



# VOLUNTEER FIRE BRIGADES VICTORIA

## News Note

**NOTE TO MEMBERS – 18 August 2017**

### **FIRE SERVICES BILL SELECT COMMITTEE FINAL REPORT**

This morning the Fire Services Bill Select Committee tabled the Final Report of its inquiry into the Fire Services Bill.

VFBV welcomed the Final Report, and congratulated the Select Committee on the way they had engaged with all stakeholders. The Committee has worked diligently and within a very tight timeline to hear and examine the evidence put before it. VFBV is extremely grateful for the opportunity provided to volunteers and staff alike to be represented at Regional forums to discuss first hand their concerns with the Government's proposed legislation.

The Committee's Final Report provides 10 Recommendations, and 10 Findings, which VFBV fully supports and endorses.

The recommendations and findings overwhelmingly recommend that the Bill be withdrawn – and in the event the Government decides not to withdraw it – then the Committee recommends that that the Legislative Council should reject the bill. The Committee have also recommended that the Presumptive Rights Compensation part of the legislation should be split from the Bill and reintroduced as a standalone bill.

The final report finds that the Government developed its restructure proposal secretly and quickly – bypassing normal government processes, and has justifiably criticized the Government's claim of 'executive privilege' to avoid producing evidence requested by the Committee, a ruse designed to frustrate the Committee's inquiry. It also found that the Government did not meet its statutory obligation to consult with VFBV and volunteers.

#### **RECOMMENDATIONS AND FINDINGS**

Key recommendations of the Committee:

**RECOMMENDATION 6:** Due to the lack of implementation, operational and funding certainty; failure to undertake consultation; and consequential polarisation of fire services volunteers and staff, the Bill should be withdrawn. If not withdrawn, the Legislative Council should reject the Bill.

**RECOMMENDATION 7:** Part 2 of the Bill, 'Firefighters' Presumptive Rights Compensation' should be reintroduced to Parliament as a stand-alone Bill to be considered on its merits.

Further recommendations of the Committee:

**RECOMMENDATION 1:** The Government ensure compliance with its consultation obligations under the Volunteer Charter and the Country Fire Authority Act 1958 prior to proceeding with any further reform of the fire services.

**RECOMMENDATION 2:** The Government undertake meaningful and balanced consultation with Emergency Management Victoria, the Country Fire Authority, the Metropolitan Fire Brigade, staff and volunteer representatives prior to proposing any further reform of the fire services.

**RECOMMENDATION 3:** The Government develop and publish a detailed implementation plan in parallel with any further fire services reform proposal.

**RECOMMENDATION 4:** Country Fire Authority staff should continue to be employed directly by the Country Fire Authority, and solely within the Country Fire Authority chain of command. Secondment should only be used for staff exchange/development opportunities, not as a default employment mechanism.

**RECOMMENDATION 5:** The Government and its agencies not endorse any enterprise agreement, instrument or accord, which has the effect of limiting the exercise of statutory powers of the chief officer(s) of the fire service(s).

**RECOMMENDATION 8:** The Government ensure adequate infrastructure funding for the fire services independently of the restructure.

**RECOMMENDATION 9:** The Government develop and publish a detailed funding plan in parallel with any further fire services structural reform proposal. The funding plan should identify and address the impact of:

- a) resource and asset transfers between the Country Fire Authority and Fire Rescue Victoria;
- b) the creation of the Fire Rescue Victoria fire district on the Fire Services Property Levy revenue base beyond the two year freeze period; and
- c) any changes to the differential charging rates for the Fire Services Property Levy beyond the two year freeze period.

**RECOMMENDATION 10:** The Legislative Council refer the Department of Premier and Cabinet to the Legislative Council Privileges Committee for investigation of its interference with the Committee's inquiry.

In addition to the above ten recommendations, the Committee have also made ten findings:

**FINDING 1:** The restructure of the Country Fire Authority and the Metropolitan Fire Brigade as proposed in the Bill was not included among the recommendations of the fire services reviews undertaken over the last decade.

**FINDING 2:** The policy development process for the restructure did not involve representatives from Emergency Management Victoria, the Country Fire Authority or the Metropolitan Fire Brigade.

**FINDING 3:** The Government's failure to consult with the Volunteer Fire Brigades Victoria as required by the Volunteer Charter and the Country Fire Authority Act 1958 has caused considerable concern to Country Fire Authority volunteers, reinforced the perception of a bias towards the United Firefighters Union, and undermined confidence in the restructure proposal.

**FINDING 4:** The Government's original written submission to the Committee contained substantial errors relating to its claimed level of consultation. Its failure to acknowledge and correct those errors until prompted by the Committee undermines confidence in the claimed consultation process.

