



R/17/2261

The Hon. Robert Borsak MLC
Chair
Legislative Council Portfolio Committee No. 4 – Legal Affairs
Parliament House
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NSW RFS Responses to Questions on Notice: Inquiry into Emergency Services Agencies

Dear Mr Borsak,

Please find **enclosed** the NSW RFS responses to questions on notice taken at the hearing, on 18 September 2017, of the Inquiry into Emergency Services Agencies.

Yours sincerely,

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Commissioner *9-11-17*

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PARLIAMENTARY INQUIRY INTO EMERGENCY SERVICE AGENCIES
NSW RURAL FIRE SERVICE RESPONSES TO QUESTIONS TAKEN ON NOTICE: 18 SEPTEMBER
2017

➤ **Question 1:**

You mentioned that you have at least 42 peer support officers who are trained to support Critical Incident Support Services. Can you tell me what training they have been given?

I am trying to get a handle on what the peer support officers are, their backgrounds and what degree of training they have experienced.

The NSW RFS peer support service, referred to as Critical Incident Support Services (CISS), is currently made up of 42 trained peer support officers (PSOs). There are an additional seven members scheduled to complete initial training by December 2017, bringing the total to 49. PSOs receive ongoing training as well as mentoring and support.

The team comprises members from salaried and volunteer roles, including non-operational and operational functions from basic firefighter to Chief Superintendent. It comprises approximately 80% volunteer and 20% staff (who perform this role outside of paid functions) and has an equal gender split. While not essential, some current PSOs hold qualifications in disciplines such as social welfare, nursing, legal areas and mediation.

The training completed by PSOs is set out in the table [TAB 1]. The courses are all externally sourced, including from the International Critical Incident Stress Foundation and the Centre for Mental Health Research at the Australian National University. Training is delivered by mental health practitioners including a clinical psychologist. Members become probationary PSOs upon completion of the 'Assisting Individual in Crisis' and 'Group Crisis Intervention' courses.

CISS duty officers are PSOs who are additionally trained in the following courses:

- Mental Health First Aid program
- Strategic Responses to Crisis:
 - planning crisis intervention responses, assessment of needs (individual & groups), critical incident stress management (CISM) methods, planning guidelines, (Target, Type of Incident/Reaction, Timing, Themes, Teams/Resources, Threats), Evaluation (pre/during/post)
 - building emotional & psychological resilience and developing a personal mental fitness plan.

New duty officers are mentored by senior duty officers and a clinical consultant for a minimum of 12 months.

PSOs are supported in their functions by the Counselling & Support Unit (CSU). The current manager of the CSU holds a Masters Degree in Counselling (with specific training in trauma work), a Bachelor Degree in Education, and a Diploma in Community Organisations (Management). In addition, the current manager has undertaken extensive study in crisis intervention methodologies and various mental health conditions. The peer support team is also assisted by external expertise, including a clinical psychologist and a consultant trained in community counselling.

The peer support work is centrally coordinated, allowing for each case to be considered and, if appropriate, referred for a higher level of mental health support by external mental health practitioners such as psychologists, clinical psychologists, and social workers. The NSW RFS can quickly engage and pay for these services and utilises the Australian Psychological Society state-wide referral service to identify appropriately qualified rural mental health practitioners.

Importantly, at the completion of every activation a PSO undertakes, they receive a post action support review, either by a CISS duty officer, the manager CSU or external clinical consultant, depending upon need.

The aim of this review is twofold, being a quality assurance mechanism to ensure the work undertaken by the PSO matches the nature and extent of the peer support request and to provide the PSO an opportunity to deal with any potential vicarious or secondary stress related conditions.

This information supplements that provided in the NSW RFS initial submission and evidence to the Inquiry.

