



# Formal Feedback on IPART'S Draft Report

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## 1. Introduction

FRNSW would like to thank IPART and stakeholders for their contribution to this review so far. Considerable effort has been undertaken by both IPART and FRNSW to provide and consume information and data to achieve the best outcome as possible for this review.

FRNSW believes that the recommendations made by IPART represent the principles agreed at the outset of the review.

Where comment has not been made, FRNSW broadly agrees with the recommendation proposed.

## 2. Submission

### 2.1 General

#### Recommendation One

User charges be set out in the Fire Brigades Regulation for the following services:

- Hazmat service
- Fire safety services
- False alarm call outs
- Automatic fire alarm management services
- Responding to requests for incident information
- Responding to fire incidents on waters outside a fire district

It is unclear as to why IPART recommends to specifically mention fire incidents on waters outside a fire district. The Fire and Rescue Act 1989 (**Act**) section 40(2) already allows for FRNSW to charge for incidents that occur outside of fire districts. Arguably, it does not need to be included in the Fire Brigade Regulations (**Regs**) as well as the Act.

#### Recommendation Twenty-Nine

The FRNSW Act be amended to provide more flexibility for Fire and Rescue NSW to determine charges for services that are not specified in the FB Regulation.

#### Recommendation Thirty

The FRNSW Act be amended to provide more flexibility for Fire and Rescue NSW to charge for services that have not been requested (for example, proactive compliance activities).

#### Recommendation Thirty-Two

The FB Regulation be amended to clarify that FRNSW may charge for specified contestable services, but without charges being prescribed in the FB Regulation, including:

- services provided by Comsafe
- attendance at events
- rescues from lifts

- reptile handling.

**Recommendation Thirty-Three**

The FB Regulation be amended to allow all specified charges to be indexed each year by the Wage Price Index for public sector wages.

FRNSW supports recommendations 29, 30, 32 and 33.

**2.2 HAZMAT service****Recommendation Two**

FRNSW charge a call out fee plus hourly charges for chargeable hazmat incidents as set out in Table 2.1.

- Incidents less than one hour (inclusive) will incur a call out fee of \$335 for wires down incidents and \$480 for other hazmat incidents.
- Incidents more than one hour will incur a call out fee plus hourly charges depending on the equipment used.

**Recommendation Three**

FRNSW apply equipment charges set out in Table 2.1 to chargeable hazmat incidents with attendance time greater than 1 hour.

**Recommendation Four**

FRNSW remove the current time-based thresholds for chargeable incidents, whereby wires down incidents under 2 hours are not charged, and other hazmat incidents under 1 hour are not charged.

**Recommendation Five**

FRNSW charge all Distribution Network Service Providers for wires down incident attendance.

**Recommendation Six**

FRNSW further consolidate a list of consumables wherever possible, possibly by bundling up consumables that are used together for a typical response.

**Recommendation Seven**

FRNSW be provided with flexibility to charge for the use of equipment that is not listed in the FB Regulation.

FRNSW generally supports charging a call-out fee to all commercial HAZMAT incidents regardless of time spent.

There are several ramifications that need to be considered.

FRNSW currently only charges for a small number of HAZMAT incidents. HAZMAT charging is often complex in nature and traceability of the final party to be charged can be difficult to ascertain.

The current administrative support staffing pool would have to be bolstered to support an increased frequency of charging. This will have to be estimated at a later stage.

Systems may require updating to reflect the changes to the above policy as well.

FRNSW supports the charging of all wires down incidents. Any time attended by FRNSW making wires down incidents safe represents resources diverted away from responding to other incidents.

FRNSW believes that equipment charges should not be included in the Regulations. Consumables and Minor Equipment pricing can fluctuate and vary and should therefore be included in a schedule to sit outside the Regulation. However, these charges should also reflect a cost recovery rate.

In addition, FRNSW does not recommend the consolidation of consumables and equipment into bundles. This list is reviewed regularly to ensure efficiency and currency. FRNSW see no benefit in 'bundling' consumables and recommend FRNSW recommends maintaining existing processes (i.e. only charging for specific consumable items per incident).

## 2.3 Fire Safety Services

### Recommendation Eight

FRNSW charge for its fire safety services in accordance with Table 2.2.

### Recommendation Nine

To manage the increasing demand for its fire safety services and improve its efficiency, FRNSW:

- implement automated risk assessment processes for high volume application types
- refine its application forms and templates to ensure all necessary information is captured and can be easily identified
- pursue opportunities for greater utilisation of the NSW Planning Portal, including for lodgement of Annual Fire Safety Statements and Emergency Plans and notification of radiation gauges.

FRNSW principally agrees with recommendations eight and nine proposed by IPART.

### Inspection and compliance activities

FRNSW is concerned that the recommendations do not consider a levy style cost recovery model for inspection and compliance activities. A levy-based model would allow FRNSW to undertake both proactive and reactive preventative actions to mitigate community safety risk. Deregulation of the building industry has created significant residual risk in the built environment in NSW, particularly in relation to high-rise residential apartment buildings.

