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| This image is for decoration only.Fire Services Review Background: Summary of the Report of the Fire Review Panel’s recommendations27 May 2015  |
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# Introduction

This background paper sets out the recommendations of the Swain Report and the progress towards putting the recommendations into action. See the discussion document for more information about the Swain Report. As noted in the discussion document, Cabinet made governance and mandate decisions in September 2013, but the legislation to progress the decisions has not yet progressed. These decisions will be progressed through legislation once further policy decisions are made on the Fire Services Review. Any changes to previous Cabinet decisions must be agreed by Cabinet.

**Table 1: Swain Report recommendations**

| Rec. No. | Recommendation/s | Current response from the Government or Commission, where appropriate |
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| 1 | That the New Zealand Fire Service Commission (the Commission) develop a vision and long-term strategic plan for fire services. | Vision 2020 was outlined in the [Fire Service Commission’s 2014 – 18 Statement of Intent](http://www.fire.org.nz/about-us/publications/Statement-of-Intent/Pages/NZFSCommissionStatementofIntent2014-2018.html). Long term strategic plan discussions are underway. |
| 2 – 4 | That the Forest and Rural Fires Act 1977 and the Fire Service Act 1975 be amended so that:* they are re-drafted in plain English;
* they implement the Review’s recommendations;
* they are renamed to reflect the broader functions of the fire services; and
* the Forest and Rural Fires Act retains its name to ensure its continued focus on vegetation fires.
 | In September 2013, Cabinet agreed that the new fire legislation should recognise the importance of rural fire issues by continuing with separate Acts.[[1]](#footnote-1)  |
| 5 | 1. That the mandate for the non-fire emergency functions currently delivered by New Zealand’s fire services be assigned to the Commission, with the mandate to include:
* the authority to set service delivery standards for a function;
* the requirement to establish service delivery capability across New Zealand;
* the legal protection for fire services’ workers if things go wrong during a rescue or emergency;
* the authority to accredit another agency to deliver a function; and
* the ability to pass on legal protection to accredited service providers.
 | In September 2013, Cabinet agreed that the statutory mandate of the fire services be updated to reflect the non-fire functions currently performed.[[2]](#footnote-2) This includes amending the fire legislation to recognise the fire services’ roles in responding to civil defence emergencies in accordance with existing statutory functions under the Civil Defence Emergency Management Act 2002 and Order 2005.[[3]](#footnote-3) Cabinet also agreed that the Commission:* has statutory responsibility for delivery of all fire and non-fire functions in the recommendations, with the exception of functions held by RFAs;
* can delegate functions as required;
* can authorise parties outside fire services to deliver its functions;
* has lead and assistance functions as specified in the Cabinet recommendations; and
* collaborates with relevant organisations to ensure capability to minimise gaps and overlaps, and agree any service delivery standards and operational delivery arrangements.[[4]](#footnote-4)
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| 6  | That the rural fire services maintain their focus on vegetation fires, but can be accredited to provide non-fire activities and have right of first refusal for accreditation in their area. | In September 2013, Cabinet noted that RFAs continue with their existing functions and may seek authorisation from the Commission to perform specific non-rural fire functions.[[5]](#footnote-5) |
| 7 | 1. That any accreditation made by the Commission with a Rural Fire Authority should include coverage of the funding, equipment and training needed to undertake the additional accredited service.
 | In September 2013, Cabinet agreed that the Commission must consider the capability of the RFA to effectively perform the non-rural fire function when giving authorisation. Cabinet also noted that the Commission will establish a flexible authorisation and service delivery model that caters for the different circumstances of firefighters.[[6]](#footnote-6) |
| 8 | 1. That the revised legislation provide firefighters with a suitable limitation of liability provision for undertaking the functions for which they are mandated under the redrafted Acts.
 | In September 2013, Cabinet agreed that current liability be extended to persons performing the full range of non-fire functions proposed.[[7]](#footnote-7)  |
| 9 | That a process be established in legislation for adding to, amending and approving the mandate of fire services (as described in Recommendation 5), through a mechanism such as an Order in Council, so that future service needs can be addressed without needing to amend primary legislation. | No Cabinet decision needed because the legislative mandate is a non-exclusive list (i.e. includes “any other situation where the Commission has capability to respond”). |
| 10-15 | That an Emergency Services Chief Executives’ Forum be established and that it:* includes the Chief Executives from the Department of Internal Affairs, New Zealand Fire Service (NZFS), New Zealand Police, St John Ambulance, Wellington Free Ambulance and the Director of the Ministry of Civil Defence & Emergency Management;
* is established under Cabinet mandate; and
* has a Chair who is appointed by Ministers.

