

## Disaster Management and Other Legislation Amendment Bill 2024

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## **The Samford Rural Fire Brigade Submission to the Community Safety and Legal Affairs Committee Inquiry into the Disaster Management and Other Legislation Amendment Bill 2024**

### **Our Position.**

The Samford Rural Fire Brigade does not support the proposed amendments to the Fire and Emergency Services Act 1990 contained the Disaster Management and Other Legislation Amendment Bill 2024. These amendments if enacted would destroy the community-based rural fire brigade network that for nearly eighty years has safeguarded rural communities in Queensland. The Brigade believes that the Bill should be withdrawn to allow full and frank consultations to occur with the RFBAQ, Rural Fire Brigades and their communities on the establishment of a stand-alone Rural Fire Authority.

### **Our Commitment to the Communities we serve.**

Samford Rural Fire Brigade was formally established in 1952 (originally Samford Bush Fire Brigade) and has provided continuous service to the Samford community for 72 years. Formal community-based volunteer bush fire management in the area dates to the 1920s with the appointment of “fire constables” (now fire wardens) supported by “Standing Committees” under The Rural Fires Act of 1927. As in most rural communities, Samford community members had a history of turning-out and responding to community threats.

*Our volunteers are not and never have been paid for their Brigade service and many sacrifice income to turn out to fires when they should be working. They do not begrudge this but look on it as their service to the community. They are rewarded by personal satisfaction that they do a worthwhile job for their own community and sometimes, when called, to other communities.*<sup>1</sup>This statement still applies today, our members in recent years have responded to many calls for assistance outside our area including during the Black Summer fires in NSW, the ACT and Queensland. The Brigade has assisted in other fires as well in Victoria and Western Australia. The Brigade has also assisted in several flood, cyclone and storm damage operations. In 2023 we had a brigade member travel to Canada as part of the Australian fire-fighting contingent, our members are also involved in the Remote Area Fire Team (RAFT).

Rural Fire Brigade members volunteer their services for Queensland communities and not the Queensland Government. Volunteer firefighters **are not employees** of the Queensland Government. *Bush Fire Brigades* were first formed by community members under the Rural Fires Act 1946 to work in partnership with the then Rural Fire Board. The brigades would provide the firefighters, equipment and local knowledge while the Board provided limited logistical support as well as a supportive legislative framework. This model is still supported by Rural Fire Brigades today despite the current efforts to erode the mutually supportive partnership that worked well for many years.

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<sup>1</sup> Greenhalgh, Don. Fifty Flamin' Years: Samford Rural Fire Brigade's fifty years of volunteer service to the community.2002. p15.

## **Our Concerns with the Bill.**

### **Lack of Consultation**

Within the Explanatory Notes to the Bill, it is stated that the valuable role of volunteers is recognised. The actions of QFES in preparing this Bill do not reflect that recognition. There has been no structured consultation with brigades and brigade members on the contents of the Bill and the implications for volunteer rural firefighters in this State. The Rural Fire Brigades Association Queensland (RFBAQ) was provided with access to the Bill and seven days in which to review it and provide feedback. RFBAQ was instructed not to distribute the document.

Brigades and members have only had access to the Bill since it was tabled in Parliament last Thursday. To then find out that brigades and members only had a week to digest the Bill and make submissions to this Committee was truly demoralising. We volunteer our time; we have families and work commitments and on top of this we must respond to a very important piece of legislation in a ridiculously short period of time.

The Explanatory Notes to the Bill detail those stakeholders that were consulted: *In preparing the Bill, consultation was undertaken with relevant government agencies. A consultation draft of the Bill was also provided to key stakeholders including:*

- *Inspector-General of Emergency Management;*
- *Local Government Association of Queensland;*
- *Queensland Police Union of Employees;*
- *Queensland Police Commissioned Officers' Union;*
- *Together Union, including Together Union, RFS;*
- *Rural Fire Brigade Association Queensland;*
- *United Firefighters Union Queensland;*
- *Queensland Auxiliary Firefighters Association;*
- *Queensland Fire and Emergency Service Senior Officers Union of Employees;*
- *State Emergency Service Volunteer Association;*
- *Queensland flotillas/squadrons of the Australian Volunteer Coast Guard Inc; and*
- *Volunteer Marine Rescue Association Queensland Inc and affiliated bodies.*

**Missing from the consultation are the 28,000 rural fire fighters and their Brigades.** Given that the volunteers are seriously impacted by the proposed regulatory changes it is hard to fathom their exclusion from the consultation process. As mentioned, the RFBAQ was provided a week to review the Bill but could not show the consultation copy to Brigades and Brigade members. We would like to be advised how frequently before and during the drafting process were the employee unions, mentioned above, consulted in respect to the Bill.

