

## **NEW FIRE LEGISLATION**

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### **1. Purpose of Report**

To make a submission to the Department of Internal Affairs in response to a proposal to make changes to the organisation and funding of fire response services.

### **2. Recommendations**

It is recommended that the Committee:

- 1. Receive the information.*
- 2. Agree the submission to the Department of Internal Affairs on the New Fire Legislation, attached as Appendix 1.*

### **3. Background**

Since 2004 the Government has been considering options to replace the Fire Service Act 1975 and the Forest and Rural Fires Act 1977.

The “New Fire Legislation – A framework for New Zealand’s fire and rescue services and their funding” was published in April 2007 by the Department of Internal Affairs (DIA) and is open for submissions until 30 June 2007. Following the conclusion of the submission phase, officials will make recommendations to the Minister of Internal Affairs. Legislation will then be drafted.

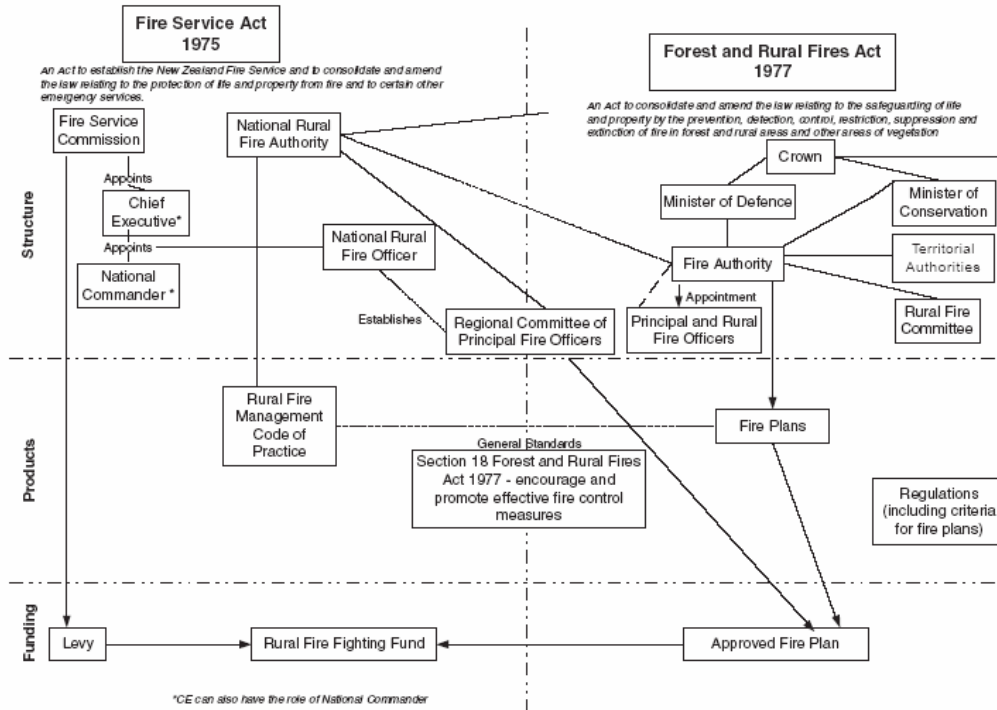
The proposed changes present two key issues:

- A new framework for fire and rescue services
- A funding system to pay for a large proportion of these services that is based on insurance levies.

### **4. Discussion**

The overall aim is to have a national fire and rescue service and to simplify current structures. Current structures are very complex as shown below.

**Figure 1: Legislative basis for fire management in New Zealand**



The new Act would create a new service, the Fire and Rescue Service (FRS), which would eventually replace the existing New Zealand Fire Service Commission and National Rural Fire Authority. The FRS would be a national organisation that would have the central role in fire risk management across the country including developing standards and promoting fire safety. Its responsibilities are outlined in table 1. Existing Rural Fire Authorities (such as Wellington City Council) would continue with responsibilities for vegetation fire risk management, unless they wished to end this involvement and transfer their responsibilities to the FRS.

The New Zealand Fire Service Commission is funded from a levy based on property insurance values, which applies to almost all property covered against fire risk. The new funding system would continue to be based on insurance levies but would apply to almost all property insured against any kind of loss or damage. This means the levy could apply to the widest possible range of insured property.