Terms of reference include the provision of advice to Ministers on coordinating emergency services, integrating strategic planning, identifying mandated agencies for emergency responses, asset planning, resource sharing and cross-agency training opportunities | The Ministers of Internal Affairs, Health, Police and Civil Defence invited the Chief Executives to form the Forum in May 2014.The Chief Executives were those set out in the Swain Report recommendations, excluding the Department of Internal Affairs and including the Ministry of Health.No Cabinet mandate was sought for the Forum.Terms of reference are similar to the Swain Report recommendations, with the focus on joint investment, emergency services telecommunications, changing service delivery models and workforce sustainability in the emergency sector.The Forum has held two meetings, in August and November 2014. |
| 16 – 19 | That the NZFS management, United Fire Brigades’ Association and representatives of rural fire volunteers jointly develop recommendations on the relationship between volunteers and their employers for the Commission, and jointly review all of the terms and conditions of volunteer engagement.That the Commission ensures that volunteer sustainability programmes are appropriately resourced, managed and monitored, and special courses are developed for first time managers.  | Research has been conducted with employers of NZFS and Rural Fire Force volunteers, exploring their perceptions of advantages, barriers and financial disadvantages.A managing volunteers module is now included within NZFS’s Executive Officer Career Training and Progression System (TAPS) programme. External legal advisors are reviewing agreement of service and model rules for NZFS volunteer brigades.  There are a number of projects focused on building a strong and resilient volunteer workforce, which have considerable ongoing management focus. These include a wider range of projects aimed at supporting and developing Chief Fire Officers and volunteers. In September 2013, Cabinet agreed that the fire legislation be amended to acknowledge the role of volunteers and require the Commission to actively provide for the continued sustainability of volunteers.[[8]](#footnote-8)  |
| 20 | That the Commission considers the establishment of a senior management position responsible for building and sustaining the quality of the relationship between the NZFS and the volunteer arm of the service. | The Commission rejected this recommendation because it wants operational management to be common to both career and volunteer firefighters, given the integrated nature of NZFS operations (i.e. where career and volunteer crews may work alongside each other).  |
| 21 | 1. That the Commission ensures that members of volunteer brigades enjoy terms and conditions of engagement with the NZFS that are in all ways equal to those that apply to employees of the NZFS and all appointment, performance assessment and disciplinary processes for volunteers be founded on principles of fairness and natural justice.
 | External legal advisors are reviewing the agreement of service and model rules for NZFS volunteer brigades. |
| 22 | 1. That the liability of fire services’ volunteers mandated to respond to non-fire emergency incidents be limited in the event of a misadventure at an incident they attended in good faith.
 | In September 2013, Cabinet agreed that current liability be extended to persons performing the full range of non-fire functions proposed.[[9]](#footnote-9)  |
| 23 | That the Commission and the UFBA be invited to explore options for amending the existing dispute resolution provisions, including establishing a mediator position whose decisions in disputes between volunteers and NZFS management would be final. | NZFS instructed its external lawyers to review the current disputes resolution processes, and the agreement of service between the Commission and volunteer brigades and volunteer brigades’ model rules, in light of these recommendations. This included identifying any shortcomings in the agreement and rules, and making practical suggestions about how the Commission and NZFS might be able to support volunteer brigades more comprehensively.NZFS has set up a working group to consult with relevant stakeholders (including the UFBA) on the recommendations and proposed changes. |
| 24 | That the comprehensive approach to fire management expressed in the current Fire Service Act be retained in any new legislation, and that the Commission continues to be charged with taking an active role in promoting and coordinating fire safety in New Zealand, including fire safety research, as a matter of importance. | In September 2013, Cabinet agreed that the fire legislation give the Commission lead functions in promoting fire safety.[[10]](#footnote-10) |
| 25. | That the Commission commits a greater percentage of its resources to proactive risk reduction through fire safety promotion programmes. | The Commission is reviewing its fire safety strategy, which will enable informed decisions to be made on the allocation of resources for risk reduction. |
| 26. | That the Commission takes a more rigorous risk-based approach to allocating resources between reduction and response activities and that in this respect the outputs of the National Resource Allocation Model be given greater weight in strategic decisions. | A project is continuing which works with the Commission’s Strategic Leadership Team to develop and agree on principles on using the National Resource Allocation Model.  |
| 27 – 29 | That the Commission:* remains classified as a Crown Agent under the Crown Entities Act and that legislative amendments are aligned with the principles of the Crown Entities Act; and
* be vested with the functions and powers rather than named executive officers.
