



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SERVICES  
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## Submission Cover Sheet

Review of ACT emergency services  
responses to the 2019-20 bushfire season

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United Firefighters Union

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SUBMISSION TO ACT  
LEGISLATIVE ASSEMBLY  
COMMITTEE REVIEW OF ACT  
EMERGENCY SERVICES  
RESPONSES TO THE 2019-20  
BUSHFIRE SEASON

July 2020

Fire Service Planning, Coordination and  
Preparedness

Greg McConville (UFU ACT Branch  
Secretary)

## Contents

Introduction .....	2
The State of the Services.....	3
Part A: Data accuracy.....	3
Recommendation 1: Data Accuracy.....	4
Part B: Fire Service Preparedness.....	5
Recommendation 2: Data Accuracy.....	7
Recall to Duty.....	7
Recommendation 3: Fire Service Recruitment.....	8
Part C: Incident Management Structures .....	9
Recommendation 4: Incident Management Teams .....	12
AIIMS Training and Accreditation .....	12
Recommendation 5: AIIMS Training and IMT Roles .....	18
Incidents in the Bushfire Abatement Zone .....	18
Recommendation 6: Incident Control in the Bushfire Abatement Zone.....	20
The Emergencies Act Context to Incident Management.....	20
Recommendation 7: Emergency Controller and Incident Control.....	21

## Introduction

The UFU ACT Branch represents the industrial and professional interests of career firefighters employed by ACT Fire and Rescue.

The primary focus of this submission is the areas where the Terms of Reference are relevant to the personnel of ACT Fire and Rescue, where UFU members are employed.

### Terms of Reference

We note that the legislative Assembly Website states that:

“The Committee’s review will be conducted under the Committee’s general powers of inquiry into issues and events affecting all aspects of community safety in the ACT which were given to the Committee by the Assembly at the commencement of the 9<sup>th</sup> Assembly in 2017.”

And

“The Committee sees several matters as important to its review:

Planning and coordination of programs to combat all aspects of the 2019-20 bushfire season

Things done well in preparation for and mitigating the effects of the 2019-20 bushfires

How major events in 2019-20 bushfire season were dealt with as a major ACT natural disaster – and

the lessons learned for next season and following years.”

This submission focuses on the first of these terms of reference: Planning and coordination of programs to combat all aspects of the 2019-20 bushfire season

## The State of the Services

### Part A: Data accuracy

It is difficult to conduct a completely accurate assessment of the effectiveness of planning and coordination when the state of knowledge about the availability of firefighters is sketchy.

Productivity Commission data contained in the “Report on Government Services” is widely accepted as the most reliable source of comparative data concerning fire services nationally. Even so, these data are limited by the accuracy of the data reported by agencies in each respective jurisdiction, none more so than the ACT Emergency Services Agency.

In January 2019 the Canberra Times reported on a perceived decline in volunteer firefighter numbers in the following terms:

“Concerningly, the number of Rural Fire Service volunteers has been tumbling since 2013.

At that time there were 1621 volunteers, or 419.6 per 100,000 people.

In 2017-18, there were only 1160 volunteers, or 278.9 per 100,000 people.

The ACT has traditionally had one of the lowest rates of volunteer firefighters per 100,000 in the country.

The government spokesman said the fall was due to more regular updating of the membership database.” (<https://www.canberratimes.com.au/story/5996455/attrition-doubles-among-act-firefighters-as-volunteer-numbers-dive/#gsc.tab=0>)

That updating of a database would show such a dramatic decline strongly suggests that the database was grossly inaccurate in the first place. In turn, this shows that data reported to the Productivity Commission had for some time been inaccurate and was providing a false picture of firefighting capability to anyone who relied on those data.

These inaccuracies were not confined to volunteer data: staff data had also been misreported. The same Canberra Times article stated:

“the number of full-time firefighters only fell by two positions to 348 between 2014 and 2018.”

The UFU keeps accurate data on the numbers of firefighters employed by the ESA, through the maintenance of fortnightly reconciliations of union deductions made from payroll by ACT Government Shared Services. As at 30 June 2018 (the date of the data reported to the Productivity Commission and which was the subject of the 2019 ROGS report), there were not 348 firefighters employed by the ESA. The UFU was at that date receiving membership dues from 334 members, and a further 5 firefighters were not members at that time resulting in a total of 339 firefighters employed. This too misrepresents the picture of available firefighting resources, insofar as a significant proportion of the 339 for reasons of long term illness and injury were not and had not for some time been available for duty. Others would not be available for again by reason of them being on long term leave approaching retirement. The UFU’s analysis of the data derived from payroll deduction reconciliations for this period was that at best, there were 333 firefighters available for duty of a total 339 employed.

Firefighter data as reported by the ESA data has been a movable feast since at least 2015. The reporting has centred around the “Funded Establishment” which is the term used to describe the number of firefighters funded by the ACT Government. Reported variances include:

- In October 2016 the ESA had an overtime reduction strategy which reported a “funded establishment” of 343 positions. The overtime reduction strategy was produced immediately after the October 2016 Legislative Assembly election.
- In December 2016 the ACT Legislative Assembly was told that ACT Fire and Rescue funded establishment had not changed since July 2013, and that the following numbers of FTE (Full Time Equivalent) Firefighters were employed at the following dates:
  - 1 January 2014: 353.5
  - 1 January 2015: 344.5
  - 31 December 2016: 339.6.<sup>1</sup>
- In 2017, the “Emergency Services Operational Review Group<sup>2</sup>” met and received a report that there were only 310 firefighters employed as distinct from those available for duty: a variance of 10% from the stated funded establishment.
- On 22 March 2018, told the Canberra Times that 347 firefighters were employed and that all of them were available for duty. UFU data at the time showed that only 304 firefighters were available for duty.<sup>3</sup>
- In the recent enterprise bargaining negotiations (2019) with the UFU, “funded establishment” was identified by the ACT Government as 339 positions.

