Photo courtesy of Barry Davies

PART C – EMERGENCY MANAGEMENT ARRANGEMENTS

Importance to the Community

Protecting and reassuring the community in circumstances of an emergency that threatens the peace, stability and good order of the community is an important role of government.

In a contemporary context there is a greater emphasis on this role, partly due to community exposure to emergency and disaster events and concerns about climate change, but mainly because of greater expectations of government services. Consequently, the attention of governments at national and state and territory levels has been on achieving best practice.

Emergencies may vary in scale, type and complexity, ranging from what may be regarded as a personal emergency to a disaster which affects a significant geographic area, number of people or a matter of community value. Depending on their ability to cope, people and communities need and expect the intervention of the government, in its various forms, to protect and support them.

In considering what form this intervention might take, it is essential that the matter is examined from the community's perspective. Community confidence in its safety is fundamental, as confidence is a key element of any community being able to function effectively and realise its potential. So too is the concept of prevention. Certainly communities expect an effective response when any form of disorder occurs; however, overwhelmingly, their preference is that emergency events should be prevented.

However, this does not mean that people and communities should be totally dependent on governments, as indicated by the reference above to their ability to cope. Community resilience is a way of strengthening individual and collective capability, and sharing the responsibility supports both owning the problem and achieving the best outcome.

Principles to Apply

The perspectives above reflect principles that underpin a responsible examination and consideration of emergency management arrangements. Similarly appropriate principles can be derived from best practice arrangements currently in place in Australia, some of which have existed for some time.

It should also be noted that typically in Australia, emergency management arrangements are on the basis of an all-hazards approach, which means that they seek to cover a broad range of different types of emergency events. The fires that are the subject of this Inquiry are thus one form of emergency which is not severable from all other emergencies; while remaining focussed on fires and its terms of reference, by necessity the Inquiry must consider the broader context where it is relevant.

Therefore the Inquiry has been guided by the principles of:

- maintaining community confidence
- a preference for prevention
- shared responsibility
- building community resilience
- an all-hazards approach
- holistic or comprehensive arrangements
- integrating and complementing agency responsibilities.

Some further comments will be made in this part on the need for practical and effective arrangements.

Legislative Framework

The functions, responsibilities and authorities for government agencies and organisations involved in emergency management in Tasmania are generally found in the legislation which establishes them or which pertains to particular areas. This is not always as specific and clear as one might expect, especially with older-form legislation, and there will be further comment on this related to Tasmania Police (TASPOL).

The *Emergency Management Act 2006* is the primary overall piece of legislation relevant here, and where there is an inconsistency, it prevails over other legislation relating to emergency management.[1]

This Act does not purport to cover every aspect of emergency management, but establishes a framework within which it can operate. Surprisingly, it does not specify roles and responsibilities as clearly as it might.

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1 Emergency Management Act 2006, at s.5.

Definitions

Section 3 of the *Emergency Management Act 2006* defines emergency as:

(a) An event that –

(i) endangers, destroys or threatens to endanger or destroy human life, property or the environment, or causes or threatens to cause injury or distress to persons; and

(ii) requires a significant response from one or more of the statutory services; or

(b) a significant threat of the occurrence of an event of a kind referred to in paragraph (a) in respect of which it is appropriate to take measures –

(i) to prevent that possible resulting event; or

(ii) to mitigate the risks associated with that threat and that possible resulting event.

Section 3 of this Act defines emergency planning as:

(a) the planning, organisation, coordination and implementation of measures that are necessary or desirable to prevent, mitigate, respond to, overcome and recover from an emergency; or

(b) the planning, organisation, coordination and implementation of civil defence measures; or

(c) the conduct of, or participation in, research and training for any measures specified in paragraph (a) or (b); or

(d) the development of policy and procedures relating to any measures or actions specified in paragraph (a), (b) or (c).