**Figure 1 Best practice consultation principles**



Figure 1 is taken from the Queensland Government **Guidance Note: Best Practice Consultation**<sup>2</sup>. It is apparent that QFES was not made aware of the best practice model for consultation, particularly when undertaking substantive regulatory reform that impacts heavily on rural fire volunteers. The question should be asked of QFES whether they even consider rural fire volunteers to be stakeholders, to-date they have not evidenced this.

Committee members need to understand that many rural volunteers have served their communities for decades and it often involves whole families, this Bill if passed in its current state will change the nature of volunteer rural firefighting in Queensland. It will shift from a community based and driven service to one that is absorbed into the command-and-control structure of the proposed Queensland Fire Department. This will have a negative impact on many volunteers who are passionate supporters of community driven rural fire brigades.

### **Proposed Object belittles work of Rural Firefighters**

Clause 22 of the Bill enshrines an overriding object for the Queensland Fire Department (QFD) as “the recognition of the valuable role of volunteers in supporting the delivery of fire and emergency services in the State.” This statement is, at best, a gross misunderstanding of what volunteers, as professionals, do and can do or, at worst, nothing short of patronising and insulting to RFSQ volunteers as professional emergency service personnel. Hence, we point out that the actions of the Minister in introducing this Bill in its current form and the QFES Senior Executive in preparing and sponsoring this Bill do not in any way reflect or value the essential role volunteers fulfil in their local communities and certainly fail at the first threshold (object) in showing that volunteers matter and are valued.

This situation is, to our mind, an unfortunate reflection of the inability of the QFES Executive to understand community-based volunteering. There appears to be a strong perception within QFES that volunteers are an obstacle to be controlled rather than an asset to be valued and supported.

<sup>2</sup> Office of Productivity and Red Tape Reduction. Guidance Note Best Practice Consultation. <https://s3.treasury.qld.gov.au/files/Guidance-Note-Best-practice-consultation.pdf>

It must be restated that volunteer rural fire fighters actively respond to assist at bush and structural fires, storms, cyclones, floods, and other emergency situations including road traffic crashes. Volunteers also perform significant roles in incident management, air support, incident triaging, community education ... the list is extensive. Hence, while the Bill enshrines the concept of what constitutes “professional firefighting experience” and only attributes that to someone working within the Fire and Rescue Service (FRS), volunteers have been and continue doing those activities within their local communities for decades, recognising that they frequently are the only emergency service available in that community, with other services, such as FRS, hundreds of kilometres away. Hence, we believe that the current provision fails to recognise and value the breadth of services provided by volunteers, nor does it recognise the value volunteers have in and to their local communities. While we oppose the passage of the Bill, if it proceeds, we believe that the proposed object be amended to reflect the true role of rural fire fighters.

The proposed paragraph 2A(b) set out in Clause 22 of the Bill should read *“recognition of the valuable role of professionally trained, skilled, resourced, and supported volunteers in delivering mitigation, fire and related emergency services across the State and in their local communities.*

### **Legal Status smokescreen for complete takeover of rural fire operations**

There are a range of amendments proposed in the Bill that will enhance the Commissioner’s control over various operational and administrative functions of rural fire brigades. The reason for these changes as stated in the Explanatory Notes is to provide clarification of the legal status of brigades and brigade members. It is unclear why it is necessary to dilute the responsibilities of rural fire brigades to achieve this outcome when a project in QFES to investigate concerns over legal status was finalised in 2020 and concluded: *It was found that brigades are predominately comfortable with the current legal status. Brigades wish to have a simple legal structure that allows them to function effectively whilst ensuring the membership operates within a legal framework that provides appropriate levels of protection to undertake their respective roles and brigade functions.*<sup>3</sup>

Proposed amendments that relate to membership, appointment and dismissal of office holders, structural location and entity status within the Rural Fire Service Queensland (RFSQ), powers to direct and set rules all seek to remove control from the community to the State. These amendments all seek to further reduce the ability of Brigades to be self-managed as all Brigade functions will be more heavily regulated. The Statement of Compatibility attempts to rationalise that these new impositions are acceptable when all factors are weighed. This finding reflects badly on those who prepared this statement as they obviously have no understanding of what motivates volunteer fire fighters to serve their communities and place their lives at risk.

