

New Fire Legislation

The functions and structure of
New Zealand's fire and rescue services

A Discussion Document

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The Department of Internal Affairs

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Foreword



This document is the first of two discussion documents about the future shape of New Zealand's fire services.

While we are fortunate to have excellent fire services in New Zealand, the current legislation has several problems. Not only do we have a dual fire management system, but many ambiguities, gaps, and funding inequities exist in the legislation.

Another important issue is that our firefighting services are carrying out tasks that have grown well beyond their original role. At storms, floods, and road accidents we regularly see firefighters carrying out a variety of emergency work. We need to change the legislation to reflect this.

Working closely with Local Government New Zealand and the New Zealand Fire Service Commission, we intend to develop a new management framework. This envisages the creation of a New Zealand Fire and Rescue Board.

Our fire management system depends heavily on the contributions of volunteer firefighters and their communities. Any changes to the legislation need to ensure their efforts are encouraged and maintained.

This document explains how the current fire management system works. This is necessary because the present legislation is complex and we need to understand how the system works now before we decide how to change it for the future.

I encourage you to study this document. It proposes three options and poses key questions about the options. We are interested in your views on the general direction indicated by each option. We are not asking you to commit to any approach at this stage, because the options' acceptability also depends on funding arrangements, which will be discussed in the second discussion document next year.

I am keen for the review process to be as open as possible. We want to tap into your insights and experience to ensure we are fully informed by the people who are key to making the system work.

The Department of Internal Affairs seeks your comments on this document by **31 March 2005**. However, you are welcome to contact the department at any time to discuss the issues.

I encourage you to make your views known.

A handwritten signature in dark ink that reads "George Hawkins". The signature is written in a cursive style.

Hon George Hawkins
Minister of Internal Affairs



Part 1

Introduction

Purpose of this document

1.1 New Zealand needs to modernise its fire legislation. The purpose of this discussion document, the first of two, is to clarify why this is needed and provide you with enough information to understand and assess the options for change.

1.2 The three main problems with the existing fire legislation are:

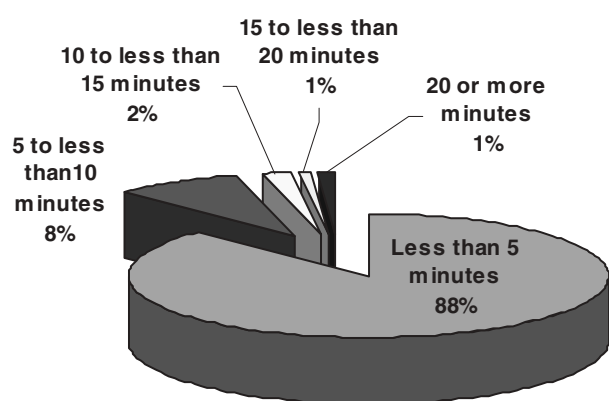
- deficiencies and gaps in the legislation lead to ambiguity and inconsistency
- the evolving role of firefighting services in non-fire emergencies is not mandated in the legislation
- the dual fire management system created by the legislation does not allow for the most coordinated and efficient approach to firefighting and responding to other emergencies.

1.3 The first problem can be fixed with specific legislative amendments. The second problem can be addressed by redefining the mandate for our fire services. The third problem needs a focus on the system as a whole. The Government needs to weigh up the options addressing the three problems. This is where your views are particularly important.

Problems, but good performance

1.4 The problems do not mean New Zealand is poor at reducing fire risk or responding to fire and other emergencies. Indeed, the cooperation and common sense of fire managers on the ground tend to mask the problems. The country enjoys excellent coverage (figure 1.1) and a standard of service that compares well internationally (figure 1.2). For example, 96 percent of the population can be reached by a fire service within 10 minutes.

Figure 1.1: Proportion of New Zealand population within reach of a fire service

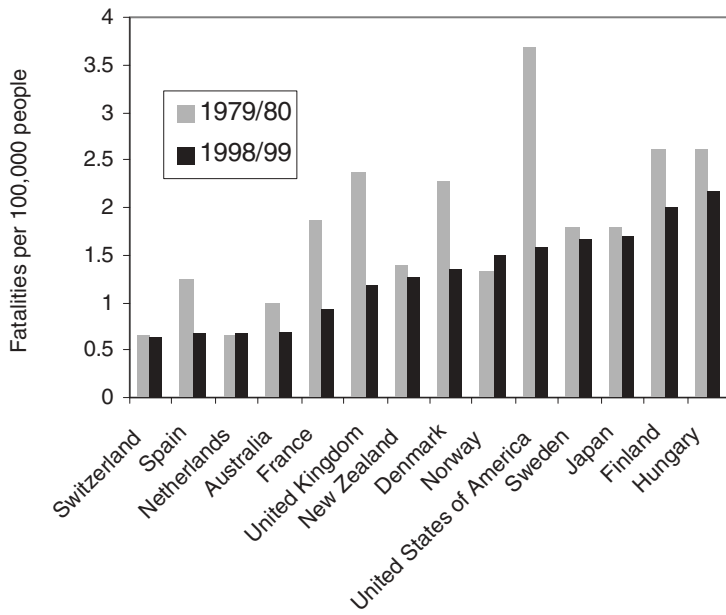


Source: New Zealand Fire Service

Getting there quickly

Figure 1.1 shows the proportion of the population protected by fire services. It shows the time it takes a fire appliance to travel to an incident from the nearest fire station, based on the 2001 Census population figures. Most people (88 percent of the population) live within 5 minutes of the nearest fire station, volunteer rural fire force depot, or industrial fire brigade. Travel times are for a fire appliance travelling with lights flashing and sirens sounding and not stopping for traffic lights and so on. About 40,000 people (1 percent of the population) live more than 20 minutes from the nearest fire service.

Figure 1.2: International fire fatality comparisons, 1979/80 and 1998/99



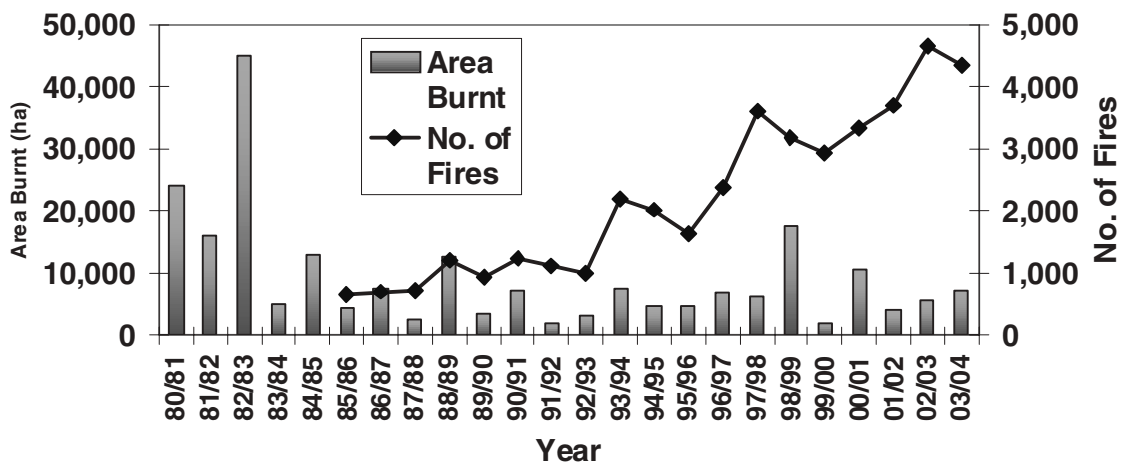
Doing well and doing it better

Figure 1.2 shows a downward trend in fire fatality rates in most developed countries from 1979/80 to 1998/99. The decline in fatality rates is much greater for countries with a higher fatality incidence because it takes less effort to save one more life when thousands of people are dying each year, than when annual fatalities are low (as in New Zealand).

Source: World Fire Statistics and New Zealand Fire Service

1.5 Throughout New Zealand, rural fire services minimise the threats from forest fire and wildfire. New Zealand’s temperate climate and size mean we do not experience the scale of fires that commonly devastate vast areas in Australia and the United States of America. In addition, a well-coordinated system of wildfire management ensures resources can be rapidly deployed, so potentially large fires are contained at an early stage. Figure 1.3 shows that while the number of rural fires increased throughout the 1990s the total area lost to fire tended to decline.

Figure 1.3: Number of rural fires and size of area burnt, 1980/81–2003/04



Source: National Rural Fire Authority

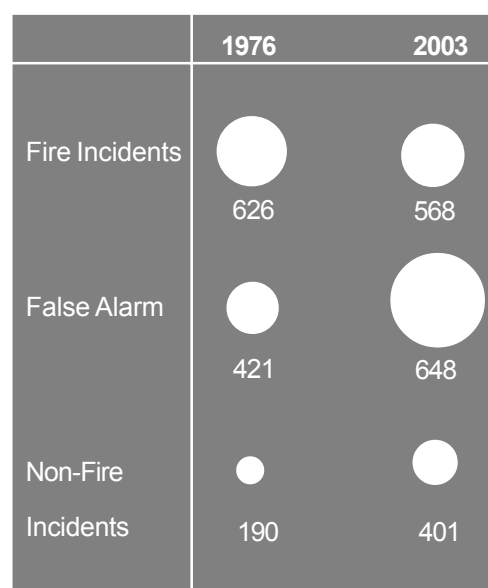
Mandate for change

1.6 In April 2003 local and central government came to a consensus that a number of issues around the organisation and funding of fire services needed to be addressed. They agreed that a collaborative approach to fire management and funding was to be preferred. An officials group was formed, comprising representatives from the Department of Internal Affairs (as lead agency), the Department of Prime Minister and Cabinet, The Treasury, the Ministry of Civil Defence and Emergency Management, Local Government New Zealand and the New Zealand Fire Service Commission (NZFS Commission). In December 2003 Ministers agreed to the group's recommendations about the framework for managing fire services.

1.7 The officials group recommended:

- comprehensive new fire and rescue legislation should:
 - replace the Fire Service Act 1975 (FSA) and the Forest and Rural Fires Act 1977 (FRFA)
 - be developed by the Department of Internal Affairs in consultation with Local Government New Zealand, the NZFS Commission, and government agencies
- any new fire legislation should extend the mandate for firefighters to carry out the general rescue work they currently perform (see figure 1.4)
- the officials group should continue to work with local government to develop a property-based funding system (and resolve collection problems), so funding provisions would be ready at the same time as other legislative changes.

Figure 1.4: Number of incidents by type per 100,000 people, 1976 and 2003



Firefighters in new role

Figure 1.4 shows from 1976 to 2003 the rate of fire incidents per 100,000 people declined. That is, although the number of fires increased over that period the population increased more quickly. The public had less chance of seeing a fire in 2003 than in 1976, but was twice as likely to encounter a fire brigade at a non-fire incident.

Source: New Zealand Fire Service

Opportunities offered by this review

1.8 While in principle the gaps and deficiencies in the FSA and FRFA could be fixed with a few specific amendments, the legislation is dated and needs a fundamental rewrite. For example, the parts of the FSA dealing with financial and employment matters are inconsistent with current state sector “best practice”. Some of the broad powers given to various officers would not be allowed under new legislation and new legislation would not contain the level of prescription common in the FSA (see appendix D).

1.9 Rewriting the legislation provides an opportunity for three levels of integration:

- combining the FSA and FRFA into a single Act and tidying up the ambiguities and inconsistencies (that is, integrating the legislation)
- creating a single national fire manager (that is, integrating the overall management structure)
- creating a single organisation (that is, integrating all operations).

Each level of integration fits within the review’s ministerial mandate. However, none of the three options presented in section 4 legislates for full operational integration, although options one and three do not preclude it.

1.10 The justification for adopting any of the proposed options depends on any new management model improving services and allowing them to be delivered at least as efficiently as at present. This means maintaining the volunteer firefighter base.

Good climate for change

1.11 Changes to fire legislation have generally been made after significant incidents. The 1947 Ballantyne & Co department store fire in Christchurch, where 41 people died, had a profound impact on the national consciousness about fire risk, and reinforced the climate for major changes in the legislation. This resulted in the Fire Service Act 1949. The deaths of seven elderly residents in the 1969 Sprott House fire in Wellington gave impetus to the introduction of the Fire Safety (Evacuation of Buildings) Regulations 1970. (See appendix A for a summary of the evolution of the fire services.)

1.12 This review presents us with an opportunity to develop well-considered legislation. It offers the possibility for fresh thinking, without the pressure of needing an immediate solution. This is an opportunity to design an optimal solution.

Two discussion documents

1.13 This discussion document gives you an opportunity to provide your views on the future of New Zealand’s fire management system. It deals with the structure and function of fire services throughout the country. The key questions are:

- What degree of integration between urban and rural fire services is desirable?
- How should we govern our fire services?

- How should services be provided and by whom?

1.14 Only when we have a complete picture of how we want to organise fire services will it make sense to decide how they should be funded. The second discussion document will deal with funding and other issues that need to be resolved before new legislation can be drafted. This document is likely to be distributed in 2005, with public submissions due later in the year.

Structure of this document

1.15 This document describes how our fire services are organised and their underlying problems and offers three options to resolve these problems. Background information to help you to understand why our services are organised the way they are and how the Australian states have addressed many of the same concerns is in the appendices.

1.16 After this introduction, Part 2 outlines the legislative basis for the two services, their different focuses, and how they fit together. It shows firefighters' changing workload and the high degree of prescription that characterises their management structures.

1.17 Part 3 describes the different problems and discusses the questions that need to be raised in relation to them. Some problems are a function of the outdated legislation; others relate to the management structure.

1.18 Part 4 presents three options to resolve the problems. It should raise the main issues for your comment.

1.19 To help focus your comments Part 5 asks key questions. However, your comments do not need to be limited by these questions.

1.20 Part 6 explains how to make a submission.

1.21 Appendix A gives a brief history of New Zealand's fire services to clarify why we have a dual management structure. Appendix B examines the fire management situation in the Australian states. Australia offers relevant and accessible models to New Zealand for the reasons outlined in the appendix. Appendix C briefly describes the funding systems for the two services. Appendix D notes the effect of Crown entity legislation on the establishment of any new fire and rescue organisation. Appendix E provides general information about the review project.

1.22 We invite your comments on the issues raised in this document by **31 March 2005**. Email your comments to FireLegislationReview@dia.govt.nz or post them to:

Fire Legislation Submissions

Department of Internal Affairs

PO Box 805 Wellington

We welcome your views.

Part 2

Organisation of New Zealand's fire services

Two separate systems

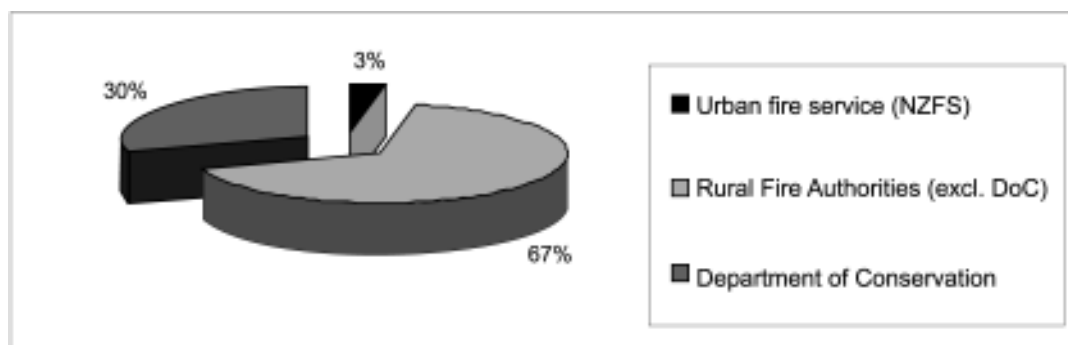
2.1 Two fire management systems exist in New Zealand: a national 'urban' service provided by the New Zealand Fire Service (NZFS) and a 'rural' system under the control of 86 rural Fire Authorities. Both systems rely heavily on large numbers of volunteer firefighters.

2.2 The urban system belies its name. Although urban fire districts cover about 3 percent of New Zealand's land area, their network of some 440 fire stations reaches into some of the smallest towns. In Tolaga Bay, Karamea, and Browns the volunteer fire brigades are all part of the urban system.

2.3 The urban system also includes several specialised private brigades. These brigades protect major commercial installations such as the Marsden Point Oil Refinery, the Tiwai Point Aluminium Smelter, and airports.