Roles and Responsibilities

A three tiered approach is taken, with emergency management committees established at State, Regional and Municipal levels. The primary functions at each level are essentially the same, namely (with appropriate changes to reflect Regional and Municipal levels):

to institute and coordinate, and to support the institution and coordination of, emergency management including the preparation and review of the Tasmanian Emergency Management Plan and Special Emergency Management Plans that relate to emergency management for the State.[2]

The State Committee has primacy over the Regional Committee, and the Regional Committee has primacy over the Municipal Committee.

A Ministerial Committee chaired by the Premier may be established, comprising the State Controller and other Ministers, to perform functions and exercise powers as determined by the Premier.[3]

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2 Emergency Management Act 2006, at ss. 7-9, 13-16 and 19-22 respectively.

3 Emergency Management Act 2006, at s. 12.

A State Controller is also established by appointment of the Minister or a default position to the Police Commissioner, which is the current arrangement.[4] In a similar way, Regional Controllers are commanders in TASPOL.[5] However, Municipal Coordinators are specifically appointed by the Minister.[6] The functions and powers of each of these people are also established in the legislation.

The State Controller chairs the State Emergency Management Committee and therefore acts within the terms of the functions and powers specified for the Committee. Further, section 11 of the *Emergency Management Act 2006* provides that the State Controller has a number of functions, one of which is before, during or after an emergency to 'direct the use of resources for emergency management as [they consider] appropriate'.[7] One interpretation of this part of the section is that it is an enabling provision to allow the State Controller to exercise authority. Alternatively it may be read as providing that the State Controller has a responsibility to act in emergencies. Any ambiguity around responsibility for managing emergencies should be clarified.

Other sections of this Act provide that the State Controller can:

- direct the State Committee to assist 'in the performance and exercise of [their] functions and powers'[8]

- 'impose functions on a Regional Committee or Regional Controller'[9]

- 'do all other things necessary or convenient to be done in connection with the performance of [their] functions'.[10]

Functions and powers for Regional Controllers and Municipal Coordinators are also set out in the legislation. Section 18 of this Act provides the functions and powers of Regional Controllers, but it is not in precisely the same terms as for the State Controller and it is less clear on whether there is a responsibility to manage emergencies, other than as initiated by the State Controller.

Of particular note is that the Municipal Coordinator has the 'authority and ability to make decisions relating to the coordination of emergency management in the municipal area'.[11]

Emergency powers may also be authorised by the State Controller to be exercised in accordance with the authorisation if they are satisfied that an emergency is occurring or has occurred; and due, to the occurrence of the emergency, there are reasonable grounds for the exercise of the powers to protect people, property or the environment.[12] The powers are set out in Schedule 1 of this Act.

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4 Emergency Management Act 2006, at s. 10.

5 Emergency Management Act 2006, at s. 17.

6 Emergency Management Act 2006, at s. 23.

7 Emergency Management Act 2006, at s. 11(1)(b)(i).

8 Emergency Management Act 2006, at s. 9(1)(d).

9 Emergency Management Act 2006, at s. 11(2)(a).

10 Emergency Management Act 2006, at s. 11(2)(b).

11 Emergency Management Act 2006, at s. 23(8).

12 Emergency Management Act 2006, at s. 40.

The manner in which the powers are to be exercised is also set out in the Section 40 of this Act. Authorisation:

- is not dependent on the declaration of an emergency (see comment below)

- must be in writing or confirmed in writing

- must specify which powers may be exercised by who

- can continue up to 7 days, but may be extended by the Minister for a further 7 days.

A state of emergency may be declared by the Premier if they are satisfied on reasonable grounds that:

- an emergency is or has occurred

- the circumstances require or may require special emergency powers

- powers otherwise available are or may be insufficient to manage the emergency.[13]

The powers are set out in Schedule 2 of this Act. There are also time limitations that apply.

If a declaration is made, the duties required to be performed by the State Controller, Regional Controller and Councils are set out in this Act.[14] In this case, the State Controller and Regional Controllers are required to implement any emergency management plan and act as they consider appropriate. Further, a Regional Controller is required to take action to counter the effects or likely effects of the emergency. It is only where there is a declared state of emergency that there is any form of requirement for police to perform emergency management duties.