Recent reports published by the Office of the Building Commissioner and Department of Customer Service indicate prevalence of serious fire safety defects in apartment buildings in NSW. FRNSW has an important role to play in seeking out and rectifying these public safety risks through inspection and compliance activities.

Presently, the amount of work undertaken in this area is limited by allocation of funding from the Emergency Services Levy despite a small cross section (building industry) benefiting.

FRNSW has concerns that the currently proposed cost-recovery mechanism may not meet community safety needs. FRNSW undertakes compliance/enforcement activities in response to Fire Safety Concerns received from the public, other government agencies and fire fighters, in accordance with the provisions contained in the Section 9.32 and Section 9.35 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

These compliance/enforcement activities include undertaking inspections, gathering evidence, the issue of notices and orders, and the issue of Penalty Infringement Notices (PINs). These powers generally mirror those of local government with the exception of FRNSW Orders powers. FRNSW Order powers are restricted when compared to powers of local government.

The EP&A Act contains provisions in relation to cost recovery for undertaking these activities in Part 12 of Schedule 5 of the EP&A Act via Compliance Cost Notices (link to legislation provided below) where a Development Control Order is issued.

FRNSW is concerned that the new charging mechanism proposed for these compliance/enforcement activities will not have the impact envisioned, as the requirements of the EP&A Act in relation to Compliance Cost Notices will still apply.

FRNSW is restricted in the issue of development control orders and as such is similarly limited in its opportunity to issue Compliance Cost Notices. The proposed charging mechanism does not alter the requirements of these provisions of the EP&A Act but would rather inform the issue of Compliance Costs Notices by FRNSW.

Additionally, FRNSW is concerned that the proposed charges will be applied unfairly, as the charge will be applied to the individual or entity that was not the impactor or risk creator.

The abovementioned Compliance Costs Notices are required to be issued on the Owner of the premises. In many cases, compliance/enforcement breaches are of no fault of the owners of the premises, particularly in relation to inspections of residential apartment buildings.

It is FRNSW's view that the impactor or creator of risk in many of these instances is either the developer or builder of the building.

A large number of the buildings inspected by FRNSW as part of compliance/enforcement activities are residential apartment buildings recently constructed and occupied. The defects identified by FRNSW are usually construction defects and not defects caused by poor maintenance or other matters in the control of the owners.

It is FRNSW's view that the owners of these premises should not be further burdened by the issue of a Compliance Cost Notice when the true impactor or risk creator is either the developer or builder. This view is supported by FRNSW's partnership with the Office of the Building Commissioner.

To address the above concerns, it is suggested that a levy be applied to applications received by FRNSW. This levy should be applied at the time of application to ensure developers and builders are contributing to the compliance/enforcement activities of FRNSW covering risks over the foreseeable life of the building. If necessary, the levy may also be able to be applied in conjunction with Compliance Costs Notices.

FRNSW welcomes the opportunity to explore this matter further with IPART.

#### Administrative charges

FRNSW notes that an administrative charge has not been proposed for the submission/lodgement of the following application types to FRNSW:

- Fire Safety Certificates and Annual Fire Safety Statements
- Radiation Gauges
- Emergency Plans

FRNSW agrees with IPART's determination in terms of Fire Safety Certificates and Annual Fire Safety Statements as the submission of these is to be via the NSW Planning Portal in the near future. However, FRNSW does not agree in relation to Radiation Gauges and Emergency Plans.

Radiation Gauges and Emergency Plans are not provided to FRNSW under planning, construction, and certification legislation and as such are not provided the same opportunity in terms of inclusion on the NSW Planning Portal.

These submissions to FRNSW are burdensome in terms of administrative functions for FRNSW, as such FRNSW is of the view that a small administrative fee should be applied to these lodgements/submissions to recover the costs of these administrative duties. These administrative duties are required whether further assessment is carried out on these submissions or not.

## 2.4 False Alarm Callouts

### **Recommendation Ten**

FRNSW continue to charge for attending an alarm from an automatic alarm system that is later found to be a false alarm.

### **Recommendation Eleven**

FRNSW continue its policy to not charge for attendance at false alarms that are not generated from an automatic fire alarm system.

### **Recommendation Thirteen**

FRNSW continue to proactively engage with alarm owners to reduce false alarms from automatic fire alarm systems with a risk-based approach.

### **Recommendation Fourteen**

FRNSW work with NSW Fair Trading to develop a fact sheet for occupants and building owners to clarify responsibilities, rights and options for appeal when building owners pass charges on to occupants.

### **Recommendation Fifteen**

FRNSW continue its current practice of not charging for a false alarm generated by an automatic fire alarm system where the cause is beyond the control of the building owner.

### **Recommendation Sixteen**

FRNSW implement a 2-tiered charging structure where there are different charges for attendance at false alarms generated by an automatic fire alarm system, depending on the cause of the alarm.