2.4 The rural system is more varied in its firefighting arrangements. It is made up of 86 rural Fire Authorities, comprising the territorial authorities, the Ministers of Conservation and Defence, and committees of interested parties. Large forestry companies play a major role in rural fire prevention. In many areas they work with local authorities and other organisations as part of rural fire committees, contributing equipment, trained firefighters, and management resources to the local arrangement.

Figure 2.1: Proportion of New Zealand land managed by urban and rural fire services



Compiled by DIA in consultation with NRFA

2.5 Rural Fire Authorities are responsible for fire management on the 97 percent of New Zealand land that lies outside defined urban fire districts (figure 2.1). Within this area the Department of Conservation (DoC) is a significant fire manager because it manages the 30 percent of New Zealand that comprises national parks, forest parks, and other reserves. It also manages a one-kilometre fire safety margin around most of these regions.

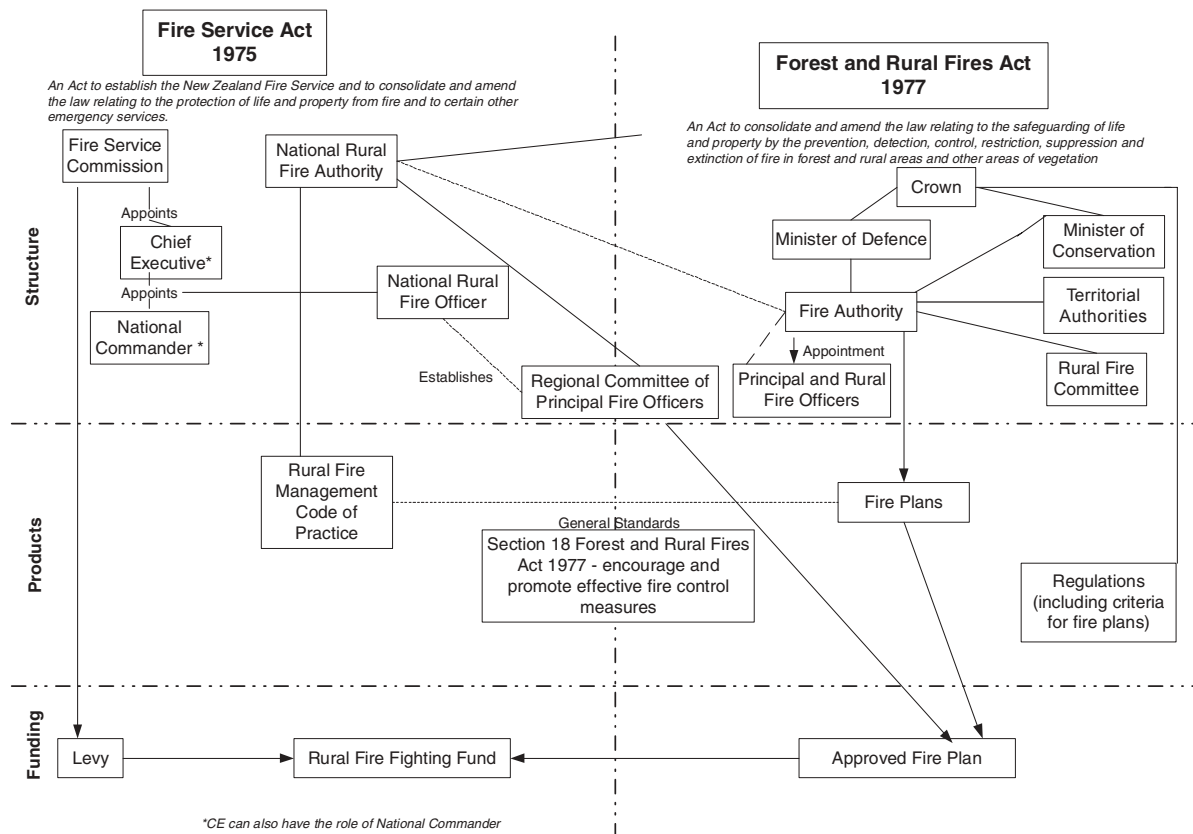
2.6 In carrying out the Minister of Defence's responsibilities as a Fire Authority, the New Zealand Defence Force (NZDF) provides and maintains significant firefighting resources of its own. It operates six fire stations on Defence bases throughout the country and operates a fire training school for firefighters. While the NZDF primarily protects its own facilities, it also makes firefighting resources available to adjacent communities when it is able.

2.7 Rural firefighting operations often rely as much on contractors with helicopters and monsoon buckets as on firefighters based in fire stations. Therefore, rural fire management is largely invisible because it does not necessarily require fire stations with conventional fire appliances. However, important exceptions exist. In Waitakere, for example, three rural fire stations and six appliances give the appearance of urban services rather than rural ones.

Legislative basis

2.8 The fire risk management framework is set out in the FSA and FRFA. Its complexity is illustrated in figure 2.2.

Figure 2.2: Legislative basis for fire management in New Zealand



2.9 The FSA gives the NZFS primary responsibility for delivering fire services in gazetted urban fire districts. The FRFA gives Fire Authorities responsibility for fires outside those districts.

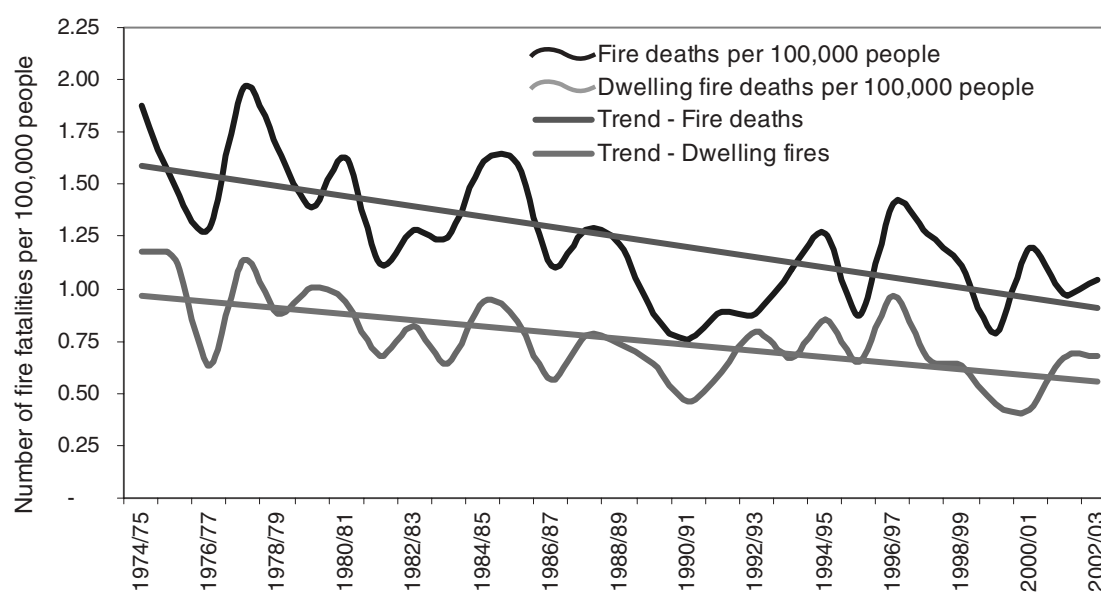
How the systems fit together

2.10 Despite prescriptive and unclear legislation, the two management systems have evolved to allow effective cooperation. The urban fire service, for example, is the first responder to as many as 80 percent of rural fires because it can respond almost immediately to 111 fire calls. When rural Fire Authorities arrive at a fire incident scene, they take over the command of the incident. Both organisations know the Fire Authorities are responsible for managing these incidents, so they have worked out operating protocols and charging mechanisms for the urban fire service's first response.

2.11 The urban fire service also attends many non-fire emergencies in rural areas, for example, road accidents. In these emergencies fire service participation is based on whether the service can render useful assistance, rather than on the incident's location.

2.12 Special agreements allow rural Fire Authorities to manage parcels of land in urban areas where special wildfire threats exist, for example, an area of vegetation on Mount Victoria in the middle of suburban Wellington.

Figure 2.3: Trends in fire fatalities, 1974/75–2002/03



Source: New Zealand Fire Service

Trends in fire fatalities

Before the NZFS's formation in 1976 no national data were kept on fire fatalities. Figure 2.3 shows the annual number of fatalities in fires declined from 1974/75 to 2002/03. The number of fatalities fell by about one person every two years (or a decline of about 30 percent over the whole period). This is significant considering the population increased by about the same proportion. Figure 2.3 also shows the decline in the rate of fire fatalities.

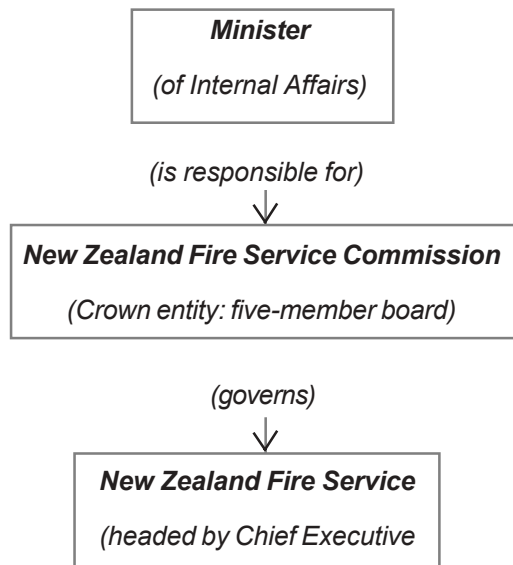
Urban fire services

2.13 The FSA is ‘An Act to establish the New Zealand Fire Service and to consolidate and amend the law relating to the protection of life and property from fire and to certain other emergency services.’ (long title to the FSA). It set up the NZFS as the country’s national firefighting organisation and placed it under the NZFS Commission’s control. Figure 2.4 shows the urban fire accountabilities.

New Zealand Fire Service Commission

2.14 The NZFS Commission is unusual in that it has both governing and operational functions. As a Crown entity it is the NZFS’s governing board and is responsible to the Minister of Internal Affairs for the efficient administration of the FSA. However, it also has direct responsibilities to ‘take an active and co-ordinating role in the promotion of fire safety in New Zealand’.

Figure 2.4: Urban fire accountabilities



2.15 As well as having a general coordinating role, the NZFS Commission must:

- ensure fire safety knowledge is applied throughout the community
- maintain an interest in fire safety through education and publicity
- publish and disseminate fire safety literature
- research fire safety methods and practices
- seek ways to reduce the incidence and consequences of fire, including the risk to life from fire
- receive and audit the fire service levy.

2.16 In a separate role, the NZFS Commission is the National Rural Fire Authority (NRFA) for FRFA purposes (see Figure 2.12).

New Zealand Fire Service

2.17 A Chief Executive heads the NZFS and is responsible to the NZFS Commission. The Chief Executive is responsible for day-to-day management and appoints NZFS personnel, including:

- eight Fire Region Managers
- Chief Fire Officers and Deputy Chief Fire Officers
- staff in national headquarters (in Wellington)
- staff in three emergency communication centres (in Auckland, Wellington, and Christchurch).

Figure 2.5: Geographic and command structure of the New Zealand Fire Service

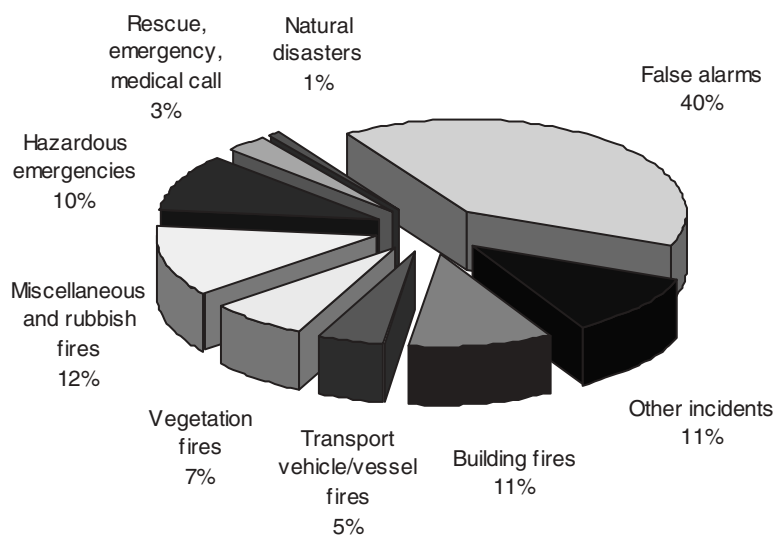


2.18 Within fire districts the National Commander is the NZFS's operational head and is responsible for the prevention, suppression, and extinction of fires and the safety of people and property endangered by fire. The National Commander:

- allocates resources between fire districts
- forms agreements with other fire services
- issues national operational instructions for all urban fire services
- develops policy on NZFS attendance at non-fire incidents.

2.19 Although the legislation constitutes the National Commander as a separate office from the Chief Executive, the same person may hold the two offices. This is the current situation.

Figure 2.6: Breakdown of incidents attended by fire services by type, 2002/03



Source: New Zealand Fire Service

Busy with other work

Today fires are only about one third of the incidents attended by all fire emergency services (that is, the NZFS, industrial brigades and rural fire forces). Figure 2.6 shows the proportion of incidents attended by type in 2002/03.

False alarms are the most common incident attended. Hazardous emergencies (which involve, for example, cleaning up hazardous materials such as petrol at vehicle accidents) are the single most common non-fire incident. Incidents resulting from natural disasters such as floods are insignificant in number compared with other types of incident, but have major consequences when they occur.

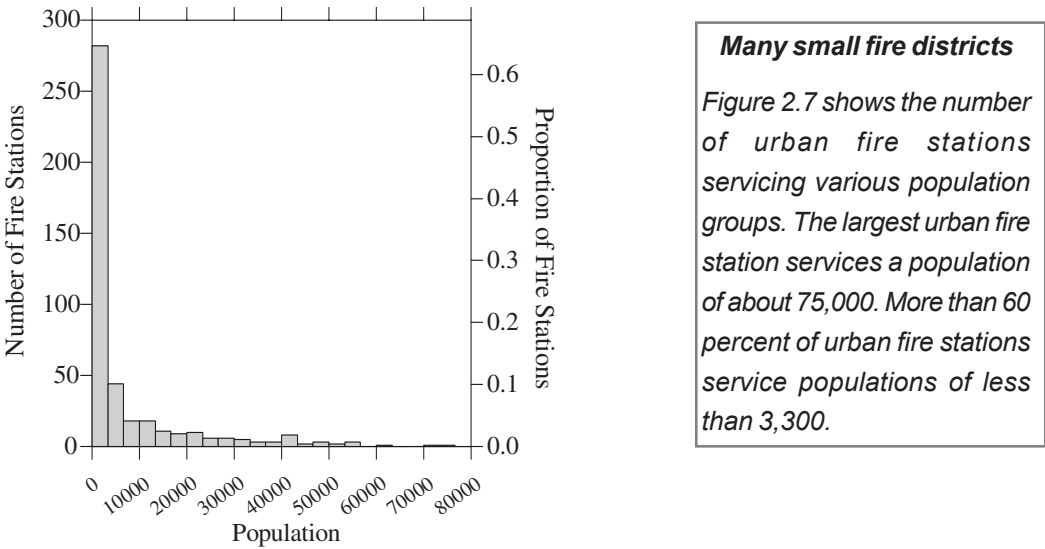
Fire districts: geographical building blocks

2.20 The FSA empowers the NZFS Commission to divide New Zealand into fire regions, fire areas, and fire districts. All fire districts must be contained within fire areas, which must be contained within fire regions. All suppression activities are delivered at a fire district level.

2.21 Fire districts are the geographical building blocks of the urban fire management system. As with fire regions and areas, they must be formally gazetted (that is, by being notified in the *New Zealand Gazette*) before being established, abolished, or altered. The formality of the change process, along with the general difficulty of removing fire stations, makes reorganising the NZFS complex and demanding, so changes have occurred only slowly.

2.22 The FSA laid down that the urban fire districts existing before the Act's introduction would be reconstituted as fire districts from 1976 onwards. The impact of this is that the NZFS's operational structure reflects a much older provenance than the FSA's enactment date suggests.

