

# Review of the Emergency Services Levy

Issues Paper

30 January 2017

Economic Regulation Authority

WESTERN AUSTRALIA



## Economic Regulation Authority

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## About this review

The Emergency Services Levy is an annual levy on properties that is used to fund all career and volunteer fire brigades, volunteer State Emergency Service units and volunteer fire and emergency services in Western Australia. The levy is collected by local governments and is administered by the Department of Fire and Emergency Services.

The *Special Inquiry into the January 2016 Waroona Fire* recommended that an independent review be conducted of the current arrangements for the management and distribution of the Emergency Services Levy. The Treasurer of Western Australia asked the Economic Regulation Authority to conduct the review of the Emergency Services Levy.

The ERA is interested in feedback on the following aspects of the terms of reference for the review.

- Is revenue from the Emergency Services Levy allocated among different activities in a way that best manages risks from bushfires and other hazards?
- Is the method used to set the Emergency Services Levy appropriate for meeting current and future needs?
- Are the governance arrangements for administering the Emergency Services Levy transparent and accountable?
- Should revenue from the Emergency Services Levy be made available to fund the administrative and operational costs of a rural fire service?

The purpose of this issues paper is to help interested parties make submissions to the review. The issues paper explains the process we will follow and how we will examine the key issues. We have posed questions throughout this issues paper. We invite interested parties to respond to some or all of these questions, or submit on any other relevant matter.

Submissions are due by 4:00pm (WST) on Friday 10 March 2017. There will be further opportunities to make submissions when we publish the draft report (in mid-2017). The ERA also intends to meet with key entities involved in emergency management during the review process.

Submissions are preferred in electronic form and can be submitted to:

- (a) Online: [www.erawa.com.au/consultation](http://www.erawa.com.au/consultation)
- (b) Email address: [publicsubmissions@erawa.com.au](mailto:publicsubmissions@erawa.com.au)
- (c) Postal: PO Box 8469, PERTH BC WA 6849

We are required to provide our final report to the Treasurer by no later than 29 September 2017. The Treasurer will have 28 days to table the report in Parliament, after which a copy will be available from our website.

I encourage all interested parties to make submissions to this inquiry.

NICOLA CUSWORTH  
**CHAIR**

## Questions for interested parties

1. How should funding be allocated across prevention, preparedness, response, and recovery activities?
2. What should the ERA consider in assessing whether the current method for setting the ESL is appropriate for current and future needs?
3. What emergency service expenditures should be funded by the ESL?
4. How are expenditures on emergency services likely to change in the future?
5. How could the method for setting the ESL be improved?
6. What information should be made public about the administration and distribution of ESL funding?
7. What processes should be in place to ensure accountability in the expenditure of ESL funding?
8. Which agency should be tasked with distributing funding from the ESL?
9. If a rural fire service is established, should it be funded by the ESL?
10. How much would a rural fire service cost, and what effect would it have on ESL rates?

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# 1 Introduction

The Treasurer of Western Australia asked the Economic Regulation Authority (**ERA**) on 23 December 2016 to prepare a report on the current arrangements for, and options to improve, the management and distribution of the Emergency Services Levy (**ESL**) in Western Australia.

The inquiry has been referred to the ERA under section 38 of the *Economic Regulation Authority Act 2003*, which provides for the Treasurer to refer inquiries to the ERA on any matter relating to an industry that is not a regulated industry (that is, water, gas, electricity and rail industries).

In conducting this report, the Authority will consider the following:

- The current ESL expenditure applied to managing the emergency services (prevention of, preparedness for, response to and recovery from natural hazard emergencies).
- The proportion of ESL funding directed towards each aspect of emergency management: prevention, preparedness, response and recovery.
- The extent to which the current allocation of ESL funds towards prevention and response reflects best practice in managing the risk of bushfire and other hazards.
- The extent to which the current methodology for setting the ESL is appropriate, now and into the future.
- The current transparency and accountability arrangements for the distribution of the ESL.
- Whether it would be more appropriate for the allocation of ESL funds to be the responsibility of an agency other than the Department of Fire and Emergency Services.
- The extent to which the ESL should be available to fund administrative and/or operational costs of a Rural Fire Service.
- The extent to which the use of the ESL to fund a Rural Fire Service would impact on ESL rates.

A copy of the terms of reference is provided in Appendix A of this issues paper.

## 1.1 Background to the review

The Treasurer asked the ERA to conduct a review of the ESL in response to a recommendation of the *Report of the Special Inquiry into the January 2016 Waroona Fire*, prepared by Mr Euan Ferguson.<sup>1</sup>

Mr Ferguson reported that stakeholders raised the following concerns with the administration of the ESL.

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<sup>1</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, 2016.

- Stakeholders perceive that increases in the levy are used to supplement the administrative costs of the Department of Fire and Emergency Services (DFES), rather than funding frontline services.
- Insufficient funds are being directed towards mitigation activities, with priority being given to response, despite greater financial benefits from investing in mitigation rather than response.
- There is a lack of transparency in the way funding from the ESL is allocated and concern that the allocation is not based upon risk.<sup>2,3</sup>

Mr Ferguson noted that previous inquiries into Western Australian bushfires had identified similar issues with the ESL and recommended changes to the management of the ESL.

