

Unions NSW Submission

NSW Independent Bushfire Inquiry

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Introduction

1. Unions NSW is the peak body for trade unions and union members in New South Wales with 48 affiliated trade unions and Trades and Labour Councils, representing approximately 600,000 workers across New South Wales. Affiliated trade unions cover the spectrum of the workforce in both the public and private sectors.
2. Unions NSW welcomes the opportunity to make a submission to the NSW Independent Bushfire Inquiry (the **Inquiry**).
3. Unions NSW and its affiliated unions have a proud history of engaging in inquisitorial processes to protect and represent the interests of workers in NSW. Unions NSW frequently makes submissions to inquiries involving industrial relations and other issues which may impact union members. The catastrophic 2019-20 bushfire season has had varied and widespread effects felt by many of our members both throughout the crisis and in its aftermath.
4. Affiliated unions including the Australian Workers Union (**AWU**), Fire Brigade Employees' Union (**FBEU**), Maritime Union of Australia (a division of the Construction, Forestry, Maritime, Mining and Energy Union) (**MUA**), Police Association of NSW (**PANSW**), Public Service Association of NSW (**PSA**) and the Australian Education Union – NSW Teachers Federation Branch (**Teachers Federation**) have also made submissions to this Inquiry. Unions NSW has had the opportunity to these submissions with each union and supports and endorses their concerns and recommendations.
5. Each union with coverage of firefighters has specified the extent of their membership within their submission. For the sake of clarity, we remind the Inquiry that depending on their role, employees of the National Parks and Wildlife Service (**NPWS**) and the Forestry Corporation of NSW (**Forestry Corp**) are covered by either the AWU or PSA, employees of the Rural Fire Service (**RFS**) are covered by the PSA, and the FBEU covers firefighters who work for Fire & Rescue NSW (**FRNSW**).
6. This submission will provide an overview of union concerns in relation to the 2019-20 NSW bushfires, and make several recommendations with respect to primarily industrial concerns. The submission will be structured around the Terms of Reference of the Inquiry. For the purposes of this submission, "Bushfires" will refer to the bushfires in NSW over the devastating 2019-20 season which are the subject of the Inquiry.
7. The state of NSW owes an enormous debt to the thousands of selfless individuals who worked in terrifying and often under-resourced conditions, risking life and limb to save life, property

and our beautiful natural environment. Unions NSW is eager to contribute to the Inquiry, in the strong hope that frontline workers in NSW have all the resources they need to perform their work in the face of future emergencies and be safe in the process. We also strongly advocate for the safety of all workers in NSW and policy which safeguards our state at large.

Executive Summary

In respect of this inquiry, Unions NSW makes the following recommendations:

- (1) NSW Government to increase funding for research into the causes and effects of climate change.
- (2) NSW Government to take action to reduce carbon emissions in its regular operation and develop schemes incentivising the population of NSW to live in a way which benefits this goal.
- (3) NSW Government to prioritise filling the vacant professional firefighter roles in key fire combat agencies ahead of the 2020-21 bushfire season.
- (4) NSW Government to immediately address protocol deficiencies with the goal of maximising the capacity of professional firefighters to perform bushfire prevention activities, including but not limited to Hazard Reduction Burning.
- (5) NSW Government to collaborate with other state and territory governments and the Federal Government to design and implement national standards for firefighting.
- (6) All NSW Government agencies to mandate mental health and resilience training for public sector workers.
- (7) Department of Planning, Industry and Environment to fund the proper implementation of indigenous cool burning and other cultural land management strategies in the National Parks and Wildlife Service and the Forestry Corporation of NSW.
- (8) Noting the timeframe for safe Hazard Reduction Burning is decreasing as the effects of climate change grow more severe, agencies should be encouraged to streamline wider use of indigenous cool burning with existing processes to prepare greater areas of bushfire prone land.
- (9) Educate communities in bushfire prone areas of the importance of Hazard Reduction Burning and create stricter regulation of backburning on private properties to reduce incidence of accidental fires.
- (10) Increase land clearing and fire break targets and capabilities of National Parks and Wildlife Service and the Forestry Corporation of NSW to make greater portions of land in their control more accessible and less vulnerable to widespread fire.

- (11) Improve clarity around water management responsibility by developing policy for preventative activity that safeguards water catchment areas and designing a response plan for each key catchment to be immediately enacted in the event of a natural disaster.
- (12) Recruit additional ecologists and wildlife experts to the National Parks and Wildlife Service.
- (13) Improve deployment procedure for emergency responders to bushfire zones.
- (14) Exempt fire combat agencies, including those within the Department of Planning, Industry and Environment, from the NSW Government's annual efficiency dividend as are other 'frontline' industries such as health services and the NSW Police Force.
- (15) Create provisions for extra personal leave for public sector teachers in bushfire-prone areas who did not get a vacation during the 2019-20 bushfire season.
- (16) Work with state and territory governments and the Federal Government to develop a national strategic marine fleet.
- (17) Assess and improve capability and compatibility of remote and emergency communication infrastructure throughout the public sector.
- (18) Develop policies regulating the secondment of staff from public sector agencies with capacity to operate disaster welfare and evacuation centres.
- (19) Enforce obligations in the *Work Health and Safety Act 2011* (NSW) and mandate provision to every worker in NSW appropriate personal protective equipment when air quality is hazardous above a specified threshold.
- (20) Expand the special leave entitlement available to public sector workers to facilitate greater involvement in volunteer emergency response work.
- (21) Urgently develop national firefighting standards, a national communication system and a national emergency response fleet comprised of aircraft, land vehicles and marine vessels.
- (22) Ensure all emergency response agencies have adequate fleets. Vehicles must be fit for purpose including safety features, fire protective accessories as appropriate, terrain and altitude access capabilities and communications systems, as required.
- (23) Implement and enforce rigorous fatigue management policies and procedures to ensure emergency responders are sufficiently rested as to be able to safely perform their duties.
- (24) Provide appropriate accommodation and amenities for emergency responders, including (where possible) adequate time for those deployed to areas away from home to attend such accommodation before commencing work in the allocated bushfire zone.