TAB 1

Course/training	Competencies covered in training	Assessment requirements
Peer support officers		
Assisting Individual in Crisis	Effective listening & communication techniques Psychological reactions in crisis and trauma Mechanisms of action in crisis intervention Meeting basic needs (Maslow) Liaison / Advocacy Cathartic ventilation Social support, group cohesion Information provisions Stress management Problem solving techniques Conflict resolution Cognitive reframing Spiritual elements Do No Harm principles SAFER-R Model of individual crisis intervention (Principles of Psychological First Aid methodology) Commonly used crisis and disaster mental health interventions	Written assignment, reviewed by Manager, external mental health practitioner and Senior PSO Observational assessment
Group Crisis Intervention	Common psychological & behavioural reactions Large Group Crisis Intervention techniques (30 personnel plus) Demobilisations (Rest, Information & Transition) Crisis Management Briefings Small Group Crisis Intervention techniques (3 – 15 personnel) Defusing sessions (Immediate Small Group Support) within 24-48 hours Introduction / Exploration / Information Small Group Crisis Intervention: (3 – 15 personnel) Debriefing (Powerful Event Group Support) occurs 72 hours to 3 weeks Follow up techniques Self-assessment, self-care strategies, organisational support for PSO's, case management methods, advanced training requirements including mental health questionnaires	Written assignment, reviewed by Manager, external mental health practitioner and Senior PSO Observational assessment
Ongoing training twice per year – two day courses	Training includes: Advanced Group Crisis Intervention for Complex Situations (Including Line of Duty death, death whilst on duty, Suicide of a colleague, significantly delayed interventions, Multiple events in a short time, Disaster / Multi-Casualty Incidents) Suicide Intervention & Prevention Mental Health First Aid Loss & Grief / Bereavement	Observational assessment by Manager, external mental health practitioner and Senior PSO
In addition to the above, peer support officers undertake a range of self-assessment and psychometric assessments twice a year, aimed at examining mental health and wellbeing of peer support officers which includes: <ul style="list-style-type: none"> - PTSD inventories - Impact of Event Scale - Burnout Scale - Secondary Traumatic Stress - Vicarious Trauma - Depression Anxiety Stress Scale - compassion fatigue - compassion satisfaction inventories. 		

➤ **Question 2:**

Can you tell us how the member assistance program, which you say is a free and confidential program for volunteers, works?

If I rang them, who would I get on the phone? I am interested in who they are, not as individuals but in terms of their qualifications

The Member Assistance Program (MAP) is an information and referral service available to NSW RFS volunteers and their families who are seeking care, support, information, assistance or referral options for mental health services. It aims to connect the member to support appropriate for their situation. Possible support may include CISS/peer support, chaplaincy and family support (provided by a network of 38 NSW RFS chaplains), or external counselling. The MAP team aims to provide assistance and help that is specific to each member's needs.

If a member requests support through the MAP program, for an issue directly related to their involvement with the NSW RFS, the agency will cover the cost of appropriate external mental health counselling services provided to the member or their family (for any issue not covered by workers compensation).

Initial access to the program is made to the CISS 24 hour call centre via a 1800 number. Within 15 minutes, the CSU manager or a CISS duty officer will return the call to identify the issues and determine available and appropriate avenues of support. Alternatively, access can be made by telephoning the CSU office directly. The CISS duty officers and the manager CSU have qualifications as set out in the response to Question 1.

This information supplements that provided in the NSW RFS initial submission and evidence to the Inquiry.

➤ **Question 3:**

This is not a trick question but will you clarify how many people within the RFS are required to do Working with Children Checks?

I am not interested in trapping anyone but I want to get a handle on the parts of your organisation where you feel it is important to have Working with Children Checks and whether that would apply to various volunteer parts of the organisation or within the uniform branch

In 2012, NSW RFS sought advice from the Commission for Children & Young People (CCYP) in relation to which activities in the NSW RFS required Working with Children Checks (WWCCs). An outline of all of the activities undertaken by the NSW RFS which involve interaction with children and young people was provided to the CCYP to inform its response.

Consistent with the response received in 2013 from the CCYP, NSW RFS members (both staff and volunteers) involved in the delivery of the Secondary Schools Cadet Program are required to undertake a WWCC.

The total number of NSW RFS members in 2016/17 that obtained a WWCC for the purpose of delivering the Secondary School Cadet Program was 208. In total, SAP HR records identify 898 members with current WWCCs.

A fact sheet outlining the Service's WWCC requirements is made available to all NSW RFS members (**Attachment 1**).

➤ **Question 4:**

The Volunteer Firefighters Association presented a document to the Committee which indicated— The document indicated that some 58 current and former staff members and, as I count, 47 current staff members come from just 11 brigades on the north side of Sydney. The suggestion is that if you come from a brigade on the north side of Sydney you have a much better likelihood of getting a job. On those numbers, that appears to be evidence of that. What do you say to that?