Figure 2.7: Number of urban fire stations by population serviced



Source: New Zealand Fire Service

Statutory officers: managerial building blocks

2.23 In addition to the prescribed geographic structure, the FSA establishes a separate management structure with statutory powers and responsibilities for designated officers. It lays out the separate roles and responsibilities of the Chief Executive, the National Commander, the Deputy National Commander, the National Rural Fire Officer, Chief Fire Officers, and Deputy Chief Fire Officers.

2.24 Multiple statutory officers mean a measure of independence for various positions, but they also split accountabilities within the NZFS. While the ability to make local decisions about fire dangers may have been justified before modern communication systems, it does not fit modern management philosophy or practice. It makes management responsibilities ambiguous and diminishes the final accountabilities of the NZFS Commission and Chief Executive for the organisations they run. It also locks a large measure of management inflexibility into the NZFS, constraining its ability to adopt more efficient management structures.

Firefighting central, but other roles envisaged

2.25 The FSA focuses on managing the risks from fire. For example, a Chief Fire Officer must ‘forthwith proceed’ to any fire or alarm to ‘endeavour by all practicable means to extinguish and prevent the spread of the fire (if any), and to save lives and property in danger’ (section 28(2) of the FSA).

2.26 Except for a key role with hazardous substances, non-fire roles are acknowledged only slightly. The FSA empowers a Chief Fire Officer who considers a brigade could render assistance in the event of ‘any emergency’ to ‘take whatever action is necessary to save lives and property in danger’ (section 28(3) of the FSA).

Widening scope of activities

2.27 The urban fire service has become increasingly involved in a range of incidents other than firefighting. Some incidents involve specialised skills and equipment, for example, motor vehicle incidents, urban search and rescue activities, and medical assists. The legislative mandate for the service to carry these activities out is weak and fails to recognise a more general ‘rescue’ role (see figures 2.8 and 2.9).

2.28 The NZFS is increasingly required to fulfil responsibilities given to it in legislation such as the Hazardous Substances and New Organisms Act 1996 and Civil Defence Emergency Management Act 2002. The latter Act, in particular, has led to the NZFS’s increasing involvement with local authorities and communities.

Figure 2.8: Incidents by type, 1976 and 2003

	1976	2003
Total Fire Incidents	19,687	22,769
False Alarm Incidents	13,225	25,996
Non-Fire Incidents	5,969	16,096

Source: New Zealand Fire Service

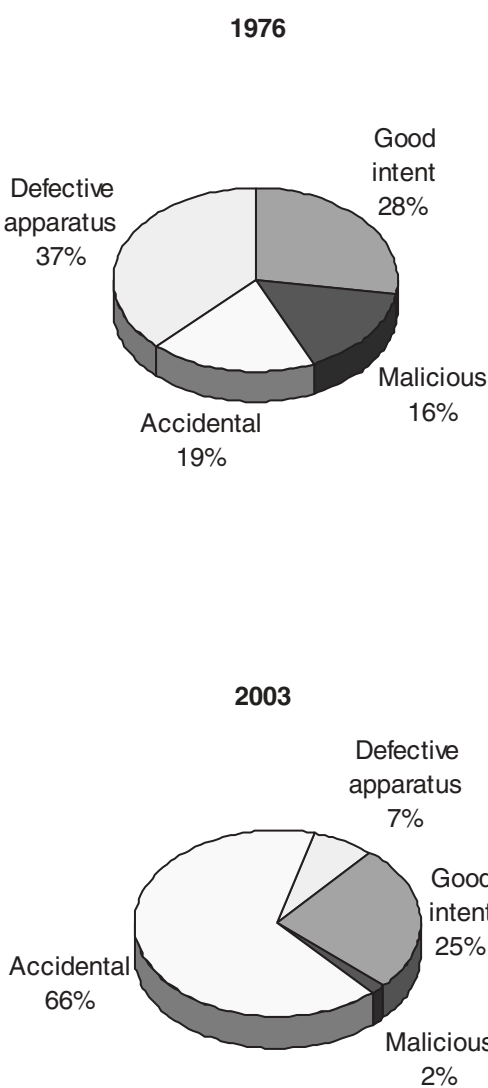
Non-fire incidents booming

Figure 2.8 shows the change in the types of incident attended by fire services from 1976 to 2003. In 1976 rural and urban fire services’ main activity was fighting fires (19,687 fires). Non-fire incidents (5,969) were only 15 percent of the total workload.

The number of fires did not increase significantly from 1976 to 2003, but non-fire incidents almost trebled to 16,096 (25 percent of the workload). False alarm incidents increased from 34 percent of emergency responses in 1976 to 40 percent in 2003, becoming the main response type.

2.29 These changes capitalise on the NZFS's special strengths, in particular its comprehensive national network (some 440 fire stations), its well-developed communications system, and a seven-day, 24-hour capacity in all major urban areas. In addition, a significant reserve of skilled first-response personnel gives the NZFS unique advantages as a first-responder organisation. This special standing was recognised by government officials in the mid to late 1990s, during the work on emergency services that, among other things, led to the Civil Defence Emergency Management Act 2002. In looking at the availability of first-response capability, officials agreed that, in the absence of any other specialised organisation, strong reasons existed for the NZFS to carry out many of these activities.

Figure 2.9: False alarm incidents by type, 1976 and 2003



Not so alarming

False alarm incidents are responsible for about 40 percent of the NZFS workload. However, apart from malicious calls, they reflect larger numbers of alarms, greater fire safety awareness, and more rigorous checking procedures and standards.

Figure 2.9 compares the types of false alarm incident attended by the NZFS in 1976 and 2003. Good intent false alarms (that is, 111 calls placed in a genuine belief there is an emergency) formed about a quarter of all false alarms in 1976 and 2003. Malicious false alarms fell significantly in number and as a proportion of all false alarms (possibly reflecting improved technology, better data capture, and stronger incentives for property owners to be careful).

False alarms due to faulty equipment dropped substantially, but false alarms due to accidental alarm activations increased. The huge increase in accidental activations reflects the increasing prevalence of alarm systems, as well as poor design, installation, and maintenance practices.

Source: New Zealand Fire Service

Rural fire services

Limited legislative mandate

2.30 The FRFA is 'An Act to consolidate and amend the law relating to the safeguarding of life and property by the prevention, detection, control, restriction, suppression and extinction of fire in forest and rural areas and other areas of vegetation' (long title to the FSA).

2.31 The FRFA is more targeted than the FSA. It makes no mention of fire services attending any kinds of non-fire emergency. Therefore, rural fire forces have no legislative mandate to attend motor vehicle or other non-fire incidents.

2.32 Because urban and rural fire services are operationally separate, rural areas tend to lack the non-fire services provided by urban brigades. This operational gap is masked by the NZFS extending its activities into areas where it has no direct fire responsibilities.

Local responsibility through Fire Authorities

2.33 The FRFA provides for Fire Authorities to manage the fire risk throughout the country. In the first instance, territorial authorities are the Fire Authorities within their own boundaries and are responsible for fire management except in areas:

- defined as urban fire districts
- for which the Minister of Conservation is responsible
- for which the Minister of Defence is responsible.

Figure 2.10: Fire accountabilities before rural fire districts formed

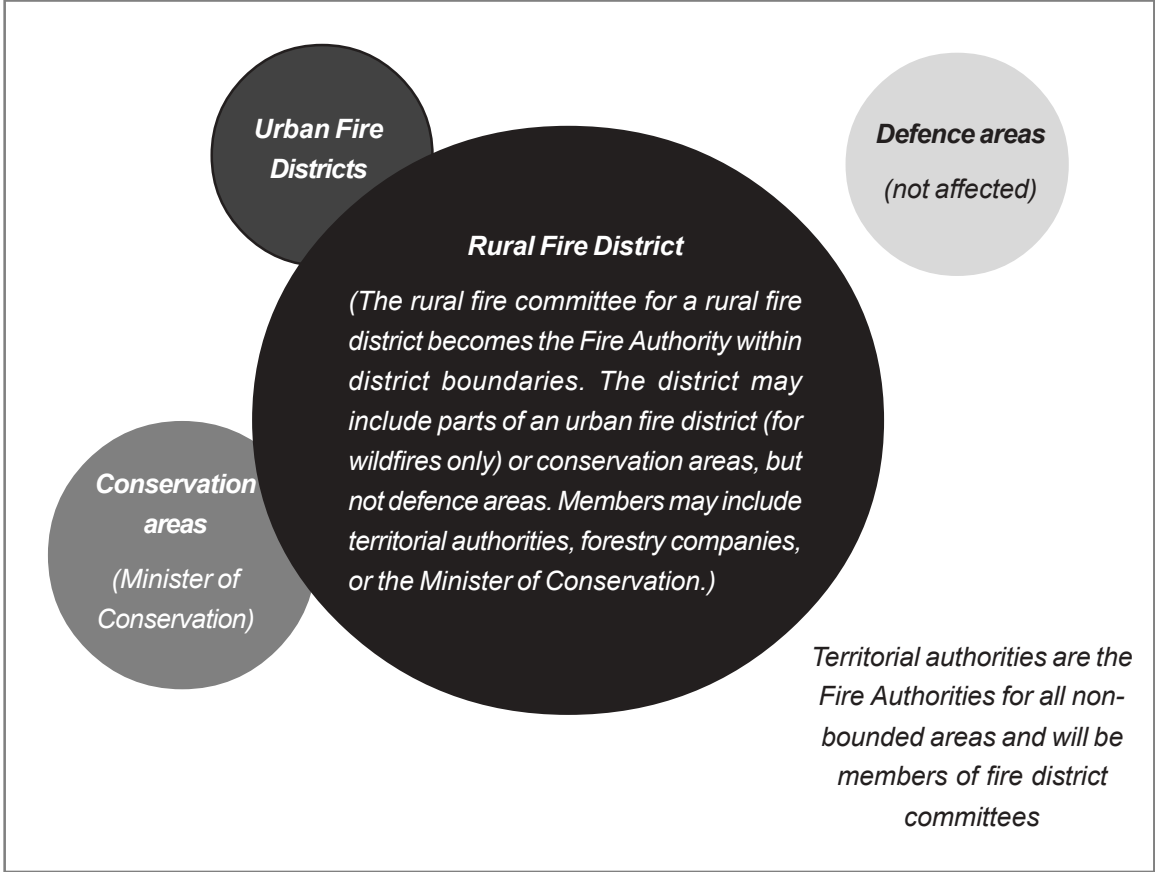


2.34 Under the FRFA fire management areas may be modified or amalgamated with the creation of rural fire districts. This allows Fire Authorities and other fire interests to manage their fire risks collectively. The FRFA provides that the NRFA may form a rural fire district in any part of New Zealand, which means it may overlap urban fire districts or conservation areas. Rural fire committees administer these districts,

becoming Fire Authorities in this capacity. The NRFA determines the membership of rural fire committees, which may comprise:

- one or more local authorities
- forestry companies and other stakeholders
- the Minister of Conservation.

Figure 2.11: Fire accountabilities after rural fire districts formed



- 2.35 A Fire Authority must:
- encourage, promote, and carry out fire control measures, which includes writing fire plans
 - maintain registers of the boundaries it administers
 - record agreements for special management arrangements, and may
 - make bylaws for fire control.

- 2.36 In carrying out these duties, the Fire Authority, with the NRFA, must:
- observe weather conditions and assess fire hazards
 - give warnings of the imminence of fire hazard conditions
 - give out information about fire hazard conditions.

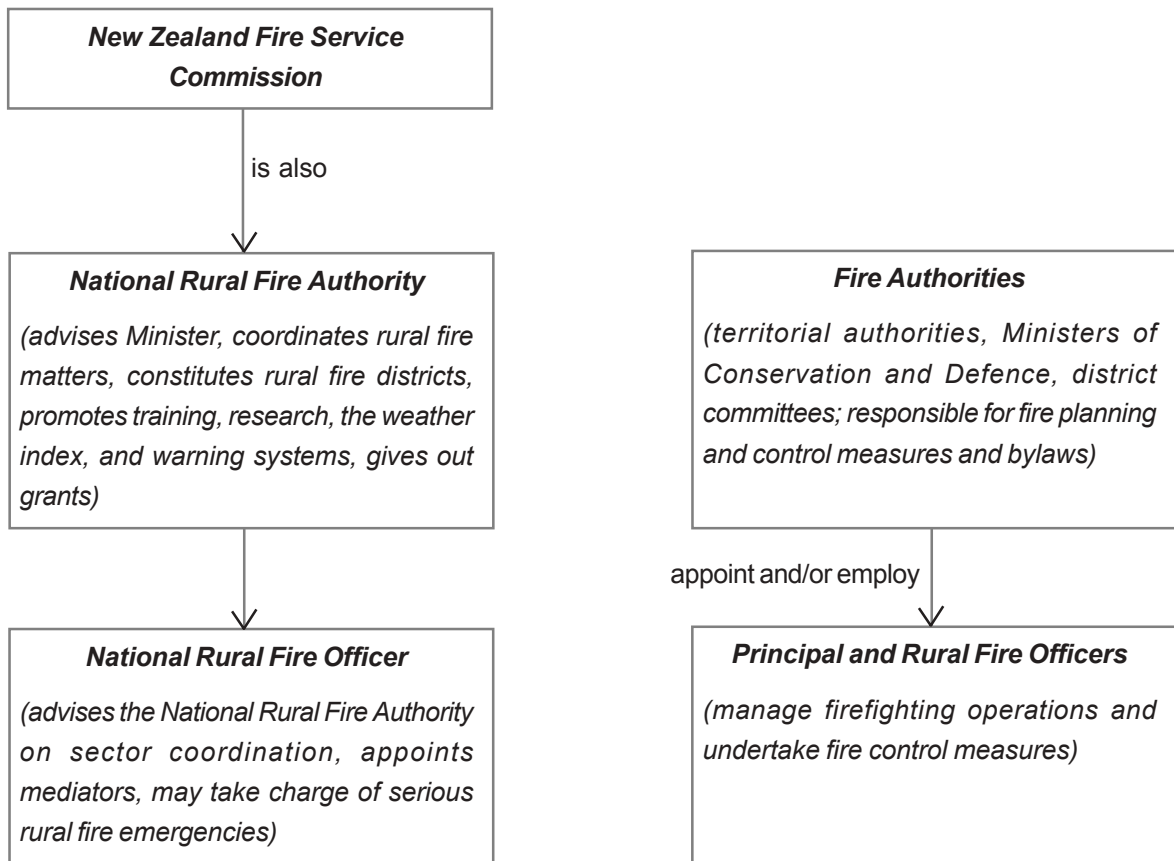
2.37 However, the FRFA is not a complete guide for rural fire management. It overlaps with the FSA, which separately requires an NRFA and allocates this role to the NZFS Commission. The NRFA coordinates and promotes rural fire control matters and sets out the requirements for effective rural fire control measures for rural Fire Authorities. The FSA also requires the NZFS Chief Executive to appoint a National Rural Fire Officer and defines the officer's responsibilities. These requirements help to give a national perspective to rural fire management.

Rural fire forces helping with much more than fire

During 2003, rural fire forces spent more than 1,700 hours at emergency incidents other than vegetation fires (that is, incidents for which they have no jurisdictional authority). This equates to about 56 percent of their total emergency response activity.

2.38 Nevertheless, the FRFA establishes the central element of rural fire management: local responsibility through a network of rural Fire Authorities (figure 2.12).

Figure 2.12: Rural fire accountabilities



Rural fire districts

2.39 The NRFA may constitute 'any part or parts of New Zealand' as a rural fire district (section 4 of the FRFA). It may alter, redefine, or abolish such districts, although these processes must be administered formally by notice in the *New Zealand Gazette*.

2.40 The creation of rural fire districts is reflected in a parallel requirement for a rural fire committee to be the Fire Authority for each district. All rural Fire Authorities must carry out fire control measures in their areas, including providing fire plans. To achieve this they employ fire officers and rely on 3,000

volunteers, and contractors to staff essential firefighting operations. The 86 rural Fire Authorities comprise:

- the Minister of Conservation for conservation areas
- the Minister of Defence for defence areas
- rural fire committees (when a rural fire district exists)
- territorial authorities for the balance of land outside urban districts.

Small but willing

Sixteen rural towns with populations under 1,000 maintain a volunteer fire brigade and a voluntary rural fire force.

Rural fire officers' special powers

2.41 The requirement to appoint various statutory officers is also a feature of the FRFA. Each Fire Authority must appoint at least one Rural Fire Officer and, if more than one has been appointed in any district, appoint a Principal Rural Fire Officer.