**Table 1: Overview of present and proposed structures**

Overview	Present		Proposed
Legislation	Fire Service Act 1975	Forest and Rural Fires Act 1977	One statute
Operational roles	<ul style="list-style-type: none"> <li>• New Zealand Fire Commission</li> <li>• Governing and operational role</li> <li>• Educating the public about fire safety</li> <li>• Receive and audit fire service levy</li> <li>• Research fire safety methods and practices</li> <li>• Hazardous substances</li> </ul>	<ul style="list-style-type: none"> <li>• Fire management and road accidents outside NZ Fire Service areas</li> </ul>	<ul style="list-style-type: none"> <li>• Fire risk management (reduction, readiness, response and recovery)</li> <li>• Non vegetation and vegetation fire in areas that are not covered by Rural Fire Authorities</li> <li>• Leadership and oversight of the fire service sector</li> <li>• Lead the development of regional fire risk plans</li> <li>• Promote fire safety</li> <li>• Develop minimum national standards for training, response and equipment</li> <li>• Volunteer brigades</li> </ul> <p><u>Rural Fire Authorities</u></p> <ul style="list-style-type: none"> <li>• Vegetation fires</li> </ul>
Funding	Insurance levies	Council rates, subsidies and fees	Insurance levies

#### **4.1. The Rural Fire Service**

The NZ Fire Service is responsible for managing fire response in the urban fire district. Its main purpose is to protect life and property and, therefore, operates equipment to suit this purpose.

Conversely, the Wellington City Council Rural Fire Authority is equipped so that it can respond to and suppress vegetation fires in areas outside the urban fire district. Its capability (equipment and personnel training) enables it to go off-road and be engaged in fire suppression activities for extended periods of time. It is also able to attend vegetation fires within the urban fire district (e.g. reserves, town belt, etc).

Therefore, while the two fire services have similar roles (fire suppression), they have acquired, developed and maintained specialist equipment and expertise that enables them to be effective in their respective roles. These differences have prompted rural fire volunteer personnel to question how the DIA proposal would be put into effect and whether there is a risk that rural fire capability (equipment and personnel training) could be compromised in the FRS.

#### **4.2 Operating Implications for WCC**

The Council provides \$395,000 to fund rural fire management<sup>1</sup>. There are twenty three volunteer fire fighters. Equipment includes five rural fire vehicles, three equipment trailers, a canteen trailer, a command, control and catering caravan and a bus for movement of personnel. Equipment is housed in a Council building located at Tawa. The Wellington Rural Fire Authority usually attends to 20 – 30 fires per annum.

If the proposal is enacted, the Council can choose to hand over its responsibilities regarding vegetation fire to the FRS. The Council has to notify the FRS that it wants to surrender its responsibilities and negotiations for transfer would include:

- a timeframe for the transfer
- the transfer and valuation of assets, liabilities and legal obligations
- the status of agreements between the Rural Fire Authority and voluntary fire forces
- the status of persons employed by the Rural Fire Authority in relation to its fire management responsibilities.

If the Council is interested in transferring its responsibilities, consideration would need to be given to the extent to which consultation would be appropriate. It is expected details about risks would be addressed at the time of negotiation for any transfer. This is an issue the Council can revisit after the current legislation review is completed. As noted in 4.1 above, there is some concern that current capabilities would not be maintained. A decision to transfer responsibilities would generally be irreversible.

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<sup>1</sup> P288 LTCCP, C543. The rates funding requirement is \$341,000 and user charges are \$54,000.

If the Council transfers responsibilities to the FRS the following points apply:

- Wellington City Council wouldn't have any responsibility or accountability for vegetation fires
- The Council would no longer need to fund the activities they currently provide
- A transition period would apply for Council and FRS to negotiate the transfer.
- Assets that belong to the local authority would be transferred on a willing buyer/seller basis and are subject to negotiation
- Wellington City Council would no longer need Fire Prevention Bylaws.
- Existing personnel would be transferred to positions in the FRS.

If the Council wishes to retain its responsibilities it can do so and the FRS will continue to provide assistance, so the Council can take a "wait and see" approach after the current review is completed, before deciding whether to transfer its rural fire activities to the FRS.

### ***4.3 Financial Implications for WCC***

Currently fire service levies are applied to property that is insured against fire risk. At present the Council contributes approximately \$157,000<sup>2</sup> in fire levies. The third schedule of the Fire Service Act 1975 exempts infrastructural assets from being liable for the levy.

The proposal involves collecting a levy on all property insured against any kind of loss or damage. It also questions whether the current exemptions in the Thirds Schedule are appropriate. The FRS would be funded by an insurance levy that would be structured and assessed in a different manner than the existing insurance levy. Instead of being assessed on indemnity values, the new levy would be assessed on all assets at replacement value.

In view of its substantial asset base and its responsibility to manage infrastructural risks under the National Civil Defence Emergency Management Plan Order 2005<sup>3</sup>, the Local Government Sector would be responsible for funding a greater proportion of the FRS than is currently the case. The effect of both changes for the Council; - that is removing the exemption and calculating the fire service levy on replacement values, would increase the fire service levy to \$1.752 million for infrastructural assets<sup>4</sup>.

The potential for very large increases in the Council's insurance premiums and recognition that the RFS is not responsible for protecting local government's infrastructural assets would be reasons why the Council should object to the proposal.

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<sup>2</sup> Excludes FSL on housing, vehicles, contract works and contents

<sup>3</sup> National Civil Defence Emergency Management Plan Order 2005 (Section 10, 89, 3 (e)) "Local Authorities have a responsibility to the extent possible to insure against and attempt to minimise or mitigate risk, in advance of any event".

