



Formal Response to IPART Revenue Review

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Contents

Contents	2
1 Introduction	3
2 Submission	3
Question One	3
Question Two	3
Question Three	4
Question Four	4
Question Five	5
Question Six	5
Question Seven	5
Question Eight	6
Question Nine	6
Question Ten	6
Question Eleven	6
Question Twelve	6
Question Thirteen	7
Question Fourteen	7
Question Fifteen	7
Question Sixteen	7
Question Seventeen	7
Question Eighteen	7
Question Nineteen	8
Question Twenty	8
Question Twenty-One	8
Question Twenty-Two	8
Question Twenty-Three	9
Question Twenty-Four	9

1 Introduction

FRNSW's formal response was consolidated from the responses of various subject matter experts across the organisation.

In responding to IPART's attempt to propose an equitable, efficient, and transparent cost recovery mechanism, it should be noted that FRNSW incurs cost not only for responding but for readiness to respond as well. FRNSW operates as a service with a guaranteed response across the state of NSW.

The response below takes into consideration the scope of IPART's review which excludes services provided by FRNSW that are included in the *Fire and Rescue Act 1989 (Act)* as its core services and are thereby funded by the Emergency Services Levy.

2 Submission

Question One

Do you agree with the proposed principles of equity, efficiency and risk mitigation for identifying which of FRNSW's services should be subject to user charges?

What other principles, if any, should apply?

FRNSW supports these principles.

The cost of providing FRNSW regulatory services needs to be borne directly by industry stakeholders that are benefiting from those services and not by the general public.

FRNSW provides services which are unique to the experience and skillset of FRNSW and generate a public benefit (through improved safety) that cannot otherwise be provided by the private sector.

In the absence of these services, developers and building owners would otherwise transfer unacceptable risk to the community, gaining a financial benefit in the process.

Services provided by FRNSW, including inspection and compliance services, mitigate the transfer of these risks to the community, the cost of which needs to be borne by those generating that risk in the first place (developers and certifiers) over the life of asset.

These risks are mitigated by having flexible and scalable regulatory services that can adjust to the demands of industry and can be provided across the expected life of the asset (for inspection services).

Recovering the efficient cost of services provides scalability and flexibility, which serves to mitigate the transfer of risk to the community and to respond to the changing nature of risk in the built environment.

Question Two

Do you agree that:

- a) Only those of FRNSW's user charges which apply to monopoly services should be set out in the Fire Brigades Regulation**
- b) FRNSW should have more flexibility to set and change charges for services they offer in a competitive market? If not, why not?**

FRNSW believes in accurately recovering costs for regulatory services.

There are both pros and cons to having charges prescriptively stated in the regulations as a definitive numeric figure, therefore a balance needs to be established. Stating charges

definitively would bring transparency and certainty but also less flexibility to amend the fees should changes arise.

For example, the introduction of new legislation and/or safety measures may require FRNSW to amend its approach to services provided. The fees and charges stated in the regulations need to be flexible enough so that such changes can be accommodated.

For monopoly services, charges should be accurate and transparent. Charges that are prescribed in the Fire Brigade Regulations need to be indexed to remove the transfer of burden from those that benefit from regulatory services to the general public of NSW over time.

For those services that relate to competitive markets, FRNSW should have full flexibility to set fees and charges.

Charges relating to False Alarms should serve to generate disincentives sufficient to reduce the risks associated with responding to false alarm calls and the reduced availability of operational resources for other emergency activities. A balance needs to be struck as increasing False Alarm Charges can drive unanticipated behaviours such as interfering with automatic smoke detection and alarm systems and/or isolating systems, that can delay FRNSW response and endanger the lives the occupants of the building.

Question Three

Do you agree with the proposed pricing principles that FRNSW's charges should be transparent, cost-reflective, equitable, creating positive incentives, simple, flexible; and consistent? Should we include any others?

Yes.

In addition to the proposed principles, there should be consideration as to whether risk reduction should be included as a principle on its own given the nature of the services provided by FRNSW. Otherwise, we agree with these principles on the basis that:

- Cost-reflective includes the full service provided and is indexed
- Create positive incentives which serves to reduce risk across the full suite of regulatory services
- Flexible enough to provide efficient cost recovery across a wide variety of projects (large and small, simple and complex).

Question Four

Which of FRNSW's services related to fire safety in the built environment should have user charges? Which of FRNSW's services related to hazardous materials should have user charges?