- (25) Issue required Personal Protective Equipment, appropriate to bushfire conditions and the worker's role, to all emergency responders on an individual basis and ensure adequate stocks throughout the duration of a bushfire crisis.
- (26) Assess and improve coordination of emergency responders, ensuring that ambulance crews are located strategically with the capacity to attend when required by firefighting agencies.
- (27) Mandate training in winching for paramedics stationed in regional areas, to expedite ability to respond to injuries in areas with poor accessibility.
- (28) Create a publicly available (ideally online) register of declarations of state of emergency issued by the Commissioner of the Rural Fire Service under section 44 of the *Rural Fires Act 1997* (NSW).

Term of Reference 1: The causes of, and factors contributing to, the frequency, intensity, timing and location of, bushfires in NSW in the 2019-20 bushfire season

8. Unions NSW and its affiliated unions share a firm opinion that the Bushfires resulted – to a significant degree – from the climate change phenomenon known as global warming, which is driven by increased carbon emissions and other human-caused factors. Global warming is having significant environmental flow on effects in Australia, such as the severe and protracted drought that many parts of the country have suffered in the last decade.
9. In December 2019, the NSW Department of Primary Industry (**DPI**) Combined Drought Indicator showed 100% of NSW in one of the three drought categories, with the least severely impacted areas falling in the “Drought Affected (intensifying)” category¹. During the 12 months to December 2019, the DPI reported low farm dam levels, dry soil, well below average rainfall, low plant greenness levels, record high temperatures and extended drought in NSW, also citing drought as a strong contributing factor to the Bushfires².
10. As will be discussed in paragraphs 13 to 23 of this submission, unions with members in firefighting agencies including FRNSW, NPWS, the Forestry Corp and the RFS have advised that it was well known that the 2019-20 bushfire season was forecast to be severe without precedent. These unions have also illustrated that despite the forecast, inadequate steps were taken to reduce and manage the risk. Hazard Reduction Burning (**HRB**) and land clearing was insufficient and often carried out by volunteers instead of trained professionals, and extensive personnel restructuring in core firefighting agencies resulted in a depletion of human resources and crucial loss of skill and local experience in badly affected areas.
11. It seems evident to Unions NSW that the lack of appropriate strategy in preparing for a bad season heightened the level of fear among those left on the ground to fight fires under resourced. The result of government inaction is a 2019-20 bushfire season that will go down in history as our “Black Summer”, where in NSW human lives were lost, homes, schools and businesses destroyed, overwhelming portions of our national parks and forests decimated and millions of insects and animals burned to death.

¹ Department of Primary Industries, *Climate & emergencies – NSW State Seasonal Update (December 2019)* <<https://www.dpi.nsw.gov.au/climate-and-emergencies/seasonal-conditions/ssu/december-2019>>.

² Ibid.

Term of Reference 2: The preparation and planning by agencies, government, other entities and the community for bushfires in NSW

12. Unions NSW and its affiliates involved in this Inquiry believe many agencies failed to adequately prepare for the 2019-20 bushfire season. This occurred as a result of actions and omissions taken by the NSW Government and agencies to the detriment of preparedness for the Bushfires, and the practical results of these actions and omissions; the inability to adequately respond.

Understaffing

13. A common experience from our affiliated unions was that key firefighting agencies were understaffed in the lead up to the 2019-20 bushfire season. The AWU reports that the NPWS entered the season with a shortage of 306 firefighting staff, of which 115 were vacant frontline firefighter positions, despite urgent calls from this union expressing their concern. Similarly, the FBEU reports FRNSW approached the Bushfires at least 400 professional firefighters short of capacity. Both unions highlighted the abject danger associated with these deficiencies in personnel. Unions in this industry stressed whilst having an adequate number of feet on the ground is crucial, it is even more important that each firefighter has the skills and experience to work with their colleagues in a safe and strategic way.
14. Unions NSW understands the general consensus that it takes five years of training and experience in the field to become a capable firefighter. In the case of the NPWS, numbers were boosted during the Bushfires through the use of labour hire, made up predominantly with people who lacked the critical skills, experience and local knowledge required to effectively collaborate to combat the crisis.
15. In addition to the most obvious issue of not having sufficient manpower and professional experience to effectively fight unprecedented fires, a key contribution to the severity of the Bushfires was lack of HRB and other prevention activities. In their own submissions, the AWU and PSA each describe the importance of HRB and the capacity required to do it effectively. Each union highlights the need for HRB to be carried out throughout the year to reduce the severity of the upcoming bushfire season and (in cultivated forest environments) to maximise return on forestry activity.
16. All unions acknowledge the role that the RFS and other volunteers play in combatting bushfires in NSW, however, simply relying on these volunteers – who may lack experience, and who are not paid or obliged to carry out HRB at crucial times (including weekends and overnight) – is not the most effective or efficient way of preparing for or dealing with such a crisis. The role of RFS

volunteers will be further discussed in paragraphs 57 to 61. Firefighting unions have expressed concern and frustration that the shortage of professional firefighters continues to severely inhibit preparation for bushfire season each year, and that many of the areas in NSW affected by the 2019-20 bushfire season had been grossly undermanaged. As a result, the devastation of the fires was amplified by increased fuel loads, lack of strategic clearing, ineffective backburning without proper consultation and insufficient construction and maintenance of fire breaks and tracks.