In the 2011 *Perth Hills Bushfire Report*, Mr Mick Keelty recommended “the State Government move the responsibility for the management and distribution of the Emergency Services Levy to the Department of Finance.<sup>4</sup> DFES and the Department of Finance examined this issue, but found no major benefit evident in transferring the assessment and collection of the ESL to the Department of Finance.<sup>5</sup>

Mr Ferguson considered this recommendation of the *Perth Hills Bushfire Report* had not been implemented because the review was not sufficiently inclusive or transparent.<sup>6</sup> Mr Ferguson considered that an independent review should encompass a broad range of stakeholders, and take into account the need to establish a rural fire service and the need for a greater emphasis on bushfire prevention and mitigation.<sup>7</sup>

Mr Ferguson recommended the State Government create a rural fire service to enhance the capability for rural fire management and bushfire risk management at a State, regional and local level.<sup>8</sup> The Government supports the establishment of a rural fire service.<sup>9</sup>

## 1.2 Review process

As noted in the previous section, public consultation is a necessary and important part of this review.

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<sup>2</sup> Natural disaster risk arises from the interaction of three elements: the probability of a natural hazard occurring; the exposure of people, property and the environment to the hazard; and their vulnerability to the impacts. Source: Productivity Commission, *Natural Disaster Funding Arrangements*, Canberra, vol. 1, p. 12.

<sup>3</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 55.

<sup>4</sup> M. Keelty APM AO, *A Shared Responsibility: Perth Hills Bushfire Inquiry*, Perth, 2011, p. 22.

<sup>5</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 55.

<sup>6</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 56.

<sup>7</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 261.

<sup>8</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 258.

<sup>9</sup> WA Government, ‘State Government to establish Rural Fire Service’, *Media Statements*, Perth, 29 September 2016, <https://www.mediastatements.wa.gov.au/Pages/Barnett/2016/09/State-Government-to-establish-Rural-Fire-Service.aspx>, (accessed 23 January 2016).



This issues paper is the first phase of public consultation for this review. It is an open process to allow for anyone with an interest to make a submission to the review. The issues paper provides background information on the ESL, explains the purpose of the ESL review, and the issues we will examine. We invite interested parties to make submissions on any matters of relevance to this review.

The ERA will also engage directly with stakeholders that are able to contribute specific or technical knowledge to the review process. In particular, the ERA may:

- meet with Western Australian entities that have a role in prevention of, preparedness for, response to, and recovery from natural hazard emergencies; and
- issue a request for data from these entities for expenditures on prevention, preparedness, response and recovery.

The ERA will also engage with its Consumer Consultative Committee during the course of this review. The Committee is composed of consumer and industry representatives and informs the ERA about issues that affect consumers.

Information from all of these processes will contribute to the development of a draft report. The ERA anticipates that it will publish the draft report in mid-2017. The ERA must make a draft report available for consultation with the key entities involved in emergency management. The ERA will invite submissions from the public in response to the draft report.

The ERA will prepare its final report after considering submissions to the draft report. The ERA is required to provide its final report to the Treasurer, including recommendations, no later than 29 September 2017. The Treasurer will have 28 days to table the report in Parliament, after which a copy will be available from our website.

### 1.3 About this issues paper

The remainder of this issues paper is set out as follows:

- *Chapter 2: About the Emergency Services Levy* – the purpose of this chapter is to provide some background information on the Emergency Services Levy, including how it is collected and the purpose for which it is used.
- *Chapter 3: Scope of the ESL review* – the purpose of this chapter is to explain how the ERA intends to address the terms of reference for this review and to pose questions to interested parties.
- *Appendix A: Terms of Reference* – a copy of the terms of reference issued to the ERA by the Treasurer.

Submissions should be made by **4:00pm (WST) on Friday 10 March 2017**, preferably in electronic form.

Online: [www.erawa.com.au/consultation](http://www.erawa.com.au/consultation)

Email address: [publicsubmissions@erawa.com.au](mailto:publicsubmissions@erawa.com.au)

Postal: PO Box 8469, PERTH BC WA 6849

## **CONFIDENTIALITY**

In general, all submissions from interested parties will be treated as being in the public domain and placed on the ERA's website. Where an interested party wishes to make a submission in confidence, it should clearly indicate the parts of the submission for which confidentiality is claimed, and specify in reasonable detail the basis for the claim. Any claim of confidentiality will be considered in accordance with the provisions of the *Economic Regulation Act 2003*.

The publication of a submission on the ERA's website shall not be taken as indicating that the ERA has knowledge either actual or constructive of the contents of a particular submission and, in particular, whether the submission in whole or part contains information of a confidential nature and no duty of confidence will arise for the ERA.

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## 2 About the Emergency Services Levy

The purpose of this chapter is to provide background information on the Emergency Services Levy (**ESL**). The chapter is set out as follows:

- An overview of the ESL, including when it was established and why, and the purpose for which it is used.
- An overview of responsibilities for the ESL (that is, which entities are responsible for collecting, setting, and administering the ESL).
- A description of the method used to calculate the ESL.
- An overview of how the ESL was spent in 2015-16.

### 2.1 How the ESL is used, and why it was introduced

The ESL commenced on 1 July 2003. The ESL is an annual property-based levy that is used to fund the costs of providing emergency services in Western Australia. Services funded by the ESL are currently provided by the Fire and Emergency Services Commissioner (**FES Commissioner**) of the Department of Fire and Emergency Services (**DFES**), and by local governments and other organisations that receive grants and subsidies from DFES.

DFES was established on 1 November 2012 and operates under the *Fire and Emergency Services Act 1998* (**FES Act**). The FES Commissioner is the 'hazard management agency' for fires, hazardous materials incidents, floods, cyclones, storms, earthquakes, tsunamis, and collapses of landforms or structures. DFES is the primary organisation that provides natural hazard management services in Western Australia, but it is not the sole provider of these services. For example, the Department of Parks and Wildlife (**DPAW**) is responsible for leading bushfire response and suppression on DPAW-managed land.

