for various senior officers (e.g. CEOs or Chief Officers).</li> </ul>	<ul style="list-style-type: none"> <li>• TAS, SA, ACT</li> </ul>
<b>Main Rural Officer</b>	<ul style="list-style-type: none"> <li>• In jurisdictions with separate rural and urban legislation, the main Rural Officer is akin to a CEO of the rural service.</li> <li>• Some jurisdictions recognise a head Rural Officer within the general fire service.</li> <li>• Chief Fire Control Officer – to implement measures arising out of advice from NT Bush Fire Council.</li> </ul>	<ul style="list-style-type: none"> <li>• NSW</li> <li>• QLD</li> <li>• NT</li> </ul>
<b>Regional Directors</b>	<ul style="list-style-type: none"> <li>• Responsible for administration and operational functions in defined areas or wider regions.</li> <li>• Regional Assistant Commissioners hold overall operational and financial responsibility in their region.</li> </ul>	<ul style="list-style-type: none"> <li>• TAS, SA</li> <li>• QLD</li> </ul>
<b>Area Directors</b>	<ul style="list-style-type: none"> <li>• Responsible for administration and operational functions for stations in an area.</li> </ul>	<ul style="list-style-type: none"> <li>• QLD</li> </ul>
<b>Other officers (with various operational responsibilities)</b>	<ul style="list-style-type: none"> <li>• Fire Control Officers - operational positions in regions. The title is also used in some rural legislation.</li> <li>• Fire Protection Officers - operational positions (e.g. issuing permits etc).</li> </ul>	<ul style="list-style-type: none"> <li>• NT, ACT, NSW</li> <li>• VIC, SA</li> </ul>

	<ul style="list-style-type: none"> <li>• Fire investigators - appointed to investigate specific incidents.</li> <li>• Fire wardens - Appointed to discharge particular operational functions delegated to them.</li> <li>• Incident commanders - appointed to take charge of specific emergency incidents. Members of emergency response groups set up for particular geographical areas.</li> </ul>	<ul style="list-style-type: none"> <li>• NT</li> <li>• QLD, NT</li> <li>• NT</li> </ul>
<b>Brigade chiefs / captains</b>	<ul style="list-style-type: none"> <li>• In charge of brigades.</li> </ul>	<ul style="list-style-type: none"> <li>• TAS, SA, ACT</li> </ul>
<b>Full time, part time staff and volunteers</b>	<ul style="list-style-type: none"> <li>• Carry out operational, administrative, corporate, policy, and other work for the organisation.</li> </ul>	Common across all jurisdictions

### 3.5.1 Discussion

The categories of officers used in any given jurisdiction, and their associated powers, responsibilities, and duties will depend upon the structural model used (i.e. whether the fire service is part of a wider government department or a more separate statutory authority).

While a general comparison can be made across all jurisdictions' legislation, inevitably there are difficulties in comparing specific levels of officer provided for in all eight jurisdictions' law. For instance, some positions with similar titles are not directly comparable in terms of the responsibilities of the officer and the powers and duties conferred upon them. Some jurisdictions do not have particular officers, or have a different title for roughly the same position.

For this section to be meaningful, one needs to consider what a particular officer's title means in the context of their jurisdiction's legislation, and the structural model they have adopted. For a summary of the specific officer hierarchy in a particular state or territory please see the command structure heading below. More detail about each jurisdiction is provided in **Report 2**.

While the specific levels of officers are different, a general officer hierarchy can be observed across jurisdictions, including:

- A Chief Executive or equivalent who is responsible for the overall management and administration of the service, and performance of its statutory functions;
- Chief officer(s), who has (have) operational responsibility for the service(s), performance of many of their statutory functions, and performance of day to day work (there may be Chief officers for the urban and the rural services if they are separate organisations);
- Deputies or acting positions for senior officer such as CEO' / chief operational positions;
- A chief rural officer (who can be the CEO or Chief officer of the rural service in jurisdictions with separate rural organisations);
- Regional officers, and those in charge of areas within regions. These officer may have financial and operational responsibility within their region; and
- A range of different officers with specific operational functions (e.g. taking charge at the scene of incidents, issuing fire permits, investigating incidents, etc).

For some of the key senior officers, the legislation usually sets out:

- their responsibilities/functions;
- the powers to enable them to carry out their roles – including a power of delegation of their duties and responsibilities; and
- provisions regarding their appointment and tenure.

A problem mentioned by jurisdictions was ambiguity about the roles and responsibilities of some of the key players, especially if their services had evolved, but their legislation had not kept pace. For example, a forthcoming Auditor General's report is expected to highlight issues for improvement in the current Western Australian Bush Fire management framework. In particular, there is ambiguity around the respective roles and responsibilities of the key officers.

Victoria also raised the issue of allowing more lateral entry into some of their urban fire services senior positions, which have traditionally only been filled from within the fire service. While some positions will require direct operational fire-related experience, others could benefit from considering a wider range of candidates. Victoria's Country Fire Service allows lateral entry for most positions.

Legislation in all jurisdictions also contains provisions regarding paid staff and volunteers.

### **Summary of key points**

- **While the types of officers in each jurisdiction's legislation will depend upon the structural model adopted, a general officer hierarchy is apparent across the jurisdictions.**
- **New legislation should clearly set out the roles and responsibilities, and associated powers and duties of the different types of officers. A key power is the power to delegate responsibility to other officers/staff.**
- **The issue of lateral entry to some senior positions within the fire service, as opposed from only filling positions from within the organisation, should be considered.**

### 3.6 Command structure

The officer hierarchy outlined above is the main way that the general command structure of the fire service is set out in each state's or territory's legislation. However, some jurisdictions also have specific provisions to reinforce their organisation's command structure. **Table 8** summarises how each jurisdiction's command structure is provided for in their legislation.

**Table 8: Command structure provisions in jurisdictions**

State/ Territory	Command structure provisions
<b>Tasmania</b>	<ul style="list-style-type: none"> <li>The Act sets out the levels of officers and their powers of delegation (CEO/Chief officer; brigade chiefs; Fire officers; fire fighters and employees).</li> <li>The Act has a provision stating that the State Fire Commission is to determine the chain of command and order of seniority of members of the fire service and members of brigades that applies during fire fighting operations.</li> </ul>
<b>Western Australia</b>	<ul style="list-style-type: none"> <li>FESA Act contains provisions regarding the delegation of FESA's functions to other officers and staff, and the powers and duties of officers. It sets out the hierarchy of officers (CEO; other staff). The Fire Brigades Act and Bush Fires Act also contain provisions for officers.</li> <li>All brigades and officers and staff in a fire district are under the immediate order and control of the Director of Operations; however the Director does not have the powers, duties and functions of the CEO.</li> </ul>
<b>Queensland</b>	<ul style="list-style-type: none"> <li>The Queensland Act sets out the levels of officers and their powers of delegation (CEO of the Department; Commissioner of QFRS; Assistant Commissioners; Authorised Fire Officers; Fire Wardens; members of brigades, and other employees).</li> </ul>
<b>Northern Territory</b>	<ul style="list-style-type: none"> <li>The NTFRS Act sets out the levels of officers and their powers of delegation regarding the functions and powers conferred upon them (CEO; Acting CEO; Director &amp; Chief Fire Officer; Emergency Response Groups; Incident Commanders; Fire Investigators, other officers and employees).</li> <li>It also has a general provision requiring members of the NTFRS to obey all lawful instructions given to them by a member of a higher rank, or of the same rank, under whose control, direction, supervision the member is performing their duties. The Director of the NTFRS can give directions to members of emergency response groups for particular areas, and the members must comply.</li> <li>The NT Bush Fires Act provides for a Chief Fire Control officer, Senior Fire Control Officers and Fire Control Officers, including their delegation powers.</li> </ul>
<b>ACT</b>	<ul style="list-style-type: none"> <li>ACT's current legislation sets out the range of officers and their powers of delegation (Executive Director of the Emergency Service Bureau; Fire Commissioner; Deputy Commissioner; Chief Fire control officer (rural); officer of brigades; various ranks of firefighters).</li> </ul>
<b>New South Wales</b>	<ul style="list-style-type: none"> <li>The Commissioners of the NSW Rural Fire Service and the NSW Fire Brigades Department and the officer in charge of incidents under the two Acts can delegate their functions to officers and members of brigades.</li> </ul>
<b>Victoria</b>	<ul style="list-style-type: none"> <li>The urban fire service act sets out the levels of officers and their powers of delegation regarding the functions and powers conferred upon them (CEO; Acting CEO; Chief Officer; Deputy Chief Officer; Fire Protection Officers; other officers and employees).</li> <li>The rural fire legislation command structure is set out in the Act (CEO; Acting CEO; Chief Officer; Fire Protection Officers; other officers and employees).</li> </ul>

<b>South Australia</b>	<ul style="list-style-type: none"> <li>• The urban fire service act sets out the levels of officers and their powers of delegation regarding the functions and powers conferred upon them (Chief Officer; Deputy Chief Officer; other officers and employees). The Act also has a provision requiring officers or employees to carry out the directions of the Corporation (Minister), officers to whom they are responsible under the Act, or who have been placed in a position of authority over them. Volunteer brigades at the scene of emergencies are under the control of the Chief Officer. They are also subject to inspection by the CO.</li> <li>• The rural fire legislation command structure is set out in the Act (Regional Officer; Group Officer; Brigade Captain). Each officer or member of the Country Fire Service must recognise the CFS's authority and obey the directions of an officer to whom that officer or member is subordinate.</li> </ul>
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### **3.6.1 Discussion**

Each jurisdiction's legislation sets out the command structure of their fire service(s) in a reasonably consistent way. The various levels of officers (from senior executive officers, to the main operational officers, to the lesser operational officers out in the field) are set out in their Act(s). Provisions regarding brigades and firefighters' and other employees' relationships to senior officers are also commonly included in legislation.

To reinforce the command structure, a number of jurisdictions have standard provisions to the effect that subordinate officers or employees must obey the direction of superiors (e.g., Northern Territory; South Australia; Tasmania).