17. The approach and resources allocated to HRB and other preventative activities in the months and years leading up to the Bushfires not only resulted in our under-preparedness as a state, but in some ways hindered our ability to respond.

Restructure

18. Unions have also illustrated the damage caused to agencies' ability to prepare for the Bushfires because of government budget cuts in preceding years. To a large degree, the AWU attributes the understaffing of the NPWS to the loss of 25% of their most experienced firefighters through a NPWS restructure and voluntary redundancy scheme in 2017-18. The AWU believe this cost saving measure was completed at an inappropriate time and with the knowledge that grave bushfire seasons were forecast in the near future.
19. The PSA identify the reduction of rangers in the NPWS as part of the 2017 restructure. Many of these rangers had performed firefighting work as part of their role and were asked to return as volunteers during the 2019-20 bushfire season. Of these, a larger number had previously worked within the Remote Area Firefighting Teams (**RAFT**) and were highly trained to access even the most impenetrable parts of bushland to contain and fight fires, including those started by lightning strikes. In the wake of the restructure the remaining RAFT teams were inexperienced by comparison, under resourced and could not respond as quickly as their predecessors.
20. In their submission, the PSA include data from a survey of members employed by the NPWS this year, showing 87% of participants considered the restructure detrimental to the NPWS' capability to respond to bushfires, with 50% saying it had a very negative impact.
21. Along with the reduction of skilled professional firefighters, significant restructuring in the NPWS and other agencies overseen by the NSW Department of Planning, Industry and Environment (**DPIE**) hindered those agencies' preparation for the 2019-20 bushfire season. In 2019-20, the DPIE was asked to find \$81.4 million in savings as a means of meeting their efficiency dividend. Cutting costs through reducing staff numbers was detrimental to fire

combat agencies as many of the roles cut were responsible for vital programming and coordination to ensure that agencies were working as effectively as possible, and not duplicating efforts unnecessarily.

22. The AWU believes that in reducing these roles to meet budget, policy coherence across agencies was lost, heightening instead of reducing bushfire risk and delaying recovery efforts. For example, the lack of clarity in roles in the NPWS has also contributed to insufficient HRB, with this crucial activity overlooked as an element of core business. Budget cuts also resulted in the NPWS acquiring new slip-ons (fire vehicles) without staff consultation. In their submission, the AWU discusses the implications of having a fleet of vehicles that are not capable of accessing all terrain in National Parks and inadequately equipped with gear.
23. Similarly, the PSA describes instances of capability frameworks used during the recruitment process not being appropriate for the skills actually required, such as the discovery that some RFS staff pilots were unable to fly below a height of 200ft, significantly hampering their utility in fighting difficult to access fires from the air. The combination of unclear policy and inappropriate equipment due to a reduced budget for the NPWS, RFS and other fire-critical agencies has been a key contributor to the financial destruction and loss of life caused by the Bushfires.
24. By contrast, the AWU believes the Forestry Corp is an example of a fire agency that is more effectively run, as demonstrated by the positive results of their fire management policies. The Forestry Corp board reports directly to the NSW Treasurer and Minister for Finance and bears an onus to maximise profit through timber production and tourism. This is a significant reason why HRB is core business and has resources allocated appropriately. In addition, the Forestry Corp has trained firefighters on staff to respond during fire events and make salvage efforts in their aftermath. The net result of these elements is that bushland under the control of the Forestry Corp contained less fuel and was typically more accessible, making it both less vulnerable to severe fire damage, and in a better position to successfully fight fires.
25. Whilst the Forestry Corp is not a perfect model of bushfire preparedness, the distinction between NPWS and the Forestry Corp is a useful example to demonstrate the practical implications of budget cuts and policy deficiency.

Trauma training

26. Overwhelmingly, each union involved in this Inquiry expressed the need for greater training relating to trauma, resilience and mental health across their various membership bases. In addition to working in high-pressure, often dangerous, terrifying and under-resourced

conditions, workers in many industries were tasked – usually inadvertently – with supporting those who had come to harm as a result of the Bushfires. From emergency responders such as frontline firefighters and police officers confronted with loss of life and property, to teachers supporting students and each other in remote and damaged schools, seconded public servants operating evacuation centres and all others involved in the coordination and response effort, workers have expressed their sense of under-preparedness for the hardship they would encounter.

27. Both on a personal level and in the interactions with many people as a part of their role, unions have reported members feeling ill-equipped to deal with the emotional toll their work has taken on them during the 2019-20 bushfire season. The physical devastations of the Bushfires are obvious, agonising and need urgent response, however, Unions NSW also urges the Inquiry to not forget the many invisible scars carried by those who saved our state when it was burning.
28. Unions participating in this Inquiry have been eager to shed light on the many ways their members' workplaces were underprepared for the 2019-20 bushfire season and the catastrophic damage it caused. Consistent themes pertaining to understaffing, restructure and insufficient personal trauma training have recurred across agencies, as well as more particular issues which are demonstrated in unions' individual submissions. On the whole, it is clear to Unions NSW that as a result of funding priorities and oversight, workers did not have the tools, training and support they required to be as prepared as they could have been in the face of our Black Summer.