Built Environment

All regulatory services provided by FRNSW should have user-charges or levies to recover the cost of services. This would ensure that those that benefit from the service cover the costs of the services provided. This should cover administration and policy development relating to regulatory services.

Inspection and compliance services should also be recoverable as a user-pays or as a levy would ensure flexible and scalable regulatory services across the full suite of services provided by FRNSW. Policy and position statements would benefit from funding, this work includes contribution to Australian Standards, National Construction Code, and other guidelines and policies as a key stakeholder in the industry and government agency. This not only improves safety in the built environment but also contributes to the efficient and

effective operations of FRNSW (e.g. clear policy and guidelines assists in consistent advice and reviews, etc.)

The funding of the team within FRNSW that undertakes regulatory services should be funded by cost recovery outside of the Emergency Services Levy and be able to scale up and down in size according to demand.

HAZMAT

It is not FRNSW's intention to charge individuals for domestic incidents, but rather commercial ventures that require HAZMAT response. The Act does allow FRNSW to bill individuals, and while this is not common practise, FRNSW may pursue charges in instances of negligence (i.e. Bilgola Plateau asbestos incident).

FRNSW may charge other government agencies for HAZMAT operations.

Scope of some billable incident types for responses over one hour in duration include but are not limited to diesel/oil fuel leaks (not petroleum or highly flammable fuels), asbestos clean-up, chemical spills, motor vehicle accidents causing hazmat issues (commercial vehicles), biological hazards or HAZMAT incident on waterway due to commercial vessel.

Wires down incidents over two hours in duration are also charged.

Question Five

Have we identified all FRNSW's non-core services? Non-core services include FRNSW's services other than responding to fires within its designated fire districts; community safety preparedness and engagement; and rescues.

All non-core services available at this point in time. Additional services may come to light dependant on risk identified in the future together with community and government expectations.

For example, cladding work following the Grenfell disaster within NSW created an additional work stream including meetings, inspections and risk report assessments. Proposed overcrowding role for Fire Safety may be prioritised post COVID-19. These services are currently not funded.

Question Six

Do the following 3 categories accurately and appropriately reflect FRNSW's non-core services? Have we classified FRNSW's services into the 3 categories correctly?

- a. monopoly services
- b. contestable services
- c. services provided to other agencies and jurisdictions.

Yes. This is an accurate portrayal.

Question Seven

Have we identified FRNSW's monopoly services correctly? Are there any other of FRNSW's services that we should classify as monopoly services?

All services were captured accurately during the services mapping exercised undertaken.

Question Eight

Have we identified FRNSW's contestable services correctly? Are there any other FRNSW's services that we should classify as contestable services?

Yes – no other services.

Question Nine

Which services provided to other agencies and jurisdictions should be user charged? Should those charges be set out in the Fire Brigades Regulation?

FRNSW believes that any discussion regarding cost recovery from other agencies and jurisdictions must be approached with the highest level of due diligence and caution.

This requires a more strategic and holistic approach across the sector. There are many services undertaken by agencies on a quid pro quo basis where formal charging does not take place.

With reference to Sections 40 and 41 of the Act which allows charging of up to 20% of the value of the asset to its owner, consideration should be given to ensuring asset owners are not charged twice for the same service.

Question Ten

How should we classify these other services into the three categories of FRNSW's services (i.e. monopoly services; contestable services; services provided to other agencies and jurisdictions)? Also, should any of these services be subject to user charges and have charges set out in the Regulation?

N/A

Question Eleven

Do you agree with our proposed approach of recommending charges for the first year and adjusting charges based on a cost index? If not, do you think we should recommend charges for each year? If so, why?

Indexing would be the most appropriate method of future proofing services that are specified in the Fire Brigade Regulations.

The right balance of flexibility and accountability needs to be struck. For example, if there were sudden changes in circumstances, standards, legislation etc. that would cause FRNSW to have to upgrade or tweak its provision of service, then there must be a mechanism that allows incorporation of such changes.

Question Twelve

Do you agree with recommending charges for five years? If not, what time period do you prefer and why?

Risk in the built environment changes reasonably quickly. 5 years would be an appropriate review timeframe for most services.

However, for Automatic Fire Alarms (**AFA**s), note that the current AFA System Agreement provides for an annual increase in fees and charges. These contract arrangements need to be accommodated.

Question Thirteen

Do you agree with our proposed approach of using the cost build-up to estimate the total revenue requirement? If not, which approach do you prefer and why?

Yes, as long as all components of the costs associated with regulatory services are considered in the cost build up.