Some jurisdictions with separate urban and rural fire services have legislation with consistent command structure provisions. For example, the Victorian and NSW urban and rural acts have similar levels of officers (and their associated powers and responsibilities). The proposed new South Australian model (a single act covering three separate emergency services, with an over-arching commission) is another example. The officer hierarchy and command structure provisions for the urban and rural fire services are likely to be very similar, for example the head of each service will be called a chief officer and their powers of appointing other officers, delegating duties, will be similar. The new Act is also likely to set out some powers that are common to each service, such as operational powers to enter property.<sup>10</sup>

<p><b>Summary of key points</b></p> <ul style="list-style-type: none"> <li>• <b>The command structure of most jurisdictions' fire services is reinforced by the officer hierarchy set out in their legislation.</b></li> <li>• <b>Some jurisdictions also have provisions that require officers/staff to obey the direction of superiors.</b></li> <li>• <b>Legislation should be clear about the relationship of officers in the head office and operational/field staff, especially during emergencies.</b></li> </ul>
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<sup>10</sup> Footnote 8 applies.

### 3.7 Committees and advisory bodies

In each jurisdiction there are a range of committees, councils and advisory bodies provided for in their legislation which relate to the governance of fire services. **Table 9** provides an overview of such bodies in the eight jurisdictions.

**Table 9: summary of committees in the states and territories**

State/ Territory	Types of committee, council, advisory board (or other body)	Summary of roles
Tasmania	<ul style="list-style-type: none"> <li>• <b>State Fire Management Council</b> advises the Minister about fire prevention issues and develops State Vegetation Fire Policy.</li> <li>• <b>Fire Management Area Committees</b> Implement the State Vegetation Fire Policy in their areas; prepare fire protection plans, provide operational advice to Commission.</li> </ul>	<ul style="list-style-type: none"> <li>• Advise Minister; Policy</li> <li>• Implementation / operational</li> </ul>
Western Australia	<ul style="list-style-type: none"> <li>• <b>Fire &amp; Rescue Service</b> and <b>Bush Fire Service consultative Committees</b>. Provide Advice to FESA board and CEO regarding operation of fire services. District &amp; regional operational advisory committees underpin the Bush Fire Consultative Committee.</li> </ul>	<ul style="list-style-type: none"> <li>• Stakeholder voice; operational advice</li> </ul>
Queensland	<ul style="list-style-type: none"> <li>• <b>Emergency Services Advisory Council</b> advises Minister on whether fire and other emergency services meet community needs.</li> <li>• <b>Rural Fire Council</b> represents the interests of communities affected by rural fires. Advises the Minister and QFRS about fire in rural areas and the operation of rural fire brigades. Promotes fire safety, fire prevention and the reduction of fire danger within rural areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Advise Minister</li> <li>• Advise Minister &amp; fire service; stakeholder representation; &amp; operational work</li> </ul>
Northern Territory	<ul style="list-style-type: none"> <li>• <b>Bush Fire Council</b> provides advice on prevention and control; issues effecting operational efficiency and strategic direction.</li> <li>• <b>Regional Bush Fire Committees</b> – prevention and control functions within their regions. High autonomy in their operational policies.</li> </ul>	<ul style="list-style-type: none"> <li>• Advise Minister</li> <li>• Operational policy</li> </ul>
ACT	<ul style="list-style-type: none"> <li>• <b>Bush Fire Council</b> can act to prevent or control the outbreak or spread of fire and produce a rural fire control manual. Under the new Bill this will be restricted to a consultative committee, which will also provide advice to the Minister.</li> <li>• The Bill also provides for the ESA to establish a committee help it prepare a bushfire management plan and monitor its effectiveness.</li> </ul>	<ul style="list-style-type: none"> <li>• Operational (will become advisory and consultative in nature)</li> <li>• Planning / advisory</li> </ul>
New South Wales	<ul style="list-style-type: none"> <li>• <b>Fire Service Joint Standing Committee</b> provides strategic oversight of co-ordination between the urban and rural fire services, boundary issues, etc.</li> <li>• <b>Advisory Council</b> provides Ministerial advice regarding urban brigades.</li> <li>• <b>Bush Fire Co-ordinating Committee</b> co-ordinates bush fire fighting and prevention and can appoint bush fire management committees for single or multiple rural fire districts.</li> <li>• <b>Rural Fire service Advisory Council</b> provides advice to Minister regarding rural fire control, advises Commissioner on public education programmes, and service standards.</li> </ul>	<ul style="list-style-type: none"> <li>• Rural / urban cooperation; Advises Minister</li> <li>• Advises Minister</li> <li>• Co-ordination of activities</li> <li>• Advisory</li> </ul>

<b>Victoria</b>	<ul style="list-style-type: none"> <li>• <b>Municipal Fire Prevention Committees</b> established in parts of country Victoria. Each prepares a municipal fire prevention plan.</li> <li>• <b>Regional Fire Prevention Committees</b> help resolve the plans which cover issues impacting on more than one municipality.</li> <li>• Volunteer urban and rural brigades associations.</li> </ul>	<ul style="list-style-type: none"> <li>• Produce plans</li> <li>• Finalise plans</li> <li>• Representative</li> </ul>
<b>South Australia</b>	<ul style="list-style-type: none"> <li>• <b>Bush Fire prevention Advisory Committee</b> – advises Minister/</li> <li>• <b>Regional and District Bush Fire Prevention Committees</b> provides advice on their region regarding rural fire issues/</li> <li>• <b>SA Volunteer Fire Brigades Association</b></li> <li>• The new legislation will establish a Fire and Emergency Services Advisory Board to provide advice and contribute to decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Advise Minister</li> <li>• Advisory</li> <li>• Representative; advocacy</li> <li>• Advisory</li> </ul>

### 3.7.1 Discussion

Statutory powers to form committees for particular purposes are common in most legislation setting up public sector organisations. Fire service law is no exception.

Every jurisdiction's fire service legislation examined contains provisions establishing statutory committees, or similar bodies, for particular purposes, including:

- Providing advice to Ministers or the fire service on particular issues;
- Providing a forum for stakeholder representation, voice, and input into issues;
- Providing technical advice of fire and emergency issues;
- Encouraging cooperation and collaboration between different components of the jurisdictions fire service (e.g. rural and urban stakeholders);
- Providing national (or international) collaboration; and
- Undertaking planning or other operational functions.

Some jurisdictions have Acts with the main purpose of establishing and regulating these types of committees and other bodies, and were separate from the main fire service legislation (e.g. NSW Joint Standing Committee or the Northern Territory Bush Fires Council).

A number of jurisdictions interviewed specifically mentioned the importance of committees to ensure stakeholder voice and input to governance and operational issues affecting their fire service. In jurisdictions that had integrated their rural and urban services (to varying degrees) such formal bodies were seen as a vital mechanism of the integration process and a mechanism that needed to continue in to the future (e.g. Queensland, Western Australia, Tasmania, and South Australia).

Most states or territories have ministerial advisory committees, the most common function of which is providing advice on rural and bush fire services.

It is common among jurisdictions to have a rural fire or bush fire prevention committee to provide advice to the Minister or the fire service about bush fire prevention issues. Such committees are responsible for producing bush fire

prevention plans and co-ordinating bush fire prevention in rural areas (e.g. Victoria). Some jurisdictions also have regional or area bush fire prevention committees that sit under a State Bush Fire Committee and provide advice up the chain or make submissions on issues impacting on more than one area in the region, for resolution at a regional level (e.g. Victoria).

Such committees have a range of similar provisions regarding their composition, appointment, functions and powers – tailored to the purpose of the committee. **Report 2** provides more information about each jurisdiction's committees.

Some jurisdictions fire service reform is proposing to change the mandate of existing committees. For example in ACT, the Bush Fire Council is likely to become an advisory council rather than a decision-making body.

Some legislation establishes associations to act as representative bodies for its members and to advocate for their interests: for example, the South Australian Volunteer Fire Brigades Association.

### **Summary of key points**

- **Powers to allow fire services to form committees for various purposes are common across each jurisdiction's legislation.**
- **Each jurisdiction's legislation establishes committees for specific purposes. Most common were ministerial advisory committees, committees to facilitate stakeholder input to issues, or technical committees.**
- **Some jurisdictions have bush fire management committees to help plan for bush fire prevention.**

### 3.8 Accountability provisions

Accountability provisions are an integral part of the legislative framework for any public sector organisation. The summaries of each jurisdiction's fire service arrangements contained in **Report 2** include diagrams showing the relationships between the main players in each jurisdiction. These provide an overview of the general lines of accountability between the main players, including the responsible Minister, the CEO and subordinate officers, advisory councils/boards, and the sections within each fire service.

The main accountability mechanisms included in state or territory fire service legislation are summarised in **Table 10**.

**Table 10: accountability mechanisms used in jurisdictions legislation**

Accountability mechanisms in fire service legislation	Examples
Financial and audit requirements.	SA, TAS, QLD, WA, VIC
Other corporate controls (e.g. controls over borrowing, investment, etc)	Most jurisdictions
Prospective reporting, for example: <ul style="list-style-type: none"> <li>• Corporate or Business Plans, Strategic plans, Statements of Intent;</li> <li>• Ministerial Charter (outlining broad policy expectations of the Tasmanian Fire Commission); and</li> <li>• Annual estimates of expenditure</li> </ul>	TAS, QLD TAS  WA, VIC, NSW
Retrospective reporting, for example: <ul style="list-style-type: none"> <li>• Annual Reports tabled in Parliament.</li> </ul>	SA, TAS, VIC
<ul style="list-style-type: none"> <li>• Statutory requirement to report to, or provide information to, the Minister about particular fire issues upon request of the Minister.</li> </ul>	VIC, ACT
<ul style="list-style-type: none"> <li>• Statutory requirement to give effect to directions of Minister regarding performance of services functions.</li> <li>• Provisions requiring officers/brigades or others to carry out their statutory or delegated functions or responsibilities in accordance with directions or guidance issued by superior officers (e.g. CEO) in the fire service.</li> </ul>	WA, TAS, VIC, NSW TAS, ACT (new bill)
Accountability provisions relating to those responsible to prepare fire prevention or other plans, for example: <ul style="list-style-type: none"> <li>• the Victorian Country Fire Authority is required to review Municipal Fire Prevention Plans every 3 years; and</li> <li>• Commissioner of NSW Rural Fire Service can audit bush fire risk management plans.</li> </ul>	NSW, VIC
Disciplinary provisions – e.g. discipline of officers/staff, establishing disciplinary tribunals, and appeals tribunals and how they should be run.	ACT, VIC, QLD, ACT, NSW
Other public sector management legislation (e.g. the Tasmanian State Service Act 2000).	All jurisdictions

### **3.8.1 Discussion**

There is a general degree of consistency in terms of legislative accountability mechanisms used. Although some jurisdictions fire service acts do not mention some of the accountability mechanisms noted in **Table 10** (e.g. annual Reports), this does not mean the fire service in question is not required to produce such documents. Rather, the obligation is required by other legislation (e.g. public sector management legislation) or by means other than legislation.

