

Review of the Emergency Services Levy by the Economic Regulation Authority



Submission from Pastoralists & Graziers Association of WA

10 March 2017

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The Pastoralists and Graziers Association of WA (PGA) welcomes the opportunity to contribute to the review of the Emergency Services Levy (ESL) being undertaken by the Economic Regulation Authority (ERA).

In general terms, the PGA agrees with the observations and recommendations made by the Ferguson Report¹ regarding the history, use and issues surrounding the ESL.

The PGA thanks the WA Government for acting on Recommendation 16² of the Ferguson Report, and specifically for deciding to engage the ERA to undertake an independent review of the ESL.

The PGA is confident that the Treasurer's Terms of Reference for this Review, combined with the high quality of ERA processes, will expose the nature, governance and uses of the ESL to a level of scrutiny that is long overdue. In particular, this review will permit input from a diverse range of stakeholders that have previously been excluded from ESL-related reviews, including the PGA.

While PGA understands the ERA review covers all emergency-related activities funded through the ESL, our submission will primarily focus on bushfire management; as bushfire is probably the largest threat to the business and domestic assets of PGA members.

PGA Background:

The PGA is a non-profit industry organisation established in 1907, which represents primary producers in both the pastoral and agricultural regions in Western Australia. Members include pastoral leaseholders and freehold farmers through the full spectrum of some of Australia's largest corporate pastoral groups to family-owned companies and trusts and individual landholders in Western Australia.

The PGA's core and guiding principles are self-reliance, property rights, free markets, competition, small government and reduced regulations.

¹ E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, pp 54-57; pp 260-261.

² E. Ferguson, *Reframing Rural Fire Management: Report of the Special Inquiry into the January 2016 Waroona Fire*, Perth, vol. 1, p 260.

PGA's Overarching Principles relevant to Rural Fire and Emergency Management:

Effective, efficient and economical management of fire is a significant issue for PGA members. Fire is a constant threat with the potential to devastate or significantly impact on agricultural business activities. This in turn can have devastating impacts on rural and regional economies.

The following principals are important in guiding PGA's responses to the questions posed in the ERA's Issues Paper:

- Subsidiarity
- Self-interest
- Self-reliance
- Volunteerism
- Prevention/Mitigation
- Preparation
- Rapid Response
- Dangers of Welfarism
- Good Governance

Subsidiarity: The PGA strongly believes that subsidiarity³ is fundamental to successful fire and emergency management in rural and remote areas. That is, local knowledge and local ownership of fire management is critical to successful fire management in rural and remote areas. The PGA recognizes the historical importance and record of rural Local Governments and Volunteer Rural Fire Brigades (RFB) successfully managing fires and strongly supports their future role at the centre of rural and remote fire management. The PGA is deeply concerned about government interventions that do, or could potentially, undermine subsidiarity.

Self-interest: The PGA strongly believes that self-interest, at both the individual and community levels, is a fundamental driver for encouraging and maintaining *subsidiarity* in the management of rural fire and emergency services. As individual farmers, as well as members of tight-knit rural communities, PGA members' business and domestic assets are constantly under threat from fire. Self-interest in protecting private and local community property encourages *self-reliance*. The PGA is deeply concerned about government interventions that do, or could potentially, undermine self-interest.

Self-reliance: In rural and remote WA, there is a long history of individual farmers and rural communities successfully resourcing and operating Rural Fire Brigades. The majority of PGA members actively participate in regional volunteer fire brigades throughout Western Australia, with many taking leadership roles. Collectively, PGA members represent a significant repository of operational knowledge and experience concerning fire management in rural and remote environments. The PGA is deeply concerned about government interventions that do, or could potentially, undermine self-reliance.

³ Subsidiarity - the principle that decisions should always be taken at the lowest possible level or closest to where they will have their effect, for example in a local area rather than for a whole country;
<http://dictionary.cambridge.org/dictionary/english/subsidiarity>

Volunteerism: The PGA regards active participation of its members in fire management to be an integral element of farming operations. Managing fire-related risks on and surrounding their farming properties is part of a farmer's job description. In this sense, experienced farmers are not 'volunteer' fire fighters, but tend to be highly competent bushfire fighters as part of their profession. At the rural community level, a strong culture and practice of community volunteerism translates into farmers and volunteers from rural towns and non-agricultural businesses coming together to successfully manage bush fires. The PGA is deeply concerned about government interventions that do, or could potentially, undermine volunteerism and civil society⁴.