 | It is assumed that the Commission remains a Crown Agent.Cabinet agreed in September 2013 that the fire legislation is to be aligned with the Crown Entities Act.[[11]](#footnote-11) |
| 30 | 1. That the position of Chief Executive be separate to, and distinct from, any other leadership roles in the fire service.
 | Cabinet agreed in September 2013 that the Commission has full discretion to decide which persons may hold these roles,[[12]](#footnote-12) which differs from the Swain Report’s recommendation that they must be kept separate. The Cabinet decision aligns with the Commission’s view that the Commission should have discretion about whether the roles are separate or held by the same person. |
| 31 | 1. That the new fire services’ legislation:
* assigns to the Commission the responsibility to establish the management structure for the entity;
* establishes that the senior management positions responsible for each of the urban and rural fire functions be at an equivalent level and that both report to the Chief Executive; and
* leaves the description of, and titles for, the senior management roles responsible for urban and rural fire to the Commission.
 | The second bullet point contradicts the Commission's view that the National Commander and Chief Executive can be filled by the same individual, so the second paragraph of this recommendation has been rejected (see current response to recommendation 30).In September 2013, Cabinet agreed that there be a National Commander and a National Rural Fire Officer. Cabinet also agreed that their detailed roles and functions be defined through delegations, rather than specified in fire legislation.[[13]](#footnote-13) This differs from the Swain Report’s recommendation that the description of, and titles for, the senior management roles be left to the Commission, but aligns with leaving the description of their roles to the Commission. |
| 32 | 1. That the new fire services’ legislation enable the appointment of up to seven members, at least one of whombe knowledgeable of the rural sector.
 | The Commission has rejected this recommendation because it considers that its present size is adequate and effective with the right mix of skills. However, an additional position may be adopted in the future for succession and transition reasons.In September 2013, Cabinet agreed that the new fire legislation align with the Crown Entities Act by requiring that five or six people be appointed to the Commission,[[14]](#footnote-14) compared to the seven recommended by the Swain Report. Cabinet also agreed that the Minister would have regard to the rural and urban experience of people appointed to the Commission, rather than the Review’s recommendation that at least one member is knowledgeable of the rural sector.  |
| 33 | 1. That the National Rural Fire Advisory Committee be a sub-committee of the Commission, chaired by a Commission member.
 | The National Rural Fire Advisory Committee was formally established as a subcommittee in October 2013, to advise the Commission on rural fire policy issues. It is now known as the Rural Fire Committee of the Commission. |
| 34 | 1. That a National Urban Fire Advisory Committee be established and be a sub-committee of the Commission, chaired by a Commission member.
 | The Commission rejected this recommendation because it considers that existing stakeholder networks are adequate for providing advice and sharing information.  The Commission did not see that there was need or merit in giving such a group a formal governance role. |
| 35 | 1. That a suitably qualified third party be engaged to undertake an independent baseline review of the Commission’s capability and expenditure and that the exercise be repeated every 3-5 years.
 | On 17 March 2014 Martin Jenkins published *NZFS – Report on Expenditure and Service Delivery,* which provided a snapshot review of the Commission. An additional piece of work by Martin Jenkins ­ *Review of NZFS Efficiency and Effectiveness was completed on 30 July 2014.* A similar activity will be completed by 2019. |
| 36 – 38 | 1. That the Commission works much more closely with the Department on strategic direction, revising its quarterly reporting and re-evaluates its non-financial performance measures.