The Productivity Commission was told that during the period between 2014 and 2018 the number of firefighters fell from 350 to 348!

The matter of inaccurate volunteer and career firefighter data cannot be taken lightly. Fire services operate on capability models, like armed services. A Chief Officer of the RFS or ACTFR, like an Army General, needs to know an accurate assessment of their resources when preparing to fight fires. In turn, the Government needs to know whether the resources it is funding are capable of being deployed. Above all else, the community deserves to know what resources are available to defend it in the event of an emergency. This is particularly so in the case of emergency events that can run for days and weeks and place a fatigue burden on firefighters.

#### Recommendation 1: Data Accuracy

That in the interests of greater transparency and certainty concerning fire service capabilities, an improved data reporting regime be developed in consultation with relevant stakeholders including representatives of career firefighters and volunteers. The objective of such a data collection and reporting regime should be to ensure that accurate data is collected, maintained, and reported concerning the engagement, employment, and availability for duty of firefighters and volunteers.

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<sup>1</sup> Answer to QON 42 <http://www.hansard.act.gov.au/hansard/2017/week02/704.htm>

<sup>2</sup> “This group includes the heads of the ESA, ACTFR, ACTRFS, ACTSES, Parks & Conservation, nominees of those services, and representatives of the Bushfire Council, SES Volunteers, RFS Volunteers, and the UFU. It is charged with overseeing preparations for each fire season, and debriefs after each fire season

<sup>3</sup> <https://www.canberratimes.com.au/story/6021635/emergency-services-agency-slams-firefighter-shortage-claims-amid-union-stoush/>

## Part B: Fire Service Preparedness.

It is a matter of public record that the resourcing of ACT Fire and Rescue, in advance of this fire season, was inadequate.

We attach a series of reports prepared by Professor David Haywards and his team at RMIT University. (See **Attachments 1 to 4**)

Early in report 1, Canberra's demography is addressed as follows:

"The importance of ACT Fire and Rescue is not to be understated: one of the distinguishing features of the ACT is that almost all its population lives in Canberra, giving it the highest population density in Australia (174 persons per square kilometre compared to second placed Victoria with 28). There is no other firefighting service with this sort of geographical profile.

Canberra is Australia's most carefully planned city, giving rise to a unique set of fire service challenges. Its population is relatively evenly distributed, unlike the other mainland capitals, which have much higher densities in and around their core (the population density in inner city Melbourne is 19,500 per square kilometre), as well as high rise commercial and retail precincts that are increasingly co-located with high density apartments. In effect, this means that while the ACT has a relatively high population density, Canberra has the second lowest population density of all Australian capitals."

Hayward et al, Report, 1, p.2

In report 1, Hayward et al observed:

- The ACT's Fire and Rescue Service's paid workforce is the third smallest of all the states and territories, with only Tasmania and the Northern Territory having a smaller workforce. (p.3)
- While volunteers account for over 90% of firefighters nationally, the ACT stands out because its volunteer service is relatively small and its paid largely urban work force located in Canberra is relatively large, accounting for over 20 percent of the total. (p.4).
- The data reported by the Productivity Commission (as relevant to 2017 18) in respect of ACT firefighting volunteers is an aggregate of Rural Fire Service Volunteers (RFS), and Community Fire Unit (CFU) Volunteers.
- If the CFU volunteers (65 percent of volunteers) were removed from the 1160 total volunteers, the data would report a more accurate number - 424 RFS volunteers, a total firefighter number of 772. The proportion of paid firefighters is therefore more accurately reflected as 45 percent.
- In turn, the number of volunteer firefighters per 100,000 people would also be reduced by 65 percent, from 278.9 to 96.54. This more accurate calculation shows the ACT is heavily reliant on paid firefighters, when compared to other jurisdictions.
- Even when the CFU volunteers are included in the productivity Commission data, The ACT has only 362 firefighters per 100,000 people. That number is 980 in NSW and Tasmania, almost 870 in Victoria, 890 in WA and 920 for Australia as a whole.
- As measured by the total firefighting force per 100,000 people, the firefighting capability in the ACT has shrunk by 16.6 percent since 2008/9.

(Hayward et al, August 2019, Report 1, pp 2 – 6)

Following the release of productivity Commission data in early 2020, Hayward et al revisited the theme addressed above, and noted:

In “Efficiency and Effectiveness of ACT Fire and Rescue: The latest data, (16 February 2020, appearing as **Attachment 5**), Hayward analyses data from the Productivity Commission “Report on Government Services” released in early 2020. He revisits the theme of firefighting resources discussed in the 2019 reports, and finds:

- Over the last 9 years, the funding of fire services in the ACT has broadly been comparable with funding trends for Australia as a whole. Total revenues have increased slightly faster (26% compared to 24.3%), but revenues per capita (arguably a more important measure) increased slightly more slowly (8.3% compared to 9.5%).
- Over the last five years, however, spending trends in the ACT have clearly been much less than Australia as a whole, with total revenues in the ACT increasing by 5.4% compared to 14.6% for Australia. Revenues per person in the ACT have declined in real terms by 4%, whereas they have increased by 6% for Australia as a whole.
- Over the 9 years to 2018/19, the ACT’s paid firefighter workforce has increased by 10.9%, almost half that of Australia as a whole (19.6%)
- Over the last five years, the ACT’s firefighting workforce has actually shrunk by almost 10% (9.2%), whereas Australia’s has increased by almost 7% (6.8%). Over the last year, the ACT’s firefighter workforce has shrunk by 6.3%, accounting for most of the decline that is evident over the last five years. By way of contrast, the Australia wide firefighter workforce has increased by 1.1%.
- Over the last five years, the number of firefighters per 100,000 people in the ACT has fallen by a very large 17.2% compared to a 1.1% fall for Australia.
- Volunteer numbers for both the ACT and Australia have fallen over all of the time periods under consideration, with the ACT’s volunteer workforce declining by 26.1% over the last five years, compared to 7.3% for Australia as a whole. The decline in volunteer numbers per 100,000 population is especially marked in the ACT, with a small 1.4% increase last year standing in contrast to the 32.6% decline over the previous 5 years.