### **Urgent need to remove legislative constraints that restrict the operational powers of rural firefighters**

The outstanding legal issue that was not addressed in either this project or in this Bill relates to the lack of authority held by rural fire brigade members to enforce provisions of the Act when responding to incidents. Under S52 of the Fire and Emergency Services Act 1990 the Commissioner can authorise a fire officer to be an authorised fire officer to exercise all the powers conferred by the Act. The only rural fire brigade member who can at any stage have the powers of an authorised fire officer is the First Officer. However, the First Officer can only use the powers of an authorised fire officer in the area assigned to the Brigade by the Commissioner. In addition, the First Officer has only the powers of an Authorised Fire Officer for the duration of the incident. The First Officer is not an appointed Authorised Fire Officer at any stage during the incident. In comparison a newly appointed paid Fire Service Officer with little experience will be made an Authorised Fire Officer. It is totally unfathomable why highly experienced volunteers cannot be made Authorised Fire Officers. In situations where a Brigade must respond to and take charge of an incident in another Brigade area the First Officer is not an authorised fire officer. This situation can place the volunteers in some very difficult situations with property owners. The definition

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<sup>3</sup> Queensland Fire and Emergency Services. The Legal Status of Rural Fire Brigades Project Summary. October 2018.

of fire service officer needs to be broadened to include volunteers and volunteers need to be able to be designated as authorised fire officers. In addition, First Officers need to be able to be “fully” authorised fire officers in any brigade area where they have been tasked to respond to an incident.

**The proposed changes that will adversely impact Brigades are addressed below.**

Clause 26 of the Bill (in respect to Functions of commissioner) includes a proposed **S 7A (1A) (c) to decide the number and deployment of fire service officers and rural fire brigade members.**

Our interpretation of this amendment is that the Commissioner can regulate how many members a rural fire brigade can have. Currently, Brigades are responsible for managing the number of volunteers in a brigade and their roles. This is vital as it is at the Brigade level that the local operational requirements are best understood and enable the building of community-based brigade capability and capacity.

Clause 46 of Bill inserts a new **S 80 Appointment of rural fire brigade members.**

This provision provides the Commissioner with the authority to appoint a person as a member of the rural fire brigade.

Brigades currently receive membership applications and manage the onboarding of new members. The membership application is forwarded to Area Office for processing. It is vital that Brigades meet potential applicants and explain the operations of the Brigade and the onboarding process. Our concern is that the recruitment process is centralised, and new members are allocated centrally to brigades.

Within the Explanatory Note it states: *The Bill provides that members of rural fire brigades are to be appointed by the Commissioner. The amendment seeks to create consistency with other emergency service volunteers and remove ambiguity about the relationship of brigades and brigade volunteers with the State, thus enhancing applicable protections.*

From a Brigade perspective there has never been any ambiguity about our relationship with the State. Community members volunteer a substantial part of their lives to help safeguard communities in partnership with the State. The State provides some resource support and what should be a supportive and not an oppressive legislative umbrella to enable volunteers to effectively undertake their duties. These duties include the recruitment of new members from the community.

Clause 46 of Bill also inserts a new **S 80 A Rules for rural fire brigades.**

This provision provides the Commissioner with the authority to make model rules for the proper management and operation of rural fire brigades.

This implies that Brigades are at present not properly managed, and that Brigades are operationally ineffective. This unfounded assertion ignores the fact that Brigade membership is made up of people drawn from various highly qualified professions and occupations. For example, our Brigade membership includes health professionals, police, ex-military personnel, scientists, trades people, business owners to name a few.

While making rules is not a new development, of concern is the frequent lack of consultation with Brigades and the RFBAQ on the content of proposed rule and its impact on the operations of brigades. It is imperative that the Commissioner be required, when either developing or modifying a model rule, to consult with the RFBAQ and Brigades.