 | The Commission is engaging with the Department of Internal Affairs on strategic issues and has developed a new reporting template that includes fewer and improved performance measures. Developing new and refining existing measures will continue to be an ongoing task.  |
| 39 | 1. That the period for rural fire districts to amalgamate voluntarily into Enlarged Rural Fire Districts conclude one year after the enactment of the new fire services legislation.
 | In September 2013, Cabinet agreed that the Minister of Internal Affairs set clear expectations and deadlines for the Commission around the creation of ERFDs, without the need for changes to legislation.[[15]](#footnote-15)  |
| 40 – 41 | 1. That the National Rural Fire Authority (NRFA):
* fund appropriate independent facilitators/mediators to work with each of the existing Rural Fire Authorities to overcome the barriers to proceeding towards an Enlarged Rural Fire District; and
* review the financial incentives for the Enlarged Rural Fire District process, to encourage adoption of enlarged rural fire districts.
 | The NRFA has commissioned Morrison Low to work with Rural Fire Authorities (RFAs) that are interested in becoming ERFDs. They have completed work with Rural Fire Authorities that have since transitioned to ERFDs in 2013/2014, and are continuing to work with the six RFAs in North Canterbury that are seeking to form an ERFD. Nine RFAs in the Central North Island are being supported to form an extended Pumicelands ERFD by 1 July 2015.Martin Jenkins completed the report *ERFDs Developing a Best Practice Model* for the Rural Fire Commission Committee in September 2014. The report was then circulated to all RFAs. A review of the NRFA’s administration grant funding criteria and policy for ERFDs is currently underway. |
| 42 – 54 | A number of recommendations about the fire service levy, including:* shifting the levy base for non-residential property to a levy on premiums;
* extend the levy base for non-residential property to all contracts of material damage;
* ensure the NZFS continues to have the discretion to charge for services delivered;
* adjust the caps for residential and personal property and reduce the levy rate accordingly;
* investigate the inequity that exists between those who insure and those who do not insure and advise the Minister;
* the inequities between rural and urban levy payers be addressed in specific ways;
* that levy returns provide more information;
* the proposals are modelled;
* the transport sector contribute to funding.
 | In March 2013, Cabinet agreed that a comprehensive reform of fire service funding proceed on a more measured track than the first phase of the reform package (governance and mandate amendments).[[16]](#footnote-16)  |
| 55 | That a further review of New Zealand’s fire services be undertaken five years after the enactment of any new legislation resulting from the recommendations contained in this report. | Further review to be confirmed once legislation is enacted. |

1. Recommendation 4.1 [EGI Min (13) 20/5] [↑](#footnote-ref-1)
2. Recommendation 16 [EGI Min (13) 20/5] [↑](#footnote-ref-2)
3. Recommendation 24 [EGI Min (13) 20/5] [↑](#footnote-ref-3)
4. Recommendations 11, 12, 17, 18, 19 and 20 [EGI Min (13) 20/5] [↑](#footnote-ref-4)
5. Recommendations 21 and 22.1 [EGI Min (13) 20/5] [↑](#footnote-ref-5)
6. Recommendations 22.2 and 23 [EGI Min (13) 20/5] [↑](#footnote-ref-6)
7. Recommendation 25 [EGI Min (13) 20/5 [↑](#footnote-ref-7)
8. Recommendation 15 [EGI Min (13) 20/5] [↑](#footnote-ref-8)
9. Recommendation 25 [EGI Min (13) 20/5] [↑](#footnote-ref-9)
10. Recommendation 18.1 [EGI Min (13) 20/5] [↑](#footnote-ref-10)
11. Recommendation 3 [EGI Min (13) 20/5] [↑](#footnote-ref-11)
12. Recommendation 8 [EGI Min (13) 20/5] [↑](#footnote-ref-12)
13. Recommendations 6 and 7 [EGI Min (13) 20/5] [↑](#footnote-ref-13)
14. Recommendations 3.1 and 3.2 [EGI Min (13) 20/5] [↑](#footnote-ref-14)
15. Recommendation 14 [EGI Min (13) 20/5] [↑](#footnote-ref-15)
16. Recommendation 6 [EGI Min (13) 6/8] [↑](#footnote-ref-16)