Hayward goes on to question the inclusion of Community Fire Unit Volunteer numbers in the overall statistics concerning firefighters. Before addressing this, the unique and important role of ACT Community Fire Units (CFU’s) needs to be understood. CFU’s grew out of the 2 Inquiries (the operational review conducted by McLeod, and the Coronial Inquest conducted by Doogan) into the devastating 2003 bushfires. The role of the CFU’s could be more accurately described as defensive asset protection than fire suppression. CFU volunteers are described on the ESA Website as:

“ a team of local residents who live close to bush land areas across the ACT.

These local volunteers are trained and equipped by ACT Fire & Rescue to safeguard their homes during a bushfire until the fire services arrive.

CFU members are a part of ACT Fire & Rescue and take direction from ACTF&R Officers but they are not fire-fighters.” (<https://esa.act.gov.au/join-us/volunteering/community-fire-units>).

A key distinguishing characteristic between CFU volunteers and RFS volunteers is that the former do not crew trucks which travel to the scene of a fire and respond, while the latter do. Instead, CFU’s provide a resource that is reliably in the location from which it is drawn, and is focused on the defence of that location. This submission in no way suggests that this should change.

A difficulty arises in assessing fire preparedness in using comparative data when the ACT data includes the CFU component which is not included in the volunteer data of most other jurisdictions.

Hayward addressed this in the 2019 Report at Volume 1, page 5 (see above), and went further in 2020 to state:

“The ACT’s position is in reality more perilous than is suggested by these data on the volunteer firefighter workforce. The Productivity Commission’s numbers combine the Rural Fire Service Volunteers (RFS) and Community Fire Unit (CFU) Volunteers.

...

“According to the Emergency Services Agency in 2019 there were 850 CFU and 450 RFS volunteers respectively. It is debatable as to whether the CFU members should be considered to be part of an effective volunteer service. Excluding them would reduce the reported number of volunteers per 100,000 people from 282.7 to less than 100. This underscores the heavy reliance of the ACT on paid firefighters.”

(Hayward, 2020, p. 5)

If the approach advocated above in relation to the CFU data were applied, the result would be as shown in the table below:

**Table 1: Revised ROGS 2019 data**

ROGS 2019 revised firefighters per 100,000 population					
	ACT		Australia	ACT as % of National average	
	reported	revised	reported	reported	revised
Volunteers per 100000	278.9	96.5	857	33%	11%
firefighters per 100000	83.6	83.6	63.1	132%	132%
Total	362.5	180.1	920	39%	20%

Source: Productivity Commission ROGS 2019 & ESA Website 2019

To elaborate, the result of excluding CFU data from the firefighter data set would be that the number of volunteers per 100,000 of population would be 11% of the national average (instead of 33%), and the total firefighting resources (career and volunteer) would be one fifth of the national average.

#### Recommendation 2: Data Accuracy

That the ESA cease the practice of including CFU volunteer numbers as “firefighters” for the purposes of reporting data on firefighter human resources, including in reports to the Productivity Commission for the purposes of Report on Government Services data.

#### Recall to Duty

In addition to the analysis undertaken by Hayward et al (addressed above) The matter of excessive use of recall to duty warrants consideration. Recall to duty is the result of there not being enough firefighters employed to cover shifts and to crew the required appliances. It has a human cost (in terms of fatigue) which gives rise to increased risks, reduced surge capacity, reduced opportunities for skill development (such as through interstate and international deployments) and a financial

cost. Excessive recall to duty has seen a ballooning overtime bill in recent years, while undermining the building of capacity and capability.

Hayward et al also addressed this as follows:

ACT Fire and Rescue is currently utilising an unacceptable and unsustainable incidence of “recall to duty” of firefighters. As a result, the firefighter overtime bill in 2015-16 was stated by the ESA to be \$4.1 million. For the 2017-18 financial year this increased to an estimated \$5.005 million, and for 2018-19 was estimated as \$6.132 million. This is based on over 117,000 overtime hours paid from 1 July 2017 to 26 June 2018, and over 142,900 hours paid for the year to 30 June 2019. The overtime bill rose by approximately 25% in 2 years, and a further 20% in one year.

Additionally, this shortage means that firefighters are being recalled to duty with as little as a 4-hour break in a 38-hour period. This is an unsustainable work, health and safety issue which must be resolved through proper recruitment and staffing.

The overtime is attributable to chronic understaffing, and a “relief factor” that does not take account of the number of days that firefighters are absent from duty for such reasons as leave, professional development, training, illness and injury.<sup>4</sup>

Further to the above, the UFU estimates the overtime bill for r 2019-20 to be in the vicinity of \$7 million – despite a more sustained recruitment effort. Ironically, the increase in the overtime bill took place despite, or perhaps because of, the ESA “Overtime Reduction Strategy” of 2016.

A further consequence of the stretched staffing resources was the lack of available crews to make substantial contributions to firefighting efforts outside the ACT. This is further addressed later in this submission.

### Recommendation 3: Fire Service Recruitment

Noting that total firefighter resources are approximately one fifth of the national average, and the unacceptable incidence of recall to duty to cover minimum crewing, the ACT Government commit to increasing funding to ACT Fire and Rescue to ensure consistent improvement in firefighter resources as compared to national benchmarks.

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<sup>4</sup> Hayward et al, Report 4, page 8

## Part C: Incident Management Structures

The ESA, like all other Australian jurisdictions, has for some time delivered training concerning functions established under the structure of the “Australian Inter-Service Incident Management System” (AIIMS). The AIIMS manual (2017) states:

“AIIMS has been designed as a universal incident management system and so AIIMS can be used for the management and control of emergencies arising from all hazards.” (AIIMS manual 2017, p.2)

As an incident management framework:

“AIIMS requires that for any incident, an Incident Controller must be identified. Agencies and jurisdictions must have policies and processes in place that allow for the prompt and unambiguous identification of the agency in control and the person who will be Incident Controller”

...