The jurisdictions' legislation includes a mix of financial and corporate accountability mechanisms (e.g. financial and audit provisions; setting powers of borrowing and investment and other activities, etc) along with accountability provisions relating to specific statutory responsibilities or powers vested in officers or groups. An example of the latter is the fire service auditing fire prevention plans or bush fire risk management plans produced by committees in some jurisdictions (e.g. Victoria or NSW).

Most fire services have both prospective and retrospective reporting obligations. For example, preparation of corporate or business plans for the forthcoming year (or longer) and Annual Reports reviewing the previous year.

Some jurisdictions require that those mandated to perform a statutory function had to perform this according to directions from others (e.g., written instructions from the Minister, or according to direction from a superior officer in the service). Such directions are usually required to be set out in the agency's annual report.

Each jurisdiction also has its own public sector management legislation covering the fire service, which imposes other accountability requirements (e.g. the Tasmanian State Sector Act 2000). This is beyond the scope of this paper and is less relevant given the imminent New Zealand reform currently underway, which will need to be factored into any new governance and accountability model for the New Zealand Fire Service (**see section 6**).

Some jurisdictions have disciplinary procedures for their officers and staff set out in legislation.

#### **Summary of key points**

- **The accountability mechanisms used depend on the type of public sector organisation the fire service is, and the associated public sector management law.**
- **Most jurisdictions use the same broad range of mechanisms in their fire service legislation, e.g. financial requirements, prospective and retrospective reporting, disciplinary provisions, etc.**

### 3.9 Regulation-making and standard-setting powers

Regulation-making provisions are common across all jurisdictions' fire service legislation. Less common are legislative provisions enabling a senior officer of the fire service to issue standards and other instrument – although these are becoming more common in more recent legislation.

**Table 11a** summarises regulation-making provisions regarding governance issues. **Table 11b** summarises some of the standard-setting provisions regarding governance issues.

**Table 11a: Regulation-making provisions**

Jurisdiction	Regulations making provisions relating to governance issues
<b>Queensland</b>	<ul style="list-style-type: none"> <li>• Governor in Council can make regulations about responsibilities and liabilities of officers, appeals and offences.</li> </ul>
<b>Tasmania</b>	<ul style="list-style-type: none"> <li>• Regulation-making provision does not specifically mention governance-related issues.</li> </ul>
<b>Western Australia</b>	<ul style="list-style-type: none"> <li>• Governor can make regulations for matters permitted by the Act, although, the regulation making provision does not specifically cover governance issues).</li> </ul>
<b>ACT</b>	<ul style="list-style-type: none"> <li>• Both urban and rural legislation has regulation making provisions. These include regulations about members of brigades and their appointment and promotion, etc.</li> </ul>
<b>Northern Territory</b>	<ul style="list-style-type: none"> <li>• The Fire and Emergency Act has wide regulation making powers that include matters such as relevant administration and control of fire services.</li> <li>• The Bush Fires Act empowers regulations to be made about the functions and management of volunteer bush fire brigades.</li> </ul>
<b>NSW</b>	<ul style="list-style-type: none"> <li>• Governor can make regulations under both the rural and urban services Acts, e.g.: regarding committees, conduct and discipline matters, the formation, inspection of volunteer brigades; members of brigades, etc.</li> </ul>
<b>Victoria</b>	<ul style="list-style-type: none"> <li>• Governor in Council can make regulations under both the urban and rural fire service legislation about a wide range of issues, including the duties and conduct of employees of the Board or fire units; dividing Melbourne's metropolitan district into sections and establishing stations; conduct and discipline of officers and brigade members; appeals; proceedings of meetings of key players; employment issues; workings of brigades, etc.</li> </ul>
<b>South Australia</b>	<ul style="list-style-type: none"> <li>• Governor can make regulations under both urban and rural legislation, e.g. about rural fire organisations; registration of brigades; discipline of brigades; complaints.</li> </ul>

**Table 11b: Standard-setting (or other equivalent) provisions**

Jurisdiction	Provisions
Queensland	<ul style="list-style-type: none"> <li>The Commissioner can issue codes of practice relating to functions, powers, conduct and appearance of fire service officers or other officers.</li> </ul>
Northern Territory	<ul style="list-style-type: none"> <li>The Director of the NT Fire and Rescue Service can issue general orders and instructions about operational aspects of the service, including the command structure; training methods; service records of members; and responding to incidents outside an emergency response area.</li> </ul>
NSW	<ul style="list-style-type: none"> <li>NSW Rural Fire Service Commissioner can issue service standards to be followed by members of the service. These can cover a range of areas, including the command structure; powers of officers; committees; operational planning; bush fire risk management; training; communications; brigade formation and management; community education; and protocols.</li> </ul>
Tasmania	<ul style="list-style-type: none"> <li>No standard-setting provisions identified in legislation. The Act does specify that one of the functions of the State Fire Commission is to standardise fire brigade equipment.</li> </ul>
Western Australia	<ul style="list-style-type: none"> <li>No standard-setting provision identified in legislation. However, voluntary standards are currently produced by FESA, which local government can choose to adopt (e.g., about rural brigades).</li> </ul>
ACT	<ul style="list-style-type: none"> <li>Commissioner of the urban fire service can issue general orders and instructions to ensure the good governance and efficiency of the ACT Fire Brigade.</li> <li>The new Emergencies Bill will empower the new Emergency Services Authority to make guidelines about the operation and organisation of the Authority, and the strategic operation of the urban and rural fire services.</li> <li>The Bill will also provide that the Chief Officers of the urban and rural fire services may determine standards and protocols about anything about their service, which is not inconsistent with the Authority's guidelines.</li> </ul>
Victoria	<ul style="list-style-type: none"> <li>No standard-setting provisions were identified in the CFA and MFESB legislation. Both urban and rural legislation have very detailed regulation-making powers.</li> <li>The Department of Sustainability &amp; Environment has issued a <i>Code of Practice for Fire Management on Public Land</i>.</li> <li>The Office of the Emergency Services Commissioner is also responsible for establishing and monitoring performance standards for the emergency services, including the CFA and MFESB.</li> </ul>
South Australia	<ul style="list-style-type: none"> <li>Urban fire service act contains a code of conduct to be observed by officers and fire fighters.</li> <li>No other standard-setting provisions identified in existing legislation.</li> </ul>

### 3.9.1 Discussion

All jurisdictions have regulation-making provisions enabling the Governor in Council to make regulations. Some of these provisions are very prescriptive in setting out the range of issues for which regulations can be made (e.g. the Victorian Country Fire Authority Act), especially in legislation without standard setting powers vested in the CEO or another senior officer. Most legislation has a provision allowing the regulations to adopt by reference codes of practice or standards. Generally, such regulations relate to governance issues at the lower levels of the organisation, rather than at the governing body or senior officer level.

In addition to the usual regulation-making powers provision, standard-setting (or other instruments such as guidelines or code of practices) provisions are part of a number of jurisdictions' fire service legislation. The main purpose of such provisions is to help ensure consistency among the key stakeholder groups (e.g. officer and brigades operating according to consistent rules).

The nature of such provisions varies between jurisdictions, but the most common examples relate to the setting of minimum standards for areas and activities. For example, training, qualifications; the command structure; minimum requirements brigades have to comply with; and other functions and powers of officers. Queensland uses codes of practice issued by the Commissioner to cover many of the operational issues which other jurisdictions have to make regulations for (e.g. the Victorian urban and rural acts).

Some jurisdictions undertake standard-setting activities even though their Act does not specifically refer to this work. For instance, the Western Australia's Fire and Emergency Service Authority has recently appointed a Director of Professional Standards who is responsible for developing standards based on best practice (including training, management, communications, and equipment standards). These standards are voluntary and a current challenge is to get local government (who administer rural brigades) to adopt them. Officials interviewed indicated that mechanisms requiring local government to adopt certain standards will be considered in forthcoming review work.

Western Australia commented that it was important that any standard-setting mechanisms appropriately considered the role of volunteers. Volunteers are vital for any emergency service, but have differing levels of training, skills, experience when compared to paid staff. Any standard-setting cannot set the bar at a level that precludes or overly discourages volunteers from contributing to fire service work.

ACT's Emergencies Bill provides a good example of modern legislative mechanisms in this area. The new Emergency Services Authority will be able to make guidelines for its operations and organisation, and the strategic operation of the urban and rural fire services. Such guidelines will cover

- Areas of the emergency services that are to be operated jointly;
- Operation of the joint areas;
- Planning and conduct of joint operations; and
- Other matters relating to the organisation and operation of the Authority.

The Bill also provides that the chief officers of the urban and rural fire services may determine standards and protocols about anything about their service, which is not inconsistent with the Authority's guidelines.

## **Summary of key points**

- **Some jurisdictions' regulation-making powers cover governance-related issues for the fire service, generally at the operational level. For example, regarding the functions of officers, formation and membership, and control of brigades, etc).**
- **An emerging trend is for legislation to empower an officer of the fire service to issue standards (or equivalent instruments). While many standards relate to operational procedures and practices, there are examples of relating to the operations and organisation of the fire service (e.g. in the new ACT Bill).**
- **A key issue to consider is whether compliance with such instruments should be voluntary, or mandatory and enforceable.**

### 3.10 Organisation of services

The states and territories have provisions which enable them to demarcate rural and urban (or metropolitan) fire districts, regional areas, and other geographical areas within a particular region. Such divisions are incorporated into the general governance and command structure of each jurisdictions' fire service(s). **Table 12** summarises how the jurisdictions organise their fire services in such ways.