Part 3, Division 1 of the Act provides for the development of emergency management plans. These will be discussed in the following part of this Report.

Questions over the Legislative Framework

A number of questions may be asked about the efficacy of the legislative framework. Throughout this Report, various elements of the terms of reference will be examined and discussed which relate to these questions, and there will be a more comprehensive analysis and recommendations in PART J of the Report. At this point, it is pertinent to ask:

- should there be a closer engagement by the Government in emergency management?

- are the responsibilities of the State Controller and others as clearly defined as they should be?

- should the Committees have operational roles?

- should there be a broad operational role at municipal level?

- should there be a more structured and accessible structure for declarations of emergency?

- should there be a more flexible approach to the provision of emergency powers?

The reason for raising these questions is illustrated by the following preliminary comments.

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13 Emergency Management Act 2006, at s. 42.

14 Emergency Management Act 2006, at ss. 44-46.

Duties outlined for the State Controller are very broad and open-ended. For instance, as chair of the Committee, they are required to 'institute and to coordinate and to support' and elsewhere to 'act as [they consider] appropriate'. Coupled with this is that the *Police Service Act 2003* does not specify police functions, either generally or in relation to emergency management. While it is appreciated that there may be a need for some breadth to cater for different forms of emergency and that the State Controller may not be the Police Commissioner, the lack of reasonable specificity in both places does not create appropriate obligations or accountabilities, and this can have much wider implications than just the *Emergency Management Act 2006*.

In terms of the committees, it is likely that the breadth of the descriptors on their roles would include an operational function. It is hardly likely that a committee can or should undertake an operational role in responding to an emergency. Municipal Committees are even less likely to be able to perform an operational response role, which includes the operations of police and emergency services.