In addition to legislation and the arrangements for identifying the Incident Controller, each jurisdiction will have a framework of legislation, plans and formal guidance that describes how the various organisations, agencies, statutory officers and levels of government will work together” (AIIMS manual 2017, p.35)

In the ACT, each Agency established under the Emergencies Act has legislated responsibility for specified incidents, and for ACT Fire and Rescue this is set out in s44 of the Emergencies Act. That responsibility is primarily around the Built Up Area, but also enables response to a fire in a rural area and response to incidents which are the responsibility of other agencies if that agency is unavailable.

The manner in which the AIIMS framework relates to that legislated responsibility warrants elaboration here.

“At the start of an incident, control is usually exercised by local responders who are at, or close to, the incident scene. As the complexity, size, resourcing, or risk of the incident grows, it may be appropriate to review the incident control arrangements to ensure that the Incident Controller is suitably accredited and capable. for the situation and that the Incident Controller is located in a suitably equipped Incident Control Centre.” (AIIMS manual 2017, p. 102)

ACT Fire and Rescue SOG #1 Incident Command and Control specifies:

“ACTF&R incident management is consistent with the Australasian Inter-Service Incident Management System(AIIMS).

AIIMS classifies incidents as:

- Level One-incidents generally able to be resolved through the use of local or initial response resources only.
- Level Two-incidents that are more complex in size, resources or risk. There may be a need for deployment of resources beyond the initial response, sectorisation of the incident, establishment of functional sections due to a greater degree of complexity, or all of the above.

- Level Three-incidents that are complex and may require the establishment of divisions for effective management, and usually involve delegation of all functions.”  
(Page 2)

The competencies and training of ACTFR personnel equip those firefighters at Senior Firefighter or above to manage level 1 incidents, those at Station officer or above to manage level 2 incidents, and those at Commander or above to manage Level 3 Incidents.

Firefighting is inherently dangerous, and central to a culture of safety for firefighters is the competency, training and experience of senior firefighters in the chain of command. The recently signed ACT Fire and Rescue Enterprise Agreement 2020 – 2023 addresses this issue in the Senior Management clause in the following terms:

“The parties acknowledge the significance for employees and for firefighting operations of the occupancy of senior operational management positions by experienced firefighters. These positions require practical, tactical, strategic, leadership and supervisory elements exercised by senior and experienced firefighters.

...

The parties agree that these positions and the associated responsibilities are best undertaken by experienced firefighters who by reason of their experience and expertise can generate the confidence of employees in their exposure to inherently dangerous and challenging work environments, and develop and maintain a safety culture within ACTF&R.”  
(clauses S4.4 & S 4.5)

The UFU has been concerned for some time to ensure that persons playing leadership roles in IMT structures are sufficiently qualified as to be able to ensure that firefighters are able to perform their roles safely. On 2 occasions in 2019, the UFU wrote to the (then) ESA Commissioner, seeking information on the qualifications and experience of personnel on pre-formed Incident Management Teams.

On 5 March 2019, we requested:

“Prior to the ESORG meeting on 13 March 2019, could you please provide the UFU with a description of the following matters in respect of members of pre-formed Incident Management Teams (IMTs) which have been put in place during the 12 Months to the beginning of March 2019?

- Name;
- Position / role held;
- AIIMS competencies held;
- Fire and Rescue competencies held;
- Other competencies held (relevant to the IMT role);
- Role filled in IMT and date and duration that role was filled.
- Reason for formation of IMT.
- Previous experience in managing emergency incidents.”

We did not receive a reply, so again on 23 April 2019 we reiterated our request, and also asked:

In developing a reply to the email below (our 5 March request), could you also please consider the following.

The Emergencies (Concept of Operations for bush and grass fires in the Australian Capital Territory) Commissioner's Guidelines Amendment 2018, was approved by you on 21 December 2018. Could you please explain why this document was not provided to ESORG members prior to it being approved and given effect?

The amended document states at Schedule 1 that:

“Persons to be considered for appointment as IMT members for level 2 and 3 incidents will be drawn from the register maintained by the ACT Emergency Services Agency. Persons who possess the relevant competency and/or experience as at the date of this instrument are:”

The Schedule then includes a large listing of personnel said to be competent for inclusion in Incident Management Teams. This is the first time such a list has been included in the notifiable instrument.

The question set out in our email below equally pertains to all persons shown as performing IMT roles on that list. We reiterate our request for a reply prior to the ESORG meeting of next week.”

We did not receive a reply to this request.

There is a complete lack of transparency over “relevant competency and/or experience” for the purposes of the notifiable instrument.

A degree of inflexibility arises when matters of this kind are addressed in a statutory instrument. NI 2018 – 713 had the effect of amending the Emergencies (Concept of Operations for bush and grass fires in the Australian Capital Territory) Commissioner's Guidelines 2017 (NI2017-92) by inserting a new Appendix 3. That Appendix remains in force, yet on the analysis undertaken by the UFU the list of persons contained in the Appendix is out of date and was out of date at the commencement of the 2019 20 fire season. Using the Level 3 Incident Controller as an example, the following table shows that of the 20 persons listed in the Notifiable Instrument, at least 10 are no longer serving for their nominated agency.