The FES Commissioner receives all revenue raised via the ESL (although DFES provides grants and subsidies to other organisations). The FES Act stipulates that:

- any levy paid is to be credited to an operating account of DFES; and
- any amount credited to an operating account of DFES 'may be applied only for the purposes of the emergency services Acts', being the *Fire and Emergency Services Act 1998*, the *Bush Fires Act 1954*, and the *Fire Brigades Act 1942*.

This guidance ensures ESL funding may only be used for the functions of the FES Commissioner (as set out in the emergency services Acts), and subject to any Ministerial or Government policy determinations reflected in the annual DFES budget (which is approved by Parliament).

The ESL currently funds the operating costs of the<sup>10</sup>:

- *Career Fire and Rescue Service* – paid staff whose responsibilities include firefighting, hazardous material management, road crash rescue, urban search and rescue, disaster support, fire alarm response, building fire safety inspection, fire scene investigation, community engagement, and provision of firefighting and fire safety education.
- *Volunteer Fire and Rescue Service* – volunteers in both urban and rural areas who provide firefighting, hazardous material management, road crash rescue, and fire safety education services. There were 93 brigades in 2015-16, and 2,414 volunteers.
- *Local Government Bush Fire Brigades* – volunteers in rural and pastoral areas who provide some bushfire prevention and risk management services, bushfire suppression services, and bushfire safety education to the community. There were 575 brigades in 2015-16, and 19,954 volunteers.
- *State Emergency Service* – volunteers in both urban and rural areas who provide disaster support, search and rescue services, and community safety education. There were 67 State Emergency Service units in 2015-16, and 1,946 volunteers.
- *Volunteer Fire and Emergency Service Units* – multi-functional volunteer units trained in natural disaster and emergency response. There were 27 units in 2015-16, and 884 volunteers.

The ESL also provides funding towards the cost of:

- Aviation services provided by DFES during emergencies.
- The *Volunteer Marine Rescue Service* – volunteers who assist police in searching for missing people and vessels, provide help to drifting vessels, and assist in the removal of grounded and submerged vessels. There were 36 groups in 2015-16, and 1,559 volunteers.

The Career Fire and Rescue Service, Volunteer Fire and Rescue Service, State Emergency Service, Volunteer Marine Rescue Services, and Volunteer Fire and Emergency Services are part of DFES. DFES also supports local governments in administering, training and funding local government Bush Fire Brigades.

Operating costs funded by the ESL include those associated with operating and maintaining vehicles and buildings, insurance, personal protective equipment and operational consumables. The ESL also funds capital equipment purchases including firefighting appliances, vehicles, buildings, and major rescue equipment.<sup>11</sup> Additionally, the ESL funds volunteer training, fire investigations, building inspections, community safety programs, emergency management planning, and the corporate support costs of DFES.

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<sup>10</sup> DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, p. 1.

<sup>11</sup> DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, p. 1.

The ESL was established to ensure that all property owners contributed to the costs of emergency services, and that emergency services were appropriately funded.<sup>12</sup>

Before the ESL was introduced, emergency services were funded through a number of sources. These included a compulsory levy applied to insurance companies and recovered through insurance premiums, levies raised by local governments, State Government contributions, grants (for example, from the Lotteries Commission), and community fundraising.<sup>13</sup>

The source of funding varied by service and location. For example, the ERA understands that:

- The Career Fire and Rescue Service of Western Australia was funded 75 per cent by the compulsory charge against insurance companies and a 12.5 per cent contribution from each of the State Government and local governments.
- The Volunteer Fire and Rescue Service in country towns was fully funded by the State Government.
- Local Government Bush Fire Brigades in rural communities were funded by local governments and their communities, including through community fundraising and matched grants from the State Government or the Lotteries Commission.
- The State Emergency Service and Volunteer Marine Rescue Services were funded by a combination of local community contributions through local government, or local fundraising, State and Federal government funding and Lotteries Commission grants.<sup>14</sup>

This system was considered inequitable because the level of financial contribution to emergency services varied considerably among property owners. For example, although the insurance levy was compulsory, property owners could choose not to insure, to self-insure, to under-insure, or to use an off-shore, non-contributing insurer.<sup>15</sup>

The system was also inequitable because the level of service varied considerably between locations. In some cases, funding could only be spent in the location it was raised, resulting in some emergency services units being under-funded and under-resourced.<sup>16</sup>

## 2.2 Administration of the ESL

The ESL is established by the *Emergency Services Levy Act 2002*, Part 6A of the FES Act, and the *Fire and Emergency Services Regulations 1998*.

<sup>12</sup> J.C. Kobelke, Second Reading Speech: Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill, *Hansard*, Assembly, 25 September 2002.

<sup>13</sup> J.C. Kobelke, Second Reading Speech: Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill, *Hansard*, Assembly, 25 September 2002.

<sup>14</sup> J.C. Kobelke, Second Reading Speech: Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill, *Hansard*, Assembly, 25 September 2002.

<sup>15</sup> J.C. Kobelke, Second Reading Speech: Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill, *Hansard*, Assembly, 25 September 2002.