A review[15] of the *Emergency Management Act 2006* has been conducted by the executive officer to the State Emergency Management Committee. This review has some very useful suggestions, including changing the role of the Premier in making declarations, and it will be referred to in PART J. However it does not examine the framework established by the legislation.
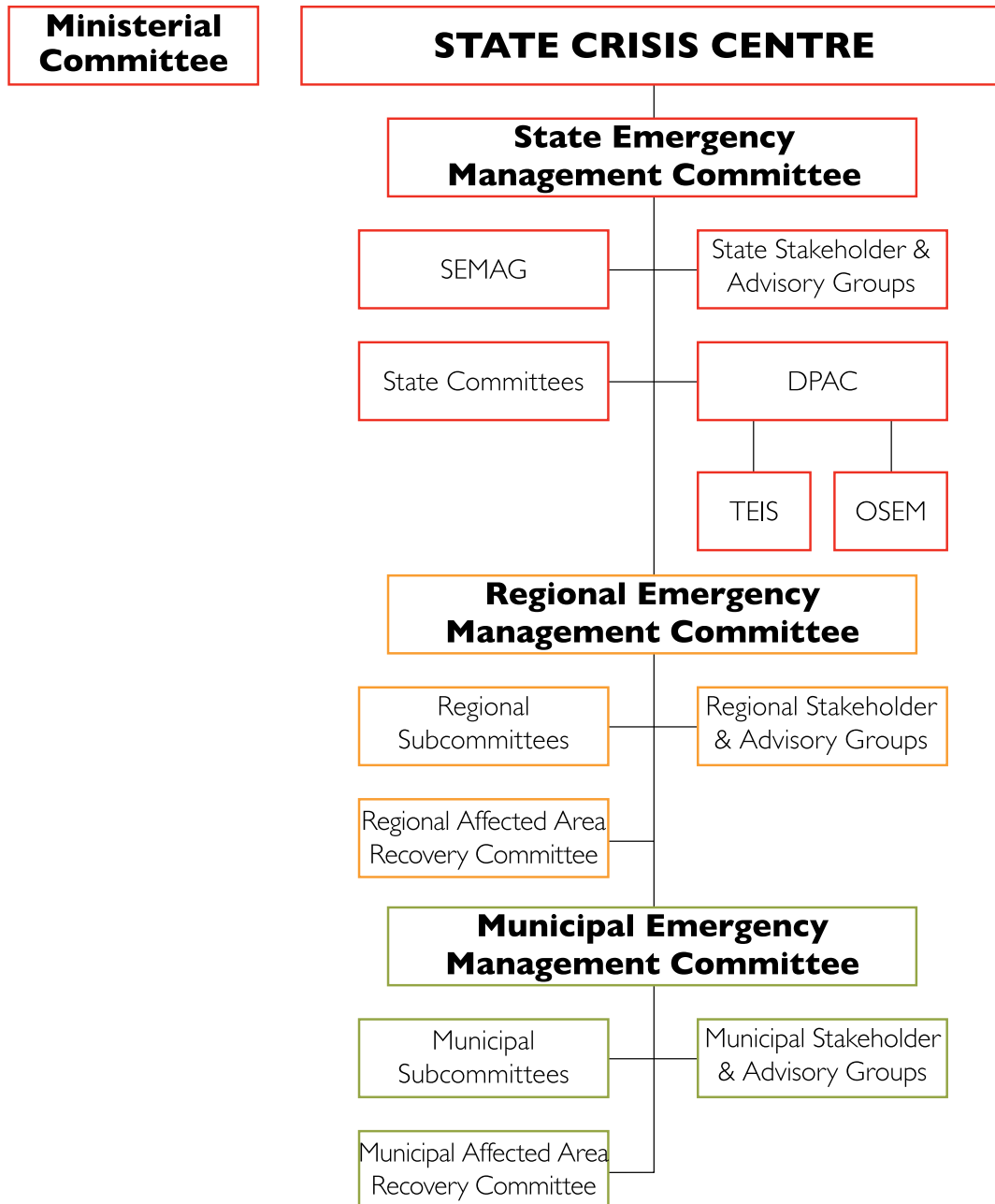

Image courtesy of Warren Frey

15 Review of the Emergency Management Act 2006, Discussion Paper, version 1.1., 6 December 2012.

Structure and Plans

Figure C.1 represents the bodies established for emergency management and their relationships, excluding those within Tasmania Fire Service (TFS) and TASPOL.

Figure C.1 *Ministerial (or Cabinet) Committee*

Ministerial Committee	STATE CRISIS CENTRE

State Emergency Management Committee

SEMAG	State Stakeholder & Advisory Groups
State Committees	DPAC

| TEIS | OSEM |

Regional Emergency Management Committee

Regional Subcommittees	Regional Stakeholder & Advisory Groups
Regional Affected Area Recovery Committee	

Municipal Emergency Management Committee

Municipal Subcommittees	Municipal Stakeholder & Advisory Groups
Municipal Affected Area Recovery Committee	

As referred to above, a Ministerial Committee may be convened under the legislation, and this may be a Cabinet Committee.[16] The role of the Committee is not seen as managing the operational deployment of agency resources and is described in the Department of Premier and Cabinet submission to the Inquiry as:

- ensuring all necessary actions are taken across government in a consistent, coordinated and timely way

16 Department of Premier and Cabinet (DPAC) submission, at p. 8.

- setting priorities for response and recovery strategies where these go beyond the portfolio responsibilities of any one minister

- approving the broad strategy for public information, and coordinating inter-governmental communication as required.[17]

Cabinet considered bushfire issues on three occasions immediately following the fires and on 8 January, the Premier established a Ministerial Committee (the Interim Bushfire Recovery Committee).[18]

State Crisis Centre

This Centre may be activated by the State Controller to support whole-of-government coordination of strategy, policy, public information and requests for assistance. Factors to be considered in deciding whether to activate the Centre include:

- the geographic area, severity or nature of the emergency and its actual or potential impact on Tasmania