**FINDING 5:** The Government's failure to undertake implementation planning in parallel with developing the restructure proposal has caused substantial and unnecessary uncertainty in the community as to the impact of the proposed changes on the fire services.

**FINDING 6:** The Government has taken the unusual step of including 'implementing the Victorian Government's fire and emergency services priorities' as a statutory function of Fire Rescue Victoria alongside fire prevention and suppression, and emergency prevention and response.

**FINDING 7:** Section 38 of the Bill as drafted may limit the capacity of the Country Fire Authority Chief Officer to exercise operational control of seconded staff.

**FINDING 8:** The impact of the restructure on firefighting surge capacity is disputed and will not be known until after the restructure is bedded down. It is important that surge capacity is not diminished through changes to the fire services.

**FINDING 9:** The development and publication of quarterly outcomes-based fire services performance measures will provide the Victorian community with more meaningful data than is presently available.

**FINDING 10:** The Government's claim of executive privilege over the Victorian Equal Opportunity and Human Rights Commission report is inconsistent with the Commission's stated intention of publicly releasing its report in mid-2017.

The Committee regards the changing explanations provided by the Victorian Equal Opportunity and Human Rights Commissioner for her failure to comply with the summons, along with the Government's claim of executive privilege as designed to frustrate the Committee's Inquiry.

## MINORITY REPORT

Whilst a minority report was also tabled, the minority report from the Labor and Green members of the Committee also supported eight of the ten recommendations. They agreed with recommendations 1, 3, 5 and 8 – and agreed-in-principle to recommendations 2, 4, 9 and 10.

Disappointingly the minority report did not agree that the Presumptive Rights Legislation component of the bill be separated so that it can return to Parliament as a standalone bill, and be considered on its merits.

## **GOVERNMENT RESPONSE**

Following the release of the Committee's Final Report - the Government's Media release advises that the Government will closely consider the recommendations made by the Committee.

It is unknown if Government will accept the recommendations, or choose to re-table its legislation when the Upper House sit next week. Prior to the release of the Final Report, the Government had indicated it was seeking to debate the bill in the Upper House when its sits again next week.

Should Government decide to put their legislation to a vote, the legislation will again be left to the cross bench to decide on its future, with the Government requiring the support of the five Greens plus two of the remaining five independents to pass the legislation.

## **VFBV VISION**

VFBV wants to make it very clear that CFA volunteers appreciate and respect the dedication, skill and work of our CFA paid colleagues. Our vision for CFA is for it to be a modern and contemporary emergency service where volunteers and paid staff work side by side, as equals and respect one another.

We are against anything that tries to create a wedge between volunteers & paid staff, and any arrangements that seek to demoralise, discriminate or segregate volunteers from our paid colleagues. We are all CFA members who want to put our communities first.

Our desire is for a modern approach, focussed on all people working together to maintain and build volunteer and community safety; a respectful culture focussed on empowering and supporting local volunteer brigades and communities with the flexibility and agility to enable CFA to tailor resources and support to local community's needs.

## **WAY FORWARD**

VFBV fully supports all ten recommendations of the Committee, and believes each of those recommendations should be accepted and diligently worked through to rebuild trust and confidence between Government and all stakeholders.

VFBV suggestion for immediate steps as a way forward include:

1. The proposed legislation should not be supported. The Bill should be withdrawn and its underlying assumptions rethought for the provision of agile, responsive and effective community embedded public safety across Victoria
2. The Presumptive Rights Legislation should be split into a separate Bill, and remove the discriminatory aspects from the bill to ensure volunteers and career staff are provided equal protection and treatment
3. Establishment of an independently chaired, all stakeholder fire service improvement task force as an immediate step in rebuilding trust and respect between Government and all stakeholders and agencies, creating a shared vision and journey to:
  - a. Commence and actively facilitate organisational culture and positive relationship shift
  - b. Engage key stakeholders on fair and equal footing

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- c. Support active leadership to rebuild a shared focus and commitment to common operating principles and goals
  - d. Facilitate an independent review of fire service best practice models to inform reform
  - e. Identify priority areas for improvement in Victoria's Fire Services including treatment options for service delivery gaps if they exist across either services
  - f. Ensure independent and transparent assessment of options and feasibility/costs/benefits impacts of proposed reforms (including cost/benefit analysis)
  - g. Develop a Fire Service Reform program owned and designed by the people on the ground
4. Commit to a genuine and robust consultation framework to ensure Government and agencies comply with their legislative consultation obligations under the Volunteer Charter and the CFA Act and strengthen processes to independently monitor and report on breaches
  5. Resolve the industrial impasse – and put the proposed EBA to Fair Work Australia and allow the “fair umpire” and subsequent transparent process to resolve any concerns
  6. Facilitate an accord between all stakeholders and agencies to agree on processes to find common ground and resolve differences of opinion
  7. Proceed immediately with the additional financial support promised to CFA that was an acknowledgment of CFA's chronic underfunding to assist with training, equipment and key volunteer support initiatives
  8. Facilitate the release of the Victorian Equal Opportunity and Human Rights Commission report into the Fire Services, and establish a values driven cultural reform agenda to improve and address any cultural issues identified in the VEOHRC report

## **NEXT STEPS**

Please continue to write, email or visit your local MPs, particularly Upper House MPs, and ask them to support the Committee's ten recommendations.