**Table 12: Organisation of services within jurisdictions**

State/ Territory	Organisation of services
Tasmania	<ul style="list-style-type: none"> <li>State Fire Commission can declare areas of land to be Fire Management Areas (e.g. groups of municipal areas and/or a group of parts of a municipal area). It can also declare land to be Fire Protected Areas or Special Fire Areas.</li> <li>SFC can determine the operational district of each brigade. Brigades and groups are formed into districts and each district is part of a region, which is the largest functional unit of the TFS. Tasmania is comprised of 3 regions and 10 districts.</li> </ul>
Western Australia	<ul style="list-style-type: none"> <li>Fire districts are consistent with local government districts.</li> </ul>
Queensland	<ul style="list-style-type: none"> <li>The QFRS is divided into 8 regions.</li> <li>The Rural Fire Service (part of the QFRS) consists of 14 districts.</li> <li>Urban Fire districts can be constituted by regulation. This is for funding purposes.</li> </ul>
Northern Territory	<ul style="list-style-type: none"> <li>The NTFRS Act makes provision for the Minister to set aside emergency response areas, in which emergency response groups can operate. These areas replaced fire districts under previous legislation.</li> <li>The Bush Fires Act makes provision for the Minister to declare land to be a fire control region, or land to be a fire protection zone.</li> </ul>
ACT	<ul style="list-style-type: none"> <li>The Bush Fire Council can declare fire districts, other than built-up land, which is the responsibility of the ACT Fire Brigade.</li> </ul>
New South Wales	<ul style="list-style-type: none"> <li>Governor can constitute areas as fire districts. Such districts must be within a local government area, a national park, historic site or state recreation area.</li> <li>Rural fire districts are consistent with areas of local authorities.</li> </ul>
Victoria	<ul style="list-style-type: none"> <li>The Melbourne Metropolitan Fire Brigades provides services in its legislative district, as set out in the Act, but essentially covering the CBD, middle, and outer suburbs of Melbourne.</li> <li>The Country Fire Authority and local government provide services to rural and provincial communities and those urban Melbourne communities outside the MMFB's legislative district. This does not include any forest, national park, or protected land.</li> <li>The Governor can declare fire control regions.</li> </ul>
South Australia	<ul style="list-style-type: none"> <li>The governor can constitute fire districts, within the area of a council or groups of councils.</li> <li>The Country Fire Service board can declare parts of SA to be a CFS region. CFS regions cannot comprise parts of a metropolitan fire services district.</li> </ul>

#### 3.10.1 Discussion

The ability to divide the jurisdiction up into geographical areas is a common feature of the legislation reviewed. This allows geographical demarcation of operational responsibility for urban and rural fire services and other fire services, such as land management agencies and other agencies responsible

for areas such as national parks and public land. It also allows boundaries within particular services to be established, including areas of responsibility for specific brigades within a service. Most legislation also provides for officers in such areas and how they fit into the governance structure of the fire service.

Each jurisdiction has its own mechanism for determining who should lead an operational response for fire spanning multiple fire districts, along with who should be involved in the response. For example, Victoria's Emergency Management Act provides that any of the Chief Officers in respect of fire can appoint an officer to have overall control of response activities.

Some jurisdictions have specific urban and rural areas for which separate urban and rural fire services are responsible. A good example is Victoria, with the Metropolitan Fire Brigades Act specifying a legislative district within Melbourne and certain outlying suburbs and the Country Fire Act covering bush fires in the country area of Victoria.

Most jurisdictions have provisions enabling the creation of fire districts (or a similar term). These are generally consistent with local authority boundaries. Multiple districts comprise a region.

Some jurisdictions have regions, for which regional offices are responsible (e.g. Queensland has 8 regions and 14 rural districts). Regions can cover multiple fire districts and local authorities. A significant issue for jurisdictions is the alignment of services within regions. In recent years the Western Australia Fire and Emergency Services Authority has undertaken work to review and align regional boundaries, and divisional boundaries within regions, and their management structure, for its urban and rural services.

Fire districts are generally constituted by the Governor in Council, although in some jurisdictions these can be constituted by the Minister, governing body or senior officers of the fire service.

### **Summary of key points**

- **Each jurisdiction's legislation has provisions to allow the operational components of their services to be organised according to geographical areas (districts, areas, regions, etc).**
- **Some jurisdictions' law has in-built mechanisms for emergencies that span fire districts or the rural/urban interface (e.g. a particular officer taking charge). However, other law is silent on such issues and jurisdictions have developed their own non-legislative procedures.**

### 3.11 Brigades and Fire Units

In addition to the over-arching governance structure of each jurisdiction's fire service set out in legislation, there are a range of provisions, including those relating to the establishment, command structure and operations of brigades and fire units. These cover brigades established by the fire service and, in some jurisdictions, those which are more community initiated, such as volunteer brigades that have to work alongside the brigades established by the fire service.

**Table 13** below summarises some of the provisions at the brigade level which are relevant to the governance of fire services.

**Table 13: provisions regarding brigades and operational units**

<b>State/ Territory</b>	<b>Brigades and other operational units</b>
<b>Tasmania</b>	<ul style="list-style-type: none"> <li>The State Fire Commission can establish permanent, volunteer, and composite brigades. The Act has provisions for the SFC to appoint brigade chiefs, officers and firefighters as the SFC thinks necessary. Powers and functions of brigade chiefs and group officers are set out. SFC can determine the operational districts for each brigade.</li> </ul>
<b>Western Australia</b>	<ul style="list-style-type: none"> <li>FESA can form, maintain, merge, and abolish permanent or volunteer or private fire brigades, and determine the number of brigades required to protect a district. Brigades need to be registered. Provision is made for the appointment of officers and members of permanent and volunteer brigades.</li> <li>FESA can also establish Fire and Emergency Services Units to perform certain activities.</li> <li>Local government can establish bush fire brigades. The Act sets out the powers, authorities, duties, etc of bush fire brigade officers.</li> </ul>
<b>Queensland</b>	<ul style="list-style-type: none"> <li>Queensland legislation has a provision empowering the Commissioner to appoint authorised fire officers and staff, which cover those working in the field.</li> <li>Groups can apply to the Commissioner of the QFRS for registration as a rural fire brigade. The Act specifies the functions of rural fire brigades, officers and their powers. Brigades can make rules to regulate their proceedings and operations, but these must be approved by the Commissioner. The CEO of the Department of Emergency Services is responsible for the efficiency of rural fire brigades.</li> </ul>
<b>Northern Territory</b>	<ul style="list-style-type: none"> <li>NT legislation provides for the establishment of emergency response groups.</li> </ul>
<b>ACT</b>	<ul style="list-style-type: none"> <li>ACT Fire brigade is established under ACT legislation, which also sets out its general structure (Commissioner, Deputy, officers and the ranks of firefighters).</li> <li>The Bush Fires Act empowers the Bush Fire Council to establish bush fire brigades</li> <li>The new bill has provisions regarding brigades and fire units, including their functions and the limitations they must work within. For example, exercise their functions in accordance with standards and protocols issued by the Chief Officer of the Fire Brigade.</li> </ul>
<b>New South Wales</b>	<ul style="list-style-type: none"> <li>The Fire Brigades Act provides for the establishment and maintenance of fire brigades by the Commissioner, approval of volunteer brigades, and the exercise of functions by officers and their delegates.</li> <li>Local authorities can form rural fire brigades (or the Commissioner of the Rural Fire Service can if a LA refuses). The rural fires legislation contains provisions regarding the functions of brigades, officers and members, and their powers and duties.</li> </ul>
<b>Victoria</b>	<ul style="list-style-type: none"> <li>Fire or Emergency Service Units can be established by the Metropolitan Fire &amp; Emergency Services Board to assist it to carry out its statutory fire and emergency functions. These units must be registered and comply with laws affecting them. They can be inspected by employees of the Board.</li> <li>The Country Fire Authority Act has provisions empowering the CFA to facilitate the</li> </ul>

	formation of permanent or volunteer urban brigades, volunteer rural fire brigades and groups of brigades. The Act contains provision regarding the appointment of brigade officers. Unregistered brigades are prohibited.
<b>South Australia</b>	<ul style="list-style-type: none"> <li>• Brigades maintained by the urban fire service are under the command of the Chief Officer or delegate. The urban fire service also registers, inspects volunteer brigades, and can pay them for services.</li> <li>• Country Fire Service can constitute brigades or groups of brigades. Brigades and other CFS organisations are to have a constitution which sets out its powers, functions, and duties, etc. The Act sets out the command structure in such organisations and their mechanics.</li> </ul>

### **3.11.1 Discussion**

Fire brigades and other operational units are an essential component of all jurisdictions' fire services. The common approach in the legislation reviewed is to have specific provisions about brigades and other operational units as the key bodies for undertaking fire and other emergency work (e.g. ACT, Western Australia, Victoria, and Tasmania).

Such provisions cover the establishment of brigades, appointment of officers and command structure for brigades; and accordingly, how they fit into the overall governance structure of a jurisdiction's fire service. For example, ACT's new Emergencies Bill clearly sets out that community fire units have to undertake their functions in the area for which they have been established, in accordance with standards and protocols issue for the Brigade, and under the direction of the brigade's Chief Officer.

Some jurisdictions also have specific sections covering the governance and operation of volunteer brigades or rural brigades, which are established by community initiatives (e.g. Queensland, Victoria). Usually such brigades can only be formed with the consent of a senior officer in the fire service, or after being registered by the fire service, and there can be provisions for inspection by the fire service, appointment of officer in the volunteer brigades, etc.

Some jurisdictions do not have specific provisions regarding how brigades fit into the fire service structure. Their legislation effectively imposes specific fire and emergency functions or responsibilities on the fire service (e.g. to provide fire fighting services), which can be delegated to its officers and staff to undertake. Northern Territory and Queensland are examples of this legislative approach.

Some legislation imposes specific obligations on local government regarding the establishment of brigades and maintenance of brigades (e.g. Victoria).