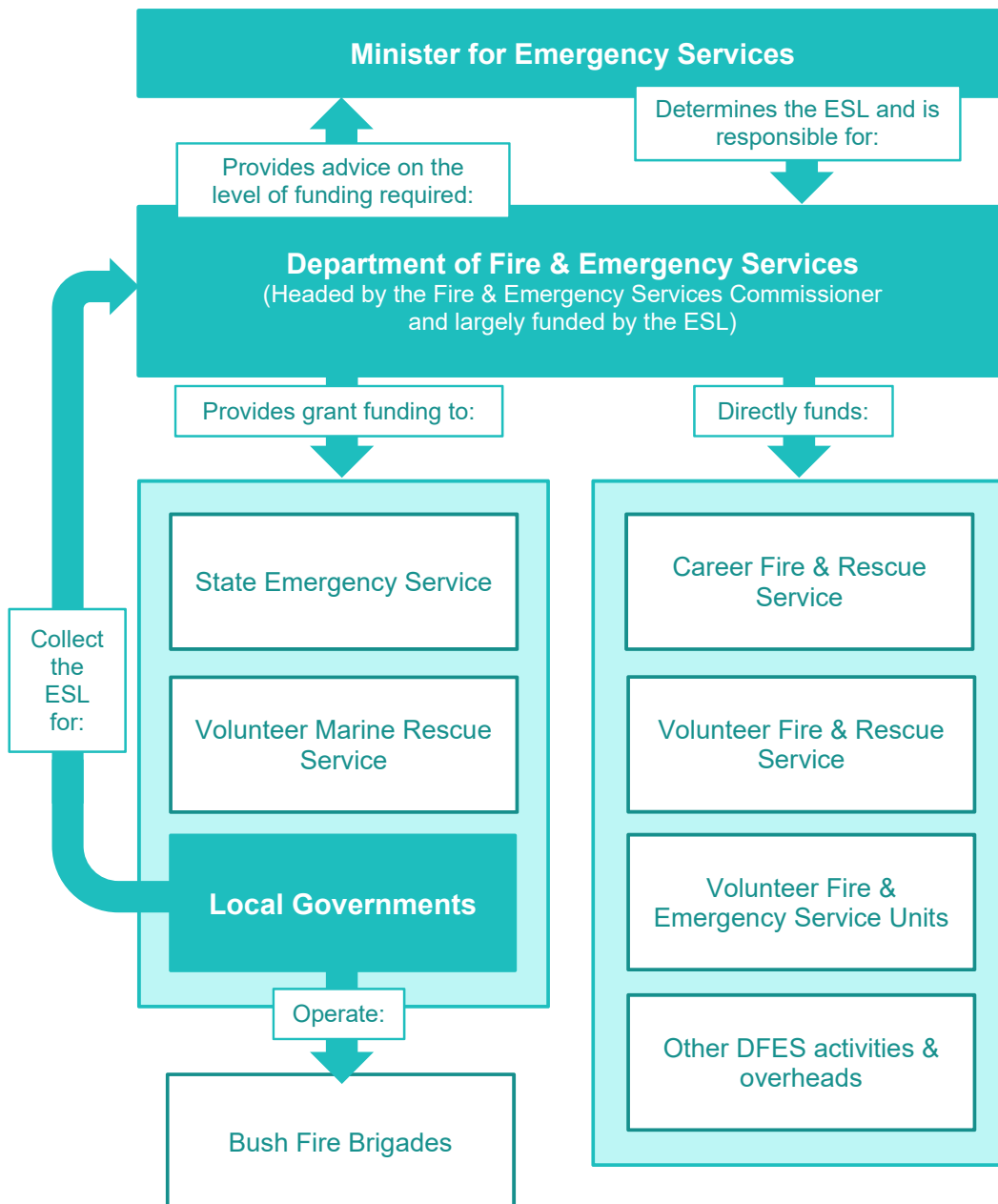
<sup>16</sup> DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, p. 1.

Part 6A of the FES Act 1998 establishes roles for the Minister for Emergency Services (**the Minister**), the FES Commissioner, and local governments to administer the ESL.

The Minister is responsible for deciding the total amount of ESL revenue to raise, based on advice from DFES, and in doing so must consider estimated emergency services expenditure in the coming year, and the amount of funding appropriated by Parliament for the services provided under the emergency services Acts. The Minister may also consider any other matter deemed relevant in determining the levy. The annual budget for DFES (including ESL revenues) is approved by Parliament through the annual State budget process.

Figure 1 shows the main parties involved in the administration and use of the ESL.

**Figure 1 Collection, administration and spending of the ESL**



Under the FES Act, the amount of ESL levied on a property must be determined as a rate in the dollar of the gross rental value of the land as at 1 July. However, the FES Act allows the Minister to apply different levy rates by location (known as ESL category areas) and the purpose for which the land is used. The Minister may also determine a minimum and maximum levy for properties, which may also vary by location and land use. Rates for 2016/17 are provided in section 2.3.

Most of the ESL funds raised are collected by local governments on behalf of DFES. Under the FES Act, local governments are required to assess the amount of ESL payable by property owners, and serve a written notice. Local governments do not have discretion over the amount raised and simply apply the rate method as advised (refer to section 2.3). A local government will usually provide the assessment notice as part of the council rates notice.

Local governments collect the ESL and any interest payable from ratepayers. All ESL funds collected by local governments are forwarded to DFES to fund the fire and emergency services.

The FES Commissioner pays fees to local governments for collecting the ESL from ratepayers. When setting fees, the Minister must consider the actual costs incurred by local governments, and consult with parties that represent the interests of local government.

The ESL is also payable on properties owned by the State Government, local governments, and Government corporations. In these cases, DFES issues assessment notices directly.

## 2.3 Calculation of the ESL

The amount of ESL that must be paid on a property depends on the gross rental value<sup>17</sup> of the property, the location of the property (known as ESL categories) and the purpose for which the property is used. There are currently five ESL categories.