Prevention/Mitigation: The best way to prevent destructive fires is to prevent them starting in the first place or to ensure that if they do start their intensity, velocity and longevity are minimized. This is best achieved through well planned and executed prevention/mitigation activities. Successful prevention/mitigation is dependent on quality local preparation (fit for purpose equipment and well trained operators). The PGA strongly believes that all organizations with responsibility for bush fire management need to prioritize funding towards prevention/mitigation.

Preparation: PGA strongly believes that integral components of local preparedness are the institutional structures, the culture of active participation, detailed local knowledge, high levels of fit for purpose competency and fit for purpose fire fighting assets that accumulated and evolved over generations in rural communities. The local rural institutional structures include the Brigades, Bush Fire Associations, Bush Fire Advisory Committees, Chief Bush Fire Control Officers and Local Governments. The culture includes the long and deep commitment of local landowners and tenants to those institutions and to the good governance of those institutions. The PGA is deeply concerned that external interventions, including WA Government policies, legislation, regulations and funds, build on and support all the elements of local preparedness and not erode or undermine them. The PGA strongly supports the current Bush Fires Act, The Fire and Emergency Act and the Fire Brigades Act as they have served local fire management activities well for many years.

Rapid response: If despite prevention/mitigation activities a fire occurs, PGA unequivocally believes that the goal of fire fighting operations is to extinguish fires with utmost speed. Rapid extinguishment ensures minimum destruction of assets and disruption to business and domestic activities. While fire management is an integral component of farm management, rapid extinguishment of fires also minimizes the time and resources a farmer has to direct towards non-production activities.

Dangers of Welfarism: The PGA believes in small government and that public monies need to be used very judiciously; to address demonstrated needs and not wants, and to minimize perverse outcomes. There is always a danger associated with government funding that it represents welfare and there is a long history of welfare expenditures eroding self-reliance, subsidiarity and volunteerism and community institutions⁵. The PGA is concerned that allocations of ESL funds may

⁴ M. Husek, Volunteerism and Civil Society, IPA Review, August 2016, pp 38-41.

⁵ J. Bartholomew, The Welfare State We're In, Biteback Publishing, 2013; J. Bartholomew, The Welfare of Nations, Biteback Publishing, 2015.

represent welfare which could undermine the extensive social and physical capital that farmers and local communities have built over many years.

Good Governance: The PGA believes that implementation and practice of good governance is essential if transparency and accountability is to be maximized. With respect to the setting, allocation and governance of the ESL, improved governance will provide all stakeholders with confidence that fire fighting operations in rural Western Australia are Lean⁶. That is they deliver the maximum protection from fire for the minimum expenditure.

PGA response to Issue Paper's Questions:

This submission will now address the issues posed through the 10 individual questions listed in the ERA Issues Paper. Again the primary focus will be on rural (including remote) fire fighting as the bushfire is probably the largest threat to the business and domestic assets of PGA members.

A. Allocation of ESL Funding - covering question:

1. How should funding be allocated across prevention, preparedness, response, and recovery activities?

The PGA regards prevention as is the most important activity to fund, followed by preparedness and response. All government agencies, community organizations, businesses and private individuals with responsibility for rural fire management should prioritize in a similar manner.

If prevention/mitigation is properly conducted, the likelihood of fire will be greatly reduced. If a fire does occur, then its intensity, velocity and longevity will all be greatly reduced as a consequence of significant reduction of fuel loads.

Effective prevention/mitigation and response are both dependent on preparation. Consequently, adequate funding needs to be directed to fit for purpose equipment and training as is required to permit successful prevention/mitigation and response activities.

If prevention/mitigation and preparation are properly conducted, then response, if required, should be more rapidly achieved minimizing damage to assets and disruption to lives and businesses.