#### **Summary of key points**

- **Most jurisdictions' legislation incorporates the formation and control of fire brigades into their governance structure.**

### 3.12 Summary of key similarities and variances

In Summary some of the general areas of similarity and variance between the key governance sections of the states and territories legislation include:

Similarities	Variances
<ul style="list-style-type: none"> <li>• Each jurisdiction undertakes rural and urban services.</li> <li>• Broad consistency in functions and activities undertaken (including fire and non-fire work).</li> <li>• Legislation follows a layered format of (provisions regarding function, powers, duties, etc).</li> <li>• A general hierarchy of officers is apparent, despite the different structural models.</li> <li>• Separation of operational and strategic roles.</li> <li>• All have statutory committees (although their mandates vary).</li> <li>• Common accountability mechanisms.</li> <li>• All have regulation-making powers.</li> <li>• Legislation contains provisions regarding the formation and control of brigades and other operational units.</li> <li>• Services organised to cover geographical areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Organisation of urban and rural services (some are separate organisations, some are more integrated).</li> <li>• Single or multiple fire Acts.</li> <li>• Type of public sector organisation (e.g. statutory authority or government department).</li> <li>• Type of governing bodies (e.g. commission, board, departmental executive team, a chief officer).</li> <li>• Standard-setting mechanisms.</li> <li>• Some jurisdictions have other statutory bodies with various roles (e.g. ensuring cooperation between services).</li> </ul>

## SECTION 4. NON-LEGISLATIVE GOVERNANCE ARRANGEMENTS

As with any public sector organisation, not all of the relevant governance mechanisms are in legislation. This section provides a brief look at some of the key non-legislative governance mechanisms used by the Australian fire services.

Because the focus of our terms of reference was on legislative governance arrangements in the eight states and territories, this section is not as comprehensive as **Section 3**. It is intended to highlight some of the key non-legislative governance mechanisms used by states and territories, which complement and support the governance provisions in their fire service legislation.

When designing the governance framework for new New Zealand Fire Service legislation, consideration will need to be given to the non-legislative mechanisms to underpin the legislation and help make it work effectively. To some extent a number of issues highlighted here are relevant to **section 6**, which examines the implications of current public sector management reform in New Zealand.

### 4.1 Governance policy statements

Some jurisdictions have developed governance policy statements to underpin their legislation. Such documents serve a range of purposes:

- To provide clear statements of the functions, roles and responsibilities of the key players;
- To clarify the powers and duties of the key players – both those within the fire service and external stakeholders;
- To state the key governance principles of the fire service – for example around delegation of responsibilities;
- To clearly set out performance expectations of key players and to and the accountability mechanisms to ensure they are met;
- To set out a code of conduct or statement of ethics for key players; and
- To set out procedural detail that is not contained in the legislation.

Such statements expand upon legislative governance mechanisms and include more working detail.

#### Example

The new South Australia Fire and Emergency Services Commission is developing a formal governance policy for its board. The board is responsible for good governance within the Commission and for promoting good governance within the three emergency services, including the rural and urban fire services. The policy will set out the responsibilities, roles, and

duties of the Commission's board, the Chair, members of the board and the CEO of the Commission.<sup>11</sup>

Other jurisdictions include corporate governance sections in their annual reports, which provide a high level summary of governance issues for that year. Western Australia is one example<sup>12</sup>)

## 4.2 Mission and vision statements

Mission and vision statements have been developed for most of the Australian fire service organisations. These are general statements of the key overarching goals of the organisation and are generally supported by more detailed strategic plans which set out how they are to be achieved.

Recurring themes include: ensuring stakeholder commitment; engaging communities; providing an effective and efficient service; and enhancing community safety.

### Examples

Organisation	Mission and vision statements
<b>The Western Australian Fire and Emergency Services Authority</b>	<p>Vision: A safer community</p> <p>Mission: In partnership with the people of Western Australia to:</p> <ul style="list-style-type: none"> <li>• Improve community safety practice; and</li> <li>• Provide timely, quality and effective emergency services.</li> </ul>
<b>Tasmania Fire Service</b>	<p>Vision: A Tasmanian community safe from the impact of fire and other emergencies</p> <p>Role: To protect life, property and the environment from the impact of fire and other emergencies. We provide a rapid emergency response and promote fire safety in partnership with the community. The Commission delivers all of its services through its operational arm, the Tasmania Fire Service. We will measure our success in terms of:</p> <ul style="list-style-type: none"> <li>• Comparing performance with industry benchmarks.</li> <li>• Achieving our periodic goals and objectives.</li> <li>• Maintaining financial strength and viability.</li> </ul>
<b>NSW Rural Fire Service</b>	<p>Vision: To provide a world standard of excellence in the provision of a community-based fire and emergency service.</p> <p>Mission: To protect the community and our environment we will minimise the impact of fire another emergencies by providing the highest standards of training, community education, prevention and operational capacity.</p>

## 4.3 Statements of values

To complement the mission and vision statements most fire services have statements of their key values or guiding principles.

<sup>11</sup> A copy of a preliminary draft governance policy was kindly provided to the authors by the Commission.

<sup>12</sup> Available at: [www.fesa.wa.gov.au/publications/reports.asp](http://www.fesa.wa.gov.au/publications/reports.asp)

## Examples

Western Australian officials advised that their recent reform to integrate fire services into a single agency involved extensive consultation on their corporate and value statements. Officials advised that an explicit commitment to sound consultation and involvement of key stakeholders was a important part of their reform process. Ensuring stakeholder participation ownership is a recurring theme among the jurisdictions.

Organisation	Values
<b>The Western Australian Fire and Emergency Services Authority</b>	<ul style="list-style-type: none"><li>• Put the community first.</li><li>• Work together as a committed team.</li><li>• Respect and value each other</li><li>• Continuously improve our services.</li><li>• Act with honesty and integrity.</li><li>• Have open and honest two way communications.</li></ul>
<b>Tasmania Fire service</b>	<ul style="list-style-type: none"><li>• Operate in a consistent and fair manner.</li><li>• Keep in touch with stakeholder expectations.</li><li>• Provide development opportunities for members.</li><li>• Display strength and unity in membership.</li></ul>
<b>NSW Rural Fire Service</b>	<ul style="list-style-type: none"><li>• Ethical standards and behaviour.</li><li>• Working together.</li><li>• Measurable improvement.</li></ul>

## **4.5 Performance management**

Like New Zealand, public sector organisations in Australia have agency resource agreements with government. These agreements clarify Government's desired outcomes for the organisation and provide the mechanism to endorse the budget allocation and outputs purchased by the Government. CEO performance agreements are aligned with agency Minister/agency purchase agreements. Performance management measures are also commonly used throughout the wider organisation.

## **4.6 Strategic planning**

It was apparent that sound strategic planning processes is an important non-legislative governance issue for the jurisdictions. All jurisdictions had formal processes to develop and set strategic targets, work towards achieving them, monitor progress, and to review such targets when necessary.

## Examples

Tasmania developed four key result areas: responding to emergencies; supporting our people; developing a fire safe community; and managing our resources. Each priority area has a goal statement and a number of

objectives, strategies to help achieve the objectives, and performance measures.<sup>13</sup>

The NSW Rural Fire Service's five key objectives are: leadership and management; incident and response; risk management; people and learning; and business development. For each a set of goals and measures exist.<sup>14</sup>

The Queensland Fire and Rescue Service's strategic plan for 2003-2007 has the following key result areas: enhancing community safety and prevention capability; enhancing emergency response; develop and support our people; contribute to the national, state and local policies agenda; and enhancing business management. Targets are set and key strategies developed to achieve each key result area.<sup>15</sup>

#### **4.7 Ethical standards**

Some jurisdictions have developed a Code of Conduct, or Statement of Ethical Standards for key players in the fire service. Such documents can set out members' obligations and promote sound ethical practices.

##### Example

The Western Australian FESA code of conduct covers the following: relationships between key players; personal behaviour; public expenditure remuneration and allowances; use of public resources and facilities; record keeping and information; conflict of interest protocols.<sup>16</sup> The document is in addition to the wider public sector code of ethics.

#### **4.8 Evaluations of key players**

A range of evaluative processes practices are built in to each jurisdiction's governance framework. These include financial audits and other reviews of the operations and performance of key players.

##### Example

The Western Australian FESA board of management was recently reviewed to ensure it has effective stakeholder consultation mechanisms, and used resources effectively and efficiently. The roles, functions, operations and membership of the FESA consultative committees were also recently reviewed.<sup>17</sup>

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<sup>13</sup> More information is available in their Annual Report, available at:

[www.fire.tas.gov.au/mysite/Show?pagelid=colAnnualReports](http://www.fire.tas.gov.au/mysite/Show?pagelid=colAnnualReports)

<sup>14</sup> More information available in their strategic plan at:

[www.bushfire.nsw.gov.au/index.cfm?cid=12&cfid=508870&cftoken=39468810](http://www.bushfire.nsw.gov.au/index.cfm?cid=12&cfid=508870&cftoken=39468810)

<sup>15</sup> More information available at: [www.fire.qld.gov.au/about/publications.asp](http://www.fire.qld.gov.au/about/publications.asp)

<sup>16</sup> See footnote 12.

<sup>17</sup> See footnote 12.

## 4.9 Memoranda of understanding

A number of jurisdictions used memoranda of understanding (MoU) with other key stakeholders. This was apparent in jurisdictions with separate urban and rural services and those who have integrated services.

### Examples

In Victoria, the Melbourne Fire Brigade and the Country Fire Authority reviewed their existing MoU in late 2003 to improve both organisations service provision during joint operations. The MoU effectively creates the building blocks for a closer relationship, more effective joint responses, and better joint service delivery.<sup>18</sup>

Western Australia's FESA has entered into MoU's with key stakeholders. For instance, an MoU with local government regarding service provision.<sup>19</sup>

### **Summary of key points**

- **To underpin legislative governance mechanisms, all jurisdictions have a range of mechanisms to ensure sound corporate governance. Examples include:**
  - **Governance policy statements;**
  - **Mission and vision statements;**
  - **Statements of values;**
  - **Agency resource agreements and CEO performance agreements;**
  - **Setting strategic targets, outputs, outcomes;**
  - **Ethical standards;**
  - **Evaluations of key players; and**
  - **Memoranda of understanding between key players.**
- **Such non-legislative mechanisms will need to be considered as DIA's review work progresses and a new governance framework is designed.**

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<sup>18</sup> MFB Firemark. April 2004. *Historic review provides building blocks for future.*

<sup>19</sup> See footnote 12.