With the exception of ESL category five (which is a fixed charge), the ESL charge is calculated as a rate in the dollar of the gross rental value of the property. The rate in the dollar applied to a property varies according to the applicable ESL category. Accordingly, different rates are applied in different locations, reflecting that properties that have better access to emergency services are required to contribute more for these services. The ESL rates applied in 2016/17 to each category are set out in Table 1.

The Emergency Services Minister has determined minimum and maximum amounts that may be applied to each property. These vary by ESL location category and by land use. Minimum and maximum charges per property for 2016-17 are set out in Table 2.

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<sup>17</sup> Gross rental value is 'the gross annual rental that the land might reasonably be expected to realise if let on a tenancy from year to year upon the condition that the landlord was liable for all rates, taxes and other charges thereon and the insurance and other outgoings necessary to maintain the value of the land'. (Landgate, *Valuations for rating and taxation*, accessed from <https://www0.landgate.wa.gov.au/for-individuals/land-values/rating-and-taxing> on 11 January 2017.)

**Table 1** ESL categories

ESL Category	Description of location	Type of emergency response	ESL rates for 2016/17
Category 1	Perth metropolitan fire district	Network of career fire and rescue stations and SES.	\$0.012672
Category 2	Regional cities	Career fire and rescue station, plus a volunteer fire and rescue service brigade and SES.	\$0.009504
Category 3	Urban metropolitan area	A volunteer fire and rescue service brigade and/or a bushfire brigade supported by the network of career fire and rescue stations in the metropolitan region and the SES.	\$0.006336
Category 4	Country towns	Volunteer fire and rescue service and the SES or A bushfire brigade with breathing apparatus and the SES.	\$0.004435
Category 5	Pastoral/rural areas	Communities supported by the State-wide SES network and generally a bush fire brigade.	\$71 fixed charge
	Mining tenement		\$71 fixed charge

Source: DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, pp. 4 and 8.

**Table 2** Minimum and maximum charges for 2016-17

ESL Category	Vacant, residential and farming		Commercial, industrial and miscellaneous	
	Minimum	Maximum	Minimum	Maximum
Category 1	\$71	\$375	\$71	\$213,000
Category 2	\$71	\$275	\$71	\$156,000
Category 3	\$71	\$184	\$71	\$104,000
Category 4	\$71	\$130	\$71	\$73,000
Category 5			\$71 per rate notice	
Mining tenement			\$71 per rate notice	

Source: DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, p. 8.



There are comparatively few exemptions from the ESL. Under section 5 of the *Fire and Emergency Services Regulations 1998*, exempt land includes: land owned by a local government that is not improved land; land subject to a mining tenement (other than a mining lease); land that has been granted an exploration permit for petroleum; and land that is contaminated and does not receive services under the emergency services Acts.

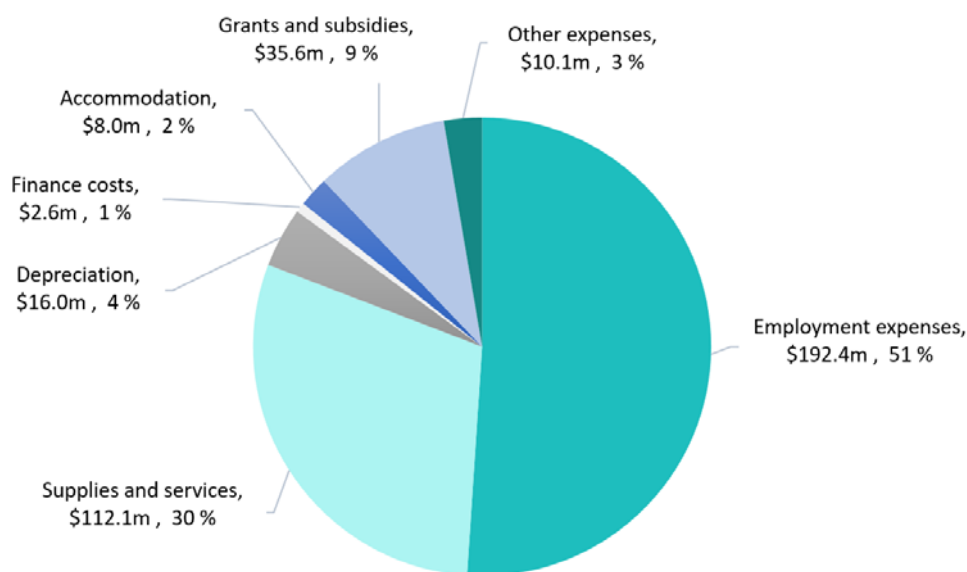
## 2.4 How ESL funding is allocated

ESL funding was \$323.3 million in 2015-16, being 94 per cent of DFES's total revenue in the period.<sup>18</sup> Of this funding, 82.3 per cent was collected from metropolitan sources, and 17.7 per cent from regional sources.<sup>19</sup> The ESL funding estimate for 2016-17 is \$339.0 million.

DFES does not provide a breakdown in its annual report of how all ESL funds have been allocated to specific services, or to specific regions. Further, DFES does not undertake activity based costing that would allow it to accurately report the amount spent on various types of activities (for example, non-fire related, non-frontline activities).<sup>20</sup>

However, DFES does provide information in its annual report on the proportion of its expenses that relate to prevention services (\$48.8 million in 2015-16, or 12.9 per cent of total expenses), compared to emergency services (\$316.4 million in 2015-16, or 87.1 per cent of total expenses). These figures are determined based on a theoretical cost allocation model. DFES's annual report also provides a breakdown of expenditure by category (Figure 2).