Question Fourteen

Do you agree with our proposed approach for estimating efficient operating costs? If not, which approach do you prefer and why?

Yes

Question Fifteen

Are there opportunities for FRNSW to provide its non-core services more efficiently? Non-core services include FRNSW's services other than responding to fires within its designated fire districts; community safety preparedness and engagement; and rescues.

FRNSW operates a resilient network of operational resources to ensure speed-of-attack and weight-of-response for future unknown emergencies. Any efficiency measures must be balanced and take into consideration the increase in risk to the community due to the reduction in the overall resilience of the operational model resulting in reduced community safety outcomes.

Question Sixteen

Do you think the current charges for FRNSW's services (where relevant) reflect the efficient cost of providing them?

Not at the moment.

All charges are due for review. The current cost recovery rates were established in 2014 and don't appear to accurately capture the cost of providing services.

Question Seventeen

Do you agree with our proposed approach of including a margin allowance to compensate FRNSW for committing capital investment? If not, which approach do you prefer and why?

Whilst a margin allowance could be included for capital investment, the rules around the utilisation of revenue collected for use on Capital Expenditure are stringent.

A cost recovery for use of assets should be considered (wear and tear etc).

Question Eighteen

Do you agree with using listed companies in the construction industry as comparable businesses to FRNSW to estimate a reasonable margin? If not, which industry provides alternative benchmarks?

This seems suitable for regulatory services.

Question Nineteen

Are there any other charging structures that we should consider other than those listed below?

- a. a fixed charge
- b. a variable charge
- c. a combination of a fixed and variable charge (e.g. a call out fee plus a time-based charge, an administration fee plus a time-based charge)
- d. charge based on property value.

FRNSW believes the above charging categories covers potential cost recovery structures.

Question Twenty

Are there specific FRNSW's services for which we should review charges to improve equity and efficiency? If so, which services?

Several areas of review:

- s.152 and s.152A charging should be aligned given the similarity of the service.
- False alarm charging has not adequately provided disincentive sufficient to change behaviour and system performance
- Inspection and compliance cannot be scaled to meet industry demand as this service is not currently cost recoverable
- S.144 charging should be aligned with consultancy services. We would also include the comments from Question 4

Question Twenty-One

Are there any other issues with the current regulatory framework for charging?

There is no mechanism for recovering costs of inspection and compliance. Costs are typically only captured for development proposals. This leaves a considerable community risk unaddressed. There is currently a mechanism contained in the EP&A Act and Regs regarding Compliance Cost Notices (See Section 9.29 of the EP&A Act, Section 37 of Schedule 5 of the EP&A Act and Clause 281B of the EP&A Reg). These provisions only apply when an Order is issued following an investigation. These provisions are not currently used by FRNSW as the majority of FRNSW compliance activities do not result in the issue of an Order. We would also refer to our comments in Question 4 in Policy and Positioning, adding the cost of administration in receiving and risk assessing applications.

When considering the regulatory framework of charging, particularly regarding AFA charges, consideration needs to be given to the issue of on-charging. This is a critical topic that requires addressing to ensure that false alarm charges act as a deterrent to the entity responsible for the alarm, as opposed to being passed on to tenants/occupants who have no control over systems etc.

Question Twenty-Two

Do you agree with keeping the current regulatory framework but improving it by:

- a. making the basis for charging simple, consistent and cost reflective
- b. giving FRNSW more flexibility around charging
- c. including a cost index in the FB Regulation to enable FRNSW to update its charges periodically? If not, why not?

Yes. The Regulations should be amended to include any where appropriate any additional cost recovery mechanisms arrived at as part of this review.

Although the basis for charging should be simple, consistent and cost-reflective, the complex nature of services provided may mean that a single charging rate (\$ amount, frequency (i.e. hourly, daily etc.)) may not be possible across the entire suite of services provided.

It may be appropriate to group certain services together and arrive at a standardised cost recovery rate across the various streams of grouped services.

Question Twenty-Three

Do you agree with our proposed approach of using a single, externally published index as a cost index for adjusting FRNSW's charges? If not, why not?

See response to question 24.

Question Twenty-Four

Do you agree with our proposed approach of using the Consumer Price Index for Sydney to update FRNSW's charges? If not, why not?

These services are almost entirely labour based. It would seem most appropriate to link indexing to the Government wage growth index (published by NSW Treasury).

For AFAs, FRNSW currently use "All Groups CPI (for Australia – weighted average)" data to calculate the annual pricing increase.