2.42 Principal and Rural Fire Officers have significant duties. They must:

- proceed to fires and 'endeavour by all practical means to extinguish the fire and prevent the spread thereof and to save lives and property in danger' (section 36(1) of the FRFA)
- control any brigade or volunteers whose services are required, except when a building is on fire

Principal and Rural Fire Officers may:

- enter any land or structure that may be on fire
- transport equipment through any premises or land
- carry out preventative burning
- demolish or shore up dangerous premises
- access water supplies
- close off fire areas
- order people away from fire areas
- requisition firefighting assistance.

These powers belong directly to Principal and Rural Fire Officers rather than to the management organisation accountable in their area.

Volunteers

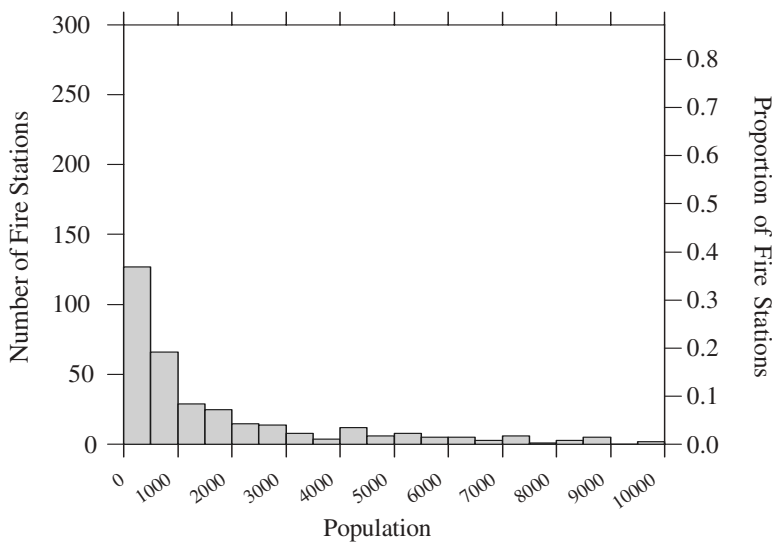
2.43 Volunteer firefighters are enormously important for maintaining a credible nationwide fire protection system. Overall, 11,000 volunteers constitute 87 percent of the total firefighting labour force and are the key to achieving widespread coverage across the country. In the urban system 8,000 volunteers complement 1,700 full-time paid firefighters; while in rural areas 3,000 volunteers assist a few local authority staff and contractors with fire control responsibilities.

2.44 The supply of volunteer firefighters is under significant pressure from:

- changing demographic trends
- increasing occupational health and safety requirements
- rising public expectations about greater coverage
- greater personal liability risks.

However, the difficulty obtaining volunteers may need to be addressed as a management issue rather than through legislation.

Figure 2.13: Number of urban fire stations serving populations under 10,000 and proportion by population



Tiny Districts support volunteer brigades

Figure 2.13 shows urban fire stations serving districts with populations under 10,000. About 130 urban fire stations (35 percent) serve populations of 500 or less. Volunteer brigades are often an important community resource in smaller districts.

Source: New Zealand Fire Service

Part 3

Problems with the legislation



Problems with the legislation

3.1 New Zealand's fire legislation suffers from several problems: some arise from the way the legislation is written; others arise from the structure it describes; and others result from the inequities it creates.

3.2 The legislation's lack of clarity leads to ambiguities, inconsistencies, and gaps. For example, rural firefighters do not have a legal duty to assist with the wide range of emergencies they commonly attend, and may have no legal protection when they do attend.

3.3 The structural problems relate to the dual framework structure for fire management. Two independent fire management systems mean the approach to fire risk cannot be coordinated in the most efficient way. At best this means a less efficient use of resources; at worst it could lead to an absence of services or poor coordination during large emergencies.

3.4 The inequities relate to who pays for and who benefits from the fire protection system (see 3.33–40). These inequities will be dealt with fully in the second discussion document, which focuses on funding and financial issues.

Need to resolve problems now

3.5 Despite the problems, New Zealand is well prepared for fire emergencies. The cooperation and common sense of experienced fire managers and firefighters achieve good results (see section 1). However, firefighters and their managers might face exposure to liability claims if things go wrong.

3.6 The ambiguities, gaps, and inconsistencies in the legislation need to be fixed in the short to medium term. These are specific problems that need specific solutions. They do not require a new management system. However, they are extensive, so a major rewrite of the legislation is needed.

3.7 The problems with the dual management structure are less pressing but potentially of greater magnitude than the purely legislative problems. It's not that we're doing things badly, but that we might be able to do them better. An integrated management framework offers the possibility of more efficient resource use. The longer we put off doing things more efficiently, the more it will cost us in the long run.

3.8 The key question for any new framework is: how will we know it will be more efficient? In assessing a new model, we need to value the current one properly. We know, for example, that our fire management systems depend not only on the efforts of full-time paid firefighters, but on the significant contributions of volunteers and their communities. Any new system must be careful to preserve the role of volunteers and to retain local communities' support and encouragement. It would be of little overall benefit to seek small financial gains in some parts of a new system, if they lead to significantly diminished contributions by volunteers.

3.9 A new system must achieve one of three outcomes. It must do:

- the current job for less than it costs under the present system
- more things for the same cost as the present system
- a bigger job for a smaller cost increase than would occur under the present system.

Ambiguities, gaps, and inconsistencies

- 3.10 The legislation:
- is ambiguous about fire suppression services' functions and accountabilities
 - is unclear about fire boundaries
 - has gaps in the mandate for firefighters to perform non-fire tasks
 - is complex in its description of who is accountable for attending structural fires in rural areas
 - allows for agreements for service between the NZFS Commission and volunteer fire brigades which leave the relationship between volunteers and the NZFS unclear in some respects
 - lacks guidelines about payments to volunteers in the rural sector
 - allows different standards and processes for fire permits in different regions.

The following discussion deals only with the main problems listed above.

Ambiguity about fire suppression services' functions and accountabilities

3.11 One of the fundamental problems with the FSA and FRFA is whether they divide the country functionally or geographically. That is, does responsibility for vegetation fires and wildfires lie with rural Fire Authorities or only if they are within rural areas? Are structural fires the sole responsibility of the urban fire service or only when they occur in urban fire districts?

3.12 In one view the legislation is built on the notion of territoriality, that is, a single fire manager is responsible for fire control within a specified area.

3.13 In the other view, the type of fire is paramount. This functional view is strengthened by both Acts allowing urban and rural fire districts to be declared in any part of New Zealand. It would be possible, for example, for a rural fire district to be declared across the boundaries of an urban fire district. Therefore, two authorities would have complementary powers to carry out the fire control measures considered necessary in their district.

3.14 The functional view is strengthened by the long title to the FRFA, which refers to consolidating 'the law relating to ... fire in forest and rural areas and other areas of vegetation'. In this view vegetation fires and wildfires are different from other fires. They are part of larger land-management issues and require different knowledge bases, different management regimes, and differently trained and equipped firefighters to extinguish them.

3.15 To complicate matters, each Act allows the different authorities to cooperate to carry out operations within another's territory. Under the FRFA, a fire authority may exercise its powers in areas of vegetation within urban districts. Conversely, under the FSA a Chief Fire Officer may 'in the event of any fire or other emergency ... outside any Fire District ... take whatever action is necessary to save lives and property in danger' (section 28A of the FSA).

3.16 An integrated management system could resolve the ambiguities by recognising the supremacy of districts for all fire accountabilities or by doing away with them. The latter option would establish a wildfire management responsibility for the whole of New Zealand.

Unclear boundaries

3.17 No single authoritative and agreed map of New Zealand's fire jurisdictions exists.

3.18 While this boundary uncertainty is not strictly a problem of the legislation, it is exacerbated by the complex and cumbersome processes to effect boundary changes, which are in the legislation. The situation is compounded by complex historical agreements that make it difficult to be sure about the differences between modern operational maps and gazetted areas from long ago. In short, fire management boundaries are not well understood.

3.19 The process of establishing or changing urban fire districts is relatively cumbersome, and difficult to achieve. For example, community resistance to proposals for boundary changes occur because people fear they might lose their fire stations.

3.20 The problem of unclear boundaries could be resolved by simplifying the boundary definition processes or by doing away with statutory boundaries. For example, managers could decide who was responsible for which regions.

Lack of recognition for non-fire rescues

3.21 Non-fire emergencies are secondary to fire emergencies in the current fire legislation. The long title to the FSA says it is 'An Act... to consolidate and amend the law relating to the protection of life and property from fire and to *certain other emergency services*'. Thereafter, the Act focuses almost exclusively on the arrangements for 'fire'. The Act does give separate recognition to the attendance by a brigade at a hazardous substance emergency, where it gives the Chief Fire Officer or Deputy Chief Fire Officer the powers of an enforcement officer under the Hazardous Substances and New Organisms Act 1996. Other emergencies, however, have a much weaker underpinning, with the FSA referring to attending to emergencies 'where the brigade could render assistance.' This creates a hierarchy of requirements for the Fire Service, with fire the primary focus, hazardous substances in a secondary group, and other emergencies in a third group.

3.22 The effect of this unequal attention to non-fire emergencies on the urban Fire Service is twofold. First, it suggests it is more important for the Fire Service to attend fires than other emergencies, implying it must attend a burning garden shed before a motor vehicle accident. Secondly, it gives the Fire Service doubtful authority to spend money on non-fire equipment. Buying a specialised road crash tender, for example, would be more difficult to justify than replacing a fire appliance.

3.23 The FRFA does not mention attending non-fire emergencies. This means in 'rural' areas the legislation does not empower firefighters to act in non-fire emergencies. The lack of statutory recognition to carry out this function creates uncertainty about the rights of rural firefighters to help in many emergency situations and exposes them to risk. Public authorities will always look first to the requirements of legislation to establish how they should be using their resources. The legislative gap around non-fire services means many rural communities are not able to provide their own rescue services, even if they have trained volunteers who could do so.

3.24 In practice we know urban and rural firefighters carry out extensive non-fire emergency activities and have done so for a long time. Operating the Jaws of Life at a motor vehicle incident is often crucial to saving a life. For some fire stations non-fire incidents outnumber fire incidents, yet the legislation deals almost exclusively with the fire environment, failing to recognise the importance of this more general rescue role.

Gaps in mandate for firefighters to perform non-fire tasks

3.25 Under the FSA attendance at non-fire emergencies is allowed, but subject to the judgement that a fire brigade 'could render assistance' (section 28 of the FSA). The FRFA omits all reference to other emergencies, so rural firefighters have no mandate to carry out non-fire work.

3.26 It is anomalous that the FSA protects and empowers firefighters who are assisting with non-fire rescues but that the FRFA gives no protection to rural firefighters providing the same assistance. The public has every right to expect consistent services and protection from firefighters if they appear as part of the 111 emergency response system. The relevant issue is whether firefighters are adequately trained for the emergency tasks they perform.

3.27 It must also be recognised that 111 calls for fire service help at non-fire emergencies are growing rapidly. Figure 2.8 showed their increase from 1976 to 2003. As the population grows, the number and diversity of non-fire emergencies can also be expected to grow. For example, responses to the anthrax scares in 2001 were carried out by firefighters equipped with full-body protection suits and breathing apparatus. Firefighters have been at the forefront of responses to floods and storms. In the absence of any other organisation equipped and trained to carry out these tasks, we need to ensure our firefighters are properly empowered to respond to these calls.

Problems with dual management structure

3.28 A dual management structure causes efficiency and coverage problems.

3.29 Efficiency problems relate to the overall system's efficiency rather than to each management system's efficiency. It would be difficult, for example, to make large improvements in the efficiency of the rural fire management system. The rural system's modest annual operating budget is possible because the rural system has a narrow operating focus and assembles only when needed, so has low standing costs (see appendix C).

3.30 By contrast the urban fire service is a 'readiness' organisation. It is the only civilian emergency organisation able to assemble trained personnel quickly to address a wide range of emergencies. The cost of maintaining this capability is relatively high, but once in place, its marginal operational costs are low. If the resource did not exist in the fire service it would probably have to be created elsewhere, at much greater cost.

3.31 Gaining efficiencies in the overall fire management system depends on optimising the resources and coverage between the two systems. At the least this requires coordinated management between the two systems. Further efficiencies might also be achieved through a single emergency organisation, though this could only occur if the high overall level of volunteer inputs were retained.

3.32 Changes to the management system need to secure improvements in the system's overall efficiency.

Inequities

3.33 Inequities arise from inconsistencies within and between the FSA and FRFA.

3.34 For example, inequities arise:

- between the recovery of firefighting costs from different classes of landowner (for example, foresters and orchardists)
- for communities that must supply volunteer firefighting brigades when other communities of an equal size are allocated full-time paid firefighter brigades (for example, Masterton has a full-time paid service, but Blenheim (which is 15 percent larger) has a volunteer service supplied by locals).

3.35 The inequities between the two Acts relate to funding and service coverage.

Funding

3.36 Funding inequities arise because:

- each system is funded differently
- complex and largely unrecognised financial transfers occur between the two systems.

3.37 The main funding problems are:

- a lack of equity between people and organisations that are fully insured and make a full contribution and those that:
 - are underinsured and make only a partial contribution
 - are uninsured and not liable for a contribution
 - rely on self-insurance and avoid making a contribution
 - avoid compliance through offshore insurance arrangements
- a lack of equity for levy payers overall, because they fund services unrelated to the fire risk against which they have insured
- a lack of transparency about who is paying for the fire service because it is associated only with insurance bills
- dissatisfaction within the insurance industry at its enforced 'tax' collection role to pay for a service owned by the Crown
- a lack of incentives for fire safety measures to be adopted by property owners
- a relatively narrow funding base that is susceptible to erosion in some sectors, particularly as a result of new kinds of insurance policy.

(We are not seeking comment on funding issues from this document. These will be dealt with in the second discussion document.)

Coverage

3.38 Coverage inequities for non-fire emergencies arise because of the different mandates in the urban and rural systems. Because urban brigades are oriented to the urban fire districts for which they are accountable, their services may not be equally available to rural areas. In some areas, for example, the West Coast of the South Island, urban services' ability to provide highway coverage of motor vehicle accidents is limited. Burgeoning tourist numbers are exacerbating this problem in some areas.

3.39 A widespread perception exists in rural communities that for the money they pay in fire service levies they receive inferior services compared with their urban counterparts, both in terms of timeliness and adequacy. This feeling of an unfair financial burden is accentuated by the additional fire suppression charges rural residents face through rates and special charges to help pay for rural fire costs. Rural employers also have to carry the personnel costs of putting out fires using local volunteer labour (as do employers in small communities that are part of the urban fire system).

3.40 Despite these differences it is not clear that rural residents pay too much for the services they receive. Initial estimates by officials suggest if there were no flow of 'urban system' levy money into the rural system, residents in remote areas would have to pay more. We will identify these differences in the second discussion document.

Considerations for a solution

3.41 Three key questions need to be addressed to resolve the underlying problems:

- what degree of integration between urban and rural fire services is desirable?
- how should we govern our fire services?
- how should services be provided and by whom?

Integration of urban and rural services

3.42 Integration of rural and urban services could occur at three different levels:

- at the legislative level, by creating a single piece of legislation (the FSA and the FRFA amalgamated into a single new Act)
- by integrating the governance structures (one governing body for urban and rural fire)
- by creating a single operating agency to deliver all services.

Ministers have requested that for all solutions the legislation should be integrated. The remaining choices are whether to integrate governance and operating structures.

Governance

3.43 The essential question around governance is that of how much prescription there needs to be. At one end of the spectrum all the powers and arrangements necessary to operate the fire management system could be held centrally within the governing body and delegated where necessary. In this view the 'governor' would be fully accountable for every aspect of the organisation's performance and would have a large measure of freedom in how to manage the organisation's resources.

3.44 At the other end of the spectrum there would be many requirements laid down in the legislation. These would cover issues such as what organisations ought to be created, which officers must be appointed and what duties they should carry out, where resources ought to be located, and who might need to be consulted in running the organisation. High degrees of prescription tend to ensure that specific tasks are carried out and that there is great certainty about how things are done. Conversely, highly prescriptive requirements tend to focus more on what is done than what is achieved. They also limit the ability of managers to be fully accountable for their organisations, and make for inflexibility in management.

3.45 Section 2 described the high degree of prescription in current fire legislation. We seek your views on how much of this is really necessary.

