



Minister for Fire and Disaster Recovery and
Minister for Corrective Services

Ref No: 00803-2024
Your Ref: A1255302

1 William St
Brisbane Qld 4000
PO Box 15195 City East
Queensland 4001 Australia
Email fdrc@ministerial.qld.gov.au
ABN 65 959 415 158

Mr Neil Laurie
The Clerk of the Parliament
Queensland Parliamentary Service
ClerksOffice@parliament.qld.gov.au
TableOffice@parliament.ald.gov.au

Dear Mr Laurie

Neil

Thank you for your letter of 21 March 2024 regarding petition No. 4035-24 received by the Queensland Legislative Assembly about amendments to the *Fire and Emergency Services Act 1990* (the FES Act).

I acknowledge the concerns of the petitioners and welcome the opportunity to provide more detail around certain aspects and clarify misinformation that has been circulating surrounding the Disaster Management and Other Legislation Amendment Bill 2024.

I will address each of the concerns raised by the petitioners below.

Appointment of Rural Fire Service brigade members

Clause 46 of the Bill will provide the Commissioner with the power to appoint new brigade members (that is, persons who make an application for membership to a brigade after 1 July 2024). While providing the Commissioner with the power of appointment does imply certain incidental powers under the *Acts Interpretation Act 1954*, including the power to remove or suspend a person from office—the power to remove or suspend a brigade member would not be exercised lightly or often. QFES values its volunteers and will consult and examine all options to deal with an issue before making use of these incidental powers. Natural justice will be afforded before any decision is taken to remove or suspend a volunteer and any such decision may be subject to judicial review.

The power to remove or suspend a volunteer from performing functions in an entity that represents the State is not new. SES volunteers have long been subject to suspension and removal, as will Marine Rescue Queensland members under the new Marine Rescue Queensland Bill 2023. The amendments are considered necessary to ensure the Commissioner can appropriately manage the membership of rural fire brigades and maintain community confidence in the provision of rural fire services. Under current legislation, if a brigade does not adequately address misconduct by a volunteer member, the Commissioner's powers are limited to restricting the ability of a member to participate in brigade activities or cancelling the brigade's registration, which has impacts for the local community.

These amendments are being progressed along with amendments aimed at strengthening the protections available to volunteer rural fire brigade members. Currently, volunteers are afforded protections from liability when performing functions under the FES Act for controlling and extinguishing fires. There are also protections available under the *Civil Liability Act 2003* and Civil Liability Regulation 2014 for rural fire brigades and their members as prescribed entities and where members are rendering first aid or other aid or assistance to a person in distress. However, these protections are not comprehensive.

Continued exposure of rural fire brigade members to civil liability due to the way brigades are constituted is not considered appropriate. Therefore, amendments formally recognising rural fire brigades and volunteers as part of Rural Fire Service Queensland (RFSQ) (a service established under the proposed FES Act), and the requirement for members to be appointed, will ensure that when members are acting in the course of their duties, they are afforded protections from liability consistent with those of salaried firefighters and other frontline emergency service volunteers. This includes bringing volunteer members of brigades within scope of the protections afforded by chapter 7, part 1 of the *Public Sector Act 2022* and section 39 of the Civil Liability Act. These provisions afford protection to individual volunteers when acting in good faith as a member or employee of a government entity that represents the State or when engaged in community work for a community organisation.

Office bearers

Brigades currently elect and remove officers and office bearers through elections that are undertaken for both operational officer positions (for example, first and second officers) as well as management type positions, such as the treasurer or chairperson. However, currently the FES Act only recognises elections for operational officer positions. The Bill recognises the ability of brigades to elect persons to both operational and management roles.

Clause 47 of the Bill does not change the current power of the Commissioner to dismiss or disqualify persons occupying management roles, rather, it clarifies that the Commissioner may do both (that is, dismiss and disqualify). Given that brigades can initiate an election, it is expected that these matters would generally be handled locally, and the Commissioner would use this power infrequently. However, there may be circumstances in which it is necessary for the Commissioner to exercise this power after providing natural justice to the officer concerned, particularly if the Commissioner has information relevant to the decision that the brigade may not.

Incident control

As I have made clear on several occasions, including to the Parliament, 'yellow trucks' will not need to wait for 'red trucks' before responding to the type of incident they would usually respond to. That is to say that rural fire brigades will continue to be responsible for controlling and extinguishing bushfires within their brigade area and the first officer of the brigade will continue to be the person in charge of operations.

In addition to first officers, the FES Act provides that brigades can elect other officers (for example, second or third officers). In the absence of the first officer, the next senior officer becomes the first officer. The Bill does not affect this. Clause 49 of the Bill provides that in the event that no first officer (or any of these additional officers) is available, the Commissioner may appoint a person in charge of operations for controlling and extinguishing a fire. The amendment was included in the Bill in response to concerns that there may be circumstances where a brigade is responding to a fire without a person authorised under the FES Act to be in charge of operations. This has

implications for the chain of command, and importantly, it could also have implications for the protections available to brigade members.

The powers exercised by brigades fighting fires in their local area are conferred on first officers. Those powers can then be exercised by brigade members acting at the direction of a first officer. If no first officer or next senior officer is available, volunteers may be acting without appropriate powers which may then mean they are not protected if something goes wrong.

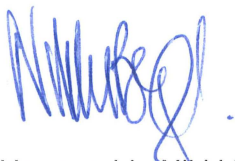
The new provision will ensure that the Commissioner can appoint a person to be in charge of operations for controlling and extinguishing a fire, or for controlling another incident, in the first officer's absence, and if the Commissioner considers it appropriate and necessary. If a first officer or next senior officer is not available, the Commissioner will be able to appoint another suitable person such as a first officer from a neighbouring brigade, an RFSQ fire service officer or a QFR fire service officer.

The above matters have also been raised through the consideration of the Bill by the Community Safety and Legal Affairs Committee. I have requested that QFES continue to engage with Rural Fire Service volunteers to address any concerns they may have or misinformation that is put forward about the reforms.

Another feature of the legislation is the creation of a Rural Fire Service Advisory Committee which will give brigades and volunteers a direct line to the Chief Officer, RFSQ to ensure concerns can be raised and addressed.

Should you wish to discuss this matter, please contact Mr Kerry Manifold, Chief of Staff on (07) 3719 7360.

Yours sincerely



The Honourable Nikki Boyd MP
**Minister for Fire and Disaster Recovery and
Minister for Corrective Services**