## SECTION 5: INTEGRATION OF RURAL AND URBAN FIRE SERVICES

There has been a clear trend toward the integration of rural and urban fire services across all Australian jurisdictions. However, each jurisdiction has developed its own system.

### 5.1 Types of integration

When looking across the jurisdictions, three broad types of integration can be seen:

- Legislative integration;
- Structural integration; and
- Working to foster closer collaboration and co-operation between urban and rural fire services.

These are by no means mutually exclusive; some jurisdictions have attempted to integrate their rural and fire services by using all these approaches.

#### **Caution**

The different approaches to integration makes it difficult to say that any given jurisdiction has more urban/rural integration than another. One must look at all three approaches, and even then it can be misleading to make generalisations. The Tables below are only intended to provide a general indication only.

### 5.2 Legislative integration

A number of jurisdictions have integrated their urban and rural fire legislation to various extents. **Table 14** provides a summary of the jurisdictions' legislative models along a continuum. Those with single Acts are at the top, while those with separate urban and rural legislation are at the bottom of the table.

**Table 14: Levels of legislative integration of rural and urban services**

<b>State/ Territory</b>	<b>Level of legislative integration</b>
<b>Tasmania</b>	Tasmania has a single Fire Service Act since 1979. Over time the urban and rural services have completely integrated.
<b>Queensland</b>	Queensland only has one fire Act: the Queensland Fire And Rescue Act 1990. This covers urban and rural fire issues.
<b>ACT</b>	ACT's Emergencies Bill (tabled in May 2004) proposes to consolidate its separate urban and rural legislation into a single Act.
<b>South Australia</b>	SA is embarking on legislative change. A Bill is being drafted which will repeal its existing separate legislation for its urban and rural services. These services are likely to be regulated by a single Act, which will be divided into separate parts for the urban and rural fire services, and the State Emergency Service. Another part will cover the new over-arching SA Fire and Emergency Commission. Part of the Act will be common to all of the services (e.g. some operational powers). However, each service will retain its own identity and operate as a separate organisation.
<b>Northern territory</b>	<p>The Fire and Emergency Services Act 2001 is the main fire-related act. It establishes and regulates the NT Fire and Emergency Service. The service responds to fires and other emergencies primarily within an designated emergency response areas.</p> <p>NT also has the Bush Fires Act 2001, which established the Bush Fire Council. The Act sets up a Chief Fire Control Officer and senior fire control officers, who work in fire control regions.</p>
<b>Western Australia</b>	<p>The Fire and Emergency Services Authority of Western Australia Act 1998 consolidated parts of WA's exiting urban and rural fire legislation, although it did not repeal these acts completely. FESA now administers these two Acts.</p> <p>Western Australia is poised to embark on further legislative reform to simplify their emergency service legislation. This is likely to result a single Fire Act to consolidate their remaining Bush Fires Act 1954 and Fire Brigades Act 1942. The FESA Act will also be updated.</p>
<b>New South Wales</b>	NSW has separate legislation for its urban and rural services: the NSW Fire Brigades and NSW Rural Fire Service respectively.
<b>Victoria</b>	Victoria has separate urban and rural fire legislation.

### **5.2.1 Discussion**

A range of legislative models are apparent. Some jurisdictions have had a single fire Act, covering urban and rural fire services, for a number of years (e.g. Tasmania and Queensland). Others are currently consolidating their urban and rural legislation into one Act (e.g. South Australia and ACT). Western Australia and Northern Territory have one main fire Act with additional legislation covering part of their fire arrangements. NSW and Victoria have separate legislation for their rural and urban fire services.

Although South Australia and ACT are likely to move to a single fire Act, they will still have separate urban and rural services operating under the single act, each with their own identity.

### 5.3 Structural integration

A range of different structural models are apparent when looking across the eight jurisdictions. **Table 15** summarises the eight structural models and attempts to provide a general ranking of structural integration.

**Table 15: Levels of structural integration of rural and urban services**

State/ Territory	Level of legislative integration
<b>Tasmania</b>	The Tasmania Fire Service is integrated at the senior management level, the regional level and the service delivery level.
<b>Queensland</b>	<p>The Queensland Fire and Rescue Service is part of the Department of Emergency Services, and covers urban and rural fire issues. The Rural Fire Service is a division within the QRFS.</p> <p>Unlike Tasmania, rural and urban services are not fully integrated at the service delivery level. However, the Queensland integration process is still evolving at the legislative level, administrative level and among the different emergency services.</p>
<b>Western Australia</b>	<p>The establishment of the Fire and Emergency Services Authority of Western Australia combined the Bush Fire Service and the Fire and Rescue Service, along with other emergency services.</p> <p>FESA has integrated senior management. The top executive positions are merged (i.e. Executive Director Fire Services &amp; Fire Services Executive Management Team), with merged regional managers below them that cover fire and state emergency service areas. Over the next 12 months, the FESA will work to merge the roles of the managers in the next structure level below (managers of district offices). Currently, in each district there are dual managers representing urban/rural services.</p>
<b>Northern territory</b>	<p>The NT Fire and Emergency Service is part of a tri-service agency: the NT Police, Fire and Emergency Services.</p> <p>The Bush Fires Council is an umbrella organisation and has a planning and co-ordinating role in fire management as its primary purpose, rather than acting as a fire fighting service. Land owners have a key role in fire management on their land.</p>
<b>ACT</b>	<p>ACT's Emergencies Bill 2004 will establish the Emergency Services Authority, which will be responsible for the overall strategic direction and management of the Fire Brigade, Rural Fire Service, Ambulance Service, and State Emergency Service.</p> <p>Day to day performance of the services' functions will remain under the direct management of the chief officers of each service, who, as members of the Authority's staff, will be responsible to the commissioner of the Authority.</p>
<b>South Australia</b>	<p>SA is likely to retain the State's Country Fire Service and its Metropolitan Fire Service. Each will be a separate organisation and each will retain its own identity under the new regime.</p> <p>A Fire &amp; Emergency Services Commission is to be established, which will have power of control and direction over the urban and rural fire services to the extent necessary to carry out its functions under its new legislation. However, it will not be able to direct the services on matters of operational procedure.</p>
<b>New South Wales</b>	NSW has separate urban and rural fire services, each with their own legislation and identities. The Fire Service joint Standing Committee Act 1998 sets up the Committee to provide strategic oversight of the co-ordination of the services and to maximise cooperation between them.
<b>Victoria</b>	Victoria has separate urban and rural fire services, each with their own legislation and identities. The Office of the Emergency Services Commissioner, established under the Emergency Management Act 1986 has an overarching role in emergency prevention and planning, and is mandated to facilitate co-operation between emergency services.

### 5.3.1 Discussion

Different levels of structural integration can be seen across the jurisdictions. Only Tasmania has a fully integrated fire service at all levels. Some jurisdictions have a single agency structure, but have not fully integrated down the chain to the less senior officers and out in the districts (e.g. Western Australia, Queensland).

Some jurisdictions like South Australia and ACT are creating umbrella agencies, which will have overall strategic direction and management over the urban and rural fire services. However, the different services will still be separate agencies, retain their own identities, and be in general charge of their own operations.

NSW and Victoria have separate urban and rural fire services, but there are external bodies with mandates to encourage co-operation and collaboration, and which also provide a strategic oversight function.

### 5.4 Overview of integration among the jurisdictions

The following diagram gives a broad overview of the continuum of integration apparent when looking across the states or territories. There will be overlap, when considering the legislative and structural integration.

	TAS	QLD / WA	NT	SA / ACT	NSW / VIC	
<b>Integrated rural and urban fire services</b>	Single fire act and single agency structure.	Single agency structure, but not fully integrated.  QLD has one Act. WA has three fire Acts.	Tri-service structure.  Two fire acts.	Reform will bring a single Act, with some common provision to both services.  Urban and rural services will retain be their separate identities	Separate rural and urban services and legislation.	<b>Separate rural and urban fire services</b>

### 5.5 Ongoing work to foster collaboration and co-operation between rural and urban services

All jurisdictions, regardless of their level of legislative or structural integration, are undertaking work to some extent to foster collaborative and co-operative practices between their urban and rural services. Examples include:

- Victoria’s urban and rural services recently revised the MoU between the services to assist more effective joint responses, and better joint service delivery. The MoU will be underpinned by a number of Joint Operational Procedures covering a range of issues, including: joint incident response, employees and specialist equipment, and provision of technical advice

and information. They have also started to have joint executive team meetings to foster better collaboration.

- South Australia's new Act will contain separate parts for the three separate emergency services regulated under it. However, where possible, the parts will be drafted in a consistent way and there will also be a set of operational provisions that will apply to all three services.
- Queensland has regional management groups to bring the emergency services together. Queensland recently announced it will be reviewing parts of its Fire and Rescue Act – including looking at some of the provisions for rural fires.
- Western Australia will be working to integrate its rural and urban services at the district level. FESA recently appointed a Director of Professional Standards, responsible for developing standards based on best practice – e.g. training standards, managements, communications, Standing Operating Procedures etc. WA will be looking at mechanism to require local governments, who administer rural brigades, to adopt these.

## **5.6 Issues and difficulties in integrating rural and urban services**

This section highlights some of the key issues and difficulties experienced by jurisdictions where integration has occurred or has been considered.

### **5.6.1 Participative approach**

The most consistent theme expressed by the jurisdictions interviewed was the need for a participative approach to reform – including the development of a new model, the decision-making process, through to implementation of reform.

Good consultation was essential for the Western Australian reform process in the 1990s, which resulted in the establishment of their Fire and Emergency Services Authority.<sup>20</sup> Western Australia conducted widespread consultation with employees and internal and external stakeholders. For instance, FESA's mission, vision, values and strategic intention was developed via a process of senior executive workshops, divisional forums, and focus groups. Feedback was incorporated throughout the process.