I am asking for an explanation of why from those 11 brigades an average of 4.27 are current employed staff with the RFS but from the remaining 2,018 brigades throughout the rest of New South Wales it is an average of just 0.42. A person is 10 times as likely from each of those brigades to be employed.

I am after your systemic response.

I invite you to [give us a breakdown of where all the members come from in the employment ranks] because I am not persuaded by the coincidence argument.

The assertion that a member of a brigade in the Northern Beaches area is ten times more likely to be employed is not supported by data.

Table 1 below is an analysis of the geographical spread of NSW RFS staff employed since 2011 who are also volunteers (data is from 2011 - when SAP HR was implemented). As the table below indicates, the Northern Beaches does not have the highest proportion of staff who are also volunteers, nor is the rate significantly different from a number of other Districts. There is a correlation between the Districts with the highest percentage of volunteers who become employees and proximity to employment opportunities.

Volunteer district of new employee	Number	% against total NSW RFS staff
Bland/Temora	2	0.21
Blue Mountains	19	1.98
Canobolas	3	0.31
Castlereagh	6	0.63
Central Coast	21	2.19
Chifley/Lithgow	8	0.83
Clarence Valley	7	0.73
Cudgegong	4	0.42
Cumberland	15	1.56
Far North Coast	4	0.42
Far South Coast	15	1.56
Far West	2	0.21
Hawkesbury	11	1.15
Hornsby/Ku-ring-gai	15	1.56
Hunter Valley	2	0.21
Illawarra	5	0.52
Lake George	0	0.00
Liverpool Range	2	0.21
Lower Hunter	16	1.67
Lower North Coast	1	0.10
Lower Western	1	0.10
Macarthur	7	0.73
MIA	5	0.52
Mid Coast	4	0.42

Mid Lachlan Valley	3	0.31
Mid Murray	1	0.10
Mid North Coast	7	0.73
Monaro	7	0.73
Namoi Gwydir	2	0.21
New England	9	0.94
North West	1	0.10
Northern Beaches	15	1.56
Northern Rivers	0	0.00
Northern Tablelands	4	0.42
Orana	6	0.63
Riverina	6	0.63
Riverina Highlands	2	0.21
Shoalhaven	15	1.56
South West Slopes	4	0.42
Southern Border	0	0.00
Southern Highlands	9	0.94
Southern Tablelands	4	0.42
Sutherland	15	1.56
Tamworth	5	0.52
The Hills	8	0.83

Table 1: Rural Fire District breakdown of NSW RFS staff employed since 2011 who are also NSW RFS volunteers

List of names

As requested by the Committee, an analysis has also been undertaken of the list of names tabled at the Inquiry hearing. This has included a review of available records and confidential discussions with those people on the list who were able to be contacted (44 people).

The list consists of personnel employed over several decades, including those employed prior to the establishment of the NSW Rural Fire Service in 1997.

Of the 58 names on the list:

- four of those listed have not been engaged in ongoing employment with the NSW RFS: they were either temporarily engaged through a recruitment agency or as a short term contractor
- 14 of those listed are no longer employees of the NSW RFS
- one name on the list is duplicated.

Of the 39 who are current NSW RFS employees, 14 (36%) were Fire Control staff recruited by local councils and transferred to the NSW RFS in 2001 following amendments to the *Rural Fires Act 1997* in 2000/2001. This involved the state-wide and automatic transfer of more than 300 local council staff to State Government employment in the NSW RFS.

Of the remaining 25 names on the list, an analysis of the year they were recruited against NSW RFS advertised roles for that year (data available since 2003) identifies that the recruitment of those personnel constituted a very small percentage of the overall recruitment for that year.