How services should be provided

3.46 A central question around how services ought to be provided is that of how much freedom managers should have to choose the mix and orientation of resources they use. In the present environment there is a need to consider:

- the need to maintain and encourage a large corps of volunteer firefighters
- the need to utilise fully the current paid corps of firefighters
- the need to consult communities and local government over decisions that affect them.

3.47 In the three options for change we outline in Section 4 there are different possibilities for solutions to these questions. These considerations should help you form views on the different options.

Part 4

Options for change

Introduction

- 4.1 This section discusses three options:
- option one: a national model
 - option two: a modified status quo model
 - option three: a national-regional model.

All these options would require the drafting of a new Act.

4.2 These options have been developed after discussions with a variety of fire sector interests in the urban and rural sectors. They represent three possible ways of tackling the problems of the present system and their purpose is to provide you with tangible concepts against which to respond. In section 5 we ask you specific questions about the options. We hope you will take the time to send us your views.

4.3 Other options were considered but discarded. For example, a regional option would divide New Zealand into regional authorities, along regional council lines. Each authority would be responsible in its area for all urban and rural fire operations and for responding to other emergencies. Under this option a national body would be created to set standards and to monitor each region's performance.

4.4 The regional option was rejected, because New Zealand is not large enough to sustain efficiently some 12 separate organisations dealing with all emergencies. Regionalisation would also be likely to increase the risk of a less coordinated national response. In large or cross-regional emergencies, for example, swift and integrated responses are needed. Integrated responses must be free from the ambiguity inherent in multiple command structures. This view is supported by a worldwide trend away from regional fire management models. The United Kingdom, for example, is considering large amalgamations of its system, which is presently based on relatively small management districts.

4.5 Any option put to the Government must maintain or improve current efficiencies. While some options may fix some problems, in so doing they may also create other problems or inefficiencies.

Common features of the three options

4.6 All three options involve integrating the legislation. They all provide for the establishment of a new Crown entity, possibly called the New Zealand Fire and Rescue Board. The Crown entity structure would mean the organisation's governance would remain outside the Government's departmental structure. This would help to ensure a statutory board decided, for example, the location of fire stations, based on operational requirements.

4.7 The Fire and Rescue Board would report directly to a Minister who would appoint its members and be accountable to Parliament for its performance. The Minister's department would be responsible for the legislation and advise on relevant issues and monitor the organisation's performance.

4.8 Under the new legislation fire and rescue services would be responsible for carrying out the following functions:

- fire management, for example:
 - providing for the reduction of, readiness for, response to, and recovery from structural and vegetation fires in all areas except conservation areas
 - coordinating the overall management of fire services

- developing fire management standards to be met inside and outside of board management
- consulting the Ministers of Conservation and Defence, and other affected parties when developing fire management standards
- developing water supply standards and requirements for firefighting purposes
- promoting fire safety
- the capability to provide for other emergencies, for example:
 - providing an emergency response capability to rescue people and property facing threats and hazards
 - attending building/structural collapses
 - attending motor vehicle accidents
 - carrying out duties as required by legislation such as the Hazardous Substances and New Organisms Act 1996 and Civil Defence Emergency Management Act 2002
- general duties, for example:
 - promoting training, research, and education relating to the key functions
 - promoting community volunteers' interests in fire and emergency service delivery
 - approving building evacuation schemes
 - advising other organisations as necessary to further key functions
 - complying with Government's written direction.

4.9 To ensure the Fire and Rescue Board could carry out its functions properly, board members would need to have relevant knowledge and technical expertise. For example, they would need a mix of knowledge and expertise in:

- operational skills related to fires and other emergencies
- forest and rural fire management
- public administration requirements
- local government
- business, finance and economics.

4.10 All three options allow for some parties to remain outside the system. Presently the Ministers of Conservation and Defence are Fire Authorities in their own right and their departments manage fire risk throughout the conservation estate and various Crown lands. Sometimes, however, DoC enters into voluntary cooperative arrangements with rural Fire Authorities and other interested parties. Defence areas also lie outside the FSA's jurisdiction, whether they are within urban fire districts or not.

4.11 In the new system conservation areas could remain outside the Fire and Rescue Board's jurisdiction, because DoC administers extensive and often remote lands according to its own priorities and has a nationally organised firefighting resource. This would not preclude voluntary cooperative arrangements when they suited DoC.

4.12 It is proposed that New Zealand Defence Force areas would come within the Fire and Rescue Board's jurisdiction. However, the Minister of Defence could exempt areas if they require special protection or raise security issues. While the NZDF has extensive firefighting resources, its areas are not large and

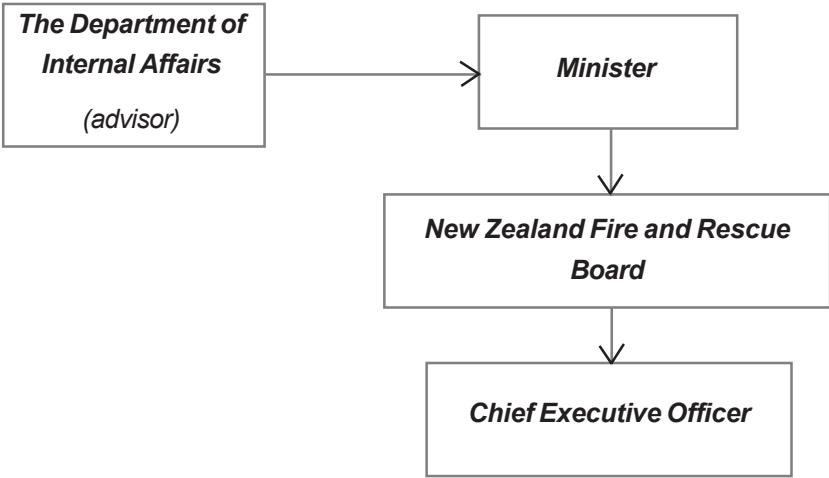
are sometimes close to residential areas already covered by the NZFS. Any changes would need to recognise that maintaining firefighting capability is also part of NZDF’s core operational requirements.

Option one: a national model

Functions

4.13 Under option one the legislation would give all functions (including the core functions outlined in 4.8) to the Fire and Rescue Board. Board members would not carry out these functions, but would be responsible for determining how services would be delivered.

Figure 4.1: Governance of fire services under a national model (option one)



Organisation of services

4.14 The legislation would empower the Fire and Rescue Board to manage fire risk nationally. The level of integration between rural and urban services would be a matter for the Board, as would how it carried out and managed all its functions. However, the Board would need to consider a number of major factors in exercising its governance powers:

- the need to maintain and encourage volunteers
- the need to fully utilise the paid firefighter corps, and
- the need to take into account community and local government views.

This could mean that the Board might choose different providers for some functions it was required to deliver, subject to the constraints above.

Officers and staff

4.15 The legislation would provide for the Board to appoint a chief executive officer as the administrative head. While operationally the chief executive officer would need to divide the country into management areas, these would not be specified in the legislation. All necessary operational powers, for example powers of entry and inspection, would be provided for in legislation and could be given to warranted officers.

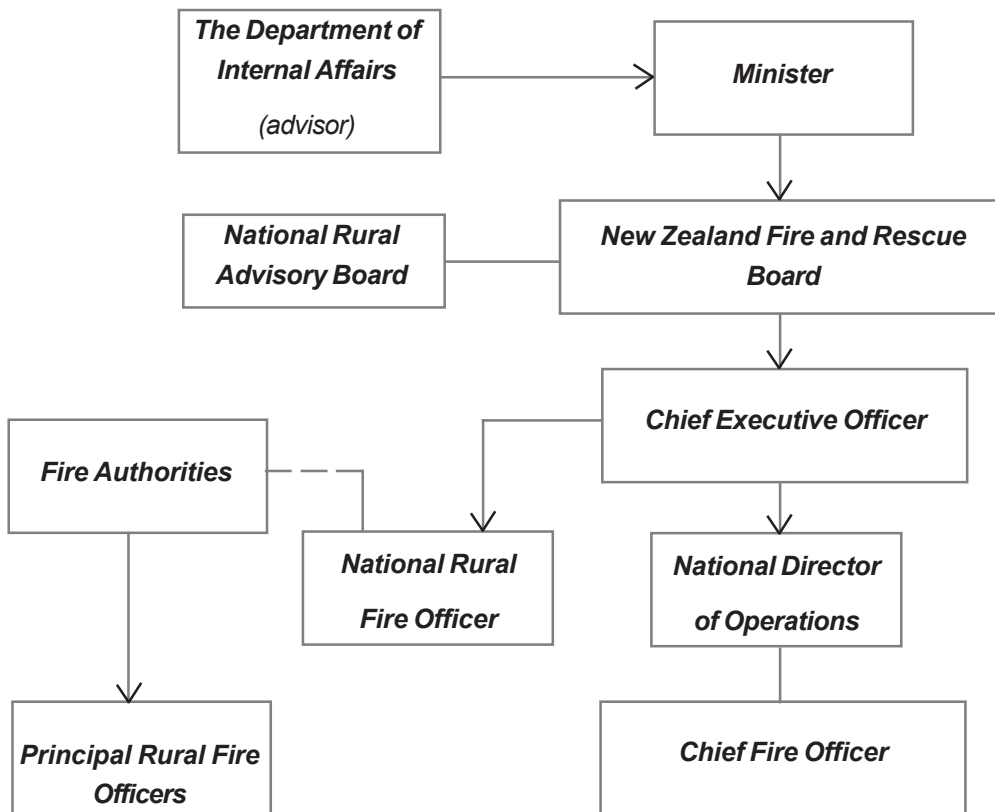
Option two: a modified status quo model

Functions

4.16 Option two modifies the status quo. Rural and urban services would not be integrated and Fire Authorities would remain in control of areas outside designated urban fire districts. The Fire and Rescue Board would appoint a chief executive officer, who would appoint a National Rural Fire Officer. The National Rural Fire Officer would set standards, for example, in training and equipment, and coordinate and monitor Fire Authorities' performance.

4.17 However, under this option there would be the need to clarify geographical responsibility and Fire Authorities would be responsible for all fires in their areas, not just vegetation fires. Conversely, they would not be responsible for responding to other emergencies such as road accidents, because responsibility for these would belong to the Fire and Rescue Board. In special circumstances, if a rural fire force wished or agreed to undertake non-fire rescue functions they would need to be equipped and trained to standards recognised by the Fire and Rescue Board. All fire and rescue workers would be covered by the law when carrying out their duties.

Figure 4.2: Governance of fire services under a modified status quo model (option two)



Officers and staff

4.18 To recognise the special nature of wildfire management, the chief executive officer would appoint the National Rural Fire Officer at the same level as the National Director of Operations. The warranted roles of Principal Rural Fire Officer and Rural Fire Officer would remain, as would the roles of the Chief Fire Officer and Regional Commanders.

Committees and advisory bodies

4.19 The National Rural Advisory Committee, which advises the NZFS Commission on rural issues, would become a statutory advisory committee to the Fire and Rescue Board. The Board could appoint regional rural fire committees to act as coordinating bodies for Fire Authorities.

Organisation of services

4.20 Under option two current service organisation arrangements would remain. However, the new legislation would rectify some problems by providing better and more responsive mechanisms for making boundary changes.

Option three: a national-regional model

Functions

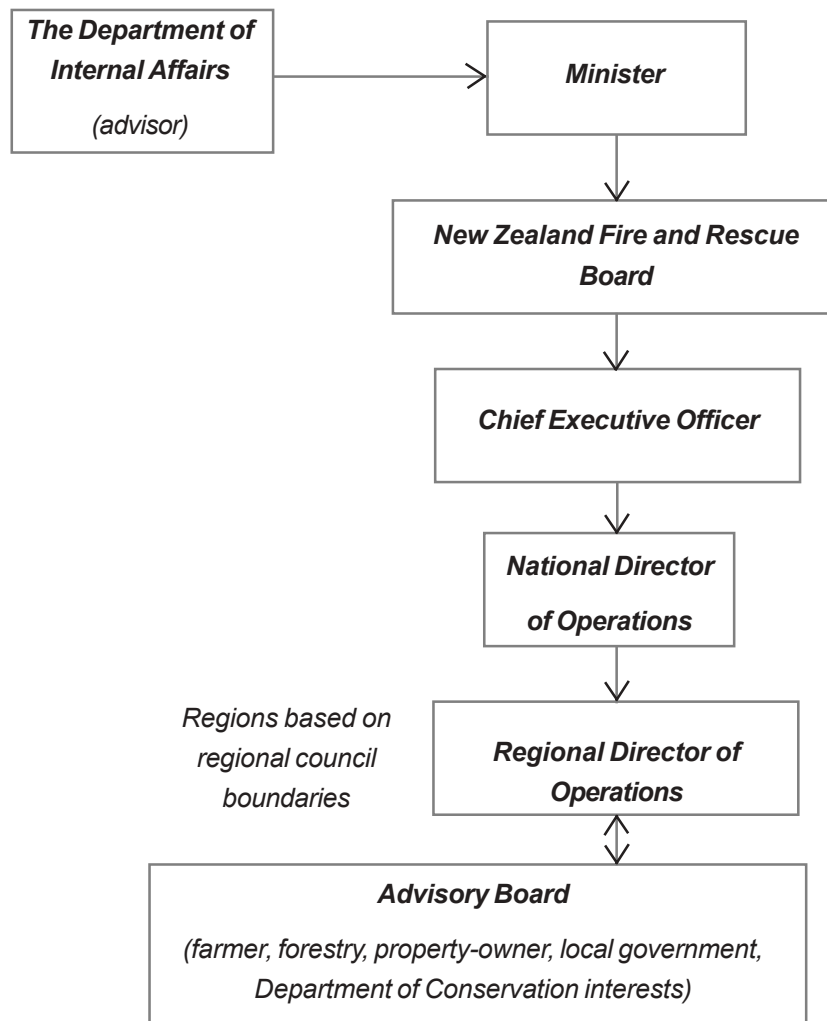
4.21 Under option three the legislation would give all functions to the Fire and Rescue Board, which would deliver many of its core functions regionally. These regions would be consistent with existing regional council boundaries. Although fire safety and research might be national responsibilities, preventing and suppressing fires and attending non-fire emergencies would be organised and delivered regionally.

Officers and staff

4.22 As with option one, a chief executive officer would be appointed by the Board. In addition the Board would appoint a national director of operations.

4.23 The legislation would provide for regional directors of operations with specific statutory powers for example entry and inspection. The regional directors would be responsible to the national director for the exercise of these powers and could delegate them. Detailed provisions would be needed about the respective roles of the chief executive officer, national director, and regional directors.

Figure 4.3: Governance of fire services under a national-regional model (option three)



Committees and advisory bodies

4.24 Under option three local fire and rescue regional boards would be established to advise the regional directors about plans and risks in the area. The boards would consist of nominees from Local Government New Zealand, DoC, the Ministry of Agriculture and Forestry, the New Zealand Defence Force and other interested parties.

Organisation of services

4.25 As with option one, the Board would be responsible for the management of fire risk and subject to the three constraints mentioned in option one:

- the need to maintain and encourage volunteers
- the need to fully utilise the paid firefighter corps
- the need to take into account community and local government views.

4.26 Each regional director would be required to consult with the local advisory board on issues such as land management, community support and volunteer involvement.

Differences between the options

Governance

4.27 In options one and three the Fire and Rescue Board would be the sole entity created under the new Act. However, under the second option the Act would continue to provide for Fire Authorities. These Fire Authorities would be the same as those currently existing.

4.28 In option two the current functions of the NRFA and the NZFS Commission would be amalgamated into a single new entity. Because the NZFS Commission presently acts as the NRFA, creating a new governing entity would be only a nominal change.

Integration

4.29 Options one and three would bring urban and rural operations under a single Board. However, in neither case would the legislation require rural and urban fire services to be merged. Management could decide to create a single operational unit to respond to all incidents or it could decide to retain separate urban and rural operating units.

4.30 In option two, separate reporting lines for urban and rural fire services would be retained at an operational level.

Functions

4.31 Under options one and three the Fire and Rescue Board would be responsible for all fire management throughout New Zealand, and for providing other non-fire rescue services.

4.32 Under option two the fundamental change from the present situation would be that fire management responsibilities would be geographically defined. Fire Authorities would be responsible for all fires in their areas, not just vegetation fires. Conversely, they would not be responsible for responding to other emergencies such as road accidents, because responsibility for these would belong to the Fire and Rescue Board.