This process helped to manage concerns like : the career services dominating any new structure, or that the FESA bureaucracy would mean firefighters, other staff, and volunteers would have little input. Effective communication and consultation was vital in any integration process – which is essentially about bringing together of two different cultures.

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<sup>20</sup> Mitchell, B. 1998. Integrating Emergency services: *How WA is merging fire and emergency services agencies*. Australian Journal of Emergency management, pp 2-5.

The CEO of the Tasmania Fire service summed up the Tasmania experience: “an important lesson is compromise, communication and consultation”.

All jurisdictions have in-built mechanisms in their legislation to assist with ongoing stakeholder input and voice, post reform.

### **5.6.2 Cultural differences**

A common issue noted by officials was the challenge of trying to merge urban and rural services when they are different organisations, with very different cultures that had developed over many decades, and often had entrenched ways of operating. Tasmania noted this was one of the biggest challenges in their reform process. The services are very much a whole of career organisations, where people join young and often stay for a long time. Culture and values become firmly entrenched. It can be inherently difficult to affect immediate change.

As a generalisation, the urban fire service culture has generally been more militaristic and discipline-based, better paid, modelled on the United Kingdom model. The rural fire service can be very different: more democratic rather than autocratic; more relaxed; using more informal systems and structures; and relying more heavily on volunteers. Merging the two can cause significant issues at many levels of the process – including governance of the organisation.

### **5.6.3 Identity**

A number of jurisdictions’ reform process has explicitly recognised the need to retain the original identities of the organisations being integrated, even when a new structural model is being implemented.

For example, the recently tabled ACT Emergencies Bill and the South Australian drafting instructions for their proposed new legislation propose to create an umbrella agency structure. However, the existing urban and rural services will be maintained, recognising that each service will maintain its own identity.

Similarly, the Western Australian reform process in the late 1990s also recognised the need for the rural and urban fire services’ identities needed to be retained within the new Fire and Emergency Services Authority. Each service had over a hundred years of history and this could not be merged rapidly without retaining their own identities – especially at the grass roots levels where local units and brigades retained their community identity.

#### **5.6.4 Volunteer and paid staff**

A recent ACT report<sup>21</sup> noted a perceived reluctance on the part of some urban brigades to properly liaise with volunteer personnel at an incident. Additionally, volunteer bushfire brigades identified problems with organisational arrangements, and the perception that they were seen as 'free labour'. The report noted that a common operational culture within the firefighting elements was needed, and cited the Tasmanian model as a positive way of merging bush and urban fire services.

Tasmania has undertaken a lot of work regarding volunteer/paid staff issues in recent times. For example, ensuring volunteers are treated fairly and equitably, e.g. uniforms, equipment, and vehicles are the same as those used by career firefighters. Staffing agreements could be used as a tool to alleviate concerns.

Western Australia also noted the need to try and combat the perception that career services would take over the volunteer services. WA noted that the different cultures are deeply embedded, and in many instances based upon a type of family structure, where several generations may have been volunteer firefighters. Conversely, unions in some jurisdictions have argued that volunteers are taking away career jobs.

#### **5.6.5 Political support**

Some jurisdictions mentioned the obvious need for political support for integration. Unless the advantages of integration can be clearly demonstrated, or there had been limitations or shortcomings with the emergency response to a given emergency, political decision makers were reluctant to embark on reform of emergency services because of possible political risk – especially if there are very separate urban and rural services, with strong identities, who are vocal advocates. Even though integration may be considered worthwhile, an attitude of "if it's not seriously broken, don't try to fix it" prevails. South Australia made a pragmatic comment that sometimes the time is simply right for reform, which could have not happened previously. In some jurisdictions it is government policy to keep separate rural and urban services (e.g. Victoria).

#### **5.6.6 Other core problems**

Before the integration process can progress, there may be other intrinsically related issues requiring consideration and action. These could not be left to one side while the integration process occurred. For instance in Tasmania, despite their Act being passed in 1979, and with good political support for integration, it took around 10 to 15 years for integration to really occur.

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<sup>21</sup> McLeod R. N.. *Inquiry into the Operational Response to the January 2003 bushfires in the ACT*, August 2003.

Problematic issues requiring resolution included designing the right funding model, and the fact that many resources were run down.

### **5.6.7 Process of integration**

#### Types of integration

As outlined in **sections 5.1 – 5.5** the integration process can occur on a number of levels (e.g. legislative, structural, ongoing work to foster better collaboration and co-ordination). Inevitably, work will be required on all of these levels, and each level will have its own challenges.

#### A staged process

A key theme expressed by a number of jurisdictions was being realistic about what can be achieved in the short term, given the unique circumstances of their state or territory.

In Western Australia, for example, a new agency was established under new legislation. However, parts of the previous urban and rural fire legislation still exist as separate Acts. Seven years later Western Australia's planned reform will look to update the FESA Act and replace the old rural and urban fire legislation with a single fire Act.

South Australia's planned reform will repeal their current urban and rural fire service's legislation and replace them with a single Act. However, the services will remain separate organisations. In time perhaps a more structurally integrated model might be considered, but for now South Australia has developed a model appropriate for their own requirements.

A staged reform approach to integration can even be seen in the most integrated of Australian jurisdictions – Tasmania. The CEO of the Tasmanian Fire Service mentioned the possible benefits of integrating fire services with other emergency services like some United States jurisdictions. Such reform is not, however, an option for the short term.

Regardless of the level of legislative or structural integration, a number of jurisdictions emphasised the need for ongoing work to improve any given model.

#### Depth of integration

Related to a staged approach to integration is the concept of depth of integration: how far down the fire service the integration process should go. For example, although Tasmania is the most integrated fire service in Australia, they effectively had a dual urban/rural structure for a long time after their current Act was passed in 1979.

This dual structure existed from senior management to the regions, and to brigade level where urban and rural brigades existed, despite there being only one Act. Previously separate urban and rural components of the fire service

fought to retain their original identities. In 1990, a new model of a single structure emerged in Tasmania, which is in place now.

Similarly, Western Australia's FESA has integrated senior management: Executive Director Fire Services and Fire Services Executive Management Team, with merged regional managers below them that cover fire and state emergency service areas). However, managers at the next level below, (managers of district offices, are not integrated and a dual urban/rural structure exists. Integration at this next level down will be one of FESA's key areas of reform work in the future.

Partially integrated jurisdictions such as Queensland face similar issues.

### **5.6.8 Exclusions**

Any integration process has to determine what *not* to include in an integrated model. Each jurisdiction has agencies other than the fire service which are responsible for fire-related activities in particular settings (e.g. national parks, airports, or land management work)

### **5.6.9 Implementation issues**

A robust implementation process was regarded as essential by all the jurisdictions contacted. Some admitted that they could have done things better and there was a tendency to under-estimate some of the implementation steps, particularly inadequate change management work. Tasmania commented that for some issues they used somewhat of a "put it together and work out the detail later" approach was used: pass the legislation and work out afterwards how the TFS should be structured. It also involved marking time to enable people to get used to the integration of the services.

Most jurisdictions interviewed mentioned one or more of the following implementation issues:

- Identifying existing areas where good collaboration is happening already and building on this (e.g. common incident control system, common radio networks, common community focus, preparedness and prevention initiatives, common uniform and common work awards).
- Collocation of urban and rural services.
- Establishing open and effective two way communication.
- The need to almost over consult in order to move forward.
- Technical issues such as moving to the similar IT technology and radio communications.
- Equity of employee remuneration (traditionally urban services have been paid better).
- Volunteer versus paid staff issues.
- Using appropriate change management practices.
- Recognising the different skills and methodologies used by urban and rural firefighters.

## **Summary of key points**

- **Each jurisdiction's fire service has undertaken work to better integrate their urban and rural services. Each has developed their own model, with varying levels of:**
  - **Legislative integration;**
  - **Structural integration; and**
  - **Work to foster closer collaboration and co-operation between urban and rural fire services.**
  
- **A broad continuum of integration exists among the states and territories.**
  
- **Collectively the jurisdictions have experienced a range of issues impacting on the successful integration of their services. Some of these included:**
  - **Process issues (e.g. appropriate communication, consultation, and stakeholder participation in the reform process);**
  - **A staged approach to reform and the depth of integration attempted;**
  - **Political will;**
  - **The established rural and urban cultures and identities; and volunteer versus paid staff tensions;**
  - **Existing issues to resolve in parallel (e.g. an appropriate funding model for the fire service); and**
  - **Implementation issues.**

## **SECTION 6: IMPLICATIONS OF THE PUBLIC FINANCE (STATE SECTOR MANAGEMENT) BILL**

### **6.1 Background**

The governance and accountability arrangements for the New Zealand Fire service will need to draw on recent developments in New Zealand public sector management.

A major review of current public sector management has recently been undertaken by Treasury and SSC, culminating in a new Public Finance (State Sector Management) Bill 2003. The new Bill has three main elements:

- Amendments to the Public Finance Act 1989. This includes integration of the Fiscal Responsibility Act 1994;
- Amendments to the State Sector Act 1988; and
- The creation of a new Crown Entities Act.

If a decision is made to establish new, or continue with existing crown entities, under any new Fire Service Act, it will be necessary to comply with the requirements of the new Crown Entities Act, or make a case to justify any departures from this Act.

The decision should draw on advice from the Legislation Advisory Committee on the establishment of public bodies. The Committees' guide-lines on legislation development suggest that a public body should be established as a Crown entity where:

- Its activities fall outside those of core government, and there are no other compelling reasons for it to be a department; and
- It does not have clear commercial objectives, or if it does, there are other reasons (such as overriding social objectives) which make the crown entity form inappropriate; and
- Its activities are part of executive government.