- the likelihood that the emergency is a terrorist incident

- whether management of the emergency is beyond the capacity of the response agencies

- whether there is a community expectation of whole-of-government leadership

- the potential impact on multiple sectors, industry of State importance, or the Tasmanian economy

- whether the emergency involves cross-jurisdictional considerations, including requests for inter-jurisdictional assistance

- whether the emergency involves a number of Tasmanian Government agencies which require whole-of-government coordination

- the degree of involvement by the State Controller and Premier in coordinating the response and delivering public information.[19]

A Public Information Unit is part of this Centre, and the Centre was partially activated to operate this unit on 5 January. While TFS and TASPOL maintained responsibility for liaison with the media during the response phase, the Public Information Unit led broader issues and communications activities such as developing and distributing information packs, monitoring social media, and promoting official channels for cash donations.[20]

State Emergency Management Committee

This Committee is chaired by the State Controller and executive support is provided by the Director of the State Emergency Service. Membership comprises the Secretaries of the Departments of Police and Emergency Management, Premier and Cabinet, and Health and Human Services, Deputy Secretaries of Department of Police and Emergency Management and Premier and Cabinet, Chief Officer of TFS, Chief Executive Officer of Ambulance Tasmania and Director of the State Emergency Service.

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17 DPAC submission, at p. 8.

18 DPAC submission, at p. 25.

19 DPAC submission, at p.10.

20 DPAC submission, at p.32.

This is a very narrow membership, concentrated on the emergency services, for the breadth of emergency management needed to properly prepare for emergencies.

The functions of this Committee are referred to above; they are also described in the Tasmanian Emergency Management Plan (TEMP) 2009 as:

- instituting and coordinating policy, arrangements and strategies for State-level emergency management (including maintaining the TEMP and any related State emergency plans)

- coordinating/overseeing the management of emergencies that affect more than one region and other emergencies the SEMC considers appropriate

- identifying and promoting opportunities for improvement in emergency management. This can include imposing functions on the Regional Committees and State subcommittees.[21]

Security and Emergency Management Advisory Group

This Group has been set up under the TEMP. Membership includes the Deputy Secretaries of most Government departments or their principal advisers.

The function of this group is described as overseeing whole-of-government emergency management and counter-terrorism activities.

There is some ambiguity around whether it has an operational role, as the TEMP also refers to the Group as providing strategic policy advice to institutionalise and oversee emergency management efforts, and to oversee the development and maintenance of counter-terrorism and emergency management capabilities.[22]

Regional Emergency Management Committees

Tasmania is divided geographically into three regions, and there are committees established in those Southern, Northern and North Western Regions. Membership for each includes the Regional Police Commander as the chair, and senior members of the emergency services, Municipal Coordinators, recovery representatives, other Government agencies and enterprises, utilities and relevant volunteer organisations/non-Government organisations.
The function of these Committees is referred to previously and described in similar terms to the State Emergency Management Committee.[23]

Municipal Emergency Management Committees

These Committees are established at municipal level. They are supported by the Municipal Coordinators appointed by the Minister. Membership includes staff and elected officials from the council, senior representatives of the municipal emergency services, other Government agencies and enterprises, utilities and volunteer organisations.

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21 Tasmanian Emergency Management Plan (TEMP) Issue 6 2009, at p. 24.

22 TEMP, at p. 24.

23 TEMP, at p. 25.

The function of the Committee is referred to previously and is described in similar terms to the State Emergency Management Committee.[24]

Affected Area Recovery Committees

Councils can establish these Committees to assist with longer-term recovery activities. They are usually chaired by the Mayor.

The main function of the Committee is to provide a management structure for coordinated community recovery and facilitate communication and consultation about the recovery efforts to the community.[25]

Tasmanian Emergency Information Service

This Service uses call centre services across the Government so there is a single point of contact for the community during an emergency. The Service has no role in the operational response to an emergency and does not replace '000' or other emergency contact arrangements.[26]

The Service was activated at 8.00pm on 4 January and received calls on the dedicated 'Bushfires Hotline' and from the TFS's general inquiries number. It received almost 8 000 calls until 14 January, including over 4 000 calls in its first day.