The PGA questions whether the ESL should be used to fund recovery activities. There is a danger that the knowledge that failure of prevention, preparedness and response activities to protect property and life will be corrected through recovery activities could undermine commitment to those very activities that will minimize or completely abolish the need for recovery activities. Funding of recovery activities from the ESL may also discourage business and community organizations from properly insuring their assets and lives through appropriate insurance policies purchased from private insurance companies.

Wherever possible subsidiarity, self-interest, self-reliance and volunteerism should be encouraged and protected, thus reducing the amount of public funds that may be required

⁶ LEAN simply means creating more value for customers with fewer resources (<https://www.lean.org/WhatsLean/>)

to meet fire and emergency needs. This will reduce the amount of ESL that needs to be collected in the first place. A collateral benefit of this strategy is that important social capital associated with civil society will also be encouraged and protected.

B. Method of setting the ESL - covering questions:

- 2. What should the ERA consider in assessing whether the current method for setting the ESL is appropriate for current and future needs?**
- 3. What emergency service expenditures should be funded by the ESL?**
- 4. How are expenditures on emergency services likely to change in the future?**
- 5. How could the method for setting the ESL be improved?**

The PGA is concerned that since its establishment on 1 Jul 2003, the ESL has dramatically increased, but effectiveness of activities receiving ESL funding appear to have diminished. For example, between 2007-08 and 2016-17 the ESL increased from \$181.4 million to \$322.9 million (a 78% increase in 2016-17 dollars)⁷. During this period Western Australia has experienced a number of significant bush fire events, such as Waroona, Esperance, Margaret River and Perth Hills, resulting in extensive damage to property, environment and tragically loss of human life. This clearly indicates that there is a decoupling between the basis for setting the ESL, its allocation and subsequent performance.

The PGA believes that the starting point for setting the ESL should be a comprehensive independent audit of the fire and emergency risks and the current capacity to manage those risks across Western Australia; that is across all land tenures types and across all governance jurisdictions (government departments and local governments). Independence of the audit entity is essential given the numerous vested interests (government and non-government) involved in the managing fire and emergency risks. Such an audit is essential if we are to differentiate between needs and wants, and in particular the capacity now and in the future to meet actual needs. It is PGA's view that the possibility of being able to access public funds through the ESL has a tendency to encourage organizations to seek funding for wants rather than needs, thereby placing upward pressure on the ESL setting.

In addition to ascertaining the fire and emergency risks associated with different land tenures types (freehold, crown land, unallocated crown land, conservation estate, pastoral, native title etc.), a comprehensive independent audit would help to identify and clarify the complexity of entities associated with land tenure types who may or may not have responsibility for fire and emergency management. This can be a crucial issue for PGA members, as their properties may be bounded by a number of different land tenure types, each with a different responsible entity which may or may not have sufficient budget and resources to manage fire.

⁷ Department of Treasury, *Overview of State Taxes and Royalties 2016-17*, Government of Western Australia, 2016, p 73.

C. Governance Arrangements – covering questions:

6. **What information should be made public about the administration and distribution of ESL funding?**
7. **What processes should be put in place to ensure accountability in the expenditure of ESL funding?**
8. **Which agency should be tasked with distributing funding from the ESL?**

The PGA believes that irrespective of which government entity has future responsibility for the administration and distribution of ESL funding, there needs to be a high level of transparency and accountability.

The ERA Issues Paper reports⁸ that DFES currently does not:

- Provide a breakdown in its annual report of how all ESL funds have been allocated to specific services or to specific regions,
- Undertake activity based costing,
- Publish a breakdown of expenditures for the volunteer services it directly manages and funds (Career Fire and Rescue Service units, Volunteer Fire and Rescue Service units and Volunteer Fire and Emergency Service units).

The PGA regards this current level of reporting unacceptably opaque and is strongly of the view that the rigor and quality of reporting of ESL expenditures needs to be dramatically improved.

Levy payers and stakeholders have a right to understand how the ESL funds are being allocated and expended to specifically address emergency service requirements. This should include detailed breakdowns for:

- allocations to specific services, organizations, regions and activities;
- actual expenditures by specific services, organizations, regions and activities;
- meaningful performance metrics.