Term of Reference 3: Responses to bushfires

29. As mentioned earlier in this submission, unions whose members were most significantly impacted by the Bushfires have described not just the acts and omissions of various agencies resulting in a lack of preparedness, but also the practical result of these actions and omissions, which was the inability to adequately respond.
30. Each participating union has clearly outlined in detail their individual position on the response to the Bushfires, to the extent that their members were involved. This submission will highlight some key issues, discuss the role of RFS volunteers and note some of the more general industrial concerns arising from and connected to the Bushfires.

Australian Workers Union

31. In its submission to the Inquiry, the AWU is concerned the NSW Government has pledged significant additional funding to many sectors in the wake of the Bushfires, but no additional funding to NPWS or the Forestry Corp. In light of the lack of preparedness identified in the

AWU's submission and in paragraphs 13 to 23 above, Unions NSW and the AWU are both concerned significantly greater funds have not been allocated to key fire related agencies to directly improve and increase hazard reduction activities and mitigate future bushfires as a consequence.

32. The AWU has further highlighted that the cost outlaid to bring in various members of the Australian Defence Force to assist both during the fires and to aid in the post-fire recovery could have paid for strategic preventative activities before the 2019-20 bushfire season and spared NSW a significant amount of the devastation that occurred. Unions NSW and its affiliates acknowledge the varying budget priorities at different levels of government, however, a proactive, well-funded and coordinated plan could have reduced the extent of the impact of the Bushfires.
33. Relevantly, the AWU has highlighted that ambulance crews are not consistently assigned to be present near fire crews. Without a strategic and multi-agency response plan, greater risk is involved for those fighting fires. Further, in the wake of the Bushfires, the AWU and other unions emphasise the need for all paramedics to be trained in winching so that expert emergency care can be given on the most urgent basis including in difficult to reach locations. During the 2019-20 season, unions reported ambulances arriving to a call near a RAFT and not being able to treat an injured person until a firefighter (or other responder) with the necessary training was able to recover the injured person to a more accessible location. Such instances may result in further injury, where the non-paramedic responder is not trained to assess the needs of the patient when moving them.
34. In addition, issues relating to water management have come to light in the wake of the Bushfires. The AWU discusses the difficulties associated with having four separate agencies sharing responsibility for water quality. These include lack of clarity around hazard reduction activities in catchment areas and monitoring those water sources whose quality is at very high risk because of the fires. Many of our waterways were compromised by loss of vegetation, erosion, falling ash and run off in the wake of the Bushfires.
35. The AWU's submission highlights the diverse responses to the Bushfires that were executed by their members and make strong links to the policy and preparedness available to each respective agency.

PSA

36. In their extensive submission, the PSA describe a response to the Bushfires that was under-resourced by differing degrees in respect of staffing, skill levels, equipment and knowledge of

how to use what equipment was available. Unions NSW was particularly disappointed by the many reports that vehicles required for use by PSA members to respond to bushfires across agencies were insufficient and often not fit for purpose.

37. Fighting fires from the air requires helicopters, fixed-wing planes, air tankers and other types of aircraft depending on the size and location of a fire. In addition to the craft, comprehensive coordination and efficient ground crews are required to collaborate to respond as quickly as possible. PSA members across NPWS, the RFS and the Forestry Corp have indicated overwhelmingly that their agencies' aircraft fleets were too small for the firefighting efforts they were faced with and in many instances not fit for the task.
38. Land vehicles also created an obstacle to the Bushfire response. For example, members of the PSA have warned that many of NPWS vehicles need to be urgently upgraded, noting that most vehicles in the current fleet lack protective curtains and adequate sprinkler systems required to mitigate harm in bushfire zones.
39. Additionally, the PSA reported that whilst the number of incidents responded to by the RFS increased by 37% in the period 2010 to 2019, the fleet size reduced 16% in the same period. This shortage of vehicles was also experienced by the NPWS and required vehicles to be hired by both agencies. The hired vehicles were not consistently fit for purpose and frequently did not include such necessities as beacons and other markings, 4-wheel drive capability and in-built radio systems.
40. Where agency-owned and hired vehicles did have built-in radios, workers regularly encountered communication issues where two-way radio systems used by the RFS, NPWS and Forestry Corp did not talk to one another, and systems used by interstate agencies who had joined the response were incompatible. As a means of bridging this gap or where other network-related communication issues arose, agencies would use UHF (ultra high frequency) radio channels as a stop-gap, however, this means of communication cannot be recorded and usually only works in 'line of sight' scenarios.
41. The PSA describes further technology-related obstacles to the bushfire response including ineffective tracking of vehicles and individuals and mapping systems that do not accurately read and display topography of fire zones. These and the other issues encountered, outlined above, hinder response efforts and significantly jeopardise the safety of responders.

Police Association of NSW

42. The PANSW acknowledge the unprecedented nature of the Bushfires and urgent nature of their members' work, requiring them to frequently respond in very short time frames.