Tasmanian Emergency Management Plan (TEMP) 2009

A detailed plan has been prepared and approved by the Minister as required by the *Emergency Management Act 2006*. It has been reviewed and the latest Issue was approved on 2 January 2013 (Issue 7.1). This Issue was not circulated at the time of the fires and a previous Issue (Issue 6.0) was the active plan, and has been referred to in this Inquiry. Only minor changes occurred between the plans.

The TEMP provides a significant level of detail, though in some places it broadly describes what arrangements should look like, rather than specify what is established or required.

Reference will be made to the TEMP throughout this Report where appropriate. However, attention is drawn to a number of features of the TEMP at this point, as they are important parts of the structure of arrangements.

The planning framework which is typically used in emergency management is referred to as PPRR: prevention, preparation, response and recovery. There has been some adjustment to the prevention element recently to include mitigation, and so the TEMP is based on actions and roles across the spectrum of the planning framework. PPRR is defined in the TEMP as:

- prevention and mitigation: planned and coordinated measures that eliminate or reduce the frequency and/or consequences of emergencies
- preparedness: planned and coordinated measures so safe and effective response and recovery can occur

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24 TEMP, at p. 25.

25 TEMP, at p. 26.

26 DPAC submission, at p. 11.

- response: planned and coordinated measures that resolve emergencies.[27]

While Issue 6.0 of the TEMP does not define 'recovery', Issue 7.1 does:

- recovery: a coordinated process of supporting emergency-affected communities in reconstruction of the physical infrastructure and restoration of emotional, social, economic and physical wellbeing.[28]

The National Inquiry on Bushfire Mitigation and Management Report 2004, endorsed by the Council of Australian Governments, refers to a 'five R' framework: research, information and analysis, risk modification, readiness, response, and recovery.[29] This framework does not appear to have been taken up in emergency management arrangements generally.

Responsibilities are designated in the TEMP as a means of seeking to overcome any lack of clarity or confusion; and for the primary management authority to deal with particular hazards for prevention and mitigation, preparedness, response and recovery.[30]

Another key concept in emergency management that is universally used across Australia and is highly relevant to this Inquiry is the responsibility and activity encapsulated in the words command, control and coordination:

- command: the direction and management of personnel and resources within an organisation in an emergency
- control: across agencies, where the agency in control can direct other agencies or organisations in managing an emergency
- coordination: the bringing together of agencies and resources to ensure there is effective response and recovery operations.

TEMP has similar but slightly different descriptions.[31]

These terms were examined by the 2009 Victorian Bushfires Royal Commission and 'coordination' in particular was taken to meaning a role necessitating 'active monitoring of an emergency situation and ensuring that specific outcomes were being achieved'.[32] Some jurisdictions, such as South Australia, have included this concept in their plans, so there is oversight to ensure that a control agency is meeting its responsibilities.[33]

These concepts and their practical application will be discussed later in this Report.

In addition to the TEMP, the State Emergency Management Committee can develop special plans to deal with particular matters. One such plan, mentioned here as an important part of the framework, is the State Special Emergency Management Plan–Recovery.

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27 TEMP, at pp. 7-8.