**Figure 2 DFES expenditure by category (2015-16)**



Sources: ERA analysis; DFES Annual Report 2015-16

<sup>18</sup> DFES, *Annual Report 2015-16*, Perth, Government of Western Australia, 2016.

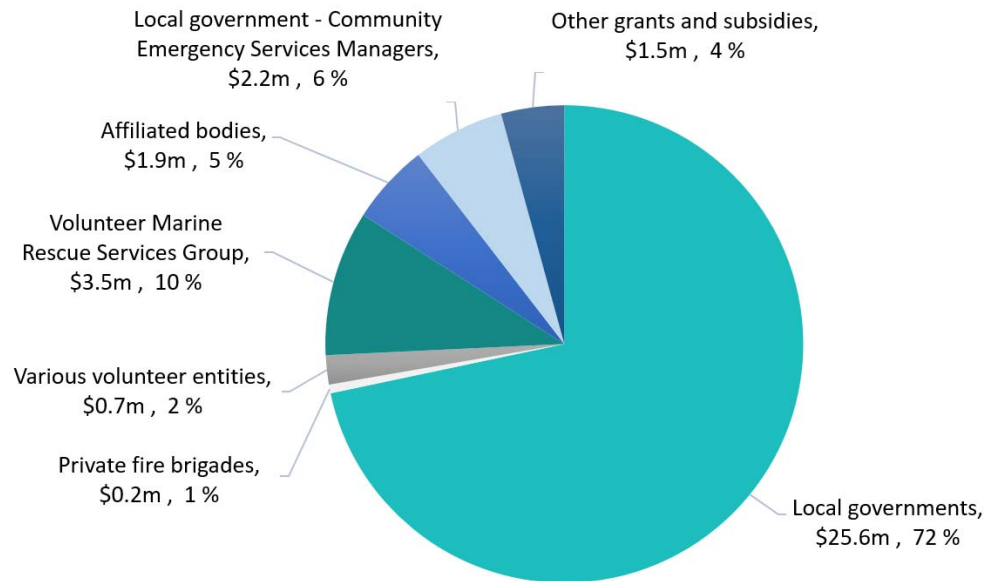
<sup>19</sup> M. Mischin, Question without Notice 1177 – Answer advice, *Hansard*, Council, 10 November 2016, p. 7850b.

<sup>20</sup> M. Mischin, Question without Notice 1177 – Answer advice, *Hansard*, Council, 10 November 2016, p. 7850b.

As shown in Figure 2, 9 per cent of DFES expenditure goes to grants and subsidies. These grants and subsidies cover the costs of local government Bush Fire Brigades and various volunteer entities including State Emergency Services units.<sup>21</sup> The majority of grants and subsidies funding, for both capital and operating costs, is paid to local governments.

Figure 3 provides a breakdown of grants and subsidies paid by DFES in 2015-16.

**Figure 3 DFES grants and subsidies expenditure, including both operating and capital grants (2015-16)**



Sources: ERA analysis; DFES Annual Report 2015-16

Under section 36A of the FES Act, local governments are required to submit an annual estimate of their expenditure on fire and emergency services. The estimate must be prepared in the manner and form approved by the Minister and submitted to the FES Commissioner for approval. The FES Commissioner then pays local governments an amount equal to the approved expenditure.

Career Fire and Rescue Service units, Volunteer Fire and Rescue Service units, and Volunteer Fire and Emergency Service Units are managed by DFES, and are funded directly by DFES.<sup>22</sup> DFES does not publish a breakdown of expenditure for these services.

<sup>21</sup> DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, p. 2.

<sup>22</sup> DFES, *Emergency Services Levy Question & Answer Guide 2016/17*, Perth, Government of Western Australia, 2015, p. 2.

### 3 Scope of the ESL review

The purpose of this chapter is to explain how the ERA intends to address the terms of reference for this review. The ERA is interested in feedback on the following aspects of the terms of reference.

- Is revenue from the ESL allocated among different activities in a way that best manages risks from bushfires and other hazards?
- Is the method used to set the ESL appropriate for meeting current and future needs?
- Are the governance arrangements for administering the ESL transparent and accountable?
- Should revenue from the ESL be made available to fund the administrative and operational costs of a rural fire service?

Each of these points are addressed below.

In interpreting these points, the ERA has been mindful that Mr Ferguson's *2016 Special Inquiry into the Waroona Bushfires* was a driver in initiating this review and in developing the terms of reference. However, the ERA notes that DFES uses ESL revenue to fund its full range of hazard management activities, which include, but are not limited to, bushfire risk management. The ERA will take this into account in conducting this review.

#### 3.1 Allocation of ESL funding

The terms of reference for the review require the ERA to consider:

- the current ESL expenditure applied to managing the emergency services (prevention of, preparedness for, response to and recovery from natural hazard emergencies);
- the proportion of ESL funding directed towards each aspect of emergency management: prevention, preparedness, response and recovery; and
- the extent to which the current allocation of ESL funds towards prevention and response reflects best practice in managing the risk of bushfire and other hazards.

As discussed in the terms of reference, the four phases of hazard risk management are prevention (sometimes called mitigation), preparedness, response, and recovery. Figure 4 describes the phases, and provides some examples of activities for each.