**Table 2: Level 3 Incident Controllers**

L3 Incident Controllers in NI2018–713		
Name	Agency	Still serving?
Allen, Tracey	ACTSES	
Brown, Mark	ACTF&R	N
Cooper, Neil	ACTPCS	
Flynn, Paul	ACTF&R	
Jones, Pat	ACTF&R	N
Kilpatrick, Rob	ESA R&P	
Lhuede, Nick	ESA R&P	N
Luther, Matt	ACTRFS	
Maloney, Richard	ACTF&R	N
Murphy, Joe	ACTRFS	N
Phillips, Mark	ACTF&R	N
Schlizio, Jim	ACTF&R	N
Scott, Rohan	ACTRFS	
Shonk, Matt	ACTF&R	
Stevens, Brendan	ESA P&C	N
Turton, Ross	ACTRFS	N
Weston, Ron	ACTF&R	N
Whelan, Georgina	ACTSES	
Wren, Howard	ACTAS	
Zeithofer, Chris	ACTF&R	

Source: NI 2018-713 and ESA Phone Directory June 2020

Level 3 incidents are described in the AIIMS structure as a large complex fire incident, which may run for days, where a large number of functions are delegated. Incidents of this kind are managed from an incident control centre. The Level 3 Incident Controller will effectively lead the Incident management team, and the IMT will directly manage the fire through its operations, planning, and logistics functions. The importance of having level 3 Incident Controllers empowered to manage those incidents cannot be overstated. The appointment of such person should occur through the ordinary delegation of functions based on competency, training, and experience and should not be dependent on the operation of a Notifiable instrument which can quickly become outdated.

#### Recommendation 4: Incident Management Teams

That Appendix 3 of the Emergencies (Concept of Operations for bush and grass fires in the Australian Capital Territory) Commissioner’s Guidelines 2017 (NI2017- 92) be repealed; and

That the practice of using a Notifiable Instrument to designate persons as qualified to operate within an Incident Management Team (IMT) be ceased.

#### AIIMS Training and Accreditation

The ESA embarked on a process of rolling out wide scale training in the AIIMS system as early as 2015, and this was characterised as “awareness training”. The “Justice and Community Safety Annual Report 2015 – 16” states:

“ESA Training continued delivery of skills acquisition and refresher training in the Australasian Inter-service Incident Management System (AIIMS) for ESA staff, volunteers,

and personnel from external agencies supporting the ESA during coordination of major emergencies. A total of 446 individuals participated, including 64 from external agencies. The ESA exceeded its performance target of 40% of all staff to hold accredited AIIMS Awareness training, achieving 68%.” (p. 118)

While the above is contradicted by data contained in the 2016-17 Budget Statements (which identified the target and estimated outcome as 50% for the 2015-16 financial year, and the target for the 2016 – 17 financial year<sup>5</sup>), it remains that considerable effort has been expended in this training. By 2017-18 it was reported that the 2016-17 estimated outcome was 70% of ESA staff, and the 2017-18 Target was reported as 70%.<sup>6</sup>

The Training provided by ESA in AIIMS has included the following components:

- AIIMS 4 (22202VIC) 2 Day Accredited Courses were offered at least as early as March – June 2015. These were described as “suitable for all individuals new to the ESA, or those who fulfil support roles to the ESA (such as directorate ECC Liaison Officers)” (See **Attachment 6**)
- Expressions of interest were sought to continue the delivery of the above and related facilitator meetings. The email soliciting the EOI’s appears as **Attachment 7**. The prerequisites for this were expressed as follows:

“Facilitators must hold current training qualifications (Enterprise Trainer and Assessor skill set or Certificate IV in Training and Assessment (or higher); and current competency in the AIIMS 22202VIC unit of competency, or willingness to attain these qualifications within a six month period. (our emphasis)

- Incident Management Team Level 2 Functional area (Incident Controller, Operations Officer, Planning Officer and Logistics Officer) training programs, for which EOI’s were sought in September 2018 and for which AIIMS unit 22202VIC (above) was a pre-requisite.

The practices adopted by the ESA in recent years in endorsing personnel to perform IMT roles has produced the following inconsistencies:

- Managers and executives who were otherwise inexperienced in command, control and management of incidents such as fires participated in short courses on components of the AIIMS system, and deemed qualified to perform IMT roles; including:
  - A manager who participated in a 4 day Level 2 Operations Officer course was deemed competent to perform the Operations Officer Role;
  - An executive who participated in a 4 day Level 2 Logistics Officer course was deemed competent to perform the Logistics Officer Role;
  - An executive who participated in a 4 day Level 3 Incident Controller course was deemed competent to perform (and indeed was placed in) the Incident Controller role;
- For ACT Fire and Rescue personnel, progression to perform L2 and L3 functions including incident control is based on underlying competency and many years of experience, as follows:
  - The competencies for a Station Officer (FB6) require competency to control a Level 2 incident. It takes at least 7 years of combined training and experience after the 22-week recruit course to attain the rank of Station Officer (FB6)

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<sup>5</sup> Budget Statement D, 2016-17, p. 21.

<sup>6</sup> Budget Statement D, 2017-18, p. 20.

- The competencies for a Commander (FB7) require competency to control a Level 3 incident. It takes at least 9 years of combined training and experience after the 22-week recruit course to attain the rank of Commander (FB7)

The inconsistencies set out above stemmed from a change in practice adopted by the previous ESA commissioner concerning the pre-requisites for AIIIMS training. Whereas the previous practice set clear and unambiguous criteria as pre-requisites, the previous Commissioner added “or leadership” to those criteria, thus opening the path for otherwise inexperienced and unqualified persons to be admitted to AIIIMS courses. This remains the case.

In addition, the numbers of persons possessing both the underlying competencies and the specific AIIIMS awareness training inconsistency in the training and accreditation of persons to perform roles in Incident Management Teams was inadequate for this fire season.

The above combined created a situation where relatively inexperienced persons were assigned roles in IMTs, presumably as a method of enabling them to gain experience.

In an emergency, circumstances of this kind have the capacity to produce calamitous results. While the 2009 Black Saturday fires in Victoria were more dangerous and destructive than anything experienced in the ACT this fire season, the Black Saturday Royal Commission made a number of observations concerning inconsistencies in AIIIMS accreditation and shortages of Incident Controllers as follows:

“The Commission accepts that each Incident Controller appointed on 7 February worked hard and tried to satisfy onerous responsibilities, but an examination of the shortage of level 3 Incident Controllers on the day revealed serious problems in the selection, training and accreditation processes for these officers.