28 Tasmanian Emergency Management Plan 2013, Issue 7.1, at p. 4

29 Council of Australian Governments National Inquiry on Bushfire Mitigation and Management report 2004, at p. 52.

30 TEMP, at pp. 29–33.
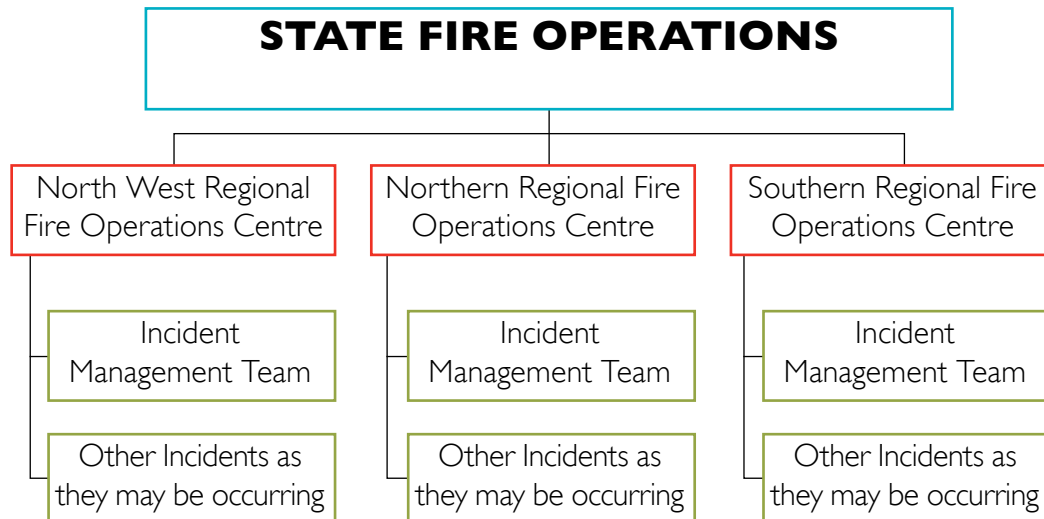
31 TEMP, at pp. 4 - 5.

32 Final Report, Volume II, Part One, at p. 74.

33 South Australian State Emergency Management Plan 2013, at p. 27.

Tasmania Fire Service (TFS)

Figure C.2 outlines the structure of TFS operational arrangements.

Figure C.2

Each of the components of the structure is intended to perform the following roles:

- State Fire Operations Centre: an operations centre established at the State level. The State Fire Incident Controller will have the overall command and control of fires and fire related emergencies

- Regional Fire Operations Centre: an operations centre established at a Regional Level. This Centre is intended to support Incident Controllers in the field, but does not assume command and control of the fires it is supporting the management of

- Incident Management Team: the group of people responsible for the functions required to manage a fire

- Incident Controller: the individual responsible for the management of all activities for a particular incident.

TFS uses the Australasian Inter-service Incident Management System—Incident Control System to manage bush fires. This system has been well established within fire services across Australia and has been the subject of ongoing development.

A significant feature of managing bushfires in Tasmania has been the interagency Fire Management Protocol between the Tasmanian Fire Service, Parks and Wildlife Service, and Forestry Tasmania. Arrangements for jointly dealing with fires, regardless of land tenure, are established in the Protocol, and it has the benefit of being used extensively over a number of years.

The agencies are responsible as follows:

- TFS: for management and suppression of structural fires statewide and for fires on private land, unallocated Crown land and in the Wellington Park. Where fires occur under conditions and in situations where there is an imminent risk to, or actual impact on structures and communities, TFS shall direct the response to those fires where practicable

- Department of Primary Industries, Parks, Water and Environment (represented by the Parks and Wildlife Service): for management and suppression of fire on land reserved under the *Crown Lands Act 1976* and the *Nature Conservation Act 2002*

- Forestry Tasmania: for management and suppression of fire in State forest.[3434]

For the purposes of these arrangements and consistent with the Australasian Inter-service Incident Management System–Incident Control System they use, fires are classified as:

- Level 1 Incident: a small, simple incident that is generally controlled with local resources

- Level 2 Incident: a developing or developed incident of medium size or complexity, carrying moderate risk, that will generally require the use of resources from outside the District/Region and could involve one or several agencies

- Level 3 Incident: a major incident carrying high risk that involves many resources and inter-agency operations.[35]

Responsibility for responding to fires is outlined in the Protocol in line with land tenures, but TFS is the designated agency when there is an imminent risk or actual impact on any structures or communities. However, the guiding principle is that the most able firefighting crew of any agency will respond immediately to any fire as a priority, regardless of the land tenure involved.[36]

A Multi-Agency Coordinating Group is established by the Protocol and recommends to the Chief Officer of TFS the establishment and resourcing of an Incident Management Team for Level 3 fires. These teams often consist of personnel from each agency. The future of this Group is being reconsidered as a consequence of the new fire arrangements, which will be dealt with later in this Report.