### **6.2 Key features of the Crown Entities Bill**

The purpose of creating a new Crown Entities Act was to reform the law relating to Crown entities and to provide a consistent framework for the establishment, governance, and operation of all Crown entities. The new Crown Entities Act is intended to:

- Set out consistent governance and accountability requirements for Crown entities;
- Clarify relationships between Crown entities, their board members, the Crown, and Parliament, including clear and consistent roles, duties, and procedures for appointment and removal of governing body members;

- Tailor the governance and accountability framework to capture major differences between Crown entities according to their relationship with the Crown by providing for different categories of Crown entities (including the degree to which the Crown entity is required to give effect to, or be independent of, government policy);
- Clarify the powers and duties of board members in respect of the governance and operation of Crown entities, including their duty to ensure the financial responsibility of the Crown entity; and
- Provide mechanisms for the Government to express and enforce a whole of government approach.

The new Crown Entities Act will be an umbrella statute that provides generic rules for all Crown entities. It will apply to all Crown entities except to the extent that their own Acts vary the new rules. Whether the new rules will need to be modified in any new Fire Service Act will be informed by the findings of the rest of this report.

The new act provides for five different categories of Crown entities. These are:

- Statutory entities. A body corporate that is established by or under an Act.
- Crown entity companies. A company incorporated under the Companies Act 1993 that is wholly owned by the Crown.
- Crown entity subsidiaries. A company incorporated under the Companies Act 1993 that is ultimately wholly or majority owned or controlled by statutory entities or Crown entity companies.
- School boards of trustees.
- Tertiary education institutions.

Statutory entities are further subdivided into 3 types. These are:

- Crown agents, which must give effect to government policy, if directed by a Minister to do so.
- Autonomous Crown entities, which must have regard to government policy.
- Independent Crown entities, which are generally independent of government policy.

### **6.3 The characteristics of each of these categories**

#### *Crown agents*

The principal features of a crown agent are:

- Board members are appointed, in most cases, by the responsible Minister.
- Board members hold office for 3 years or less.
- Board members may be removed by the responsible Minister entirely at his or her discretion.

- Remuneration for board members determined, in most cases, by the responsible Minister.
- Responsible Minister may direct the entity to give effect to a government policy.
- May be re-categorised by Order in Council.

#### *Autonomous Crown entities*

- Board members are appointed, in most cases, by the responsible Minister.
- Board members hold office for 3 years or less.
- Board members may be removed by the responsible Minister for any reason that in the Minister's opinion justifies the removal.
- Remuneration for board members determined, in most cases, by the responsible Minister.
- Responsible Minister may direct the entity to give effect to a government policy.
- May be re-categorised as an independent Crown entity by Order in Council, but not as a Crown agent.

#### *Independent Crown entities*

- Board members are appointed by the Governor-General on the recommendation of the responsible Minister.
- Board members hold office for 5 years or less.
- Board members may be removed by the Governor-General for just cause, on the advice of the responsible Minister given after consideration with the Attorney-General.
- Remuneration for board members determined, in most cases, by the Remuneration Authority.
- There is no power to direct on government policy unless provided in another Act.
- May not be re-categorised by Order in Council.

### **6.4 Discussion**

If one or more crown entities are to be established as part of the governance arrangements for the New Zealand Fire Service, the primary considerations for deciding on the class of crown entity to use are whether:

- The proposed functions of the new entity are commercial in nature - which would indicate the company form;
- The entity will be required to give effect to Government policy? or
- The entity will be required to have regard to Government policy? or
- The entity should have a statutorily independent functions (e.g. in making certain decisions, or issuing certain benefits) which should be beyond Ministerial influence or control?
- Decisions about the core functions of the entity should properly be beyond Ministerial direction.

The answers to these questions will turn upon the functions that will be performed by any crown entity or entities established or continued, and the

degree of control that government may wish to exercise over the entity or entities.

**Part 7** of this report provides further guidance on the factors which could be taken into account when making a final decision on the class of entity or entities to use.

### **Summary of Key Points**

- **If a decision is taken to continue with or establish a new crown entity or entities to provide for the governance of the Fire Service, regard must be had to the requirements of the new Crown Entities Act.**
- **The new Crown Entities Act will provide generic rules which will apply to the governance of all Crown Entities.**
- **The rules in the new act can be modified where there are cogent reasons for doing so.**
- **Decisions on what class of crown entity to use should be guided by the principles set out above and by the checklist set out in Part 7 of this report.**

## SECTION 7: DESIGNING A GOVERNANCE FRAMEWORK FOR NEW ZEALAND FIRE LEGISLATION

This section collates many of the issues considered in this report and effectively provides a checklist of issues to consider when designing a new governance framework for new fire legislation in New Zealand.

Governance-related area	Issues for determination
<b>Type of entity</b>	<ul style="list-style-type: none"> <li>- Possible models include a Government department, part of a government department, or a Crown entity.</li> <li>- The new crown entities reform work proposes five different categories of crown entity. Part 6 sets out some of the consideration that will be relevant to determining which model is most appropriate.</li> <li>- Check the LAC guidelines.</li> </ul>
<b>Establishment and legal status of the fire service</b>	<ul style="list-style-type: none"> <li>- A General provision establishing the fire service and giving it a particular legal status (e.g. a body corporate).</li> </ul>
<b>Statutory functions of the fire service</b>	<ul style="list-style-type: none"> <li>- A provision will be needed to set out the broad fire-related and non fire-related functions to be undertaken by the Fire Service.</li> <li>- The specific work activities to be undertaken by the Fire Service across the preparedness, prevention, response, recovery spectrum should be agreed.</li> <li>- What is excluded from the Fire Services jurisdiction (e.g. airports, national parks)?</li> <li>- Need a mechanism to add to these if Fire Service's core work evolves into other areas.</li> </ul>
<b>Governing body</b>	<ul style="list-style-type: none"> <li>- This will depend on the nature of the entity. Will it continue to be a crown entity or will this change?</li> <li>- Type of governing body (e.g. retain the Commission model, a Board, or a government department structure?).</li> <li>- Clearly define the functions / role duties and responsibilities of the governing body.</li> <li>- What powers are needed to help it fulfil its functions / duties including a power to delegate its functions or powers)?</li> <li>- Provisions will be needed regarding the appointment, composition and membership, of the body and the rules it operates under.</li> <li>- Relationship to any umbrella department (e.g. DIA) or key player (e.g. the Minister)</li> </ul>
<b>Officers and staff</b>	<ul style="list-style-type: none"> <li>- Chief officer – role and responsibilities, powers &amp; duties clearly defined.</li> <li>- Appointment and tenure.</li> <li>- Relationship of chief officer with governing body.</li> <li>- Role of executive management team.</li> <li>- Levels of other officers and staff and associated provisions.</li> <li>- of officers (i.e. responsibilities / roles, powers to enable each to fulfil their functions / responsibilities.</li> <li>- Delegation of powers of officers.</li> <li>- Command structure of the organisation.</li> <li>- Obligations and rights of staff.</li> <li>- Role volunteers and their associated responsibilities and duties.</li> </ul>
<b>Strategic/operational split</b>	<ul style="list-style-type: none"> <li>- Clear delineation between the roles and responsibilities of the governing body and the operational functions of the service or chief officer.</li> </ul>

Governance-related area	Issues for determination
<b>Committees and advisory bodies</b>	<ul style="list-style-type: none"> <li>- A committee forming power is a standard legislative provision.</li> <li>- Different types of committees may need to be established in legislation, e.g.:               <ul style="list-style-type: none"> <li>➤ Ministerial advisory bodies;</li> <li>➤ Stakeholder forums;</li> <li>➤ Expert/technical committees;</li> <li>➤ Representative committees; or</li> <li>➤ Bodies with planning or operational functions.</li> </ul> </li> <li>- Provisions will be needed regarding the functions, membership, obligations of members, proceedings of the committee, etc.</li> </ul>
<b>Accountability provisions</b>	<ul style="list-style-type: none"> <li>- Prospective requirements (e.g. corporate or strategic plans).</li> <li>- Retrospective reporting (e.g. Annual Reports, financial statements &amp; audits).</li> <li>- Other accountability mechanisms (e.g. adhering to directions from the Minister, discipline provisions).</li> <li>- Other public sector management law.</li> </ul>
<b>Regulation-making &amp; standard setting powers</b>	<ul style="list-style-type: none"> <li>- What governance-related issues need regulation-making powers?</li> <li>- Do you want a standard-setting mechanism, vested in a senior officer, to be included?</li> <li>- If so, who will issue such standards and what can they cover?</li> <li>- What process is required to develop them?</li> <li>- Will they be mandatory or discretionary?</li> </ul>
<b>Organisation of services</b>	<ul style="list-style-type: none"> <li>- Are the existing urban and rural fire districts appropriate?</li> <li>- Alignment with local authority boundaries</li> <li>- Are any changes needed to how they are controlled &amp; managed?</li> <li>- Regional levels to the organisations structure</li> <li>- Mechanism to decide who leads the response in cross-boundary emergencies; what are responsibilities of the key players?</li> </ul>
<b>Brigades and Fire Units</b>	<ul style="list-style-type: none"> <li>- Creation, jurisdiction, organisation, membership.</li> <li>- How do they fit into the overall governance structure? – e.g. compliance with standards issued by the Fire Service.</li> </ul>
<b>Role of local government</b>	<ul style="list-style-type: none"> <li>- Some governance-related functions could be vested in local government in some jurisdictions</li> </ul>
<b>Non legislative governance mechanisms</b>	<ul style="list-style-type: none"> <li>- Development of non-legislative governance mechanisms to underpin those in the new Act, including:               <ul style="list-style-type: none"> <li>➤ Governance policy statements;</li> <li>➤ Mission and vision statements;</li> <li>➤ Statements of values;</li> <li>➤ Agency resource agreements;</li> <li>➤ CEO performance agreements;</li> <li>➤ Setting strategic targets, outputs, outcomes;</li> <li>➤ Ethics;</li> <li>➤ Evaluations of key players; and</li> <li>➤ Memoranda of understanding.</li> </ul> </li> <li>- Many will depend on the outcome of the public sector financial management reform.</li> </ul>
<b>Integration of urban and rural services</b>	<ul style="list-style-type: none"> <li>- Legislative integration and structural integration.</li> <li>- Consider some of the difficulties to integration raised in this report.</li> <li>- Depth of integration: governing body, senior management team, chief officers, operational officers, brigades.</li> <li>- Processes and procedures to foster collaboration and co-operation between rural and urban stakeholders.</li> </ul>