43. However, PANSW have reported that the requirement for police to respond to calls during the Bushfires often resulted in their members arriving to the location at which they were required, without having had the opportunity to first collect the provisions they needed such as personal protective equipment (**PPE**) or attend their accommodation if away from home. PANSW have suggested that the manner of communicating decisions to deploy police is partly to blame for a perceived need for members to take an immediate action, as well as lack of procedures to secure suitable accommodation for all deployed emergency service members.
44. In addition to deployment protocols, PANSW has highlighted significant safety concerns in relation to responding to the Bushfires. Members reported insufficient PPE for those deployed to bushfire zones, with arrangements made on an ad hoc basis and often still insufficient. Whilst personal issue PPE would be the first preference, having stocks allocated on a by-crew basis would also be acceptable. PANSW have reported that as well as PPE uniform items required for police responders to the Bushfires, breathing apparatus (masks) appropriate to the environment they were working in were not sufficiently available. Members were forced to work alongside other emergency responders who had been provided with far greater respiratory protection.
45. Fatigue management and the procedure for relieving police responders was another deficiency expressed by PANSW around the NSW Police response to the Bushfires. Unions NSW understands there was a lack of stringent mechanisms to track hours worked during the crisis, and unclear thresholds necessitating relief of and rest for workers.
46. PANSW illustrate a requirement upon their members to respond that frequently (and often unnecessarily) did not allow members the time to pack, make arrangements for accommodation or ascertain their entitlement to special allowances under their industrial Award.
47. Significant barriers were reported by police and other emergency responders related to the radio networks used by crews to communicate. PANSW describe the overcrowded Police Radio Network which has black spots in its coverage. Their concerns around the Government Radio Network (**GRN**) were echoed by the FBEU, with both unions warning that this network, already used by many other agencies, is not an appropriate alternative as it already close to capacity, does not have consistent coverage, is inadequately maintained during high risk situations and sometimes requires queuing for air time. The GRN requires

significant expansion of bandwidth and penetrative signal strength to competently meet the needs of emergency services.

48. Rectifying some of the issues above will improve the NSW Police's ability to support other emergency responders during future bushfires and other crises.

Maritime Union of Australia

49. In their submission to the Inquiry, the MUA describes the crucial role that ships and ports played in the bushfire response, in particular in the Eden area on the NSW far south coast.
50. During the 2019-20 bushfire season, MUA members worked in treacherous conditions, including extremely dangerous air quality, to transport supplies to areas whose road access had been cut off by fire. Ships were also used to evacuate and shelter local residents and tourists in the face of significant devastation and loss of property.
51. Maritime services were not previously considered to be an element of bushfire response, and accordingly were not resourced or appropriately equipped for the role they played. For many years the MUA has petitioned for maritime workers and infrastructure to be fully integrated into state and federal emergency response capabilities. The immense reliance placed on maritime facilities in some areas during the Bushfires illustrated the need for this element to be included in future emergency planning and coordination.

NSW Teachers Federation

52. The submission made by the Teachers Federation to this Inquiry tells the story of two public schools lost to the Bushfires. Wyaliba Public School, which sits in a bushfire-prone area on the Mann River north east of Glen Innes, was alight before an emergency management plan could be enacted. Bobin Public School, on the edge of Tapin Tops National Park inland from Crowdy Head, was only unoccupied on the day it was destroyed by fire because the relieving principal had acted on her own intuition and closed the school the previous day. Both schools suffered from a lack of urgent support from the Department of Education.
53. In addition to the destruction of these two schools, which fortunately did not see any loss of human life, Unions NSW has heard from the Teachers Federation issues we have seen in many industries. These include a lack of satellite phones in bushfire-prone schools and other public infrastructure and insufficiently proactive advice from central offices which are far removed from affected communities.
54. As well as the imminent danger of fire in commuting to and working in schools in bushfire affected areas, teachers continued to work in dangerous air quality. In November 2019, a

representative from the Department of Education was unable to visit schools on the mid-north coast as the air quality and visibility was too poor for their plane to land.

55. Teachers also worked far in excess of their usual schedules during the Bushfires. Some schools were forced to implement “wet weather” arrangements at lunchtimes for weeks at a time, due to dangerous air quality caused by bushfire smoke. These arrangements demand additional supervision by teachers, reducing their rest time, and in any event seemed futile as many public schools in NSW do not have filtered air conditioning to offer any proper health protection for students and staff.
56. The Teachers Federation members have reported they did not feel adequately supported by the Department of Education during, or in the aftermath the Bushfires. The Teachers Federation believe that the acts and omissions of the NSW Government in the lead up to the Bushfires and during the crisis amount to wilful negligence.

Rural Fire Service

57. Unions generally make no comment about utilising RFS volunteers to fight fires. It is widely acknowledged that there are many selfless individuals who make unimaginable sacrifices to protect their local communities through the RFS, without whom many more homes and lives would likely have been lost. However, there are shortfalls in relying on a volunteer service, who do not receive the same training or experience as professional firefighters, and whose goodwill and ability to step away from their regular employment is heavily relied upon in times of a bushfire. This issue of ability to step away from employment is evidenced by there being over 70,000 volunteers registered with the RFS, though unions of fire combat workers have reported that there were never more than 3,000 on the ground at any one time during the 2019-20 bushfire season.
58. Affiliates are also concerned that RFS volunteers do not have the same training opportunities and experiences as those firefighters across various agencies who consistently receive training and perform this type of work throughout the year. It can also be economically unviable for volunteers to remain active throughout a whole bushfire season, particularly as they become longer.
59. Regional areas in NSW are more vulnerable to bushfires, owing to greater density of fire fuels, more severe drought conditions and lower density of housing and infrastructure. Regional NSW is also significantly more reliant on volunteer firefighters than are urban areas, and regional volunteers are sometimes faced with the choice of volunteering to save other properties or staying to save their own.

60. Unions note the reduction of public sector employment opportunities in regional areas is also likely to reduce the number of volunteer firefighters, noting the leave provisions some NSW Government departments offer to staff assisting during periods of crisis. There are also concerns in relation to the ageing demographic of the RFS volunteer base and the implications this will have on that organisation's ability to respond to fires in coming years.
61. There are also issues associated with the command structure in the field after a state of emergency declaration is issued by the Commissioner of the RFS under section 44 of the *Rural Fires Act 1997* (NSW) (a **Section 44 Declaration**). Once a Section 44 Declaration is issued the RFS becomes the managing agency of the relevant area and this can give rise to instances where volunteer firefighters are directing professional firefighters and have ultimate control over resourcing, coordination and deployment in a fire response effort.