Year	Total advertised roles	Current employees on the list	Listed names as a % against advertised roles
2003	195	2	1.03
2004	155	2	1.29
2005	164	4	2.44
2006	116	2	1.72
2007	113	0	0
2008	91	1	1.10
2009	124	3	2.42
2010	122	2	1.64
2011	153	0	0.00
2012	63	1	1.59
2013	47	1	2.13
2014	102	0	0.00
2015	135	0	0.00
2016	166	1	0.60
2017 to date	75	2	2.67
Total	1821	21*	1.15

Table 2: Listed names as a % against advertised roles per year

* four current employees are not captured in the total because they were employed between 1994 and prior to 2003 - overall recruitment data is not readily available prior to 2003

The NSW RFS has stringent recruitment and selection practices in place which are:

- fully compliant with the *Government Sector Employment (GSE) Act 2013* and previously the *Public Sector Employment and Management Act (PSEMA) 1998*
- merit based, following a recruitment panel's assessment of a person's capabilities, experience and knowledge against the requirements of a role to ensure the best applicant is selected. The panel is constituted in accordance with the requirements of the GSE Act and associated rules
- open to the public, with vacancies externally advertised at www.iworkfor.nsw.gov.au.

➤ **Question 5:**

Would you be supportive of an emergency services tribunal that would perhaps have as part of its brief dealing with aggrieved parties who feel that the system has failed them?

Can you also take on notice the number of times [members have lodged appeals] up to you?

I would like a sense of whether [a tribunal] is a viable way of resolving things.

Without the benefit of any detail, the NSW RFS has the following concerns in relation to the proposal.

Separate tribunal for emergency services agencies not appropriate

Such a tribunal would create inconsistency between the emergency services agencies and other public sector agencies and departments. There is nothing to suggest that establishing a separate tribunal to deal with matters relating to the emergency services is necessary or desirable.

External scrutiny of current processes

There are already a number of external avenues of scrutiny of NSW RFS decisions in relation to grievances and discipline/misconduct.

These include:

- judicial review in the Supreme Court
- complaints with the Anti-Discrimination Board under the *Anti-Discrimination Act 1977*
- reports to ICAC for fraud or corruption matters
- reports to the NSW Ombudsman for maladministration matters
- reports to the NSW Auditor General
- complaints to SafeWork NSW or a health and safety representative for unsafe workplaces or system
- referral of criminal matters to the NSW Police
- use of external investigators where appropriate given the complexity, seriousness or other special factors about a disciplinary matter.

Volunteer context

Ultimately, the NSW RFS is a unique agency with nearly 99% of its membership made up of volunteers located across the state. Volunteers are members of the local community with community ties and relationships outside of the Service which may influence and be impacted by interpersonal conflicts.

While not intended to be, a tribunal process can at times be adversarial, rather than inquisitorial, and overly legalistic. This can have a negative impact on volunteers and may have an adverse impact on their willingness to engage with grievance and disciplinary processes.

The time, cost and emotional burden for volunteers of participating in tribunal proceedings are strong considerations which do not support this proposal.

The existing appeal process

Under the *Rural Fires Regulation 2013*, a volunteer member who has been found guilty of a breach of discipline may appeal to the Commissioner against the findings of the disciplinary panel (or discipline delegate) and/or any penalty that the disciplinary panel (or discipline delegate) imposes or recommends. The Commissioner receives a significant number of appeals.

The Commissioner, or delegate must conduct the appeal in accordance with the rules of natural justice. The Commissioner or delegate can either confirm the decision being appealed, or substitute the decision with his or her own decision. This mechanism allows for an appropriate degree of oversight and accountability of volunteer made decisions in the disciplinary process.

117 decisions have been made on appeal since 18 September 2014, as set out in the table below. Of these, 44 involved appeals from disciplinary decisions and 73 from decisions made in relation to applications to join the NSW RFS. This data indicates that the appeal mechanism is being utilised and matters are considered on their merits in accordance with the applicable policies and Service Standards. There have been minimal instances of complaints about the appeal process or decisions being taken to other forums (such as the NSW Ombudsman).

Appeals to Commissioner (for discipline matters)			Appeals to Membership Coordination Unit (for membership application matters)		
44			73		
Approved 13	Declined 28	Other * 3	Approved 36	Declined 33	Other * 4

* 'Other' includes appeals withdrawn or not yet determined.

External review not appropriate for grievance decisions

An external tribunal is not appropriate for dealing with grievances. The grievance procedure provides a mechanism for dealing with inter-personal conflicts or inequitable or procedurally unfair treatment in the workplace. This type of matter does not justify or require the intervention of a court or tribunal.