Tasmania Police (TASPOL)

Figure C.3 outlines the structure of TASPOL operational arrangements.

Figure C.3
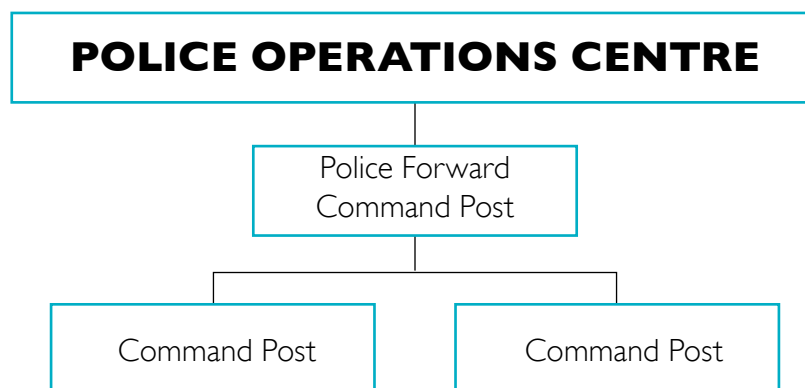
Each of the components of the structure is intended to perform the following roles:

- Police Operations Centre: an operations centre established where the Operations Commander facilitates the overall management of incidents occurring in the District

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34 Interagency Fire Management Protocol 2012-13, at p. 2.

35 Interagency Fire Management Protocol 2012-13, at p. 1.

36 Interagency Fire Management Protocol 2012-13, at p. 2.

- Police Forward Command Post: the location where the tactical command of a situation is facilitated. The Police Forward Commander in charge is responsible for the command of available resources related to the effective management of the incident

- Command Post: in large scale incidents it may be necessary to establish smaller Command Posts closer to the incident site to facilitate line of control and communication.

There were discussions between police and fire agencies nationally to have police move to the Australasian Inter-service Incident Management System–Incident Control System over an extended period of time. However, police agencies were reluctant to move to the system due to some perceived limitations. An Incident Command and Control system developed by the National Counter-Terrorism Committee was used in many police agencies, and this has been further developed by the Australian and New Zealand Policing Advisory Agency into a system compatible with the Australasian Inter-service Incident Management System. TASPOL uses the National Counter-Terrorism Committee Incident Command and Control system and has recently endorsed the Incident Command and Control–plus system, which is in the early stages of implementation. Revised Emergency Operations Major Incident Guidelines were also issued in September 2012.

There may well be implementation issues with these recent arrangements.

The Joint Bushfire Arrangements between TFS and TASPOL were established in July 2010. This document sets out the operating arrangements between the agencies in a spirit of working cooperatively and collaboratively, and is primarily an information document for police on fire matters.

Practical and Effective Arrangements

To be effective, structures and plans must complement and support necessary action in managing emergencies, and there are a number of matters which should not be overlooked in determining how arrangements should be designed and applied, namely:

- roles and responsibilities, especially lines of authority, should be clear and unambiguous - there is not time to develop or debate this in an emergency

- people with operational roles should not be distracted by meetings which are either unnecessary or of marginal value for that person

- operational structures should be as direct and as simple as possible

- action should be proactive wherever possible

- 'cold' starts should be avoided

- arrangements should be made which can be scaled up and do not have gaps due to hand-over arrangements

- all necessary elements for managing emergencies — command, control and coordination — should be included

- arrangements should be prepared, ready to use

- there are limited significant emergencies in Tasmania to gain experience in — use every opportunity to test and practice arrangements.