<sup>4</sup> Based on current infrastructural assets' value of \$2.4 billion.

## 5. Conclusion

The report has described the major changes to the Fire Legislation that are proposed in a pre legislation discussion document prepared by the Department of Internal Affairs. It is recommended that the Committee agree the submission to the Department of Internal Affairs on the New Fire Legislation.

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<b>Supporting Information</b>
<b>1) Strategic Fit / Strategic Outcome</b> <i>The submission supports the following Wellington City Council long term outcomes: Building strong, safe and healthy communities for a better quality of life 6.6. Safer: Wellington will offer a safe living environment, where people feel safe.</i>
<b>2) LTCCP/Annual Plan reference and long term financial impact</b> <i>Not applicable, as there is no funding requirement.</i>
<b>3) Treaty of Waitangi considerations</b> <i>No significant Treaty implications.</i>
<b>4) Decision-Making</b> <i>This is not a significant decision.</i>
<b>5) Consultation</b> <i>Not required as Council is not making a decision or commencing an initiative that relates to Part 6 of the Local Government Act 2002.</i>
<b>6) Legal Implications</b> <i>Not applicable.</i>
<b>7) Consistency with existing policy</b> <i>The Committee has delegated authority to approve submissions.</i>

### ***Wellington City Council Submission to the Department of Internal Affairs on the New Fire Legislation – A framework for New Zealand’s fire and rescue services and their funding.***

Wellington City Council is directly affected by changes that are proposed in the “New Fire Legislation – A framework for New Zealand’s fire and rescue services and their funding” and welcomes the opportunity to comment on the proposal.

The Wellington City Council is a Rural Fire Authority. It has fostered vegetation fire response capability by maintaining specialist equipment and supporting a team of volunteers who make a vital contribution to the city’s well being by volunteering their time for fire call-outs and undertaking training to maintain standards of preparedness.

A new framework is proposed that would simplify existing structures and give Wellington City Council the opportunity to transfer its rural fire responsibilities to the Fire and Rescue Service.

The proposal includes changes to the existing funding system. It would continue to be based on insurance levies but the calculation would be based on all property that is insured against any kind of loss or damage and the levy would be based on replacement values rather than on indemnity values.

#### **Comments on the proposal**

Wellington City Council is generally supportive of the proposal. The Council is of the opinion that the suggested framework is a good way of simplifying existing structures and maintaining existing standards.

However, Council is concerned that if the new funding system is changed insurance levies could increase significantly. The Council is opposed to changes that would result in it being responsible for funding a greater proportion of the FRS funding requirements. Changes in this respect should recognise the benefits that arise from FRS coverage and the difficulties of obtaining insurance cover for infrastructural assets.

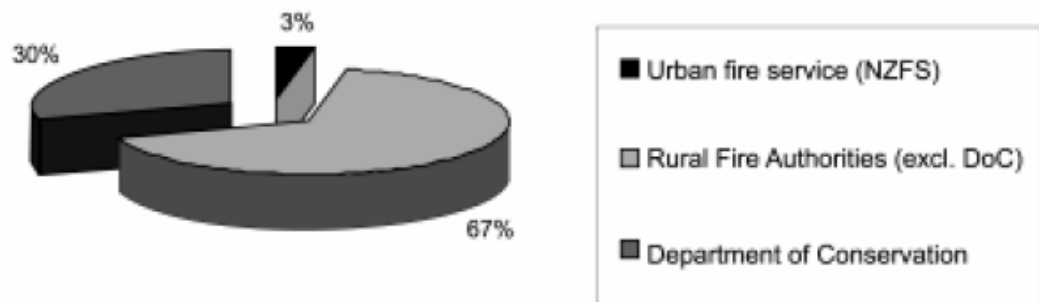
We note that the framework does not require the Council to transfer its rural fire responsibilities but enables the Council to do so, if it wishes. In this regard the Council acknowledges the important role of volunteers who are specialists in the field of vegetation fire control. The Council expects that their expertise will need to be retained by the NZ Fire and Rescue Service if current response capability is to be maintained.

Under the Building Act 2004, local authorities are responsible for the administration of buildings. This includes all safety functions other than the evacuation plan which is approved by a fire service authority. The Council doesn’t see a need for this to be changed and is especially concerned that the discussion document is unclear what “other building safe functions”, as mentioned under section 8.24, are. Building safety functions should only be the responsibility of the FRS if requested by the Council.

**Background Information - Facts and Figures**

The discussion document “New Fire Legislation – new functions and structures of New Zealand’s fire and rescue services” outlines that Rural Fire Authorities are the main provider of fire services across the country. The FRS would take over most responsibilities that Rural Fire Authorities attend to at this stage. Rural Fire Authorities would be solely responsible for vegetation fires which only account for 7% of attended incidents (figure2).

**Figure 1: Proportion of New Zealand land managed by urban and rural fire services**



**Figure 2: Incidents attended to by fire services by type, 2002/2003**