The ultimate goals of improved transparency and accountability should be the ability of levy payers, stakeholder groups and governments to ensure that the entire ESL system is as Lean as possible. This should then translate into collecting the minimum amount of ESL from levy payers and delivering the maximum benefit in terms of management of fire and emergency risks.

By requiring detailed reporting of allocations, expenditures and performance from every entity receiving ESL funds, it will be possible to analyse current effectiveness of expenditures, design and implement improvements which subsequently put upward pressure on performance and downward pressure on the aggregate ESL needing to be collected.

As outlined in the principles section, the PGA strongly believes in the importance of subsidiarity, self-interest, self-reliance and volunteerism in providing social and physical capital necessary to locally manage bush fire risk. It is essential that this local capital is 'valued' and taken into consideration in assessing the need for ESL. This local social and physical capital should be seen as a significant positive economic contribution that

⁸ ERA, *Review of the Emergency Services Levy: Issues Paper*, 2017, pp 11-12.

diminishes the need for allocating ESL and provides downward pressure on the setting of the ESL.

The PGA recommends that a new budgetary reporting framework, requiring the types of details outlined above, be established by a government entity that is independent of the entity with responsibility for the administration and distribution of ESL funding. The new framework should stipulate required levels of detail and performance metrics that need to be reported on.

If DFES is to continue to administer and distribute the ESL, the suitable 'independent' entities could be the Departments of Treasury or Finance or the ERA. The Office of Auditor General (OAG) could also play an important role as a periodic assessor of ESL funded organizations to ensure that they are meeting the improved reporting requirements. If role of administration and distribution of the ESL was transferred from DFES to Department of Treasury or Finance, the ERA and OAG would represent potential independent bodies.

Furthermore, the PGA believes that other government agencies with fire and emergency responsibilities (for example, DPaW, Forests Commission and DoL) should be strongly encouraged or required to report allocations, costings and expenditures to a similar standard as required in the future for the ESL. This harmonization of reporting would maximize transparency across all fire and emergency services and activities, thereby permitting identification of overlaps, inefficiencies and gaps which could then be rectified with minimum use of ESL and other public funds.

Best practice governance dictates that there should be proper separation between vested interests and decision-making. The PGA is strongly of the view that the current administration arrangements whereby "DFES is responsible for administering the ESL and making decisions about the distribution of ESL funding, while also being the main recipient of ESL funding⁹" do not meet best practice standards of governance and need to be changed.

The PGA believes moving the responsibility of managing the ESL should be moved from DFES to the Department of Finance. The initial collection by Local Government authorities could still continue except it would be on behalf of the Department of Finance instead of DFES. The initial collection by Local Government authorities using rate notices is an efficient mechanism of collection.

⁹ ERA, *Review of the Emergency Services Levy: Issues Paper*, 2017, p 16.

D. Rural Fire Service:

- 9. If a rural fire service is established, should it be funded by the ESL?**
- 10. How much would a rural fire service cost, and what effect would it have on ESL rates?**

The PGA supports the establishment of an independent Rural Fire Service (RFS) with an independent chief officer and a rural-based independent administration, training and communications centre. The PGA envisages that such an independent RFS would be a relatively small administrative 'hub' where the bulk of the rural bushfire fighting capacity (resources and decision-making) is dispersed across rural landscape. ESL funding will be required to fund this RFS hub, but mechanisms need to be established that ensure the RFS hub's operations remain Lean, transparent and accountable. This will keep downward pressure on the demand for ESL funding.

Furthermore, as described above, the PGA strongly supports subsidiarity, self-reliance and volunteerism in local rural bushfire management where the majority of fit for purpose equipment and bushfire fighting personnel are locally resourced and supplied. In this model, ESL funding is only required to fund resource and capacity gaps between identified needs (not wants) and the locally supplied resources.

Therefore it is PGA's view that a RFS should not have a significant impact on the ESL rate. Indeed, if PGA's philosophies were supported and implemented we believe that the current ESL could be significantly reduced without compromising the quality of fire and emergency outcomes expected by the general public of Western Australia.

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