There are important differences between the DSE system of accreditation (which involves formal assessment of a candidate against known criteria) and the CFA system of endorsement (involving the nomination or approval of a person to perform a particular role).<sup>150</sup> Since both agencies provide members for joint IMTs, it is highly desirable that there be uniformity in selection, to ensure that each Incident Controller, regardless of their agency, has a similar level of experience and competence.”

DSE accreditation of level 3 Incident Controllers involves staff volunteering to progress from operational firefighter to Incident Controller level 1, 2 and 3. Historically, the full progression from firefighter to level 3 Incident Controller has taken 20 to 24 years, but recent opportunities to gain experience more rapidly, through overseas deployments and attending a greater number of fires have led to this period being reduced.<sup>151</sup> To qualify as a level 3 Incident Controller in DSE, the aspirant must be both assessed and accredited. Since 2006 DSE personnel seeking to move from level 2 to level 3 accreditation have taken the following pathway:

- Staff who satisfy the full prerequisites for the role are nominated by an area manager and nominations are assessed by a nominations panel.
- Nominees undergo psychometric testing to determine their suitability for demanding and stressful roles.
- The results of this are fed into a development plan.
- Candidates maintain a ‘work book’, listing incidents they believe demonstrate their experience and knowledge.

- Candidates present a summary of their relevant experience. This includes up to three incident action plans for which the candidate has been responsible, extracts from logbooks, peer testimonials, lists of simulation exercises and leadership courses completed, and their development plan.
- Candidates are interviewed and assessed by a panel, and the assessments are validated by the Chief Officer.
- Candidates who do not meet all assessment criteria are required to undergo additional scenario-based training.

This accreditation process is both rigorous and thorough and would be suitable for use by both DSE and the CFA.

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#### CFA endorsement

The CFA's approach to level 3 qualification is as follows:

- Both career and volunteer personnel wishing to take on an IMT role must participate in a series of five AIIMS courses—in total, 145 hours of instruction and 60 hours of study.
- The Chief Officer annually endorses members to perform the roles of Incident Controller and Operations,
- Planning and Logistics Officers for level 3 incidents. Endorsement is 'based on competencies, endorsements and experience and an assessment of the CFA member's aptitude for the role'.
- In practice, endorsement of IMT personnel occurs on the recommendation of operations managers.
- The endorsement of level 3 Incident Controllers is based on a candidate's performance in level 2 roles, their aptitude for the role, and previous exposure and mentoring at level 3 incidents.

The CFA acknowledges that its existing endorsement process is subjective and lacks transparency"<sup>7</sup>

While the approach of the CFA (Victoria) set out above is far more rigorous than that adopted within the ESA, it is significant that it was acknowledged as flawed by the CFA itself, and the inconsistencies between it and the DSE approach were criticised by the Royal Commission.

The Black Saturday Royal Commission recommended that:

"The Country Fire Authority and the Department of Sustainability and Environment establish before the 2010–11 fire season:

- a uniform, objective and transparent process based on the current DSE approach for the accreditation of level 3 Incident Controllers;
- a performance review system for level 3 Incident Controllers;
- a traineeship program for progression from level 2 to level 3 incident management team positions."<sup>8</sup>

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<sup>7</sup> Victorian Bushfire Royal Commission, Vol2, pp 89 – 99

<sup>8</sup> Victorian Bushfire Royal Commission, Vol2, Recommendation 17

And

“The Country Fire Authority and the Department of Sustainability and Environment amend their procedures to require that a suitably experienced, qualified and competent person be appointed as Incident Controller, regardless of the control agency for the fire.”<sup>9</sup>

The Black Saturday Royal Commission recommendations provided significant impetus for the continuous improvement of IMT practices in Victoria. This, combined with the Review of the 2010-11 Flood Warnings & Response in Victoria, has led to Emergency Management Victoria adopting procedures for developing incident management personnel to a common and robust standard.

In 2018 EMV produced the “EMV IMT Training Accreditation Fundamentals & Policy”<sup>10</sup>. This document sets out uniform robust policy and procedures to be used by the organisations which operate within the scope of EMV, specifically the Emergency Management Commissioner, Country Fire Authority, Department of Environment and Primary Industries, Metropolitan Fire Brigade and the Victorian State Emergency Service. A copy of the policy appears as **Attachment 8**.

Attachment 8 is to be contrasted to the “Capability Framework for Bushfires: Level 2 and 3 Incident Controllers” set out at item 1 of the “Emergencies (Concept of Operations for bush and grass fires in the Australian Capital Territory) Commissioner’s Guidelines 2017 (Notifiable Instrument NI2017–92).” The whole of Item 15.1 – 15.3 is set out below.

#### “15.1 Level 2 and 3 Incident Controllers

The Chief Officers of the ACTRFS and ACTF&R have agreed that the following Framework will be followed for endorsing Level 2 and 3 Incident Controllers for the management of bushfires in the ACT. This framework is informed directly from the Australasian Fire and Emergency Service Authorities Council (AFAC) “Endorsement of Level 3 Incident Controllers Position Paper” dated December 2011.

The Framework will consist of the following elements:

- Selection – Both ACTF&R and ACTRFS will actively select those personnel who are to be utilised as level 2 and 3 Incident Controllers. The selection process shall include agreed selection criteria between both Chief Officers, and persons selected must consent to being selected.
- Assessment of Competence - Both ACTF&R and ACTRFS will assess the competence of their respective personnel against the relevant unit of competency in the Public Safety Training Package (PSTP) PUAOPE018A Control a Level 2 Incident (for Level 2 Incident Controllers) and PUAOPE019A Control a Level 3 Incident (for Level 3 Incident Controllers). This assessment may be through measures such as a training course followed by formal assessment, challenge testing, or recognition of current competency/prior learning. The method of assessment shall be developed by each Chief Officer of their respective Service in consultation with the other Chief Officer. The method of assessment against units of competency will require validation in accordance with the governance requirements of a Registered Training Organisation (RTO) such as the ESA.