Contracting out

4.33 Options one and three would allow other parties with special risks, such as forestry companies, airport operators, and industrial companies, to contract out of the new system. To do so they would need to demonstrate they could provide and maintain their fire management services to a minimum national standard. All other property owners would be part of the national system and expected to contribute to it. (The contribution issue will be discussed with other funding issues in the second discussion document. We do not seek your comments on funding at this stage.)

Protection for fire and rescue workers

4.34 Greater protection for fire and rescue workers when carrying out their duties is envisaged under all three options.

Place of volunteers

4.35 Volunteers would continue to play an important role in all three options.

4.36 Existing accountabilities would remain under option two, so change would be minimal.

4.37 Under options one and three the Fire and Rescue Board would become the body with whom the volunteers interacted either individually or through brigades or forces. The arrangements for how volunteers would interact with the Board is an area we would like your comment upon (see question four in the section 5) for this is an area that will need to be defined in legislation.

4.38 A degree of reorganisation of volunteer brigades is inevitable because there are shortages of volunteers in some areas and this will need to be managed. However, there would be a place for everyone in the new structure. In small communities, where rural and urban brigades coexist, an opportunity to combine brigades could be created, while ensuring the required mix of skills was maintained locally. Training opportunities are likely to be enhanced under all three options.

Other issues

Department of Conservation

4.39 DoC administers one-third of the land mass of New Zealand (about 8 million hectares). Under any of the three options DoC would continue to manage its own fire risk. However, this would not be without controls. DoC would have to meet minimum standards and have approved fire plans.

4.40 For fire purposes DoC manages small areas of land that do not have any conservation value. Under any of the three options new legislation could allow responsibility for fire in these areas to be transferred to other authorities. The allowance for a maximum one-kilometre safety margin around conservation land would remain.

New Zealand Defence Force

4.41 The New Zealand Defence Force manages a smaller area that generally does not need special protection compared with DoC areas, though there may be special risks with ammunitions stores etc. Under options one and three, the New Zealand Defence Force could choose whether the Fire and Rescue Board managed its land for fire purposes or whether individually tailored agreements with the Board would be required. Under option two things would remain unchanged.

Commercial interests

4.42 Most large commercial forests are part of rural fire districts managed by local committees. Options one and three would allow forest owners to contract out of the national system, subject to their achieving standards set by the Fire and Rescue Service Board and providing fire plans. However, it is likely smaller forest owners would not choose to do this.

4.43 Airports and industrial and commercial plants with special fire risks could opt out of the national system or negotiate individually tailored agreements with the Fire and Rescue Service.

Brigades and fire units

4.44 The NZFS Commission employs firefighters and has agreements of service with volunteer fire brigades. Volunteer brigades are not paid for fighting fires. In the rural sector each Fire Authority has its own approach to the personnel resources it uses to fight fires and a variety of 'payment' schemes exist. The urban and the rural systems differ in this respect. Under options one and three any payments to volunteers would be a management decision, however, any decision does have funding implications.

Links with civil defence and emergency management

4.45 The Civil Defence Emergency Management Act 2002 gives the NZFS a key role in the civil defence area. With the New Zealand Police and health and territorial authorities, the NZFS must be represented on regional civil defence and emergency management co-ordinating executive groups (CEGs). A main function of CEGs is to oversee group plans that identify risks and hazards in their region.

4.46 Rural fire services are not formally a part of the CEGs, but have been co-opted onto them in several regions. Under options one and three, the Fire and Rescue Service would be part of this system, in the same manner as the NZFS. This would increase the rural fire focus in the civil defence sector. Under option two the position would be less clear with the management integration of the services. A legislative change might be sought to recognise Fire Authorities on the CEGs.

Part 5

Key questions

Introduction

5.1 This section presents 7 key questions relating to the three options described in section 4. Your views will clarify the advantages and disadvantages of each option and help to shape the final recommendations. Please indicate your preferred option. You are also welcome to comment on any other issues.

5.2 In section 4 we identified a new national Fire and Rescue Board's likely functions relating to fire and other emergencies and more general responsibilities. In all three options, new legislation would empower firefighters to carry out the same range of work. The constraints on their ability to carry out this range of work would be training and the work's priority.

Question 1: Preferred option

Which of the three options do you prefer? Your response will depend on how much structural change you consider is necessary.

Comment: The three options discussed in section 4 are:

- option one: a national model
- option two: a modified status quo model
- option three: a national-regional model.

Options one and three involve a major structural change in the sector, with the establishment of a New Zealand Fire and Rescue Board responsible for fire management in New Zealand. It would also have functions in non-fire emergency work.

Option two leaves the responsibility for managing all fire risks outside of urban districts with rural Fire Authorities. No responsibilities for non-fire emergencies would be given to Fire Authorities, though it would be possible for them to undertake them under agreements with the Fire and Rescue Board.

Give the reasons for your preferred option by referring to the advantages and disadvantages you believe are associated with each option.

Question 2: Integration of urban and rural fire services

Do you believe urban and rural fire risks should or could be managed centrally by one national organisation? If not, please explain why, identifying your concerns.

Comment: Option one removes the distinction between ‘urban’ and ‘rural’ fire services. It allows the Board and Chief Executive of a new fire and rescue service to organise their resources in any area in the way they consider most effective. It allows integrated work teams, but does not require them.

In some areas this could mean training multi-skilled fire and rescue teams to carry out a range of work. In areas with specialised risks it could mean having specialist teams trained, for example, solely in vegetation fire and wildfire suppression or road accident rescues.

Some fire managers believe rural firefighting is a specialised activity that can be properly managed only by people with a close connection to land management issues. In this view the issue with rural fires is less about responding to incidents and more about managing a risk environment. The people best positioned to manage this environment are the people who live there. This raises the question of whether a national manager could effectively harness that expertise.

Option one would remove from territorial authorities a large part of their responsibilities for rural fire management because only one central fire manager would exist. It would not, however, remove from territorial authorities their existing responsibilities for wider fire safety issues under other legislation, such as approving fire-safe building designs or inspecting hazardous chemicals’ storage.

Question 3: Regional organisation and local consultation

Do you believe we need to legislate for regional delivery of our fire services? Do we want regional boards to represent key interest groups on issues such as local fire risks and fire control measures, or would it be better to have a national advisory board? Do we need both?

Comment: Option three requires fire and rescue services to be delivered on a regional basis. In contrast, option one makes no comment about how management should structure fire and rescue services.

Option three incorporates a regional board to consult with the regional fire and rescue directors, for example, on regional fire risk and hazard management. The rationale for such a board is that fire risks are often closely related to local conditions, such as weather and geography. Local experts usually know better than non-locals when it is safe to issue fire permits or declare fire bans. The issue is how this expertise might best be represented to the people in charge of fire operations.

Rural fire risks, in particular, are also a part of the land management system that must take account of competing priorities; for example, balancing the economic value of burning off against the fire risk. This involves balancing local and national priorities. In this picture, broader local interests than fire must be represented in the national forum and this might best be done through a local fire board.

To influence a national organisation a local board would need a statutory place in the management structure. That is, local fire boards would need to represent a variety of local interests and Regional Directors of Operations would need to consult them.

Another view of regional fire boards is that they would represent an unnecessary cost and would get in the way of sensible regional management. They might also add unacceptable and unnecessary difficulties and costs to a national organisation. Advisory boards at a national level might have greater impact and help managers in assessing resource allocation across all functions. They may be able to coordinate concerns from all around the country in a more effective manner than regional boards.

Question 4: Contracting volunteers

Do you believe a new Fire and Rescue Board should contract directly with individual volunteers or brigades? Are there other issues around volunteers that should be addressed in the legislation?

A key question here is whether the Board is to be seen as supporting the community in its fire fighting role, or whether the community is supporting the Board in this role. There are advantages to either approach.

Comment: The urban fire service enters into agreements for service with volunteer brigades. While this fits with brigades' team ethic it gives management less flexibility and control over the deployment of firefighters.

On the other hand, volunteer brigades play a key role in smaller communities. They are often the base for a wider range of voluntary community activities and give rise to strong feelings of local fire service ownership. This sense of community ownership may not fit well with individual service contracts for brigade members.

Question 5: Contracting out of the system

Do you believe a land owner or an industrial operator should be able to contract out of all national fire protection services if they can provide and maintain services that meet minimum national standards?

Comment: Private fire services such as industrial fire brigades, private forestry company fire services, and airport fire services generally protect facilities with special risks where specialised fire responses are needed. The risks are generally much greater than the normal fire risk in the community.

Organisations that provide their own fire protection services are undoubtedly efficient in providing them. Forestry owners, for example, draw on their trained workforces to staff fire response operations and can often use capital equipment in a dual role. Commercial and industrial operators also have such specialised operations that their workforces are best placed to understand the response requirements in a fire. Because financial considerations are important to commercial operators in their overall management of risk, they would not be interested in joining a national system unless it could provide the same services at least as efficiently as they do.

Conversely, because fire knows no boundaries the community at large cannot allow private operators to have inadequate fire protection. If private interests want to contract out of a national system they must demonstrate to the national fire authority that they can provide and maintain a system that meets minimum national standards. A new fire and rescue service would need to define these standards

Question 6: Composition of a new Fire and Rescue Board

Do you believe a sufficient range of interests is indicated for board membership of a new Fire and Rescue Board?

Comment: In appointing commissioners to the NZFS Commission, the Minister of Internal Affairs must consider their experience in:

- public administration
- business
- economic management
- finance
- fire engineering
- senior operational firefighting.

On a new Fire and Rescue Board, other knowledge and experience would be desirable. Some Board members would be likely to need knowledge and experience in:

- forest and rural fire management
- wider emergency service management
- local government.

These three additional skill areas do not necessarily imply three additional board members, as individuals may have knowledge and experience in several areas.

Question 7: Statutory powers for staff

All three options differ in the number of statutory positions created. Do you believe it is necessary to have statutory positions or should all powers be delegated from the Chief Executive?

Comment: In option one a chief executive would be appointed by the Board. The operational powers needed, for example powers of entry to a fire ground would be provided in the legislation and would be able to be given to warranted officers. In option three there would be statutory positions of CE, National Director of Operations and Regional Directors of Operations. The Regional Directors would be given the operational powers needed. In option two the level of prescription for the current positions and the placement of powers would be retained.

The more prescription there is, the less ability there is for a manager to manage. Conversely, as long as there are sufficient accountability mechanisms then the legislation needs to empower and not restrict how services are managed. However, a degree of prescription enables certainty in operations and allows a measure of control by Parliament over how services are delivered.

Part 6

How to make a submission



Submissions

6.1 You may send us your submission in two ways:

- post your comments to:

Fire Legislation Submissions

P O Box 805

Wellington

- email your comments to: FireLegislationReview@dia.govt.nz.

6.2 Feel free to comment on any aspect of the review that is important to you. The key questions in section 5 are to help you make your submission. While we would like to hear your comments on each question, you do not need to comment if you do not wish to. We particularly want to hear your views on the three options outlined in section 4.

6.3 Please remember this is only the first stage of consultation. The second stage will deal with funding mechanisms, so the options presented are incomplete. The second stage will allow you to assess whole options.

6.4 We welcome your views. Remember they need to reach us by **31 March 2005** if we are to assess them properly.

6.5 All submissions may be made public unless you say you do not want that. If you do ask that your submission (or part of it) is kept confidential, we might still have to release it if someone makes a request under the Official Information Act 1982.

Appendix A

Evolution of New Zealand's fire services



Introduction

A.1. This appendix focuses on the evolution of New Zealand's fire services, particularly the legislation that has shaped them. It is not a comprehensive history but highlights aspects of the history of fire in New Zealand, particularly:

- the development of response capabilities
- preventing fire
- fire safety
- wildfire and rural systems.

Development of response capabilities

A.2. Two systems of fire management have evolved in New Zealand along separate paths and on different time-frames: an urban system and a rural system.

Early colonial approaches to urban fire services

A.3. In the early 19th century local circumstances determined what fire services were provided. Equipment ranged from buckets to hand-drawn pumps and hose reels. In some cases services were intermittent due to a shortage of ongoing funding and volunteers. A variety of service delivery options developed.

A.4. Funding was haphazard. It came from fundraising activities, subscriptions, and grants from insurance companies or local authorities. If resources ran out volunteer units often went into recess for months or years. On the other hand, more than one brigade often operated in the same area. Insurance companies sometimes operated their own brigades, for example, in Auckland between 1859 and 1874 and Wellington until 1865. Increasing requirements for equipment, such as pumps, increasing maintenance costs, the need for mechanically trained staff, and the use of horses to move pumps, created a need for a guaranteed funding stream.

Wellington Fire Brigades

Initially insurance companies were relied on to provide fire engines. The Wellington Provincial Council passed the Town Protection Act 1857 requiring householders to keep two water buckets for firefighting. In 1858 the council bought a fire engine, which was used by the police. The first volunteer brigade was formed in 1865 and the second in 1867. Funding came from insurance companies and the city council. The brigades continued until the council took over responding to fires in 1880.

'Battle of the squirts'

On 13 February 1875 the Wellington Volunteer Fire Brigade extinguished a gorse fire before the arrival of the Central Volunteer Fire Brigade. The Wellington brigade accidentally doused some members of the central brigade who then turned a hose on the chief of the Wellington brigade. A magistrate fined members of the central brigade.

Beginnings of organisation

A.5. The mid to late 19th century saw the growing involvement of territorial authorities in supporting or running fire brigades. It also saw fire brigades group together to create the United Fire Brigades Association of New Zealand (UFBA) as a national organisation to advance brigades' interests.

A.6. From 1852 to 1876 provincial governments provided some legislative basis for firefighting activities but the approach towards firefighting remained haphazard. One provincial council would pass legislation providing a solution different to that provided by another provincial council.

A.7. The Municipal Corporations Act 1867 provided for fire inspectors (that is, people who took charge at fires) and for paying people who fought fires, but did not mention payments to groups of firefighters. The Act did not override existing provincial legislation.

A.8. The earliest mandatory firefighting legislation included the Municipal Waterworks Act 1872, which said where there was council-reticulated water, the council was to provide fire plugs (hydrants) every 200 yards, pay for their maintenance, and keep them charged with water. The council was to bear these costs. The Municipal Corporations Act 1876 incorporated the 1872 Act and enabled municipal corporations to pay for machinery and buildings and brigades or people who fought fires.

Push from brigades

A.9. Towards the end of the 19th century brigades pushed for more broadly based funding arrangements. Until then fire brigades had been part of and funded by the territorial authorities or remained outside the territorial authorities and obtained their funding by agreement with them. However, fire brigades believed insurance companies and the Government should also contribute and the Government should legislate for such contributions.

A.10. For several years the UFBA approached the Government for improved funding for fire brigades. In 1906 the first Fire Brigades Act was passed. A second Act in 1907 clarified the original Act's intention. The 1906 Act set up fire boards in Auckland, Wellington, Christchurch, and Dunedin and enabled other territorial authorities to set up fire boards. The 1907 Act allowed any district to dissolve its fire board and revert to territorial authority control. A district needed a minimum population of 2,000 before a fire board could be established, but this was reduced to 1,000 in 1913.

A.11. A fire board was a separate legal entity. The advantage of such a board was that it brought in funding from insurance companies. The Minister of Internal Affairs approved estimates of annual board expenditure. The estimates were funded from a capped subsidy from the Government with the remainder coming equally from territorial authorities and insurance companies in the board's district.

Christchurch Fire Brigade

The Christchurch Fire Brigade was founded in 1860. It was funded largely by insurance companies and the Canterbury Provincial Council. In 1864 a provincial ordinance vested fire brigade property in the city or municipal council of its district. In 1867 the brigade resigned and the council recruited a new brigade. The council was paying most of the brigade's costs and the brigade was reconstituted as a council department.

Wellington Fire Board

Wellington abolished its fire board in 1908 and retained municipal control. A new fire board was constituted in 1926.

A.12. Once a territorial authority decided to constitute a fire board, insurance companies operating in the board's district had to elect three members to the board. The territorial authority appointed three members and the Government appointed one member. The board employed a Superintendent who was responsible for the fire brigades in the board's district.

A.13. The Fire Brigades Act also created the role of Inspector of Fire Brigades. The inspector reported to the Minister of Internal Affairs at least once a year on the implementation of the Fire Brigades Act by each fire board and the efficiency of any brigade under the board's control.

Towards a national urban service

A.14. The driving force for a national urban fire service came from the Inspector of Fire Brigades' concerns about the efficiency and effectiveness of many smaller fire brigades and boards.