**Figure 4 Natural hazard risk management activities**

Prevention	Preparedness
<p>Acting in advance to reduce the likelihood of a hazard event, or minimise its likely effects. E.g.</p> <ul style="list-style-type: none"> <li>• <i>Hazard reduction burns</i></li> <li>• <i>Maintenance of electricity assets</i></li> <li>• <i>Arson deterrence campaigns</i></li> </ul>	<p>Working to ensure effective response and recovery when a hazard arises. E.g.</p> <ul style="list-style-type: none"> <li>• <i>Community safety programs &amp; resources</i></li> <li>• <i>Constructing fire shelters</i></li> <li>• <i>Acquiring firefighting vehicles</i></li> </ul>
Response	Recovery
<p>Acting during a hazard event to control the effects of the event and minimise damage. E.g.</p> <ul style="list-style-type: none"> <li>• <i>Firefighting</i></li> <li>• <i>Conducting evacuations</i></li> <li>• <i>Traffic management</i></li> </ul>	<p>Restoring normal function to communities affected by a hazard event. E.g.</p> <ul style="list-style-type: none"> <li>• <i>Rebuilding &amp; restoring services</i></li> <li>• <i>Cleaning up hazardous materials</i></li> <li>• <i>Providing counselling &amp; financial support</i></li> </ul>

Mr Ferguson found that stakeholders were concerned about ‘insufficient [ESL-derived] funding being directed towards mitigation activities, despite the value for money benefits that can be derived from investment in mitigation as compared to response’.<sup>23</sup> Mr Ferguson also noted concerns that funding was not based on risk.<sup>24</sup> He agreed that a ‘greater emphasis on mitigation [prevention] is necessary’, and recommended ‘establishing a budget process that enables a shift in investment towards prevention, mitigation and building community resilience and capability’.<sup>25</sup>

While DFES is Western Australia’s natural hazard risk management agency, it is not the only entity responsible for natural hazard risk management in the State. Risk management activities are undertaken by a range of agencies, businesses, individuals, and other organisations, consistent with the principle of ‘shared responsibility’. However, ESL revenue is only used to fund those activities undertaken by DFES (although DFES provides grants and subsidies to other organisations). In assessing whether ESL revenue is appropriately allocated across prevention, preparedness, response, and recovery activities, the ERA will consider the extent to which those activities are already performed by other entities.

The ERA is also mindful that allocation of funding across the various phases of natural hazard management is a complex and much-debated subject. This complexity, in

<sup>23</sup> E. Ferguson, “*Reframing Rural Fire Management*”: *Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, Government of Western Australia, 2016, p. 55.

<sup>24</sup> E. Ferguson, “*Reframing Rural Fire Management*”: *Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, Government of Western Australia, 2016, p. 55.

<sup>25</sup> E. Ferguson, “*Reframing Rural Fire Management*”: *Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, Government of Western Australia, 2016, p. 261.

combination with data availability issues<sup>26</sup>, may make it challenging to conduct a quantitative assessment of funding allocation.

The ERA will examine the principles and processes that underpin ESL revenue allocation in Western Australia. In undertaking this review, the ERA will examine the prevention, preparation, response and recovery activities performed by DFES and funded by ESL revenue, and may consider:

- whether natural hazard management activities performed by DFES are duplicated by other agencies or organisations (for instance, DPAW, the Department of Lands, and local governments);
- any existing frameworks or principles for optimising allocation of funding across the phases of natural hazard management; and
- the processes used to allocate funding across the phases of natural hazard management in Western Australia and other jurisdictions.

### Questions for interested parties

1. How should funding be allocated across prevention, preparedness, response, and recovery activities?

## 3.2 Method for setting the ESL

The ERA is required to assess whether the current method for setting the ESL is appropriate, now and into the future.

The ERA intends to apply both a practical and a principled approach to considering this aspect of the terms of reference. The ERA considers the main practical concern is whether the ESL, as it is presently calculated, is capable of raising sufficient revenue to meet current and future needs for emergency services. This may involve examining how fire and other natural hazard events are anticipated to change in the future (for example, as a result of climate change) and the potential cost implications. The ERA will also examine how expenditures are prioritised, and whether there are appropriate constraints in place to limit excessive increases in ESL rates.

In terms of a principled approach, the ERA will assess whether the method for setting the ESL is efficient, equitable and simple.<sup>27</sup>

In the context of the ESL, an efficient design may mean ensuring property owners have incentives to minimise their exposure to emergencies. An equitable design may involve ensuring the levy reflects differences in the ability of property owners (and their tenants) to

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<sup>26</sup> In particular, the lack of activity based costing within DFES may limit the usefulness of any expenditure data.

<sup>27</sup> These are considered the core principles of good tax design. Applying these principles will help to ensure that any unintended costs or behavioural changes associated with ESL are minimised.

pay. Finally, the design of the levy should be as simple as possible, as this will result in lower compliance and administration costs for the State and local governments.

### Questions for interested parties

2. What should the ERA consider in assessing whether the current method for setting the ESL is appropriate for current and future needs?
3. What emergency service expenditures should be funded by the ESL?
4. How are expenditures on emergency services likely to change in the future?
5. How could the method for setting the ESL be improved?

## 3.3 Governance arrangements

The ERA is required to consider:

- the current transparency and accountability arrangements for the distribution of the ESL; and
- whether it would be more appropriate for the allocation of ESL funds to be the responsibility of an agency other than the Department of Fire and Emergency Services.