For MP's and other supporters who have publicly declared they will not be supporting the Bill, write them a thank-you, or call to thank them for their support.

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Attached: The Fire Services Bill Select Committee Chairman's forward.

# Chairman's foreword

The Country Fire Authority (CFA) and the Metropolitan Fire Brigade (MFB) each have a proud history of protecting the Victorian community for over half a century.

Victoria is one of the most fire prone parts of the world, and the state's experience in the first half of the 20th century lead to the development of our modern fire services.

At the core of the CFA and MFB's existence, and reflected in their respective establishing Acts, is the role of protecting the Victorian community through fire suppression and fire prevention.

It is in this context that proposed changes to Victoria's fire services must be considered.

The Andrews Labor Government has introduced the Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill 2017 to among other things, restructure Victoria's fire services. The question for the Legislative Council is whether that restructure will result in improved fire service delivery across the state.

The proposed restructure has come at a time of upheaval for the CFA and the MFB. Over the last two years we have witnessed unprecedented industrial unrest surrounding our fire services which has seen the Andrews Labor Government side with the United Firefighters Union (UFU) to support a controversial Enterprise Bargaining Agreement (EBA) against the strong opposition of the CFA itself.

The Government's push for that EBA triggered the resignation of the then Minister for Emergency Services (who opposed the EBA), the dismissal of the CFA Board and the subsequent resignation of the CFA Chief Executive and Chief Officer. More recently, and in the context of the on-going upheaval, the MFB Chief Executive has resigned, along with the Chief Officer and then the Acting Chief Officer.

The appointment by the Government of a compliant board and Chief Executive at CFA cleared the way for the EBA to be agreed to. Subsequent amendments to the Commonwealth Fair Work Act to effectively outlaw EBA terms that are prejudicial to emergency service volunteers, however, prevented the EBA being formalised.

In response, the Government introduced legislation for its proposed restructure to consolidate all career firefighters in a renamed MFB. This allows the offending EBA to be signed without engaging the volunteer provisions of the Fair Work Act, and staff to then be seconded back to the CFA.

In introducing the legislation the Government advised that it was 'updating a 1950s framework' and 'meet(ing) the challenges of this century' though did not articulate how the proposal would improve fire service delivery.



The restructure proposal was developed quickly, bypassing normal government consultation processes to the extent that neither Emergency Management Victoria, the CFA, nor the MFB were consulted. Notably the UFU was consulted multiple times during the development of the Bill.

In preparing the legislation in isolation from the fire services, the Government did not develop any implementation, operational, or funding plans. As such, there is limited information available to the community, as to how the restructure would work.

Despite a statutory obligation to do so, the Government failed to consult with volunteer firefighters about the restructure, and this has cemented division and distrust in the firefighting community. Written submissions to the Committee reflect almost total opposition to the proposal from volunteer firefighters and near unanimous support from career firefighters.

It is difficult to envisage how proposing a restructure which impacts on 57,000 passionate volunteers without consulting them, and then trying to quickly push it through Parliament, could be successful.


Given the lack of clarity around implementation, operations and funding under this proposal; the failure to undertake consultation with effected parties; and the near total polarisation of volunteer and career firefighters, the Committee recommends that Government withdraw the Bill. If not withdrawn, the Committee recommends that the Legislative Council reject the Bill.

This inquiry has been undertaken in an extremely compressed timeframe with only six weeks allowed from the Committee's first meeting to tabling its first report.

In this period the Committee received 1,891 written submissions and took oral evidence from 83 witnesses at hearings in Melbourne, Wangaratta, Swan Hill, Traralgon and Hamilton. On behalf of the Committee I would like to thank those individuals and organisations for their input to the Committee's work.

The timeframe for the inquiry, along with the substantial public interest and volume of submissions, generated an enormous workload for the Committee Secretariat. Led by Assistant Clerk – Committees Keir Delaney, and supported by Deputy Clerk Anne Sargent, the Secretariat provided outstanding support to the Committee and I thank them for their contribution.

Finally I would like to thank my fellow Committee members for their commitment, co-operation and goodwill which allowed the Committee to undertake a complex and highly charged investigation in a compressed timeframe.



**Hon Gordon Rich-Phillips MLC**  
**Chairman**