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<sup>9</sup> Ibid. Recommendation 18

<sup>10</sup> EMV IMT Training Accreditation Fundamentals & Policy Version: 1.0 Released: 22/08/2018

Additional criteria to be included in the assessment of competence are as follows:

- Demonstrated ability to work in a team environment
- Experience in leading diverse teams in complex situations
- Demonstrated high quality decision making under stressful conditions
- Knowledge of whole of government policies and procedures (Emergency Planning and Sub-planning Framework).

Formal endorsement - Both ACTF&R and ACTRFS will have in place a mutually agreed (and if appropriate a Service specific) formal written instrument of endorsement for all Level 2 and 3 Incident Controllers signed by the Chief Officer of each respective Service. The instrument will conclusively identify whether or not a given individual was an endorsed Level 2 or 3 Incident Controller at a given date. Endorsement will be for a finite term as defined by both Chief Officers.

Skills maintenance – Both Chief Officers will develop an agreed set of “skills maintenance criteria” for the renewal of endorsement. Any selected person who does not meet the skills maintenance criteria will not have their endorsement renewed.

#### 15.2 Other key roles of ICS (Ops/Planning/Logistics Officers)

The Chief Officers will follow the same key elements of the AFAC “Endorsement of Level 3 Incident Controllers Position Paper” for the other key roles in ICS. This means the four step process of selection through to skills maintenance for these roles will be developed for these positions.

#### 15.3 All other ICS Functions

The Chief Officers will appoint to roles those people who have obtained units of competency from the Public Safety Training Package (PSTP) relevant to their IMT role in line with the AFAC “Framework for ICS” for roles within an IMT. For roles that do not have nationally developed PUA’s, the Chief Officers will ensure that the individuals can demonstrate the underpinning skills and the other attributes such as team work and decision making under stress.” (NI 2017-92 Pages 24-26)

When compared to the EMV approach set out in **Attachment 8**, the “Capability Framework” is scant. More concerningly it is not given effect. Despite legally enforceable obligations on the Head of Service to consult the UFU about changes in policy and work practices, and for training and methods of assessment to be agreed with the UFU we were never consulted about the notifiable instrument nor the following documents mandated by it:

- The selection criteria for incident controllers;
- The method of assessment against units of competency
- The mutually agreed (and if appropriate a Service specific) formal written instrument of endorsement
- The agreed set of “skills maintenance criteria”

The UFU has never seen the abovementioned documents, and according to members with long (>30years) experience they do not exist.

In addition, the ESA has actively breached the requirements of the Concept of Operations by appointing persons to Level 3 Incident controller and other IMT roles when such appointment must

be made by the respective chief officers. This includes the appointment of an ESA Executive Manager (no longer employed) during the Pierce's Creek Fire in 2018. We believe that many of the persons set out in NI 2018 – 713 were not appointed through the processes mandated by NI2017–92.

In contrast the EMV Policy establishes clear and consistent pathways for the nomination, selection, skill acquisition, accreditation and performance of both Level 2 and Level 3 IMT personnel. It is tailored to be sufficiently robust and adaptable to apply to all hazards across multiple agencies. For example, in the current COVID-19 pandemic, an experienced CFA Operations Manager has been performing the role of Incident Controller in the hard lockdown of Melbourne Public Housing towers<sup>11</sup>.

#### Recommendation 5: AIIMS Training and IMT Roles

Noting the recommendations of the Black Saturday Royal Commission 2009, the ACT Government should establish and mandate a consistent approach to the training, accreditation, endorsement and appointment of Incident Management Team Members. The approach should be based on the Emergency Management Victoria IMT Training Accreditation Fundamentals & Policy 2018.

#### Incidents in the Bushfire Abatement Zone

The UFU has for several years articulated concerns over the policy and legislative settings concerning the management of incidents, and most critically possible fast moving grass fires, in the Bushfire Abatement Zone.

The Inquiry into the Operational Response to the January 2003 Bushfires in the ACT (“The McLeod Report”) made the following recommendations:

- A fire-abatement zone should be defined between the north-west and western perimeter of Canberra and the Murrumbidgee River and the foothills of the Brindabella Range.
- A set of Bushfire Protection Planning Principles in relation to fire mitigation and suppression should be adopted and applied to future developments in the designated abatement zone.
- The abatement zone should be declared a bushfire-prone area, and the requirements of the Building Code of Australia—in particular, its standards for bushfire-prone areas—should be applied to all future developments in the zone.

The Coroner found that the firestorm that caused the loss of 500 houses and 4 lives was caused by a range of factors including that:

*“As late as 17 January 2003, the Emergency Services Bureau’s lack of plans or strategies for dealing with the fires in the event that they reached the suburbs – other than leaving the problem to the ACT Fire Brigade.”*

Following the recommendations of Doogan and McLeod, the Emergencies Act 2004 was enacted, and importantly it provided:

- a Bushfire Abatement Zone was put in place for planning and operational purposes;
- The BAZ was included in the definition of City Area;
- The Response Arrangements at this time (see NI 2004 – 499) included that: “If, in the opinion of the Fire Brigade, the fire poses a risk to life or property in the Built-up Area, then

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<sup>11</sup> G.McConville, Pers info.

the Fire Brigade will assume incident control.” This remained in place in the 2006 iteration (NI 2006 – 221)

In 2011 the requirement described above was removed, and instead the applicable arrangement was:

“If, in the opinion of the Chief Officer ACT Fire Brigade or the Chief Officer ACT Rural Fire Service the fire is likely to escalate, or has escalated, into a complex incident threatening life, property or significant environmental assets, or multiple incidents are occurring that may compete for resources, the fire will be under the control of an off-scene located IMT. If an IMT is not in place, the Chief Officer ACT Fire Brigade and the Chief Officer ACT Rural Fire Service will liaise with each other and appoint an Incident Controller and other key IMT roles as required, taking into consideration the risk profile of the incident. 4.