Industrial issues

62. Unions' individual submissions detail many ways in which the response to the 2019-20 bushfires was hindered by policy and other shortcomings of individual agencies. In addition to those specific concerns highlighted by unions, Unions NSW notes several elements of the bushfire response which affected workers in NSW more broadly.
63. Workers across NSW were affected by the extremely poor air quality caused by the bushfire smoke which spread far from the burning zones, and even across the Tasman to New Zealand. Noting these hazardous conditions and especially in light of the duration of the Bushfires, unions believe that all workers in NSW should have been provided with access to appropriate PPE after appropriate workplace safety assessments had been carried out in accordance with the *Work Health and Safety Act 2011* (NSW) (**WHS Act**) to protect workers from hazards in the workplace.
64. Air quality generally was a pervasive issue throughout the Bushfires and as highlighted in the submission of the MUA, even those workers who were provided with (or acquired their own) a mask, these did not protect workers' eyes from the smoke and, if not correctly fitted, offered little to no protection for the respiratory system. Secondary safety issues also arose from the use of masks, including difficulty speaking clearly on a radio and laboured breathing, which compounded the existing strain on those working outdoors on hot summer days.
65. Unions representing members who perform work outdoors reported that during the Bushfires, many workers presented for first aid assistance on site during bad air quality days. Despite the WHS Act obligation on a person conducting a business or undertaking to ensure they do not put

the health of their workers at risk through the work carried out, most employers sought to have workers continue, despite the air quality.

66. Unions NSW and our affiliates believe more needs to be done in relation to implementing the hierarchy of controls contained in the WHS Act were not followed. All workers, and particular those obliged to carry out their duties outdoors with little to no protection from the thick bushfire smog, should have been considered at risk and appropriate steps should have been taken to mitigate the risks. It is without doubt that outdoor workers will present with issues associated with long-term exposure in the future; the financial burden of which the state is likely to have to carry as a result of their inaction. In order to advise their members on how to best protect themselves from both WHS and industrial perspectives, unions were forced to adopt their own standards in the absence of sufficient government guidance.
67. On 6 December 2019, Unions NSW Secretary Mark Morey called for employers to give workers the option to stay inside or work from home if they wished to avoid the bushfire-caused smog³. At this time, Mr Morey warned employers “no one should feel compelled to work outdoors if their health is likely to be affected. Those with existing conditions such as asthma, emphysema and heart problems are particularly vulnerable”. We were discouraged to hear from workers a lack of understanding present amongst employers, and in some instances disciplinary action taken against workers who had stayed home due to health concerns. The MUA and other unions expressed a high level of anxiety amongst their members, including a fear of repercussions from employers for raising the bushfire smoke as a health issue.
68. Other issues arising for workers throughout and in the wake of the Bushfires related to accessibility of leave entitlements, particularly for public sector employees. Early on in the Bushfire crisis, some NSW Government agencies chose to issue leave guidelines for workers affected by the Bushfires, based on the provisions circulated by Public Sector Industrial Relations. Special leave and flexible working conditions were able to be granted in defined circumstances to workers who needed to remain at home to protect family and/or property, were unable to get to work due to fire damage or obstruction, were volunteering to assist emergency services or were providing other emergency support.
69. It is an understatement to say that some government agencies offered more generous provisions than others for workers or that some were more demanding than others in respect

³ Anna Patty, ‘Employers urged to let workers stay home to avoid smog’, *The Sydney Morning Herald* (online), 6 December 2019, <<https://www.smh.com.au/business/workplace/employers-urged-to-let-workers-stay-home-to-avoid-smog-20191206-p53hiy.html>>.

of when, and in what form evidence supporting the granting of special leave was to be provided. For example, one large NSW Government department offered paid special leave to workers who were volunteering with emergency services (including the RFS) for the period that they were volunteering and to allow for rest and recovery before returning to their normal work, as well as recrediting of previously booked annual leave, where the worker spent their annual leave time volunteering or otherwise directly and significantly affected by the Bushfires.

70. Consistently, workers from other clusters reported that their leave entitlement during an emergency was not easily accessible, and few had the capacity during the height of their personal crisis to scour their handbook or industrial instrument to locate what special leave provisions were available to them.
71. Relevantly, Unions NSW became aware of a provision for special leave with no upper limit for volunteers during “declared emergencies”, including provision for rest periods, in the Public Service Industrial Relations Guide⁴. However, whilst a “declared emergency” is defined as a Section 44 Declaration, a register of Section 44 Declarations does not seem to publicly exist, complicating workers’ ability to evidence and access paid leave.
72. Unions NSW urges the Inquiry to recommend more stringent and consistent protocol around leave provisions during an emergency so that workers are not disproportionately affected, and to require agencies to circulate these provisions to all workers during times of future emergency as a matter of urgency.