#### Recommendation Seventeen

FRNSW charge a discounted charge for false alarms generated by an automatic fire alarm system where the cause is identified to be any of the following:

- Cooking fumes – toast, foodstuffs, etc
- Simulated conditions – incense, candles, sparklers, smoke machine, etc
- Alarm activation due to aerosol use – hair spray, insecticides, etc
- Alarm Activation due to steam – shower bath sauna, steam room etc

#### Recommendation Eighteen

FRNSW revise the stop-code descriptor for false alarms generated by an automatic fire alarm system 'Alarm activation due to workers'/occupiers' activities' to separate workers' and occupiers' activities.

#### Recommendation Nineteen

FRNSW take steps to help identify where there are design issues in buildings with automatic fire alarm systems causing false alarms from normal activities such as showering. This could include:

- publishing information for occupants to reach out if they think that there is a design issue and take steps to follow up
- tracking the number of this type of alarm and engaging with the building owner where there is a significant number of alarms
- work with the Building Commissioner to investigate options to reduce these happening in new buildings.

#### Recommendation Twenty

FRNSW continue to apply the '24-hour leniency', so that second and subsequent alarms in a 24-hour period are not charged; but amend its implementation to exclude non-chargeable causes of false alarms from triggering the 24-hour period.

#### Recommendation Twenty-One

FRNSW not charge for attending the first false alarm from an Automatic Fire Alarm in 90 days (current policy is 60 days) and:

- exempt non-chargeable causes of false alarms from being the first false alarm and triggering the 90-day period
- exclude false alarms that are caused by poor building maintenance from receiving this leniency.

#### Recommendation Twenty-Two

**FRNSW continue to waive the charge where adequate steps are taken to prevent future false alarms under its current waiver policy.**

#### Recommendation Twenty-Three

The charges for attending false alarms in 2022-23 to be set in the FB Regulation:

- \$1,975 for the full charge (\$2022-23)



- \$395 for the discounted charge (\$2022-23).

FRNSW support the three-tiered system of charging:

1. Waived / no charge
2. Discounted
3. Full

In principle, this charging structure offers some respite to building occupants from building owners on-charging false alarm charges. This structure continues to create a disincentive for building occupants and owners to attempt to limit false alarm activations.

The application of recommendations 20 and 21 will require system enhancements in order to implement such changes.

#### **Recommendation Twelve**

FRNSW consider the merits of trialling charging for false alarms from privately monitored premises to assess its effectiveness at reducing the number of false alarms.

FRNSW supports the assessment of a disincentive for private alarm monitoring companies generating calls which predominantly result in false alarm. Discussion would be needed to identify the resources required to understand the feasibility of trialling charging for these false alarms. This should include but not be limited to: potential policy and regulation changes, waiver and debt recovery mechanics, staffing, systems, and funding requirements.

Whilst the Fire and Rescue Act 1989 and the Fire Brigades Regulations allows FRNSW to charge for responding to false alarm call outs, one potential challenge in conducting the trial is that unlike connected Automatic Fire Alarms, FRNSW has no registered customer information for incoming 000 calls relating to privately connected alarms where attendance is requested. Like the process that is currently used for processing HAZMAT charges, the Field Operations Business Services team would be required to investigate every incident to determine the responsible party. Identifying the responsible party to be charged will be difficult to ascertain.

## **2.5 Automatic fire alarm management services**

#### **Recommendation Twenty-Four**

Automatic fire alarm management charges be set for 2022-23 as set out in Table 2.4

#### **Recommendation Thirty-One**

The FRNSW Act be amended to provide for charges for AFA management to be set in the FB Regulation.

FRNSW supports the principle that fees charged as part of the Service Provider monitoring fee should be cost-reflective. The original intention of the Service Provider Monitoring Fee was for the right to connect to FRNSW systems and for this fee to be cost reflective.

FRNSW is not entirely comfortable that a fair apportionment of capital and recurrent investment into automatic fire alarm and respective supporting systems has been applied to the Service Provider Monitoring Fee.

In addition to what has already been considered, the broader maintenance, support, contractual, hardware, software, and interface framework costs of all of the above systems need to be included. FRNSW requests CIE review and ensure that this has been captured.

Legal review of the Automatic Fire Alarm System Agreement will need to be undertaken prior to the implementation of proposed changes to AFA management charges, considering the potential impacts on current contractual operating arrangements.

Given the variability of this potential charge and constant investment into the Emergency Services Computer Aided Dispatch System (e.g., c. \$18m in the next year or so), it would be recommended that the monitoring fee is not included in the Regulations. This is in line with current practices and supported by an ATO private ruling in 2006.

## 2.6 Other Services

### **Recommendation Twenty-Five**

FRNSW continue any existing charged arrangements with other NSW government agencies.

### **Recommendation Twenty-Six**

FRNSW review services provided to other NSW government agencies which are not currently charged for their suitability for cost recovery.

### **Recommendation Twenty-Seven**

FRNSW charge for attending fires on waters outside its fire district, on the same basis as attending hazmat incidents.

### **Recommendation Twenty-Eight**

FRNSW charge for requests for incident information reports, at a fixed charge equivalent to the GIPA application fee (\$30).

No Comment.