A.15. By the 1930s the Inspector of Fire Brigades was undertaking a wider role than just reporting on the fire brigades operating under the Fire Brigades Act. The inspector expressed concerns about the high proportion of expenditure on administration by some of the smaller boards, as well as the administration of brigades by some territorial authorities. This prompted him to consider whether some boards were viable as independent entities. The lack of standardisation between fire boards was also of concern to him. This eventually led to the Fire Services Act 1949.

A.16. The Fire Services Act 1949 brought all urban fire brigades under one Act and constituted the Fire Service Council.

A.17. The Fire Service Council consisted of:

- two people appointed by the Minister
- one person appointed by each of (stakeholders)
- the Council of Fire and Accident Underwriters' Association of New Zealand
- the Municipal Association
- the New Zealand Fire Boards' Association
- the New Zealand Federated Fire Brigade Employees' Industrial Association of Workers
- the United Fire Brigades Association.

A.18. The Fire Service Council:

- ensured every urban fire authority conformed with the Act and maintained an efficient fire service, having regard to the property it was obligated to protect and the district's financial capacity
- co-ordinated the units of the fire service for rural fire protection, reinforcement at serious fires, and war or other emergencies
- encouraged, supervised, or carried out fire prevention activities and experimental or research work with respect to fire-service methods, equipment, organisation, or co-ordination with other services
- established a training school and courses and generally directing the training of fire service members, particularly officers, providing for the inspection and training of brigades and such degrees of standardisation of plant, equipment, and training considered necessary for combined operations
- classified positions in the fire service for permanent officers and provided facilities for officers

to be promoted between brigades

- approved urban fire authorities' appointments of permanent executive officers.

A.19. The Fire Service Council's role was largely supervisory. It could approve a fire authority's estimates of expenditure and use this as a means of influence. The council established a training school in Wellington in the 1950s, which was closed in 1996.

Urban Fire Authorities

A.20. Depending on the level of fire protection provided, the 1949 Act divided urban fire brigades into one of three types of urban fire authority:

- a fire board
- a fire committee of a territorial authority
- a fire brigade committee of a territorial authority.

Table A.1 outlines the key differences between the three types of authority.

Table A.1: Types of urban fire authority after the Fire Services Act 1949

Urban Fire Authority	Membership	Funding
Fire Board	Two to four members appointed by each territorial authority and insurance company; one member appointed by the Minister	10 percent from the Government, 50 percent from insurance companies, 40 percent from the territorial authorities
Fire Committee of a Territorial Authority	Two members appointed by each territorial authority and insurance company; one member appointed by the Minister	
Fire Brigade Committee of a Territorial Authority	Three members of the territorial authority and one member appointed by the Minister	A subsidy of up to £150, one-sixth from the Government and five-sixths from the insurance companies

A.21. Notwithstanding the move to form a national council, urban fire authorities retained ownership of the firefighting assets (that is, the buildings and fire engines). Full-time firefighters remained urban fire authority employees and volunteer brigades had agreements of service with the authorities. However, volunteer fire brigades had to register with the Fire Service Council and the council had to approve agreements of service with urban fire authorities.

A.22. The Fire Services Act 1972 made one major change to this structure, fire boards without permanent firefighters were dissolved. The function was transferred to a fire committee of a territorial authority.

National funding

A.23. After 1949 insurance companies continued to pay 50 percent of the cost of fire boards but the share paid by local government dropped to 40 percent with the Government paying the remaining 10 percent. This marked a change from the Government's previous capped contribution. Table A.1 outlines

the contributions of local government, central government, and insurance companies to the funding of the fire service.

A.24. In 1975 a fire service levy was introduced and until 1986 it was combined with a lump sum payment from the insurance industry to meet the required proportion. Provision for the lump sum payment was repealed in 1986.

Changes at the top

A.25. In 1974 the Fire Service Commission replaced the Fire Service Council. Stakeholders no longer made the appointments. The Governor-General appointed the three-member commission, which comprised one person with knowledge of administration to chair the commission and two people with operational expertise to be the Chief Fire Service Officer and Chief Fire Service Inspector. The operational structure of urban fire authorities and the ownership of assets remained unchanged.

Establishment of a national fire service

A.26. Ministerial concerns about the administration of fire brigades and union concerns about difficulties arising from multiple unions negotiating with multiple employers led to the Government's deciding to bring urban fire services under national control. The New Zealand Fire Service (NZFS) Commission was constituted on 1 April 1976. Urban fire authorities were dissolved and the Commission took over their assets and liabilities and was given statutory responsibility for fire safety.

A.27. The NZFS was set up under the NZFS Commission to run fire brigades. A structure of regions, areas, and districts was set up in the FSA. Initially these reflected the urban fire district boundaries but were gradually amended to take account of the new structure. A fire district's Chief Fire Officer has considerable authority under these provisions.

Parnell emergency

In 1973 fumes escaped from chemical containers in Parnell, Auckland. The Auckland Fire Brigade helped to remove the danger. A subsequent inquiry doubted a fire brigade could rely on existing statutory provisions to attend an emergency other than a fire and recommended amendments to the Fire Services Act 1972. The resulting Fire Service Act 1975 (FSA) gave the NZFS the ability to attend non-fire emergencies.

Preventing fire

A.28. Fire prevention was territorial authorities' responsibility, using their bylaw-making powers, until the Building Act 1991 introduced a more standard approach to fire prevention.

A.29. The Municipal Corporations Ordinances of 1842 and 1844 made fire control a local government responsibility, with one function of municipal corporations to 'provide for prevention of fires'.

A.30. The Municipal Corporations Act 1867 contained more detailed provisions, including bylaw-making powers to:

- prohibit or restrain the use of combustible

Raupo Houses Ordinance 1842

The flammability of houses made of raupo and other thatch materials led to the passing of the Raupo Houses Ordinance 1842. This taxed existing thatch houses and prohibited the use of thatch in house building. The Ordinance came into effect in Auckland and Wellington.

construction materials

- regulate the distance between buildings
- regulate the thickness of external walls or party walls
- regulate the construction and enclosure of fireplaces and furnaces for steam engines, gas works, manufacturing, etc
- regulate against chimney fires
- regulate the storage of hay, corn, straw, and other crops
- limit the lighting of fires in the open
- require households to keep water for extinguishing fires.

In 1900 this was simplified to a power to make bylaws to prevent fires.

A.31. These powers remained the basis for fire bylaws until the Building Act 1991.

A.32. In 1948, after the Royal Commission of Inquiry into the Ballantyne Fire, municipal corporations were given extended powers to make bylaws for fire prevention purposes. In the 1950s the urban fire regulatory responsibilities of counties and municipal corporations were aligned. In 1971 it became mandatory for territorial authorities to have fire bylaws and they were given until 31 March 1973 to make them.

A.33. The Building Act 1991 repealed the power for territorial authorities to make bylaws for fire prevention in buildings. That Act provided for a performance-based building code that would include fire safety provisions. The Building Industry Authority developed the code. Territorial authorities determine whether a building consent application meets the code. If there is a question about whether the proposed building meets the code, a determination can be sought from the Building Industry Authority.

Ballantyne & Co department store fire

On 18 November 1947 a fire broke out at the Ballantyne & Co department store in Christchurch, resulting in the deaths of 41 people. Four recommendations from the resulting inquiry were:

- the means of egress code should be compulsory
- fire prevention devices and alarms should be installed immediately
- evacuation drills should be compulsory
- the fire brigade should be instituted as one service throughout New Zealand and brought under the control of commissioners.

It would be the 1970s before these recommendations were implemented.

Fire safety

A.34. The responsibility for ensuring adequate means of escape from fire has shifted from territorial authorities to the NZFS.

A.35. An early fire safety concern related to places of public entertainment and public meeting. The Municipal Corporations Act 1867 had a permissive bylaw-making power in relation to these buildings but it did not specifically mention fire safety. The Municipal Corporations Act 1876 included a requirement that municipal corporations license such buildings. Bylaws could be made to 'compel the use of proper precautions against fire, and proper means for extinguishing fires therein'. A later amendment allowed 'the provision at public entertainments ... of duly trained firemen' as a licence condition. In 1968 apartment

buildings and residential institutions became subject to this regime. The provision of licences was repealed by the Building Act 1991.

A.36. From 1900 municipal corporations had to appoint building inspectors to inspect residential buildings' fire escapes. The provision was extended in 1910 to buildings of more than one storey and used for employment. The provision was re-enacted in 1921 but it was no longer mandatory to appoint an inspector.

Building inspectors

'The section was practically a dead letter, for in very few towns, probably not more than a dozen altogether, was such an appointment made.'

Inspector of Fire Brigades, 1920

Counties

The provision for licensing places of public meeting and entertainment did not appear in county legislation until 1915 and became mandatory only in 1956. In the early 1900s counties gained the powers to appoint fire inspectors and fund fire brigades. In 1927 county councils were given the power to make bylaws 'preventing danger from fire' and requiring building owners to provide fire escapes.

A.37. Where fire boards were constituted, places for public entertainment and meeting could not be licensed unless the Superintendent of the fire brigade was satisfied sufficient safeguards against, and means of escape from, fire existed. A fire board's fire bylaws prevailed over a municipal corporation's. This responsibility was eventually removed from fire boards and returned to municipal corporations. At the same time, the provisions relating to licensing public amusement buildings were extended to include provision for evacuation of such buildings as a licence condition.

A.38. After the recommendations of the committee of inquiry into the Sprott House fire in 1969, the Fire Safety (Evacuation of Buildings) Regulations 1970 were made. These regulations required the owners of specified types of building to apply to their urban fire authority with a draft evacuation scheme. The

urban fire authority approved or amended the draft scheme. Another recommendation of the inquiry resulted in the Fire Services Act 1972 requiring the Fire Service Council to set up a fire safety inspectorate.

A.39. The Fire Safety and Evacuation of Buildings Regulations 1992 revoked and replaced the Fire Safety (Evacuation of Buildings) Regulations 1970. The significant change was that the 1992 regulations provided for exemptions from the requirement for an evacuation scheme when an adequate sprinkler system was installed.

A.40. The regulations are under review. A discussion document is available on the Department's website <http://www.dia.govt.nz>

Sprott House fire

On 26 July 1969 a fire broke out at the Sprott House rest home in Wellington. Seven women died. A committee of inquiry under J K Hunn was set up to inquire into fire protection and means of escape.

Wildfire and rural systems

A.41. Rural fire protection has developed along a different path because fire has been a useful means of clearing bush for farming and wildfire prevention protects significant Crown assets, so the Government has had a larger role in regulating wildfire.

A.42. The New Zealand State Forests Act 1885 enabled regulations to be made that, among other

things, provided for fire protection in state forests. The New Zealand State Forests Regulations 1886 provided fines for lighting a fire in a state forest, allowing a fire to spread to a state forest, and failing to help extinguish a fire. The latter provision was not continued into the 1890 regulations. The 1886 regulations included a power to sue for recovery of costs when the person lighting the fire could be identified, even if a court had fined them. In 1890 fine for lighting a fire increased from £20 to £50.

Protecting private forests

A.43. The Forests Act 1921–22 included the first protection for private forests. It gave the Minister of Forests the authority to constitute fire districts that could include non-state areas. The Minister could declare closed fire seasons in a fire district, which prohibited a fire being lit in the open air unless a permit was held. The first prohibition on lighting fires near state forests was introduced in 1922, and laid down that a fire could not be lit within 50 yards of a state forest. The Act also introduced a requirement that males over 16 could be required to help fight a fire and could be remunerated at a rate determined by the Minister of Forests. Refusing to help could result in a £25 fine.

Someone to run the districts

A.44. After the Central North Island fires in 1946 the Forest and Rural Fires Act 1947 was passed. This enabled rural fire districts to be set up by Order in Council, with the Minister of Forests or a rural fire committee as the fire authority. Where land in a county was not in a state forest, a soil conservation district, or a rural fire district, the county council became the default fire authority.

A.45. Each fire authority (including rural fire committees) had a duty to ‘promote and carry out measures for the prevention, detection, control, and suppression of fire in its district’. Fire control in state forests remained under the Forests Act until the Forest and Rural Fires Act 1955 brought these forests under the same legislation as state areas.

A.46. Table A.2 shows the type of fire authority for each type of district.

Big Losses in 1946

The fires of January, February, and March 1946 followed periods of drought in the Hawke’s Bay, Rotorua-Taupo, and North Auckland districts. In 62 fires state forests lost 6,665 hectares of forest, 50 percent of which was indigenous forest. Private owners lost 13,330 hectares of exotic forest and 4,460 hectares of indigenous forest, and fire destroyed a further 216,500 hectares of cutover forest, tussock, and scrub in a total of 311 fires.

Table A.2: Types of rural fire authority

District	Membership
Rural Fire District	Minister of Forests or committee constituted by Order in Council
Soil Conservation District	Soil conservation and Rivers control council or committee appointed by it
Remaining land in a county but not in a state forest	County council
After 1955 State area	Minister of Forests or a committee appointed by the Minister

A.47. The New Zealand Forest Service assumed a role ensuring overall control of rural fire prevention, but this was not a statutory role.

A.48. The Fire Services Regulations 1954, the Fire Services Co-ordination Scheme 1954, and the Fire Services Code of Practice 1954 combined to put in place a regime for ‘emergency’ fires. The definition of ‘emergency’ included any major fire under section 31 of the Forest and Rural Fires Act 1947 in which the Director of Forests or a conservator could take control. The coordination scheme required brigades to ensure an effective system of liaison between the brigade and any rural firefighting organisation. This was the first formal structure for cooperation between urban and wildfire forces.

A.49. The Forest and Rural Fires Act 1977 (FRFA) made the Minister of Defence a fire authority and created forest areas. A forest area is where a forest owner operates private fire control services in consultation with the fire authority. The Act also required Fire Authorities to have fire plans. A fire plan takes into account:

- the needs and requirements of adjacent rural Fire Authorities and other statutory fire authorities in or near the district
- the coordination of fire control measures affecting the district
- arrangements and resources available for fire control in and near the district.

However, these fire plans were not coordinated nationally.

Coordination Schemes

The Fire Services Act 1949 included as a duty of the Fire Service Council ‘to co-ordinate the units of the fire service ... for war or other emergencies’. The Council was also to establish and operate an emergency fire protection scheme. Urban fire authorities had to conform to the scheme. Such an emergency was one case in which the Council could require an urban fire authority to make staff and equipment available.

No more New Zealand Forest Service

A.50. With the division of the New Zealand Forest Service forests between Forestcorp and the Department of Conservation in the 1980s, the existing resources to fight wildfires were dissipated and no longer a focal point for wildfire control. After the rural fires of December 1988 and January 1989 in Canterbury, the Coordinator of Domestic and External Security (G C Hensley) chaired a committee to review rural fire services.

A.51. The committee's report (the Hensley Report) recommended regional coordinating committees be set up (which would include NZFS Area Commanders). These would be committees of regional councils, with a coordinator as a regional council employee. However, the Government decided this coordinating role would be better performed by regional committees of Principal Rural Fire Officers.

A.52. Making the NZFS Commission the National Rural Fire Authority (NRFA) and setting up the position of National Rural Fire Officer were recommendations given effect in the 1990 amendments to the FSA.

After 1990

A.53. The Fire Service Amendment Act 1990 applied the public sector reforms to the NZFS Commission by providing that:

- the NZFS Commission's governance role would be separated from the management of the NZFS
- senior NZFS officers would no longer be appointed as NZFS Commission members
- the NZFS Commission would employ a Chief Executive to have administrative control of the NZFS and to employ all staff, including a National Commander
- the NZFS Commission would also be the NRFA
- the Chief Executive would appoint the National Rural Fire Officer
- the NZFS would be able to charge for some services (but not for attending fires).

A.54. This legislation also marked a step towards merging the wildfire and urban firefighting systems. The NZFS Commission was the NRFA and the National Rural Fire Officer was a member of the NZFS. However, rural Fire Authorities' operational work was still carried out under the FRFA and its associated regulations, while the NZFS continued to operate under the FSA.

Appendix B

Australian fire services

Introduction

B.1. Important reasons exist for examining how the Australian states organise and govern their firefighting and rescue services. Australia offers more relevant and accessible models than any other country because:

- it has similar government structures and organisational forms as, and shares common legal concepts with, New Zealand
- the operating systems of Australian fire services are similar to New Zealand's
- some states have insurance-based funding systems similar to New Zealand's system; others have property-based systems
- much attention has been given to integrating rural and urban services
- Australia relies on volunteer firefighters and has a community ethic of voluntarism similar to New Zealand's.