Term of Reference 4: Other matters in relation to bushfires

73. Each of the unions who make their own submissions to this Inquiry tell of specific conditions in which their members responded to the Bushfires, and the deficiencies in resources or policy which hampered their work.
74. Unions NSW believes there are several themes common to many of the affected workers, though presented in varying ways. One of these is the danger workers were put in by lack of responders and resources available. Workers from multiple sectors complained of extreme fatigue, irregular and changing work patterns and the stress associated with a breakdown in family routine and domestic arrangements. The physical and emotional pressure associated with these very human experiences created greater instability for those who were bravely

⁴ NSW Government, *Public Sector Industrial Relations* (January 2019) <<https://www.industrialrelations.nsw.gov.au/assets/Uploads/files/Public-Service-Industrial-Relations-Guide-version-2.pdf>> at 6.17.7.2.

working to save our state, and we feel that the importance of engaging in family life has been underestimated during times of crisis.

75. We have also perceived a deficiency in training available for those expected to work at the frontline of emergencies. Workers who are sent to hazardous conditions expected to perform in roles for which they may not have the necessary skills or experiences are putting at risk their own lives and those of others. Unions NSW continues to call for more trainers to deliver more training to public sector emergency responders, and to have this training accessible to more workers across agencies. Though having workers trained to perform their roles may seem like an obvious requirement, the PSA have highlighted a gap in the RFS, which is that there are many paid officers who have no training to fight fires, or experience in doing so, and cannot be deployed into an Incident Management Team.
76. Communication issues also present an overwhelming problem during times of emergency. As outlined above, workers were unable to communicate in different periods due to network overcrowding, incompatible radio networks, black spots in remote areas and generally deficient public sector networks. It is vital that state and territory governments and the Federal Government collaborate to develop and implement strategies of communication to ensure emergency response efforts are not again compromised in this regard.

Recommendations arising from the Inquiry

Term of Reference 5: Preparation and planning for future bushfire threats and risks

77. **Recommendation:** NSW Government to increase funding for research into the causes and effects of climate change. Research should also be funded to focus on determining ways in which human society can act to slow and reverse the effects of climate change.
78. **Recommendation:** NSW Government to take action to reduce carbon emissions in its regular operation and develop schemes incentivising the population of NSW to live in a way which benefits this goal. This may include strategies such as greater accessibility to public transport and rebates for those with below-average utility usage.
79. **Recommendation:** NSW Government to prioritise filling the vacant professional firefighter roles in key fire combat agencies (FRNSW, NPWS, Forestry Corp and RFS) ahead of the 2020-21 bushfire season. Rigorous training programmes will also be required in order to prepare new firefighters.
80. The FBEU, AWU and PSA will, insofar as they are the union responsible for members of the core fire combat agencies, be able to provide detailed information about the vacancies in each.

81. **Recommendation:** NSW Government to immediately address protocol deficiencies with the goal of maximising the capacity of professional firefighters to perform bushfire prevention activities, including but not limited to HRB. Attention must be drawn to the need for additional personnel in the “off season” to strategically and effectively carry out preventative work.
82. **Recommendation:** NSW Government to collaborate with other state and territory governments and the Federal Government to design and implement national standards for firefighting, including but not limited to a protocol on how and when firefighters are deployed both within their home jurisdiction and to other areas, communication means and their compatibility across state borders, incident management procedures and baseline equipment requirements.
83. **Recommendation:** All NSW Government agencies to mandate mental health and resilience training for public sector workers. We recommend that training is tailored to the type of work performed according to agency and is inclusive of strategies that may be called on in the event of an emergency.

Term of Reference 6: Land use planning and management

84. **Recommendation:** DPIE to fund the proper implementation of indigenous cool burning and other cultural land management strategies in NPWS and the Forestry Corp. Use of traditional bushfire prevention practices should involve consultation with local indigenous groups experienced in these activities, as well as with indigenous workers employed by the relevant agency.
85. The submissions of the AWU and PSA demonstrate the parameters of implementation of indigenous burning techniques and Unions NSW supports the co-design of a holistic land management model.
86. **Recommendation:** Noting the timeframe for safe HRB is decreasing as the effects of climate change grow more severe, agencies should be encouraged to streamline wider use of indigenous cool burning with existing processes to prepare greater areas of bushfire prone land.
87. **Recommendation:** Educate communities in bushfire prone areas of the importance of HRB and create stricter regulation of backburning on private properties to reduce incidence of accidental fires.
88. Historically, communities have opposed HRB due to the smoke caused by these activities. It is important that information is disseminated to affected communities to foster greater cooperation in efforts to prevent fires.

89. **Recommendation:** Increase land clearing and fire break targets and capabilities of NPWS and the Forestry Corp to make greater portions of land in their control more accessible and less vulnerable to widespread fire. This recommendation requires the provision of funding for extra bulldozers to NPWS.
90. As described at 24 above, the Forestry Corp implements wider spread land management and fire prevention measures than the NPWS, due in large part to the profitability of forestry land. In the interests of protecting native flora and fauna and the NSW population, a similar level of prevention needs urgently to be funded and carried out in NPWS.

Term of Reference 7: Appropriate action to adapt to future bushfire risks to communities and ecosystems

91. **Recommendation:** Improve clarity around water management responsibility by developing policy for preventative activity that safeguards water catchment areas and designing a response plan for each key catchment to be immediately enacted in the event of a natural disaster.
92. **Recommendation:** Recruit additional ecologists and wildlife experts to NPWS.
93. The submission of the PSA details the current lack of funding NPWS has to care for wildlife, and the benefit in maintaining a team of qualified ecologists to manage ecosystems and wildlife protection across the state.