Grievances are best dealt with by discussion, negotiation and mediation. Introducing a system which leads to review of grievances before an external tribunal will only exacerbate problems and reduce the likelihood that the matters can be resolved. The time, cost and inconvenience of appearing before an external tribunal does not fit the nature of grievance matters nor the nature of the remedies provided for in the grievance procedure.

Staff misconduct matters

An external tribunal should not apply to staff misconduct matters, as these matters are already governed under the *Government Sector Employment Act 2013* with an appropriate review mechanism to the Industrial Relations Commission. It is not appropriate to have two external merits review avenues for the same conduct and decisions.

Disciplinary matters

Volunteer disciplinary matters are determined by volunteers in accordance with the *Service Standard 1.1.2 – Discipline (Attachment 2)*, the Managing Volunteer Discipline Handbook (2016) (**Attachment 3**) and the Conducting a Volunteer Discipline Investigation Handbook (2016) (**Attachment 4**). A fact sheet on Natural Justice is also provided as guidance material.

This provides a robust system of peer review of volunteer conduct and the determination of any penalty. It ensures that the standards of volunteer conduct are determined by the volunteers themselves.

There are extensive safeguards and protections built into the system including the rules of natural justice and procedural fairness. Where there is a failure to meet these requirements the existing appeal system ensures that the decision is set aside and the matter addressed properly. The imposition of any serious penalty is subject to automatic review before implementation. This ensures that the penalty is both proportionate and appropriate to the breach of discipline.

There is an absolute right of appeal on both the merits and penalty of any disciplinary decision. This proceeds by way of a hearing de novo or full reconsideration of all of the material considered by the disciplinary panel, as appropriate. The volunteer also has the right to provide additional or fresh evidence and submissions to the appeal.

Volunteers have the right to be represented at a hearing before a disciplinary appeal or on appeal by any person, including a legal representative.

An external review of these decisions would involve external scrutiny of volunteer made decisions and processes, which volunteers currently have ownership over, in keeping with the grassroots nature of the NSW RFS. The review process would create an unnecessary and significant time, emotional and psychological burden on those volunteers, on top of their family, employment and volunteering responsibilities. It may ultimately make participation in district or regional disciplinary panels, as well as volunteering for the NSW RFS in general, unappealing for the members.

➤ **Question 6:**

With respect to the memorandum of understanding that you referred to in your answer [an MOU with the insurer], has that been recently renegotiated or has it been of standing for some period of time?

The Memorandum of Understanding (**Attachment 5**) is between the NSW RFS and the Rural Fire Service Association (RFSA) relating to financial support for injured volunteers (who are deemed medically unfit) beyond the provisions of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*. This MOU was signed on 19 June 2010 and is current.

➤ **Question 7:**

Can you give us a copy of the previous grievance procedure? And an analysis of the difference, if you have it.

A copy of the previous *Service Standard 1.1.3 – Grievances v2.1* is attached (**Attachment 6**).

Key changes in the new *Service Standard 1.1.3 - Grievances v 3.0* (published 16 August 2017) include:

- simplified and streamlined resolution processes
- clear guidance on timeframes
- involvement of the grievant in identifying solutions
- stronger emphasis on resolving grievances at the lowest possible level together with the early and informal resolution of issues
- a list of exclusions to aid in understanding which matters are unable to be dealt with as grievances
- reference to and greater consistency with *Service Standard 1.1.42 Respectful and Inclusive Workplace* (which deals with bullying, harassment and discrimination matters), providing helpful definitions and processes for resolving complaints at the lowest possible level
- transitional arrangements provisions, for matters raised prior to the effective date of the current version (which is 16 August 2017)
- a *Managing Grievances Handbook* - providing guidance and techniques on the practical management of grievance (currently in draft to be published in near future).

This *Service Standard* applies to both volunteer and staff members. NSW RFS strongly supports the early, informal resolutions of grievances. The grievance *Service Standard* relates to inter-personal conflicts or inequitable or procedurally unfair treatment in the workplace. These matters should not require onerous/complicated processes. Rather, the resolution process should reduce the stress, anxiety and other emotional, psychological or physical effects on members to enable the workplace or brigade to return to normal functioning as quickly as possible.