Most Australian states have undertaken fundamental reviews of their fire and rescue services within the last decade.

B.2. The information gathered about the governance of fire services in Australia is too detailed to reproduce here, but is summarised in Table B.1. If you want to study the detailed material, the background reports *The Governance of Fire Services in Australia* and *Fire Service Arrangements in the Australian States and Territories* are available on the Department of Internal Affairs' website <http://www.dia.govt.nz>

Conclusions from the study of Australian states

B.3. The following conclusions are drawn from the background studies referred to in B.2. For comparative purposes Table B.1 shows the key features in each state.

B.4. The Australian experience offers a wide range of models for the organisation of fire services, with many similarities with the New Zealand situation.

Governance

B.5. In relation to governance:

- all levels of government (that is, federal, state, and local government) are involved to some extent with fire services, although the states have primary responsibilities
- governance arrangements vary from executive management teams to boards and commissions to a single officer
- getting the balance between expert and representational board members has been an issue in some jurisdictions.

Functions

B.6. In relation to functions:

- broad consistency exists in the general functions of each state's fire services
- most state's legislation recognises non-fire emergency work undertaken by fire services
- strong connections exist between fire and rescue services and other emergency services, particularly at ministerial level.

Integration of services

B.7. In relation to the integration of services:

- the integration of services has been a major issue in all jurisdictions, but full integration has been elusive
- New South Wales, Victoria, and South Australia have separate urban and rural services each with their own legislation. Queensland, ACT, Western Australia, Northern Territory and Tasmania have, or are planning, a single umbrella agency. Only Tasmania has succeeded in integrating its services comprehensively.

Advisory committees

B.8. In relation to advisory committees:

- each jurisdiction's legislation establishes committees, including ministerial advisory committees, stakeholder committees and technical committees
- powers for fire services to form other committees for various purposes are common and bush fire management committees are notable.

Table B.1: Integration of urban and rural (wildfire) fire services in Australian states

State or Territory	Integrated legislation?	Integrated management board?	Integrated fire operations (urban and rural)?	Organisation Type	Responsible Minister	Subject to direction?	Other features
Tasmania	Yes Fire Service Act 1979	Yes	Yes (1979) Tasmanian Fire Services	statutory organisation (State Fire Commission)	Minister of Health	Yes	Also has statutory State Fire Management Council (advisory) and fire management area councils (planning and advisory function)
Queensland	Yes Fire and Rescue Service Act 1990	Yes (director general)	No	government department	Minister for Emergency Services	Yes as department, but statutory powers and duties	Emergency Services Council and Rural Fire Council report to Minister on community needs and interest
ACT	No (but underway; legislation introduced May 2004)	Yes Emergency Services Bureau reports to Chief Executive	No (separate services remain)	statutory bodies reporting to departmental bureau	Minister of Justice and Community Safety	Yes	New Emergency Services Authority to replace Emergency Services Bureau; will have only a commissioner, reporting directly to the Minister; board model rejected; objective is better integration of services
South Australia	No (but underway) South Australian Metropolitan Fire Service Act 1936, Country Fires Act 1989	No (but implementing) an over-arching commission	No (separate organisations will remain under reforms)	Metropolitan is a corporation Country Fire Service is a statutory authority whose board reports to Minister	Minister for Emergency Services	Yes	
Western Australia	Partial Fire and Emergency Services Authority of Western Australia Act 1998	Yes	No (separate services)	statutory authority Fire and Emergency Services Authority	Minister of Police and Emergency Services	Yes	Minister appoints four consultative committees
Northern Territory	No	Yes (Commissioner of Police)	Yes	government department Northern Territory Fire and Rescue Service Metropolitan and Country Fire Authority	Minister of Police, Fire and Emergency Services Minister for Emergency Services	Yes	Statutory Bushfire Council advises Minister
Victoria	No Metropolitan Fire Brigades Act 1958, Country Fire Authority Act 1958, Emergency Management Act 1986	Yes Office of the Commissioner advises Minister, sets standards, monitors performance	No	are statutory authorities reporting directly to Minister of Police and Emergency Services	Minister for Emergency Services	Yes	
New South Wales	No Fire Brigades Act 1989, Rural Fires Act 1997	No	No	New South Wales Fire Brigade and Rural Fire Service both government departments	Minister for Emergency Services	Yes as department, but statutory powers and duties	Fire Service Joint Standing Committee oversees strategy, reviews boundaries, implements strategies for cooperation, reports to Minister



Appendix C

Funding of New Zealand fire services

Note:

Funding is the focus of the second discussion document, so this appendix is only a brief overview. It does not raise the many equity and other issues that have led to calls for funding system reform.

How much money is spent on providing fire services?

C.1. New Zealand spends about \$265 million annually to provide fire services. This estimate includes only the direct costs of the firefighting management system. It ignores the indirect costs of other risk management measures such as using fire-safe building design, fire warning devices, and sprinkler protection systems. It also ignores the large contributions of about 11,000 volunteer firefighters who make national coverage possible. Of the total expenditure, about \$230 million is incurred by the urban fire service, leaving an estimated \$35 million for rural fire services.

C.2. These differences reflect the dual structure of fire management and differences in readiness status. Urban services are funded exclusively from a national fire service levy. They provide a core of 24-hour, seven-day crews supplemented by more than 400 volunteer brigades – each with a rapid response capability.

C.3. The relatively low cost of rural fire services is possible, because the rural system does not include firefighters who must be paid on an around-the-clock basis. Firefighters attend only when there are fires and are invariably volunteers whose employers effectively subsidise the rural effort. When wildfires burn for long periods these costs to employers may be considerable, although they often go unrecognised.

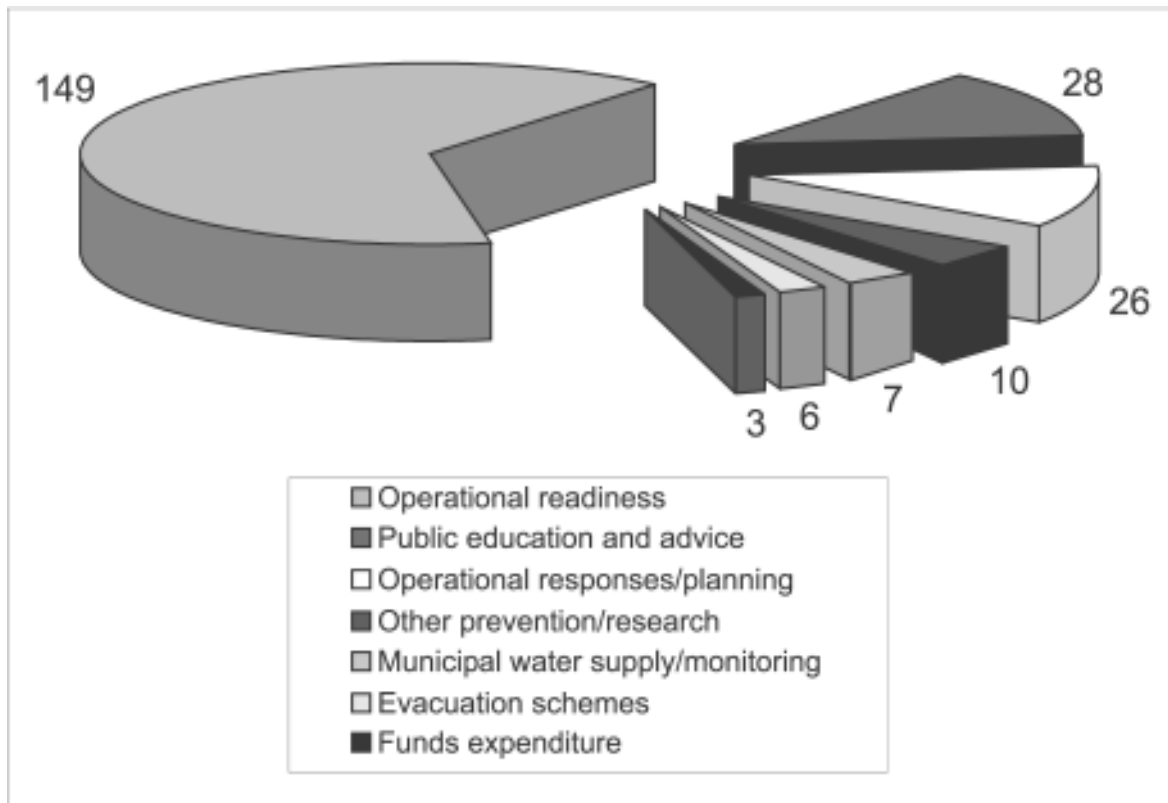
Funding the urban system

C.4. The fire service levy is based on property insurance. It derives from the value of insurance on all personal and real property covered against the risk of fire. The rate of levy is set by the Government by an Order-in-Council, and in 2004 is 7.3 cents per \$100 of insured value. The levy calculated is limited on:

- commercial property to the property's indemnity value
- private dwellings to a value capped at \$100,000 (that is, a maximum annual levy of \$73)
- personal contents insurance to a value capped at \$20,000 (that is, a maximum annual levy of \$14.60).

For insured motor vehicles of less than 3.5 tonnes the annual flat fee is \$5.84. There is no liability for motor vehicle insurance limited to third party cover.

Figure C.1: Proportion of urban fire service costs by service type, 2003/04 (total = \$230 million)



Rural fire services

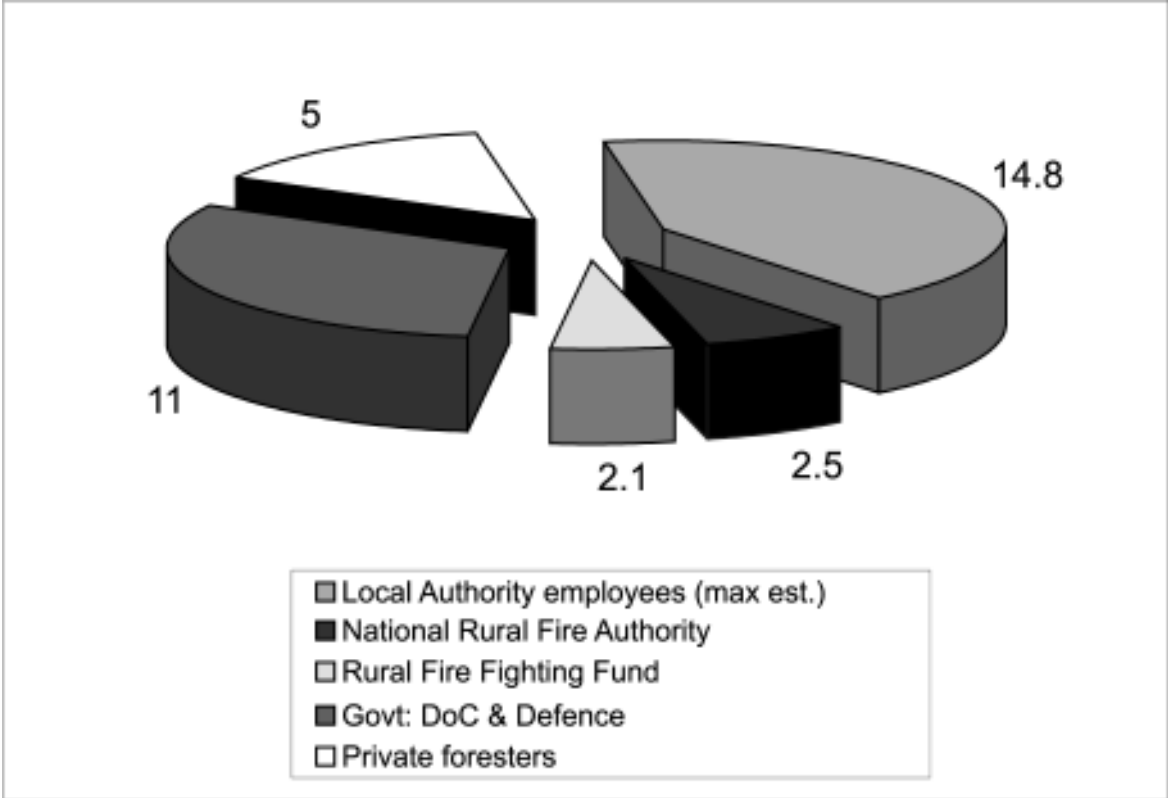
C.5. Rural fire services are funded from a wider variety of sources than urban services, including:

- local authority rates for rural Fire Authorities
- forestry companies helping to fund Fire Authorities of which they are a part
- central government through departmental spending (that is, the Department of Conservation and New Zealand Defence Force)
- the fire service levy, which is used to meet claims on the Rural Fire Fighting Fund and the costs of the National Rural Fire Authority
- private forest owners and industrial brigades that provide independent services.

C.6. It is not easy to identify the total expenditure on rural fire services, because of the relatively low numbers of employees in the rural system and the difficulty in identifying private company expenditures. For example, some rural Fire Authorities assign only part of a person to fire management and control duties and it is difficult to determine an accurate measure of their actual time spent on this. Our best estimate is that \$35 million is spent annually on the operation of rural fire services.

C.7. Figure C.2 breaks down the funding sources for rural fire services.

Figure C.2: Estimated rural fire service funding by source (about \$35m), 2003/04





Appendix D

Establishing a new Crown entity

Crown entities

D.1. The New Zealand Fire Service (NZFS) Commission is a Crown entity responsible to the Minister of Internal Affairs. If any new fire and rescue organisation is to be created as a result of this review, it is also likely to be a Crown entity. However, new legislation should be simpler and shorter than the current two Acts (the Fire Service Act 1975 and Forest and Rural Fires Act 1977).

D.2. New legislation will contain fewer provisions than the current legislation because state sector legislation has superseded some FSA provisions (for example, the financial and reporting provisions and the employment and administrative arrangements for staff). In general, this means you do not need to cover the following topics in your submission, unless you have special reasons to do so:

- financial arrangements
- reporting arrangements
- administration
- staff conditions.

Recent legislative developments

D.3. A major review of public sector management resulted in the Public Finance (State Sector Management) Bill 2003, which:

- amends the Public Finance Act 1989
- integrates the Fiscal Responsibility Act 1994
- amends the State Sector Act 1988
- creates a new Crown Entities Act.

Key features of the Crown Entities Bill

D.4. The Crown Entities Bill, if enacted in its current form, will reform the law relating to Crown entities and provide a consistent framework for the establishment, governance, and operation of all Crown entities. The Bill:

- sets out consistent governance and accountability requirements for Crown entities
- clarifies relationships between Crown entities, their board members, the Crown, and Parliament, including clear and consistent roles, duties, and procedures for appointing and removing governing body members
- tailors the governance and accountability framework to capture major differences between Crown entities according to their relationship with the Crown (different categories of Crown entity will be based on the degree to which the entity is required to give effect to or be independent of government policy)

- clarifies board members' powers and duties in respect of the governance and operation of Crown entities, including their duty to ensure the entity's financial responsibility
- provides mechanisms for the government to express and enforce a whole of government approach.

D.5. The proposed Act will apply to all Crown entities except to the extent that their own Acts vary the new rules. Under the Bill a new Fire and Rescue Board is likely to be categorised as a 'Crown agent', which is a statutory entity that must give effect to government policy if directed by a Minister to do so.

D.6. The principal features of a Crown agent are that:

- the responsible Minister, in most cases, appoints board members
- board members hold office for no more than three years
- the responsible Minister may remove board members at his or her discretion
- the responsible Minister, in most cases, determines board members' remuneration
- the responsible Minister, in most cases, can direct the entity to give effect to government policy
- the entity may be re-categorised by Order in Council.

D.7. Any new Fire and Rescue Services Act will have to comply with the new Crown entities legislation or make a case to justify departing from it. You may wish to identify exceptions within these general areas in your submission.

Appendix E

Project contacts and information

Fire Legislation Review Project Team

The Department of Internal Affairs' Fire Legislation Review Project Team comprised:

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The project team's email address is FireLegislationReview@dia.govt.nz

Project information

You will find project information on the Department of Internal Affairs' website: <http://www.dia.govt.nz> under 'What's new?' and 'Review of Fire Legislation'.

Project Advisory Group

The Project Advisory Group comprised:

- the Department of Internal Affairs
- the Department of Prime Minister and Cabinet
- The Treasury
- the Ministry of Civil Defence and Emergency Management
- the New Zealand Fire Service Commission
- Local Government New Zealand.