DFES is responsible for administering the ESL and making decisions about the distribution of ESL funding, while also being the main recipient of ESL funding. Mr Ferguson reports that stakeholders expressed concern that revenue from the ESL has been used to fund the administrative costs of DFES rather than being applied to frontline services. They have called for a clear separation of responsibilities, and for the rules to be revisited to ensure volunteers and local governments have access to the necessary funding for bushfire mitigation, and fairer access to equipment and resources funding.<sup>28</sup>

In conducting this review, the ERA will consider:

- *What information needs to be available to ensure the allocation of ESL funding is transparent.* This may include, for example, requiring information to be published on the process and rationale for allocating ESL funding, ensuring stakeholders have appropriate opportunities to be involved in decisions on the allocation of funding, and ensuring information is published, in an accessible form, on the allocation of ESL funding.
- *What processes need to be in place to ensure organisations are accountable for their expenditure of ESL funding.* This may include, for example, examining the processes for ensuring that ESL funding is being used for the intended purpose, and the processes for ensuring it is spent in an efficient and effective manner. It may

<sup>28</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 55.

also include ensuring that information from these evaluation processes is being used to improve funding decisions.

- *Whether it would be more appropriate for another agency to have responsibility for distributing ESL funding.* The ERA will consider the characteristics that an agency responsible for distributing ESL funding should have. These may include: knowledge of emergency management; experience in grant administration; and minimal conflicts of interests. The ERA will assess existing organisations against these characteristics, and others suggested by stakeholders through the consultation processes.

### Questions for interested parties

6. What information should be made public about the administration and distribution of ESL funding?
7. What processes should be in place to ensure accountability in the expenditure of ESL funding?
8. Which agency should be tasked with distributing funding from the ESL?

## 3.4 Rural fire service

The terms of reference for the review require the ERA to assess:

- the extent to which the ESL should be available to fund administrative and/or operational costs of a rural fire service; and
- the extent to which the use of the ESL to fund a rural fire service would impact on ESL rates.

Mr Ferguson recommended the State Government create a rural fire service to enhance the capability for rural fire management and bushfire risk management at a State, regional and local level.<sup>29</sup> This recommendation in part reflects concerns that urban and rural fires require different strategies and asset management priorities, and DFES staff do not have sufficient experience in rural fire management.<sup>30</sup> Mr Ferguson also noted the need to organise in preparation for the next extreme event.<sup>31</sup>

The Government supports the establishment of a rural fire service.<sup>32</sup> Emergency Services Minister, Mr Joe Francis, has stated that a decision about the 'shape' of a rural fire service

<sup>29</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 258.

<sup>30</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1.

<sup>31</sup> E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p. 254.

<sup>32</sup> WA Government, 'State Government to establish Rural Fire Service', *Media Statements*, Perth, 29 September 2016, <https://www.mediastatements.wa.gov.au/Pages/Barnett/2016/09/State-Government-to-establish-Rural-Fire-Service.aspx>, (accessed 23 January 2016).

is 'still months away', noting that there are 'diverse opinions about what that rural fire service looks like, and what its key role should be'.<sup>33</sup>

The Department of Premier and Cabinet has consulted with stakeholders on the appropriate form of a rural fire service (including, for example, whether it should be an independent body or a sub-department of DFES). The ERA will not examine the merits of establishing a rural fire service as part of this review.

The ERA will examine the merits of arguments for and against extending the ESL to fund the administrative and operational costs of a rural fire service. In weighing up these arguments, the ERA may apply the principles of efficiency, equity and simplicity (as described in section 3.2).

The impact on ESL rates of making the ESL available to fund a rural fire service will depend on the cost of a rural fire service, which will in turn depend on the structure, role and resourcing of the model selected. These details are yet to be finalised and may not be available to the ERA during the course of this review.

For the purposes of this review, the ERA will develop indicative costs of different models of a rural fire service and the effect on ESL rates, but will not be able to develop a definitive estimate of the cost of a rural fire service. The ERA will develop assumptions in consultation with the Department of Premier and Cabinet, the Department of Treasury and DFES. The ERA may draw on costs associated with existing metropolitan and rural fire services in Western Australia and other States.

### Questions for interested parties

9. If a rural fire service is established, should it be funded by the ESL?
10. How much would a rural fire service cost, and what effect would it have on ESL rates?

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<sup>33</sup> T. Clarke, 'Angry locals weigh up suing over fire', The Weekend West, 7-8 January, 2016, p. 4.



## Appendix A Terms of reference

### EMERGENCY SERVICES LEVY REVIEW

#### TERMS OF REFERENCE

I, Dr Michael Dennis Nahan, Treasurer, pursuant to Section 38(1) of the *Economic Regulation Authority Act 2003*, request that the Economic Regulation Authority (the Authority) prepare a report on the current arrangement for, and options to improve, the management and distribution of the Emergency Services Levy (ESL) in Western Australia.

In conducting this report, the Authority will consider the following:

- The current ESL expenditure applied to managing the emergency services (prevention of, preparedness for, response to and recovery from natural hazard emergencies).
- The proportion of ESL funding directed towards each aspect of emergency management: prevention, preparedness, response and recovery.
- The extent to which the current allocation of ESL funds towards prevention and response reflects best practice in managing the risk of bushfire and other hazards.
- The extent to which the current methodology for setting the ESL is appropriate, now and into the future.
- The current transparency and accountability arrangements for the distribution of the ESL.
- Whether it would be more appropriate for the allocation of ESL funds to be the responsibility of an agency other than the Department of Fire and Emergency Services.
- The extent to which the ESL should be available to fund administrative and/or operational costs of a Rural Fire Service.
- The extent to which the use of the ESL to fund a Rural Fire Service would impact on ESL rates.

The Authority must make a draft report available for consultation with the key entities involved in emergency management and complete a final report, including recommendations, no later than 29 September 2017.

**HON DR. MICHAEL DENNIS NAHAN MLA  
TREASURER, MINISTER FOR ENERGY; CITIZENSHIP AND MULTICULTURAL  
INTERESTS**