➤ **Question 8:**

**Did you do any analysis of how long it was taking to deal with grievances under the previous policy?
Could you take that on notice if there is some information in the organisation about it?**

Grievances are, in the main, dealt with at the local level in an informal setting between the respective parties. A comprehensive analysis of timelines for resolution of grievances is not possible. However, as noted in evidence, the NSW RFS was aware of some member dissatisfaction with these time frames.

Timeliness of a grievance process is dependent on the circumstances of a matter, number of people involved, the complexity of the issue, and the willingness and availability of participants to engage with the process.

Resolution of grievances should be outcome focused rather than process focused. In some cases, inflexible application of time-lines may result in less favourable outcomes or resolutions of grievances. It may also undermine procedural fairness / natural justice for one or more of the parties. It is important to ensure that appropriate time is afforded to the parties to allow for effective resolution, especially during any mediation.

The NSW RFS is an organisation made up of volunteers who have responsibilities including those of jobs, families, volunteer roles and other community needs. Unlike paid staff, volunteers fit in NSW RFS responsibilities around these other duties. While the Service will facilitate grievance resolutions within specified timeframes as much as possible, it is not always possible or appropriate to meet set deadlines. Accordingly, while timelines are built in to the Service Standards, there is also a degree of flexibility built in to the process in acknowledgment of the context of the Service.

➤ **Question 9:**

We have heard today that hazard reduction is hampered by RFS management and may be a contributing factor to churn. You can take [the statistics on retention of volunteers] on notice.

The NSW RFS data does not indicate 'churn' beyond the natural turnover in membership numbers which can be expected in any organisation. The reported NSW RFS volunteer numbers are sourced directly from records maintained and reported by rural fire brigades as required under section 20 of the *Rural Fires Act 1997*.

The NSW RFS volunteer numbers have consistently remained over 70,000 for the last decade. Currently, over 86% of these members have operational roles, with the remainder being administrative, reserve, cadet and community fire unit roles.

Between 2012/13 to 2016/17 the average number of new applications processed has exceeded the number of exiting volunteers.

Year	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	% of total on average
Total Membership	71,976	73,746	74,516	73,162	73,223	
Total new applications processed*	4,503	6,408	4,305	3,886	4,120	6.3%
Exiting volunteer members	3,308	3,781	4,271	5,209	4,004	5.6%

*This does not include re-joining membership applications or dual membership applications

The hazard management arrangements in NSW RFS were reviewed by the Independent Hazard Reduction Audit Panel which found that the hazard reduction programme in NSW is strategic and well administered. The Government accepted and implemented all of the recommendations of the Panel (**Attachment 7**). The Panel comprised the Chief Executive Officer of the former Ministry for Police and Emergency Services (Chair), Commissioner, NSW Rural Fire Service, President, NSW Rural Fire Service Association, Vice President, Volunteer Fire Fighters Association and two eminent academics from NSW and Victoria.

Hazard reduction burns are appropriately resourced. Whether or not out of area crews are utilised depends on the number and complexity of the hazard reduction burns being undertaken. Local brigade capacity to attend incidents is also always maintained to ensure fire protection to the local area.

On the weekend of 9 - 10 September 2017 in the Northern Beaches (referred to in evidence):

- six hazard reduction burns were undertaken in the District
- attended by 14 Northern Beaches brigades and 19 appliances
- eight strike teams and 41 appliances.

Two Northern Beaches brigades and eight appliances (including boats) were reserved to cover the rural fire district for other fires and emergencies. Brigades responded to the seven incident calls in the area over this period.

The strike teams that assisted the Northern Beaches hazard reductions were required due to the number, size and complexity of the operations. All Northern Beaches brigades were able to fully crew their appliances with additional crew available for subsequent shifts.

Attachment Index

- Attachment 1: NSW RFS Fact Sheet outlining the Working with Children Checks requirements
- Attachment 2: Service Standard 1.1.2 – Discipline
- Attachment 3: Managing Volunteer Discipline Handbook
- Attachment 4: Conducting a Volunteer Discipline Investigation Handbook
- Attachment 5: Memorandum of Understanding with Rural Fire Service Association
- Attachment 6: Service Standard 1.1.3 – Grievances v2.1
- Attachment 7: Independent Hazard Reduction Audit Panel Enhancing Hazard Reduction in NSW Report