Term of Reference 8: Emergency responses to bushfires

94. **Recommendation:** Improve deployment procedure for emergency responders to bushfire zones. A protocol should be developed whereby responders such as NSW Police are deployed to bushfire emergencies in a timeframe that allows them to prepare personal items and attend their away from home accommodation prior to arriving to the crisis location.
95. **Recommendation:** Exempt fire combat agencies, including those within the DPIE, from the NSW Government's annual efficiency dividend as are other 'frontline' industries such as health services and the NSW Police Force.
96. As has been demonstrated by this submission and those of affiliated unions, the requirement of the DPIE to find over \$80 million in savings in the last financial year alone has reduced the capacity of core fire combat agencies to adequately staff and resource their fire prevention and emergency response teams.
97. **Recommendation:** Create provisions for extra personal leave for public sector teachers in bushfire-prone areas who did not get a vacation during the 2019-20 bushfire season due to having to prepare and defend their homes, spend time in evacuation centres or temporary

housing, participate in the recovery effort and/or supporting their community and loved ones through the crisis.

98. **Recommendation:** Work with state and territory governments and the Federal Government to develop a national strategic marine fleet. This will involve developing a new category of national emergency response marine assets, comprised of existing vessels identified to be of use and the acquisition of more dedicated vessels for this purpose.
99. The MUA have outlined the increased need for a well-resourced marine emergency response fleet and Unions NSW echoes this union's calls for the commensurate development of relevant industrial provisions relating to crew qualifications, training requirements, hours of work, safety standards and workers' compensation.
100. **Recommendation:** Assess and improve capability and compatibility of remote and emergency communication infrastructure throughout the public sector. This will include significant improvement of the GRN to accommodate more users without delay or disruption.
101. **Recommendation:** Develop policies regulating the secondment of staff from public sector agencies with capacity to operate disaster welfare and evacuation centres. During the 2019-20 bushfire season, unions report that the centres operated on a mostly ad hoc basis, with public sector workers performing varied work and long hours, often in addition to keeping up with their usual workload and meeting their own family and community obligations.
102. Those public sector workers assisting in evacuation centres were responsible for many different aspects of their operation including the logistics of receiving, categorising and allocating donations, finding housing, caring for livestock and providing simple human care and interaction.
103. **Recommendation:** Enforce obligations in the WHS Act and mandate provision to every worker in NSW appropriate PPE when air quality is hazardous above a specified threshold.
104. **Recommendation:** Expand the special leave entitlement available to public sector workers to facilitate greater involvement in volunteer emergency response work. Leave provisions and commensurate evidentiary requirements should be consistent across clusters.

Term of Reference 9: Coordination and collaboration by the NSW Government with the Australian Government, other state and territory governments and local governments

105. It goes without saying that natural disasters do not discriminate along border lines and the Bushfires revealed the disparity in the response capability of different states. The NSW

Government must collaborate with other governments within Australia both in respect of bushfire preparedness and the plan for response.

106. The priority of inter-governmental collaboration must be the prevention of future bushfire disasters, including a joint effort to combat the effects of climate change and slow the rise in global temperatures.
107. The PSA clearly illustrate in their submission that the economic impact of a disaster in one state drastically affects that state's budget and has a flow on effect in other states due to the nature of our fiscal interaction.
108. **Recommendation:** Urgently develop national firefighting standards, a national communication system and a national emergency response fleet comprised of aircraft, land vehicles and marine vessels.
109. Such coordination of efforts would have reduced the confusion and inefficiency and consequent devastation that was experience at the NSW/Victoria border fire.

Term of Reference 10: Safety of first responders

110. **Recommendation:** Ensure all emergency response agencies have adequate fleets. Vehicles must be fit for purpose including safety features, fire protective accessories as appropriate, terrain and altitude access capabilities and communications systems, as required.
111. **Recommendation:** Implement and enforce rigorous fatigue management policies and procedures to ensure emergency responders are sufficiently rested as to be able to safely perform their duties.
112. **Recommendation:** Provide appropriate accommodation and amenities for emergency responders, including (where possible) adequate time for those deployed to areas away from home to attend such accommodation before commencing work in the allocated bushfire zone.
113. **Recommendation:** Issue required PPE appropriate to bushfire conditions and the worker's role to all emergency responders on an individual basis and ensure adequate stocks throughout the duration of a bushfire crisis.
114. In their submission, the PSA includes feedback from members working in RAFTs who detail the need for appropriate boots, noting that traditional structural firefighting boots are inappropriate for remote area work. These members escribe that their work is executed more safely and effectively in a lighter weight boot. This is just one of many examples of workers not having the PPE they require.

115. **Recommendation:** Assess and improve coordination of emergency responders, ensuring that ambulance crews are located strategically with the capacity to attend when required by firefighting agencies.

116. **Recommendation:** Mandate training in winching for paramedics stationed in regional areas, to expedite ability to respond to injuries in areas with poor accessibility.

Term of Reference 11: Public communication and advice systems and strategies

117. **Recommendation:** Create a publicly available (ideally online) register of Section 44 Declarations. This will both clarify any questions about public sector access to leave and aid community understanding during emergencies.

Conclusion

118. This submission, read in conjunction with the submission of our affiliated unions, demonstrates that NSW is in need of a policy overhaul in order to avoid a repeat of the devastating 2019-20 bushfire season. As our climate is changing, we must also change our strategies of preparation and response to protect our nation.

119. Future adequate preparedness for such a bushfire crisis will depend on the development of national protocols, as well as the prioritisation of funding to relevant government agencies to meet requirements.

120. Unions NSW urge the Inquiry to carefully consider the submissions of the unions; who represent those at the face of fires, who experienced and saved us from devastation. These are the most important voices, from whom the Inquiry has the most to learn in making recommendations to prevent a recurrence of our Black Summer.

121. Unions NSW will welcome any opportunity to assist the Inquiry in the future.