Clause 47 of the Bill amends S 81 to include a new S81(2A) *A rural fire brigade may elect any member of the brigade to be the chairperson, secretary or treasurer of the brigade (each an office bearer).* This is another attack on the self-management of Brigades. Many Brigades have a five-person management committee comprised of the Chairperson, Deputy Chairperson, First Officer, Secretary and Treasurer. Samford has had the Deputy Chairperson position for over thirty years and consider it essential for the

effective operation of the management committee and to act in the Chairperson's role in their absence. QFES has not consulted with Brigades and has simply made a unilateral decision that three office bearers are sufficient. QFES has ignored the fact that Brigades are heterogeneous in composition and operations. There are smaller primary producer brigades ranging through to larger I-Zone Brigades such as Samford. The larger Brigades require a larger and more active management and operational structure than the smaller brigades. One size will definitely not fit all. Brigades need to have the ability to determine their own internal management structure.

Under the revised legislation the Commissioner will have the power to either dismiss or disqualify a Brigade office holder. The dismissal or disqualification of a volunteer office holder can have serious implications for that individual in their life outside the Brigade. All individuals should be afforded to natural justice when responding to allegations that may jeopardise their future. There is a need to ensure that there is procedural fairness involved in making any decision of this nature. The criteria to be utilised by the Commissioner in exercising this power need to be clearly spelt out in the Act. An individual facing either dismissal or disqualification needs to know in advance what impartial avenues of appeal are available to that individual as a volunteer.

Clause 48 inserts a broader set of functions of a rural fire brigade. It is acknowledged that for many Brigades these activities are what we currently undertake. The broad range of activities detailed in the amended S82(1) underline the vital front-line work undertaken by Brigades.

As mentioned earlier in this submission the operations of a Brigade are still restricted by S 82(2) *The commissioner must notify a rural fire brigade of the area for which and the circumstances in which the brigade is in charge of firefighting and fire prevention.* The Brigade has no issue with having the principal responsibility for fire fighting and fire prevention in the Samford Rural Fire Brigade area. However, to facilitate more effective responses to incidents selected volunteers need to be authorised fire officers across all Brigade areas. Very few Brigades operate only in their own backyard, climate change and other environmental factors are creating a more unpredictable fire environment. Queensland has to have a more adaptive and responsive fire service that empowers dedicated volunteers to fully undertake their duties without unnecessary restrictions.

Clause 49 inserts a new S83A Appointment of person in charge of operations. At present S83 addresses the Powers of the First Officer and outlines the powers of the First Officer including that while in charge of operations to control and extinguish a fire they temporarily may exercise the powers of an authorised fire officer. The section also enables the First Officer to direct another person to exercise the power of first officer in the unavailability of the First Officer. The section at 83(4) explains that *First Officer includes, where the first officer of a rural fire brigade is unavailable to act, the next senior officer of the brigade who is available.*

This arrangement has been in place since 1946 and has worked well, amongst other advantages it ensures that an experienced person with good local knowledge of the area is in charge of the fire.

The new S83A is to enable the Commissioner to place a person in charge of a fire if there is no First Officer available within the meaning of the current S83(4) or (s140(4) in amended Act). Our key concern is that this provision will be abused allowing fire management by rural fire brigades to be circumvented in favour of Fire Service Officers.

Clause 62 of the Bill inserts a new Chapter 4 **Rural Fire Service Queensland**, S129 details the additional functions of RFSQ. S129 (f) reads: *to manage rural fire brigades.* This should be changed to *support rural fire brigades.* Rural Fire Brigades self-manage their day-to-day activities including training, mitigation, firefighting, administration and recruitment. The role of the Rural Fire Service administrative structure should be to provide support to Brigades and not attempt to micromanage the operation of Brigades.

## **Volunteer Fire Wardens**

Samford Rural Fire Brigade cooperates and conducts community safety activities with seven (7) volunteer Fire Wardens in the Samford rural fire district. Our Fire Wardens provide for the education and safe use of open fire in the community. Their duties include visiting landowner properties giving information and issue permits to light fire in addition to identifying unauthorised fire in their area of operation. The Fire Wardens across the State articulate one of the best pre-fire management systems in Australia. Their involvement encourages the communication within the community in fire management practices and are critical to the community resilience capability.

The Bill does not recognise the Fire Warden or Chief Fire Warden (non-Fire Officer appointment) relationship to the Rural Fire Service Queensland, therefore their legal status and protection measures of more than 2,000 volunteer fire wardens are not adequately considered.

Samford Rural Fire Brigade appreciates this opportunity to provide this submission to the Community Safety and Legal Affairs Committee and would welcome the time to address members of the committee.



Anne Wells      14 March 2024  
Secretary

For and on behalf of the  
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