In the event that agreement is not reached between the Chief Officers as described in this Guideline, the Emergency Services Commissioner will appoint an Incident Controller and other key IMT roles as required.” (NI2011–64)

With the passage of the Emergencies Act Amendments in 2016, the concept of the BAZ for operational purposes was abolished. This means that the arrangements for response are that the first available appliance responds. There is no longer any capacity for the Chief Officer Fire and Rescue to assume control in the event that a fire is thought to be threatening the Built Up Area.

ACTF&R has legislated responsibility to for fires in the Built Up Area, and this is why it has the equipment, training, expertise in dealing with such fires. It follows that ACT Fire and Rescue should have control of a fire that is going to impact the Built Up Area.

By way of background, the following points are relevant.

- 99% of grassfires are over in 2 hours.
- Where there is a pre-formed IMT for L 3 incidents, control will transfer to an IMT, but this requires a decision to be made that the incident is in fact L 3.
- As soon as a grassfire is running, resources will be on the ground and someone will have taken control. This includes while a decision about L3 is made.
- The decision to scale up to L3 is a decision made by senior personnel not on the fire ground to take control over from the initial incident controller. The time required to make this decision could be at least an hour.
- Even where an incident is deemed L3, in effect incident control remains on the fireground, and a heavy onus on an L3 incident controller to not deliver requested resources might have serious consequences for the IMT, including in court.
- These circumstances in practice remove any perceived distinction between L1, L2, and L3 incidents insofar as incident control is concerned within at least the first hour of a grass fire.
- Hence, in ALL circumstances, the original intent of the BAZ should remain: that if an incident has, in the opinion of ACTF&R, the potential to impact upon the BUA, ACTF&R can choose to assume incident control.

## Recommendation 6: Incident Control in the Bushfire Abatement Zone

To prevent similar findings to those made by Doogan and McLeod again being made in the event of another tragedy, we strongly advocate that:

- The Bushfire Abatement Zone be restored to its original intent, so that if a fast moving fire is assessed by ACT Fire and Rescue as having the capacity to impact upon the Built Up Area, ACT Fire and Rescue can assume incident control.
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- The recommendations of the McLeod Inquiry and the Coroner concerning the ESA having a direct line of reporting to the Minister should be implemented.

## The Emergencies Act Context to Incident Management

The ACT Emergencies Act was last amended in 2016. It legislates the various responsibilities of the ESA and the agencies which operate under its auspices.

The Act is due to be reviewed in 2021, and we will refrain from a detailed consideration of its provisions here. We will however briefly address the matter of incident management and control.

The 2016 Amendments were addressed in the Explanatory Statement as follows:

“The Bill makes a number of amendments to support the ESA’s ability to adopt an all hazards approach to emergency management. The all hazards approach concerns arrangements for managing the large range of possible effects of risks and emergencies. This concept is useful to the extent that a large range of risks can cause similar problems and measures such as warning, evacuation, medical services and community recovery will be required during and following emergencies. While the Act already reflects this all hazards approach, the Bill makes various minor amendments to enhance the ability of the Emergency Services Agency to plan for, and respond to, the various emergencies its members are regularly called upon to respond to.”<sup>12</sup>

The above is consistent with the approach advocated in the previous section of this submission in relation incident management.

How the above relates to the declaration of a State of Alert, the declaration of a State of Emergency and the role of Territory Controller does warrant some consideration in this context.

When a State of Alert or State of Emergency is declared, the functions of the Emergency Controller where appointed in either instance are fundamentally the same, specifically:

- “(a) to manage the response to, and the recovery from, the emergency by ensuring that entities dealing with the emergency are appropriately deployed;
- (b) to coordinate the disposition of other resources to manage the emergency;
- (c) to advise the Minister and the Chief Minister about the emergency;
- (d) to advise the community on anything relating to the emergency that the emergency controller considers appropriate;

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<sup>12</sup> Emergencies Amendment Bill 2016 Explanatory Statement p. 5

(e) any other function given to the emergency controller under this Act or another territory law.”<sup>13</sup>

We emphasise the importance of item (a) above, which entrusts the Emergency Controller with ensuring that entities are appropriately deployed. This is to be distinguished from the role of Incident Controller (in an Incident Management Team) to effectively lead the Incident management team, and the IMT will directly manage the fire through its operations, planning, and logistics functions.

There are important differences between the two roles. The role of the Emergency Controller is the management of the emergency while the roles of the Incident Controller is the management of the incident. Here the term “entities” connotes the various services within the ESA (ACT Fire and Rescue, Rural Fire Service and Ambulance Service) and those outside of it. Obviously not all of the resources of the entities would be allocated to the incident: they must all be appropriately deployed during the Emergency. Part of the Emergency Controller’s role is to ensure that what is available to be used by the Incident Management Team is adequate, while risk managing what remains available to be used in other aspects of the Emergency. The role of the Incident Controller is to lead the Incident Management Team in the deployment of what is made available to manage the Incident and ensure that it is deployed in the most effective way possible in combatting the incident. The Incident Controller is a more inward looking role to the incident, whereas the Emergency Controller’s role is more outwardly focussed on the organisations, the agencies (including agencies across Government such as Health, ACTION, ACTEW, ICON), AFP, the political structures, the media and the community. While the Incident Controller is concerned with adapting to the changing circumstances of the incident, the Emergency Controller is concerned with managing the impacts of the Emergency.

The 2 roles could be easily confused, and consideration should be given in the 2021 review of the Emergencies Act to clarify and enshrine the differences.

#### Recommendation 7: Emergency Controller and Incident Control

That the 2021 Review of the Emergencies Act Be specifically tasked with ensuring greater clarity between the roles of the Emergency Controller and Incident Controller.

#### Conclusion

The UFU would welcome the opportunity to elaborate on the matters raised in at a hearing.

Greg McConville  
UFU ACT Secretary  
July 2020

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<sup>13</sup> See s.150B Emergencies Act 2004, also reflected in s 160A